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The economic correlation between the Central American Common Market and the dispute
between the Two States

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Abstract

This Master thesis aims to analyse the economic correlation between the Land, Island and Maritime Frontier Dispute between El Salvador and Honduras and the Central American Common Market. Initially, the in-depth analysis of the historic background and the applied development theories will be depicted. This is put into the theoretical framework of the Prebisch-Singer thesis. Afterwards, the Import Substitution industrialisation and its effect on the socioeconomic and economic structure of El Salvador and Honduras will be explained. Moreover, it will be described how the economy of the involved states, in the context of the Central American Common Market, have been influenced by the conflict itself. Finally, the dispute and its outcome, which has been negotiated before the International Court of Justice will be described in detail.

Zusammenfassung

Ziel der vorliegenden Masterarbeit ist es, die wirtschaftlichen Zusammenhänge zwischen dem Land-, Insel- und Seegrenzstreit zwischen El Salvador und Honduras und dem gemeinsamen Zentralamerikanischen Markt zu beschreiben. Um den Konflikt zwischen den beiden Ländern besser verstehen zu können, wird der vor dem Internationalen Gerichtshof verhandelte Fall im Detail beschrieben. Zunächst wird auf den historischen Hintergrund der beteiligten Länder eingegangen. Die Masterarbeit ist außerdem in den theoretischen Rahmen der Prebisch-Singer-These eingebettet. Da die importsubstituierende Industrialisierung eine wichtige Rolle im gemeinsamen Zentralamerikanischen Markt gespielt hat, wird diese analysiert und es wird auf ihre sozioökonomischen und wirtschaftlichen Auswirkungen eingegangen. Außerdem, wird dargestellt, in welchem Ausmaß sich der Konflikt auf die ökonomische Situation der beiden Mitgliedsländer ausgewirkt hat. Abschließend wird der Seerechtskonflikt der beiden Staaten detailliert beschrieben.

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List of abbreviations

CABEI	Central American Bank for Economic Integration
CACM	Central American Common Market
CMEA	Council for Mutual Economic Assistance
ECLAC	Economic Commission for Latin America and the Caribbean
ECOSOC	Economic and Social Council
EEC	European Economic Community
EFTA	European Free Trade Association
EU	European Union
GDP	Gross domestic product
ICJ	International Court of Justice
IMF	International Monetary Fund
ISI	Import substitution industrialization
LAFTA	Latin American Free Trade Association
NOAA	National Oceanic and Atmospheric Administration
OAS	Organization of American States
ODECA	Organization of Central American States
SICA	Sistema de Integración Centroamericana
UN	United Nations
UNCLOS	United Nations Convention of the Law of the Sea
UPJ	Uti Possidetis Juris
USA	United States of America
UNCTAD	United Nations Conference on Trade and Development

1 Introduction

The following master thesis is an analysis of the Land, Island and Maritime Frontier Dispute of 1986 between El Salvador and Honduras, in which Nicaragua intervened. The analysis of the conflict will proceed in historical order. The beforementioned case had been handed over to the International Court of Justice (ICJ) on 11th December 1986 in order to delimit the landmarks of the six areas in dispute and to determine the legal status of the maritime boarder of the Gulf of Fonseca and the disputed islands El Tigre, Meanguera and Meanguerita located in the Gulf.

Initially, it will describe the colonial past and nation state creation of the involved countries, as tensions immediately occurred after the States became independent. The colonial history is of great importance, as it influenced the economic composition of both involved countries.

However, their colonial history is not only important to be described in order to understand the roots of the conflict between El Salvador and Honduras, but also to understand the approach by the ICJ to resolve the dispute and its judgement. Moreover, it helps to understand the difficulties the Chamber had to face while solving the dispute. The Land, Island and Maritime Frontier Dispute of 1986 between El Salvador and Honduras is considered as the most complex case in the entire history of sea disputes.

This is explained by the fact that the Chamber had to resolve three issues at the same time: the delimitation of the landmark and maritime borders and the legal status of the islands. Additionally, Nicaragua intervened in the conflict in 1989. Nicaragua shares its maritime boarder of the Gulf of Fonseca with El Salvador and Honduras. Therefore, the country was interested in the outcome of the case. On

17th November Nicaragua applied for permission to intervene in the case referring to Article 62 of the Status of the Court. Under Article 62, a state can ask for intervention in a case, if the decision may affect the country itself. The Chamber agreed, that Nicaragua had a legal interest in the case as it might have been affected by its decision concerning the legal regime of the waters of the Gulf. However, Nicaragua could only intervene in respect to that issue. This was the first time in history that the ICJ allowed a country to intervene in a case under Article 62.¹

Furthermore, the master thesis will describe the context of the geopolitical situation at that time. This is important in order to understand the development theory applied by the United Nations Economic Commission for Latin America and the Caribbean (ECLAC). Due to the fact, that the introduction of the Central American Common Market (CACM) by the ECLAC had made a significant impact on the outburst of the conflict. Moreover, the correlation between the CACM and the Land, Island and Maritime Frontier Dispute will be demonstrated.

Initially, an overview of the market itself will be provided. Additionally, the master thesis will analyse the theoretical and practical contributions of Raúl Prebisch's development theories. Meaning that it will explain how it influenced the CACM and consequently also the conflict between El Salvador and Honduras. This is important, as the economist played a key role in the applied import substitution industrialization (ISI).

¹ Steven R. Ratner, Land, Island and Maritime Frontier Dispute (El Salvador/Honduras) Application to Intervene. In: The American Journal of International Law Vol. 85, No. 4 (Oct. 1991), pp. 680-686 (Cambridge University Press 1991) 680-681.

Furthermore, it will be analysed if the conflict itself had a negative influence on the economy of the member countries. All in all, as the subtitle already says, the paper aims to describe the economic correlation between the dispute between El Salvador and Honduras and the economic structure of the two involved member states within the CACM.

This is followed by the description of the dispute itself, starting with the description of the geography of the conflict and especially depicting those areas that were in dispute. Afterwards, the actual dispute will be explained, including the description of the development and the analysis of the case. Finally, different argumentations of the involved parties and the description of the decision of the ICJ about the resolution of the case will be analysed. Also, the legal principles the Chamber followed to make a judgement will be explained in detail.

2 Historic background of the conflict

To understand the 1986 Land, Island and Maritime Frontier Dispute between El Salvador and Honduras, it is important to consider the historic background of the region. Especially the Spanish colonisation had a major impact on the resolution procedure of the ICJ. Therefore, this master thesis will firstly analyse the colonial history of the conflict. Secondly, it will describe the independence process of El Salvador and Honduras. Thirdly, it will explain the countries development after independence. This historic analysis will give the reader an understanding of the historical roots of the conflict.

2.1 Colonial history

The Spanish influence in Latin America started after the Spanish Reconquista, which ended in 1492. In 1492 after the fall of Granada,

Castile, Aragon, Navarra and Portugal existed as Kingdoms at the Iberian Peninsula. Castile, under the rule of Queen Isabella and King Ferdinand, has been the main actor in the Spanish Reconquista.² Due to the large distance between both geographical locations, the region has not been considered as colony, but rather as an overseas territory. After the death of Queen Isabella and King Ferdinand the royalty had been passed to Charles I of Habsburg in 1516. Under the command of Charles I, the region became the Captaincy General of Guatemala, which included the following areas: Chiapas in Mexico, Guatemala, Nicaragua, Costa Rica, El Salvador, and Honduras.³

Although the Spanish officials tried to impose the frontiers of the administrative units in Latin America in the same way the Inca and Aztec empires had been divided, the local territorial definition of the indigenous population had not been taken into consideration. Therefore, the Spanish borders had been partly superimposed with local borders, but also cut across political and cultural boundaries.⁴

The Spanish war of succession also played an important part in the historic context of the conflict. This is based on the fact that its outcome had a direct influence on the colonies. The problem of the Spanish succession had been a recurring issue in European politics since the death of Philipp IV. Primarily after the long-lasting Turkish war, some of the involved decision-makers expressed a certain war weariness for another conflict to evoke. Especially England and the Netherlands had no interest in a renewed military conflict. Towards the end of the century it became particularly urgent due to the worsening

² Jürgen *Hartmann*, *Die politischen Systeme Lateinamerikas: ein Überblick* (Springer VS 2017).

³ Klaus *Stüwe*, Stefan *Rinke* (Heds.), *Die politischen Systeme in Nord- und Lateinamerika: eine Einführung* (Springer VS, Wiesbaden 2008). 225.

⁴ Pitou *Dijk*, *Fronteras: Towards a Borderless Latin America* (Amsterdam CEDLA 2000) 47-48.

health of the Spanish king Charles II. After the death of the last member of the Spanish Habsburg family, the Spanish war of succession commenced between the French Bourbons and the Viennese Habsburgs. The outbreak of the war was the culmination of a chain of decisions made by political actors with strategic goals.⁵

It started with the arrival of Philipp V of Anjou from the royal houses of the French Bourbons on the throne, who implemented reforms based on the model of the French state. Spain moved towards a mercantilist economic policy, as practiced in France, which was marked by the protection of domestic trade and agriculture and trade as a source of income. This course had also been taken over by Charles III with serious consequences for the colonies. They were rigorously subordinated to the needs of the Spanish metropolis, and the state administration became more intense and turned the region from an overseas territory into a colony.⁶

The beforementioned mercantilist economic policy had also several consequences for the colonies in Central America. The Iberian Peninsula created a trade monopole with Central America. This means that it had to import all its commodity imports from Portugal and Spain. In exchange, Latin America had to transfer gold and silver to the Iberian Peninsula. This created a serious trade deficit in Latin America.⁷

Later, during the Bourbon reform era, at the end of the 18th century, Spain under the rule of Charles III strengthened the administrative, economic and social structures of the colony, overhauling the external

⁵ Katharina *Arnegger*, Leopold *Auer*, Friedrich *Edelmayer*, Thomas *Just* (eds.), *Der Spanische Erbfolgekrieg (1701 – 1714) und seine Auswirkungen*. In *Memoriam Teodora Toleva* (Österreichisches Staatsarchiv, Wien, 2018) 16-17.

⁶ Jürgen *Hartmann*, *Die politischen Systeme Lateinamerikas: ein Überblick* (Springer VS Wiesbaden 2017) 7.

⁷ Victor *Bulmer-Thomas*, *The economic history of Latin America since Independence* (Cambridge University Press, London, 2003) 22-23.

and internal trading system in Latin America. However, at the same time, the autonomy of the individual provinces was strengthened by the introduction of an administrative system and the territorial reorganisation. This reorganisation created the basis for the territorial borders of the future national state.⁸

2.2 Nation state creation

Although the Iberians created the idea of a homogenous colonized group of native Americans in Latin America, through the terminology of the so called “Indian”, the people that inhabited Latin America at the end of the fifteenth century differed greatly in language, culture, economy, and political organization. Therefore, the dynamics of the colonial rule were different in every region. This colonial rule was mainly influenced by the existing natural resources, conditions, accessibility and climate.

Consequently, the beforementioned decolonialization process was different in each country of Latin America.⁹ The decolonialization of the continent represented one of the most important cuts in the history of the region. Extensive social upheavals already took place since the last decades of the 18th century. These finally led to the replacement of the colonial regime by nation states.¹⁰

2.2.1 Decolonisation process of El Salvador

El Salvador with its emerging economy did no longer belong to the Captaincy General of Guatemala, but to an intendant in San Salvador. Therefore, it had been largely autonomous in the areas of justice, finance, civilian administration and military affairs.¹¹

⁸ *Rinke*, Die politischen Systeme in Nord- und Lateinamerika, 225.

⁹ Friedrich *Edelmayer*, Bernd *Hausberger*, Barbara *Potthast* (eds.), *Lateinamerika 1492 – 1850/70* (Verein für Geschichte und Sozialkunde (VGS), Vienna, 2005). 80-81.

¹⁰ Potthast, *Lateinamerika 1492 – 1850/70*, 225.

¹¹ *Ibid.*

At the end of the 18th century the relation between Spain and the Creole upper class sharpened. This was based on the world market competition in the indigo trade, as well as due to the interruption of the trade routes to Spain. The interruption of the trade routes to Spain was a consequence of the wars in Europe. Finally, the beforementioned wars led to an economic crisis at the beginning of the 19th century. This economic crisis had been accompanied by social tensions and a high migration from the rural to the urban area. This finally led to the so-called “primer intento”, a revolt against the central government on the 5th of November 1811, with the participation of the Mestizian population. However, the revolt had been suppressed by the monarchy and consequently appointed the Guatemalan José de Aycinena as the intendant and José María Peinado as mayor of San Salvador, assigning them to defend the monarchy. The second rebellion led by the Salvadorian Creole Pedro Castille, which had been defeated by the army general Bustamante y Guerra, took place in 1814.¹²

In the ensuing period, the Salvadorian elite had been divided into a liberal camp of emerging Creole families and a conservative camp showing its loyalty to the Spanish crown. The reason for their decided positioning was based on economic and political interests. As the Creole families were mainly active in the production of indigo, they expected greater economical flexibility by reducing the dependency from the Captaincy General of Guatemala and the guardianship of the Spanish motherland. Finally, the pressure from El Salvador and the neighbouring provinces became so great, that in 1821, the leading colonial oligarchy in Guatemala City proclaimed the independence of

¹² Inga *Luther*, Das politische System El Salvadors In: Die politischen Systeme in Nord und Lateinamerika. Eine Einführung (Wiesbaden, 2008) pp. 226-245. 226-228.

El Salvador with the expectation to preserve the political and economic power.¹³

2.2.2 El Salvador after independence

As it can be seen in the historic analysis above, El Salvador had a long history of Spanish colonisation and conquest, lasting for three centuries. During the colonisation period, the indigenous traditions had been marginalised and oppressed. Due to diseases the indigenous population declined drastically. Furthermore, they experienced suppression and were forced to work for the Spanish king. Over the years the number of “mestizos”, so called people with European and indigenous ancestors increased.¹⁴

Although El Salvador declared independence in 1821, the Colonialism within and the suppression of the indigenous population remained in the country. Moreover, the fact that El Salvador is the smallest country in Latin America influenced its economic and socio-economic composition. As the land is rare in El Salvador, it offered little room for economic diversification. Therefore, semi-feudal foundations focusing on the cultivation and sale of indigo continued in the country. This uneven land distribution led to a system of unequal power relations. These deep internal divisions of classes and ideological believes were difficult so solve.¹⁵

Consequently, the country had been marked by internal, as well as external conflicts after independence. Between 1841 and 1890, El Salvador fought with Guatemala five times, with Honduras four times

¹³ *Luther*, Das politische System El Salvadors, 226-228.

¹⁴ Christopher M. *White*, The history of El Salvador (Greenwood Press, Westport, 2009) 2-3.

¹⁵ *White*, El Salvador, 35-36.

and with Nicaragua once. Furthermore, the government had been replaced 13 times by military coups during beforementioned time.¹⁶

Economically speaking the country shifted between 1871 and 1932 from the indigo production towards the production of coffee. This economic shift had also been accompanied with other changes. It for example made El Salvador less democratic, more militarized and simultaneously also more violent. This time was also marked by revolts of the indigenous population. Already in this time period, the tights between the United States of America and El Salvador can be seen. These relations have not been, as probably presumed, economic but rather military ties. The close alliances of the United States and the Salvadorian military carried out massive repression of the Salvadorian population. The United States of America's (USA) military assistance had been deep and long-lasting.¹⁷ These military ties with the USA. and its development after independence had been quite different in El Salvador's neighbouring country Honduras.

2.2.3 Decolonisation process of Honduras

In terms of its geographic location, Honduras had a marginalised position in Central America, due to its tropical rainforests in the low land and its location towards the Caribbean.

Already in the colonial era, the Honduras, which were difficult to develop in terms of traffic and in the lowlands, had a marginal position in the Spanish-settled Central America with its largely unsuitable soil and geographic orientation towards the Caribbean. The fact that ancient sources called today's Honduras the "land between the borders" seems to be a symbol of the future. The detachment of Spain in 1821, the short-term integration into the Kingdom of Mexico and

¹⁶ White, El Salvador, 57.

¹⁷ White, El Salvador, 65-66.

the establishment of the fragile Central-American Confederation (1823-1838) were less the result of deliberate attempts for emancipation than the political manoeuvres of some Creole families in the shadow of the independence struggle in Mexico and South America.¹⁸

2.2.4 Honduras after independence

The economic structure of Honduras had been different to El Salvador. First of all, it had been a supplier of silver to the Spanish crown, due to its large silver deposits. After the country became independent, foreign companies from France, Britain, and the USA took over the mining activities. The export of silver accounted for most of Honduras exports in the 19th century. However, by 1890 the percentage of silver exports decreased to only 4 percent.¹⁹

Furthermore, another important economic sector represented the banana industry in Honduras. However, most of the banana plantations in the country had been in the hands of USA companies. Here it can be seen that unlikely to El Salvador, the interest of the United States had not been military, but rather economic. The economic influence of the United States in Honduras will be explained later in more detail when analysing the Central American Common Market.²⁰

Nevertheless, based on the above historic analysis the influence of the Spanish colonisation and U.S. American presence had a major impact on the outbreak of the dispute between El Salvador and Honduras. This claim will be explained in more detail later. In the illustration below the two states El Salvador and Honduras can be seen.

¹⁸ Rinke, Die politischen Systeme in Nord- und Lateinamerika, 293-294.

¹⁹ Thomas M. *Leonard*, The history of Honduras (ABC-CLIO, LLC, California, 2011) 4-5.

²⁰ Leonard, The history of Honduras, 81-82.

Figure 1: Nation states – El Salvador and Honduras



Source: Britannica, 2012

3 The 20th century and the global economic crisis

The economic crises of the 20th century also influenced the out-break of the dispute between El Salvador and Honduras. This is not only based on the radical changes in the world economic order, which also had an impact on the two involved parties. But also, due to new economic development theories that evolved in this time period. Raúl Prebisch played an important role in these changing development approaches. This paradigm shift and the theories of Prebisch will be explained later.

The radical change in the world economic order commenced due to political and economic factors during World War I and began to extend and intensify with the global economic crisis of the thirties of the 20th

century. During the Great Depression, Argentina faced a mass unemployment rate due to the collapse of the world trade. During the global economic crisis, the United States of America assumed the leading dynamic centre and replaced Great Britain. This did not only represent a change of power, but also had a far-reaching impact on the rest of the world. The USA had vast natural resources and a consistent protectionist policy. Consequently, the import coefficient of the country dropped steadily.²¹

In 1929, before the global economic crisis, the import coefficient of the USA amounted to only five percent of the total national income. Thereafter, because of restrictive measures due to the global economic crisis, it dropped even further. In 1939, at the beginning of World War II, it only accounted 3.2 percent.²²

This development had a great impact on the rest of the world. With the outbreak of the global economic crisis, there had been a change in the global geopolitical power structures. The industrialised countries began to fully promote agricultural self-sufficiency. In order to counter the decrease of their exports, the industrialised countries set measures to reduce their imports and, in this way, improved their trade balance. These measures especially harmed the developing countries. They had been forced to impose even more drastic restrictions, as the commodity prices devaluated even more drastically than industrial goods.²³

As already mentioned, back then, the USA had been the leading dynamic center. The sudden decline of its import coefficient also forced the rest of the world to reduce their imports through different

²¹ Raúl Prebisch: Für eine bessere Zukunft der Entwicklungsländer. In: Karin Fischer (Edt.) *Entwicklungstheorien. Klassiker, Kritik und Alternativen* (Mandelbaum Vienna 2016), pp. 105–117, 105.

