

BELIZE-GUATEMALA TERRITORIAL DIFFERENDUM

PROPOSALS FROM THE FACILITATORS

Presented to the Secretary General of the Organization of American States

30 August 2002

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INTRODUCTION

- I. The *Terms of Reference for the Facilitators in the Belize/Guatemala Territorial Differendum*, agreed at the Headquarters of the Organization of American States in Washington DC on 15 May 2000 between the Governments of Belize and Guatemala (hereinafter referred to as ‘the Parties’), identified the role of the Facilitators as being *to assist the Governments of Belize and Guatemala to find formulae for a peaceful and definitive resolution of the territorial differendum between the two countries.*

- II. On 18 July 2001 the Parties accepted our recommendations, as the Facilitators appointed by them, on the way forward toward a definitive solution of the territorial differendum, including the following:
 - that the Parties pursue a definitive solution via this facilitation process.

 - that, to this end, the Facilitators, taking due account of all relevant factors (eg. legal, historical, political, etc), will prepare and present proposals to the Parties for a comprehensive, definitive, honourable, and permanent resolution of the territorial differendum between Belize and Guatemala, including maritime delimitation and a development finance plan that would benefit the neighbouring local communities in Guatemala and Belize.

 - that, in preparing these proposals, the Facilitators will act in consultation with the Parties and with all others whose cooperation might facilitate progress, and will seek technical assistance as may be necessary.

 - that, it shall be a principle of the process that the various elements of the proposals will form a single undertaking and, accordingly, that nothing will be regarded as agreed and binding until all elements are approved by the Parties and, as necessary for that part pertaining to the maritime issues, by Honduras, in accordance with their respective constitutional processes.

On this basis, we agreed to present to the Parties our *'proposals for a comprehensive, definitive, honourable, and permanent resolution to the territorial differendum'*.

- III. In furtherance of that Agreement, we now put forward the Proposals set out in Sections A to E below which we commend to the Parties as the basis for a *'comprehensive, definitive, honourable, and permanent resolution to the territorial differendum'*. We do so after hearing from the Parties their respective positions and taking account of all pertinent factors. We acknowledge the assistance we have received from the Parties themselves; from the Government of Honduras; from the Secretary General of the Organization of American States who has been an honour witness to the Process, from the Instituto Panamericano de Geografia e Historia and from the International Organisation for Migration among others. For the Proposals, however, we assume full responsibility.

- IV. The Proposals comprise five elements which are combined to form a single composite settlement and which should not be seen as separable. In giving consideration to them, as previously agreed by the Parties, the principle that *'nothing is agreed until everything is agreed'* should be adopted by the Parties; and any such ultimate agreement should then constitute 'a single undertaking' by the Parties with the participation, as necessary, by Honduras. The Proposals have been conceived as a balanced package and we ask that they be considered as such. In fashioning these proposals, we have given due consideration to the historical, legal, political and technical arguments and data presented to us by the Parties; but we have drawn no conclusions about the merits of these arguments. We have also studied the reports provided to us, as part of the Facilitation Process, by the International Organization for Migration and the OAS Ad Hoc Mission, concerning the demographic, economic, social and other characteristics of

the communities in and near the Adjacency Zone on both sides of the Adjacency Line.

- V. We are mindful that if acceptable to the Parties the Proposals will need to be incorporated in appropriate and binding legal texts, hereinafter referred to as the Treaties of Settlement. The points set forth in these Proposals should be treated as the essential elements of the legal texts which will be necessary to give effect to the Proposals. These legal texts should be treaties separately addressing the Land Issues and the Maritime Issues, including the Belize-Guatemala-Honduras Ecological Park, and instruments necessary for the establishment of the Development Trust Fund. Each legal text shall provide that it will come into effect only upon the coming into effect of all of the Treaties of Settlement. All claims by the Parties inconsistent with the Treaties of Settlement will have been renounced by the Party advancing them.

- VI. The Proposals are as follows:

THE PROPOSALS

A. Land Issues

The Land Boundary

1. The land Boundary between Belize and Guatemala should be as follows:

Beginning at the mouth of the River Sarstoon and proceeding up the mid-channel thereof to the point at 15 degs 53 mins 47.237 secs north latitude and 89 degs 13 mins 39.306 secs west longitude, with any islands which may be found within the said River Sarstoon belonging to the Party on whose side of the main navigable channel they are situated; then, continuing on a line drawn directly from the said point to the point at 17 degs 03 mins 31.071 secs north latitude and 89 degs 09 mins 00.283 secs west longitude and continuing further from the said point at due north to the point where it meets the line of 17 degs 49 mins north latitude.
2. All the territory to the east and north of the boundary line described in paragraph 1 above should belong to Belize, and all the territory to the west and south of the said line should belong to Guatemala.
3. The Treaties of Settlement should provide that the boundary between Belize and Guatemala is as described in the preceding paragraphs of this Section.
4. Within twelve (12) months of the coming into force of the Treaties of Settlement between the Parties, the boundary defined in this Section should be surveyed and permanently marked by the Parties acting together with the assistance of the Facilitators or persons designated by them. To this end, the Parties shall establish a Technical Commission for the demarcation and densification of the said boundary line and for its

maintenance thereafter.

