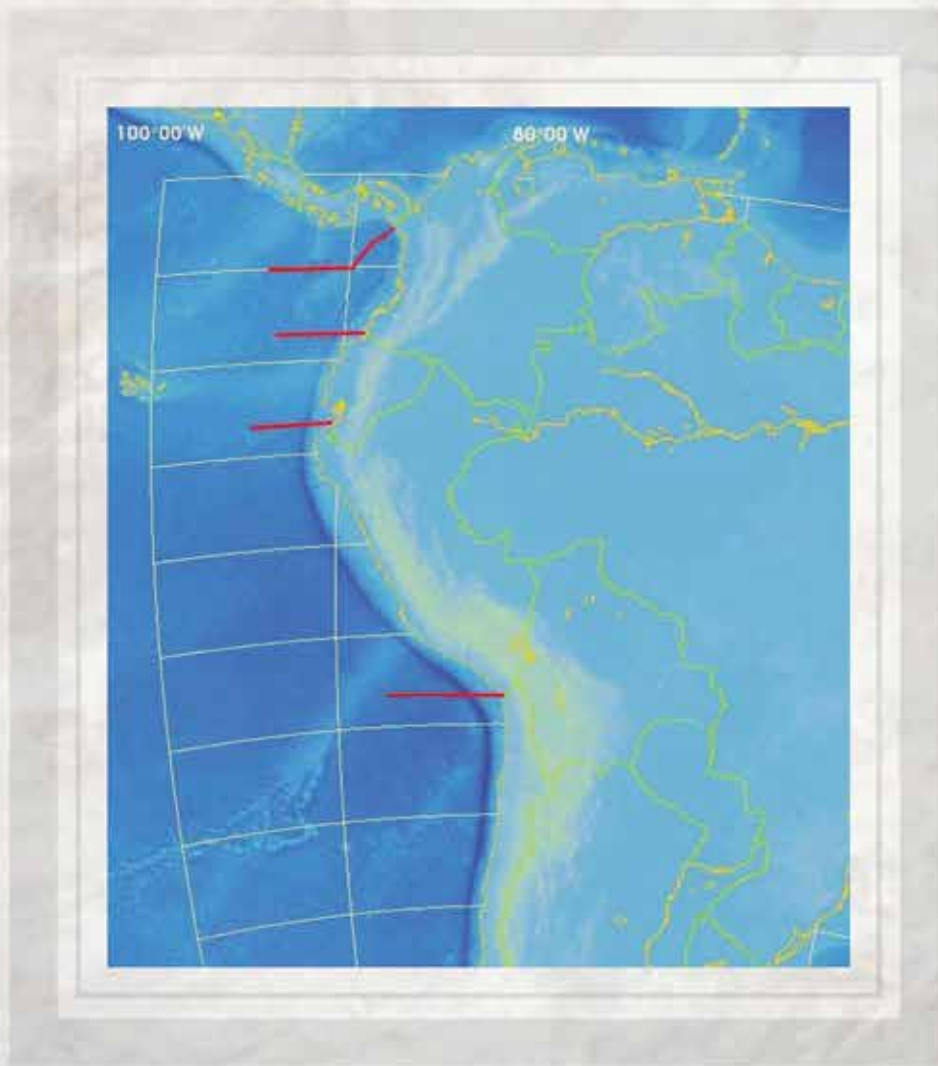


THE MARITIME BOUNDARY CHILE – PERU



CORPORACIÓN DE ESTUDIOS INTERNACIONALES

Astrid Espaliat Larson • Rose Cave de la Maza

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Obispo Salas 0364, Providencia