²² Ibid.

²³ Prebisch, Für eine bessere Zukunft der Entwicklungsländer, 105-106.

restrictive measures. The most-favoured-nation clause was supposed to prevent discriminatory trade practices and to have the effect that trade restrictions apply equally to all countries. However, in order to diminish the negative effects of the shortage of the dollar, most of the other countries started to focus on bilateral trade relations with the USA.²⁴

After the Second World War, the already explained problem reappeared and countries turned again to the already in the 1930s applied bilateralism. However, this time Western Europe decided to react differently than to only counteract these problems by a defensive attitude. They introduced proactive measures, among them the modernisation of their economy and an integration policy. For Europe these measures had positive effects. They significantly increased the export capacity and made mutual trade possible. However, the applied measures had also serious consequences for some developing countries.²⁵

The establishment of the European Economic Community (EEC) and the European Free Trade Association (EFTA) were the beginning of a new balance of power between Europe and the USA. Although the formation of the EEC marked the end of a long structural imbalance with the USA, the country welcomed its founding and offered its strong support. Additionally, the Council for Mutual Economic Assistance (CMEA) had been formed. By doing so, they indicated a new order of advanced industrial states.²⁶

After the Great Depression, when the old trade order collapsed and industrialised countries made crucial changes, problems arose for the developing countries. Beforehand, during the Great Depression,

²⁴ Prebisch, Für eine bessere Zukunft der Entwicklungsländer, 106-107.

²⁵ Ibid.

²⁶ Ibid.

declining exports of the developing countries resulted in an external imbalance, which solidified due to its low growth rates. From the very beginning, countries tried to encounter this imbalance by substituting their imports through domestic industrialisation. After the Second World War they continued to expand the ISI policy by using international sources made available to them.²⁷

3.1 Import substitution industrialisation

There are several definitions for the strategy of ISI. Bruton describes the process as follows: “In the broadest term the expression is used to refer to all arguments to the effect that modern developing countries cannot rely on exports as engine of growth. Consequently, development strategy must consist of “inward-looking industrialization” rather than following the dictates of comparative advantage in a given time period. In this broad sense the term encompasses the views in deteriorating terms of trade, import reducing technical advancement, monopoly power, commercial polities, etc. that have been put forward as explanation of the decline in the capacity of traditional exports to generate and sustain growth. In the narrowest terms, import substitution refers simply to the take-over of an existing domestic market from the foreign producer by prohibiting his imports in one way or another.”²⁸

In summary, the ISI is an economic policy theory, which advocated replacing imports from the Global North by products from domestic or regional production. This is based on the assumption, that countries of the Global South should reduce their dependency on foreign countries through local production and especially through the

²⁷ Ibid., 107-108.

²⁸ Henry J. Bruton, Import substitution and productivity growth. In: *The Journal of Development Studies* Vol. 4, Issue 3, 1968, 306.

production of further manufactured production. In this way it should be possible to establish a self-sufficient economy.²⁹

According to the point of view of the authors of the ISI, the current world order of labour had emerged in the 19th and early 20th century. In this division of labour and production, Latin America, and to certain extend also Asia and Africa, specialised in the export of raw materials, whereas Europe and the USA focused on the industrial processing of the imported raw material of the Global South. Later the Global North could satisfy its internal demand and export the final products to the Global South. Therefore, the added value stayed in the Global North. At the same time, it created a dependency of the Global South from the Global North.³⁰

The idea of the ISI is that all countries, which industrialised after Britain, go through a stage of ISI. This means that governments of the states concerned intervene in the industrialisation process through applying tariffs in order to protect infant industries and to construct capacity to produce incremental demand. In this way imported goods from the Global North should slowly be replaced by domestically manufactured products.³¹

As already mentioned above, in Europe and the USA, the process of ISI already took place in the second half of the 19th century. Also in the Global North the government played an important role in the process of industrialisation. Usually the character of this economic development theory had been “national”. This means that industries were mostly in

²⁹ David Felix, Import Substitution and Late Industrialization: Latin America and Asia compared. In: World Development, Vol. 17, No. 9, 1455-1469 (Great Britain Pergamon Press plc. 1989) 1455.

³⁰ Werner Baer, Import Substitution and Industrialization in Latin America: Experiences and Interpretations. In: Latin American Research Review, Vol. 7, No. 1 1972, pp. 95-122 (The Latin American Studies Association 1972) 95-96.

³¹ Ibid.

domestic hands. The design of machines and skilled labour were commonly imported from England in order to bring the specific knowledge into the country, as the country itself had already gone through an industrialisation process beforehand.³²

However, there are various reasons why Latin America, Asia and Africa did not undergo the process of ISI at the same time as countries of the Global North, among them colonial policies of European countries and socio-economic structures. In the Central American region, the ISI had been introduced by the Economic Commission for Latin America together with Prebisch. They called it the introduction of the “structuralism”, with the idea of an inward-looking development. From their point of view, this should have been achieved through ISI and regional integration.³³ However, it is important to keep in mind that in case of Latin America it was very attractive for the countries elite to export primary products to external markets. Therefore, the elites benefited from the economic structure and were able to accumulate more wealth. Latin American countries did not have a broad entrepreneurial class, labour force, infrastructure, market size or administrative capacity to handle an extensive industrialisation process. Furthermore, the Global North put a lot of pressure on the Global South in order to maintain the existing relation of power.³⁴

It is also important to keep in mind that although most of the Latin American countries received their independence at the beginning of the 19th century, the power structures of the former colony were still ongoing. As already explained, after the de-colonialisation process, the countries’ elites were still in power. Therefore, most of the countries’ wealth and land were kept by a small group of people. Furthermore, the

³² Baer, Import Substitution and Industrialization in Latin America, 96-97.

³³ The Economist, Raúl Prebisch.

³⁴ Baer, Import Substitution and Industrialization in Latin America, 97.

long period of colonialisation had left its mark on the region, which for example can be seen in a lack of infrastructure, also between the neighbouring countries. That is why it was even more difficult to establish trade relations between the neighbouring countries, as former trade routes were usually established in a way to serve the former colonial powers.³⁵

In most of the Latin American countries the ISI had been a widespread method to foster economic growth and socio-economic modernisation. However, since the 1970s there had been considerable doubt if the ISI strategy had been successful regarding the solution of the region's development problems. In many countries opportunities for further import substitution had disappeared. As industrial growth had slowed, job opportunities were scarce for the rapidly growing urban population. Also, on the socio-economic sphere the development strategy did not bring the desired positive effect, as in many countries the income distribution had either remained unchanged or became even more concentrated than before the process. The reasons for this phenomenon will be explained later by using the examples of El Salvador and Honduras in the Central American Common Market region.³⁶

Although the problem of the external imbalance could have been solved by the ISI, it created other problems at the same time, which became more obvious after some time. The countries that faced the greatest difficulties were those with the most advanced import substitution industrialization. On one hand, this had been based on the limited internal markets, on the other hand on the fact that because of the substitution of some imports, there was a greater need for

³⁵ Ibid.

³⁶ Baer, *Import Substitution and Industrialization in Latin America*, 98.

equipment. Later the demand in the countries of the CACM also increased due to higher internal incomes. Additionally, there were harming effects of the recent deterioration in the terms of trade, which mitigated the effectiveness of international funding sources.³⁷

Beyond that, the before mentioned international funding sources had been entailed a heavy interest burden, which had grown rapidly, mainly due to the repayment of relatively short-term loans. Moreover, foreign exchange earnings from exports had been relatively low and those were accompanied by debt service and brisk demand for imports.³⁸

Schröder and Schmidt address that there is no historical parallel to this phenomenon. In the 19th century the old structure of international trade was characterised by a strong increase in exports and provided the means for debt service. In their opinion, emerging difficulties were not caused by structural defects, as they are today, but by financial mismanagement and short-term cyclical downturns.³⁹

As already explained above, in developing countries the trend towards external imbalances is in general caused by a disparity between the growth rate of their exports of raw material and their imports of industrial goods. While commodity exports usually are developing rather slow, the demand for manufactured goods tends to accelerate. This explains why the slow growth of commodity exports is an inevitable consequence of technological progress in industrial centres. Moreover, commonly the demand for food decreases whereas the demand for manufactured goods and services tends to increase. Based

³⁷ Prebisch, Für eine bessere Zukunft der Entwicklungsländer, 107-108.

³⁸ Ibid.

³⁹ Ibid.

on this concept Prebisch explained the deterioration of the terms of trade.⁴⁰

3.1.1.1 The concept of the terms of trade

Prebisch explained the concept of the worsening of the terms of trade for commodities compared to industrial products with an intrinsic structural weakness within the developing countries themselves. This means that the elimination of the protectionism of the industrial centres would have had a huge impact on the prices of the concerned goods. However, this does not eliminate the effect of the deterioration of the terms of trade.⁴¹

According to Prebisch, the only possibility to eliminate the negative effects is solely by using their own measures. He argues, that the demand for commodities grows slowly and that at the same time, the proportion of the labour that can be employed by the primary sector is shrinking. This correlates with the fact that the faster the productivity of raw material extraction increases as a result of advanced technology, the smaller this fraction becomes. Consequently, the working population is forced to find a job in the industry or in other sectors. However, this process of restructuring is a protracted process. Therefore, Prebisch assumes that all the factors mentioned above cause the deterioration of the terms of trade.⁴²

If the restructuring process would be applicable easier and quicker, the process of deterioration of the terms of trade could be stopped. At the same time, the deterioration of the terms of trade must correlate with the development of the industry and other sectors of the peripheral

⁴⁰ Ibid., 107-108.

⁴¹ Ibid., 113.

⁴² Ibid., 113-114.

economies. In this case, the periphery states would be able to achieve much higher growth rates than before.⁴³

On the other hand, in industrialised countries, relative labour shortages and a strong union organisation provoke wages not only to rise, but to also even exceed productivity gains. These fundamental trends, which are related to the structural differences between the industrial centres and peripheral countries, explain why the terms of trade tend to deteriorate. Another influence is the protection of raw materials of the industrial centres. This further increases the gap between the demand for raw materials in the centres and the demand for manufactured goods in the periphery.⁴⁴

Nevertheless, this trend should not be seen as applicable law. This phenomenon might change if the demand for raw material in the centre rises abruptly, resulting either due to an increase in income or due to the appearance of a specific need. If the demand for raw material increases, but the supply does not adjust in accordance, then the price for raw material and therefore its generated income rises, influencing positively the effect on the terms of trade. Usually, if enough land and labour are available, the production expands in order to meet the demand. However, commonly the production even exceeds the demand. Consequently, the terms of trade deteriorate again. In most cases, when the developing countries increase their supply simultaneously, the production methods in the centres become more efficient. As a consequence, the demand for resources of the periphery decreases, while its supply increases. Therefore, the terms of trade get

⁴³ Ibid., 114.

⁴⁴ Ibid.

worse again and the developing countries find themselves in the prior situation.⁴⁵

4 The Economic Commission for Latin America and the Caribbean

Based on the before described ongoing global economic problems and geopolitical power changes, the main idea of the establishment of the ECLAC was to strengthen the economic development of the Latin American continent. Additionally, it was also meant to foster economic relations, especially those of the regional countries, but also multilateral collaborations of the member states and other world nations. In the following years the organisation expanded its work to the Caribbean countries and moreover worked on the improvement of the social well-being of the member states inhabitants.⁴⁶

The ECLAC had been established by the Economic and Social Council (ECOSOC) under resolution 106 (VI) on February 25th 1948. In 1984 the commission had been renamed Economic Commission for Latin America and the Caribbean.⁴⁷ The ECLAC has its headquarter in Santiago de Chile and is one of the five regional commissions of the United Nations (UN).

Today, the ECLAC comprises 46 member countries, among them 33 countries from the region of Latin America and the Caribbean. The remaining countries are from North America, Europe and Asia, which in the past had strong historic, economic and cultural links with the region.⁴⁸

⁴⁵ Ibid., 115.

⁴⁶ ECLAC, Acerca de la CEPAL. <<https://www.cepal.org/es/acerca>> (23.01.2019).

⁴⁷ ECLAC, Estados miembros. <<https://www.cepal.org/es/estados-miembros>> (23.01.2019).

⁴⁸ Ibid.

The conceptual framework of the regional economic cooperation for the CACM was developed initially by Raúl Prebisch (1901-1986), who was the Executive Secretary of the ECLAC at that time. Prebisch entered the Office of the Executive Secretary of the ECLAC in 1949.⁴⁹

4.1 Raúl Prebisch

Prebisch was born in Tucumán, Argentina in 1901 and became one of the well-known economists of Latin America. Although he is often referred to as the “Latin American Keynes”, he was less theoretical in comparison to John Maynard Keynes, meaning that Prebisch put his ideas and theories into practice. Because of his policy-making strategies he had a strong impact on the development strategies of the region.⁵⁰

Prebisch started his career in his home country Argentina, where he participated in the development of the country's statistic office and central bank.⁵¹ Especially during his younger years he had been influenced by neoliberal theories. However, his point of view changed during the global economic crisis.⁵²

In the 1930s he was a leading trade diplomat. At that time the prosperity of Argentina was threatened by internal problems of Great Britain, which was the main importer of Argentinian meat and grains. Prebisch concluded that Argentina was highly depending on Great Britain, as the price for primary products commonly decreased compared to manufactured goods.⁵³

⁴⁹ The Economist, Raúl Prebisch. Latin America's Keynes. <<https://www.economist.com/books-and-arts/2009/03/05/latin-americas-keynes>> (23.01.2019).

⁵⁰ Ibid.

⁵¹ The Economist, Raúl Prebisch.

⁵² Raul Prebisch, Die Modernisierung des Menschen In: Karin Fischer (ed.), Klassiker der Entwicklungstheorie. Von Modernisierung bis Post-Development. (Mandelbaum Vienna 2010) pp. 130–145. 130.

⁵³ Ibid., 130.

In previously mentioned period, he started to change his point of view concerning his recommended economic development strategies for Latin America. The Argentinian began to disagree with the assumption that free trade and markets would benefit all participating countries equally.⁵⁴ Therefore, Prebisch developed the theory that industrialised countries usually derive more benefits from trade than developing countries. Hans Singer, a British economist at the UN, came to the same conclusion, wherefore together they developed the “Prebisch-Singer thesis”.⁵⁵

4.1.1 The Prebisch-Singer thesis

In 1950, Prebisch and Singer explained in their thesis their assumption that the long-term trend of primary commodity prices was negative. They argued that the surplus generated by the export of primary products was only a temporary source of income, wherefore it could be used as a short-term source of income to improve the industrial development. Commonly, these opportunities are missed, as private activity tends to be governed by the price relations of the day.⁵⁶

4.1.2 The United Nations Conference on Trade and Development (UNCTAD)

When Prebisch gained awareness of the problem of the deterioration of the terms of trade, he wanted to make a sustainable change in the power relation in the world trade system. During the Cold War, when he was the Secretary General of the United Nations Conference on Trade and Development (UNCTAD) between 1964 and 1967, he used

⁵⁴ Ibid.

⁵⁵ The Economist, Raúl Prebisch.

⁵⁶ Pier Giorgio Ardeni, Brian Wright, The Prebisch-Singer Hypothesis: A Reappraisal Independent of Stationarity Hypothesis. In: The Economic Journal Vol. 102, No. 413 (Jul. 1992) pp. 803–812. 803.

his power to initiate a negotiation about the general system of preferences.⁵⁷

Although Prebisch was often seen as a dangerous radical, in America and Europe, he was seen as moderate and generally pro-American. It can be said that he preferred to introduce a reform rather than a revolution and that he believed in the independence of the central bank. In his development strategy he remained his focus on the private sector and it played a leading role. That is one of the reasons why Juan Domingo Perón saw him as a pro-International Monetary Fund (IMF) economic liberal and forced him out of the central bank.⁵⁸

By the early 1970s Prebisch was worried about the debt crisis of the region's growing foreign debt. This mentioned foreign debt will finally later lead to the failure of the import-substitution and introduce a debt crisis and the era of the Washington Consensus in the region.⁵⁹

5 The Central American Common Market

In the 1940s the ECLAC and Prebisch concluded, that the pathway to economic development would be regional economic integration. For the first time the idea of a Central American Common Market found its expression through the Multilateral Treaty on Free Trade and Central America Economic Integration and the Agreement in the Regime for Central American Integration Industries in 1958.⁶⁰

Formally, the CACM was born with the General Integration Treaty of 1960. The common market had been established by El Salvador, Guatemala, Honduras and Nicaragua in 1960. In 1962 Costa Rica

⁵⁷ The Economist, Raúl Prebisch.

⁵⁸ Ibid.

⁵⁹ Ibid.

⁶⁰ Matias E. *Margulís*, *The Global Political Economy of Raúl Prebisch* (Taylor & Francis Group, New York, 2017) pp. 63-64.

joined the agreement.⁶¹ The aim of the CACM was to establish a common market of the involved member states of the Central American region within five years. Within this process the industrialisation process had been important for the development strategy of the region. Especially the ISI played a key role in the previously mentioned process.

However, apart from the main focus of the CACM on the promotion and coordination of industrial development it also wanted to develop other areas. These areas were for example: the cooperation of in monetary and financial areas, the development of an integrated infrastructure and to foster intraregional investment. The basis for this new era of cooperation had been a note called “Acercamiento centroamericano y Bases para una Organización Centroamericana”, which served as a foundation to draft the first letter, called “Carta de San Salvador”. It describes the history and the various attempts of unification of the region. It also clarifies that it was not possible to unite Central America by establishing a federal government and preparing a constitution. As the past has taught the states, at the beginning it is necessary to carry out methods, which had already been effective and to eliminate barriers that separate the countries from each other at the same time. Secondly, the true community of interest must be discovered in order to see the linking factors of the five Central American plots.⁶²

On 14th October 1951, the before mentioned “Carta de San Salvador” had been signed during the meeting of the Ministers of Foreign Affairs of the Central American states. This document categorised the existing problems of the states into the following categories: political and legal

⁶¹ Pérez/Zapata, pasado, presente y futuro, 12.

⁶² Fuentes Irurozqui, Centro America y la Organización de Estados Centro Americanos, 57-59.

problems, economic problems and social and cultural problems. Moreover, it contains measures, which should provide recommended solutions. The meeting of the Ministers of Foreign Affairs of the Central American states had also been the birth hour for the Organization of Central American States (ODECA).⁶³

ODECA had not only been important for the formation of the CACM. In general, it had a great impact on the integration of the region. Among other topics subjects of discussion had been: the unification of traffic signals, educational programmes, customs processes and cultural polices. On 10th June 1958, the Multilateral Treaty of Free Trade and Central American Economic Integration had been signed by the following countries: Guatemala, El Salvador, Honduras, Nicaragua and Costa Rica. The aim of the mentioned treaty is described as follows: "The governments of the Republics of Guatemala, El Salvador, Honduras, Nicaragua and Costa Rica, wish to broaden and strengthen the bonds of origin and fraternal friendship that happily unite the five countries, and with the purpose of progressively integrating their economies, through insuring the expansion of their trade markets, promoting their production and their exchange of goods and services, to raise the standard of living of their respective population and in this way to re-establish the economic unity of Central America."⁶⁴

As already mentioned, the CACM wanted to reduce the dependence of its member countries on primary products. That is why two of the four bases that sustained the treaty were a uniform tariff on imports from third countries (the tariff equalization agreement) and the creation of an Intra-Central American free trade area. Nevertheless, the priority

⁶³ Ibid.

