

Forum: Disarmament & International Security Committee
Issue: Maritime border dispute in Chile and Peru
Student Officer: Monika Patriarchea
Position: Co-chair

PERSONAL INTRODUCTION

Dear delegates,

My name is Monika Patriarchea and I feel overly honored to be the Co-chair in the Disarmament and International Security Committee of the upcoming PS-MUN conference. I am an 11th grade student in Arsakeio School of Patras, Greece. My MUN career began 2 years ago, in the MUN club of my school and until PS-MUN 2016 I will have already participated in 11 conferences, 3 of them as a committee chair.

As a Chair, part of my responsibilities is to help the delegates of the disarmament committee, by answering their questions and therefore assist them understand the topics. I hope that this study guide provides you with the knowledge to be able to debate and form resolutions on this topic. But of course you should not rely on this study guide alone, but also research the topic on your own to understand the position of your country on the issue.

In any case, I strongly urge you to contact me anytime if you need my support. You may contact me by email: p.monica99@hotmail.com.

I am looking forward to meeting you all at the conference!

Best Regards,

Monika Patriarchea

INTRODUCING THE TOPIC

Maritime Dispute in Chile and Peru is an issue which concerns the territorial dispute between the aforementioned nations. More specifically, it refers to the dispute over an area at sea in the Pacific Ocean approximately 37,900 square kilometers in size.

It all started after the war in the Pacific due to the fact that after its ending there was not an official settlement of the maritime borders. That's at least what Peru supported while Chile was considering the agreements which followed the war (Santiago Declaration in 1952, etc.) as official and effective ones for the regulation of their borders. After having trouble settling them, Peru brought the case to the International Court of Justice in 2008 and since then, it is considered to be a public International law case. The final decision of the ICJ was presented to the public in January 2014.

A couple of months ago, a new dispute arose between the two states, due to the fact that even after the ICJ's ruling, there was no clear establishment as to where exactly the boundary would start.

DEFINITION OF KEY TERMS

Maritime Boundary

A **maritime boundary** refers generally to the division of the water surface areas of our planet using different criteria including physiographic or geopolitical. This usually includes areas rich in natural or biological resources. Some maritime boundaries have remained indeterminate despite the fact that there have been many efforts trying to resolve the issues.

Maritime Boundary

This term mainly refers to controversies between states over the sovereignty of a specific area. It encircles two dimensions: a) territorial dispute and b) jurisdictional rights and interests of each nation involved in maritime boundaries.

HISTORICAL BACKGROUND

In their long history, Chile and Peru have encountered disputes and agreements which had a direct and important influence in their maritime border discussions and establishments.

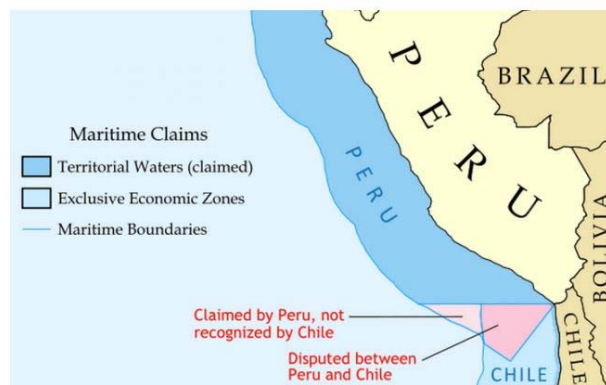
The dispute we could say that started after the War of the Pacific (1879-1883) which took place in Western South America from 1879 to 1883, with Bolivia and Peru on one side fighting against Chile. The main reason why they were fighting concerned territorial claims and mining rights in the Atacama Desert. The war ended with a Chilean victory and therefore Chile gained a great extension of land from Peru (Peruvian provinces of Tacna, Arica and Tarapacá) and Bolivia.

Chile had to organize a referendum ten years after previously setting their borders in which the populations of Tacna and Arica would have the right to decide whether they want to remain a part of Chile or not. As Chile didn't succeed to do so, in 1929 the American mediation regulated that Arica would become a part of Chile while Tacna of Peru. Later on, around the 1980s diplomats coming from Peru stated that despite the fact that after the War with numerous agreements, the land border was established, but the maritime border wasn't. Furthermore, in 1986 Peru called Chile to officially regulate the maritime boundary. Chile refused to negotiate, arguing that prior agreements have already settled the boundaries between the two states. As Peru was unsatisfied that Chile could not negotiate and deal with the problem once and for all, it decided to introduce the issue to the ICJ.

Peru applied to the ICJ in 2008 and asserted the borders of its southern maritime boundary asking from the ICJ to regulate the borders on a line "equidistant from the baselines of both Parties, up to a point situated at a distance of 200 nautical miles (nm) from those baselines" (Peru v. Chile, para. 14) Chile on the other hand, stated that the maritime borders have already been decided by other older agreements. Chile referred to the demarcation as "parallel of latitude passing through the most seaward boundary marker of the land boundary between Chile and Peru".

Peru also supported that if this method of demarcation was followed, then it would be able to exercise sovereign rights over a maritime area to a distance of 200 nm from its baseline.

