



PLURINATIONAL STATE OF BOLIVIA

# THE BOOK OF THE SEA

| 2015 |

# **THE BOOK OF THE SEA**

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**MINISTRY OF FOREIGN AFFAIRS OF BOLIVIA**

**STRATEGIC MANAGEMENT FOR MARITIME VINDICATION - DIREMAR**

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La Paz, Bolivia 2015



**EVO MORALES AYMA**

CONSTITUTIONAL PRESIDENT OF THE PLURINATIONAL STATE OF BOLIVIA

*“The sea we are claiming as a matter of justice is a sea for the people [...] a sea for the Great Fatherland; the Bolivian people shall never renounce the sea, Bolivia shall never be at peace so long as the maritime issue remains unresolved, because giving a solution to this kind of issues is a part of integration”.*

**Evo Morales Ayma**

**Speech delivered on 23 March 2014 [Annex 20]**

# PRESENTATION

More than a century has passed since Chile invaded the Bolivian Department of Litoral, waging a war among three sister nations and imprisoning Bolivia in forced geographic confinement.

Ever since, several Chilean Presidents and Foreign Ministers have understood that Bolivia should not be cloistered up forever after in the heart of South America, undertaking to negotiate with Bolivia on a sovereign access to the sea.

Today, and as it has always done, my country is claiming a peaceful solution to its landlocked condition. We have therefore appealed to the International Court of Justice to resolve, by law, this dispute that is hindering Latin American integration.

The Book of the Sea is a reflection of the feelings of all Bolivian men and women to share with the international community and all nations of the world the causes behind the invasion and war; the main commitments undertaken by Chile to negotiate a sovereign access to the Pacific with Bolivia; the reasons why Bolivia has decided to appeal to international jurisdiction to find a solution to its landlocked condition; and the damages Bolivia has endured on account of its confinement from the sea.

We are convinced that history, the awareness of the international community, reason and law all accompany Bolivia in its maritime claim. We are certain that, together with the Chilean people, we will find a formula to put an end for good to our landlocked condition and enjoy a sovereign access to the sea.

Bolivia's sea will be a sea for the people, a sea of hope and reconciliation, open to an encounter of all nations of the world as testimony that sister nations are capable of settling their conflicts peacefully.

Evo Morales Ayma

**CONSTITUTIONAL PRESIDENT OF THE PLURINATIONAL STATE OF BOLIVIA**



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*"Bolivia cannot live isolated from the sea. Now and always, to the extent of its abilities, it will do as much as possible to possess at least one port on the Pacific, and it will never resign itself to inaction each time the question is raised... jeopardizing the very foundations of its existence".*

**Daniel Sánchez Bustamante**  
**Bolivian Minister of Foreign Affairs, 22 April 1910**

*"Let us not forget, even for a moment, that we cannot suffocate Bolivia... Deprived of Antofagasta and all its coastal territory which it previously held up to the Loa [river], we must somehow provide it with its own port, a front door so it can enter inland with security, without asking for permission. We cannot and should not kill Bolivia..."*

**Domingo Santa María**  
**Chilean Minister of Foreign Affairs, 26 November 1879**

# INTRODUCTION

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When Bolivia achieved independence in 1825 it owned a seacoast of about four hundred kilometres on the Pacific Ocean. However, fifty four years after, in 1879, Chile invaded and took Bolivia's Department of Litoral by force, depriving Bolivia of its sovereign access to the sea and seizing a territory of around 120.000 square kilometres.

None of the international controversies or warlike conflagrations that Bolivia has faced throughout the course of its history has caused such a significant loss as that brought about by the War of the Pacific as it deprived Bolivia of its maritime sovereignty and prevented it from exerting its presence in the Pacific Ocean; an essential geopolitical and economic scenario.

Chile is aware of the damage it has caused and it has repeatedly acknowledged that Bolivia cannot remain indefinitely cloistered. Consistently, by way of agreements and its unilateral declarations, Chile has undertaken the obligation to negotiate with Bolivia on its sovereign access to the Pacific Ocean.

Given this fact, Bolivia has seen the need to make use of the mechanisms for peaceful settlement of international controversies provided by International Law and it has decided to resort to the International Court of Justice in order to find a solution to this more than centenary issue.

Bolivia has constantly expressed its readiness to engage into negotiations in good faith with Chile and it hopes that all nations of the world will joint it in its effort to overcome for good the last remaining obstacle that hampers the integration process in South America.

**David Choquehuanca Céspedes**  
**MINISTER OF FOREIGN AFFAIRS OF BOLIVIA**

*Long before the Empire of Tahuantinsuyo, Tiahuanacu, as the ancient metropolis of the Andean mountain range, had left the mark of its civilization on those coasts. Later, the dynasty of Manco Capac and Mama Ocllo spread its admirable culture from that same plateau. Many places along the Litoral bear names derived from the Inca culture and retain traces of its presence. We know that the word Atacama, for instance, comes from Quechua and that this territory was discovered under the rule of Inca Yupanqui, who annexed it to his Empire.*

**Jorge Escobari Cusicanqui.**

**Minister of Foreign Affairs of Bolivia, 1979.**

**Historia Diplomática de Bolivia [2013: p. 77]**

## 1

# Historical account and loss of the Bolivian coastal territory

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The bonds connecting the Andean region with the coast of Atacama date back to ancient times when indigenous territories were connected permanently to the ocean. During its expansionist phase, the Tiwanaku culture built at least seven settlements in the Azapa Valley, right along the Pacific coast. In the southwestern part of its dominion, the Inca Empire stretched as far as the Atacama desert. The Aymara people interacted and were present at all times, also through their agriculture and livestock, in the geographic spaces connecting the Andean highlands to the coast. These bonds were respected under colonial rule, which explains why Bolivia was founded in possession of a vast and wealthy seacoast in the Atacama region. Bolivia exercised sovereignty over this territory until 1879, when the Chilean invasion changed the country's geography and history.

## THE VICEROYALTY OF PERU AND THE ROYAL AUDIENCE OF CHARCAS

The Spanish crown established a new type of political administrative organization in America, creating Viceroyalties and Captaincies-General. The Viceroyalty of Peru was created in 1542 and was divided into Royal Audiences, one of which was the Royal Audience of Charcas [today Bolivia], created through a Royal Decree in 1559 and which comprised the Atacama District and its coast as part of its jurisdiction. The Audience covered the territory from the Loa River in the north to the Salado River in the south, beyond parallel 25°.

## THE VICEROYALTY OF RÍO DE LA PLATA AND THE ROYAL AUDIENCE OF CHARCAS

When the Viceroyalty of Río de La Plata was created in 1776, the Royal Audience of Charcas, comprising the Atacama District, was transferred to the jurisdiction of this newly created entity. During that time, the territory was often referred to as "Alto Perú" [Upper Peru]. In 1782, the new Viceroyalty was divided into eight Intendancies, including the Intendancy of Potosí, which was in turn subdivided into six parts, one of which the Atacama coastal territory.

## BOLIVIA'S INDEPENDENCE (1825)

Bolivia attained independence in 1825, defining its territory based on the boundaries of the former Royal Audience of Charcas, pursuant to the 1810 principle of *uti possidetis juris* within which the newly born Hispanic-American Republics agreed to respect the colonial boundaries they had as at that year. The political division of Bolivia was defined in 1826, turning the former colonial intendancies into departments and subdividing them into provinces, one of which the Province of Atacama, rich in guano, saltpeter, borax, copper and silver, was part of the Department of Potosí. *See figures 1 and 2.*

## CREATION OF THE DEPARTMENT OF LITORAL (1829)

The Bolivian Province of Litoral was created in 1829 and by 1867 it was established as a Department with a territory of

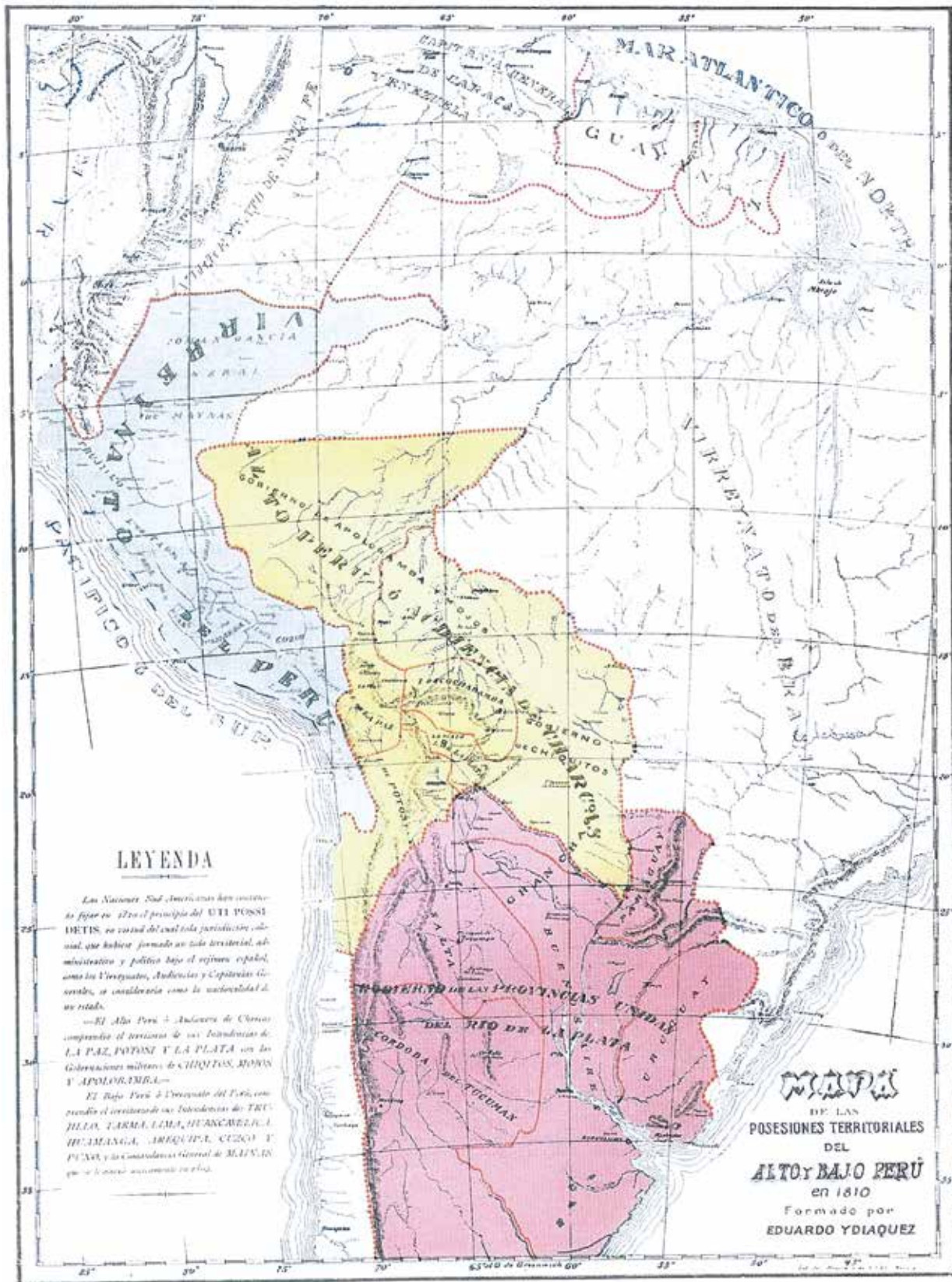


Figure 1: The Viceroyalty of Peru, Upper Peru or Royal Audience of Charcas and the Viceroyalty of Río de La Plata, Eduardo Ydiaquez, 1810. At the time of uti possidetis juris, the Royal Audience of Charcas or Upper Peru had jurisdiction over the Atacama Desert and its coast on the Pacific Ocean.





Figure 2: Chile, La Plata and Bolivia or Upper Peru, at the onset of the Republic. Author: Hall, S. [Sidney], 1829. After attaining independence, Bolivia continued to exercise sovereignty over the Atacama Desert and its coast on the Pacific Ocean, with its territory defined based on the boundaries of the former Royal Audience of Charcas.



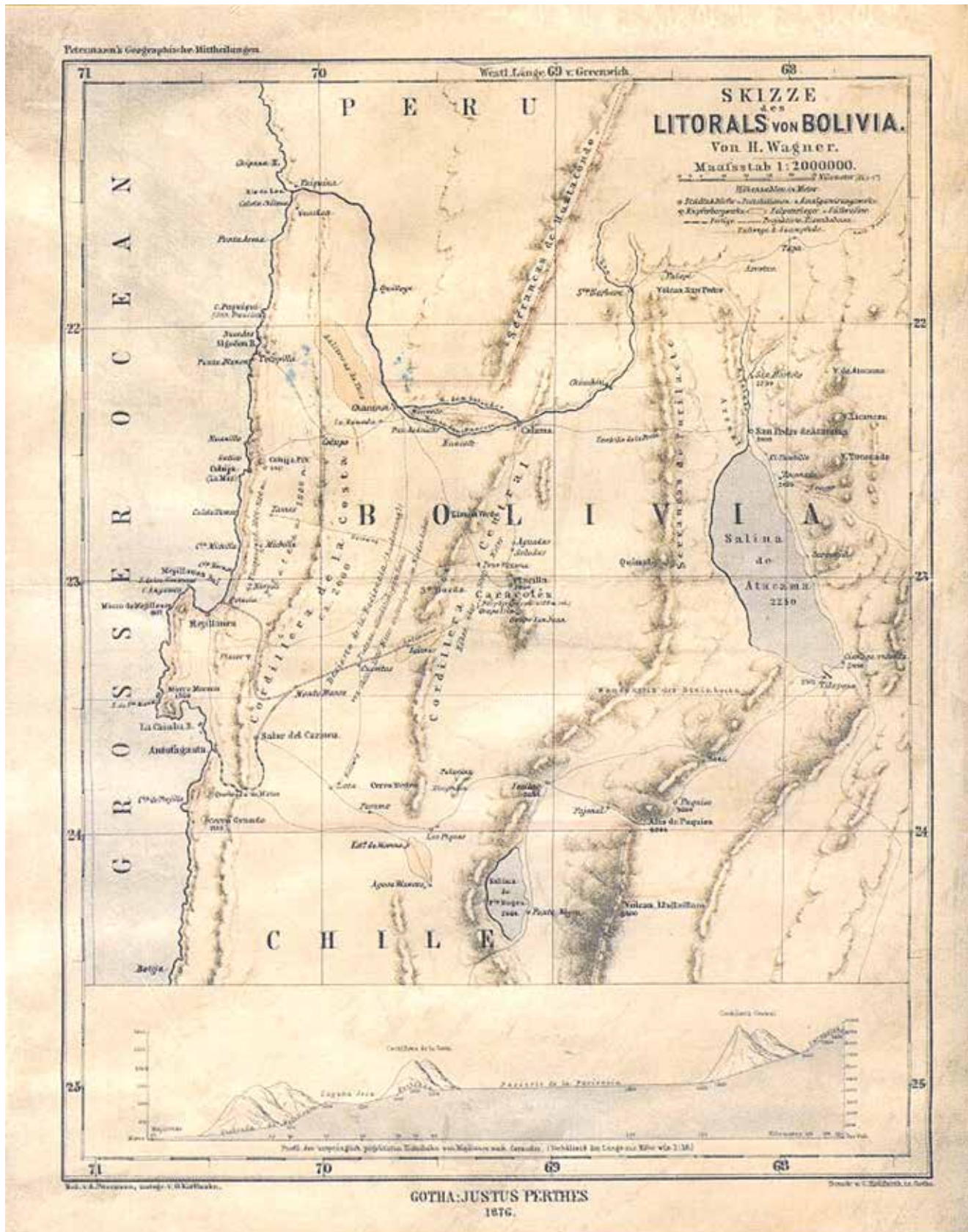


Figure 3: Bolivian Litoral Department by Von H. Wagner, 1876. Before the Chilean invasion, Bolivia possessed a vast coastal territory on the Pacific Ocean, as consistently depicted in international cartography.

approximately 120,000 square kilometers, bordering the Loa River [bordering Peru] on the north and the Salado River [bordering Chile] on the south, beyond parallel 25°. The ports of Antofagasta, Cobija, Tocopilla and Mejillones, as well as the inland towns of Calama and San Pedro de Atacama, were situated in this Bolivian coastal department. See figure 3.

### RECOGNITION OF BOLIVIA’S MARITIME STATUS

Chile never challenged Bolivia’s status as a coastal state and its maritime sovereignty. The Chilean Constitutions of 1822, 1823, 1828 and 1833 recognized the Atacama Desert as Chile’s northern boundary.

Furthermore, different international instruments recognized Bolivia’s maritime sovereignty, such as the 1833 Treaty of Friendship, Commerce and Navigation concluded between Chile and Bolivia.

### CHILEAN INCURSIONS INTO BOLIVIA’S COASTAL TERRITORY

In the early 1840s, Chilean citizens had already begun to occupy the Bolivian coastal territory and exploit the rich guano deposits in that area without authorization, taking advantage of the fact that few people lived there and that

there was hardly any presence of Bolivian authorities. As a result, Chile intended to extend its sovereignty up to parallel 23° into Bolivian territory. The Government of Bolivia formally protested and sought to solve the matter amicably.

### BOUNDARY TREATIES CONCLUDED BETWEEN BOLIVIA AND CHILE (1866 AND 1874)

As a consequence of the territorial dispute created by Chile, both States concluded two treaties of territorial limits. The first one<sup>1</sup> was concluded on 10 August 1866, establishing the boundary at parallel 24° and providing for the joint exploitation of guano, metals and minerals between parallels 23° and 25°. See figure 4.

The second Chilean-Bolivian treaty of territorial limits was concluded on 6 August 1874, confirming the boundary at parallel 24° and Chile’s rights for guano exploitation up to parallel 23°. In addition, it was resolved that Chilean citizens, industries and capitals would not be hit with new taxes during twenty-five years.<sup>2</sup> An Additional Protocol to the 1874 Treaty was concluded one year later, providing for any dispute resulting from the treaty to be submitted to arbitration. See figures 5 and 6.

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1. Annex 1.  
2. Annex 2.



Figure 4: Aniceto Vergara Albano, Chilean Plenipotentiary in La Paz and Mariano Donato Muñoz, Bolivian Foreign Minister, who negotiated the 1866.



Figure 5: Carlos Walker Martínez, Plenipotentiary Minister of Chile in Bolivia, signatory of the 1874 Treaty.

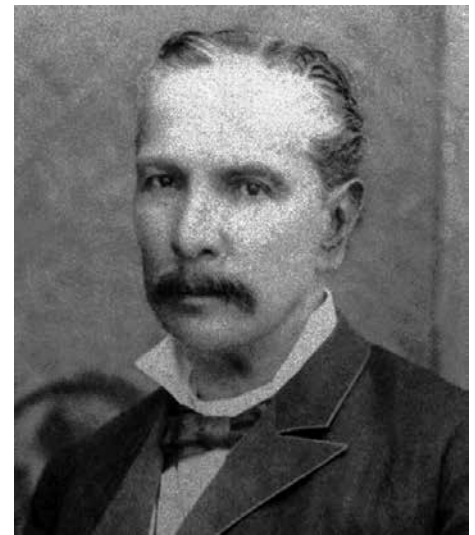


Figure 6: Mariano Baptista, Foreign Minister of Bolivia, signatory of the 1874 Treaty.



### THE 10-CENT TAX FOLLOWING THE 1877 TSUNAMI

An earthquake followed by a tsunami (estimated at 8.8 degrees on the Richter scale in subsequent measurements) devastated the Bolivian coastline and destroyed this territory in 1877. *See figure 7.* As if that were not enough, in 1878 a terrible drought further wrecked important sectors of the Bolivian territory. Faced with these natural disasters, the Bolivian Government required the Anglo-Chilean Nitrate and Railway Company of Antofagasta to pay a tax of ten cents per quintal of exported saltpeter in order to raise funds for recovering from the natural disasters that had hit the region. *See figure 8.* This requirement gave rise to a complaint from the Chilean Government before the Company appealed to the pertinent Bolivian courts. In response, the Bolivian Government proposed submitting the dispute to arbitration, thereby invoking the 1875 Additional Protocol.

### THE CHILEAN INVASION OF BOLIVIA AND THE WAR OF THE PACIFIC

Ignoring the arbitration mechanism previously agreed upon, on 14 February 1879 Chile invaded the Bolivian port of Antofagasta, without any prior declaration of war. Bolivia was dragged into a conflagration it had neither sought nor desired and, forced to defend its sovereignty, pursuant to the Treaty of Defensive Alliance concluded with Peru in 1873, along with its ally it tried to stop the advance of the Chilean troops which eventually occupied all of Bolivia's Litoral, the Peruvian provinces of Tarapacá, Tacna and Arica and even the Peruvian capital city of Lima. *See figure 9.*



Figure 7: Destruction of Bolivia's coastal territory after the tsunami in 1877.



Figure 8: Nitrate and Railway Company of Antofagasta, 1879.

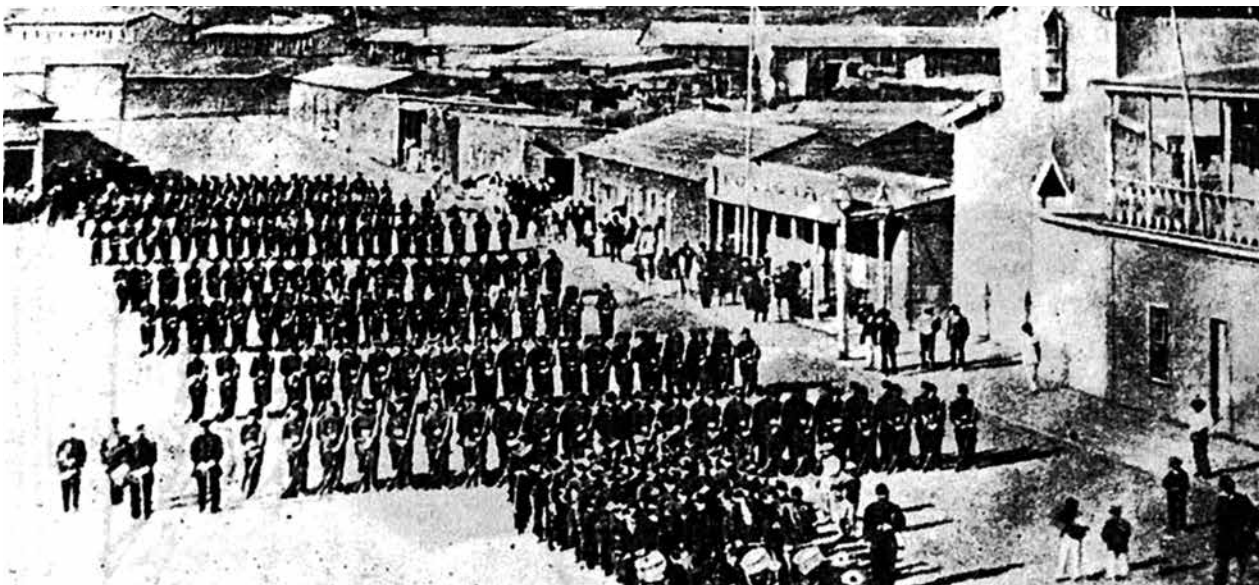


Figure 9: Chile's Third Battalion marching on the Colón square soon after Chile's army invaded Antofagasta (Bolivia), 1879.





Figure 10: The column entrusted to Eduardo Abaroa for defending Topáter. Bolivia's hero is at the center of the group wearing a hat and a poncho over his shoulder. They all died in battle.

The heroic defense of the Bolivian town of Calama took place on 23 March 1879, under the leadership of Ladislao Cabrera and Eduardo Abaroa.

See figures 10, 11 and 12.



Figure 11: On 23 March 1879, Eduardo Abaroa preferred death over surrender at the Topáter Bridge. He is Bolivia's most important civil hero.



Figure 12: Ladislao Cabrera, prominent citizen of Calama. He organized the defense of that Bolivian town and fought along with Eduardo Abaroa on 23 March 1879.

## THE 1884 TRUCE PACT

Following the Treaty of Ancón concluded by Chile and Peru in 1883, Chile took definite possession of Tarapacá, with Tacna and Arica remaining under its administration for a period of ten years until a plebiscite would decide their fate. Chile forced Bolivia to conclude a truce pact under the constant threat of Chile further invading its territory. Notwithstanding, Bolivian representatives Belisario Salinas and Belisario Boeto expressly stated that Bolivia would never resign itself to not having a sovereign outlet to the sea. See figures 13 and 14.

Thus, both States concluded a Truce Pact<sup>3</sup> in 1884 rather than a final treaty of peace, which maintained Chile's dominion over Bolivia's coastal territory within the logic that Chile would grant Bolivia a sovereign access to the sea once the situation of Tacna and Arica were defined and Chile could make use of the territories transferred to its sovereignty. This intention later materialized under the 1895 Treaty on Transfer of Territory.