⁶⁴ SICA: Tratado multilateral de libre comercio e integración económica centroamericana <http://www.sice.oas.org/Trade/sica/PDF/Multilateraltreaty_s.pdf> (07.01.2018)

objective of the industrialisation was assumed in Central America together with the recognition of the asymmetrical structural conditions of the most and least developed countries. As a consequence, the free trade within the region could deteriorate the inequalities within the CACM region and harm the welfare of the latter, which justified the adoption of economic policies of ISI.⁶⁵

5.1 Mechanisms

As it is explained in Article I of the Multilateral Treaty of Free Trade and Central American Economic Integration, the treaty only consists in an agreement about establishing a customs union between the territories of the involved countries. Moreover, it aims to introduce a customs union in the territory of the cooperating countries. Furthermore, it consists in the establishment of a regime of free exchange. Nevertheless, the treaty also mentions that the countries want to optimise the treaty within a period of ten years.⁶⁶

As already explained before, on 13th December 1960, the treaty, called “General Treaty of Central American Economic Integration”, was signed by the Republics of Guatemala, El Salvador, Honduras and Nicaragua and thus, the CACM was born.⁶⁷ During the establishment process of the CACM also the Central American Bank for Economic Integration was established. It pursued the following three strategies: social development, competitiveness and integration. Two years after the signing of the before mentioned treaty, Costa Rica also declared its adherence to the established CACM.⁶⁸

⁶⁵ Pérez/Zapata, pasado, presente y futuro, 12.

⁶⁶ SICA, Protocolo al tratado general de integración económica centroamericana 1993 <<http://www.sice.oas.org/Trade/sica/PDF/Prot.Guatemala93.pdf>> (07.01.2018)

⁶⁷ SICA, Tratado general de integración economía centroamericano 1960 <http://www.sice.oas.org/Trade/sica/PDF/TratadoGrallIntegracion60.pdf> (07.01.2018)

⁶⁸ Ibid.

In order to understand the extend of the CACM it is necessary to understand the difference between common external tariffs and a common market. According to the definition of Tugores, a free trade area exists when two or more countries eliminate their trade barriers, while maintaining their liberty in all other sectors. In other words, they still maintain their own autonomous economic policy vis-à-vis third countries. A practical problem that usually occurs in a free trade area is the attempt of third countries to enter the market with their products through the country with the lowest tariffs. This is based on the fact, that after the products have entered the market, they can circulate freely in the common market. Therefore, the member countries can have a high loss of customs profits. In order to avoid this problem, it is recommendable to implement the rule of origin to track the origin of the product. However, this implementation usually comes with a lot of bureaucracy, wherefore the extension of the free trade area to a Custom Union is being recommended to solve the problem. A Custom Union usually has common external tariffs and acts as a unit vis-à-vis third countries. Therefore, it can avoid this bureaucracy. When the free circulation of labour and capital is added to the Custom Union, then it converts into a so-called Common Market.⁶⁹

Main objectives of the CACM were the establishment of a free trade zone and the adjustment of homogeneous common external tariffs. These standardised external tariffs and the free trade zone could be implemented very soon. After the successful implementation the CACM was aiming to acquire the necessary political budgets in order to diversify and industrialise the region and to strengthen the economic development. However, it is important to consider that the economic integration in the region would not have had the same effects for all

⁶⁹ Juan *Tugores*, *Economía internacional: globalización e integración regional* (MacGraw Hill Madrid 2006).

involved countries. El Salvador and Guatemala have competitive advantages compared to Honduras and Nicaragua, wherefore not only the liberation of the markets was important, but also non-commercial factors to neutralise possible inequalities.⁷⁰ In order to neutralise the different competitive advantages, they introduced a preferential paying system that was used until the 1980s. The system failed due to the before ongoing disputes and the armed conflict, which will be described in more detail later. And also, due to failing payments of the member countries.⁷¹

As already explained above, the CACM introduced commercial as well as non-commercial mechanisms to give a certain direction to the process of the regional integration. In the next chapter, the applied commercial and non-commercial tools will be explained.

5.1.1 Commercial mechanisms

As already mentioned before, the main objective of the CACM was to establish a free trade area. Consequently, one of the commercial instruments were tariffs. When in 1958 the Central American multilateral free trade and economic integration treaty was signed, intraregional trade in Central America was mainly limited to a few agricultural products. The region's low industrialisation rate and the small commercial trade flows were the incentives to rapidly introduce an implementation of a common market of the CACM. Therefore, member countries needed temporary protection against not only the rest of the world, but also against regional competition. The before mentioned protection was achieved through national tariffs, which automatically led to an enormous increase of the local production of

⁷⁰ Miguel S. *Wionczek*, The Central American Common Market. In: *Intereconomics* Vol. 03, No. 2, Spring 2005 pp. 261–292 (Cambridge University Press 2005).

⁷¹ Banco Interamericano de Desarrollo, *La Estrategia implícita del BID en Integración Regional: Su Evaluación* (Oficina de Evaluación y Supervisión, Washington D.C. 2002).

goods and put the involved countries in a better bargaining position with other countries and regions, as for example with the Latin American Free Trade Association (LAFTA).⁷²

5.1.2 Non-commercial mechanisms

However, the interregional trade liberation and the adjustment of external tariffs were not the only objectives of the CACM. It also aimed to establish the prerequisites to accelerate the diversification and the industrialisation of the region's economy. In other words, it strived for finding a strategy to guarantee a fair equilibrium of the economic development of the member countries. Therefore, a simple liberalisation of the trade would not have brought the achievement of the desired goal due to the different status quo of industrialisation and production facilities among the CACM member countries. Therefore, the key to the integrational process were non-commercial measures in addition to the trade liberalisation programme in order to neutralise the trend of increasing inequalities within the CACM region.⁷³

One of these non-tariff measures was the programme of the industrial integration, which aimed to distribute new manufacturing activities to guarantee the participating member states a relatively equitable share of the benefits of industrialisation. The basis for the mentioned integrational programme were intergovernmental agreements, which specifically stipulated special privileges and incentives and at the same time guaranteed the access to the market for every member country of the CACM. However, the before mentioned programme failed. Nevertheless, thanks to the programme the region received considerable development assistance from other regional cooperation agencies. In this context, the Central American Bank for Economic

⁷² Wionczek, *The Central American Common Market*, 237.

⁷³ *Ibid.*, 238.

Integration (CABEI) had been founded in 1960 to finance the infrastructure programmes and production activities, which had been of common interest for the region.⁷⁴

6 The economic results of the CACM

While analysing the outcomes of the CACM it can be seen that the literature is very controversial when it comes to describing the degree of success of the market. The different opinions concerning its success are usually located in two extremes. Some authors describe the CACM market as a big success in general, while others mention that the CACM had a negative effect not only on the socio-economic power relations within the countries, but also on the region itself. Some authors argue that the merger of the CACM had been a trigger or at least had an important influence regarding the outburst of the armed conflict between El Salvador and Honduras. In order to get a diverse overview of the impact of the CACM, the different opinions on the case will be described and discussed in the following sections.

6.1 Positive effects of the CACM region

Victor Bulmer-Thomas writes that there is a general agreement on the fact that economic factors and especially the economic model applied by the CEPAL played an important role in regard to the regional crisis in Central America in 1979. He also mentions that the consensus does not go enough into detail when it comes to determining the exact problems of the model and the success of the development model. It is due to the common consensus that the success of an economic development model is measured by a fast growth rate of the real GDP, as this has also been the case in the CACM. Consequently, from a mainstream economic point of view, the applied development can be

⁷⁴ Ibid.

considered as a great success. Nicaragua for example achieved the highest growth rates between the 1940s and the 1970s. The country even succeeded Brazil. However, Costa Rica and Honduras stayed at the opposite ends of the economic spectrum, as the richest and poorest country. It is not easy to explain the complex regional crisis; although the model had been applied nearly in the same way to all of the involved countries, the resulting social and political consequences were very different.⁷⁵

6.1.1 Intraregional trade creation

Before the establishment of the CACM the member countries rather feared than welcomed the creation of a free trade zone. Their fear was based on the concern that it could cause a resource re-allocation as well as a decline in manufacturing activities. In order to prevent a resource re-allocation to happen, the United Nations Economic Commission for Latin America and the Caribbean (ECLAC) assured each member country benefits through industrial programming. Additionally, the intra-regional free trade was not supposed to be applied to all products, but only to those for which there was a prior agreement on the location of production. Prebisch explains: “Since we knew very well that the vest interests in each country, especially those interests attached to a number of high-cost industries, were not going to show much support for free trade, we emphasised new industries which did not exist yet in the region.”⁷⁶

With the signing of the Managua Treaty in December 1960 this principle of reciprocity had been abandoned. By signing this treaty, the priority had been given to the establishment of a free trade area, where

⁷⁵ Victor *Bulmer-Thomas*, *Studies in the Economics of Central America* (The MacMillan Press Ltd. Houndsmills, Basingstoke, Hampshire and London 1988).

⁷⁶ L.N. *Willmore*, The pattern of trade and specialisation in the central American common market In: *Journal of Economic Studies*, Vol. 1 Issue: 2, 113-134. 114.

manufactured goods could circulate freely. However, not all of the involved member countries had been prepared to abandon the principle of reciprocity. This is the reason why Honduras delayed the ratification of the treaty until 1962.⁷⁷ The Minister of Economy of Costa Rica, Lic. Jorge Borbon, explained that Central American economies are not complementary, but competitive. He feared that industries with existing disadvantages would be eliminated and that manufacturing activities would focus on El Salvador and Guatemala, due to lower labour costs in these countries. These mentioned factors were the main reason why Costa Rica first denied signing the Managua Treaty.⁷⁸

Stanley had a contrary point of view of the future economic development of Costa Rica. He argued as follows: “The Central American region has the potential to develop in time into a region of complementary countries with Costa Rica, Guatemala and El Salvador producing different types of industrial goods. Honduras and Nicaragua will continue as suppliers of food and materials.”⁷⁹

The model from Hirschman shows the development of the intraregional trade. His model is divided into four different categories: the exchange of manufactures for manufactures, the exchange of non-manufactures for non-manufactures, the exchange of manufactures for non-manufactures and intraregional trade imbalances. The Hirschman model is illustrated in figure 2.⁸⁰

⁷⁷ Willmore, *The pattern of trade and specialisation in the central American common market*, 114.

⁷⁸ Ibid.

⁷⁹ Ibid., 115.

⁸⁰ Ibid.

Figure 2: Percentage Distribution of Total Intra-Regional Trade by Type of Exchange

Year	(1)	(2)	(3)	(4)	Total
1961	38	38	15	9	100
1962	34	37	16	13	100
1963	37	37	16	10	100
1964	47	31	11	11	100
1965	47	28	14	11	100
1966	50	24	11	15	100
1967	50	28	1	21	100
1968	51	24	4	21	100
1969	57	19	5	19	100
1970	59	16	6	19	100
1971	62	16	5	17	100

Column (1): Exchange of manufactures for manufactures
Column (2): Exchange of non-manufactures for non-manufactures
Column (3): Exchange of manufactures for non-manufactures
Column (4): Intra-regional trade imbalances (surplus and deficits)

Source: Willmore, 116

Figure 2 shows the continuous growth of the intraregional trade from manufactured goods within the CACM between 1961 and 1971. On the other hand, the exchange of non-manufactures for non-manufactures goods decreased over the years, as well as the exchange from manufactures for non-manufactured goods. Therefore, a common conclusion might be that the industrialisation process had been a success. Nevertheless, it is important to maintain a closer look on the development process. The fourth column shows intraregional trade imbalances and their increase over the years.⁸¹ Moreover, it is important to note that the intraregional trade flows were disrupted by the conflict between El Salvador and Honduras. In 1968 the trade flow had been normal for the last time. It is shown that the trade imbalances had

⁸¹ Ibid., 116.

reached their peak before the outburst of the conflict. In 1970 Honduras then withdraw from the CACM.⁸²

An explanation for this trade imbalance of the CACM might be the failure of the industrialisation process in two of the five member countries. In order to analyse if the previously mentioned statement of Stanley is true, the following figure will be analysed in order to see if Honduras and Nicaragua really continued as suppliers of food and material.⁸³

In the section below figure 3 will be used for an analysis of the before mentioned statement of Stanley. It shows the exact proportion of the exchange of goods in all five member countries. Again, the model is divided into four categories: the exchange of manufactures for manufactures, the exchange of non-manufactures for non-manufactures, the exchange of non-manufactures in exchange for imports of manufactures; the absence of an asterisk indicates exports of manufactures in exchange for imports of non-manufactures. Fourth, indicates a deficit in the balance of intraregional trade; otherwise a trade surplus is indicated.⁸⁴

⁸² Ibid., 116.

⁸³ Ibid., 115.

⁸⁴ Ibid., 119.

Figure 3: Percentage Distribution of the Intra-Regional Trade of Member Countries – Part 1

Year	(1)	(2)	(3)	(4)	Total
<i>Guatemala</i>					
1961	58	33	1*	8	100
1962	45	40	7	8	100
1963	39	41	1	19	100
1964	55	35	4	6	100
1965	60	30	0	10	100
1966	57	20	0	23	100
1967	55	23	0	22	100
1968	57	15	0	28	100
1969	61	13	0	26	100
1970	62	14	0	24	100
1971	68	14	0	18	100
<i>El Salvador</i>					
1961	39	41	19	1**	100
1962	38	38	15	9**	100
1963	46	37	9	8**	100
1964	56	32	7	5**	100
1965	49	29	18	4	100
1966	54	25	18	3	100
1967	50	31	3	16	100
1968	52	23	13	12	100
1969	59	18	14	9	100
1970	63	14	12	11	100
1971	68	14	6	12	100
<i>Honduras</i>					
1961	16	36	35*	13	100
1962	15	28	36*	21	100
1963	16	33	51*	0	100
1964	21	32	46*	1	100
1965	24	30	39*	7**	100
1966	29	33	18*	20**	100
1967	33	40	0	27**	100
1968	34	40	2*	24**	100
1969	43	28	0	29**	100
1970	35	17	0	48**	100
1971	20	30	0	50**	100

Source: Willmore, 118

Figure 4: Percentage Distribution of the Intra-Regional Trade of Member Countries - Part 2

Year	(1)	(2)	(3)	(4)	Total
<i>Nicaragua</i>					
1961	27	49	0	24**	100
1962	28	55	0	17**	100
1963	32	33	9*	26**	100
1964	40	25	0	35**	100
1965	39	24	0	37**	100
1966	40	25	0	35**	100
1967	38	23	0	39**	100
1968	42	30	0	28**	100
1969	48	24	12*	16**	100
1970	58	21	21*	0	100
1971	53	21	21*	5**	100
<i>Costa Rica</i>					
1961	45	20	0	35**	100
1962	37	34	0	29**	100
1963	45	36	15	4	100
1964	43	22	4	31	100
1965	52	24	11	13	100
1966	62	20	14	4	100
1967	71	22	2	5**	100
1968	64	21	0	15**	100
1969	65	17	0	18**	100
1970	66	17	0	17**	100
1971	62	13	0	25**	100

Column (1): Exchange of manufactures for manufactures

Column (2): Exchange of non-manufactures for non-manufactures

Column (3): (*) indicates exports of non-manufactures in exchange for imports of manufactures; the absence of an asterisk indicates exports of manufactures in exchange for imports of non-manufactures

Column (4): (**) indicates a deficit in the balance of intra-regional trade; otherwise a trade surplus is indicated

Source: Willmore, 119

The figure above shows that the exchange of manufactures for manufactures increased over time in all involved member countries of the CACM. Therefore, the figure demonstrates an overall increase of the intraregional trade. However, it is important to notice that not all countries benefited equally from the increase of the intraregional trade of the region. In Honduras and Nicaragua, the proportion of exchange from manufactures for manufactures was of minor importance, what can be explained with lack of industrialisation in these countries.⁸⁵

By analysing Honduras more detailed, it can be seen that its trade balance had worsened over time, especially after the outburst of the conflict between El Salvador and Honduras. Nevertheless, it can also be seen that the country managed to increase its proportion of exports of manufactures in exchange for imports of non-manufactures over the years. As already mentioned, Honduras was able to increase its number of export of manufactures for manufactures, which is a positive development. However, when comparing these results with the results of other member states it becomes clear that the performance of Honduras is quite weak.⁸⁶

Compared to Honduras, El Salvador shows a better performance within the CACM. In general, its proportion of exchange of manufactures for manufactures is much higher and since 1965 a positive trade balance can be observed. Also, its proportion of exports of manufactures for non-manufactures is much higher; compared to the other member countries it shows the best performance in this category.⁸⁷

⁸⁵ Ibid., 117.

⁸⁶ Ibid., 119.

⁸⁷ Ibid.

Based on these numbers it can be said that the consequences for Honduras and El Salvador have been quite different. El Salvador could benefit from the intraregional trade to a higher extend than Honduras.⁸⁸

By analysing the figures above, it can be seen, that the conflict between El Salvador and Honduras in 1968 did not negatively influence the trade numbers of the mentioned countries. This leads to the conclusion that the armed conflict between El Salvador and Honduras did not negatively influence the trade numbers.⁸⁹

This is also reflected in the figure below. It can be seen, that intraregional overall exports increased despite the outburst of the conflict in 1968.

Figure 5: Intra-regional trade exports of the CACM in \$ mn (as percentage of total exports) from 1950 - 1985

	1950	1960	1970	1980	1985
Costa Rica	0.3 (0.6)	2.5 (2.9)	45.2 (19.8)	260.1 (26.8)	137.6 (14.8)
El Salvador	2.2 (3.3)	12.9 (11.0)	73.7 (32.3)	295.8 (27.6)	157.2 (25.7)
Guatemala	1.3 (1.7)	5.0 (4.3)	102.3 (35.3)	440.8 (29.0)	205.0 (20.7)
Honduras	4.0 (6.2)	8.1 (12.9)	18.0 (10.6)	91.4 (11.0)	19.9 (2.8)
Nicaragua	0.5 (2.0)	2.8 (4.5)	46.0 (25.8)	75.4 (18.2)	24.1 (8.8)
Central America	8.3 (2.8)	31.3 (7.0)	285.2 (26.0)	1163.5 (24.2)	543.8 (15.5)

Source: Bulmer-Thomas, 292

Nevertheless, although the conflict between El Salvador and Honduras did not negatively influence the economic structure of the CACM, the CACM has had severe consequences for the member countries. As Bulmer-Thomas explains, for a long time the CACM had been

⁸⁸ Ibid.

⁸⁹ Ibid.

considered as a development model for others to follow. In the 1980s the development model of the CACM collapsed.⁹⁰

In the 1990s the CACM had been relaunched with a different structure. Consequently, the CACM did have a positive influence on the region. However, it should be kept in mind that although the old development model of the market did have a negative effect on the region, it still can be considered as a great success.⁹¹

By 1970 the intraregional export had reached almost the 300-million-dollar mark. El Salvador and Guatemala had been especially successful in the integration process. Both countries sold more than 30 percent of total exports in the common market. Furthermore, the composition of the intraregional trade was almost entirely concentrated in manufactured goods. Therefore, it can be argued that the industrialisation development process established by CEPAL was already bearing fruits.⁹²

Additionally, for the first time in history the member countries of the CACM did not only develop an industrial base, but also established multi-national companies in the countries. Also, the CABEI was established. Its main function was to assist weaker countries such as Honduras and Nicaragua in their development process.⁹³

However, as already described in the chapters above, the success of the CACM did not last and the region faced several crises. In 1991, with the signing of the Protocol of Tegucigalpa, the Central American Integration System, in Spanish “Sistema de Integración Centroamericana” (SICA), had been established. The intention of its

⁹⁰ Bulmer-Thomas, *Studies in the Economics of Central America*, 292.