Using the parallel of latitude method which was proposed by Chile instead of which was proposed by Peru, is based on the equidistance principle and greatly gives an advantage to Chile as the area



that would belong to Chile. It would be significantly enlarged while at the same time significantly diminishing those of Peru. The area that we are talking about, called Humbolt Current is rich in living marine resources making it obvious that there is significant economic impact for both states, where the boundary line is set. In 2008, this region was most productive marine ecosystem in the whole world.

After the war of the Pacific, there have been many agreements trying to solve the territorial issues that arose in the region of the countries involved.

- In 1947, the 1947 Unilateral Proclamations (1947 Proclamations) by both states claiming a 200 nm exclusive maritime zone of each coast.
- In 1952, Chile, Ecuador, and Peru signed the Santiago Declaration, reserving the right for maritime sovereignty across an area extension
- 200 nautical miles but again the problem of these nations was to define their maritime borders.
- In 1954, Chile and Peru took part in the Special Maritime Zone Agreement whose aim was to avoid sanctions for the small fishing boats that crossed the maritime boundaries unaware of their exact position in the ocean.
- Between 1968 and 1969, Peru and Chile made official arrangements in order to settle the maritime borders. For practical purposes, both countries used this parallel for the purpose of fishing in these waters.
- The United Nations Convention on the Law of the Sea (UNCLOS) which is also called Law of the Sea Convention or Law of the Sea treaty is the International Convention which was the outcome of the third United Nations Conference on the Law of the Sea (UNCLOS III). This conference was held between 1973 and 1982. The convention on the Law of the Sea states both the responsibilities and the rights of each nation, keeping in mind the importance of showing respect to the world's oceans and at the same time establishing the guidelines according to which management of marine natural resources will be conducted in this area as well as for environmental issues in the region.

So, before making a decision, the Court took into consideration previous state practices and agreements between the two parties, including the, 1947 Proclamations, the 1952 Santiago Declaration, and related agreements concluded between 1952 and 1954, including the 1954 Agreement.

The ICJ accepted Chile's argument that the Santiago Declaration and other relevant conventions reached an agreement concerning the maritime boundary, but only as long as the first 80 nautical miles are concerned.



On January 27th, the court after considering the case gave Peru, which had actually requested 38,000 sq km, around 21,000 sq km. It was decided that Chile would keep the rest so as to have control over waters which are supposed to be rich in fish. When the borders changed, the court made the decision to give extra 28,000 sq km of sea that up until now, was part of the international waters of Peru.

The two countries after getting to know the decision of the court, signed an agreement which states their new boundary according to the ICJ's decision.

THE DECISION OF THE COURT

“THE HAGUE, 27 January 2014. The International Court of Justice (ICJ), the principal judicial organ of the United Nations, has today rendered its Judgment in the case concerning the Maritime Dispute (Peru v. Chile). In its Judgment, which is final, without appeal and binding of the Parties, the Court,

- (1) Decides, by fifteen votes to one, that the starting-point of the single maritime boundary delimiting the respective maritime areas between the Republic of Peru and the Republic of Chile is the intersection of the parallel of latitude passing through Boundary Marker No. 1 with the low-water line;
- (2) Decides, by fifteen votes to one, that the initial segment of the single maritime boundary follows the parallel of latitude passing through Boundary Marker No. 1 westward;
- (3) Decides, by ten votes to six, that this initial segment runs up to a point (Point A) situated at a distance of 80 nautical miles from the starting-point of the single maritime boundary;
- (4) Decides, by ten votes to six, that from Point A, the single maritime boundary shall continue south-westward along the line equidistant from the coasts of the Republic of Peru and the Republic of Chile, as measured from that point, until its intersection (at

Point B) with the 200-nautical-mile limit measured from the baselines from which the territorial sea of the Republic of Chile is measured. From Point B, the single maritime boundary shall continue southward along that limit until it reaches the point of intersection (Point C) of the 200-nautical-mile limits measured from the baselines from which the territorial seas of the Republic of Peru and the Republic of Chile, respectively, are measured;

(5) Decides, by fifteen votes to one, that, for the reasons given in paragraph 189 [of the present Judgment], it does not need to rule on the second final submission of the Republic of Peru” (ICJ, 24/1/14).

OFFICIAL CHANGING OF THE BOUNDARY

At the government Palace in Lima on August 19th 2014 a map renewing maritime borders between the two countries was presented and approved by President Humala.

The Affects on Fisherman

When the ICJ decided which area will be given to Peru there was one specific group of people who were seriously affected. These are the fishermen living in the area of Arica. They kept the waters closest to the coast but 5, not the ones which are further out, having as a result the loss of fishing waters.

As a fishermen’s association oversaw this decision could cost them around 35% of their catch leading to a direct impact on their financial income as well. Chile’s government said that they would consider compensating the fishermen of this region.



Figure 1: Fisherman showing their dissatisfaction with the ruling of the ICJ.



Figure 2: People protesting in Santiago, "Chile is not for sale!"