## ABRAHAM KÖNIG'S NOTE

In the early 20<sup>th</sup> century, Chile intended to deny its previous undertakings as evidenced in the Note of 13 August 1900, which reads as follows: *"After war, the victorious nation imposes its conditions and demands reparation. Bolivia was defeated, had nothing to pay with and gave the Litoral. [...] It is a misconception spread and repeated daily in the press*

3. Annex 3



Figure 13: Belisario Salinas, Bolivian Representative to the signing of the 1884 Truce Pact.



Figure 14: Belisario Boeto, Bolivian Representative to the signing of the 1884 Truce Pact.

*and on the street that Bolivia has the right to demand a port in compensation for its coastal territory. There is no such thing. Chile has occupied the Bolivian coast and has taken it with the same rights as Germany annexed Alsace and Lorraine to its empire, with the same rights as the United States of North America took Puerto Rico. Our rights are rooted in victory, the supreme law of nations. We already knew that the Bolivian coastal territory is rich and worth many millions. We keep it because it is worth something, if something were worth nothing, there would be no interest in keeping it."* See figure 15.

## THE 1904 TREATY

Still under Chilean military occupation of its coastal territory, with no access to ports of its own, and with clear difficulties regarding transit and Chilean administration of its customs offices, Bolivia concluded the Treaty of Peace and Friendship on 20 October 1904.

This treaty recognized Chile's dominion over the territories it had occupied after the invasion and that Bolivia had a right of free commercial transit through Chilean territories and ports on the Pacific. It also provided for some financial compensations and the building of a railroad from Arica to La Paz. However, the treaty, which is still only partially complied with, did not offer a solution for the consequences of Bolivia's confinement and neither was it an endpoint in the negotiations between Bolivia and Chile for a sovereign access to the sea.<sup>4</sup>

4. Annex 5.



Figure 15: Abraham König, Plenipotentiary Minister of Chile in La Paz in 1900.







## 2

# The Chilean undertakings to negotiate a sovereign access to the sea with Bolivia

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Before and after concluding the 1904 Treaty, Chile undertook not to leave Bolivia without a sovereign access to the Pacific Ocean through unilateral and bilateral undertakings.

## THE 1895 TREATIES

Bolivia and Chile concluded three treaties on 18 May 1895: The Treaty of Peace and Friendship, the Treaty on Transfer of Territory<sup>5</sup> and the Treaty of Commerce. The three instruments were ratified by both Congresses and the ratifications were duly exchanged.

Pursuant to the first treaty, Chile would continue to have absolute and perpetual dominion over the territory contemplated under the 1884 Truce Pact. Through the second instrument, Chile committed to transfer Tacna and Arica to Bolivia in the same conditions in which it acquired them, or, if it were not able to obtain them, to cede the Vitor Inlet up to the Camarones Ravine. Chile never honored any of the cessions committed.

## THE PARIS CONFERENCE AND THE LEAGUE OF NATIONS [1919-1922]

Bolivia first raised its claim within the framework of a multilateral forum before the 1919 Paris Conference

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5. Annex 4.

and at the League of Nations between 1920 and 1922. In response, in the Assembly of 28 September 1921 Chilean representative Agustín Edwards solemnly offered to enter into direct negotiations with Bolivia in order to address the issue concerning the latter's maritime confinement. One year later, Chilean delegate Manuel Rivas Vicuña provided further reassurance regarding Chile's commitment to enter into direct negotiations with Bolivia through a note of 19 September 1922 submitted to the League of Nations. See *figures 16, 17 and 18*.

## THE ACT OF 10 JANUARY 1920

In 1920, the plenipotentiary diplomat of Chile in La Paz, Emilio Bello Codesido, signed an Act with Bolivian Foreign Minister Carlos Gutiérrez, confirming Chile's willingness to make all efforts to reach an agreement with Bolivia to secure a sovereign access for the latter to the Pacific Ocean, independently from the 1904 Treaty.

Bello Codesido, thereto duly authorized by his Government, recognized the Bolivian need to have an access to the sea and submitted a concrete proposal: Chile would cede a significant part of the area to the north of Arica and the railway line located within the territories subject to the plebiscite established by the Treaty of Ancon.<sup>6</sup>

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6. Annex 6.

### PRESIDENT ARTURO ALESSANDRI PALMA'S STATEMENTS (1922)

Chilean President Arturo Alessandri was aware of the need for reaching a bilateral solution with Bolivia through direct negotiations, which he confirmed before the Chilean Congress in 1922, when he assured that Bolivia could secure the conviction that it would find in Chile a friendly desire of seeking formulas to solve Bolivia's maritime confinement.

### FOREIGN MINISTER LUIS IZQUIERDO'S NOTES (1923)

Responding to the initiative of Bolivia's Plenipotentiary Minister in Santiago, Ricardo Jaimes Freyre, Chilean Minister of Foreign Affairs Luis Izquierdo confirmed in two notes of 6 and 22 February 1923 that, consistent with the statements issued by the Chilean President and those of its representative before the League of Nations, Chile might conclude a new pact which responds to the situation of Bolivia without modifying the 1904 Peace Treaty and without interrupting Chile's territorial continuity. *See figure 19.*

### AMBASSADOR MIGUEL CRUCHAGA'S PROPOSAL (1926)

On 10 June 1926, Miguel Cruchaga, Chilean Ambassador in Washington, submitted a proposal to United States Secretary of State Frank B. Kellogg regarding division of the territories of Tacna and Arica. According to this proposal, Tacna would be left to Peru, Arica to Chile and Bolivia would



Figura 16: Delegación boliviana ante la Liga de las Naciones, [izq. a der.], Félix Avelino Aramayo, Franz Tamayo y Florián Zambrana.

be given a four-kilometer wide corridor stretching from the Bolivian border to the town or inlet of Palos, thus securing a sovereign access to the Pacific Ocean for Bolivia.

### FOREIGN MINISTER BELTRÁN MATHIEU'S MEMORANDUM (1926)

On 23 June 1926, Chilean Foreign Minister Beltrán Mathieu issued a Memorandum which expressed his country's intention to transfer part of the Department of Arica to Bolivia, as proposed by the United States as the mediator in the Chile-Peru dispute. *See figure 20.*



Figure 17: Agustín Edwards, Head of the Chilean Delegation before the League of Nations.



Figure 18: Manuel Rivas Vicuña, Chilean representative before the League of Nations.



Figure 19: Ricardo Jaimes Freyre, Plenipotentiary Minister of Bolivia in Santiago.

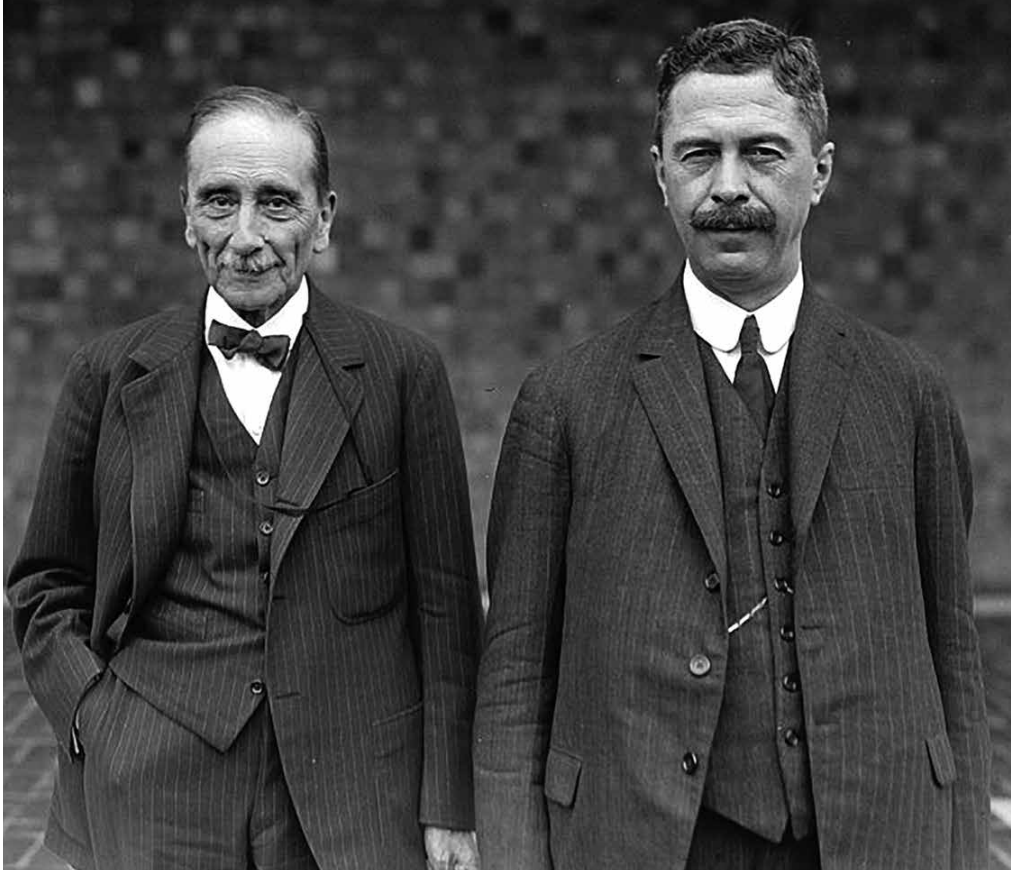


Figure 20: Chilean Foreign Minister Beltrán Mathieu and Chilean Ambassador to the U.S., Miguel Cruchaga, 1926.

### FOREIGN MINISTER JORGE MATTE’S RESPONSE TO KELLOGG’S PROPOSAL (1926)

On 30 November 1926, the Government of the United States, through its Secretary of State Frank B. Kellogg who acted as the mediator in the Peruvian-Chilean dispute relating to Tacna and Arica, forwarded a memorandum<sup>7</sup> to the Governments of Chile and Peru proposing: “to cede to the Republic of Bolivia, in perpetuity, all rights, titles and interests

7. Annex 7.



Figure 21: Frank B. Kellogg, U.S. Secretary of State.

which either may have in the Provinces of Tacna and Arica”. See figure 21.

Chile agreed, in principle, to consider the proposal and on 4 December of that same year Chilean Minister of Foreign Affairs Jorge Matte submitted a Memorandum<sup>8</sup> to Secretary of State Kellogg, confirming Chile’s willingness to grant a strip of territory and a port to the Bolivian nation, once definitive possession of Tacna and Arica was clarified. He added that the Government of Chile would honor its prior declarations.

### BOLIVIA’S OBJECTIONS TO THE 1929 TREATY OF LIMA AND ITS SUPPLEMENTARY PROTOCOL

Chile obtained Arica and Peru regained Tacna through the Treaty of Lima concluded on 3 June 1929. Additionally, they concluded an -initially secret- Supplementary Protocol, pursuant to which neither state could cede to a third power the entire or part of these territories without the other party’s prior consent.

8. Annex 8.

Bolivia felt directly alluded to by this Protocol and submitted a memorandum to the international community, stating its objections to this agreement in violation of Chile's earlier undertakings to grant Bolivia a sovereign access to the sea.

### THE AGREEMENT EMERGING FROM THE 1950 EXCHANGE OF NOTES

The agreement of June 1950 was the result of diplomatic negotiations commenced by Bolivia in 1946 when, on the occasion of the investiture of new Chilean President Gabriel González Videla, the latter told Bolivian Foreign Minister Aniceto Solares and Ambassador Alberto Ostría Gutiérrez that he was willing to embark on negotiations with a view to granting Bolivia a sovereign access to the Pacific Ocean.

In the years that followed, Ambassador Ostría held several meetings with President González and his respective Ministers of Foreign Affairs, which led to their confirming the terms of the Notes of 1 and 20 June 1950, signed and exchanged by the Bolivian Ambassador and Chilean Foreign Minister Horacio Walker Larraín.

The purpose of these notes was "to formally enter into direct negotiations aimed at finding a formula that will make it possible to give to Bolivia a sovereign access to the Pacific Ocean of its own, and for Chile to receive compensation of a non-territorial character that effectively takes into account its interests."

Furthermore, in the mentioned notes Chile reaffirmed its prior undertakings and its willingness to engage in direct negotiations with Bolivia to assess the possibility of granting Bolivia a sovereign access to the sea.<sup>9</sup> See figure 22.

9. Annexes 9 and 10.

*"... consistent with the custom of the Ministry of Foreign Affairs of Chile, and ratifying my deep Americanist spirit, I have never rejected discussing Bolivia's aspiration for a port. That is how I expressed it in San Francisco on behalf of the Chilean Government, when I was governmental delegate to that Conference. On assuming my mandate, in 1946, President Hertzog from Bolivia reminded me about the promise, and I, in accordance with a rule never denied by the Ministry of Foreign Affairs of the Republic, replied to the Bolivian Head of State that I was in agreement with opening talks on the proposed issue."*

*- Declaration made by Chilean President Gabriel González Videla to Veja Magazine, 19 July 1950.*



Figure 22: Bolivian Ambassador Alberto Ostría Gutiérrez.

Chilean authorities endorsed this agreement in many subsequent public declarations. In the months that followed, Chilean President González Videla informed North American President Harry Truman that the agreement whereby Bolivia would be given a sovereign access to the Pacific Ocean would be in exchange for Chile using the waters of Lake Titicaca. Echoing this information, on two occasions President Truman referred to the negotiations between Bolivia and Chile in the terms proposed by the Chilean Government. However, Bolivia publicly clarified its position in the sense that it had never agreed to Chile using these waters.

In spite of Bolivia's statements concerning the true terms of the negotiation, speculation in the press led to objections from political circles both in Bolivia and Chile, hindering further progress in the negotiations entered into through the 1950 Notes, which remained pendent. See figure 23.



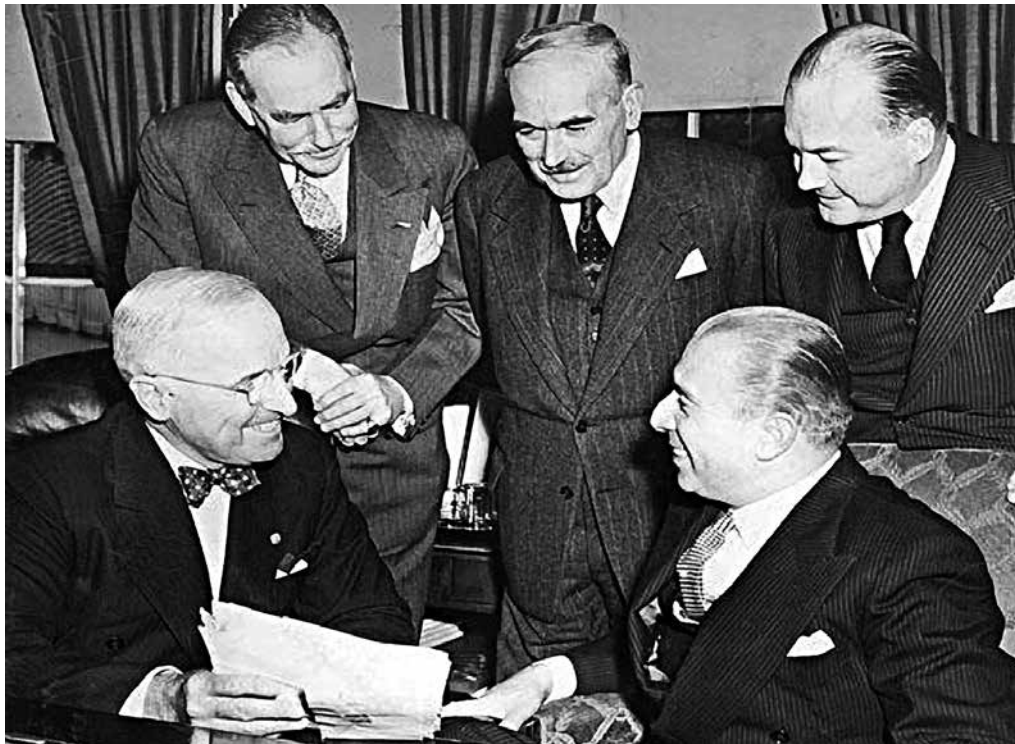


Figure 23: Presidents Harry Truman and Gabriel González Videla [seated] accompanied by Dean Acheson, U.S. Secretary of State, Horacio Walker Larrain, Chilean Foreign Minister and Edward Miller, Deputy Secretary, in a meeting to discuss the negotiation on the Bolivian corridor.

### AMBASSADOR MANUEL TRUCCO'S MEMORANDUM [1961]

Through its Ambassador in La Paz, Manuel Trucco, on 10 July 1961 Chile submitted a Memorandum,<sup>10</sup> reaffirming its obligation to negotiate a sovereign access to the Pacific Ocean for Bolivia under the terms of the June 1950 agreement.

In April 1962, Chile unilaterally diverted the waters of the Lauca River, sparking a dispute with Bolivia and causing the rupture of diplomatic relations between the two countries. This prevented continuing negotiations on the maritime issue.

### THE UNDERTAKINGS EMERGING FROM THE CHARAÑA NEGOTIATION [1975 - 1978]

A new round of negotiations between Chile and Bolivia was initiated in the mid-1970s aimed to grant Bolivia a sovereign access to the Pacific Ocean. This process began with the signing of a Joint Declaration on 8 February 1975, in the Bolivian border town of Charaña, by Bolivian President General Hugo Bánzer and Chilean President General Augusto Pinochet. This agreement commits both States to: "search for formulas to solve the vital issues that both countries

10. Annex 11.

face, such as the landlocked situation that affects Bolivia, taking into account the mutual interests and aspirations of the Bolivian and Chilean peoples." To accomplish this aim, the two countries agreed to resume diplomatic relations.<sup>11</sup> See figure 25.

Accordingly, on 19 December 1975, Chile proposed to cede to Bolivia a sovereign maritime coast situated north of Arica up to the Línea de la Concordia, linked to Bolivian territory through a territorial strip of land with the same type of sovereignty. However, contrary to its earlier undertakings, Chile imposed new conditions, including a territorial exchange.<sup>12</sup> See figure 25.

Furthermore, invoking the Complementary Protocol to the 1929 Treaty of Lima, Chile sought to obtain Peru's consent regarding the cession to Bolivia of the aforementioned territorial and maritime strip. On 19 November 1976, Peru gave its consent to the cession to Bolivia of a sovereign corridor through the north of the province of Arica, subject to the condition that the territorial area adjacent to the coast of the said corridor would fall under the shared sovereignty of the three countries.<sup>13</sup> See figure 26.

11. Annex 12.

12. Annex 13.

13. Annex 14.



Figure 24: General Augusto Pinochet and General Hugo Bánzer, at the meeting in Charaña [also known as the “Charaña Embrace”], 1975.

During the Charaña negotiations, on 6 August 1975 the Permanent Council of the OAS recognized, through Resolution N° 157, that the landlocked situation affecting Bolivia is a matter of continental concern, expressing its willingness to support Bolivia to eliminate the difficulties caused by this condition.

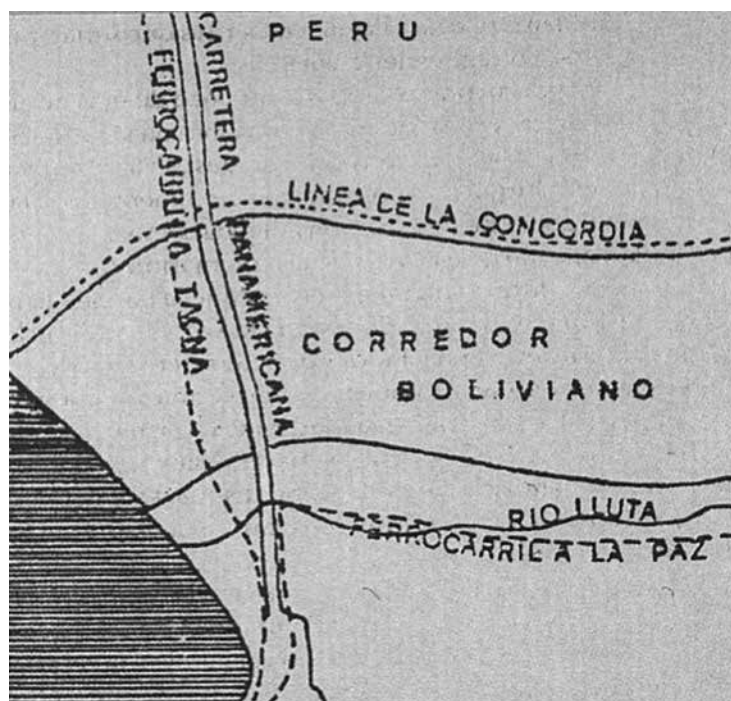


Figure 25: Field sketch of the corridor proposed by Chile to Bolivia, 1975.

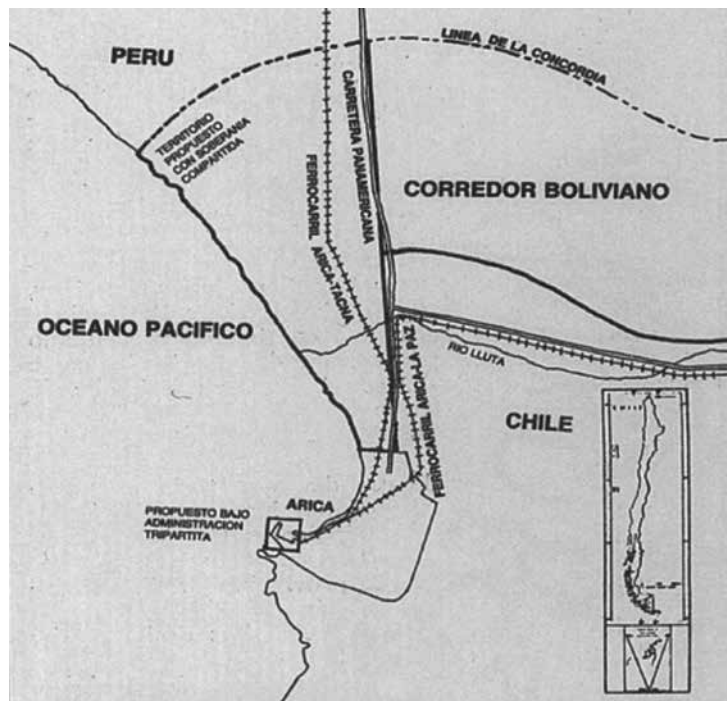


Figure 26: Bolivian corridor with the zone under shared sovereignty of the three countries, suggested by Peru, 1976.



However, Chile rejected Peru's proposal and refused to negotiate Peru's consent to the Bolivian-Chilean agreement. Chile's stance, coupled with the condition of territorial exchange, caused the negotiations to stagnate despite Bolivia's efforts to pursue them. As a result, in March 1978 Bolivia had no choice but to break off diplomatic relations.

### CHILE'S COMMITMENTS BEFORE THE OAS (1979 - 1983)

Resolution N° 426 adopted at the OAS IX General Assembly in 1979 stated that Bolivia's maritime issue is a matter of continuing hemispheric interest, urging the parties to "open negotiations for the purpose of providing Bolivia with a free and sovereign territorial connection with the Pacific Ocean. These negotiations shall take into account the rights and interests of both parties involved, and might consider, among other things, the inclusion of a port area for integrated multinational development, as well as the Bolivian proposal

that no territorial compensation be included".<sup>14</sup> At this assembly, Chilean Delegate Pedro Daza emphasized that his country was willing to negotiate a free and sovereign access to the Pacific Ocean with Bolivia. See figure 27.

Subsequent Resolutions adopted in 1980 and 1981 which Chile voted in favor of, further urged both States to engage in a dialogue with a view to granting Bolivia a sovereign access to the Pacific Ocean.

Following this steady stream of Resolutions, the XIII session of the OAS General Assembly in November 1983 adopted Resolution N° 686 by consensus and with Chile's vote in favor, urging Bolivia and Chile: "to begin a process of rapprochement and strengthening of friendship of the Bolivian and Chilean peoples, directed toward normalizing their relations and overcoming the difficulties that separate them, including, especially, a formula for giving Bolivia a sovereign outlet to the Pacific Ocean, on bases that take into account mutual

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14. Annex 15.



Figure 27: Bolivian President Walter Guevara Arze (standing up) addressing the Assembly of the Organization of American States (OAS) in La Paz, 1979. With him on the podium are Gustavo Fernández, Bolivian Foreign Minister (left) and Alejandro Orfila, OAS Secretary General (right).

conveniences, rights and interests of all parties involved.”<sup>15</sup> Notably, the terms of the 1983 Resolution were negotiated and agreed upon by Bolivia and Chile prior to adoption.

### THE “FRESH APPROACH” NEGOTIATION (1986 -1987)

In 1986, meetings held between the Foreign Ministers of Bolivia and Chile, Guillermo Bedregal and Jaime del Valle, respectively, led to a new negotiation process known as the “Fresh Approach”.