⁹¹ Ibid.

⁹² Ibid., 314.

⁹³ Ibid., 315.

establishment was the reactivation the CACM. Although it was not easy to achieve the goal of 20 percent of the intraregional trade, the region slowly began to recover. In 1993 the intraregional trade accounted for 22.8 percent of the overall trade.⁹⁴

In the following section it will be explained in more detail why the market failed in the first place. Furthermore, it will be described how the economic and social structure of the development model contributed to the outburst of the armed conflict between El Salvador and Honduras.

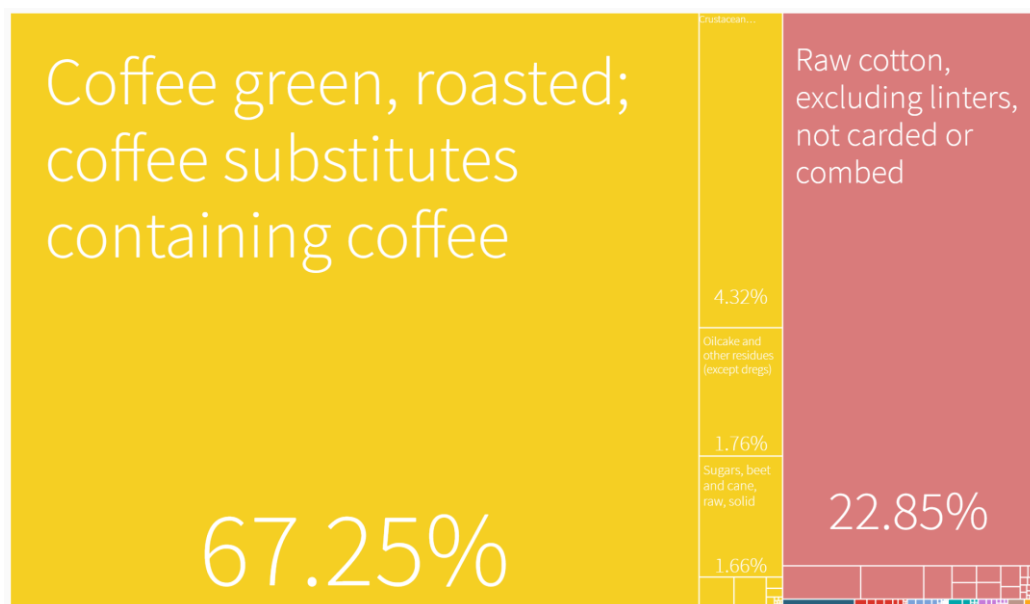
6.1.2 Effects on El Salvador

Based on the data of the Harvard Atlas of Economic Complexity, the positive economic development of the CACM can be seen. In figure 6 the economic composition of the market of El Salvador in 1962 is shown. As the graph indicates the largest proportion of the country's export were agricultural products and crude material.⁹⁵

⁹⁴ Bulmer-Thomas, *Studies in the Economics of Central America*, 316-317.

⁹⁵ Harvard Atlas of Economic Complexity, What did El Salvador export in 1962? <<http://atlas.cid.harvard.edu/explore/?country=197&partner=undefined&product=undefined&productClass=SITC&startYear=undefined&target=Product&year=1962>> (21.02.2019)

Figure 6: The composition of the market from El Salvador in the year 1962

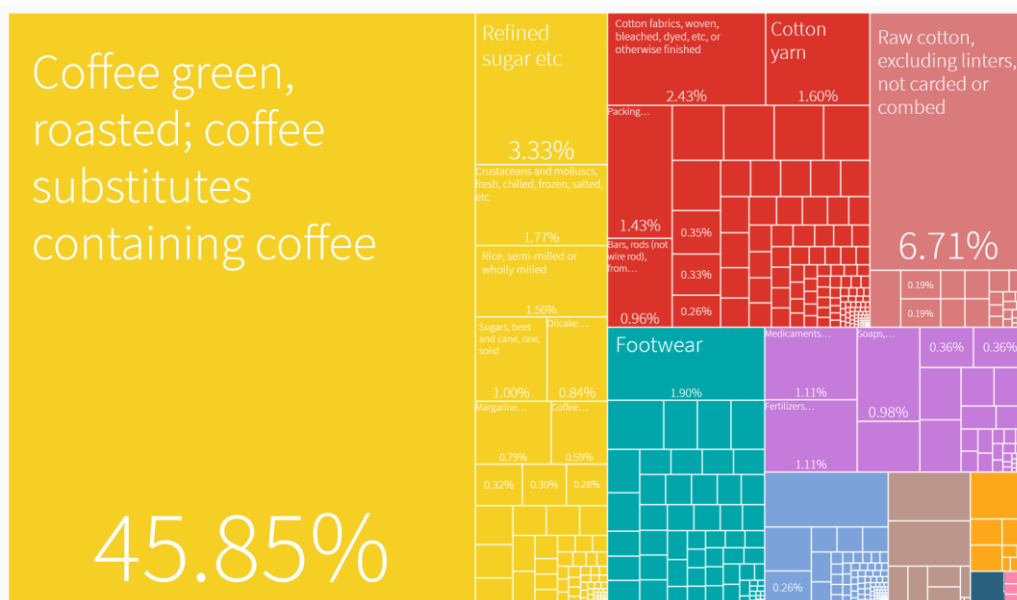


Source: Harvard Atlas of Economic Complexity, 2019

With the introduction of the ISI the composition of the market changed within a few years. Figure 7 shows that in 1968 the percentage of manufactured goods had been of much higher importance. The year 1968 had especially been of great importance, as it was the last year before the outbreak of the armed conflict between El Salvador and Honduras.⁹⁶

⁹⁶ Harvard Atlas of Economic Complexity, What did El Salvador export in 1968? <http://atlas.cid.harvard.edu/explore/?country=197&partner=undefined&product=undefined&productClass=SITC&startYear=undefined&target=Product&year=1968> (21.02.2019)

Figure 7: The composition of the market from El Salvador in the year 1968

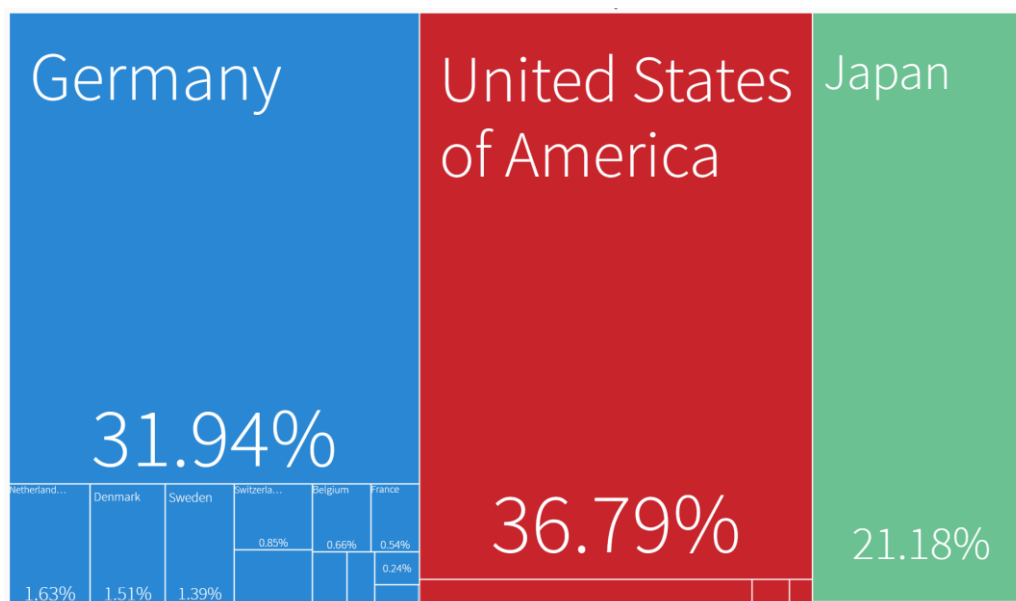


Source: Harvard Atlas of Economic Complexity, 2019

As shown in figure 8, shortly after the establishment of the CACM in 1962 the trade between the member countries had still been limited. It also shows that El Salvador depended greatly on the USA, Germany and Japan, as those countries had been the main importers of Salvadorian products.⁹⁷

⁹⁷ Harvard Atlas of Economic Complexity, Where did El Salvador export to in 1962? <<http://atlas.cid.harvard.edu/explore/?country=197&partner=undefined&product=undefined&productClass=SITC&startYear=undefined&target=Partner&year=1962>> (21.02.2019).

Figure 8: Importing countries of Salvadorian products in 1962

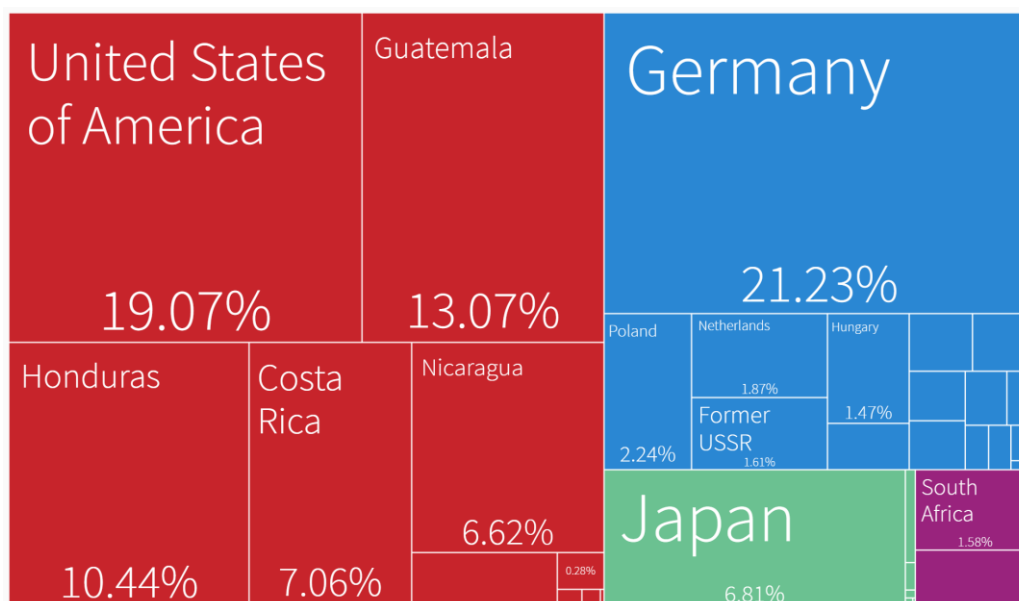


Source: Harvard Atlas of Economic Complexity, 2019

Figure 9 refers to the year 1968 and shows that thanks to the CACM the dependency on external countries decreased significantly. The importance of the main importing countries Germany, the USA and Japan decreased and the importance of the CACM member countries increased. Especially Guatemala and Honduras became important trade partners for El Salvador.⁹⁸

⁹⁸ Harvard Atlas of Economic Complexity, Where did El Salvador export to in 1968? <<http://atlas.cid.harvard.edu/explore/?country=197&partner=undefined&product=undefined&productClass=SITC&startYear=undefined&target=Partner&year=1968>> (21.02.2019).

Figure 9: Importing countries of Salvadorian products in 1968



Source: Harvard Atlas of Economic Complexity, 2019

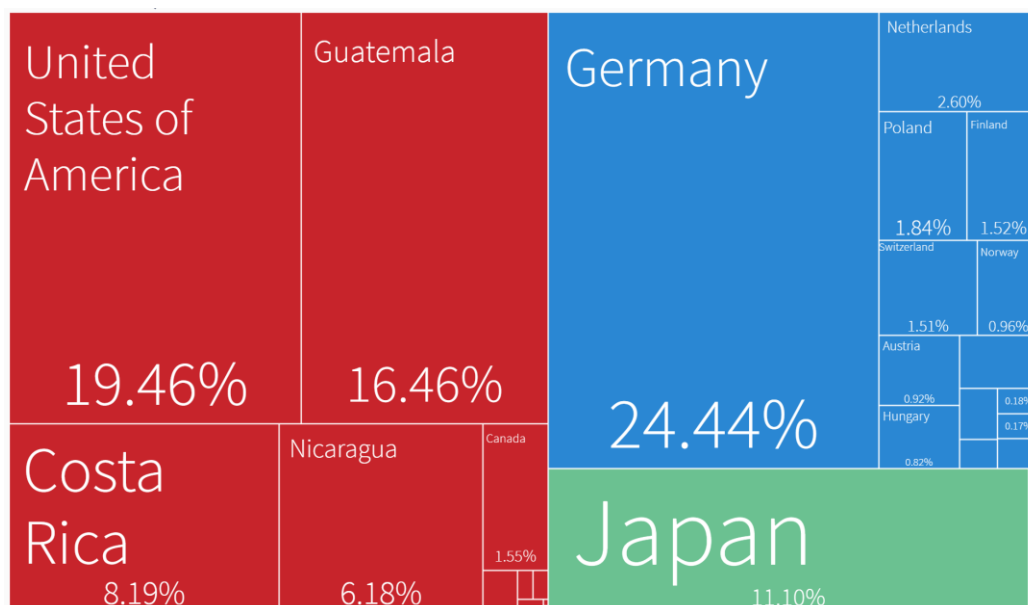
In figure 10 the economic consequences of the outburst of the conflict can be seen. For El Salvador, Honduras had been one of the main importing countries of Salvadorian goods. This drastically changed after the outburst of the armed conflict between El Salvador and Honduras. As already described in the chapters above, the trade between El Salvador and Honduras diminished drastically after the conflict. Consequently, the importance of external trade partners increased. Again, the country became more dependent on previous trade partners. Also, the trade between El Salvador and Guatemala increased. However, it is important to notice that such a shift negatively effects

countries bargaining power, the terms of trade and the dependency with countries of the Global North.⁹⁹

6.1.3 Effects on Honduras

It is important to notice that Honduras did not benefit to the same extend as El Salvador from the CACM. This will be can be seen in the figures above. They show that although Honduras had joined the common market, it did not affect its market composition.

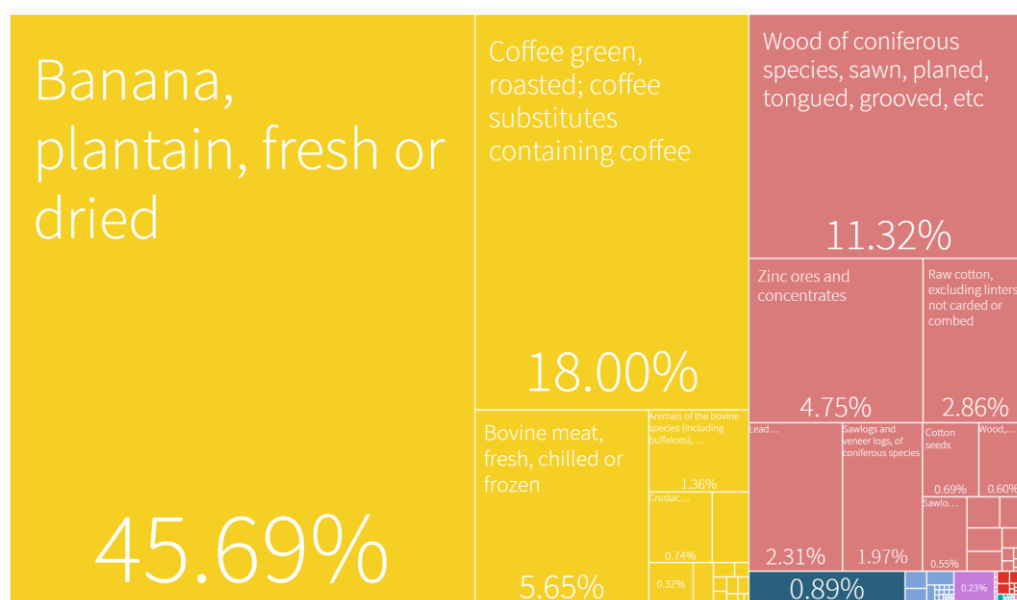
Figure 10: Importing countries of Salvadorian products in 1970



Source: Harvard Atlas of Economic Complexity, 2019

⁹⁹ Harvard Atlas of Economic Complexity, Where did El Salvador export to in 1970? <<http://atlas.cid.harvard.edu/explore/?country=197&partner=undefined&product=undefined&productClass=SITC&startYear=undefined&target=Partner&year=1970>> (21.02.2019).

Figure 11: The composition of the market from Honduras in the year 1962

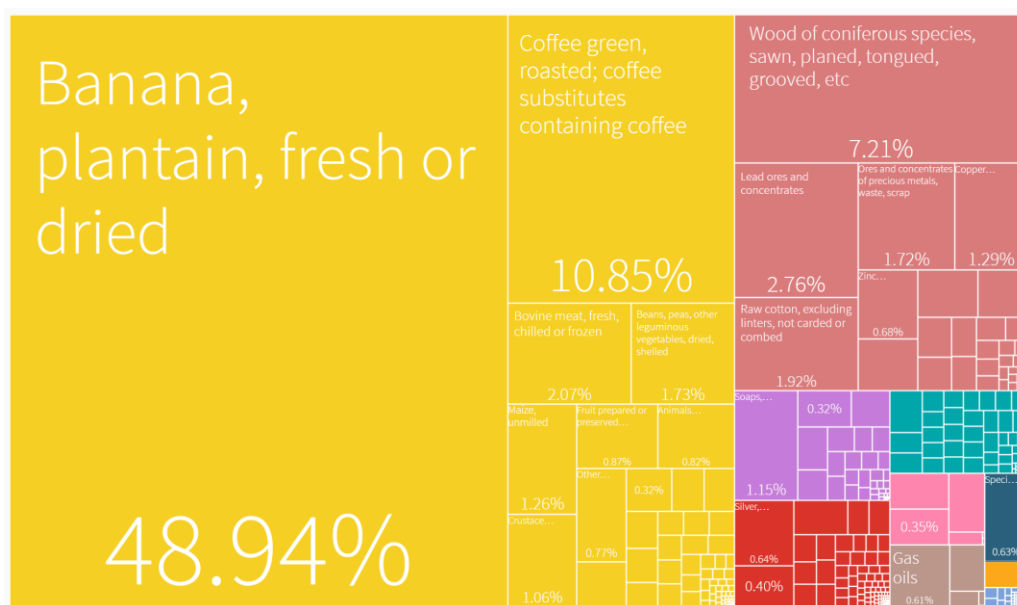


Source: Harvard Atlas of Economic Complexity

When comparing figures 11 and 12, it becomes clear that the composition of the market did not significantly change between 1962 and 1968. This means that Honduras remained an exporting country of primary products and crude materials. It was not possible for Honduras to build a strong industrial base. Once again it is shown that it benefited least from entering the CACM, which was one of the reasons for the outburst of the armed conflict between El Salvador and Honduras. This is because the economy of Honduras did not benefit to the same extend, as the economy of El Salvador did. This means, that Honduras had been one of the loosing countries within the region.^{100, 101}

¹⁰⁰ Harvard Atlas of Economic Complexity, What did Honduras export in 1962? <<http://atlas.cid.harvard.edu/explore/?country=99&partner=undefined&product=undefined&productClass=SITC&startYear=undefined&target=Product&year=1962>> (21.02.2019).