NEW DISPUTE

After the ICJ ruling there has been an improvement in the relations between the two states. This was changed when the two countries started disagreeing as to where exactly the borders begin. Chile on the one side, supports that it starts from the same point on the coastline as it already does, while Peru states that it actually begins 270 meters inland.

The Peruvian government decided to create a new district in the disputed area. Therefore, Chile started protesting against this decision.

According to what Chile stated such an action can only harm the relations between the two states.

This district is the La Yarada-Los Palos district and it has a population of about 15,000 people. (The district is in the area where the 1879-1883 War of the Pacific took place.) As Peru stated, residents in the new district will have the opportunity to choose by elections their representatives before participating in further discussions which will concern the future of their district.

The decision in order to create this district was passed in October 2015 by congress in the Peruvian state and it was signed into a law by the president of Peru Ollanta Humala.

The Chilean government was firmly opposed and sent a note in which it is strongly rejecting this act:

"Chile has made consistent efforts to generate a favourable climate for constructive bilateral relations. This move causes significant damage," .

As the president of Peru mentioned it's all about enforcing democracy within the borders of Peru.

"It is necessary to give priority to the development of border zones and other areas of the country that have been historically neglected," Humala said

Furthermore, the government of Chile previously accused the government of Peru of deploying troops in this district. Lima denies it.

COUNTRIES INVOLVED

The two parties that are involved in the issue are Chile and Peru.

Peru (prior to the new dispute)

Peru after having argued that its maritime boundary had not been officially regulated in any of the previous international agreements signed by the two nations It claimed

that more specifically a) the Declaration of 1952 and b) the Proclamation of 1954 only referred to fishing practices and didn't establish their maritime borders. As there was no formal agreement according to Peru it decided to address the ICJ. Ollanta Humala, Peru's president spoke about the ruling that the ICJ gave Peru and it characterized it as "grounds for satisfaction".

"It is a historic day for us because with the signing of this agreement we complete work that has been done by commissions to fix the coordinates for the maritime border between Peru and Chile," Peruvian Foreign Minister Eda Rivas said.

Chile (prior to the new dispute)

Chile on the other side stated that the aforementioned agreements (the ones that Peru values as unofficial) are actually official and they succeed to establish the maritime borders between the two nations. Chile's reaction was different. Michelle Bachelet characterized the ruling as a "painful loss", although Chile had lost none of its territorial waters.

An important note is that many political and business leaders on both sides see the ruling as a chance to set aside the past and to intensify rapidly growing ties.

Chile-Peru Relations

In recent years both countries have proved that they can work together by:

- a) being part of the Pacific Alliance trade bloc with Colombia and Mexico as well in 2012,
- b) having a free trade agreement since 2009,
- c) investing the one country in the other and vice versa,
- d) Employing many citizens of the other country inside their borders.

Chile-Peru Relations after the new dispute

As Chile stated, the act of Peru poses a great threat to the relations between the states. Chile mentions that there is no question about the beginning of the boundary and that it is clear that they start in the same coastline as the previous ones.

Peru on the other side decides to create a district in an area which is not clear where it belongs. At the same time it believes that the boundary has to begin 270 meters inland.

So, for the time being there is a lot at stake concerning the relations between the two countries.

TIMELINE OF EVENTS

1879-1883	War of the Pacific in which Peru and Bolivia were fighting against Chile.
1929	American mediation regulated the borders.
1947	unilateral Proclamations
1952	Santiago declaration among Chile, Peru and Ecuador.
1954	Special Maritime Zone Agreement
1968-1969	Other agreements for their maritime borders
1980	Peru's diplomats argued for the settlement
1986	Peru calls Chile to settle them
1997	Convention on the Law of the sea
2008	Peru introduces the case to the ICJ
2014	ICJ reaches a decision
2015	New dispute arises

POSSIBLE SOLUTIONS

As the court has already made its decision and the issue has been settled I would like to draw your attention to two main points:

a) How can we ensure that there are going to be as good relations between the states after the ICJ ruling?

Both countries have already shown that they can work together and that they can cooperate in various fields. With the existence and the potential enforcement of the already-existing agreements that they have both signed we can ensure that their relations will remain as positive as now. Global cooperation is of outmost importance as well as both countries will be able to engage themselves in further chances to work together.

b) How is it possible to overcome the new problems that arose between the two countries?

The first step that could be taken could be a serious discussion between the two countries in which they could both present their own side and their own arguments having as their aim to solve their problems. Discussion can be the most effective and the most ineffective way at the same time. When problems like boundary issues are involved someone could easily question the efficiency of this method.

So, if it is proved inefficient, they could address the international community and seek for their help. By saying the international community I mainly refer to other nations (which may also be or were involved) or even to international organizations occupied with such situations.

Another idea is to follow what Peru proposed and ask for the position on the issue of the citizens living in this district.

Obviously all the steps can be taken after having done a historical research which will provide us with previous agreements, paper or statements which mention the previously decided position of the borders.

If nothing can be achieved then they could address again the ICJ and ask for its decision.

Delegates, I hope this study guide was helpful in order to understand the topic. Keep in mind that you also need to do your own research to come up with effective solutions on the matter.

Looking forward to meeting you all in PSMUN.

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