These negotiations took place in Montevideo (Uruguay) from 21 to 23 April 1987. On this occasion, the Bolivian Minister of Foreign Affairs submitted two Memoranda to Chile’s Foreign Minister; the first one proposed transferring to Bolivia a sovereign strip of land situated north of Arica and connected to Bolivian territory, while the second one proposed ceding an enclave without disrupting Chile’s territorial continuity. Following the Montevideo meeting, a joint press release

15. Annex 16.

confirmed that the Bolivian proposal would be submitted to the consideration of the Chilean Government.

Nonetheless, through a press release issued on 9 June 1987, Chile categorically rejected Bolivia’s proposals, abruptly interrupting the negotiation process without having accomplished the aim. See figure 28.

### THE AGENDA WITHOUT EXCLUSIONS (2000)

In February 2000, the Foreign Ministers of Bolivia and Chile, Javier Murillo de la Rocha and Juan Gabriel Valdés respectively, met in the Algarve (Portugal) where they agreed on preparing a working agenda that would include all essential issues in the bilateral relationship “without any exclusion.”<sup>16</sup> Following that meeting, the Chilean and Bolivian Presidents met on three occasions, in Brasilia and Panama in September and November 2000, and in Quebec in April 2001, on all occasions confirming the Algarve agreements.

16. Annex 17.

*“[...] the Chancellery feels that it has the duty to express that the substance of the Bolivian proposal alluded to, in its two alternatives, namely, the transfer of sovereign Chilean territory either through a corridor to the north of Arica or through enclaves throughout its coastal territory, is not acceptable for Chile.”*

*- Press release of the Foreign Ministry of Chile, 9 June, 1987.*



Figure 28: Bolivian Foreign Minister, Guillermo Bedregal (left) and Chilean Foreign Minister, Jaime del Valle (right), during the negotiation process known as the “Fresh Approach,” together with Uruguayan Foreign Minister Enrique Iglesias (center).



### DELIBERATIONS BETWEEN PRESIDENTS MESA AND LAGOS (2003 - 2004)

In a meeting at the XIII Ibero-American Summit in Santa Cruz de la Sierra [Bolivia] on 14 November 2003 of Bolivian President Carlos D. Mesa and his Chilean counterpart Ricardo Lagos, the Bolivian President said he considered the time was right to resume the discussion concerning a sovereign access to the Pacific Ocean for Bolivia.

Ricardo Lagos replied that he agreed that sovereignty was ‘the question’, but that it should be addressed at the end of the road and not at the beginning. He even expressed his willingness to discuss sovereignty so long as Bolivia secured Peru’s consent to the transfer of a sovereign corridor through former Peruvian territory.

### THE MONTERREY SUMMIT OF THE AMERICAS (2004)

During the Extraordinary Summit of the Americas held on 13 January 2004, President Mesa again raised the issue concerning Bolivia’s unfair landlocked situation in a multilateral forum of the highest level, stating that: “Looking towards the future with faith, we call upon President Lagos and the Government of Chile to seek, together with us, a definitive solution to our maritime issue.” In reply to President Lagos’ offer to resume relations, President Mesa declared that this would materialize once a final solution were found for Bolivia’s maritime confinement. The evidence that there is indeed a pending issue between Chile and Bolivia is precisely the inexistence of diplomatic relations between both nations.

### MEETINGS OF PRESIDENTS RODRÍGUEZ VELTZÉ AND LAGOS (2005)

Bolivian President Eduardo Rodríguez Veltzé met with his Chilean counterpart, Ricardo Lagos, on four occasions in 2005, in New York, Salamanca, Mar del Plata and Montevideo, always pushing for a dialogue without excluding any topic, i.e. even the most sensitive issue of Bolivia’s landlocked situation.

In the opinion of both former Heads of State, these meetings laid the foundations for a positive dialogue, based on mutual trust and respect. See figure 29.

### THE 13 - POINT AGENDA (2006)

In 2006, Bolivian President Evo Morales and Chilean President Michelle Bachelet announced the bilateral 13-Point Agenda, which included the Maritime Issue as Point VI.<sup>17</sup>

During this time, several Chilean authorities did not rule out the idea of the dialogue embarked on including the transfer of sovereignty to Bolivia. See figure 30.

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17. Annex 18.

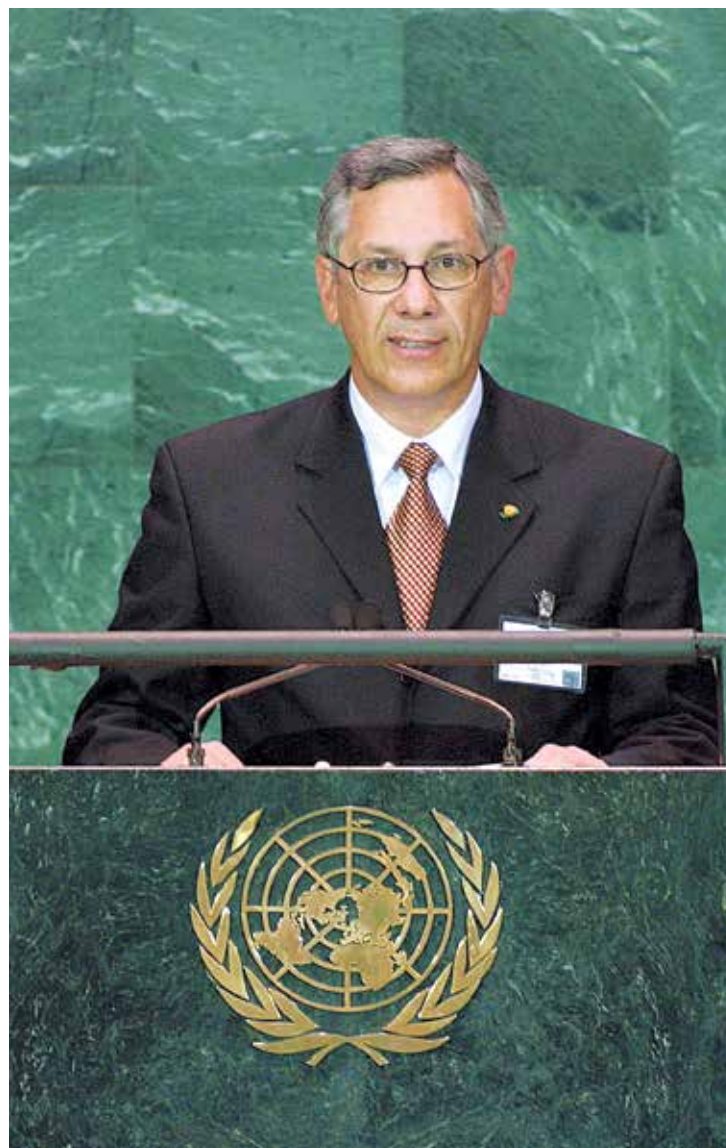


Figure 29: Eduardo Rodríguez Veltzé, President of Bolivia (2005-2006).

### MOST RECENT ATTEMPTS TO DIALOGUE (2010 - 2011)

Against this backdrop and keeping in mind the high levels of mutual trust attained, at the XXII meeting of the Bolivian-Chilean Mechanism of Political Consultation held in July 2010, the delegations of Bolivia and Chile agreed to “propose as well as to reach concrete, feasible and useful solutions in the next and successive meetings of the Mechanism of Political Consultation which benefit understanding and harmony between both countries.” See figure 31.

The next meeting was to take place in the city of Arica, in November 2010. However, it was unilaterally cancelled by Chile and has not been reconvened to date, despite Bolivia’s repeated requests to resume the meetings of the Bolivian-Chilean Mechanism of Political Consultation.

On repeated occasions throughout 2011 and 2012, high-ranking authorities of the Chilean government declared that there were no pending issues between both countries and that Bolivia had no legal grounds to claim a sovereign access to the Pacific through Chilean territory.

These assertions clearly show that Chile had no intention of continuing with the dialogue and fulfilling its obligation to negotiate a solution to the Bolivian maritime confinement. Bolivia therefore had no option but to pursue other peaceful means of resolving this dispute.



Figure 30: President Evo Morales of the Plurinational State of Bolivia and President Michelle Bachelet of the Republic of Chile.



Figure 31: Bolivian Foreign Minister David Choquehuanca in a meeting with Chilean Foreign Minister Alfredo Moreno.

When asked whether the bilateral dialogue comprised the transfer of sovereignty to Bolivia, Chilean Foreign Minister Alejandro Foxley stated that: “We do not exclude it as a possibility, no.”

— Statement made by Chilean Foreign Minister Alejandro Foxley, in *El Universal*, 16 April 2006.



## 3

## Chilean Presidents, Foreign Ministers and Ambassadors who undertook to negotiate a sovereign access to the sea with Bolivia

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In the midst of the War of the Pacific, different Chilean authorities started to realize the obvious. There was a limit on the pressure that could be exerted on Bolivia, which should not be left in a blind alley. Leaving Bolivia indefinitely in confinement implied facing a permanent problem at a cost that made no sense for the development of both States. Thus, a State policy was developed on the Chilean side aiming to definitely resolve relations with Bolivia by restoring its sovereign access to the sea.

This logical reasoning started with Domingo Santa María, Chile's Minister of Foreign Affairs in Aníbal Pinto's government during the War of the Pacific and later President of his country. His views were welcomed and subsequently supported by various Chilean Heads of State and authorities, thus pushing forward a line of action that continued over the following years.

This is evidenced by the declarations of many senior-level Chilean authorities who took turns in office (Presidents, Foreign Ministers and Ambassadors) as well as by various other acts of the Chilean State, which were particularly expressed in unilateral acts and bilateral agreements.

On several occasions from the end of the 19<sup>th</sup> century until the beginning of the 21<sup>st</sup> century, these authorities followed

the path laid out more than a century ago, committing the Chilean State's faith as regards this matter.

It must be noted that at present Bolivia's case is the only one in which a State that was born to independence with a sovereign outlet to the sea lost it due to an expansionist war.

Aware of the implications of this delicate situation, Chile formally and repeatedly expressed its offer and commitment to work, with Bolivia, to come to the understanding that had been pending since the signing of the peace: to directly and specifically address restoring Bolivia's access to the sea.

Senior Chilean dignitaries and authorities were able to understand that it would be unfeasible and absolutely detrimental, not only for Bolivia but also for Chile itself as well as for any regional integration process, to seek to indefinitely put off this issue without finding a satisfactory solution for the benefit of both States.

Thus, Domingo Santa María's legacy bequeathed to the next generations of Chilean leaders and politicians is perfectly clear: to continue underpinning the logic of not leaving Bolivia indefinitely confined from the sea.





**ANÍBAL PINTO**  
PRESIDENT OF CHILE  
[1876 - 1881]

Figure 32

As the President of his country, he ordered the invasion of the Bolivian port of Antofagasta, unleashing the so-called War of the Pacific. Although his objective was to seize the Bolivian Litoral, he admitted that Bolivia could not remain in a landlocked condition indefinitely.

In a letter addressed to Eusebio Lillo on 2 July 1880, he pointed out that: "The bases for peace shall be as follows on Bolivia's side: Bolivia gives up its rights over Antofagasta and Litoral up to Loa, and in compensation we shall transfer the rights which weapons have given us over the Departments of Tacna and Moquegua."



**DOMINGO SANTA MARÍA**  
MINISTER OF FOREIGN  
AFFAIRS OF CHILE  
[1879 - 1880] UNDER  
PINTO'S MANDATE AND  
LATER PRESIDENT OF  
CHILE [1881 - 1886]

Figure 33

He was aware that Bolivia could not remain as a landlocked state and developed a policy in this sense, which was accepted and supported by various subsequent Chilean Heads of State.

In a letter to Rafael Sotomayor on 26 November 1878 he stated that: "Let us not forget, even for a moment, that we cannot suffocate Bolivia... Deprived of Antofagasta and all its coastal territory which it previously held up to the Loa [river], we must somehow provide it with its own port, a front door so it can enter inland with security, without asking for permission. We cannot and should not kill Bolivia..."



**JORGE MONTT**  
PRESIDENT OF CHILE  
[1891 - 1896]

Figure 34

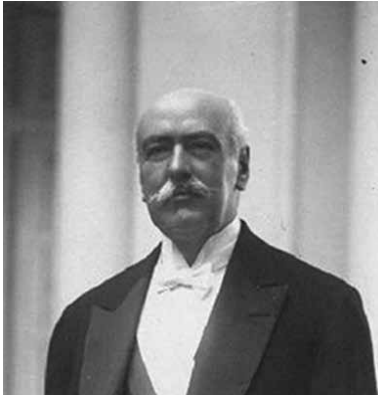
While he was in office, Chile admitted the urgent need for Bolivia to have an access to the sea. He therefore concluded the Treaty on Transfer of Territory on 18 May 1895, in which Chile solemnly committed to transfer Tacna and Arica to Bolivia if it were able to obtain them or otherwise the territory from the Vitor inlet up to the Camarones ravine, or an equivalent territory. The two States later concluded a series of Explanatory Protocols in the same line.



**LUIS BARROS  
BORGOÑO**  
MINISTER OF FOREIGN  
AFFAIRS OF CHILE  
[1894 - 1895]  
UNDER MONTT'S  
MANDATE

Figure 35

He signed the Treaty on Transfer of Territory of 18 May 1895, the preamble to which provided that: "...a higher need and the future development and commercial prosperity of Bolivia require its free and natural access to the sea, ...have decided to conclude a special Treaty on the transfer of territory..."



**JUAN LUIS  
SANFUENTES  
PRESIDENT OF CHILE  
(1915 -1920)**

Figure 36

Under his administration, Chile had the intention to solve Bolivia's landlocked condition and, accordingly, his government proposed to engage in negotiations aimed at granting Bolivia an access of its own to the sea. This proposal was included in the 1920 Act signed by the representatives of Bolivia and Chile.



**ARTURO ALESSANDRI  
PALMA  
PRESIDENT OF CHILE  
(1920 -1924)**

Figure 38

On different occasions, he publically announced Chile's willingness to seek formulas for solving Bolivia's landlocked condition through direct negotiation. In 1922, he confirmed before his country's Congress that Bolivia could rest assured that it would find such friendly desire in Chile.

In an interview, he confirmed that: "Yes, sir. In case the arbitral award, which will naturally be inspired in justice and law, allows it, I am resolved to consider generously the aspirations of Bolivia, in the form and terms clearly and frequently posed..." [Statements made by Alessandri, El Mercurio newspaper, 4 April 1923].



**EMILIO BELLO  
CODESIDO  
PLENIPOTENTIARY  
MINISTER OF CHILE  
IN LA PAZ (1920)  
UNDER SAN FUENTES'  
GOVERNMENT**

Figure 37

On behalf of his Government, he signed the 1920 Act, in which his country provided reassurance that Bolivia would be granted an access of its own to the sea, in the following terms: "IV ...Chile is willing to make all efforts for Bolivia to acquire an access to the sea of its own, by ceding a significant part of the area to the north of Arica as well as the railway line that is located within the territories subject to the plebiscite established by the Treaty of Ancon..." [Act of 10 January 1920].



**LUIS IZQUIERDO  
MINISTER OF FOREIGN  
AFFAIRS OF CHILE  
(1922 -1923) UNDER  
ALESSANDRI'S  
MANDATE**

Figure 39

He signed two notes in 1923, according to which Chile might, consistent with prior offers, conclude a new pact with Bolivia in order to solve its maritime confinement, without modifying the 1904 Treaty and without interrupting Chile's territorial continuity.



Figure 40

**EMILIANO FIGUEROA  
LARRAÍN  
PRESIDENT OF CHILE  
(1925 - 1927)**

While he was in office, the North American mediation process under the responsibility of Secretary of State Frank B. Kellogg regarding possession of the territories of Tacna and Arica took place. Within this framework, his government submitted and accepted several proposals which included a sovereign access to the sea for Bolivia through an area in the Department of Arica.

*Several Chilean dignitaries, authorities and representatives understood that Bolivia had to regain a sovereign access to the Pacific Ocean and pledged their nation's faith to a commitment of reaching an agreement with Bolivia to solve its forced confinement. Nonetheless, to date it has not been possible to realize this commitment, materializing a solution to this issue which Chile itself deemed to be essential for the future of Bolivia.*

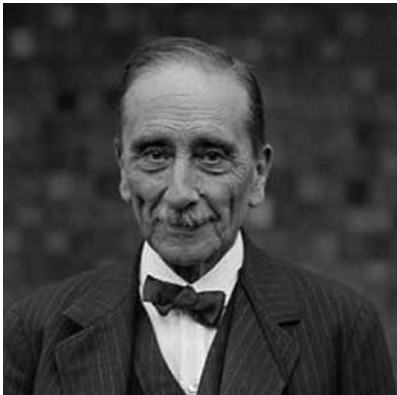


Figure 41

**BELTRÁN MATHIEU  
MINISTER OF FOREIGN  
AFFAIRS OF CHILE  
(1925 - 1926)  
UNDER FIGUEROA  
LARRAÍN'S  
GOVERNMENT**

Faced with the plebiscite over Tacna and Arica provided for under the 1883 Treaty being declared impracticable by the North American plebiscite commission, Foreign Minister Mathieu submitted a memorandum to all Chilean missions abroad, expressing his country's position on the matter and confirming that Chile accepted to transfer a significant part of Arica to Bolivia.



Figure 42

**JORGE MATTE  
MINISTER OF FOREIGN  
AFFAIRS OF CHILE  
(1926 - 1927)  
UNDER FIGUEROA  
LARRAÍN'S MANDATE**

In reply to the proposal submitted by Secretary of State Frank B. Kellogg, in 1926 he held that Chile was willing to grant a sovereign port and corridor to Bolivia on the Pacific once the situation of Tacna and Arica were settled. Arica came under Chilean sovereignty in 1929 and Chile did not comply with what it had previously stated.





**GABRIEL GONZÁLEZ VIDELA**  
**PRESIDENT OF CHILE**  
**[1946 - 1952]**

Figure 43

During his administration, Bolivia and Chile concluded the agreement, through an exchange of notes on 1 and 20 June 1950, in which Chile agreed to enter into negotiations with Bolivia on a sovereign access to the sea without demanding territorial compensation in return. This negotiation agreed upon is still pending.



**JORGE ALESSANDRI RODRÍGUEZ**  
**PRESIDENT OF CHILE**  
**[1958 - 1964]**

Figure 45

During his government, the undertakings assumed by his country through the 1950 notes were ratified by submitting a Memorandum to the Bolivian Ministry of Foreign Affairs in 1961.



**HORACIO WALKER LARRAÍN**  
**MINISTER OF FOREIGN AFFAIRS OF CHILE**  
**[1950 - 1951] UNDER GONZÁLEZ VIDELA'S MANDATE**

Figure 44

He signed the Chilean note of 20 June 1950 through which Chile recognized and endorsed all its earlier offerings and undertakings and which gave rise to the Chilean undertaking, as follows: "...my Government will act consistently with this position and, in a spirit of fraternal friendship towards Bolivia, is willing to formally enter into direct negotiation aimed at finding a formula that will make it possible to give to Bolivia a sovereign access to the Pacific Ocean of its own..." [Note submitted by Horacio Walker Larraín to the Bolivian Ambassador, 20 June 1950].



**MANUEL TRUCCO**  
**AMBASSADOR OF CHILE IN LA PAZ**  
**[1961] UNDER JORGE ALESSANDRI'S GOVERNMENT**

Figure 46

As the Chilean Ambassador in La Paz, Manuel Trucco submitted the 1961 Memorandum to the Bolivian Government. His government thus provided reassurance and ratified the agreement reached through the notes of 1 and 20 June 1950.

The Memorandum provided that: "Chile has always been willing, along with preserving the legal situation established by the Treaty of Peace of 1904, to examine directly with Bolivia the possibility of satisfying the aspirations of the latter and the interests of Chile ..." [Memorandum of 10 July 1961].



**AUGUSTO PINOCHET  
PRESIDENT OF CHILE  
(1973 -1990)**

Figure 47

He signed the Joint Declaration of Charaña of 8 February 1975, which refers to the landlocked situation affecting Bolivia as a vital issue. Accordingly, he agreed to engage into negotiations aimed at seeking formulas to solve Bolivia's landlocked condition. His government agreed with approval of the OAS Declaration of 6 August 1975 and reached an agreement with Bolivia on the terms of OAS Resolution 686 in 1983. In 1987, his government took part in the negotiations held within the framework of the so-called "Fresh Approach," after it refused to seek a solution for Bolivia's maritime issue.



**PATRICIO CARVAJAL  
MINISTER OF FOREIGN  
AFFAIRS OF CHILE  
UNDER PINOCHET'S  
GOVERNMENT  
(1974 - 1978)**

Figure 48

Through a note dated 19 December 1975, he agreed to negotiate the cession of a territorial strip to the north of Arica with Bolivia; furthermore, he took on the commitment to continue negotiating Bolivia's sovereign access to the sea through a joint declaration signed on 10 June 1977.



**MIGUEL SCHWEITZER  
MINISTER OF FOREIGN  
AFFAIRS OF CHILE  
UNDER PINOCHET'S  
GOVERNMENT (1983)**

Figure 49

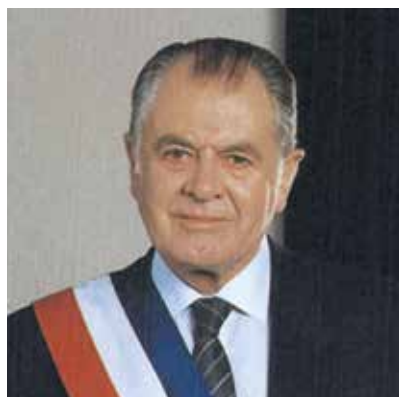
In 1983, on behalf of his country, he supported the adoption of OAS Resolution 686 which urges both countries to begin a process of rapprochement, including a formula for giving Bolivia a sovereign outlet to the Pacific Ocean. He participated in negotiation and adoption of the said Resolution.

*"Both Heads of State, guided by this spirit of mutual understanding and within a constructive mindset, have decided to resume the dialogue at different levels to search for formulas to solve the vital issues that both countries face, such as the landlocked situation that affects Bolivia, taking into account the mutual interests and aspirations of the Bolivian and Chilean peoples."*

*-Joint Declaration of Charaña signed by Bolivia and Chile on 8 February 1975*

# The most recent Chilean governments and their approach towards Bolivia(1990 - 2014)

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**PATRICIO AYLWIN**  
**PRESIDENT OF CHILE**  
**(1990 - 1994)**

*Figure 50*

After seventeen years of military rule, Chile regained democracy in 1990 and began a phase of institutional consolidation. Patricio Aylwin was the first elected president during this period and several following democratic governments kept the Bolivian maritime issue. This logic transcended in Chile over the years regardless of the different systems of government in effect at different times, thus reaffirming Chile's awareness regarding the need for finding a solution to the Bolivian landlocked condition.



**EDUARDO FREI**  
**PRESIDENT OF CHILE**  
**(1994 - 2000)**

*Figure 51*

During his administration, in 2000 Bolivia and Chile agreed to launch an agenda without any exclusion in the Algarve [Portugal]. This was a continuation of the logic of thoroughly addressing all pending issues within the framework of the bilateral agenda, without any restriction, paving the way for inclusion of the most important issue in Bolivian-Chilean relations: the Bolivian maritime issue.

In 2011, when he was no longer in office, he affirmed that: "I know that granting Bolivia an access to the sea still meets with considerable resistance in our country, but I sincerely believe that we cannot spend a lifetime discussing this issue." [Presentation of the book "Un futuro común. Chile, Bolivia, Perú", 13 October 2011.]



**RICARDO LAGOS**  
PRESIDENT OF CHILE  
(2000 - 2006)

Figure 52

He met with several Bolivian Presidents on different occasions, expressing his willingness to solve Bolivia's maritime issue.

In 2011, when he was no longer in office, he said that: "... Minister Santa María was right when he told President Pinto that this issue needed solving because there should be no State, like Bolivia, without an access to the Pacific. We must therefore find a solution..." [Presentation of the book "Un futuro común. Chile, Bolivia, Perú", 13 October 2011.]



**MICHELLE BACHELET**  
PRESIDENT OF CHILE  
(2006 - 2010 AND  
2014 - 2018)

Figure 53

Within the framework of the dialogue without exclusions, her first Administration agreed on the 13-Point Agenda in 2006, without any type of conditions. This document included the maritime issue as Point VI. In this context, she expressed her willingness to "carry on with this dialogue in a constructive manner."



**SEBASTIÁN PIÑERA**  
PRESIDENT OF CHILE  
(2010 - 2014)

Figure 54

At a press conference following a private meeting of Presidents Piñera and Morales at the XL Mercosur Summit held in 2010 in Foz de Iguazú (Brasil), the Chilean Head of State declared that: "... it is the will of the Chilean government to seek concrete, useful and feasible solutions benefiting both nations and peoples."