The Community of Santa Rosa

5. The Report of the OAS Ad Hoc Mission, submitted to us and to the Parties on 9 July 2002, having identified a settlement of 19 families, comprising 134 citizens of Guatemala, as residents of the village of Santa Rosa east of the Boundary Line described in paragraph 1 of Section A of our Proposals, said persons shall be the subject of the following special measures:
 - i. The 134 persons (as more specifically identified pursuant to *The Results of the Precensus Exercise at the Population Centres of the Adjacency Zone Belize-Guatemala* as presented by the International Organization for Migration on May 9 2002) shall be entitled to continue residing in Santa Rosa for the rest of their natural lives, if they so choose.
 - ii. Said persons shall be entitled to maintain the structures and institutions appropriate for their secure residence, welfare, education and other reasonable community needs consistent with their rights and obligations under Belizean law.
 - iii. A special Human Settlement shall be established in Guatemala in a location to be determined by the Government of Guatemala, financed by the Development Trust Fund described in Section C of these proposals. When the special Human Settlement is established, the Guatemalans resident in Santa Rosa shall have a preferential right of occupancy, which may be exercised if

they voluntarily relinquish their right to continue residing in Santa Rosa.

- iv. The Government of Belize shall offer said persons, at no cost to them, land for settlement within Belize, which they may accept if they voluntarily relinquish their right to continue to reside in Santa Rosa.
- v. Any of the said persons, or their offspring, who are born in Belize shall have the right to Belizean citizenship and all rights attendant thereof, including rights of residence.
- vi. As residents of Belize, said persons shall enjoy the protections of Belizean law, and all Inter-American and International Conventions, to which Belize is a party, for the protection of human rights.

B. Maritime Issues

1. Recognizing that the agreement of the Government of Honduras will be a necessary element of this part of the Proposal, the Facilitators acknowledge with deep gratitude the support that the Government of Honduras has given to this Facilitation Process and, in particular, to the proposals for the delimitation of maritime areas (including the Guatemala Maritime Area) and the Belize-Guatemala-Honduras Ecological Park, addressed below.
2. The Territorial Seas, Exclusive Economic Zones and Continental Shelves of Belize, Guatemala and Honduras shall be as provided for in their respective national laws and in accordance with international law, taking into account the requirements of the 1982 UN Convention for the Law of

the Sea that areas over which States have sovereign rights should be delimited “by agreement on the basis of international law ... in order to achieve an equitable solution”.

3. Since it is not possible at this time to make reference in these proposals to precise geographic coordinates, we have made reference to indicative maps. The task of giving effect to the proposals set forth in this part - in the form of precise geographic coordinates - is a technical matter to be carried out by Belize, Guatemala and Honduras (with the assistance of the Secretary-General of the OAS as appropriate).

Territorial Seas

4. The territorial seas of Belize and Guatemala should be delimited in the Treaties of Settlement according to the following principles:
 - a. the maritime boundary between the territorial seas of Belize and Guatemala is the Equidistance Line;
 - b. Belize accepts the Bay Closing Line for the bay of Amatique between Cabo Tres Puntas and the South Bank of the River Sarstoon;
 - c. Guatemala and Honduras accept Belize’s published Straight Baseline System;
 - d. Guatemala and Belize accept Honduras’ published Straight Baseline system.
5. From the Territorial Sea Tripoint between Belize, Guatemala and Honduras in the Gulf of Honduras and extending north-eastward to the 12 nautical mile intersection of the territorial sea limits of Belize and Honduras there shall be granted to Guatemala an access corridor of

unrestricted navigational rights extending for two miles on either side of the Belize-Honduras territorial sea equidistance line boundary.

6. Within six (6) months of the coming into force of the Treaties of Settlement, Belize, Guatemala and Honduras will give effect to any requirements pursuant to the provisions of Article 16 of the United Nations Convention on the Law of the Sea, with respect to charts and lists of geographical coordinates reflecting the principles in the preceding paragraph.