Figure 12: The composition of the market from Honduras in the year 1968

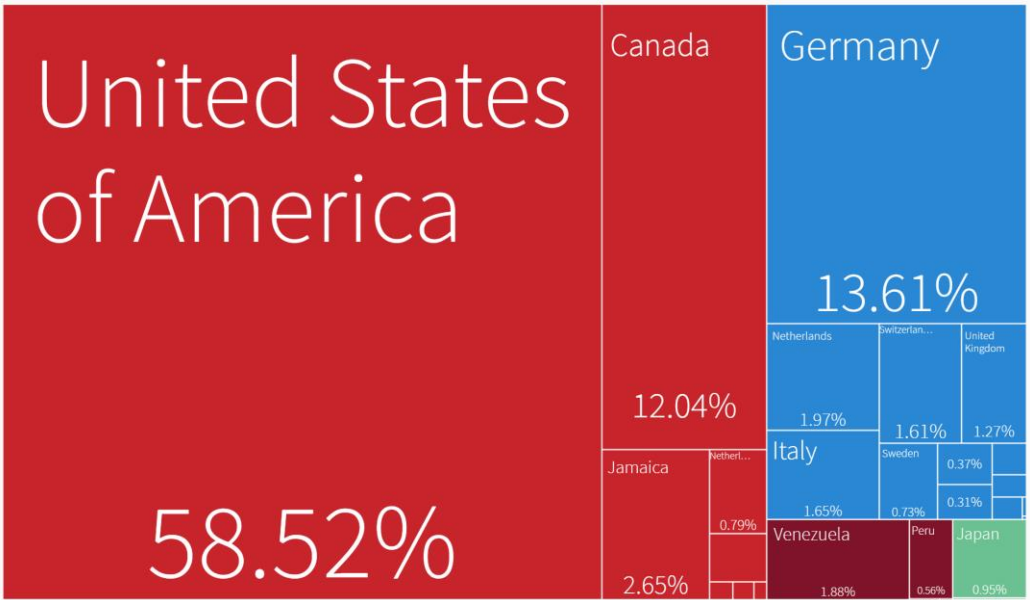


Source: Harvard Atlas of Economic Complexity, 2019

¹⁰¹ Harvard Atlas of Economic Complexity, What did Honduras export in 1968? <<http://atlas.cid.harvard.edu/explore/?country=99&partner=undefined&product=undefined&productClass=SITC&startYear=undefined&target=Product&year=1968>> (21.02.2019).

Also, by analysing the trade partners of Honduras it can be seen, that at the beginning of the establishment of the CACM, Honduras had a high dependency on the USA, as 58 percent of its total exports had been to the USA. Also, the European Union (EU) and Canada had been main customers of Honduran products. In 1962 the member countries of the CACM have not been of any importance as importing countries at that point. The before mentioned description can be seen in figure 13.¹⁰²

Figure 13: Importing countries of Honduran products in 1962

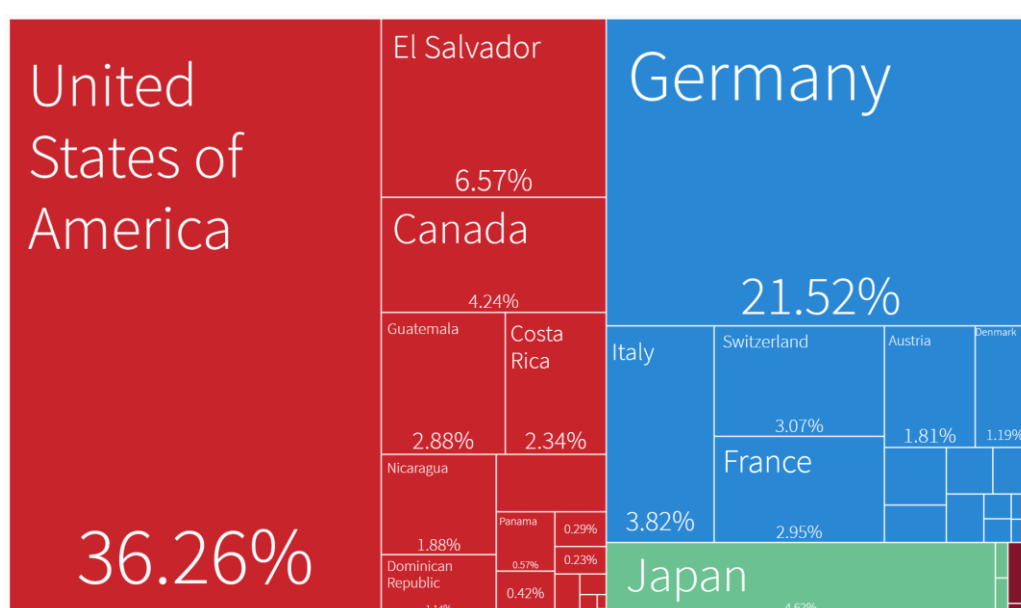


Source: Harvard Atlas of Economic Complexity

¹⁰² Harvard Atlas of Economic Complexity, Where did Honduras export to in 1962? <<http://atlas.cid.harvard.edu/explore/?country=99&partner=undefined&product=undefined&productClass=SITC&startYear=undefined&target=Partner&year=1962>> (21.02.2019).

Figure 14 shows that although Honduras was able to decrease its dependency on the USA, its dependency on the EU however increased. Also, it can be noticed that the importance of the member countries of the CACM increased, but only to a very limited extend. This means that Honduras was not able to diversify its trade partners sufficiently.¹⁰³

Figure 14: Importing countries of Honduran products in 1968

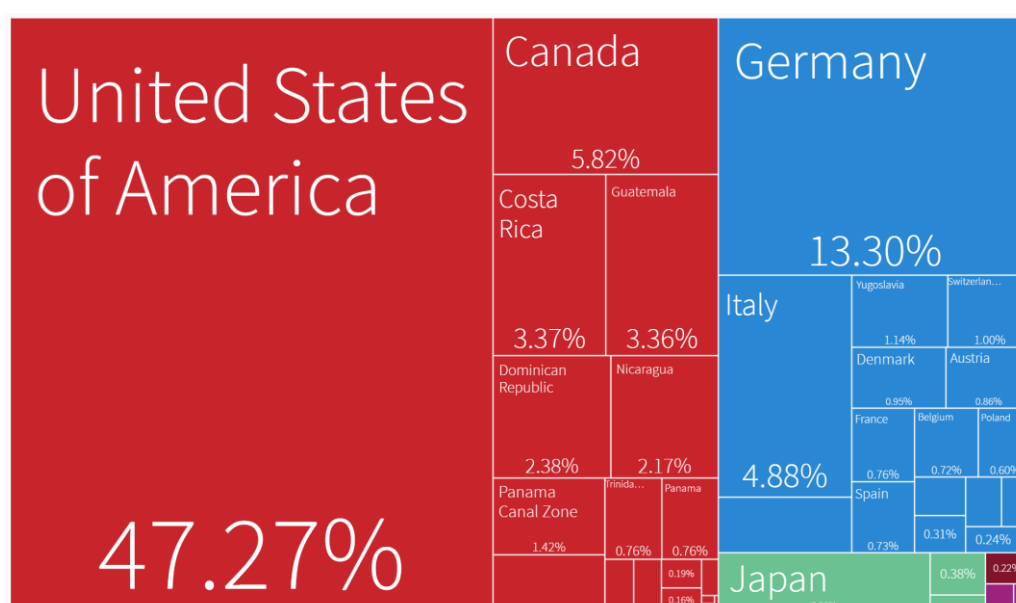


Source: Harvard Atlas of Economic Complexity, 2019

¹⁰³ Harvard Atlas of Economic Complexity, Where did Honduras export to in 1968? <<http://atlas.cid.harvard.edu/explore/?country=99&partner=undefined&product=undefined&productClass=SITC&startYear=undefined&target=Partner&year=1968>> (21.02.2019).

Figure 15 shows the trading partners of Honduras in 1970, the year after the outburst of the country. It can be seen, that the country's trade with the USA increased again after the outburst and that the trade with El Salvador disappeared immediately.

Figure 15: Importing countries of Honduran products in 1970



Source: Harvard Atlas of Economic Complexity, 2019

6.2 Negative effects of the CACM region

George Irvin describes the effects of the CACM region as follows: “Many observers have held that the crisis, although triggered by exogenous factors, is rooted in the development model underlying the CACM. One version of this thesis, recently advanced in an ECLAC study (1985) and broadly representative of the Latin American structuralist school, holds that the CACM development model was

“additive” in that it built upon the existing economic and social structure without changing it in any basic way.”¹⁰⁴

Irvin writes that the economic growth model introduced by the ECLAC was based upon the continued hegemony of a quasi-feudal oligarchy, which could not attend to the interests of local industries. He calls it the “survival of a weak state that lacked legitimacy”. Meaning, that the applied development strategy of CEPAL and the introduced ISI model harmed the local industries. Mentioned phenomena occurred, although the concept aimed to foster industrial development. Irvin further explains, that the economic structure of the model was based on favouring export agriculture. Consequently, the development model and its structure increased the inequitable income distribution within the countries.¹⁰⁵

The effect of the favouring of the export of agricultural products, can be seen in the numbers of the export composition. The five main commodities consisted in the production and export of coffee, bananas, cotton, beef and sugar. In total, these five commodities accounted for 72 percent of the total exports in the early 1960s. Later, the total number decreased to 64 percent. This decrease of export products can be explained by the growth of intraregional manufacturing exports.¹⁰⁶

In order to understand the increase of social inequalities based on the promotion of agricultural production, it is important to understand that the land owning in Central America had been distributed very unequally. In El Salvador 14 oligarchy families own most of the

¹⁰⁴ George *Irvin*, ECLAC and the Political Economy of the Central American Common Market. In: Latin American Research Review Vol. 23, No. 3 1988, pp. 7-29 (The Latin American Studies Association 1988). 8.

¹⁰⁵ *Ibid.*, 8-9.

¹⁰⁶ *Ibid.*, 16.

country's land. Expressed in numbers, this means that five percent of landowners withhold 70 percent of the cultivated land. In contrast, almost 80 percent of the landholdings have less than three acres. In general, it can be said that the urban population in both countries has very low financial resources, as 75 percent of the rural population lives with less than two dollars per week. However, the government of El Salvador did very little to solve the problem, contradictory it applied the principle of the "willing seller – willing buyer", which led to the failure of the introduced land reforms.¹⁰⁷

Whereby the upper class of El Salvador did not only consist of landlords, as its local elite is quite broadly based economically. El Salvador also shelters a high number of successful entrepreneurs. In combination with the country's cheap labour, the low labour costs contributed to the development of a powerful manufacturing sector.¹⁰⁸

As already explained in chapter 2.2.4., by analysing the economic composition of Honduras, it can be seen that its economic composition is quite different to El Salvador's economic composition. In Honduras the concentration of wealth mainly remained in the hands of U.S. American banana producers in the 1960s.¹⁰⁹ However, this concentration of land in both countries is an important factor in order to understand the outburst of the before mentioned armed conflict.

As already explained, El Salvador had a scarcity of land in combination with a high birth rate of 3.8 percent. As the country did not solve its existing problems, it exported its social issues to Honduras, causing 300.00 people to illegally cross the border to Honduras and to occupy

¹⁰⁷ Vincent Cabel, *The Football War and the Central American Common Market* In: *The Royal Institute of International Affairs*. Vol. 45, No. 4, (Oct. 1969), pp. 658-671. 659.

¹⁰⁸ *Ibid.*, 660.

¹⁰⁹ *Ibid.*, 660.

some of the cross-border land. The migrants from El Salvador in Honduras accounted for a total number of 12.5 percent of the entire population of Honduras. Usually they found a job in the U.S. American banana plantation. On the one hand the migration had a positive effect on the macro economy of the country, as they were cheap labour for the banana plantations. On the other hand, it increased the competition within the uneducated rural population to find employment. The workers from Honduras noticed more pressure within the labour market, this was caused by the general infusion of skills, the business acumen and the additional manpower. Therefore, the illegal migration in the cross-border zone also caused an increase of the unemployment rate up to seven percent, as not all of the semi-educated school leavers and urban residents could find a job in the developing manufacturing areas.¹¹⁰

The combination of a high unemployment rate, labour competition, an economic development tied to interests and export and lack of communication led to an increase of nationalism within the region, which contributed to the outburst of the armed conflict between El Salvador and Honduras. Another important factor was that the plantation sector in Honduras had stagnated due to a disease affecting the banana plantations. Consequently, major banana producing companies turned their attention to Ecuador. However, the migrants from El Salvador had been held responsible by the trade unions for the limiting job opportunities and decreasing wage levels in Honduras.¹¹¹

6.3 Discrepancies of the growth model

The deepening of the social and economic disparities can be described as follows: the ISI did not undergo food agricultural reforms. On the

¹¹⁰ Ibid., 659.

¹¹¹ Ibid.

contrary, the export of primary goods of the region had been used to increase domestic savings, these would have been necessary for complementary investment. However, the usual problem arising from development based on primary products is that it is confronted with the problem of income-elastic demand for primary products. Therefore, a development strategy based on the export of primary products will not be successful on a long-term basis.¹¹²

In case of the CACM the export-led growth strategy was unsustainable and could not produce the resource surplus for the desired industrial accumulation. When putting the development of the CACM region into a historic context it can be seen that in the beginnings of the establishment of the CACM the annual average of the rate of growth of the regional gross domestic product (GDP) accelerated from an average of 4.6 percent in the 1950s to nearly six percent in the 1960s. This means that it had a very good economic growth rate at the beginning. However, the growth rate of the GDP became negative in 1982 in each of the five countries. Additionally, the rates of inflation rose radically. In order to favour the economy and increase the export rate, some countries devaluated their currencies.¹¹³

It is also important to consider that the region had a high current account deficit. This deficit rose from 3.8 percent of the GDP in 1977 to 9.3 percent in 1984. However, as already mentioned before, some of the countries devaluated their currencies. Consequently, if countries of the CACM had debts in a foreign currency, this could have been an important factor for the increase in debts.

¹¹² Irvin, *ECLAC and the Political Economy of the Central American Common Market*, 10.

¹¹³ *Ibid.*, 8.

6.3.1 Neoclassic critics

Neoclassic critics do not agree with the fact that the existing economic and social structure has been the reason for the failure of the CACM. Neoclassical orthodoxy rather tends to see customs-union protectionism as the reason for failure of the region. They further explain, that the customs-union's protectionism caused an increase of the costs in the process of industrialisation. Additionally, the CACM was substantiated by inefficient state bureaucracy. This leads to a point where it became difficult for an entrepreneurial bourgeoisie to develop. The IMF back then would have recommended to implement a decrease the region's protection mechanisms and recommended a more export driven development model.¹¹⁴

6.3.2 Marxist critics

In the Marxist tradition, influenced by the dependency theory, the reasons for the failure of the CACM are described as followed: "While post-war capitalist development in Central America was dynamic, it remained largely subordinated to the interests of multinational (mainly U.S.) capital." Marxist critics argue that the rapid capitalistic development, especially in the rural areas, led to a "quasi-proletarianisation" of my farmers. In their opinion this has also been the foundation for the revolutionary upheavals. Moreover, it is explained that through exploitation the double dimension of internal surplus extraction and external unequal exchange is assumed. This provokes that the emerging middle class remains unincorporated into politics and that the existing social formation can only be guaranteed in a repressive state.¹¹⁵

¹¹⁴ Irvin, ECLAC and the Political Economy of the Central American Common Market, 9.

¹¹⁵ Irvin, ECLAC and the Political Economy of the Central American Common Market, 9.

7 The soccer war

The in-depth analysis above depicts the development of the dispute between El Salvador and Honduras. Firstly, it was described the major impact of the colonial past of the involved states. Secondly, it had been explained, that immediately after the countries became independent there already occurred conflicts between those. However, the initiator of the actual conflict had been due to the development strategy introduced by the CEPAL. This development strategy caused socio-economic problems, which caused that many Salvadorans migrated to the frontier of Honduras with El Salvador to use the new land for cultivation. Mentioned migration occurred, as many Salvadorians with a low level of education did not find employment in the recently introduced industries. Furthermore, the land had been used in order to cultivate food for exportation. Another influencing factor was the high-density population in El Salvador.

Although in 1965 both countries had signed a bilateral migration agreement to regularise their position, not even one percent of the migrants used this facility of migration. The following launch of an agrarian reform of the government of Honduras in 1969 caused the expulsion of thousands of Salvadorian inhabitants, with a total number of 300,000 people facing deportations. This provoked solid strains on the Salvadorian economy. Because of political tensions the government of El Salvador decided to break the political relations with their neighbouring country. Based on the already present tension, in the same year a football match between Honduras and El Salvador during the World Cup qualifying matches caused several border incidents. Later full-scale fighting occurred between the two countries. Consequently, some areas of the territory of Honduras got occupied by armed forces of El Salvador. Furthermore, they bombed towns and

boarder areas before hostilities ceased under a negotiated by the Organization of American States (OAS).¹¹⁶

7.1 The Organization of American States

In order to minimise the gains from re-emerging conflicts, the international community plays an important role regarding peace settlement. The international community can put economic restrains on countries in conflict or harm the political image of the belligerents. The OAS made a major contribution to the initial peace settlement negotiations between El Salvador and Honduras.

The OAS is the world's oldest regional multifunctional organisation. Its first International Conference took place between 1889 and 1890 in Washington D.C. In 1948 the OAS was established throughout the signing of the Charter of the OAS by the following 21 member states: Argentina, Bolivia, Bolivarian Republic of Venezuela, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, United States of America, and Uruguay. It finally entered into force in December 1951. However, it was amended by several other agreements later. Furthermore, 14 other member countries joined the OAS, among them Barbados and Trinidad and Tobago (1967), Jamaica (1969), Grenada (1975), Suriname (1977), Commonwealth of Dominica and Saint Lucia (1979), Antigua and Barbuda, Saint Vincent and the Grenadines (1981), Commonwealth of the Bahamas (1982), St. Kitts & Nevis (1984), Canada (1990), Belize

¹¹⁶ Judith Bell, Henry W. Degenhardt, Roger East, Gilian Goodbin, Charles Hobday, Michael Wilson, Alan J. Day, Border and territorial disputes (Gales Research Company Detroit 1987) 426-427.

(1990), and Guyana (1991). Nowadays it has a total number of 35 member states.¹¹⁷

The organisation was based on four main pillars: democracy, human rights, security, and development. Article 1 of the Charter states: “An order of peace and justice, to promote their solidarity, to strengthen their collaboration, and to defend their sovereignty, their territorial integrity, and their independence.”¹¹⁸ Consequently, the OAS monopolised the region’s peace-making functions. This was possible through its ability to apply sanctions and to propose peace initiatives. Moreover, it established a new Inter-American Peace Committee, which had the authority to intervene in hostilities if requested by the OSA.¹¹⁹

In summary, the OAS has been a successful organisation in the area of dispute settlement, as there had been only a few violent conflicts between the states of Latin America, although several territorial disputes emerged. As already mentioned before, the OAS can be considered as an even more effective organisation as peace keeping mechanism, as conflicts over territories between neighbouring states are even more likely to appear. This was particularly the case in Latin America, as its countries are commonly successor states of former colonies. Therefore, the region already became known for its peaceful nature of international relations in the region and its tendency to seek pacific conflict settlement.¹²⁰ Paradoxically, the influence of the USA increased through the OAS, which usually demanded a rapid action of

¹¹⁷ Organization of American States, Member States <<http://www.oas.org/en>> (04.11.2018).

¹¹⁸ Ibid.

¹¹⁹ Bryce Wood, How war ends in Latin America. In: The Annals of the American Academy of Political and Social Science Vol. 392, Nov. 1970, 40-50. (Sage Publications 1970) 45.