Albeit that his government inherited the 13-Point Agenda, he displayed an attitude contrary to the spirit that had encouraged it. Even though the Bolivian maritime issue was an integral part of the agenda, he did not continue with the dialogue aimed at submitting useful, feasible and concrete proposals. On the contrary, Chile abruptly took a sharp turn when declaring that there were no pending issues between Bolivia and Chile, contradicting its own acts and earlier declarations.

*Michelle Bachelet was re-elected as Chile's President in 2014. Her government program affirms that:*

*"As regards Bolivia, it will be essential to retake the path of the dialogue started in 1999 and the climate of mutual trust accomplished in 2006-2010. Full normalization of relations with Bolivia is one of our aspirations."*

*- Government Plan [2014: p. 151]*







## 4

# Bolivia's maritime claim submitted to the International Court of Justice

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On 17 February 2011, Evo Morales, President of the Plurinational State of Bolivia, gave a press conference in which he said he would wait until 23 March of that year to receive a concrete, useful and feasible proposal from Chile to solve the Bolivian maritime issue, which would be the basis to discuss Point VI of the 13-Point Agenda. Chile did not present any proposal.

## **BOLIVIA'S DECISION TO APPEAL TO AN INTERNATIONAL COURT**

Therefore, in his address of 23 March 2011, President Morales said that: "Despite 132 years of dialogue and efforts, Bolivia does not have a sovereign access to the Pacific. Faced with this reality, it is necessary to make a historical step forward... In recent decades and particularly in recent years, International Law has made great progress; there are now tribunals and courts which sovereign States can appeal to and claim or demand what is rightfully theirs... Bearing this in mind, the struggle for our maritime vindication, a struggle that has marked our history for 132 years, must henceforward include another fundamental element, namely our recourse to international tribunals and bodies, claiming a free and sovereign access to the Pacific Ocean, in law and in justice." *See figure 55.*

## **ESTABLISHMENT OF THE MARITIME VINDICATION COUNCIL AND DIREMAR**

Supreme Decree N° 834 of 5 April 2011 created the National Maritime Vindication Council, as the body responsible for planning strategies and policies concerning Bolivia's maritime reintegration, and the Strategic Maritime Vindication Office [DIREMAR in Spanish] as a specialized body responsible for planning political strategies concerning Bolivia's maritime reintegration, collaborating in preparation of the maritime claim to be lodged with international courts and supporting the judicial proceedings arising from such claim.

## **MEETINGS WITH FORMER PRESIDENTS AND FORMER FOREIGN MINISTERS**

On 11 April 2011, President Evo Morales convened former Bolivian Presidents to a meeting to explain the scope of his decision and to invite them to be part of a Permanent Advisory Council of Former Presidents established in support of such an important national cause. The former authorities also undertook to provide their support in the sphere of the national and international public opinion. *See figure 56.*

In June of that year, the Bolivian Head of State met with eight former Foreign Ministers, who all agreed that the Bolivian maritime claim is a great national cause, beyond



Figure 55: Evo Morales, President of the Plurinational State of Bolivia during his address on 23 March 2011.

any ideological difference. On that occasion, President Morales invited them to contribute with documents, ideas or positions relating to the maritime issue.

### DRAFTING THE APPLICATION

The first step in Bolivia's maritime claim materialized in drafting the terms to institute proceedings against the Republic of Chile before the International Court of Justice, which has its seat in The Hague. This was an effort led by DIREMAR, in conjunction with the National Maritime Vindication Council, and renowned international advisers in the field of International Law.

This team was entrusted with the task of studying and analyzing possible legal alternatives in support of Bolivia's maritime claim. The team members engaged in a thorough compilation, revision and systematization of an abundance of historical and legal documents gathered from different national and foreign repositories.



Figure 56: First row, from left to right: Former Presidents Jorge Quiroga, Carlos D. Mesa, President Evo Morales, Jaime Paz, Eduardo Rodríguez and Guido Vildoso. Second row, from left to right: Former Foreign Ministers Carlos Iturralde, Agustín Saavedra, Javier Murillo de la Rocha, Foreign Minister David Choquehuanca, Carlos Saavedra, Armando Laayza and Gustavo Fernández.





### APPOINTMENT OF THE BOLIVIAN AGENT

On 3 April 2013, Bolivia appointed former President Eduardo Rodríguez Veltzé as Extraordinary Ambassador with Plenipotentiary Representation as Agent of the Plurinational State of Bolivia before international courts. He helped finalize the text of the Bolivian Application.

### SUBMITTING THE APPLICATION

On 24 April 2013, a high-level Bolivian delegation led by the Bolivian Agent and Foreign Minister filed the Application<sup>18</sup> before the International Court of Justice, the supreme judicial body to settle disputes of the United Nations System. *See figure 57.*

### COMPETENCE AND JURISDICTION OF THE INTERNATIONAL COURT OF JUSTICE

Bolivia holds that the Court is competent to consider the Bolivian case since both Chile and Bolivia agreed to submit their disputes to the jurisdiction of the International Court of Justice by ratifying the 1948 American Treaty on Pacific Settlement or the “Pact of Bogotá.” *See figure 58.*

<sup>188</sup>. Annex 19.

Article XXXI of this instrument provides that the parties recognize the jurisdiction of the Court in all disputes of a juridical nature that arise among them, concerning: the interpretation of a treaty; any question of International Law; the existence of any fact which, if established, would constitute the breach of an international obligation; and the nature or extent of the reparation to be made for the breach of an international obligation.



Figure 58: The Peace Palace, seat of the International Court of Justice, in The Hague, Netherlands.

## THE LEGAL GROUNDS ON WHICH THE CLAIM IS BASED

In its claim, Bolivia asserts that Chile has committed itself, more specifically through agreements, diplomatic practice and a series of declarations attributable to its highest-level representatives, to negotiate a sovereign access to the sea for Bolivia.

Some of the Chilean commitments standing out are: the Treaty on Transfer of Territory of 18 May 1895 and its Complementary Protocols; the Act of 10 January 1920; the exchange of Notes of 1 and 20 June 1950; the Trucco Memorandum of 10 July 1961; the Joint Declaration of Charaña of 8 February 1975 and the Chilean Diplomatic Note of 19 December 1975, among others. The mentioned instruments are all conclusive evidence that Chile undertook to seek a solution to Bolivia's maritime confinement by way of negotiations aimed at reaching an agreement.

## SUBMISSIONS OF THE APPLICATION

In the submissions, Bolivia requests the International Court of Justice to adjudge and declare that:

- a) Chile has the obligation to negotiate with Bolivia in order to reach an agreement granting Bolivia a fully sovereign access to the Pacific Ocean;
- b) Chile has breached the said obligation;
- c) Chile must perform the said obligation in good faith, promptly, formally, within a reasonable time and effectively, to grant Bolivia a fully sovereign access to the Pacific Ocean.

## FIXING OF TIME-LIMITS FOR THE FILING OF THE WRITTEN PLEADINGS

On 12 June 2013, the Agents of Bolivia and Chile, Eduardo Rodríguez Veltzé and Felipe Bulnes Serrano respectively, met with authorities of the International Court of Justice to agree on procedural aspects of the written phase of the proceeding. On 18 June of the same year, the Court fixed the time-limits for the parties to file the written pleadings: until 17 April 2014 for the Memorial of the Plurinational State of Bolivia and 18 February 2015 for the Counter-Memorial of the Republic of Chile.

## FILING OF THE BOLIVIAN MEMORIAL

The Bolivian Memorial contains extensive detail with a statement of the facts and the legal grounds underlying the Chilean obligation to negotiate a sovereign access to the Pacific Ocean for Bolivia, as well as evidence of the said obligation.

The Memorial was filed on 15 April 2014 by Agent Eduardo Rodríguez Veltzé who was thereto accompanied by Bolivian President Evo Morales and Foreign Minister David Choquehuanca. President Morales declared that the Memorial "...expresses the deep feelings and the dream of the Bolivian people to again have a sea with sovereignty," adding that "I want to tell you that Bolivia has put its trust and hope in the International Court of Justice." See *figure 59*.







Figure 60: Thousands of Chileans gathered at the Caupolicán theatre to welcome President Evo Morales, shouting “Sea for Bolivia”. Santiago, 12 March 2014.

In two opportunities (2006 and 2014), on occasion of President Evo Morales' visit to Santiago to participate in the investiture of Chilean President Michelle Bachelet, an important number of social organizations, as well as intellectuals from that country, raised their voice to scream and claim “sea for Bolivia”. There are various Chilean progressive political sectors that share the view that a solution to the Bolivian need of having a sovereign access to the sea must be found. See figure 60.

## SUPPORT FOR THE BOLIVIAN MARITIME CLAIM

Once Bolivia had filed its Memorial with the Court, President Evo Morales, accompanied by the Foreign Minister and the Agent, held a series of meetings at the Government Palace with former Presidents, former Foreign Ministers, authorities of the Plurinational Legislative Assembly, Departmental Governors and representatives of social movements to explain the grounds of the Memorial.

After hearing the Agent's explanations, the personalities in attendance, both of the ruling party and of the opposition, expressed their full support for the Bolivian claim, ratifying the entire country's will and agreeing that, beyond any political differences, circumstances and personal or collective interests, the Bolivian maritime claim is a national cause and a State policy.

## INTERNATIONAL POSITIONING OF THE MARITIME CLAIM

On 28 April 2014, President Evo Morales appointed former President Carlos D. Mesa as the Official Representative of the Bolivian State for the Maritime Claim, entrusting him with the mission of sharing with the international community the grounds underlying the claim filed against Chile before the International Court of Justice. This presidential decision further strengthens the international efforts made by the President himself, the Vice-President, the Minister of Foreign Affairs and the Bolivian Agent before the International Court of Justice. See figure 61.

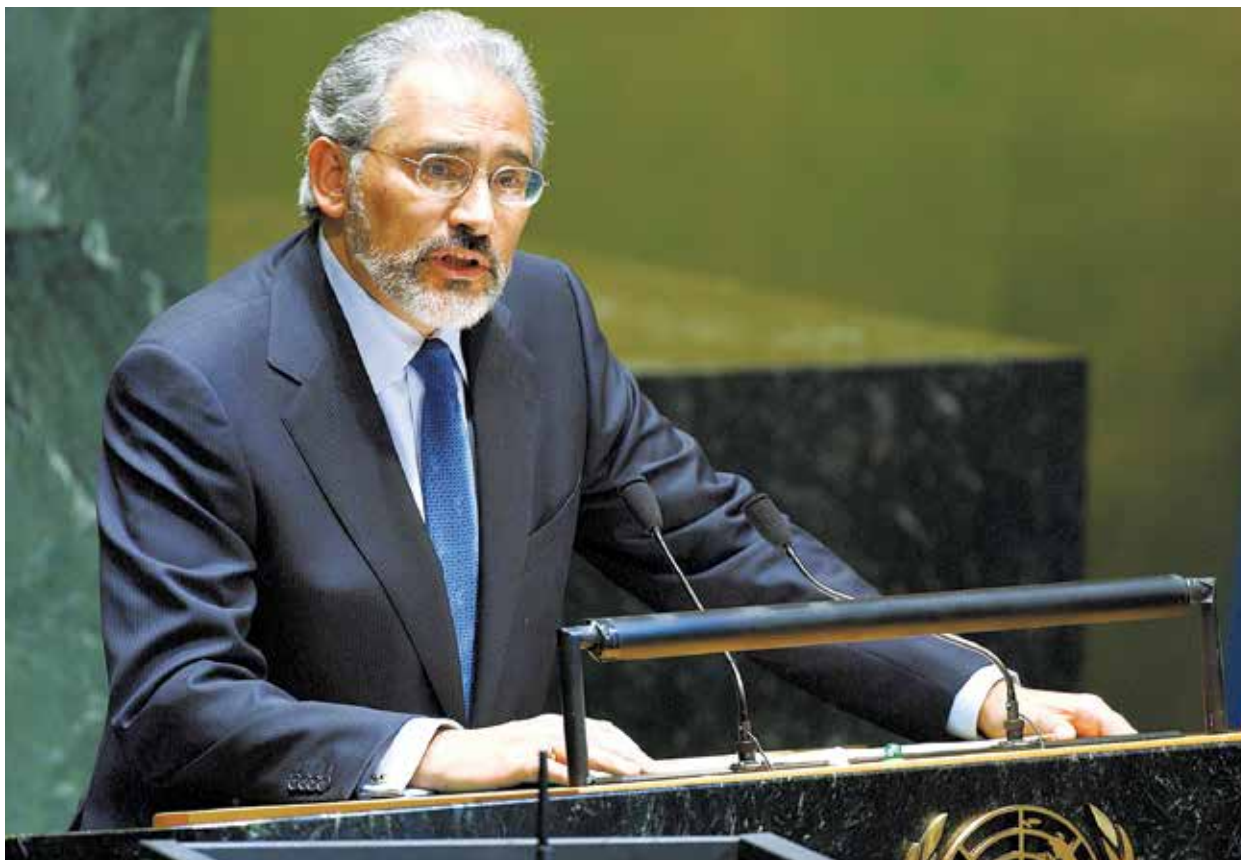


Figure 61: Former President Carlos D. Mesa is the Official Representative of the Bolivian State before the international community, to share the grounds and scope of the Bolivian Maritime claim.

### **RATIFICATION OF DIREMAR'S GENERAL SECRETARY (2014)**

On 9 May 2014, Emerson Calderón was ratified as the General Secretary of the Strategic Maritime Vindication Office (DIREMAR), having been in this function since October 2013. This strategic institution is made up of a specialized technical team which is responsible for assisting the Maritime Vindication Council, the Agent and the Official Representative of the Plurinational State of Bolivia in drafting, supporting, defending and disseminating the maritime claim. See figure 62.

### **STATEMENT MADE BY BOLIVIA'S FOREIGN MINISTER BEFORE THE OAS (2014)**

Within the framework of the Forty-Fourth OAS General Assembly in Asunción [Paraguay] on 4 June 2014, Bolivian Minister of Foreign Affairs David Choquehuanca referred to the Bolivian maritime claim lodged with the Court. He explained that the purpose of this proceeding is "to erase the wounds left by the War of the Pacific from the future of our

children, of our grandchildren," echoing the views of Bolivian and Chilean Presidents and authorities who had sought a solution to this conflict. Furthermore, he noted that Bolivia's aim is to "dialogue with Chile. No more... but no less either." See figure 63.



Figura 62: Secretario General de DIREMAR, Emerson Calderón Guzmán.





Figure 63: David Choquehuanca, Foreign Minister of the Plurinational State of Bolivia, at the 44th OAS General Assembly in Paraguay.

*“When one reads a history book, all one is doing is reading about wars, about how those wars came to an end and how they restarted. For our children, our grandchildren to read a different history, a history without wars, a history of dialogue, of the peaceful settlement of disputes, Bolivia has filed a claim in which we ask our brother State of Chile to sit with us and have a dialogue to put an end to, to eliminate, to erase the wounds left by the War of the Pacific and its consequences...”*

*David Choquehuanca  
-Speech delivered on 4 June 2014 [Annex 21]*



## 5

## Consequences of Bolivia's landlocked condition

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As a consequence of the Chilean invasion on 14 February 1879 and the subsequent loss of its coastal territory, Bolivia ceased to be a coastal state without any major constraints to directly communicate with the rest of the world. This situation has a series of negative implications for its economic and social development. Aside from having lost a territory of approximately 120,000 square kilometers, Bolivia was deprived of the natural resources in that territory and the adjacent coastal area.

### RESOURCES LOST DUE TO THE CHILEAN INVASION OF 1879 AND THE WAR OF THE PACIFIC

#### GUANO AND SALTPETER

The Bolivian coastal territory of Atacama was rich in guano and saltpeter deposits. Guano became an important commercial product thanks to its qualities as a natural fertilizer. The boom in guano exploitation lasted approximately until the late 19th century, when it was replaced by saltpeter during the industrial revolution.

As a result of Chile annexing the Bolivian coastal territory and Peru's southern departments, Chile rapidly became the first world producer of saltpeter, monopolizing the exploitation and trade of this mineral over the following forty years. This situation enabled Chile to multiply its revenues and lay the foundations for its subsequent economic development and political consolidation.

*See figure 64.*

#### SILVER

The Caracoles mine was discovered in the Bolivian coastal Department of Litoral, attracting many Chilean immigrants.

Halfway the 19th century, the Caracoles silver wealth was around 30% higher than the silver production in the Cerro Rico mine of Potosí [between 60,000 and 80,000 silver marks produced in Caracoles]. This boom continued after the invasion, directly benefiting Chile for decades.

*See figure 65.*



Figure 64: Saltpeter extraction.



Figure 65: Plant of the Caracoles Mine.

## COPPER

Copper was known and exploited on a small scale in the Bolivian Department of Litoral. At the onset of the 20th century, one of the most important copper deposits worldwide was discovered in this formerly Bolivian territory. Today, Chuquicamata (near Calama) is the largest open-pit mine in the world. Massive exploitation started in that century and continues to date. In this regard, former Chilean President Salvador Allende referred to copper as “Chile’s salary.”

In the 20th century, the revenues from copper exploitation accounted for over half of Chile’s total export revenues and in the first decade of the present century, exports of copper and its derivatives accounted for between 50% and 60% of total Chilean exports.

See figure 66.

Over the forty years from 1960 to 2000, Chile earned 218 billion dollars (figure not indexed to current price levels) from exporting this mineral (Meller, P., 2003, data on Codelco).

In the decade from 2003 to 2013, Chile earned over 346 billion dollars (figure not indexed to current price levels) (Central Bank of Chile, 2014). These figures show that at current prices Chile has earned over 900 billion dollars from the copper extracted from what once was Bolivian territory.

## LITHIUM

At present, Chile benefits from yet another natural resource, lithium, which is found in the territory that formerly belonged to Bolivia and which is highly in demand in the international market. The global demand for this element has grown by an average 7% to 8% per annum in the 2000s, with its price going up from USD 1,760 per ton in 1999 to USD 6,000 in 2008. Chile is the first lithium producer in the world. In 2010, Chile’s production accounted for 43% of the total world production.

Although Bolivia has deposits of this valuable resource as well, it will not be able to benefit as much as Chile since, because of its landlocked condition, international commercialization is more expensive, lowering its competitiveness in relation to other lithium exporting countries.



## MARINE RESOURCES

As a result of its confinement from the sea, Bolivia was deprived of the ichthyological wealth in its maritime space, losing an opportunity to benefit from the exploitation of these resources.

## LIMITATIONS UNDER THE FREE TRANSIT REGIME

The deficient Free Transit Regime that Bolivia enjoys to facilitate its foreign trade through Chilean territories and ports has been further limited by Chile privatizing its ports. Chile thus transferred the obligations assumed with Bolivia to private concessionaires. Below is an overview of some of the constraints:

### LIMITED CUSTOMS AUTONOMY AT THE PORTS OF ARICA AND ANTOFAGASTA

Bolivia's autonomy at these ports constantly suffers limitations due to the Chilean authorities' discretionary checks of Bolivian cargo, conducting the scans and inspections as they may find desirable or convenient. The Bolivian exporters and importers are expected to cover the costs of these Chilean interventions.

Each container inspection costs between 125 and 800 dollars. Moreover, Chile has been seeking for a long time now to get rid of Bolivian presence in its ports by relocating Bolivian customs offices to out-of-port premises.

### MONOPOLY OF PORT SERVICES

Chile has granted exclusive rights relating to port services at the ports of Arica and Antofagasta to private concessionaires, thereby preventing the Bolivian State from using other operators that offer more convenient rates and conditions and forcing it to use the services of a monopoly supplier.

### CHARGES FOR WAREHOUSING HAZARDOUS CARGO (IMO) AT THE PORT

Chile unilaterally decides which cargo is considered hazardous, charging the applicable fees for the whole container even when only part is IMO cargo.

It should be noted that, by nature, hazardous cargo is withdrawn or shipped immediately. Therefore, warehousing

at the port is unusual and any preferential rates in this sense are exceptional.

### TAXES ON ALL SERVICES RENDERED REGARDING BOLIVIAN CARGO IN TRANSIT

Chile has repeatedly collected VAT on services rendered regarding Bolivian cargo in transit as well as on returning empty containers. This clearly shows that Chile fails to safeguard the right to tax exemption which Bolivian cargo enjoys.

### INCREASING COSTS RELATING TO OUT-OF-PORT PREMISES IN ANTOFAGASTA AND IQUIQUE FOR BOLIVIAN CARGO

Chile has restricted the right to use of its ports, by assigning the consolidation and deconsolidation of Bolivian cargo to out-of-port premises such as Portezuelo (30 Km from Antofagasta) and Alto Hospicio (13.5 Km from Iquique), causing delays and increasing the costs for Bolivian entrepreneurs.

With respect to the export of Bolivian mineral through the Port of Antofagasta, freight costs go up because the mineral is first taken to collection centers and is therefore subject to double handling costs.

*During the Chaco War (1932-1935) between Bolivia and Paraguay, Chile decided not to allow the transit of weapons, withholding two major weapon shipments. Bolivia had to import the weapons through Peruvian territory, which had a cost in terms of human lives, time and money lost.*

*In 1952 and 1953, the judicial authorities of Antofagasta embargoed and suspended the shipment of merchandise warehoused at the Bolivian Customs Agency in that city while in transit to mining districts in Bolivia.*

## SUSPENSION OF ACTIVITIES OF THE ARICA – LA PAZ RAILWAY

Railway passenger transportation services between Arica and La Paz were suspended in 1997; later, in 2001 the railway cargo transportation service in the Chilean rail segment was suspended as well. The operations have not been resumed since then, further limiting Bolivia's access to the Pacific Ocean. See figures 67 and 68.



Figure 67: Historical picture of the Arica – La Paz railway in operation.

The railway line connecting the port of Arica with La Paz was inaugurated in 1913; the Bolivian segment of the railway was transferred to Bolivia on 13 May 1928.



Figure 68: Chilean segment of the Arica – La Paz railway; operation has not yet resumed.

## ECONOMIC IMPACT OF BOLIVIA'S LANDLOCKED CONDITION

A landlocked country is in disadvantage in comparison to Coastal States. Deprived from marine wealth and with constraints for maritime trade, Landlocked States face higher transportation and logistics costs due to their depending on transit countries. This causes their foreign trade to be more expensive.

In 1997, economist Jeffrey Sachs estimated that a landlocked country misses out on approximately 0.7 percentage points in its annual growth due to its landlocked condition.

### INCOME LEVEL

Most Landlocked States are among the poorest countries of their regions, with some exceptions. In 2010, for instance, Coastal States had an average GDP per capita of 66% higher compared to Landlocked States.

### FOREIGN TRADE

Landlocked States are faced with higher costs to transport their merchandise; on the one hand, they incur direct costs to transport their goods through neighboring countries and, on the other hand, indirect costs derived from variations in the time needed to cross borders and fulfill bureaucratic requirements.

Bolivia's higher costs relating to logistics and transportation due to its being deprived of a sovereign access to the sea render its foreign trade more expensive. According to World Bank publication Doing Business (2012), Bolivia's container-based exports are 55.7% more expensive compared to Chilean exports and 60% more expensive compared to Peru.

In commercial terms, while Bolivia's export value has increased from 2008 to 2012, it still ranks last in the region along with Paraguay, also a Landlocked State.

Bolivian cargo mainly transits through Chilean ports. This means that besides the customs clearance costs and the costs of the administrative paperwork needed to take its cargo overseas, Bolivia faces other additional costs, e.g. related to meals and accommodation of the carriers who are forced to stay in the transit countries due to problems such as the inadequate port infrastructure, the lack of personnel, and the excessive delays in border controls. This gives rise to a significant opportunity cost for Bolivian international transport companies, among others.

Thus, the excessive controls and other inadequacies of the Chilean Customs at the border hamper the free transit of Bolivian exports.

### TRANSPORTATION COSTS

Globally, trade-related transportation costs of Landlocked States are 15% higher compared to those of Coastal States. Bolivia has the highest transportation costs of South America, 31% higher than the continental average.

*From 25 to 29 November 2013, Chilean Customs staff were on strike to demand better wages. They suspended their activities, preventing the trucks carrying cargo at the Bolivian border from circulating. Around 2,000 heavy cargo trucks were stranded, forming a caravan of at least 20 kilometers long in Bolivian territory. This setback affected Bolivian exports, with the exporters being unable to meet deadlines, breaching contracts, losing products [perishables] and incurring in higher costs. See figure 69.*



Figure 69: Heavy cargo trucks stranded at the Bolivian border of Tambo Quemado, waiting to enter Chilean territory, 28 November 2013.



## FOREIGN INVESTMENT

Most Landlocked States are unable to attract sufficient foreign investment so as to speed up their economic development. The table below shows that Landlocked States receive a minuscule percentage of foreign investment, with an average investment flow between 2009 and 2011 of 2.25% of total global investments.

**Table: Foreign Direct Investment Flows  
In billion dollars**

	2009	2010	2011
Coastal States	1169,8	1280,8	1489,6
Landlocked States	28,0	28,2	34,8

Source: Own elaboration based on UNCTAD data

South America has benefited from a significant increase in Foreign Direct Investment flows. Nevertheless, the Landlocked States are the ones receiving least resources. Bolivia and Paraguay have the lowest foreign investment levels in the region.