Exclusive Economic Zones and Continental Shelves

7. The proposal which follows is intended to provide for a final delimitation to be agreed between the Parties and Honduras of the exclusive economic zones and continental shelves of Belize, Guatemala and Honduras in the Gulf of Honduras. It provides for a Guatemalan maritime area which is reasonable and which is agreed upon by the relevant Parties on the basis of international law in order to achieve an equitable solution. To that end, and having regard to the rights and interests of the Parties and of Honduras, and taking into account these proposals as a whole, the Parties shall agree in accordance with international law and in order to achieve an equitable solution that the delimitation of the Exclusive Economic Zones and Continental Shelves of Belize, Honduras and Guatemala shall, subject to the conditions set forth in paragraph 9 below, be as follows:

- (i) the Exclusive Economic Zones and Continental Shelves of Belize and Honduras in the Gulf of Honduras shall be as set forth in indicative Map [1] (attached);

- (ii) The Exclusive Economic Zone and Continental Shelf of Guatemala in the Gulf of Honduras (the Guatemala Maritime Area) shall be an area of 2000 square nautical miles as set forth in the indicative Map [2] (attached).
- 8. There shall be established a Tripartite Regional Fisheries Management Commission for the Gulf of Honduras (“the Tripartite Commission”) under the rotating chairmanship of Belize, Guatemala and Honduras. The Tripartite Commission shall, subject to international law, have vested in it authority for the management, long-term conservation and sustainable use of straddling fish stocks and highly migratory fish stocks located in the Exclusive Economic Zones of Belize, Guatemala and Honduras (over the area identified at indicative map 3]. In its activities the Tripartite Commission shall be guided by the principles set forth in the 1995 Agreement for the Implementation of the Provisions of the 1982 UN Convention on the Law of the Sea relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks. In accordance with the 1995 Agreement the Tripartite Commission shall *inter alia* agree on allocations of allowable catches. The decisions of the Commission shall be by consensus.
- 9. In the Guatemala Maritime Area, the following conditions shall apply:
 - a. Belize will have a right to a reasonable proportion of the allowable catch as determined by the Tripartite Commission in the area marked as [X] on indicative Map [3], which is preferential vis-à-vis third States.
 - b. Honduras will have a right to a reasonable proportion of the allowable catch as determined by the Tripartite Commission in the area marked as [Y] on indicative Map [3], which is preferential vis-à-vis third States.

- c. The exploration and exploitation of any natural resources on the seabed or in the subsoil shall be carried out jointly by Belize and Guatemala in the area marked [X] on indicative Map [3], and jointly by Honduras and Guatemala in the area marked [Y] on indicative Map [3].
10. In the Exclusive Economic Zone of Honduras the nationals of Guatemala should be granted, in accordance with the law of Honduras, appropriate access to fisheries rights.
11. The Parties shall agree that any dispute concerning this part of the Proposals shall be treated as if it were a dispute arising under the 1982 UN Convention on the Law of the Sea, and shall be subject to the dispute settlement provisions set forth in Part XV of that Convention.

The Belize-Guatemala-Honduras Ecological Park

1. Without prejudice to the immediately preceding paragraphs of this Section, there shall be established an Ecological Park in respect of three areas comprising the coastal, insular and maritime areas of Belize, Guatemala and Honduras as delineated with reference to this paragraph on the attached map marked [4]. Honduras' internal waters in that sector should also be included in the Ecological Park.
2. The Park shall constitute a single area and be subject to a special regime to be adopted by the three Governments without prejudice to their sovereignty and/or sovereign rights in the prescribed area at the time of the coming into force of the Treaties of Settlement. The essential character of the regime for the Ecological Park shall be for the conservation of the resources of the area, including in particular the marine resources, and the development of sustainable eco-tourism.

3. The Gulf of Honduras is an ecologically diverse transboundary area shared by Belize, Guatemala and Honduras. The economic dependence of the three countries in the area calls for appropriate measures to sustain the viability of this dependence. A multiple use tri-national Ecological Park involving a concerted and harmonized approach to the management of these shared resources is the way agreed.
4. Agreement on the establishment of the Belize-Guatemala-Honduras Ecological Park (hereinafter referred to as 'the Ecological Park') will be in the form of an Agreement binding under international law between Belize, Guatemala and Honduras.
5. It will be a particular feature of the regime that while the three areas shall remain under the administrative control exercised by the respective countries at the time of the coming into force of the Treaties of Settlement, rights of access to and use of those areas by citizens of the three countries will be assured, with due regard to the conservationist nature of the Ecological Park and in keeping with the general laws of the respective countries and any decisions taken by the Belize-Guatemala-Honduras Ecological Park Commission.
6. The agreement of the Government of Honduras will be a necessary element of this proposal. A framework for such an Agreement between the three countries establishing the Ecological Park is attached to these Proposals marked Attachment A.