¹²⁰ Monica Herz, Concepts of Security in South America In: International Peacekeeping Vol. 17, No. 5, Nov. 2010, 598-612. (Taylor & Francis 2010)

the Inter-American Peace Committee and the adherence of common obligations.¹²¹

By analysing the dispute between El Salvador and Honduras it becomes clear that the OAS contributed to the rapid resolution of the violent conflict. As already explained above, states are more likely to stick to peace agreements if the costs of re-emerging conflicts are high. Therefore, thanks to the organisation and its ability to impose economic threats it was possible to increase the cost of war extremely. The USA claimed a rapid resolution of the conflict as well and therefore raised the international pressure of a conflict resolution even more.¹²²

Using the example of the dispute between El Salvador and Honduras, the importance of the international community in dispute settlement becomes apparent. In general, these multinational actors can play a key role regarding peacefully resolving a conflict and the follow-up observation. Although international law is not applicable to the same extend as national law. However, those agreements help to make both involved parties less vulnerable during the demilitarisation process. Furthermore, thanks to a neutral observer, states cannot blame the other side for starting any further fightings, as it can be very costly to be seen as the aggressor state during a conflict. These instruments do not only enable multinational organisations to end a conflict as soon as possible, but also support the demilitarisation process and lasting peaceful interactions.¹²³

¹²¹ Wood, *How war ends in Latin America*, 45.

¹²² *Ibid.*, 46-47.

¹²³ Fortna, *Agreements and the Durability of Peace*, 342-343.

7.2 General Peace Treaty of 1980

The basis of the General Peace Treaty, which had been signed in October 1980, had been formed by seven resolutions approved by the OAS in 1969. This resolution covered the following areas of interest: i.) peace and treaties; ii.) free transit; iii.) diplomatic and consular relations; iv.) border questions; v.) the CACM; vi.) claims and differences; and finally, vii.) human and family rights. Later, a three-kilometres-wide demilitarisation zone on each side of the traditional borders had been created, including land, sea and airspace borders. However, the “Plan for the Establishment of a Zone of Security with a View to Pacification” had no bearing on any border claims.¹²⁴

A mixed border commission had been set up in order to deal with section IV of the General Peace Treaty, which covered border questions. The commission had a broad range of responsibilities. Firstly, it oversaw the demarcation of the 225 kilometres long shared border where there was no controversy over its belonging. Secondly, the juridical delimitation of the disputed land areas. Thirdly, the juridical situation of the islands El Tigre, Meanguera and Meanguerita. And finally, the juridical determination of the maritime areas. The expected outlook to complete the mentioned tasks was within a time period of five years. If no agreement was reached on the disputed areas within the determined five years, the case would be submitted to the ICJ. The commission received the authorisation to use documents issued by the Spanish Crown or any other Spanish secular or ecclesiastical authority during the colonial epoch, which dealt with jurisdictional or territorial limits. Other evidence as for example a

¹²⁴ Day, *Border and territorial disputes*, 426-428.

recognised legal, historical, human or other kind of nature would have also been considered under international law.¹²⁵

On December 11th 1980, the border between El Salvador and Honduras was reopened. The support of Honduras to fight the left-wing insurgents in El Salvador further improved the relations between the countries. However, after the five-year period the main issues still have not been resolved. Therefore, in 1986 President José Napoleón Durante Fuentes of El Salvador and President José Simón Azcona del Hoyo of Honduras officially informed the ICJ to implement its eventual ruling over the existing controversies. Additionally, they created a special commission to study and propose solutions to the human, civil and economic problems that may have occurred after the resolution of the conflict.¹²⁶

8 The dispute

On 11th December 1986 the case was referred to the ICJ by a joint notification of El Salvador and Honduras. The special agreement referring to the resolution of the Land, Maritime and Island Frontier dispute had been submitted on 24th May 1986. The special agreement also stated that the case should be reviewed by a three-person Chamber and additionally by two ad hoc judges, who should be nominated by the two involved parties. Finally, the Chamber consisted of the judges Oda, Sette-Camara, Jennings and the ad hoc judges Valticos and Torres Bernárdez.¹²⁷

¹²⁵ Ibid.

¹²⁶ Day, Border and territorial disputes, 426-428.

¹²⁷ Malcom *Shaw*, Case concerning the Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua Intervening) Judgement of 11 September 1992. In: The International and Comparative Law Quarterly vol. 42, No. 4, Oct. 1993 (Cambridge University Press 1993).

8.1 Geographic overview

To understand the conflict, it is important to recognise the geography of the disputed region. The dispute required a judgment made by the ICJ. On December 11th 1986 El Salvador and Honduras officially delivered a special agreement to the ICJ, requesting it to form a Chamber consisting of three members of the Court and two judges ad hoc. They requested a delimitation of six land sectors, and the determination of the legal situation of the islands in the Gulf of Fonseca and the maritime spaces within and outside of it.¹²⁸ The summary of the judgement of September 11th 1992 by the ICJ describes the delineation of the border between the two states. In the following section the delimitation of the following three areas will be described in detail: the landmarks, the maritime frontier and the allocation of the islands.

8.2 Landmarks

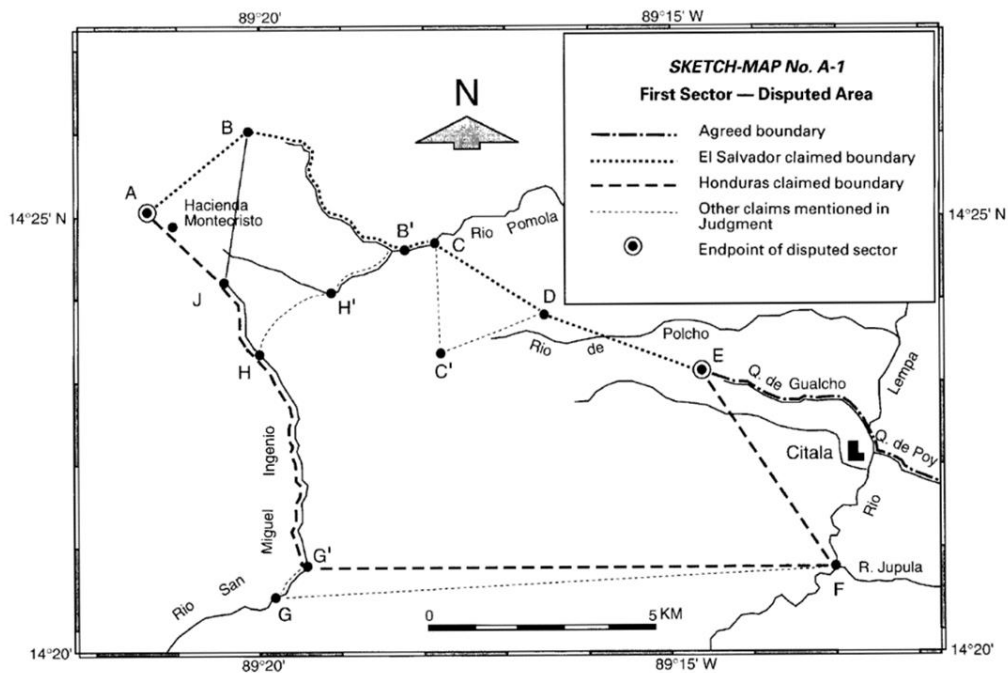
Concerning the analysis of the six disputed sectors of the land boundary, the ICJ proceeded to analyse them from west to east. In order to gain a better understanding of the affected land areas, Map A, Map B, Map C, Map D, Map E and Map F are described in the same order of their location.

Map A illustrates the first area of dispute between El Salvador and Honduras. The border dispute starts at the meeting point of the borders of El Salvador, Honduras and Nicaragua. To be more precise: the three countries meet at El Trifinio, which is located at the summit of the Cerro Montecristo. The land dispute continues in a south-easterly direction to the San Miguel Ingenio River's most northern source. It carries on along the middle of the riverbed to the road

¹²⁸ International Court of Justice, Summary of the Judgement of 11 September 1992 (The Hague 1992)

crossing from Citala to Metapan at Las Cruces. It continues in a straight path eastward to the confluence of the Jupula and Lempa Rivers at El Cobre, and from there directly to the Cerro Zapotal's summit.¹²⁹

Figure 16: Map A – 1st area of dispute



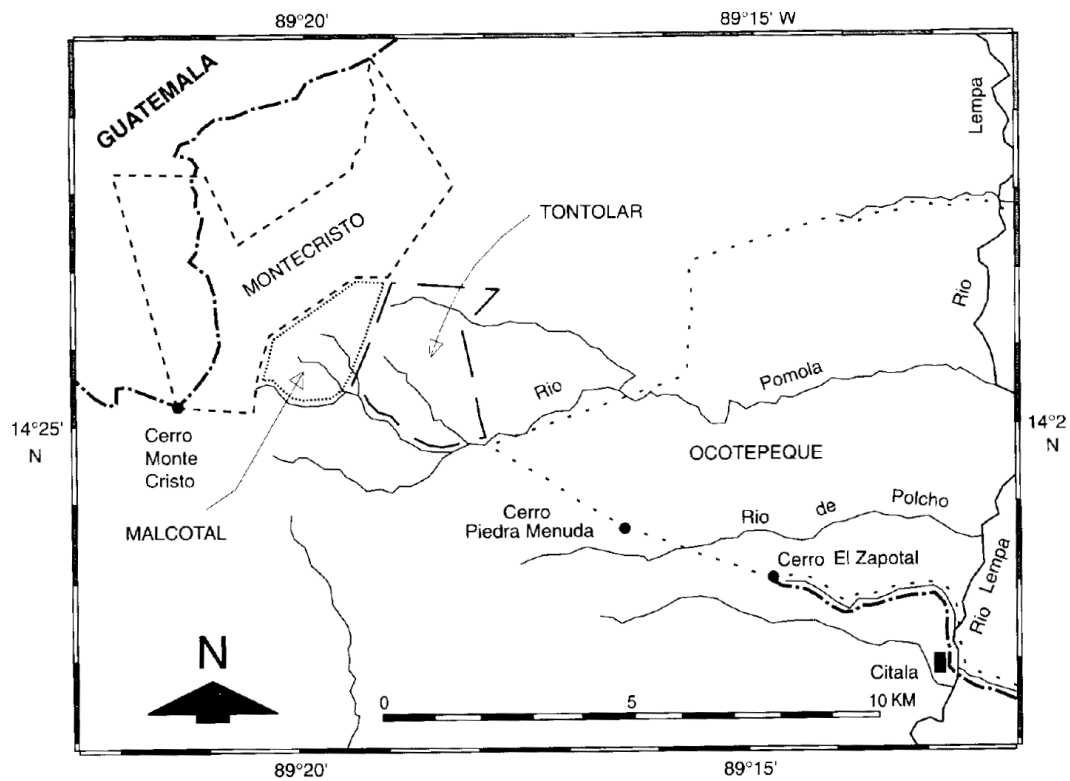
Source: ICJ, 1992

Map B portrays the second area of the conflict. It is located between the Cayaguanca rock and the confluence of the Chiquita or Oscura stream with the Sumpul river. From the Cayaguanca rock, it continues in a straight line, as far as the confluence of the Chiquita or Oscura mountain stream with the river Sumpul.¹³⁰

¹²⁹ ICJ, Summary of the Judgement, 21-23.

¹³⁰ Ibid., 23-24.

Figure 17: Map B – 2nd area of dispute



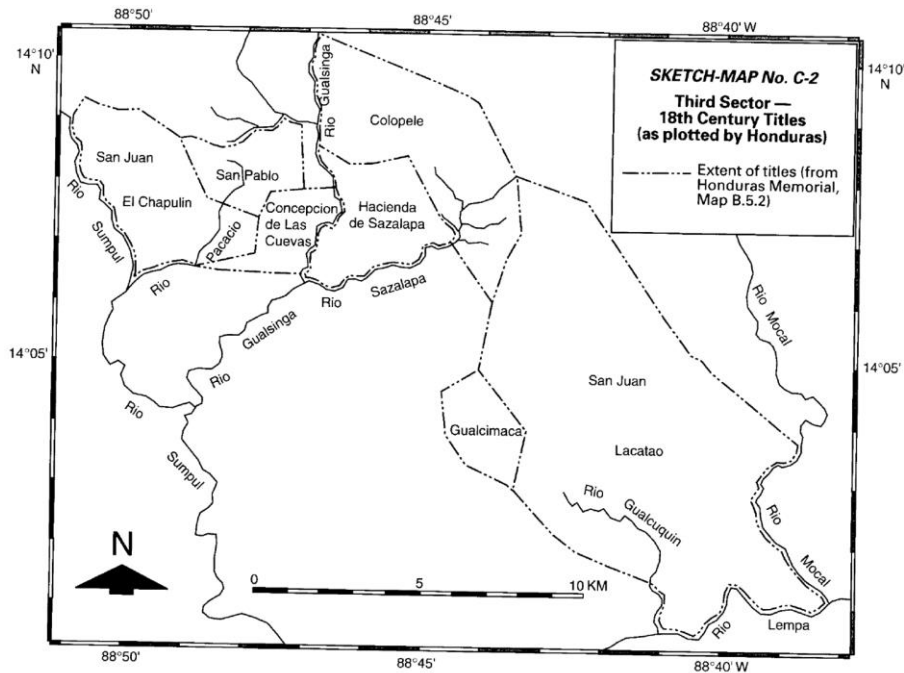
Source: ICJ, 1992

The third area is depicted on Map C. It is located at the border markers of Pacacio and Poza del Cajon. Starting at the Pacacio marker, it follows a straight path to the confluence of the Gualcinga River and the La Herta stream. From the confluence, it follows the stream and from there downstream until the Poza del Toro marker where the confluence of the Gualcinga River meets the Szalapa River on La Lagartera. It continues upstream along the middle of the riverbed to the Poza de la Golondrina marker. It pursues a straight path to La Canada, Guanacaste or Platanar marker and then a straight path to El Portillo marker located on the Cerro del Tambor, known also as Portillo de El Sapo. The path further continues straight to Guaupa marker, over the

El Sapo hill and straight to the Loma Redonda Summit and then passes over the Cerro del Caracol to go straight to the Cerro del Ocotillo summit. Again, the path goes straight to La Barranca or Barranco Blanco marker and then to Cerro de La Bolsa and then straight to Poza del Cajon marker at the Ammatillo or Gualcuquin River.¹³¹

¹³¹ ICJ, Summary of the Judgement, 24.

Figure 18: Map C – 3rd area of dispute

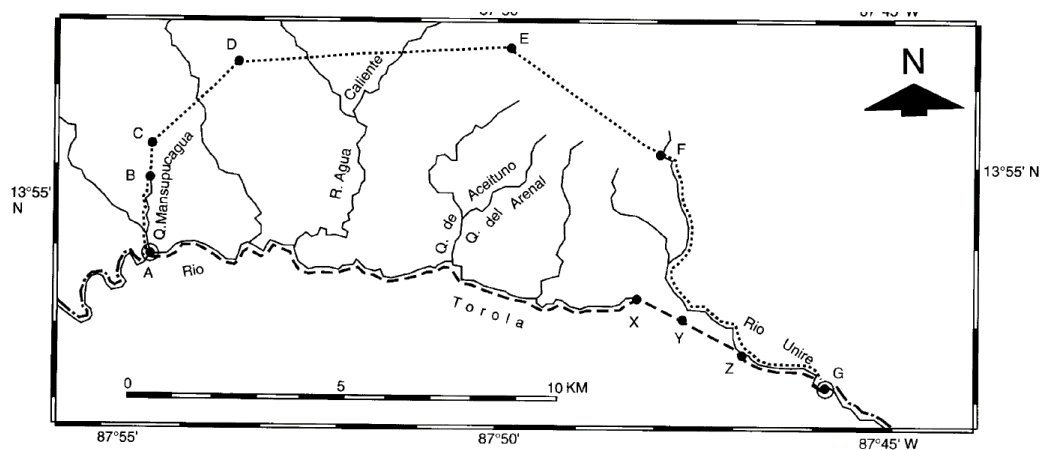


Source: ICJ, 1992

Map D portrays the forth area of dispute, which is located at the source of the La Orilla stream and the Malpaso de Similacion marker. It starts at the source of the La Orilla stream and goes up to the base of El Volcancillo mountain. The disputed area continuously follows the Cueva Hedionda stream's southernmost source and continues along the middle of the riverbed of the stream to the Champate marker to the confluence with the Canas or Santa Ana River. Then it continues along the Camino Real, traversing by Portillo Blanco, Obrajito, Laguna Seca, Amatillo or Las Tijeretas. Then it continues northward to the joining of the Las Cafias River with the Masire or Las Tijeretas stream. The further course of the border conflict keeps up on a northeast path upstream to the road between Torola and Colomoncagua. Then it follows in the same path toward Cerro La Cruz, Quecruz or El Picacho

Map E shows the Manzupucagua stream converging with the Torola River and the crossing of Paso de Unire. The aforementioned stream meets the river and carries on upstream on the Torola River, along the river bed's middle. There the source leads to the La Guacamaya stream, from this marker, it follows a straight path to the pass of La Guacamaya and continues straightwards to the Unire River. Finally, it continues downstream along the Unire River to the so-called Paso de Unire cross.¹³³

Figure 20: Map E – 5th area of dispute



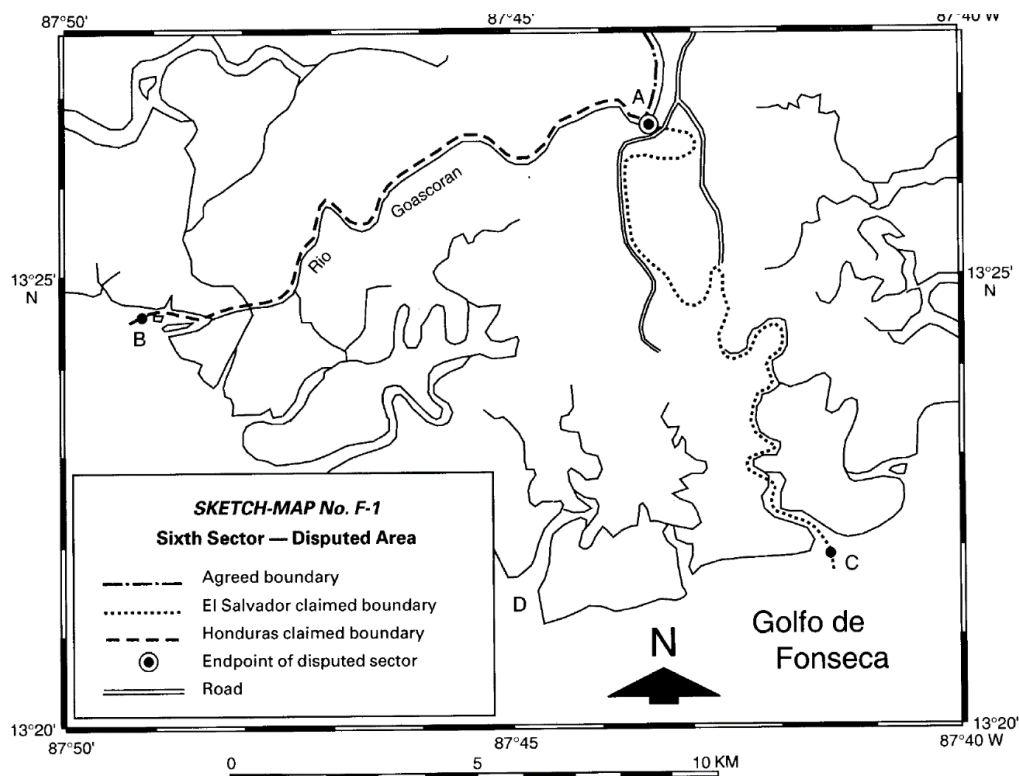
Source: ICJ, 1992

Map F shows the last landmark dispute. The section is located between Los Amates and the Gulf of Fonseca. The disputed area follows the river Goascoran with Las Amantes as a starting point. It continues the beforementioned river downstream along the middle of the bed by way of the Rincon de Mumhuaca and Barrancones. The area ends in its mouth to the north-west of the Ramaditas islands in the Bay of La Union.¹³⁴

¹³³ ICJ, Summary of the Judgement, 25-26.