## OTHER CONSEQUENCES OF BOLIVIA'S LANDLOCKED SITUATION

### HUMAN DEVELOPMENT INDEX

While it is true that Bolivia's difficulties in terms of human, economic and social development are not merely a consequence of its forced landlocked condition, it is also clear that its confinement has greatly limited its comprehensive development potential.

According to the 2012 Report of the UN Secretary-General, fifteen of the developing Landlocked States were situated in the lowest positions of the Human Development Index (HDI) ranking.

In this sense, the 2010 HDI National Report shows that between 1975 and 2007, Bolivia remained in the middle human development category for more than three decades. In 1980, Bolivia had a HDI of 0.489, which went up to 0.675 in 2013. This progress is explained primarily by the trend of the social component, i.e. improvements in health and education. Since 2006, progress has been driven rather by the economic component (GDP growth). Regardless, if

Bolivia had better possibilities to expand its foreign trade through a sovereign access to the sea, its economic growth would be better.

Despite the upward trend in its human development, Bolivia still lags far behind other countries of the region. Within South America, in 2009 Bolivia ranked last behind Ecuador and Paraguay and in 2012, it ranked 27th out of 33 countries on a regional level.







## 6

**1542** The Viceroyalty of Peru is created and divided into Royal Audiences.

**1559** The Royal Audience of Charcas [today Bolivia] is established, under the jurisdiction of the Viceroyalty of Peru, comprising the Atacama District and its coast.

**1776** The Royal Audience of Charcas, comprising the Atacama District, is transferred to the jurisdiction of the Viceroyalty of Río de La Plata.

**1782** The Viceroyalty of Río de La Plata is divided into eight intendancies, including the Intendancy of Potosí which includes the Atacama coastal territory.

**1825** Bolivia attains independence, defining its territory based on the boundaries of the former Royal Audience of Charcas, pursuant to the 1810 principle of *uti possidetis juris*.

**1829** The Province of Litoral is created, with autonomy from the Department of Potosí.

**1833** On 18 November, the Treaty of Friendship, Commerce and Navigation concluded between Bolivia and Chile recognizes Bolivia's maritime sovereignty on the Pacific Ocean.

**1842** Through the Law of 31 October, Chile declares that the guano deposits in the Bolivian territory of Atacama are its national property.

**1843** Bolivia formally protests and calls for revocation of the 1842 Law, presenting the respective titles.

**1866** On 10 August, Bolivia and Chile conclude the first treaty of territorial limits establishing the boundary between both countries at parallel 24° and providing for the joint exploitation of guano, metals and minerals between parallels 23° and 25°.

**1867** The province of Litoral becomes a Department with two Provinces: La Mar and Atacama.

**1873** Bolivia grants a concession to the Nitrate and Railway Company of Antofagasta for the exploitation of saltpeter in Bolivian coastal territory.

**1874** On 6 August, Bolivia and Chile conclude the second treaty of territorial limits, confirming the boundary at parallel 24°.

**1875** On 21 July, the Additional Protocol to the 1874 Treaty is concluded, providing for any dispute resulting from the treaty to be submitted to arbitration.

**1877** An earthquake followed by a tsunami cause catastrophic damage to the Bolivian coastal territory.

**1878** The Bolivian Government requires the Anglo-Chilean Nitrate and Railway Company of Antofagasta to pay a tax of ten cents per quintal of exported saltpeter in order to mitigate the consequences caused by the natural disasters occurred during the previous year.

**1878** The Anglo-Chilean Company, without first appealing to the pertinent Bolivian courts, resorts to the Chilean Government to obtain diplomatic protection.

**1879** On 14 February, Chile invades the Bolivian port of Antofagasta, ignoring the arbitration mechanism previously agreed upon.

**1883** Chile and Peru conclude the Treaty of Ancon, through which Chile takes definite possession of the province of Tarapacá, with Tacna and Arica remaining under Chilean administration until a plebiscite would decide their fate.

**1884** On 4 April, the Truce Pact between Bolivia and Chile is concluded.

**1895** On 18 May, the Treaty on Transfer of Territory is concluded, through which Chile would grant Bolivia the provinces of Tacna and Arica or the Vitor inlet up to the Camarones ravine.

**1900** Chile's Plenipotentiary Minister in La Paz, Abraham König, submits an ultimatum note to Bolivia demanding a definitive peace treaty, without a part of its own for Bolivia.

**1904** On 20 October, the Treaty of Peace and Friendship is concluded by Bolivia and Chile.

**1910** Bolivian Foreign Minister Daniel Sánchez Bustamante submits a Memorandum to the representatives of Peru and Chile, proposing the cession to Bolivia of Tacna and Arica.

**1919 - 1922** At the Paris Peace Conference and at the League of Nations, Bolivia raises its maritime claim and Chile proposes entering into direct negotiations, independently from the 1904 Treaty.

**1920** On 10 January, the Gutiérrez-Bello Codesido Act is signed, in which Chile proposes the grounds for an agreement through which Bolivia would secure a sovereign access to the Pacific Ocean, independently from the 1904 Treaty.

**1923** Chilean Foreign Minister Luis Izquierdo confirms that Chile may conclude a new pact with Bolivia, without modifying the 1904 Peace Treaty and without interrupting Chile's territorial continuity.

**1926** United States Secretary of State Frank B. Kellogg submits a proposal to the Governments of Chile and Peru to transfer the provinces of Tacna and Arica to Bolivia. Chile agrees to consider the proposal.

**1929** Chile and Peru conclude the Treaty of Lima through which Chile keeps Arica and Peru regains Tacna. Additionally, they conclude a Supplementary Protocol pursuant to which neither state could cede to a third power -clearly alluding to Bolivia- the entire or part of these territories without the other party's prior consent.

**1946** Chilean President Gabriel González Videla tells Bolivian representatives that he is willing to embark on negotiations with Bolivia to address the maritime issue.

**1950** Following various years of diplomatic efforts, Bolivia's Ambassador in Santiago, Alberto Ostría Gutiérrez and Chilean Foreign Minister Horacio Walker Larraín exchange two notes [1 and 20 June] in which they agree to negotiate a sovereign access to the Pacific Ocean for Bolivia without territorial compensation.

**1961** Chile submits a Memorandum to Bolivia, reaffirming the agreement of 1950 to negotiate a sovereign access to the Pacific Ocean for Bolivia.



**1962** Bolivia replies to Chile's Memorandum, accepting to engage into negotiations. However, Chile, unilaterally and without Bolivia's consent, diverts the waters of the Lauca River –a successive international river- causing the rupture of diplomatic relations between the two countries.

**1975** Bolivia and Chile resume diplomatic relations, committing to seek formulas to solve Bolivia's landlocked condition.

**1975** On the occasion of Bolivia's 150th anniversary, the Permanent Council of the OAS recognizes that Bolivia's maritime confinement is a matter of continental concern.

**1975** Chile proposes to cede to Bolivia a maritime coast linked to Bolivian territory through a territorial strip of land north of Arica. Invoking the Complementary Protocol to the 1929 Treaty of Lima, Chile consults Peru.

**1976** Peru submits a counterproposal, which Chile refuses to consider.

**1978** The Charaña negotiations fail. Bolivia has no choice but to once again break off diplomatic relations given Chile's uncompromising attitude.

**1979** The OAS IX General Assembly adopts Resolution N° 426, which states that Bolivia's maritime issue is a matter of continuing hemispheric interest, again urging the parties to find an equitable solution whereby Bolivia would obtain a sovereign access to the Pacific Ocean.

**1983** Resolution N° 686 adopted by the OAS General Assembly urges both parties, once more, to find a formula for giving Bolivia a sovereign outlet to the sea. The terms of this Resolution had been negotiated and agreed upon by Bolivia and Chile prior to its adoption.

**1986** The Ministers of Foreign Affairs of Bolivia and Chile meet on several occasions, which leads to the negotiation process known as the "Fresh Approach."

**1987** The Delegations of Bolivia and Chile meet in Montevideo (Uruguay). Bolivia resumes the idea of the corridor and proposes cession of an enclave as an alternative. After briefly considering the Bolivian proposals, Chile rejects them categorically.

**2000** The Foreign Ministers of Bolivia and Chile meet in the Algarve (Portugal) where they agree on preparing a new working agenda with no exclusions.

**2004** During the Extraordinary Summit of the Americas, held in Monterrey (Mexico), in the plenary session Bolivian President Carlos D. Mesa raises the need for solving the Bolivian maritime issue.

**2005** The Presidents of Bolivia, Eduardo Rodríguez Veltzé and of Chile, Ricardo Lagos, meet on several occasions to push forward the dialogue with no exclusions.

**2006** Presidents Michelle Bachelet and Evo Morales announce the bilateral 13-Point Agenda, which includes the Maritime Issue as Point VI.

**2011** Given the lack of progress in the dialogue with Chile and its position in the sense of there being no pending issues between both countries, on 23 March President Evo Morales announces the decision to bring the matter before international tribunals in order to seek solutions to Bolivia's forced maritime confinement.

**2011** On 5 April, the National Maritime Vindication Council and the Strategic Maritime Vindication Office (DIREMAR) are created.

**2013** On 3 April, former President Eduardo Rodríguez Veltzé is appointed as Agent of Bolivia before international tribunals.

**2013** On 24 April, Bolivia files the Application against Chile before the International Court of Justice.

**2014** On 15 April, Bolivia files its Memorial before the International Court of Justice.



## 7

## Annexes

## ANNEX 1

## TREATY OF TERRITORIAL LIMITS BETWEEN CHILE AND BOLIVIA, SIGNED ON AUGUST 10, 1866

The Republic of Chile and the Republic of Bolivia, desirous of bringing to a friendly and mutually satisfactory termination, the old question pending between them as to the settlement of their respective territorial limits in the desert of Atacama, and as to the working of the guano deposits on the coast of that desert, and resolved by this means to consolidate the good understanding, brotherly friendship, and the bonds of intimate alliance by which they are mutually united, have determined to renounce a part of the territorial rights which each, with good reason, believed themselves to possess, and they have agreed to conclude a Treaty, which shall finally and irrevocably settle the aforesaid question.

For that purpose they have appointed their respective Plenipotentiaries, viz.:

His Excellency the President of Chile, Mr. Alvaro Covarrubias, Minister of State of the Republic for Foreign Affairs; and His Excellency the President of the Republic of Bolivia, Mr. Juan Ramon Muñoz Cabrera, Envoy Extraordinary and Minister Plenipotentiary of Bolivia in Chile; Which Plenipotentiaries, after having mutually exchanged their full powers and found them in due and proper form, have agreed upon and stipulated the following Articles:

**Art. I.** The line of demarcation of the limits between Chile and Bolivia, in the desert of Atacama, shall henceforth be the parallel of 24° south latitude, from the coast of the Pacific to the eastern limits of Chile, so that Chile to the south and Bolivia to the north shall have possession and dominion of the territories which extend to the before-mentioned parallel of 24°, exercising in them all the acts of jurisdiction and sovereignty which belong to the lord of the soil.

The exact settlement of the line of demarcation between the two countries shall be effected by a commission of apt and skilful persons, one half of the members to be appointed by each of the High Contracting Parties.

When the divisional line is fixed the ground shall be marked by visible and permanent signs, which shall be paid for jointly by the Governments of Chile and Bolivia.

**Art. II.** Notwithstanding the territorial division stipulated in the foregoing Article, the Republic of Chile and the Republic of Bolivia shall divide equally the produce of the guano deposits discovered in Mejillones, and any other deposits of the same kind which may be discovered in the territory comprehended within the parallels 23 and 25 degrees of south latitude, as well as the export duties upon minerals extracted from the same designated territory.

**Art. III.** The Republic of Bolivia undertakes to qualify the Bay and Port of Mejillones, and to establish a Custom-House with the number of officials which the development of industry and commerce may require. This Custom-House shall be the only fiscal office which can collect the produce of the guano and the duties of exportation upon the metals of which the foregoing Article treats.

The Government of Chile may appoint one or more fiscal officers, who being invested with a perfect right of supervision, may intervene in the accounts of the revenue of the aforesaid Custom House at Mejillones, and receive from that office, directly, and quarterly, or in the manner which both States may stipulate, the part of the profit belonging to Chile, to which Article II refers. The Government of Bolivia shall enjoy the same right, should Chile, for the purpose of collecting the produce set forth in the foregoing Article, establish a fiscal office in the territory comprehended between the 24 and 25 degrees.

**Art. IV.** All produce of the territory comprehended between the 24th and 25th degrees of south latitude, which may be shipped at the port of Mejillones, shall be free of every export duty.

The natural produce of Chile which may be imported by the port of Mejillones shall be free of every import duty.

**Art. V.** The system of exploitation or sale of the guano, and the duties upon raising the minerals mentioned in Article II of this Treaty shall be mutually fixed by the High Contracting Parties, either by means of special Conventions, or in the form which they may deem most convenient and fitting.

**Art. VI.** The Contracting Republics bind themselves not to sell or transfer their rights to the possession or dominion of the territory which is divided between them, in virtue of this Treaty, to any other State, or to any Company or private individual. In case either of them should desire to make such a sale the purchaser can only be the other Contracting Party.

**Art. VII.** Taking into consideration the losses which the question of limits has entailed, as is notorious, upon the individuals who, in company, were the first to work seriously the guano fields of Mejillones, and whose works were suspended by order of the Chilean authorities, of February 17, 1863, the High Contracting Parties undertake to give in equity to the said individuals an indemnity of 80,000 dollars, payable by 10 per cent, upon the net proceeds of the Mejillones Custom- House.

**Art. VIII.** The present Treaty shall be ratified, and the ratifications exchanged in the city of La Paz or in that of Santiago, within the period of 40 days, or sooner if possible.

In witness whereof the undersigned Plenipotentiaries of the Republic of Chile and of the Republic of Bolivia, have signed and sealed the present Treaty, in Santiago the 10th of August, in the year of our Lord 1866.

Signed by  
ALVARO COVARRUBIAS  
J. RAMON MUNOZ CABRERA

## ANNEX 2

### TREATY OF TERRITORIAL LIMITS BETWEEN BOLIVIA AND CHILE, 6 AUGUST 1874

[...]

#### Article I

The 24th parallel from the sea to the continental divide of the Andes is the boundary line between the Republics of Bolivia and Chile.

#### Article 2

For the purpose of this treaty, the lines of parallels 23 and 24 as established by the commissioners Pissis and Mujia are considered valid, as per the act of the 10th of February 1870. If questions should arise concerning the exact situation of the mineral deposits of Caracoles or any other deposits that might be considered outside the zone between the two said parallels, the exact situation will be determined by a commission of experts, one named by each of the contracting parties, the two to name a third in case of disagreement, and if they do not agree, the nomination shall be made by the Emperor of Brazil. Until there is proof to the contrary regarding this situation, these mineral deposits will continue to be considered within the parallels indicated.

#### Article 3

The deposits of guano existing, or that shall be discovered in the future, within the perimeter described in the preceding article will be divided equally between Bolivia and Chile; the system of exploitation, administration and sale shall be continued by the two governments by common accord in the form and manner heretofore employed.

#### Article 4

The duties of exportation that may be levied on minerals exploited in the zone referred to in the preceding articles shall not exceed those now in force; and Chilean citizens, industry, and capital shall not be subjected to any other contributions whatever except those now existing. The stipulations of this article shall last for twenty-five years.

#### Article 5

The natural products of Chile that may be imported into the Bolivian littoral between parallels 23 and 24 shall be free and exempt from all duties, and reciprocally, natural products of Bolivia that may be imported into the Chilean littoral between parallels 24 and 25 shall be exempt and free from all duties.



**Article 6**

The Republic of Bolivia shall make of Mejillones and Antofagasta major ports of its littoral.

**Article 7**

As a compensation for the waiver of the rights Chile had over minerals found in the territorial area comprehended between parallels 23 and 24, Bolivia undertakes to make a payment of an amount fixed by an arbitration Tribunal to be appointed to this end.

The Parties agree to appoint H.M. the emperor of Brazil to this end.

**Article 8**

The Bolivian Republic shall pay the Republic of Chile, after settlement is conducted by two Commissioners that shall be appointed by the contracting Parties; the amount is equivalent to half the rights of exportation to which Article 2 of the 1866 Treaty refers to and that may have been received up to the date on which the exchange of ratifications of this covenant is verified. If the amount to be paid or part of it is not susceptible to exact settlement or if there is a lack of elements for the settlement or if there are other difficulties, the aforementioned Commissioners shall fix it or complete it *ex equo ex*. In the event of a disagreement H.M. the Emperor of Brazil shall decide.

**Article 9**

From this date on, the Treaty of 1866 in all its parts is annulled.

**Article 10**

The present treaty should be ratified by each of the contracting Republics, and ratifications exchanged in the city of Sucre within three months.

'In witness whereof, the undersigned plenipotentiaries of the Republics of Chile and Bolivia have signed the present treaty and place their respective seals, in Sucre on the 6th day of August 1874.

Signed by  
MARIANO BAPTISTA  
CARLOS WALKER MARTÍNEZ

**ANNEX 3****TRUCE PACT BETWEEN BOLIVIA AND CHILE SIGNED ON 4 APRIL 1884**

[...]

**Article I**

The Republics of Chile and Bolivia celebrate an indefinite truce, and, in consequence, they declare the state of war terminated, and that the same cannot be again carried on unless one of the contracting parties notifies the other, with at least one year of anticipation, of its determination to resume hostilities. In this case the notification shall be made directly, or through the diplomatic representative of a friendly nation.

**Article II**

The Republic of Chile, during the period that this treaty is in force, shall continue to govern according to Chilean law, the territories situated between the parallel 23° S and the mouth of the River Loa [...].

In case difficulties may arise, both parties shall appoint a commission of engineers, that shall fix the limits as indicated, subject to the landmarks here determined.

**Article III**

The property and goods confiscated from Chilean citizens by Government edict, or by order of civil and military authorities shall be immediately returned to their owners or to their representatives.

There shall also be returned the products that the Government of Bolivia may have received from these properties and that appear to be proved by the documents in the case.

The damages that in these cases been suffered by Chilean citizens shall be indemnified by reason of the actions that the interested parties may bring before the Government of Bolivia.

**Article IV**

If no agreement can be arrived at between the Government of Bolivia and the parties interested, with respect to the amount of indemnity for the loss and damage suffered, the points in dispute shall be submitted to a commission of arbitration composed of three members, one named by Chile, one by Bolivia and the third to be named in Chile, by mutual accord, from among the representatives of neutral nations, resident

in Chile. This commission shall be appointed as soon as possible.

#### **Article V**

Commercial relations are reestablished between Chile and Bolivia. [...]

Until an agreement to the contrary is made, Chile and Bolivia shall enjoy the commercial advantages and freedom that either nation accords to the most favored nation.

#### **Article VI**

At the port of Arica foreign merchandise shall pay, that entering for consumption in Bolivia, the customs dues in force by the Chilean tariff, this merchandise shall not pay, in the interior, any further duty. The sums received in payment of duty shall be divided in this way: 25 per cent shall be applied as dues received for merchandise to be consumed in the territories of Tacna and Arica, and as working expenses, and 75 per cent shall be for Bolivia. [...]

#### **Article VII**

Any acts of the subaltern authorities of either nation that tend to alter the situation formed by the present treaty of truce, especially in what may refer to the limits that Chile continues to occupy, shall be repressed and punished by the respective governments, upon official notice or request.

#### **Article VIII**

As the object of the contracting parties, in celebrating this pact of truce, is to prepare and facilitate a solid and stable treaty of peace between the two republics, they reciprocally promise to carry on negotiations conducive to this object.

This pact shall be ratified by the Government of Bolivia in the term of forty days, and the ratifications exchanged at Santiago during the next month of June.

In proof of which, the Minister for Foreign Affairs of Chile and the Plenipotentiaries of Bolivia who showed their respective authorization and powers signed, in duplicate, the present treaty of truce, at Valparaiso, on the fourth of April of the year one thousand eight hundred and eighty-four.

Signed by  
A. VERGARA ALBANO  
BELISARIO SALINAS  
BELISARIO BOETO

## **ANNEX 4**

### **TREATY ON TRANSFER OF TERRITORIES, SIGNED BETWEEN BOLIVIA AND CHILE, 18 MAY 1895**

The Republic of Chile and the Republic of Bolivia, for the purpose of strengthening the bonds of friendship which unite both countries and in agreement that a higher need and the future development and commercial prosperity of Bolivia require its free and natural access to the sea, have decided to conclude a special Treaty on the transfer of territory and to that end, have appointed and authorized their Plenipotentiaries, namely:

His Excellency, The President of the Republic of Chile has appointed Luis Barros Borgoño, Foreign Minister and His Excellency, the President of the Republic of Bolivia has appointed Heriberto Gutierrez, Special Envoy and Plenipotentiary Minister of Bolivia before Chile.

Who, after having exchanged their Credentials and found them in order, have agreed on the following terms:

#### **I.**

If, as a consequence of the plebiscite due to take place pursuant to the Treaty of Ancon or through direct negotiations, the Republic of Chile acquires dominion and permanent sovereignty over the territories of Tacna and Arica, it undertakes to transfer them to the Republic of Bolivia in the same way and covering the same area in which it acquires them, without prejudice to the stipulations of Article II.

The Republic of Bolivia shall pay by way of compensation for this transfer of territory the sum of five million silver pesos [5.000.000], of 25 grams weight and nine tenths fino, setting apart, specifically for this payment, forty percent [40%] of the gross income of Arica's customs.

#### **II.**

If the transfer stipulated in the above Article takes place, it is understood that the Republic of Chile shall extend its northern border from Camarones to the Vítor ravine, from the sea to the border which currently separates that region from the Republic of Bolivia.

#### **III.**

So as to accomplish that set forth in the preceding Articles, the Government of Chile commits itself to engaging all its

efforts, either jointly with Bolivia or on its own, to obtain the definitive title over the territories of Tacna and Arica.

**IV.**

If the Republic of Chile were not able to obtain, through the plebiscite or through direct negotiations, definitive sovereignty over the territory in which the cities of Tacna and Arica are found, it commits itself to cede to Bolivia from the Vitor inlet up to the Camarones ravine, or an equivalent territory, as well as the amount of five million silver pesos [5.000.000] of twenty five grams weight and nine tenths fino.

**V.**

A special agreement shall determine the precise boundaries of the territory transferred pursuant to this Treaty.

**VI.**

If a transfer were to be made in conformity with Article IV, and nitrate deposits then found or discovered in the transferred zone in the future, they shall not be exploited or transferred except after all other nitrate deposits existing within the territory of the Republic of Chile are exhausted, unless the two Governments agree differently through a special agreement.

**VII.**

This Treaty, which shall be signed at the same time as those of Peace and Commerce concluded between the two Republics, shall be confidential and shall not be published without the agreement of the two High Contracting Parties.

**VIII.**

The instruments of ratification of this Treaty shall be exchanged within a period of six months and the exchange shall take place in the city of Santiago.

In witness whereof, the Minister of Foreign Affairs of Chile and the Extraordinary Envoy and Plenipotentiary Minister of Bolivia have signed and sealed with their respective seals and in two copies this Special Treaty in the city of Santiago, on eighteen May eighteen ninety five.

Signed by  
LUIS BARROS BORGOÑO  
HERIBERTO GUTIERREZ

**ANNEX 5**

**TREATY OF PEACE AND FRIENDSHIP BETWEEN CHILE AND BOLIVIA SIGNED ON 20 OCTOBER 1904**

In pursuance of the purpose expressed in Article 8 of the Truce Pact of April 4, 1884, the Republic of Bolivia and the Republic of Chile have agreed to celebrate a treaty of peace and friendship, and to that end have named and constituted as their plenipotentiaries, respectively:

His Excellency the President of the Republic of Bolivia, Don Alberto Gutierrez, Envoy Extraordinary and Minister Plenipotentiary of Bolivia in Chile and His Excellency the President of the Republic of Chile, Don Emilio Bello Codesido, Minister of Foreign Affairs.

[...] who, having exchanged their full powers and having found them in good and due form, have agreed on the following:

**Article I**

The relations of peace and friendship between the Republic of Bolivia and the Republic of Chile are re-established, the status established by the Truce Pact being thereby terminated.

**Article II**

By the present treaty the territory occupied by Chile by virtue of article 2 of the Truce Pact of April 4th, 1884, is recognized as belonging absolutely and in perpetuo to Chile.

