



INTERNATIONAL COURT OF JUSTICE

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El Salvador requests a revision of the Judgment delivered on 11 September 1992 by the Chamber of the Court in the case concerning the Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening)

THE HAGUE, 10 September 2002. Today El Salvador filed an Application for revision of the Judgment delivered on 11 September 1992 by the Chamber of the Court in the case concerning Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening). El Salvador indicated that “the sole purpose of the application is to seek revision of the course of the boundary decided by the Court for the sixth disputed sector of the land boundary between El Salvador and Honduras”.

El Salvador bases its Application for revision on Article 61 of the Statute of the Court, which provides in its first paragraph that “an application for revision of a judgment may be made only when it is based upon the discovery of some fact of such a nature as to be a decisive factor, which fact was, when the judgment was given, unknown to the Court and also to the party claiming revision, always provided that such ignorance was not due to negligence.”

In the Application El Salvador alleges that from the reasons given by the Chamber to establish the boundary line in the sixth sector, the following can be inferred:

- “(1) That a decisive factor in dismissing El Salvador’s claim to a boundary along the old and original riverbed was the lack of evidence of an avulsion of the Goascorán River during the colonial period, and
- (2) That a decisive factor that persuaded the Chamber to accept Honduras’s claim to a land boundary that follows the current course of the Goascorán, purported to be the course of the river at the time of independence in 1821, was the chart and the descriptive report of the Gulf of Fonseca that Honduras presented and that were supposedly drawn in 1796, as part of the expedition of the brigantine El Activo.”

El Salvador claims that it has obtained scientific, technical, and historical evidence which “demonstrates that the old course of the Goascorán River debouched in the Gulf of Fonseca at the Estero ‘La Cutú’, and that the river abruptly changed course in 1762”. It contends that this evidence, “which was not available to the Republic of El Salvador prior to the date of the Judgment, can be classified, for purposes of the revision, as a new fact, with a character such that it lays the case open to revision”; and that it “transforms hypothetical fact into juridical reality, substantially alters the Judgment’s assumptions, its ratio decidendi, and obliges the Chamber to consider the consequences that the avulsion of the Goascorán River has for deciding the boundary in the sixth disputed sector of the land boundary between El Salvador and Honduras”.

El Salvador further claims that “in the six months prior to making [its] application, [it] obtained cartographic and documentary evidence demonstrating the unreliability of the documents that form the backbone of the Chamber’s ratio decidendi. A new chart and a new report from the expedition of the brig El Activo have been discovered”. El Salvador also observes that this new discovery “calls to mind the case of the Farallones del Cosigüina, created by a huge eruption of Cosigüina volcano in 1835”, pointing out that “[n]o logical explanation has been found for the fact that this geographic accident, like others caused by the same eruption, did appear on charts drawn up forty years before the volcano’s explosion”.

El Salvador concludes as follows: “the fact that there are several versions of the ‘Carta Esférica’ and the report of the Gulf of Fonseca from the El Activo expedition, that there are differences among them and the anachronisms they share, compromises the evidentiary value that the Chamber attached to the documents that Honduras presented, essential in the Judgment. Irrespective of the authenticity issue, there is no reason whatsoever to establish some hierarchy among the various versions. No one ‘Carta Esférica’ or expedition report could be considered so completely credible as to regard them, as the Chamber did, as the basis of a judgment founded upon proven facts. For purposes of this revision, we have, then, a second new fact, whose implications for the Judgment have to be considered once the Application for revision is admitted. Because the evidentiary value of the ‘Carta Esférica’ and the report of the El Activo expedition is in question, the use of the Saco negotiations (1880-1884) for corroborative purposes becomes worthless, a problem compounded by what the Republic of El Salvador considers to be the Chamber’s erroneous assessment of those negotiations. In reality, far from reinforcing each other, the El Activo documents and the Saco documents contradict each other.” According to El Salvador the following assertions can be made on the basis of the scientific and historical evidence now available: “(a) that the present-day course of the Goascorán River was not the course of the river in 1880-1884, much less in 1821; (b) that the old riverbed was the recognized boundary; and (c) that this riverbed was north of the Bay of La Unión, whose entire coastline belonged to the Republic of El Salvador”.

For all these reasons, El Salvador requests the Court:

- “(a) To proceed to form the Chamber that will hear the application for revision of the Judgment, bearing in mind the terms that El Salvador and Honduras agreed upon in the Special Agreement of 24 May 1986;
- (b) To declare the application of the Republic of El Salvador admissible on the grounds of the existence of new facts of such a character as to lay the case open to revision under Article 61 of the Statute of the Court; and
- (c) Once the application is admitted, to proceed to the revision of the Judgment of 11 September 1992, so that a new Judgment will determine the boundary line in the sixth disputed sector of the land frontier between El Salvador and Honduras to be as follows:

‘Starting from the old mouth of the Goascorán river in the inlet known as the La Cutú Estuary situated at latitude 13° 22’ 00” N and longitude 87° 41’ 25” W, the frontier follows the old course of the Goascorán river for a distance of 17,300 meters as far as the place known as the Rompición de los Amates situated at latitude 13° 26’ 29” N and longitude 87° 43’ 25” W, which is where the Goascorán river changed its course.’”

This is the first time that an application has been made seeking revision of a Judgment rendered by one of the Court's Chambers.

The full text of El Salvador's Application for revision will shortly be available on the Court's website at the following address: <http://www.icj-cij.org>.

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