¹³⁴ Ibid., 27-28.

Figure 21: Map F – 6th area of dispute



Source: ICJ, 1992

8.3 Maritime frontier

The Gulf of Fonseca is located in the Pacific Coast of Central America. Its borders are shared by El Salvador in the west, Honduras in the north and Nicaragua in the east.¹³⁵ The aforementioned bay is called Gulf of Fonseca, it has a total range of 19 miles. The entrance point to the Gulf rests in the inner shoreline of the Gulf and is formed by the mainland of Honduras.¹³⁶

¹³⁵ Gideon Rottem, Land, Island and Maritime Frontier Dispute. In: The American Journal of International Law, Vol. 87, No. 4 (Oct. 1993), 618-626.

¹³⁶ Malcom Evans, Case concerning the Land, Island and Maritime Frontier Dispute (El Salvador/Honduras): The Nicaraguan Intervention. In: The International and Comparative Law Quarterly, Vol. 41, No. 4 (Oct. 1992), 896-906.

8.4 Islands

Concerning the status of the islands in the Gulf, El Salvador has asked the Chamber to declare the country's sovereignty over all of the islands in dispute, except for Zacata Grande and the Farallones. According to Honduras, only Meanguera and Meanguerita islands were in dispute, and Honduras claimed sovereignty over them. The Chamber stated that a judicial determination was required only for the islands in dispute, which, according to the Chamber, were El Tigre, Meanguera and Meanguerita. The Chamber rejected Honduras's claim, which argued that there was no real dispute about the judicial determination of the island El Tigre.¹³⁷

8.5 Land border limitation

As already mentioned, the remaining issues of the General Peace Treaty could not have been resolved after five years. Therefore, the countries agreed on handing the resolution over the ICJ. Concerning the resolution of the landmark border dispute, the ICJ decided to apply the principle of the *uti possidetis juris* (UPJ) of 1821 as fundamental argument.¹³⁸

8.5.1 Uti possidetis juris

The *uti possidetis juris* principle is part of the customary international law, which had been explained for the first time in the case concerning the dispute between Burkina Faso and Mali. It is primarily applied to maintain the boundaries established of previous colonies and their successor decolonised countries.¹³⁹

The exact definition of the *uti possidetis juris* principle had been explained by the ICJ in regard to the frontier dispute as following: “[UPJ] is a]

¹³⁷ Ibid.

¹³⁸ Shaw, Case concerning the Land, Island and Maritime Frontier Dispute, 929-930.

¹³⁹ Ibid.

general principle, which is logically connected with the phenomenon of the obtaining of independence, wherever it occurs. It's obvious purpose is to prevent the independence and stability of new States being endangered by fratricidal struggles provoked by the challenging of frontiers following the withdrawal of the administering power... Its purpose, at the time of the achievement of independence by the former Spanish colonies of America, was to scotch any designs which non-American colonizing powers might have on regions which had been assigned by the former metropolitan State to one division or another, but which were still uninhabited or unexplored.”¹⁴⁰

8.5.2 Effectivitiés

Honduras argued that the *uti possidetis juris* principle should be the only governing norm, whereas El Salvador also asked for the Application of the human nature or *effectivities* principle. The *effectivities* principle is defined as follows: “The conduct of the administrative authorities as proof of the effective exercise of territorial jurisdiction in the region during the colonial period.”¹⁴¹

8.6 Legal situation of the Maritime Spaces

Concerning the dispute of the declaration of the legal situation of the maritime spaces, El Salvador and Honduras did not agree on the question if the Gulf of Fonseca should be used via joint ownership or not. El Salvador argued that the maritime space is a condominium in favour of the three coastal States, El Salvador, Honduras and Nicaragua. However, according to Honduras the maritime boundaries in the Gulf of Fonseca should be clearly defined.¹⁴²

¹⁴⁰ Malcom N. Shawt, The Heritage of States: The Principle of *Uti Possidetis Juris* Today In: *British Yearbook of International Law*, Volume 67, Issue 1, 1 January 1997, 75-154.

¹⁴¹ Shaw, Case concerning the Land, Island and Maritime Frontier Dispute, 620.

¹⁴² Evans, Case concerning the Land, Island and Maritime Frontier Dispute, 902.

8.7 Legal situation of the islands

The ICJ decided that the *uti possidetis juris* principle should also be applied for the definition of the legal situation of the three islands El Tigre, Meanguera and Meanguerita. As the three islands had also been colonised by the Spanish Crown and became part of the independent Central America in 1821, the islands could not be regarded as *terra nullius*. The Australian Law Dictionary defines the terminus *terra nullius* as “Land that is unoccupied or uninhabited for legal purposes.”¹⁴³ However, the Chamber noted that there had been no land titles defined and that the Application of the *uti possidetis juris* was too ambiguous and fragmentary.¹⁴⁴ “For this reason”, the Chamber continued, “it is particularly appropriate to examine the conduct of the new states in relation to the islands during the period immediately after independence.”¹⁴⁵

9 The intervention of Nicaragua

On 17th November 1989 the Republic of Nicaragua applied for permission to intervene in the case under Article 36, paragraph 1 and Article 62 of the Statute of the Court.¹⁴⁶

Nicaragua justified its intervention and its legal interest in the case as follows: firstly, it stated that the Gulf of Fonseca is of trilateral nature of the dispute over the Gulf since El Salvador, Honduras and Nicaragua are riparian states. Secondly, it explained its intentions to protect its legal rights with and without the Gulf. Thirdly, Nicaragua

¹⁴³ Audrey Blunden; Trischa Mann, Australian Law Dictionary. Oxford University Press.

¹⁴⁴ Shaw, Case concerning the Land, Island and Maritime Frontier Dispute, 934.

¹⁴⁵ ICJ, Summary of the Judgement, 559.

¹⁴⁶ Ratner, Land, Island and Maritime Frontier Dispute, 680-681.

argued that the Statute of the Court provided a sufficient jurisdictional basis.

Nevertheless, the interest of Nicaragua was uniquely delimited to the delimitation of the maritime borders, within and without the Gulf of Fonseca and the related islands in the disputed area.¹⁴⁷ Nicaragua argued as follows: “As can be appreciated in Article 2 of the Special Agreement..., the Government of Nicaragua has an interest which must inevitably be affected by a decision of the Chamber.” Nicaragua gave the following explanation: “The Court’s findings in that case was that, while the presence in the Statute of Article 62 might implicitly authorize continuance of the proceedings in the absence of a State whose international responsibility would be “the very subject-matter of the decision.” There had been no need to decide what the position would have been if Albania had applied for permission to intervene under Article 62.”¹⁴⁸

After Nicaragua applied for permission to intervene in the dispute, the question arose whether the Court or the Chamber was responsible to make a decision. Nicaragua believed that it was a matter exclusively within the procedural mandate of the full Court. However, on 28th February 1990 the Court adopted an order, which stated that the Chamber had to deal with its Application of intervention.¹⁴⁹

9.1.1 The parties’ opinions on the intervention

Honduras stated that it had no objection to the intervention of Nicaragua in the case. It assumed that Nicaragua’s sole purpose of presenting its view was concerning the legal status of the waters within

¹⁴⁷ Ibid.

¹⁴⁸ Johan *Lammers*, A. C. *Kiss*, Land, Island and Maritime Frontier Dispute In: Hague Yearbook of International Law Vol. 4 (Martinus Nijhoff Publishers The Hague 1993) 266.

¹⁴⁹ Evans, Case concerning the Land, Island and Maritime Frontier Dispute, 899-900.

the Gulf of Fonseca. El Salvador however requested the denial of the permission for Nicaragua to intervene in the case.¹⁵⁰

El Salvador firstly argued that the Application of Nicaragua failed to fulfil the requirements of Article 81, paragraph 2 of the Rules of the Court and therefore Nicaragua failed to set out the basis of jurisdiction. Secondly, El Salvador mentioned that the Application of intervention failed to specify the precise object of the intervention. Thirdly, El Salvador claimed that: “Nicaragua is time barred or estopped from seeking changes in the procedural aspects of the principal proceedings.” Its argumentation was that an Application for permission of intervention should be “as soon as possible, and no later than the closure of the written proceedings.”¹⁵¹ Although the Chamber rejected the first arguments of El Salvador, the force of the third argument led to the decision of Nicaragua to withdraw its request to reconstitute the Chamber or its mandate restricted, and it was dismissed by the Chamber in a summary fashion.¹⁵²

9.1.2 The decision of the Chamber

On 28th February 1990 the Court adopted an order, which stated that the Chamber had to deal with its Application of intervention¹⁵³. The Chamber concluded that Nicaragua might be affected by the Chamber’s judgement due to its interest of a legal nature. However, these interests were limited to the judgement on the merits with respect to the legal regime of the waters of the Gulf, meaning that Nicaragua could only intervene with respect to that issue and not in any other area of the

¹⁵⁰ International Court of Justice, Reports of Judgements, advisory opinions and orders. Case concerning the land, island and maritime frontier dispute (El Salvador/Honduras) (1990) 99.

¹⁵¹ ICJ, Summary of the judgement 23-24.

¹⁵² Ibid., 901.

¹⁵³ Evans, Case concerning the Land, Island and Maritime Frontier Dispute, 899-900.

case. This had been the first time in history that the ICJ allowed a country to intervene in a case under Article 62.¹⁵⁴

Nicaragua stated its interest regarding the five different issues, including the status of the islands El Tigre, Meanguera and Meanguerita, the status of the internal waters, any delimitation of those waters, the status of the waters outside the Gulf and any delimitation of those waters. The Chamber examined the mentioned interests. It concluded that the country failed to show that it would be directly affected in the legal status of the islands and that Nicaragua only had an indirect interest in the delimitation of the water of the Gulf of Fonseca.¹⁵⁵

Finally, the Chamber rejected the claim of Nicaragua that a delimitation “would affect an actual Nicaraguan interest.” It argued that the country had no direct interest in the status of the waters outside the Gulf and that it had failed to demonstrate those interests. The Chamber did not justify the intervention of Nicaragua in the dispute between El Salvador and Honduras.¹⁵⁶ It mentioned that it was important that Nicaragua did not introduced a new dispute, which, however, would have been impermissible under Article 62.

9.1.3 The opinion of judge Oda

Judge Oda had a different opinion on the judgement. He mentioned that Nicaragua's intervention should not be restricted to the sole question of the legal regime of the waters within the Gulf. In his opinion Nicaragua should have been able to express its interest of a legal nature, as it might have been affected by the decision in the case

¹⁵⁴ Ratner, Land, Island and Maritime Frontier Dispute, 680.

¹⁵⁵ Ibid.

¹⁵⁶ Ibid., 681-682.

and therefore it should have had the right to express its opinion on any delimitation between El Salvador and Honduras in the Gulf.¹⁵⁷

10 Outcome of the case

As already explained before, that dispute between El Salvador and Honduras had a long history, which had been influenced by almost three hundred years of colonial history. There had been several intentions to divide the territory and draw boarder limitations between the involved countries, and these boundaries had been divided and altered various times. However, as the Chamber decided to apply the principle of the *uti possidetis juris*, it only considered the conduct after the independence of both states. Therefore, the colonial history had not been taken into consideration, but only to reconstruct the established boarders that corresponded until 1821.¹⁵⁸

Nevertheless, the Chamber tried to include the historic background of the dispute. That is why, when the Chamber declared the judgement of the case, it started with explaining the historic incidents that took place over the years. This included the 1854 dispute of the origin of the island dispute, the 1861 attempt to demarcate frontiers, the 1884 effort to delimit the Gulf of Fonseca, the 1900 delimitation between Nicaragua and Honduras and the 1917 proceeding in the Central American Court of Justice.¹⁵⁹ This shows the complexity of the case, as the Chamber had to consider several events in its judgement. It also must be mentioned that the applicable laws that had been used in previous dispute settlements have not yet existed. However, the following section does not only try to provide an overview of the Chamber's judgement, but to also describe the different positions and

¹⁵⁷ ICJ, Reports of Judgements, 17-18.

¹⁵⁸ Ratner, Land, Island and Maritime Frontier Dispute, 681.

¹⁵⁹ Ibid., 681.

arguments by the involved parties. First of all, the legal situation of the maritime spaces will be explained, secondly the legal status of the islands El Tigre, Meanguera and Meanguerita and thirdly the most complex part of the land boarder limitation of the dispute.

10.1 Legal situation of the maritime spaces

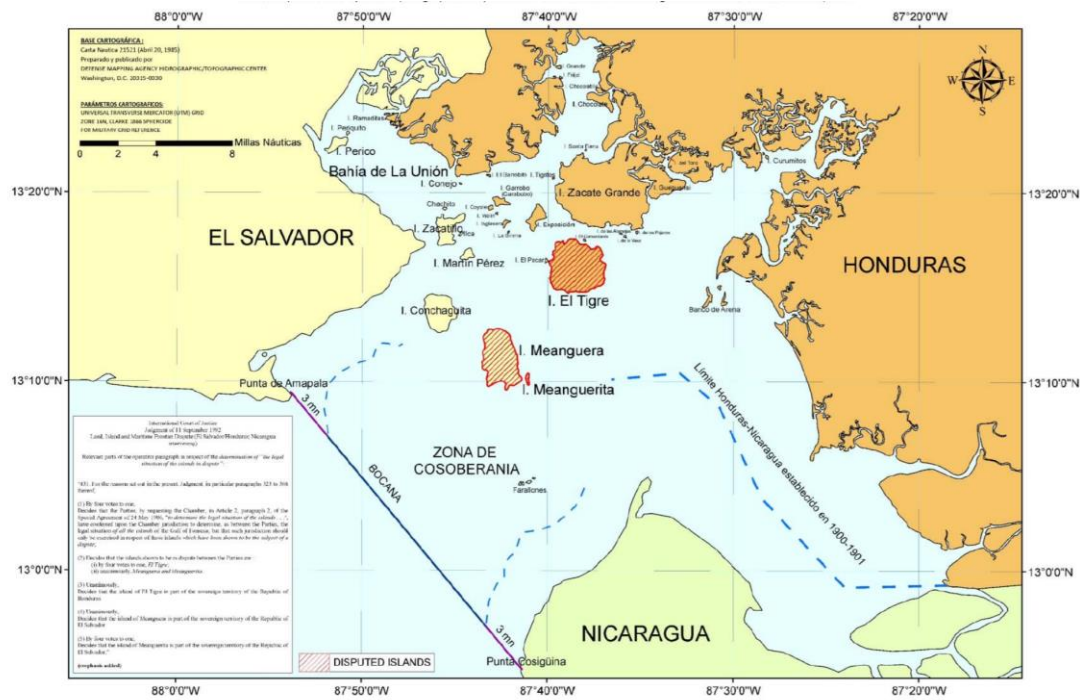
Concerning the dispute of the declaration of the legal situation of the maritime spaces, El Salvador and Honduras did not agree on whether the Gulf of Fonseca should be used via joint ownership or not. El Salvador mentioned that the maritime space is a condominium in favour of the three coastal States, El Salvador, Honduras and Nicaragua. Therefore, it considered that the Gulf of Fonseca is “a regime of community, co-ownership and joint sovereignty”. Its argument was based on the judgement of the Central American Court of Justice in 1917, which will be further explained below.

However, Honduras had the opinion that the maritime boundaries in the Gulf of Fonseca should be clearly defined.¹⁶⁰ It argued that “the Gulf’s specific geographical situation creates a special situation between the riparian States which generates a community of interests”, which in turn “calls for a special legal regime to determine their mutual relations”, that the community of interests “does not mean integration and the abolition of boundaries” but, on the contrary, “the clear definition of those boundaries as a condition of effective cooperation and that each of the three riparian States ”has in equal right to a portion of the internal waters”.¹⁶¹ In the illustration below, the maritime spaces, as well as the islands El Tigre, Meanguera and Meanguerita can be seen.

¹⁶⁰ Evans, Case concerning the Land, Island and Maritime Frontier Dispute, 902.

¹⁶¹ ICJ, Reports of Judgements, 4.

Figure 22: Maritime spaces and islands in dispute



Source: United Nations Security Council, 2013

10.1.1 The Bryan-Chamorro Treaty

As already mentioned above, the Chamber examined the history of the Gulf, mainly considering the 1917 judgement of the Central American Court of Justice regarding the case between El Salvador and Nicaragua. The proceedings of this case had been initiated by the Government of El Salvador against the Government of Nicaragua based on the conclusion of the treaty between Nicaragua and the USA, known as the Bryan-Chamorro Treaty. This before mentioned treaty granted the

USA the right to construct an interoceanic canal and for a lease of 99 years the establishment of a naval base in the Gulf of Fonseca.¹⁶²

At that time the Court determined the legal status of the Gulf of Fonseca under the consideration of the history, geography and vital interest of the surrounding states. It came to the conclusion that the Gulf had remained undivided and in a state of community between the parties. Therefore, it could have been considered as a historic bay possessing the characteristics of a closed sea, as there had been no attempts to divide the waters according to the principle of *uti possidetis juris*.¹⁶³

This was based on the fact, that the Gulf of Fonseca had been a single state bay under the Spanish crown and that after the succession of the three states from Spain in 1821 it had been seen as a condominium. At the time of independence, no borders and limitations had been drawn in the bay and its waters had been undivided.¹⁶⁴ The Court stated: "... this community had continued to exist by virtue of continued and peaceful use of the waters of the Gulf by the riparian States. This was shown by the overlapping jurisdiction in the zone in which both litigant States had been exercising their rights of imperium."¹⁶⁵

10.1.2 Historic bay

Therefore the official definition of the National Oceanic and Atmospheric Administration (NOAA) of a historic bay is as follows: "A water area over which the coastal state has asserted sovereignty, over a long period of time, with the acquiescence of foreign nations.

¹⁶² United Nations, Digest on International Cases on the Law of the Sea (New York 2006) 8.

¹⁶³ Ibid.

¹⁶⁴ Max-Planck-Institut, Summaries of the Decision. Land, Island and Maritime Frontier Dispute Case. Online: <http://www.mpil.de/de/pub/publikationen/archiv/world-court-digest.cfm?fuseaction_wcd=aktdat&aktdat=dec0205.cfm> (20.02.2019)

¹⁶⁵ United Nations, Digest on International Cases on the Law of the Sea, 8.