The north and south boundary between Chile and Bolivia shall be that here indicated:

From the highest point of Zapaleri Hill [1] in a straight line to the highest point of the ridge jutting out toward the south from Guayaques Hill, in latitude [approximate] 22° 54'; hence a straight line to the pass of the Cajon [3]; next, the watershed of the ridge which runs north, including the summits of Juriques Hill [4], Licancabur Volcano [5], Sairecabur Hill [6], Curiquinca Hill [7], and Putana or Jorjencal Volcano [8]. From this point it will follow one of the ridges to Pajonal Hill [9] and in a straight line to the south peak of the Tocopuri Hills [10], whence it will follow the watershed of the Panizo Ridge [11] and the Tatio Range [12]. It will keep on toward the north by the watershed of the Linzor Ridge [13] and the Silaguala Hill [14]; from their northern peak [Volcan Apagado] [15] it shall

go by a ridge to the little hill called Silala [16] and thence in a straight line to Inacaliri or Cajon Hill [17].

From this point it shall go in a straight line to the peak which appears in the middle of the group of the Inca or Barrancane Hills [18], and, again taking the watershed, shall keep on northward by the ridge of Ascotan or Jardin Hill [19]; from the summit of this hill it shall go in a straight line to the summit of Araral Hill [20] and by straight line again to the summit of Ollagüe Volcano [21].

Hence in a straight line to the highest peak of Chipapa Hill [22], descending toward the west by a line of small hills until it reaches the summit of Cosca Hill [23].

From this point it shall be the watershed of the ridge which joins it to Alconcha Hill [24], and thence it shall go to Olca Volcano [25] by the divide. From this volcano it shall continue by the range of the Mallunu Hill [26], the Laguna Hill [27], Irruputuncu Volcano [28], Bofedal Hill [29], Chela Hill [30], and, after a high knot of hills, shall reach the Milliri [31], and then the Hualicani [32].

Hence it shall go to Caiti Hill [33] and shall follow the divide to Napa Hill [34]. From the summit of this hill it shall go in a straight line to a point [35] situated ten kilometers to the south of the eastern peak of Huailla Hill [36], whence it shall go in a straight line to the hill named; doubling immediately toward the east, it shall keep on by the range of Laguna [37], Corredor [38], and Huallaputuncu [39] hills to the easternmost peak of Sillillica [40], and thence by the ridge that runs northwest to the summit of Piga Hill [41].

From this hill it shall go in a straight line to the highest point of the Three Little Hills [42], and thence in a straight line to Challacollo Hill [43] and the narrow part of Sacaya Valley [44], fronting Villacollo.

From Sacaya the boundary shall run in straight lines to the summit of Cueva Colorada [45] and Santaile [46], and thence it will keep on to the northwest by Irruputuncu Hill [47] and Patalini Hill [48].

From this summit the boundary shall go in a straight line to Chiarcollo Hill [49], cutting the Cancosa River [50], and thence also in a straight line to the summit of Pintapintani Hill [51], and from this hill by the range of the Quiuri [52], Pumiri [53], and Panatalla [54] hills.

From the summit of Panantalla it shall go in a straight line to Tolapacheta [55], midway between Chapi and Rinconada, and from this point in a straight line to the pass of Huialla [56]; thence it shall pass on by the summits of Lacataya [57] and Salitral [58] hills.

It shall turn toward the north, going in a straight line to Tapacollo Hill [59], in the Salar [salt flats] of Coipasa, and in another straight line to the landmark of Quellaga [60], whence it shall continue by straight line to Prieto Hill [61] to the north of Pisiga plain, Toldo Hill [62], the Sicaya landmarks [small hills] [63], and those of Chapillicsa [64], Cabarray [65], Tres Cruces [Three Crosses] [66], Jamachuma [67], Quimsachata [68], and Chinchillani [69], and, cutting the river Todos Santos [70], shall go to the Payacollo [71] and Carahuano [72] hills [mojones = landmark or mound], to Canasa Hill [73] and Captain Hill [74].

It shall then continue toward the north by the divide of the range of Lliscaya [75] and Quilhuiri [76] hills, and from the summit of the latter in a straight line to Puquintica Hill [77]. To the north of this last point Bolivia and Chile agree to establish between them the following frontier:

From Puquintica Hill [77] it shall go northward by the range that runs to Macaya; shall cut the Lauca River [78] at this point and then run in a straight line to Chiliri Hill [79]. It shall keep on to the north by the divide of the Japu Pass [80], the Quimsachata Hills [81], the Tambo Quemado Pass [82], the Quisquisini Hills [83], the Huacollo Pass [84], the summits of the Payachata Hills [85, 86], and Larancahua Hill [87] to the Casiri Pass [88].

From this point it shall go to the Condoriri Hills [89], which divide the waters of the Sajama and Achuta rivers from those of the Cauquena River, and shall continue by the ridge which, branching off from those hills, goes to Carbiri Hill [91], passing by the Achuta Pass [90], from Carbiri Hill it shall run down its slope to the narrows of the river Cauquena or Cosapilla [92], above the inn of that name [Cosapilla].

Then it shall follow the bed of the river Cauquena or Cosapilla to the point [93] where it is joined by the apparent outlet of the meadows of the Cosapilla estancia [farm], and from this point it shall go in a straight line to Visviri Hill [mojon] [94].

From this hill it shall go in a straight line to the sanctuary [95] on the north side of the Maure, northwest of the junction of

this river with another which comes into it from the north, two kilometers northwest of the Maure Inn. It shall keep on toward the northwest by the range which runs to the landmark of Chipeco or Tolacollo Hill [96], the last point of the boundary.

Within the six months following the ratification of this treaty the high contracting parties shall name a commission of engineers to proceed to mark out the boundary line, the points of which, enumerated in this article, are indicated in the appended plan, which shall form an integral part of the present treaty, in conformity with the procedure and in the periods which shall be agreed upon by a special arrangement between the two foreign offices.

If there should arise among the engineers engaged in marking the boundary any disagreement which could not be arranged by the direct action of the two governments, it shall be submitted to the decision of His Majesty the Emperor of Germany, in conformity with the provisions of article 12 of this treaty.

The high contracting parties shall recognize the private rights of natives and foreigners, if legally acquired, in the territory which by virtue of this treaty may remain under the sovereignty of either of the countries.

### **Article III**

With the object of strengthening the political and commercial relations between the two Republics the high contracting parties agree to unite the port of Arica with the plateau of La Paz by a railroad for the construction of which the Government of Chile shall contract at its own expense within the term of one year from the ratification of this treaty.

The ownership of the Bolivian section of this railroad shall revert to Bolivia at the expiration of the term of fifteen years from the day on which it is entirely completed.

With the same object Chile undertakes to pay the obligations which Bolivia may incur by guarantees up to 5 per cent on the capital which may be invested in the following railroads, the construction of which shall begin within the term of thirty years: Uyuni to Potosi; Oruro to La Paz; Oruro, via Cochabambá, to Santa Cruz; from La Paz to the Beni region, and from Potosi, via Sucre and Lagunillas, to Santa Cruz.

This obligation shall not occasion for Chile an expense greater than £100,000 sterling annually nor in excess of

£1,700,000 sterling, which is fixed as a maximum of what Chile will devote to the construction of the Bolivian section of the railway from Arica to the La Paz plateau and for the guarantees referred to, and it shall be null and void at the conclusion of the thirty years above indicated.

The construction of the Bolivian section from Arica to the Bolivian plateau, as well as that of the other railroads which may be constructed with the Chilean Government's guaranty, shall be a matter of special arrangements between the two governments, and provision shall be made in them for affording facilities for commercial interchange between the two countries.

The value of the section mentioned shall be determined by the amount of the bid which shall be accepted for the contract for its construction.

### **Article IV**

The Government of Chile binds itself to deliver to the Government of Bolivia the sum of £300,000 sterling in cash, in two payments of £150,000, the first payment to be made six months after the exchange of ratifications of this treaty and the second one year after the first.

### **Article V**

The Republic of Chile devotes to the final cancellation of the credits recognized by Bolivia, for indemnities in favour of the mining companies of Huanchaca, Oruro, and Coro-Coro, and for the balance of the loan raised in Chile in the year 1867 the sum of 4,500,000 pesos gold of 18 pence, payable, at the option of its government, in cash or in bonds of its foreign debt valued at their price in London on the day on which the payment is made, and the sum of 2,000,000 pesos in gold of 18 pence, in the same form as the preceding, for the cancellation of the credits arising from the following obligations of Bolivia: The bonds issued, i.e.; the loan raised for the construction of the railroad between Mejillones and Caracoles according to the contract of July 10, 1872; the debt recognized to Don Pedro Lopez Gama, represented by Messrs. Alsop & Co., surrogates of the former's rights; the credits recognized to Don John G. Meiggs, represented by Mr. Edward Squire, arising from the contract entered into March 20, 1876, for renting nitrate fields in Toco, and, lastly, the sum recognized to Don Juan Garday.

### **Article VI**

The Republic of Chile grants to that of Bolivia in perpetuity the amplest and freest right of commercial transit in its territory and its Pacific ports.



Both governments will agree in special acts upon the method suitable for securing, without prejudice to their respective fiscal interests, the object above indicated.

#### **Article VII.**

The Republic of Bolivia shall have the right to establish customs agencies in the ports which it may designate for its commerce. For the present it indicates as such ports for its commerce those of Antofagasta and Arica.

The agencies shall take care that the goods in transit shall go directly from the pier to the railroad station and shall be loaded and transported to the Bolivian custom-houses in wagons closed and sealed and with freight schedules which shall indicate the number of packages, their weight and marks, numbers and contents, which shall be exchanged for receipts.

#### **Article VIII**

Until the high contracting parties shall agree to celebrate a special commercial treaty the commercial interchange between the two Republics shall be regulated by rules of the strictest equality with those applied to other nations, and in no case shall any product of either of the two parties be placed under conditions inferior to those of a third party. All the natural and manufactured products of Chile, therefore, as well as those of Bolivia, shall be subject, on their entry into and their consumption in the other country, to the payment of the imposts in force for those of other nations, and the favours, exemptions, and privileges which either of the two parties shall grant to a third may be demanded on equal conditions by the other.

The high contracting parties agree to accord reciprocally on all railroad lines which cross their respective territory the same rates to the native products of the other country that they accord to the most favoured nation.

#### **Article IX**

The natural and manufactured products of Chile and the nationalized goods, in order to be taken into Bolivia, shall be dispatched with the proper consular invoice and with the freight schedules spoken of in Article 7. Cattle of all kinds and natural products of little value may be introduced without any formality and dispatched with the simple manifest written in the custom-house.

#### **Article X**

The natural and manufactured products of Bolivia in transit to foreign countries shall be exported with schedules issued by the Bolivian custom-houses or by the officers charged with this duty; these schedules shall be delivered to the customs agents in the respective ports and the products embarked without other formality for foreign markets.

In the port of Arica importation shall be made with the same formalities as in that of Antofagasta, and the transit schedules in this port shall be passed with the same requirements as those indicated in the previous article.

#### **Article XI**

Bolivia being unable to put this system into practice immediately, the present system established in Antofagasta shall continue to be followed for the term of one year. This system shall be extended to the port of Arica, a proper term being fixed for putting into effect the schedule of Bolivian appraisements until it shall be possible to regulate the trade in the manner before indicated.

#### **Article XII**

All questions which may arise with reference to the interpretation or execution of the present treaty shall be submitted to the arbitration of His Majesty the Emperor of Germany.

The ratifications of this treaty shall be exchanged within the term of six months, and the exchange shall take place in the city of La Paz.

In witness whereof the Minister of Foreign Relations of Chile and the Envoy Extraordinary and Minister Plenipotentiary of Bolivia have signed and sealed with their respective seals in duplicate the present Treaty of Peace and Amity, in the city of Santiago, on the 20th of October of the year one thousand nine hundred and four.

Signed by  
ALBERTO GUTIERREZ  
EMILIO BELLO CODESIDO

**ANNEX 6****PROTOCOLIZED MINUTES OF 10 JANUARY, 1920**

Reunited in the Ministry of Foreign Affairs of the Republic of Bolivia, Mr Carlos Gutierrez, Minister of Foreign Affairs, and Emilio Bello Codesido, Extraordinary Envoy and Plenipotentiary Minister of the Republic of Chile, motivated by the desire to strengthen and make lasting the bonds between their countries through agreements that encourage the greatest development of their political and trade relations, taking into account the balance between their interests and mutual aspirations, have agreed to open these meetings in order to exchange general ideas on how to put into practice these lofty goals.

The Minister of Chile stated: that, as he already had had the opportunity to express to the Ministry of Foreign Affairs of Bolivia, in conformity with the welcomed and honourable mission on which he had been sent, on the part of the Government of Chile, there exists the greatest desire to develop a policy of sincere and closer relations with Bolivia; that, with the aim in mind, he repeats the terms which were submitted in general terms to the Honourable Mr. Dario Gutiérrez last September to procure an agreement which would allow Bolivia to satisfy its aspiration of obtaining its own exit to the Pacific, independently of the situation definitively settled by the provisions of the Treaty of Peace and Friendship 20 October 1904.

The representative of Chile, duly authorised by his Government puts forward suggestions, or key points which result from the especially friendly feelings of Chile toward Bolivia, and proposes that they be the terms for an agreement between both parties and are as follows:

- I. The Treaty of Peace and Friendship concluded between Chile and Bolivia on 20 October 1904 defines the political relations between the two countries in a definitive manner and settled all questions arising from the war of 1879.
- II. Chile has fulfilled its obligations under the aforementioned Treaty and the essence of those negotiations was to bring the territories of Tacna and Arica under Chile's ownership, with Bolivia expressly undertaking to cooperate towards that end.

III. Bolivia's aspiration for a port of its own was replaced by the construction of a railway line that connects the port of Arica with El Alto, La Paz and the rest of the obligations taken on by Chile.

IV. The situation created by the Treaty of 1904, the interests in that region, and the security of its northern border require Chile to keep an indispensable extension of maritime coast. However, in order to establish, under solid grounds, future ties between both countries, Chile is willing to make all efforts for Bolivia to acquire an access to the sea of its own, by ceding a significant part of the area to the north of Arica as well as the railway line that is located within the territories subject to the plebiscite established by the Treaty of Ancón.

V. Independently from what has been established under the Treaty of Peace and Friendship of 1904, Chile accepts opening new negotiations aimed at fulfilling the aspiration of its friend and neighbour, subject to Chile's victory in the plebiscite.

VI. A prior agreement will determine the boundary line between the regions of Arica and Tacna which will fall under the ownership of Chile and Bolivia respectively, as well as all other compensations commercial compensation or compensation of a different nature set out in that agreement.

VII. So as to achieve these aims, Bolivia will, of course, lend its diplomatic influence to that of Chile and undertakes to cooperate effectively to secure a favourable result for Chile in the plebiscite over Tacna and Arica.

[...]

With the statements made, the Minister of Foreign Affairs of Bolivia and Plenipotentiary Minister of Chile stated on behalf of their correspondent Governments, they agreed on concluding this first meeting and recorded them in the current minutes, which contains two copies of the same wording, in La Paz, 10 January 1920.

Signed by  
CARLOS GUTIERREZ  
EMILIO BELLO CODESIDO

**ANNEX 7****SECRETARY OF STATE FRANK KELLOGG'S  
MEMORANDUM OF 30 NOVEMBER 1926**

The Tacna-Arica controversy has engaged my closest attention ever since I assumed the duties of Secretary of State. All of my predecessors in this office during the past 40 years have followed with the deepest interest the varying phases of the problem, and several Secretaries, particularly my immediate predecessor, Mr. Hughes, have been intimately concerned, as I have been, with the task of contributing, if possible, to its solution.

[...]

V. In the course of the negotiations I have suggested for consideration, in one form or another, all three of these logically possible types of solution. On no one of them have the idea of Chile and Peru converged. I have suggested various combinations, such as division of territory with the "corridor" feature and the "free city" device annexed. Interesting discussions of details as to boundaries, etc. have ensued, but these discussions have led to no conclusion. I have also suggested the neutralization of the territory, but this has not been received with favor by both parties.

To recapitulate: The proceedings under Article 3 of the Treaty of Ancon have not been successful. The parties have not agreed upon any division of the territory upon any basis whatever. They have not agreed to neutralization of the whole or of any part of the territory. No suggestion which has been put forward has proved acceptable to both Chile and Peru.

[...]

With this preface let me now define the concrete suggestion which I have in mind:

a. The Republics of Chile and Peru, either by joint or by several instruments freely and voluntarily executed, to cede to the Republic of Bolivia, in perpetuity, all right, title and interest which either may have in the Provinces of Tacna and Arica; the cession to be made subject to appropriate guaranties for the protection and preservation, without discrimination, of the personal and property rights of all of the inhabitants of the provinces of whatever nationality.

[...]

FRANK B. KELLOGG  
November 30, 1926

**ANNEX 8****MEMORANDUM ISSUED BY THE CHANCELLOR OF CHILE  
JORGE MATTE TO THE SECRETARY OF STATE FRANK B.  
KELLOGG OF 4 DECEMBER 1926**

The Government of Chile has read with keen interest the Memorandum in which His Excellency, the Secretary of State of the United States of America, submits to its consideration the general lines of a plan intended to procure a definitive solution of the controversy regarding Tacna and Arica. The reflections which the Secretary makes in setting forth the antecedents which have induced him to favour that formula, move the Chilean Government to recall, although briefly, the principal historical and diplomatic phases of the question.

[...]

Furthermore, in the course of the negotiations conducted during the present year before the State Department and within the formula of territorial division, the Government of Chile has not rejected the idea of granting a strip of territory and a port to the Bolivian nation. The lofty and inspired proposals which the Government of Chile has accepted in this particular matter, did not encounter on the part of the Government of Peru the reception which they deserved, and the question has remained pending until the present moment.

Our Government remains within the stipulations of the Treaty of Ancon, thus following its long and uninterrupted tradition of respect for the pledged word and the faithful and exact fulfilment of international obligations.

With the same thought it has respected the Award of President Coolidge and believes that the best solution of the problem is the application of the method indicated in Article 3 of the Treaty of Ancon and confirmed by the decision of the Arbitrator.

The definitive possession of the territory as between Chile and Peru, once determined in conformity with these provisions, the Chilean Government would honour its declarations in regard to the consideration of Bolivian aspirations.

The proposal of the Department of State goes much farther than the concessions which the Chilean Government has generously been able to make. It involves the definitive cession, to the Republic of Bolivia, of the territory in dispute and although, as the Secretary of State says, this solution does not wound the dignity of the contending countries and

is in harmony with the desire, repeatedly shown by the Chilean Government to help satisfy Bolivian aspirations, it is no less true that it signifies a sacrifice of our rights and the cession of a territory incorporated for forty years in the Republic by virtue of a solemn Treaty, a situation which cannot be juridically altered, except by a plebiscite, whose results are not at all doubtful in the opinion of the Chilean people.

At no time did the Government of Chile abandon this solid juridical position given it by the Treaty of Ancon and the Arbitral Award and will not abandon it now. Nevertheless, in deference to the great cause of American confraternity and being anxious to foster reconciliation among the countries involved in the War of the Pacific, Chile has always been disposed to listen to all propositions for settlement which might contribute toward such lofty aims and at the same time might offer compensation proportionate to the sacrifice of that part of its legitimate rights which such proposals import.

She now desires to attest, once more, that in discussing such propositions she does not abandon those rights, but solely has considered the possibility of sacrificing them freely and voluntarily on the altar of a superior national or American interest.

In this sense the Chilean Government agrees to consider, in principle, the proposal, thereby giving a new and eloquent demonstration of its aims of peace and cordiality.

[...]

In the course of the negotiations to which this proposal may give rise we shall present in definitive form the observations hereinbefore formulated, we shall submit all those which may involve our interests and we shall listen with attention to those which the other interested parties may in their turn suggest. The proposals of the Secretary of State and the suggestions which the parties may formulate we shall consider as an indivisible whole, which corresponds to the lofty aim of the Government of the United States, fully shared by the Government of Chile, to solve definitively the question and to insure peace and confraternity among all nations of America.

Santiago, December 4, 1926

Signed by  
JORGE MATTE  
Minister of Foreign Affairs of Chile

## ANNEX 9

### NOTE N° 529/21 ISSUED BY BOLIVIA'S AMBASSADOR, 1 JUNE 1950

Santiago, 1 June 1950  
Minister:

The Republic of Chile, on several occasions and specifically in the Treaty of 18 May 1895, and in the Act of 10 January 1920, entered into with Bolivia, though not ratified by the respective Legislative Powers, accepted the transfer to my country of an own access to the Pacific Ocean.

Subsequently, on the occasion of the claim presented by Bolivia on 1 November 1920, at the First Assembly of the League of Nations, the Delegate of Chile, His Excellency Agustín Edwards, stated as follows:

"Bolivia can find satisfaction in direct and freely consented negotiations. Chile has never closed this door to Bolivia, and I am able to declare that nothing would be more pleasing than to discuss directly with Bolivia the best means to help its development. What Chile wants is its friendship; our burning desire is for it to be happy and prosperous. It is also in our own interest, since it is our neighbour and its prosperity will reflect on ours".

Later on, His Excellency the President of Chile, Mr. Arturo Alessandri, in a Message addressed to the Chilean Congress of 1922, declared as follows:

"In Bolivia the conviction should grow stronger that, in an environment of fraternity and harmony, they will only find in our country a warm desire to look for proposals that, taking into account our legitimate rights, can satisfy as far as possible their aspirations".

In turn, on 6 February 1923, His Excellency the Minister of Foreign Affairs of Chile, Mr. Luis Izquierdo, stated in a note addressed to the Minister of Bolivia, Mr. Ricardo Jaimes Freyre, that the Government of Chile "keeps the purpose of hearing with the highest spirit of conciliation and equity, the proposals that the Government of Bolivia might submit to it to conclude a new Pact that considers the situation of Bolivia, without modifying the Treaty of Peace and without interrupting the continuity of Chilean territory".

On the other hand, concerning the proposal of the Secretary of State of the United States, His Excellency Mr. Frank B. Kellogg, for Chile and Peru to cede to Bolivia “any right, title and interest which either may have in the provinces of Tacna and Arica”, his Excellency Mr. Jorge Matte, Minister of Foreign Affairs of Chile, stated that “the Government of Chile has not rejected the idea of granting a strip of territory and a port to the Bolivian nation” and that it accepts “to consider, in principle, the proposal”.

At the start of his Government, His Excellency the President of the Republic, Mr. Gabriel González Videla, demonstrated a similar disposition: during his conversations with the Member of la Junta and Minister of Foreign Affairs, His Excellency Mr. Aniceto Solares, who attended the presidential inauguration, in November 1946; subsequently during his meetings with the former President of Bolivia and current Ambassador in Spain, His Excellency sir Enrique Hertzog, during his stay in Santiago, in December 1949; and, finally, during the numerous hearings that were held to deal with this issue.

With such important precedents, that identify a clear policy direction of the Chilean Republic, I have the honour of proposing to His Excellency that the Governments of Bolivia and Chile formally enter into direct negotiations to satisfy Bolivia’s fundamental need to obtain its own sovereign access to the Pacific Ocean, solving the problem of Bolivia’s landlocked situation on terms that take into account the mutual benefit and genuine interests of both nations.

Certain of being able to rely upon the acceptance of the Government of His Excellency, thus beginning a work of great future possibilities for Bolivia and Chile, I renew assurances of my highest and most distinguished consideration.