C. The Development Trust Fund

1. A major component of our Proposals is the establishment of a Development Trust Fund to be devoted to development purposes in both countries and, specifically, for the alleviation of extreme poverty and landlessness in the border provinces of Guatemala, the establishment of

a special Human Settlement in Guatemala; the establishment, development and protection of the Belize-Guatemala-Honduras Ecological Park; and the implementation of these Proposals and the Treaties of Settlement

2. The Fund shall be subscribed by members of the international community and international financial institutions in the context of the settlement of the Belize-Guatemala differendum. It is our contemplation that the Fund should be at least US\$ 200 million. It is critical to the successful implementation of these Proposals that such a Fund can be realized.
3. It is our proposal that the Fund should be administered by the Inter-American Development Bank (IDB) whose agreement to such a role will be sought within the framework of these Proposals and of the draft Terms of Reference of the Belize-Guatemala Development Trust Fund attached hereto marked Attachment B.

D. Trade, Investment and Functional Cooperation

The long term strengthening of relations between the two countries can be furthered by an environment of practical cooperation on a day to day basis. We recommend therefore that a start be made immediately in this regard and make two specific proposals for such supplementary action, namely:

1. Belize and Guatemala should use their best endeavors to commence negotiation of a Free Trade Agreement (FTA) and a Bilateral Investment Treaty (BIT), at the earliest practicable date, with a view to their entering into force as soon as possible after the commencement of the Treaties of Settlement. The objective of the FTA and the BIT would be to increase

trade and investment between the two countries, including the promotion of economic development of the border regions and the communities on both sides of the border. We are mindful of the contribution such agreements will make to the wider Central American involvement in the Free Trade Area of the Americas.

2. With a view to enhancing cooperation between the Parties and promoting economic development in both countries, Belize and Guatemala shall, as part of the Treaties of Settlement, and in the context of the Free Trade Agreement, establish procedures for according preferential treatment to each other's nationals engaged in trade or commerce, with regard to access to and use of ground, river and air transport, and maritime port facilities in Belize and Guatemala.

E. Transitional Arrangements

1. These Proposals envisage that were they to find favour with the Parties, their implementation should be pursued with a spirit of immediacy and that pending such implementation, the Confidence Building Measures which were agreed and put in place during the Facilitation Process, shall continue until the Treaties of Settlement come into force. Pending the coming into force of the Treaties of Settlement, and in expectation of the continued support of Honduras, the Facilitators shall remain available to the Parties and to Honduras to assist in resolving any difficulties that might arise with regard to the interpretation of the Proposals or their implementation.
2. We are mindful that if our Proposals are acceptable to the Governments

of Belize and Guatemala both Parties have an obligation to refer them to the people of their respective countries for approval in national referenda as a pre-condition to their implementation according to law. We believe that such democratic processes can make a material contribution to the full, perfect, and final resolution of the territorial differendum. Since both Parties will wish the referenda to be conducted in a manner which enhances that contribution, we make to them the following procedural recommendations :

That both Parties agree –

- (1) That the referenda be held on the same day in both countries.
- (2) That the day agreed for holding the referenda be within a period of seventy-five (75) days from the presentation of our Proposals.
- (3) That the Parties give consideration to the following common formulation of the Question to be asked in each referendum:

Q. Do you approve the Proposals made through the Facilitation Process of the Organization of American States for the peaceful, honorable and permanent resolution of the Territorial Differendum between Belize and Guatemala?

3. The Treaties of Settlement will mark in the Hemisphere a major signpost of conflict resolution through negotiation and mediation and we recommend that the Organization of American States, which has played

so central a role in the Facilitation Process, should continue in all appropriate ways to watch over the processes of approval of these Proposals by the Parties, including the conduct of referenda in both countries, and the finalization and implementation of the Treaties of Settlement. It shall be a particular responsibility of the Facilitators to assist the Parties in these endeavors.

4. It is our hope that the Governments and International Institutions that have encouraged and supported the Facilitation Process and whom we expect to contribute to the Development Trust Fund will assist and encourage the parties in the adoption and implementation of the proposals and the resulting Treaties of Settlement. We also hope that sub-regional Organisations will identify with this settlement of a longstanding territorial differendum in Central America and the Caribbean and join as Honour Witnesses to its fulfillment.

Transmitted by the Facilitators on 30 August 2002 to the Secretary General of the Organization of American States, in the presence of the Foreign Ministers of Belize and Guatemala and the representative of the Government of Honduras, on the occasion of the Ministerial Meeting of the Facilitation Process at the Headquarters of the Organization of American States in Washington DC.

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Shridath Ramphal

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Paul S. Reichler