The geographic requirements for a juridical bay, as set out in Article 7 of the 1958 Convention and the United Nations Convention of the Law of the Sea (UNCLOS) Article 10, need not be met.”¹⁶⁶

10.1.3 The final decision concerning the maritime space

However, it is important to consider the fact that the judgement of the Central American Court of Justice of 1917 is only binding for the involved parties. This means that it is only applicable between El Salvador and Nicaragua, therefore the Court had to reach its own decision concerning the legal status of the Gulf of Fonseca. The vote was 4:1 in favour that it was a case of historic waters, as the three states succeeded to communal sovereignty and the waters had ever been divided.¹⁶⁷

Additionally, the Court drew a closing line of the Gulf between Punta da Amapala and Punta Cosiguina. The legal status of these waters within the closing line was defined by the Court as *sui generis* and would be the same as internal waters and not that of the territorial sea. However, this excluded the three-mile zone of each state.¹⁶⁸

Concerning the waters outside the Gulf, the Chamber concluded that in 1917 there did not yet exist some of the concepts of maritime law. Therefore, these concepts had been unheard in the previous case between El Salvador and Nicaragua. Since the closing line is shared between the three states of El Salvador, Honduras and Nicaragua, there is a tripartite presence. The Court argued as followed: “Only seaward of the closing line could modern territorial seas exist, as otherwise, the Gulf waters could not be waters of a historic bay. Therefore, the three

¹⁶⁶ Glossars, National Oceanic and Atmospheric Administration, Office of General Counsel. Historic Bay (2016).

¹⁶⁷ Max-Planck-Institut, Summaries of the Decision. Land, Island and Maritime Frontier Dispute Case. n.d.

¹⁶⁸ Ibid.

coastal States, joint sovereigns of the internal waters, must each be entitled outside the closing line to a territorial sea, continental shelf and exclusive economic zone. It is, however, for the three States to decide whether this situation should be upheld or replaced by a division and delimitation into three separate zones.”¹⁶⁹

In summary, this means that the Court decided that the Gulf of Fonseca is a historic bay with the legal status of a closed sea, meaning that the Gulf is of common interest and use. This conclusion had been mainly based on the case between El Salvador and Nicaragua in 1917. However, as back then some laws did not yet exist, the Court left it open to the involved states if they wished to divide the maritime spaces into three separate zones or not.

10.1.4 Reflections on the decision

It is important to notice that the decision of the ICJ could have had much deeper reaching consequences for the involved parties, especially for Honduras, as a judgement might have had cut-off Honduras entirely from inside and outside the Gulf. In such a case, Honduras would have been consequently unable to exploit the marine resources outside the Gulf. Furthermore, a cut-off could have had created access problems for navigation, overflight, and security. This means that a judgement would have left Honduras probably with a narrow corridor between El Salvador and Nicaragua. The solution of the communal sovereignty granted Honduras a share in the ocean area seaward of the closing line of the Gulf of Fonseca and avoided a serious cut-off effect.¹⁷⁰

¹⁶⁹ Ibid.

¹⁷⁰ Yunus Emre *Acikgonul*, Reflections on the Principle of Non-Cut Off: A growing concept in Maritime Boundary Delimitation Law In: Ocean Development & International Law Vol. 47, Issue 1, 2016 pp. 52 - 71. 59.

10.1.5 Non cut-off principle

When it comes to the determination of maritime boundaries, so far Courts and tribunals have developed a three-stage methodology to determine the separation line between the involved states. As the final determined separation line depends on the second stage of the process, it is important to analyse the relevant circumstances that resulted in the adjustment of the provisional equidistance line, as it might result in a cut-off effect for an involved state. The cut-off effect has been considered as a relevant circumstance, as a provisional delimitation line might have had an effect on one of the involved parties, in which an incidental geographic feature might have resulted in an unjustifiable difference of treatment concerning its seaward projection.¹⁷¹

When it comes to the cut-off effect, following rules should be followed: first of all, it has to be established on an objective basis and in a transparent manner. The readjustment in the case of a cut-off effect is only required if the incidental geographic features affects the provisional equidistance line so greatly that it renders that line inequitable.¹⁷²

A more detailed of the cut-off effect follows: “More precisely, the cut-off effect produced by a delimitation line must also meet two criteria to warrant an adjustment of that line. First, the line must prevent a coastal state from extending its maritime claims as far seaward as international law permits. Second, the line must be such that if no adjustment is made, the delimitation would fail to reach an equitable solution. Nevertheless, the adjustment of a provisional line is to be undertaken in a balanced way so as to avoid the converse effect on the seaward access of other States. Thus, remedying the cut-off effect should not be done

¹⁷¹ Ibid.

¹⁷² Ibid., 59.

in a way to refashion the geography or to compensate for the inequalities of nature. In addition, the adjustment process should not transfer the cut-off effect from one party to another.”¹⁷³

The principle of the non-cut off Application constitutes a unique tool to eliminate this form of cut-off effects caused by incidental coastal features. Therefore, this principle became an important tool in today’s maritime boundary delimitation law and its role has grown within the last years.¹⁷⁴

10.2 The legal status of the islands

Concerning the legal status of the islands, the Chamber firstly had to define the scope of the dispute, secondly to identify the applicable law and thirdly to determine sovereignty over the islands. The Chamber concluded that the judicial determination is only required for the islands El Tigre, Meanguera and Meanguerita. Although it had the right to determine the legal status of all islands in the Gulf, it would only exercise its jurisdiction with respect to the islands that were actually in dispute between the parties.¹⁷⁵

Honduras argued that the only applicable law to conclude the legal situation of the islands would be the *uti possidetis juris* principle. On the other hand, El Salvador claimed that the Chamber should apply the modern law of acquisition of territory. It further argued, that the Chamber should have also analysed which of the involved parties had control of the island. It also requested to consider the historic titles. The Chamber concluded that the determination of the legal status of the islands had to start with the principle of *uti possidetis juris*. Since the principle of the status of *terra nullius* could not be applied, the matter

¹⁷³ Ibid.

¹⁷⁴ Ibid., 66.

¹⁷⁵ Shaw, Case concerning the Land, Island and Maritime Frontier Dispute, 933-934.

did involve the right of succession of the newly independent states of Central America. However, the Chamber reviewed the *effectivities* and concluded that limiting the determination to the historic title or colonial effectivities would be too fragmented and ambiguous. Therefore, the Chamber decided to take the conduct of the post-independence under consideration as well, meaning that the actions and conducts that had been taken after 1821 would also serve as a guide to the attribution of the islands.¹⁷⁶

10.2.1 The final decision concerning the status of the islands

Finally, the Chamber concluded that the island El Tigre appertained to Honduras and Meanguera and Meanguerita to El Salvador. This decision was based on the fact that since 1849 Honduras had occupied El Tigre and El Salvador lacked to protest against these circumstances. Based on considerable documentary evidence and the hearing of the testimony of the residents of the island Meanguera, the Chamber decided that the island belongs to El Salvador. Concerning the smaller and uninhabited island Meanguerita, the Chamber decided that the island also belongs to El Salvador. Its argumentation was based on the fact that due to the small size of the island and its proximity to the larger island it shows a dependency of Meanguera.¹⁷⁷

10.3 Land boarder determination

The Land, Island and Maritime Frontier Dispute between El Salvador and Honduras is based on a long history of boarder issues and intended settlements of the dispute. These tensions even lend to an armed conflict between the parties, the already mentioned football war in 1969. The OAS mediated a ceasefire and a withdrawal of the troops

¹⁷⁶ Ibid.

¹⁷⁷ International Court of Justice: Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening). Online: <<http://www.icj-cij.org/en/case/75>> (29.03.2018).

and consequently, the General Treaty of Peace had been signed. The involved states agreed on settling the conflict within five years. If the parties were not able to come to a conclusion, the case would have been handed over to the ICJ. This was the case in 1986 and the ICJ was asked to implement its eventual ruling over the existing controversies.¹⁷⁸

Nevertheless, the majority of the evidence arising in the General Treaty of Peace had not been taken into consideration by the ICJ. Giving an example: El Salvador claimed its high population density and its resulting economic necessity of the land, using the justification of elitism and the economy. Moreover, the Court decided that the Spanish boundaries did practically not exist and that the evidence of historic events was inconclusive. That is why it focused on the possession after the independence of the two states and the indicators of the parties' perception about the limits of their territorial sovereignty. Therefore, it used the *uti possidetis juris* principle of 1821.¹⁷⁹

10.4 The positioning of the parties

Before the Chamber decided to use the *uti possidetis juris* principle, the involved parties brought different opinions concerning the applicable principle to the Court. El Salvador believed that the Court should follow the provisions of the Peace Treaty of 1980, specifically Article 26, which states: “For the delimitation of the frontier line areas subject to controversy, the Joint Frontier Commission shall take as a basis the documents which were issued by the Spanish Crown or by any other Spanish authority [...] which indicate the jurisdictions or limits of territories.” Therefore, the Court was asked to create a special rule in

¹⁷⁸ Brian Taylor *Summer*: Territorial Dispute at the International Court of Justice. In: Duke Law Journal Vol. 53 Nr. 6 2004, 1798-1799.

¹⁷⁹ Brian Taylor *Summer*: Territorial Dispute at the International Court of Justice. In: Duke Law Journal Vol. 53 Nr. 6 2004, 1798-1799.

the determination of the *uti possidetis juris* principle and to consider the “colonial effectivities” and “títulos ejidales”. In this argument El Salvador especially referred to an area, which had been conveyed to municipal councils of Indian communities and had a special status in the Spanish colonial law. Honduras also demanded a reference to the Spanish royal decrees. Furthermore, both countries presented arguments based on effectivities, meaning their effective administration and control over a certain disputed area.¹⁸⁰

Nevertheless, as already mentioned above, because the Spanish boundaries practically did not exist and the evidence of historic events was inconclusive, the Chamber decided to take the topography of each land sector into account, meaning that it followed the identifiable and convenient topographical lines and limited the role of effectivities. Five of the six disputed areas were based on the before mentioned principle, only one was based on the course of the Goascoran River. This is an example for a decision by the Chamber based on geographic evidence, when the delimitation based on the *uti possidetis* has not been clear.¹⁸¹

As a detailed analysis of the judgement of the ICJ would exceed the extend of this master thesis, only the sixth sector that have been in dispute had been analysed. The sixth sector is of special importance for the case, as El Salvador asked for the revision of the case a few years later, mentioning specific details of this specific sector. It had been already explained above that the decision of the last sector in dispute had been based on the river base of the Goascoran River. El Salvador claimed that the boundary follows an old course of the river, which had

¹⁸⁰ Steven R. Ratner. Land, Island and Maritime frontier Dispute (El Salvador/Honduras), Application to Intervene In: American Journal of International Law Vol. 85, Issue 4, Oct. 1991, pp. 680 -686 (American Society of International Law 1991) 682-683.

¹⁸¹ Ratner, Land, Island and Maritime frontier Dispute: Application to Intervene. 682-683.

been abandoned by the river before 1821. However, the Chamber rejected this argument, as Honduras provided the Court with land titles from the 17th and 19th century as well as with a map or chart of the Gulf of Fonseca prepared during an expedition between 1794 and 1796 and additionally also with a map from 1804.¹⁸²

The Chamber concluded that there had been little room for doubt, that in 1821, the Goascorin river had been floating in the present-day course. The map that had been used as a confirmation of proof was made in 1796 during an expedition. The Chamber saw no difficulty in making a conclusion based on the expedition report combined with the map. El Salvador also claimed that the Goascorin river would have had returned to its old course, if this would not have been prevented by the construction of a wall from Honduras in 1916. The Chamber referred to this objection by El Salvador, which had claimed that this allegation would not affect its decision, even by a burden of proof.¹⁸³

11 Reflections on the case

Throughout the master thesis the high complexity of the case can be seen. First of all, because it included three different areas that have been in dispute, the delimitation of the landmarks, the delimitation of the Gulf of Fonseca and the legal status of the islands El Tigre, Meanguera and Meanguerita. Therefore, different laws had to be applied in the same case, including international sea law and international customary law. Secondly, the different areas in dispute could have had influenced the outcome of one of the areas in dispute. This means that if the ICJ would have had delimited the Gulf of Fonseca, the delimitation of the landmarks as well as the legal situation

¹⁸² ICJ, Reports of Judgements 1992, 27-28.

¹⁸³ Ibid., 27-28.

of the islands would have had immediately provoked a different outcome of the case.

Furthermore, the long colonial history confronted the ICJ with a lot of challenges. Firstly, because there was a lack of proper documentation before El Salvador and Honduras became independent states. Therefore, the Chamber mainly applied the *uti possidetis juris* principle, which means that the judgement is based on occurrences that took place after the states' independence. However, it is important to consider that the colonial history influenced the conflict between the countries. This means that the conflicts are based on events before 1821, therefore, they still influenced the final decision. The Land, Island and Maritime Frontier Dispute between El Salvador and Honduras highlighted how past events, and especially the colonial history, still influence the present. This refers specifically to law cases, as judgments are usually based on previous cases and Court decisions. Until today, the maritime space, the Gulf of Fonseca, has not been divided between El Salvador, Honduras and Nicaragua.

12 Peace settlement

Fortunately, the ICJ was able to resolve the case of the Land, Island and Maritime Frontier Dispute between El Salvador and Honduras. Especially interesting in this regard is, that there were no further armed conflicts between the involved states after the ceasefire. Hensel writes that this is a seldom phenomenon, as territorial conflicts are more likely to reoccur than other armed conflicts.¹⁸⁴ Additionally, Stinnett and Diehl described in their study, that the likelihood of the reoccurrence of a conflict rises if the states are neighbouring countries, major powers

¹⁸⁴ Virginia Page *Fortna*, Scraps of Paper? Agreements and the Durability of Peace. In: The IO Foundation Vol. 57, Issue 2, pp. 337-372 (The IO Foundation 2003) 338.

or recently independent states. As El Salvador and Honduras are not only neighbouring countries, but also newly independent states it is even more surprising that the peace lasted.

The roots of the dispute between El Salvador and Honduras go back to the colonial past of the countries and the inaccurate definition of the boarder lines. Additionally, El Salvador had to deal with a high population problem and a scarcity of land. These were the two major factors for the migration of thousands of Salvadorians to the borders of Honduras¹⁸⁵

El Salvador and Honduras had already signed a bilateral migration agreement in order to regulate the high number of Salvadoran migrants to the borders of Honduras. However, the bilateral agreement was not able to resolve the existing problem. In 1969, a World Cup football match between the countries caused a dispute and led to the occupation of some parts of the territory of Honduras by Salvadorian troops. It finally ended in an armed conflict between the neighbouring countries. Thanks to the negotiation abilities of the OAS a ceasefire could be established, since then there had been peace between the countries.¹⁸⁶

The definition of peace will be used from Fortna, who determines peace as the absence of war. The author also explains, that peace is more likely to last if the involved states sign a strong agreement.¹⁸⁷ First of all it is important to consider that war always comes with a high price. This means that it does not only have high social costs, but also economic costs. Therefore, states are going to avoid hostilities to re-emerge. Nevertheless, this argument rests on the following three

¹⁸⁵ Day, *Border and territorial disputes*, 426-427.

¹⁸⁶ *Ibid.*

¹⁸⁷ Fortna, *Agreements and the Durability of Peace*, 338.

assumptions: firstly, that states are rationally led, secondly, that war has economically high costs and thirdly, that the former belligerent has the intention to take advantage of its opponent. Furthermore, it is important to notice that states are willing to enter war with the aim to win it. However, if the costs of war and losing are too high for the country, it is going to favour to comply with the agreed ceasefire or not to restart fighting.¹⁸⁸

Commonly war ends, because the involved parties believe that they cannot gain anything more if the fight continues. This implies that they can benefit more from the terms of peace settlements specified in the agreement of a ceasefire than from an ongoing war. Therefore, it is important that the involved compromises are realisable for both parties and that they meet the expectations of the states involved in the conflict. The problem of re-emerging conflicts usually arises if one of the involved parties believes that it can gain more if the war continues.¹⁸⁹

13 Conclusion

Throughout the analysis of the correlation between the CACM and the Land, Island and Maritime Frontier Dispute between El Salvador and Honduras the high complexity of the dispute can be seen. Firstly, because various factors, that did not directly seem related to the conflict influenced its outburst. And secondly, because the resolution of the case included a broad spectrum of issues.

¹⁸⁸ Ibid., 340.

¹⁸⁹ Suzanne *Werner*, Amy *Yuen*, Making and Keeping Peace In: International Organization Vol. 59, Nr. 2, 2005, 261-292. (Cambridge University Press 20015) 2005.

As the master thesis explained, the initial roots of the conflict between El Salvador and Honduras, go back until its colonial past. However, when it comes to the actual outburst of the conflict, a correlation between the economic structure of the development model, applied by the CEPAL and the dispute can be seen. This is based on the introduction of the ISI model, introduced by Prebisch. But also due to its focus on exporting raw materials. As Prebisch preferred to introduce a reform, rather than a revolution. This means that the existing power relations within the country did not change. Consequently, the countries elites, that owned most of the land and the countries' bourgeoisie, that were involved in creating the new industries benefitted from the development model.

The majority of the population, that had a low level of education and especially the rural population experienced even more suppression. In general, they did not find an employment in the recently established industries. Additionally, throughout the focus of the export industry the rural population had been expelled from their land. These factors led to an increase of migration from Salvadorians to the borders of Honduras.

Due to the high unemployment rate in both countries the influx of migration at the borders of Honduras provoked even further strains between the states. In Honduras the consequences for the lower-class population had been comparable to El Salvador. From the introduction of the new policies, especially the foreign companies that exported bananas benefitted. Also, the migration influx at the borders with Honduras had a positive effect on these mentioned industries. Most of the Salvadorians searched for a job in the banana plantations, meaning that they represented cheap labour for the companies. And put pressure on the job market. Therefore, the banana industries were able to increase their profits.

Simultaneously, El Salvador and Honduras failed to raise enough taxes, which could have been invested in the educational systems of the countries. In this way the population could have also benefitted from the development model. However, the countries preferred to apply policies that improve the market attractiveness for new businesses and investments. That is why the countries' kept taxes low. Therefore, the high unemployment rate had not been solved. At the same time, it also created a problem for the success factor of the CACM itself. The high unemployment rate created a further problem of a lack of purchasing power, as the Central American market size is already quite small.

However, if the development model of the CEPAL is analysed by mainstream economic measures. It is described as initially highly successful, as it led to an increase of the industrial production within the countries within a short time. It also increased the intraregional trade. In this way the states have been able to decrease their dependency from external countries. Apart from the occurring socioeconomic problems, which arose in consequence of the establishment of the common market, the benefits for the involved member states have been quite different. El Salvador benefitted much more from the common market than Honduras, which is due to the previous economic structure of the countries and created disparities within the region.

These disparities also finally led to the outburst of the conflict between El Salvador and Honduras. All in all, it can be said that the establishment of the CACM shows a correlation to the outburst of the Land, Island and Maritime Frontier Dispute of 1986 between El Salvador and Honduras

Based on unequal benefits for the countries, already mentioned above, the increasing tensions provoked by the development model of the CEPAL, led to the outburst of the conflict between El Salvador and Honduras. Further research on the consequences of the CACM would be interesting. As in both of the involved countries occurred a civil war, it would be interesting to find out if there is also a correlation to the applied development model. Research in this field could help to solve existing problems within the countries, as the consequences of the civil wars are still present in both countries. This can be seen by their high homicide rate and insecurity.

Furthermore, it can be said that it would have been important to apply methods, which allow small and medium sized companies to benefit as well. In this way the countries would have been able to generate employment and increase the regional demand. This means, that the development model should have been more inclusive. Another important factor is to invest into the education of the population. Otherwise if the population lacks the required skills and knowledge, external experts will receive an employment in the created jobs rather than the local population.

Surprisingly, the conflict between the member countries did not affect the economy of the countries as much as expected, which might be due to its short duration and fast settlement. Another reason for the diminished consequences, might be that the countries were able to find new trading partners in a short period of times.

Last but not least, the consequences of the CACM for the socio-economic structure of the member countries had been severe. A further in-depth study of the development model and its socio-economic model might be of great interest in order to solve the social conflicts, which currently exist within the region.

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