Signed by  
ALBERTO OSTRIA GUTIERREZ

## ANNEX 10

### NOTE N° 9 ISSUED BY CHILE’S FOREIGN MINISTER ON 20 JUNE 1950

REPUBLIC OF CHILE  
MINISTRY OF FOREIGN AFFAIRS

DIPLOMACY DEPARTMENT  
CONFIDENTIAL

N° 9  
Santiago, 20 June 1950.-  
Excellency:

I have had the honour of receiving the note of Your Excellency dated on 1st of this month.-

In it, His Excellency refers to the direction of Chile’s international policy toward the aspirations of Bolivia to obtain its own access to the Pacific Ocean, and recalls the terms of the Treaty and Act, signed though not ratified by the Legislative Powers, of 18 May 1895 and 10 January 1920, respectively.- Your Excellency also recalls the statements made by Chile’s Delegate to the League of Nations, Mr. Agustín Edwards, in 1920; by the President of the Republic Mr. Arturo Alessandri, two years later; and by the Minister of Foreign Affairs, Mr. Luis Izquierdo, in 1923.- His Excellency then refers to the response given by Mr. Jorge Matte to the proposal of the Secretary of State of the United States of America, Mr. Kellogg [sic], where Chile and Peru cede to Bolivia their title and rights over the provinces of Tacna and Arica; and, finally, to the willingness that both His Excellency and the former Minister of Foreign Affairs, Mr. Aniceto Solares, found in the current President of the Republic, His Excellency Mr. Gabriel González Videla to consider Bolivia’s aspirations.-

In light of these precedents, Your Excellency proposed to me that “the Governments of Bolivia and Chile formally enter into direct negotiations to satisfy Bolivia’s fundamental need to obtain its own sovereign access to the Pacific Ocean, solving the problem of Bolivia’s landlocked situation on terms that take into account the mutual benefit and genuine interests of both nations”.-

From the quotes contained in the note I reply to, it follows that the Government of Chile, along with safeguarding the legal situation established by the 1904 Treaty of Peace, has



been willing to study, in direct negotiations with Bolivia, the possibility of satisfying the aspirations of His Excellency's Government and the interests of Chile.-

On this opportunity, I have the honour of expressing to Your Excellency that my Government will act consistently with this position and, in a spirit of fraternal friendship towards Bolivia, is willing to formally enter into direct negotiations aimed at finding a formula that will make it possible to give to Bolivia a sovereign access to the Pacific Ocean of its own, and for Chile to receive compensation of a non-territorial character that effectively takes into account its interests.-

I trust that, in that way, our respective Governments will succeed in strengthening the ties between the destinies of our two Republics and give a lofty example to our Continent of true Americanist spirit.-

I will only add that, in due time, my Government will have to consult the Government of Peru, in compliance with the Treaties celebrated with this country.-

I renew to Your Excellency the assurances of my highest and most distinguished consideration.-

Signed by  
HORACIO WALKER LARRAIN  
Minister of Foreign Affairs Republic of Chile

## ANNEX 11

### MEMORANDUM OF CHILE, 10 JULY 1961 (AMBASSADOR MANUEL TRUCCO)

- 1.- Chile has always been willing, along with preserving the legal situation established by the Treaty of Peace of 1904, to examine directly with Bolivia the possibility of satisfying the aspirations of the latter and the interests of Chile. Chile will always reject resorting, on Bolivia's end, to organs which are not competent to solve an issue settled by the Treaty, and which could only be modified by direct negotiation between the parties.
- 2.- Our Ministry Note N° 9, dated Santiago 20 June 1950, is clear evidence of the said purposes. Through it, Chile expresses having, "full consent to initiate as soon as possible, direct negotiations aimed at satisfying the fundamental national need of own sovereign access to the Pacific Ocean, in return for compensation that, without being territorial in character takes into account the reciprocal benefits and effective interests of both countries."
- 3.- President Paz Estenssoro, having expressed his willingness to visit President Alessandri, in response to the invitation that the President of Chile extended to him, it would seem especially untimely and inconvenient to agitate public opinion in both countries by appealing to international organs to deal with a problem that the Government of Bolivia has not resolved in direct negotiations with the Government of Chile.

La Paz, 10 July 1961

**ANNEX 12****JOINT DECLARATION OF CHARAÑA, BETWEEN BOLIVIAN AND CHILE, 8 FEBRUARY 1975**

1. At the initiative of His Excellency the President of the Republic of Chile, General Augusto Pinochet Ugarte, a meeting with the President of the Republic of Bolivia, General Hugo Banzer Suarez, took place at the Bolivian-Chilean border, for the purpose of exchanging points of view on matters which are of interest to the two countries, and about the hemisphere and world situation.
2. The interview, carried out in an atmosphere of fraternity and cordiality, made it possible to identify important points of agreement which reflect the state of the links that unite Chile and Bolivia and which permit the continuation of the joint task of reaching overall understandings in benefit of both countries.
3. In this regard, the Presidents reaffirmed their full support of the Declaration of Ayacucho in which the spirit of solidarity and openness to understandings of this part of America is faithfully reflected.
4. Both Heads of State, within a spirit of mutual understanding and constructive intent, have decided to continue the dialogue, at different levels, in order to search for formulas to solve the vital issues to both countries face, such as the landlocked situation that affects Bolivia, taking into account the mutual interest and aspirations of the Bolivian and Chilean people.
5. The two Presidents have decided to continue developing a policy of harmony and understanding so that, in an atmosphere of cooperation, the formulas for peace and progress in the continent will be found.
6. The two Presidents, in order to achieve the objectives noted in this Joint Declaration, have decided to normalize diplomatic relations between their two countries at the ambassadorial level.

Charaña, February 8, 1975

Signed by: GENERAL AUGUSTO PINOCHET UGARTE  
 President of the Republic of Chile  
 GENERAL HUGO BANZER SUAREZ  
 President of the Republic of Bolivia

**ANNEX 13****NOTE N° 686 ISSUED BY CHILE'S FOREIGN MINISTER ON 19 DECEMBER 1975**

N° 686

Santiago, 19 December 1975

MR. AMBASSADOR:

I am pleased to acknowledge receipt of Note N° 681/108/75 dated 16 December this year, through which His Excellency lets me know that the enlightened Government of Bolivia accepts the general terms of Chilean Government's response regarding the proposal presented through the Aide Memoire of last 26 August with respect to the negotiation that would find an adequate, total, and definitive solution to Bolivian landlocked situation.

[...]

4. Regarding His Excellency's request, I reaffirm in the present note the terms with which my Government would like to respond considering the guidelines for a negotiation aimed at finding a reciprocal convenient solution, subject to:
  - a) This response expresses H.E. Mr. President Banzer's statements to consider the current reality without erasing historical antecedents.
  - b) On this basis, the Chilean response is based on a mutually convenient agreement that would take into account the interests of both countries without involving any innovation to the stipulations of the Treaty of Peace, Friendship, and Commerce signed between Chile and Bolivia on 20 October 1904.
  - c) As His Excellency President Banzer stated, the cession to Bolivia of a sovereign maritime coast linked to Bolivian territory through a territorial strip with the same type of sovereignty would be considered.
  - d) Chile would be willing to negotiate with Bolivia over the cession of a strip of territory in the north of Arica up to la Linea de la Concordia based on the following delimitations:

North Boundary: the current Chilean boundary with Peru.  
 South Boundary: Gallinazos ravine and upper edge of the ravine north of the River Lluta, [so that the A-15

road from Arica to Tambo Quemado would totally be part of Chilean territory] up until a southern point of Puquios Station, and then a straight line passing through Cota 5370 of Mountain Nasahuento and continuing up until the current international boundary between Chile and Bolivia.

Area: the cession would include a land territory described before and a maritime territory comprised between parallels of the end points of the coast that would be ceded [territorial sea, economical zone, and continental shelf].

- e) The Government of Chile rejects, for being unacceptable, the cession of territory to the south of the limit indicated, that could affect in any way the territorial continuity of the country.
- f) The cession to Bolivia described in letter d) would be conditioned by a simultaneous exchange of territories, which means, that Chile would receive in exchange for what it grants, a compensatory area equivalent at least to a land and sea area ceded to Bolivia.

The territory that Chile would receive from Bolivia would be continuous or integrated by different portions of bordering territory.

In order to determine the new political-international limits between Chile and Bolivia, the Mixed Commission of Limits would be reestablished, granting it attributions to examine the bordering zone and making proposals regarding the limits fixing to both Governments, trying to avoid that the territories to be ceded comprise populated areas.

- g) The installations or public constructions existing in the territories to be ceded must be obtained by the State that receives the territory at compensation price determined by common agreement. [Chacalluta Airport, Railway from Arica to Visiri, etc.].
- h) Both Governments of Bolivia and Chile will respect the private rights, legally acquired in the territories under their respective sovereignties as a consequence of the agreement to be reached.
- i) The Government of Bolivia would authorise Chile to take advantage of the whole waters of River Lauca.

- j) The territory ceded by Chile would be declared Demilitarized Zone and in accordance with previous conversations the Bolivian Government will be committed to obtain the expressed warranty of the OAS with respect to the inviolability of the ceded land strip.
- k) Both Governments would commit not to cede the exchanged territories to a third power.
- l) Arriving to the final agreement, a solemn testimony will be left mentioning that the territorial cession that permits the sovereign access to the sea represents the full and definite solution to the landlocked situation of Bolivia.
- m) Bolivia will commit to respect the servitudes in favour of Peru established in the Chilean-Peruvian Treaty of 3 June 1929.
- n) The force of this agreement will be conditioned upon Peru's prior agreement in accordance with Article 1° of the Additional Protocol to the aforementioned Treaty.

5. Noting that the Enlightened Government of Bolivia through Note N° 681/108/75 dated 16 December 1975, has accepted the general terms of Chilean Government's response, on this date my Government is proceeding to formulate to Peru's the representation referred to in letter n) of the aforementioned paragraph.

[...]

Signed by  
PATRICIO CARVAJAL PRADO  
Minister of Foreign Affairs

**ANNEX 14****COMMUNIQUÉ N° 30-76 OF THE MINISTRY OF FOREIGN AFFAIRS OF PERU**

1. As the public opinion is aware of, the Government of Chile, through Note N° 685 of 19 December 1975, informed the Government of Peru that the Government of Bolivia had formulated a proposal to find a solution to the Bolivian landlocked condition. That proposal was communicated to the Government of Peru due to the fact that Article 1 of the Additional Treaty to the 1929 Lima Treaty provides that any total or partial transfer of the territory of Arica to a third power requires the prior agreement of Peru and Chile.
2. The Revolutionary Government of the Army, for the purpose of studying this complex issue, has appointed by Supreme Resolution 0720, of 26 December 1975, a consultation commission conformed of notable people.
3. Likewise, by initiative of Peru, conversations on this difficult and delicate matter were held between both states represented by special representative.
4. After analysing the valuable reports issued by the said commission and after evaluating the results of the said conversations the Government of Peru has decided to formulate a proposal to the Government of Chile which has transmitted to the Chancellor of Chile through the Secretary general of Foreign Affairs, Ambassador Luis Marchand Stens, who in his capacities as special representative of the Government of Peru has travelled to Santiago, Chile to this end. The said proposal is aimed at preserving the high interests of the nation, safeguard specific rights that Peru has over Arica by virtue of international covenants and to strengthen the uninterrupted socio economical communication existing between Tacna and Arica.
5. This proposal, consistent with the deep Latin America and integrationist vocation of Peru, rescues also the spirit of comprehension that has encouraged our country with regard to the Bolivian landlocked condition, pursuant to what has been expressed, both in the Ayacucho Declaration of 3 December 1974 as in repeated official statements.
6. In the frame work of those backgrounds, the proposal that the Government of Peru has formulated to the Government of Chile, in as much as it considers that it collects the interests of Peru, Bolivian and Chile, is the following:
  - a) The eventual sovereign cession to Bolivia of a corridor through the north of Arica, parallel to the Linea de la Concordia, which start in the Bolivian-Chilean boundary and end when reaching the Pan-American highway in the said province which unites the port of Arica with the city of Tacna. This transfer is subject to the condition detailed as follows:
  - b) The Establishment in the Province of Arica, following the corridor, of a territorial area under shared sovereignty of the three States; Peru, Bolivia and Chile located in the South of the Peruvian-Chilean boundary between the Linea de la Concordia, the Pan-American highway, the northern part area of the city of Arica and the coast region of the Pacific Ocean.
7. The precedent condition enounced in point 6 b) which constitutes the fundamental grounds of the Peruvian proposal, complies with the conditions which are then required:
  - a) Establishment of a tri-national port authority in the port of Arica;
  - b) Granting Bolivia the right to build a port under its full sovereignty in accordance with the Peruvian interest to find a definitive, real and effective solution to its landlocked status, for which it is important that the mentioned country have its own port;
  - c) Bolivian sovereignty over the sea adjacent to the coast under shared sovereignty;
  - d) The establishment by the three countries of an economic development zone in the territory under shared sovereignty, in which multilateral credit organization will be able to cooperate financially.
8. Consequently, the proposal that the Peruvian government formulates to the Chilean governments, shall serve as grounds for the prior agreement establishment under Article 1 of the additional Protocol

to the Treaty of 1929 and it has been submitted with the firm aim of finding the definitive solution to the landlocked condition affecting Bolivia.

9. The Peruvian proposal involves the full implementation of the pending clauses of the Treaty of Lima of 1929 and its additional Protocol and a guarantee to the respect of the servitudes that such Treaty established in favour of Peru.
10. All that is happening has been officially put into knowledge of the Bolivian Government, including the determined approaches related to the bilateral situations between both States, in the trust that this effort realized for Peru in pro of the Bolivian maritime aspiration shall contribute to solve this problem in a definitive manner and shall strengthen peace, friendship and cooperation between the peoples and governments of Peru, Bolivia and Chile. It should be noted also that such effort is inspired in the elevated aim of to promoting a solidary action aimed at encouraging the development of the region involved, which shall contribute also, to progress and wellbeing of its respective peoples.
11. In order for the public opinion to have a clear knowledge of the Peruvian proposal, a sketch is published in which the corridor that Chile should cede to Bolivian to the North of Arica is detailed. Similarly the location of the territorial area under the shared sovereignty between Peru, Bolivia and Chile, located also in the referred province of Arica is noted.

In synthesis the Peruvian initiative was inspired in the proposal of giving a solution based in a stable peace and in a realistic atmosphere and not in the mere legal figure that does not take account the geopolitical elements of security and the economic elements that secure its viability.

## ANNEX 15

### OAS RESOLUTION AG/RES. 426, ADOPTED ON 31 OCTOBER 1979

AG/RES. 426 [IX-0/79]  
BOLIVIA'S ACCESS TO THE PACIFIC OCEAN

[Resolution adopted at the twelfth plenary session held on 31 October 1979]

THE GENERAL ASSEMBLY,

DECLARES:

That it is of continuing hemispheric interest that an equitable solution be found whereby Bolivia will obtain appropriate sovereign access to the Pacific Ocean, and

CONSIDERING:

That it is necessary to achieve the foregoing objective and to consolidate a stable peace that will promote the economic and social progress of the area of the Americas directly affected by the consequences of the landlocked status of Bolivia.

RESOLVES:

1. To recommend to the States most directly concerned with this problem that they open negotiations for the purpose of providing Bolivia with a free and sovereign territorial connection with the Pacific Ocean. These negotiations shall take into account the rights and interests of the parties involved, and might consider, among other things, the inclusion of a port area for integrated multinational development, as well as, the Bolivian proposal that no territorial compensation be included.

2. To continue consideration of the topic "Report on the Maritime Problem of Bolivia" at the next session of the General Assembly.



**ANNEX 16****OAS RESOLUTION AG/RES. 686 (XIII-O/83), ADOPTED ON 18 NOVEMBER 1983**

AG/RES. 686 (XIII-O/83)  
REPORT ON BOLIVIA'S MARITIME ISSUE

[Resolution adopted at the seventh plenary session, held on November 18, 1983]

THE GENERAL ASSEMBLY,  
HAVING SEEN:

Resolutions AG/RES. 426 (IX-O/79) of October 31, 1979, AG/RES. 481 (X-O/80) of November 27, 1980, AG/RES. 560 (XI-O/81) of December 10, 1981, and AG/RES. 602 (XII-O/82), of November 20, 1982, in which, respectively, it is declared and reiterated that it is of continuing hemispheric interest that an equitable solution be found whereby Bolivia may obtain sovereign and useable access to the Pacific Ocean; and

CONSIDERING:

That in a spirit of fraternity and with a view toward American integration, it continues to be necessary to achieve the objective set forth in the preceding declaration and consolidate a climate of peace and harmony to stimulate economic and social progress in the area of the Americas directly affected by Bolivia's lack of its own access to the sea,

RESOLVES:

1. To take note of the report of the Government of Bolivia concerning the maritime problem of that country, of the observations made by the governments of Chile and Bolivia on the decisions adopted on the matter by this Organization, and of the constructive spirit that inspires the two countries.

2. To urge Bolivia and Chile, for the sake of American brotherhood, to begin a process of rapprochement and strengthening of friendship of the Bolivian and Chilean peoples, directed toward normalizing their relations and overcoming the difficulties that separate them -including, especially, a formula for giving Bolivia a sovereign outlet to the Pacific Ocean, on bases that take into account mutual conveniences, rights and interests of all parties involved.

3. That either of the parties may request the inclusion of the topic "Report on the maritime problem of Bolivia" at the next regular session of the General Assembly.

**ANNEX 17****PRESS RELEASE ISSUED BY THE FOREIGN MINISTERS OF CHILE AND BOLIVIA, 22 FEBRUARY 2000**

1. The Ministers of Foreign Affairs of Bolivia and Chile met in Algarve, Portugal on 22 February 2000 to continue the dialogue that was started in Rio de Janeiro and La Habana in June and November 1999. They were accompanied by high officials from their Offices.
2. The Ministers of Foreign Affairs resolved to define a working agenda that will be formalized in the subsequent stages of dialogue and which includes, without any exception, the essential issues in the bilateral relationship; in the spirit of contributing to the establishment of a trusting atmosphere that should preside over this dialogue. The process achieved should be acknowledged by the new authorities of the Chilean Government to continue the discussions towards the establishment of that agenda.
3. On that occasion they addressed, with a clear constructive willingness and for the purpose indicated above, all the issues of main interest for both countries, with no exclusion.
4. The development of the dialogue will aim at overcoming the differences which have prevented the full integration between Bolivia and Chile, with the firm purpose of searching and reaching solutions to the questions that affect its political and economical relations.
5. The Ministers of Foreign Affairs evidence the frank and friendly manner with which those meetings were held as well as the willingness of the parties to reaffirm the will to engage in the dialogue that has been launched.

La Paz, 23 February 2000

## ANNEX 18

### MINUTES OF THE XV MEETING OF THE MECHANISM FOR POLITICAL CONSULTATION BOLIVIA – CHILE, 25 NOVEMBER 2006

The XV Meeting of the Mechanism for Political Consultation Chile-Bolivia was held in Santiago on 25 November 2006. The delegations were headed by the under-Secretary of the Foreign Ministry of Chile, Ambassador Alberto Van Klaveren and by the Bolivian vice-Minister of Foreign Affairs and Worship, Ambassador Mauricio Dorfler.

Both delegations agreed on the fact that mutual trust is the base for dealing with all the items of the bilateral relation.

In this atmosphere of willingness and constructive spirit, they considered and approved the content of the Minutes of the III Meeting of the Working Group on Bilateral Issues adopted in Santiago on 31 October.

The delegations reviewed the open agenda [without exclusions]:

1. Development of Mutual Trust
2. Border integration
3. Free Transit
4. Physical Integration
5. Economic Complementation
6. Maritime Issue
7. Silala and Water Resources
8. Instruments to Fight Poverty
9. Security and Defence
10. Cooperation for the control of Illicit Drug Trafficking and Essential Chemicals Products and Precursors
11. Education, Science and Technology
12. Culture
13. Other issues

In this context both delegations paid attention to the following issues:

[...]

Maritime issue

In the spirit of the wide bilateral agenda with no exclusions, both delegations exchanged criteria on the maritime issue and they agreed on the importance of continuing with this dialogue in constructive manner.

[...]

Both Delegations agreed to hold the XVI Meeting of the Mechanism for Political Consultation Chile-Bolivia in Bolivia on a date and place to be accorded through diplomatic means.

The Bolivian Delegation thanked for the hospitality at this meeting.

Santiago, 25 November 2006

[Illegible signature]  
For the Chilean delegation

[Illegible signature]  
For the Bolivian delegation

## ANNEX 19

### APPLICATION INSTITUTING PROCEEDINGS BEFORE THE INTERNATIONAL COURT OF JUSTICE

#### [UNOFFICIAL TRANSLATION]

To the Registrar, International Court of Justice

We, the undersigned, being duly authorized by the Government of the Plurinational State of Bolivia, have the honour to submit to the International Court of Justice, in accordance with Articles 36 [1] and 40 [1] of the Statute of the Court and Article 38 of the Rules of Court, an application instituting proceedings against the Republic of Chile.

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#### I. The Dispute

1. The present application concerns the dispute between the Plurinational State of Bolivia [“Bolivia”] and the Republic of Chile [“Chile”] relating to Chile’s obligation to negotiate in good faith and effectively with Bolivia in order to reach an agreement granting Bolivia a fully sovereign access to the Pacific Ocean.

2. The subject of the dispute lies in: a) the existence of that obligation, b) the non-compliance with that obligation by Chile, and c) Chile’s duty to comply with the said obligation.

3. At present, contrary to the position that it had itself adopted, Chile rejects and denies the existence of any obligation between the parties concerning the subject of the present application<sup>1</sup>.

4. Bolivia asserts that Chile’s denial of the obligation to enter into negotiations regarding Bolivia’s fully sovereign access to the Pacific Ocean evidences a fundamental difference in points of view. It closes any possibility of negotiating a solution to this difference, and constitutes a legal dispute between the parties, which Bolivia hereby has the honour to submit to the Court.

<sup>1</sup> See for example: Note 745/183 of Chile, 8 November 2001. Declaration by the Minister of Foreign Affairs of Chile, 26 September 2012, as quoted in: *La Tercera, Canciller Moreno y emplazamiento de Evo Morales: “Entre Chile y Bolivia no hay controversia, sino que hay tratados”, 26 September 2012, available at: : <http://www.latercera.com/noticia/politica/2012/09/674-485312-9-canciller-moreno-y-emplazamiento-de-evo-morales-entre-chile-y-bolivia-no-hay.shtml> ; and Speech by the Minister of Foreign Affairs of Chile, Mr. Alfredo Moreno Charme, during the 15th plenary meeting of the Sixty-seventh period of sessions of the UN General Assembly [28 September 2012], Doc. UN A/67/PV.15, available at: [http://www.minrel.gob.cl/prontus\\_minrel/site/artic/20120928/pags/20120928164005.php](http://www.minrel.gob.cl/prontus_minrel/site/artic/20120928/pags/20120928164005.php)*

#### II. The Jurisdiction of the Court and Admissibility of the Present Application

5. The jurisdiction of the Court in this case is based on Article XXXI of the American Treaty on Pacific Settlement (Pact of Bogotá) of 30 April 1948, which reads as follows:

“In conformity with Article 36, paragraph 2, of the Statute of the International Court of Justice, the High Contracting Parties declare that they recognize, in relation to any other American State, the jurisdiction of the Court as compulsory *ipso facto*, without the necessity of any special agreement so long as the present Treaty is in force, in all disputes of a judicial nature that arise among them concerning: a) The interpretation of a treaty; b) Any question of international law, c) The existence of any fact which, if established, would constitute the breach of an international obligation; d) The nature or extent of the reparation to be made for the breach of an international obligation”.

6. Both Bolivia and Chile are parties to the Pact of Bogotá. Bolivia ratified it on 9 June 2011<sup>2</sup> and Chile on 21 August 1967<sup>3</sup>. No pertinent reservation made by either party is in force at the present date.

7. The two states, Bolivia and Chile, are *ipso iure* parties to the Statute of the Court by virtue of their membership of the United Nations Organization. The conditions laid down in the Statute and Rules of Court concerning admissibility of the present application are satisfied.

#### III. Statement of Facts

8. In accordance with Article 38, paragraph 2, of the Rules of Court, which requires the party making the application to provide a succinct statement of the facts, the main relevant facts on which this claim is based are as follows.

9. On 6 August 1825, Bolivia achieved independence as a state with an access to the Pacific Ocean, with a coastline of more than four hundred kilometers long and a coastal territory of more than one hundred and twenty thousand square kilometers, which bordered Peru to the north and Chile to the south beyond parallel 25°.

<sup>2</sup> Plurinational State of Bolivia, Instrument of Ratification of the “Pact of Bogotá”, 14 April 2011, and, Instrument of Withdrawal of Reservation to the “Pact of Bogotá”, 10 April 2013, available at: <http://www.oas.org/juridico/english/signs/a-42.html#Bolivia>

<sup>3</sup> Republic of Chile, Decree N° 526 of 21 August 1967, published in Official Gazette NO 26837 of 6 September 1967, available at: <http://www.leychile.cl/Navegar?idNorma=400563&buscar=decreto+526>

10. The Treaty of 10 August 1866 delimited the boundary between Bolivia and Chile at parallel 24°, and this boundary was confirmed by the Treaty of 6 August 1874. Thus, Chile formally and legally recognized Bolivia's sovereignty over the coasts of the Pacific Ocean.

11. On 14 February 1879, Chile invaded and militarily occupied the Bolivian port of Antofagasta, which led to the so-called "War of the Pacific" and deprived Bolivia of its access to the sea. Bolivia's economic and social development has suffered for more than a century as a result of its confinement.

12. Bolivia signed a Truce Pact on 4 April 1884<sup>4</sup> accepting under pressure the continuing military occupation of its Department of Litoral by Chile.

13. Chile admitted to the overriding need to grant Bolivia a fully sovereign access to the Pacific Ocean. In this sense, on 18 May 1895, Bolivia and Chile signed various treaties in Santiago with the aim of finally resolving the pending issues between the two states. One of them, particularly important in this regard, was the Special Treaty on the Transfer of Territories<sup>5</sup>.

14. While the Bolivian Department of Litoral was under military occupation, on 20 October 1904, Bolivia signed the "Treaty of Peace and Friendship" with Chile. By this treaty, Chile imposed its rule over the occupied Bolivian territories<sup>6</sup>. This treaty did not cancel previous Chilean declarations and commitments concerning Bolivia's sovereign access to the sea.

15. Six years after the Treaty of 1904 had been signed, faced with the uncertainty of the territorial situation of the Peruvian provinces of Tacna and Arica and aiming at finding an access to the sea for Bolivia through these territories, Bolivia's Minister of Foreign Affairs put a proposal to Chile and Peru, which was also made known to the other countries

of the continent<sup>7</sup>. This proposal reaffirmed the expectations which had been created by Chile and which had survived the signing of the treaty of 1904. Chile reaffirmed its position in a Protocol signed with Bolivia on 10 January 1920<sup>8</sup>.

16. On the basis of these and other commitments, Bolivia and Chile entered into negotiations regarding an agreement that is contained in the notes exchanged on 1 and 20 June 1950.

17. The Bolivian note of 1 June 1950, invoking the different declarations and commitments formulated by Chile, proposed: "for the Governments of Bolivia and Chile to formally enter into a direct negotiation to satisfy Bolivia's fundamental need for obtaining an own and sovereign access to the Pacific Ocean, thus resolving the problem of Bolivia's confinement, on the basis of mutual conveniences and the true interests of both countries"<sup>9</sup>.

18. The Chilean note in response, dated 20 June 1950, states that: "[...] my Government [...] it is willing to formally enter into a direct negotiation aiming at finding the formula which would make it possible to grant Bolivia an own and sovereign access to the Pacific Ocean and for Chile to obtain compensations that are not of a territorial nature and that effectively take into account its interests"<sup>10</sup>.

19. The content of this agreement was reaffirmed through a Memorandum which the Chilean Embassy forwarded to the Bolivian Ministry of Foreign Affairs on 10 July 1961<sup>11</sup>.

20. On 8 February 1975, the Presidents of Bolivia and Chile signed the Joint Declaration of Charaña, in the fourth point of which they agreed to continue with the dialogue, within a spirit of mutual understanding and a constructive mindset, in order to find formulas to solve the vital issues which both countries faced, such as the one relating to the confinement affecting Bolivia<sup>12</sup>.

21. In the course of the Charaña negotiations, through a note of 19 December 1975, Chile once more declared itself to be "Chile

4. *Truce Pact between the Republics of Bolivia and Chile, 4 April 1884.*

5. *Agreement on the Transfer of Territories between the Republics of Bolivia and Chile, 18 May 1895. In the preamble to this Treaty, it is stated that: "a superior need and the future development and commercial prosperity of Bolivia require its free and natural access to the sea"; the Treaty therefore provided [Bases 1 and 11] that if through a plebiscite or direct arrangements, Chile were to acquire control and permanent sovereignty over the territories of Tacna and Arica, it undertakes to transfer them to the Republic of Bolivia, except for the area from the Quebrada de Camarones to the Quebrada de Vitor which would remain under Chilean control. The Treaty also indicated [Base IV] that if Chile were unable to gain such sovereignty "it undertakes to transfer the Caleta de Vitor up to the Quebrada de Camarones or any other similar area to Bolivia".*

6. *Treaty of Peace and Friendship entered into by Bolivia and Chile, 20 October 1904.*

7. *Memorandum of the Minister of Foreign Affairs of Bolivia, Daniel Sánchez Bustamante, forwarded to the Republics of Chile and Peru, 22 April 1910.*

8. *Protocol ["Acta Protocolizada"] signed by the Bolivian Minister of Foreign Affairs, Carlos Gutiérrez, and the Extraordinary Envoy and Plenipotentiary Minister of the Republic of Chile, Emilio Bello Codesido, 10 January 1920.*

9. *Note of Bolivia, 1 June 1950.*

10. *Note of Chile, 20 June 1950.*

11. *Memorandum of Chile, 10 July 1961.*

12. *Joint Declaration of Charaña between Bolivia and Chile, 8 February 1975.*

would be prepared to negotiate with Bolivia the cession of a strip of land north of Arica up to the Línea de la Concordia<sup>13</sup>.

22. When the dialogue between the parties was re-established in 1986, Bolivia proposed various solutions for its maritime confinement. Nevertheless, and in an untimely manner, on 9 June 1987, Chile rejected Bolivia's proposals for granting an appropriate and sovereign access to the Pacific Ocean, contravening its own prior declarations and commitments.

23. Finally, it is important to mention that the General Assembly of the Organization of American States adopted Resolution 426 during its 9th period of sessions in 1979, in which, underscoring the continuing hemispheric interest in finding an equitable solution whereby Bolivia will obtain appropriate sovereign access to the Pacific Ocean, it resolved: "To recommend to the States most directly concerned with this problem that they open negotiations for the purpose of providing Bolivia with a free and sovereign territorial connection with the Pacific Ocean"<sup>14</sup>.

24. The general hemispheric will expressed in Resolution 426 of 1979 was confirmed in another ten subsequent Resolutions during the following decade<sup>15</sup> whereby it was determined that Bolivia's maritime problem would be kept permanently on the agenda of the General Assembly of the Organization of American States until being solved. In particular, the Resolution 686 of 1983 urges to Bolivia and Chile, especially to find "a. formula for giving Bolivia a sovereign outlet to the Pacific Ocean, on bases that take into account mutual conveniences and the rights and interest of all parties involved"<sup>16</sup>.

25. Faced with Bolivia's claims in international forums, on 22 February 2000, the Ministers of Foreign Affairs of Bolivia and Chile issued a joint communiqué, the second point of which referred to their agreement to put together a work agenda including, without any exclusion, the essential matters of the bilateral relationship. The Presidents of both countries confirmed this position on 1 September 2000.

13. *Note of Chile, 19 December 1975.*

14. *Resolution No. 426, General Assembly of the Organization of American States, 31 October 1979, available at: <http://www.oas.org/en/sla/docs/ag03793E01.pdf>*

15. *OAS Resolutions: AG/RES 481 of 27/11/1980; AG/RES 560 of 10/12/1981; AG/RES 602 of 20/11/1982; AG/RES 686 of 18/11/1983; AG/RES 701 of 17/11/1984; AG/RES 766 of 9/12/1985; AG/RES 816 of 15/11/1986; AG/RES 873 of 14/11/1987; AG/RES 930 of 19/11/1988; AG/RES 989 of 18/11/1989.*

16. *Resolution No. 686, General Assembly of the Organization of American States, 18 November 1983, available at: <http://scm.oas.org/pdfs/agres/ag03797E01.PDF>*

26. In July 2006, the Governments of Evo Morales and Michelle Bachelet, Presidents of Bolivia and Chile, respectively, agreed on the "Agenda of the 13 Points", which included the "Maritime Issue" in point VI<sup>17</sup>. On the occasion of the 22nd meeting of the Bolivia-Chile Bilateral Mechanism for Political Consultations (from 12 to 14 July 2010) both States agreed that the bilateral dialogue had to give rise to concrete, appropriate and feasible solutions on point VI of the Bilateral Agenda referred to the "Maritime Issue"<sup>18</sup> in the next and subsequent meetings. For that purpose, a meeting was planned to take place in November 2010, but when the said date arrived Chile unilaterally suspended the meeting. The negotiations were never resumed.

27. In February 2011, the President of Bolivia publicly asked the Government of Chile to draft a written and concrete proposal to carry forward the process for solving Bolivia's confinement<sup>19</sup>. Far from responding to this invitation, Chile stated that "Bolivia lacks any legal basis to access the Pacific Ocean through territories appertaining to Chile"<sup>20</sup>.

28. Later, at the 66th session of the United Nations General Assembly on 21 September 2011, the President of Bolivia stated that the channels for a bilateral negotiation with Chile to find a solution for the Bolivian maritime issue remain open.<sup>21</sup> The response received from the President of Chile was that there are no pending issues between the two countries<sup>22</sup>.

17. *Minutes of the 2nd Meeting of the Working Group on Bilateral Affairs Bolivia-Chile, Agenda of the 13 Points, 17 July 2006.*

18. *Minutes of the 22nd meeting of the Bolivia - Chile Mechanism for Political Consultations, 14 July 2010, available at: [http://www.rree.gob.bo/webmre/notasprensa/2010/2010\\_julio/Acta%20final.pdf](http://www.rree.gob.bo/webmre/notasprensa/2010/2010_julio/Acta%20final.pdf).*

19. *Declaration of the President of Bolivia, Evo Morales Ayma, 17 February 2011, as quoted in: Los Tiempos, Evo pide a Chile entregar propuesta marítima hasta el 23 de marzo para debatirla, 17 de febrero de 2011, available at: [http://www.lostiempos.com/diario/actualidad/nacional/2011\\_0217/evo-pide-a-chile-entregar-propuesta-maritima-hasta-el-23-de-marzo-para\\_113493\\_224396.html](http://www.lostiempos.com/diario/actualidad/nacional/2011_0217/evo-pide-a-chile-entregar-propuesta-maritima-hasta-el-23-de-marzo-para_113493_224396.html)*

20. *Declaration by the Ministry of Foreign Affairs of Chile, 12 July 2011, available at: [http://www.minrel.gob.cl/prontus\\_minrel/site/artic/2011\\_0712/pags/2011\\_0712144736.php](http://www.minrel.gob.cl/prontus_minrel/site/artic/2011_0712/pags/2011_0712144736.php)*

21. *Speech by the President of the Plurinational State of Bolivia, Mr. Evo Morales Ayma, on the occasion of the 13th plenary meeting of the Sixty-sixth period of sessions of the UN General Assembly [21 September 2011], Doc. UN A/66/PV.13, available at: <http://gadebate.un.org/66/bolivia-plurinational-state>*

22. *Speech by the President of Chile, Mr. Sebastián Piñera Echeñique, on the occasion of the 15th plenary meeting of the Sixty-sixth period of sessions of the UN General Assembly [22 September 2011], Doc. UN A/66/PV.15, available at: <http://gadebate.un.org/66/chile>*



29. Further, at the 67th session of the United Nations General Assembly in September 2012, the President of Bolivia once more requested that the Government of Chile “finally solve its maritime confinement, using peaceful dispute solving mechanisms”<sup>23</sup>. This request was rejected categorically by the Chilean Minister of Foreign Affairs, who pointed out that “there is no dispute between Chile and Bolivia”<sup>24</sup>, that there are no pending issues between the two States and that “Bolivia lacks any right to claim a sovereign access to the sea”<sup>25</sup>.

30. In these circumstances, it is clear that Chile has no intention of truly going forward in the formal negotiation regarding the agreement to perform its obligation of effectively ensuring a fully sovereign access to the sea for Bolivia. Therefore, being a peaceful State, Bolivia has decided to solve the present dispute with Chile by means of peaceful settlement mechanisms provided for in international law. Bolivia therefore submits the present dispute to the International Court of Justice.

**IV. The legal Grounds on which the Claim is Based**

31. The facts provided above [Section III] show that, beyond its general obligations under international law, Chile has committed itself, more specifically through agreements, diplomatic practice and a series of declarations attributable to its highest-level representatives, to negotiate a sovereign access to the sea for Bolivia. Chile has not complied with this obligation and, what is more, at the present date Chile denies the very existence of its obligation.

**V. Submissions**

32. For the above reasons Bolivia respectfully requests the Court to adjudge and declare that:

- a) Chile has the obligation to negotiate with Bolivia in order to reach an agreement granting Bolivia a fully sovereign access to the Pacific Ocean;
- b) Chile has breached the said obligation;
- c) Chile must perform the said obligation in good faith,

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23. *Speech by the President of the Plurinational State of Bolivia, Mr. Evo Morales Ayma, during the 11th plenary meeting of the Sixty-Seventh period of sessions of the UN General Assembly (26 September 2012), Doc. UN N67/PV.11, available at: [http://documents\\_dds\\_ny.un.org/doc/UNDOC/GEN/N12/522/19/pdf/N1252219.pdf?OpenElement](http://documents_dds_ny.un.org/doc/UNDOC/GEN/N12/522/19/pdf/N1252219.pdf?OpenElement) or <http://gadebate.un.org/67/bolivia-plurinational-state>*

24 See footnote 1.

25 See footnote 1.

promptly, formally, within a reasonable time and effectively, to grant Bolivia a fully sovereign access to the Pacific Ocean.

33. Bolivia reserves the right to supplement, modify and amplify the present application in the course of the proceedings.

34. Without prejudice to the jurisdiction of this Court in the present case, Bolivia reserves the right to request that an arbitral tribunal be established in accordance with the obligation under Article XII of the Treaty of Peace and Friendship concluded with Chile on 20 October 1904 and the Protocol of 16 April 1907, in the case of any claims arising out of the said Treaty.

**V. Judge ad hoc**

35. For the purposes of Article 31 (3) of the Statute of the Court and Article 35 (1) of the Rules of Court, Bolivia declares its intention of exercising the right to designate a Judge *ad hoc*.

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In accordance with the provisions of Article 40 of the Rules of Court, the President of the Plurinational State of Bolivia has appointed the undersigned Ambassador Eduardo Rodríguez Veltzé as Agent for these proceedings.

It is requested that all communications relating to this case be sent to the Embassy of the Plurinational State of Bolivia in the Netherlands, Nassaulaan 5, 2514 JS The Hague, the Netherlands.

Respectfully submitted,

Signed

EDUARDO RODRÍGUEZ VELTZÉ  
Agent

DAVID CHOQUEHUANCA CÉSPEDES  
Minister of Foreign Affairs

## ANNEX 20

### SPEECH ISSUED BY PRESIDENT EVO MORALES ON THE DAY OF THE SEA, 23 MARCH 2014

Today, 23 March, when our people remember the Day of the Sea, I salute the struggle, rebellion and resistance of our people, who for more than a century did not and will not give up peace, integration and our return to the Pacific Ocean with sovereignty.

Bolivia was born to independent life owning a 400 kilometers coastline on the Pacific Ocean and a coastal territory of 120.000 square kilometers, stretching from the Loa River down to Paposo [river]. The possession of that territory finds its origin centuries ago when the Tiwanaku culture spread its influence up to the sea. On the other hand, the Republic of Chile was born to independence with a smaller territory and certainly, with a different border from the one it currently owns. The first Chilean Constitutions clearly identified that the northern boundary of that country was the Atacama Desert, which was the beginning of the Bolivian territory. The judgment of the International Court of Justice of 22 January 2014 regarding the Peruvian-Chilean maritime dispute mentions the following: Chile gained independence from Spain in 1818, and Peru did in 1821. At the moment of independence, Peru and Chile were not neighboring States; located between the two countries was the colonial State of Charcas, which from 1825 became the Republic of Bolivia.

Since the foundation of the Republic until 1840 the greed of the foreign companies had not been manifested, but this changed when rich deposits of guano and saltpeter were discovered on the shores of the Bolivian Litoral. Despite the expansionary and invasive actions performed by Chile between 1842 and 1857, the Bolivian coastline was acknowledged by Chile when setting its borders on four of its Constitutions, reaffirming that way the existence of our coastal territory through the Treaty of Limits of 10 August 1866. It established the territorial border between the two countries in the parallel 24°. Eight years later, on 6 August 1874 a new treaty between both countries was signed ratifying the limits of 1866.

The expansionist project of Chile was completed with the 14 February 1879 invasion by Chilean troops to the Bolivian port of Antofagasta. They advanced into the Department of

Litoral from there until they found the first Bolivian act of resistance in the town of Calama.

On 23 March of that year, a group of 135 courageous Bolivians, armed with 34 rifles and some carbines, organized themselves to stop the invading forces of more than 1,500 men. Eduardo Abaroa was among that small but brave group of Bolivians. When he was requested to leave he boldly replied: "I'm Bolivian, this is Bolivia, here is where I stay."

We remember this date not only in Bolivia, but also everywhere where there is a Bolivia citizen, even in Chile. On 10 April 2007, the Chilean Government, headed by President Michelle Bachelet, installed a commemorative plaque in its honour in the Topater Regiment.

Eduardo Abaroa is today synonym of sea, a noble sea for the peoples of the world. Abaroa is a martyr of an invasion that should have never been, because peoples do not invade each other. The groups of power, guided by economic interests, are those who have made war and still make it today.

In the late nineteenth century expansionist and colonialist interests, driven by foreign companies, confronted our nations, thousands of men were killed, all of them victims of the horror of war violence and corporative greed. The ambition of the Chilean oligarchy and the English capital confronted three brother neighboring countries: Bolivia, Peru and Chile.

23 March 2014 is a special day for Bolivian sisters and brothers. Today, in the early XXI century, different winds blow across our America. We are currently a continent in which war and confrontation no longer exist which seeks for peaceful solutions to historical injustices. We are nations that have recovered democracy to favour the leading role of our people; our countries vote for their authorities and are ruled by the choices made by their people, nations and social movements.

Latin America and the Caribbean have been declared areas of peace thanks to the willingness of their authorities who have decided to write their story without any sorts of tutelage. While NATO militarily intervenes sovereign countries, UNASUR has avoided a coup d'état and conflicts of various kinds.

These are times of people and not of empires. These are times when decisions coming from the imperial centers are not longer allowed to take advantage of our natural resources, let alone to confront brother and neighboring peoples; these are times when our nations have strengthened regional integration schemes that facilitate our peaceful coexistence, our development and our belief in shared values such as justice.

We commemorate this 23 March, under those winds of peace and hope among people who recognize their pending issues, but respect and submit their disputes to international justice.

Therefore, this 23 March has something special, something that makes it unique, when paying tribute to Eduardo Abaroa we reaffirm with greatest responsibility the Bolivian claim before the International Court of Justice as a peaceful and effective scenario set by the international community to restore the peoples' historic rights.

The fact of Bolivia having claimed that it has the right to a sovereign access to the sea before the International Court of Justice in The Hague, is an act of justice. History has shown that there are pending issues which should be resolved by peaceful means. [...]

The Bolivian sea: The Bolivian sovereign sea will be the first one for the peoples. The Bolivian sea will be a sea for the peoples and not a loot of war or a reason to increase the armies' strength. It will be a pacifist sea, a sea owned by a State which promotes peace; a pacifist State cannot promote a restrictive sea, cannot promote a private sea. A pacifist State proposes the world a sea for all the peoples; the Bolivian sea will help to recover faith and the capabilities of women and men of our time, of our generation. We must be able to settle this centenary problem which afflicted our parents and grandparents; we can solve it and teach it to our children and grandchildren as the best gift of peace and goodwill of our peoples.

Sea and Mother Earth: Mother Earth did not mark borders between brother peoples, such as the Aymara and Urus from the Atacama Mountain Range; the indigenous territories were disturbed by the colony, the republic and the dictatorship; neither did it do so for millions of Chilean, Peruvian and Bolivian brothers who live, work and transit in an area generous with its wealth. Mother Earth has always had access to the sea and she emerges from the sea.

Solidarity of Chilean people: I really want to highlight and thank the attitude, the appreciation, the commitment and love of Chilean people for their expressions of support, for having expressed on several occasions, especially this March 11th, their solidarity to give back to Bolivia a sovereign access to the Pacific Ocean and end our unjust confinement.

In order to achieve a true integration between two brother nations which have always shared traditions, history, culture, brotherhood and complementarity the wounds caused in the past by the interests of foreign companies against two brother countries must be healed first.

In this sense, I deeply thank the parliamentary authorities, artists, professors, intellectuals, social movements and in general all Chilean people for their solidarity, expressed in favour of integration and this fervent call which still reverberates in our hearts: sea for Bolivia with sovereignty. Thank you Chilean people.

Overall, I pay tribute to the Bolivian people, who never give up their historical right to return to the sea. In a favourable context for the recognition of the International Community to the Bolivian people; I want to tell all Bolivians living abroad that they have an essential role, and that their task of support to the maritime cause is to spread and raise awareness regarding the injustice that our country endures on account of its landlocked condition.

Be confident, sisters and brothers, we will soon recover it, we will soon recover the nation. We have dignity, we will recover our sea with sovereignty, we are on the right path. I would like to ask Bolivian people and soldiers of the nation to join me: Motherland or Death, subordination and perseverance.

Thank you.

**ANNEX 21****SPEECH ISSUED BY CHANCELLOR DAVID CHOQUE-HUANCA AT THE XLIV OAS GENERAL ASSEMBLY (ASUNCIÓN, 4 JUNE 2014)**

Thank you Mr. President:

I would like to congratulate our fellow Foreign Minister for his election and thank the Government and people of Paraguay for their warm welcome and hospitality in this beautiful city.

Each OAS General Assembly has the charm to examine concrete issues that concern our region, issues as natural resources, economy, food safety with sovereignty, reformations to the Organization and in this one we will discuss “development with social inclusion”.

On this occasion, I would like to propose to the President and to the distinguished participants to view our America, our Abya Yala, from south to north, west to east, from a different perspective in time and space and with us therein as actors of this part of its history.

In other words, I invite the Assembly to see, with a broader view, some urgent and pending issues of hemispherical concern through a different glass, avoiding conventional pressure of time and of traditional postures and with a greater commitment by means of integration rather than that of diplomatic discourse.

In our America, before the arrival of foreigner men to our continent, we used to work as brothers, in unity, with hope. We lived happily in open spaces in which territorial and maritime limits did not exist

The colony arrived and with it maps were drawn, establishing territorial boundaries and borders that generally obeyed the interests of conquerors, the fancies of emperors, or those of kings or popes.

A “new territorial order” was established and it represented nothing but arbitrary repartition – made by conquerors, on the other side of the Atlantic – of territories that were “discovered”, renamed and used without asking the people who occupied them. [...]

Colonial invasion lasted for more than three centuries in our lands, longer than our independent living. During that time new agreements were concluded and when our republics and states were born, we inherited limits and borders that were not consulted with the people either.

Later on, exploitation of natural resources highly demanded for in northern markets, mainly in Europe, altered peace and coexistence between our peoples and nations. Expansion campaigns were started by foreign capitalists, geopolitical interests were awakened in the region and thousands of lives were lost in fratricidal wars.

The consequences and wounds of those wars are still open and even with the wrong antecedent of conflicts in other latitudes according to which the sole victory is to dictate rights and peace and boundary treaties were imposed by the winner. Back then, there were no international justice and arbitral tribunals were not able to resolve differences.

Some authorities say that it is all in the “past” now and that we must look into the future, ahead, and that is why it is important to explain why to us, the indigenous, “the past” is not behind but rather, ahead; the “future” is not ahead but rather behind, or to be more clear, it emerges from the past.

It is like a parade, our ancestors, the first ones, go forward. Those coming from the future have not arrived yet because they come from behind.

Hence, we, the indigenous, walk looking at our past. What has been done by our first ones, our ancestors, is what we go through in the present.

**To pave the road for the future**

Thus, our ancestors are the ones that trace the routes, the roads, the paths we go through today. And we, those living in the present are the ones that trace the routes and roads for those coming from behind, for our children and grandchildren.

Today, we are paving the road for our children; I mean we are defining their future.

The future for them is not ahead, but here, it is being decided now.

### **Let us erase the War of the Pacific from our children's future**

When one reads a history book, all one is doing is reading about wars, about how those wars came to an end and how they restarted. For our children and grandchildren to read a different history, a history with no wars, a history of dialogue, of the peaceful settlement of disputes, Bolivia has filed a claim in which we ask our brother State of Chile to sit with us and have a dialogue to put an end to, to eliminate, to erase the wounds left by the War of the Pacific and its consequences from the future of our children.

Wise men both in Chile and Bolivia have agreed with this idea, as well as others in our continent. They have met to erase the wounds of war already in 1895 when they sought to heal Bolivia's open wound through a Treaty on Transfer of Territories.

Chilean Presidents as Arturo Alessandri in 1922, Gabriel González Videla in 1950 or Augusto Pinochet in 1975, have met Chilean and Bolivian diplomats to look for a solution to the War of the Pacific.

They did so in the 80's and we did it again in the early XXI century with the so-called 13-Point Agenda. And what was done back then allows us to do something today for the future of our children and grandchildren.

What we want is to dialogue with Chile. No more... but no less either.

### **Justice arrives tomorrow**

What has happened before accounts for our present. What happened yesterday is what happens today. What is happening now accounts for tomorrow. To us it is easy, logical and obvious, time is bidirectional.

That is why we must guide our children, love them and correct what has been done wrong. The past arrives to the present, and it is projected as the future.

We cannot make claims against the dead; it is for us who are alive to get beyond their past mistakes.

That is why the statements we make, the negotiations we conduct, our achievements, will be waiting for us tomorrow.

That is why justice lays also in tomorrow, but it depends on what we do today.

And today, precisely within that view, I invoke this Assembly:

To realize that our continent has a path, a commitment; a road directed towards overcoming the remaining differences in our common history.

Our leaders to have the greatness and broadness of mind needed in order to keep maintaining peace and integration in our America.

To always be willing to promote dialogue, even in regard to the most sensitive issues, overcoming prejudice and "imprescriptible" concepts.

To realize that mother earth, its seas, mountain ranges, deserts, rainforests, rivers and valleys provide us, in America, in Abya Yala, with great possibilities and opportunities to solve all of our differences.

I hold, Mr. President and dear Foreign Ministers and Heads of delegation, the hope that having these ideas in mind, we are going to be able to explore and understand the controversy between Bolivia and Chile. Through the International Court of Justice we have invited Chile to dialogue and resolve peacefully, in good faith, meaningfully and promptly the Bolivian right to own a sovereign access to the Pacific Ocean.

I make a call on you all to join us in this effort aimed to reach dialogue, consensus and peace.





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