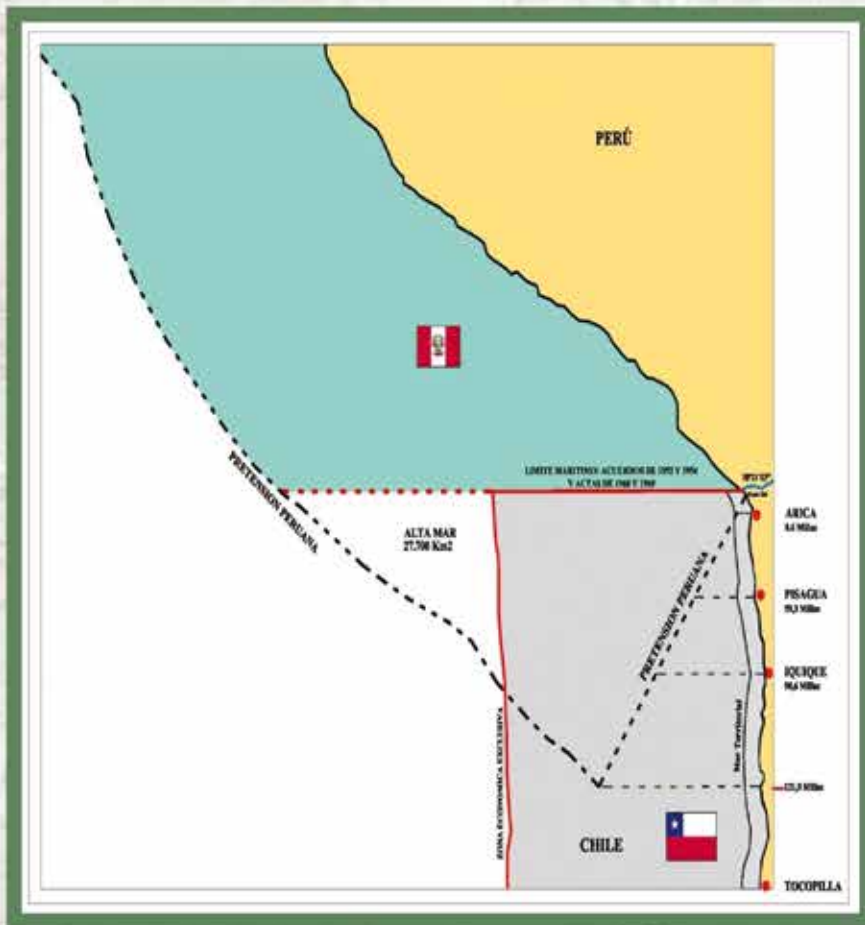
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THE MARITIME BOUNDARY CHILE – PERU



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Areas claimed by Peru.



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Background

- Chile and Perú defined their international maritime boundary in international treaties. This is recorded in the negotiated legal instruments which also include Ecuador, entitled **Declaration on the Maritime Zone**, or **Santiago Declaration**, dated 18 August 1952, and **Agreement Relating to a Special Maritime Frontier Zone** signed in Lima on 4 December 1954. This Agreement has an additional Explanatory note signed on the aforementioned date and place by the same plenipotentiary delegates that confirms this fact.
- The boundary was reaffirmed through acts and bilateral actions which materialized in situ the parallel of Boundary Marker No. 1. On 26 April, 1968, authorized representatives of Chile and Perú in an Act in accordance with the mission they were entrusted by their respective Governments to study the installation of alignment markers visible from the sea in order to give physical form to the parallel of the maritime frontier. This Act states the outcome of their work and was expressly approved by both Ministries of Foreign Affairs by Note No. (J) 6-4/43 of 5 August 1968, of Peru, and Note No. 242 of 29 August 1968 of Chile.
- The Agreement on the Participation of Colombia in the Agreement between Chile, Ecuador and Perú relating to the Organization of the Permanent Commission of the Conference on the Exploitation and Conservation of the Maritime Resources of the South Pacific of 1979, states that it takes into account “That on 18 August 1952 the Declaration on the Maritime Zone was signed in Santiago, Chile”. On 23 August 1975 Colombia had signed, together with Ecuador, the Agreement Concerning Delimitation of Marine and Submarine Areas, which establishes “the line of the geographic parallel traversing the point at which the international land frontier between Ecuador and Colombia reaches the sea”.
- The maritime boundary defined by the parallel consistently refers to the delimitations of coastal South American countries on the Pacific Ocean. The boundary between Panama and Colombia is partly established on parallel 5° 00' 00” (Treaty of 1976); the boundary between Colombia and Ecuador is the parallel 1° 28' 10.49” N (Treaty of 1975)¹; the boundary between Ecuador and Perú is the parallel 3° 23' 31.65” S (Treaties of 1952 and 1954) and the boundary between Perú and Chile is the parallel 18° 21' 03” S (Treaties of 1952 and 1954)².

¹ On June 13, 2012, Ecuador and Colombia adopted an agreement to materialize the maritime boundary at the mouth of Mataje River.

² In the statement of purpose of the bill that approved the Agreement on the Delimitation of Marine and Submarine Areas and Maritime Cooperation between the Republics of Colombia and Ecuador signed in Quito on 23 August, 1975, the Ministry of Foreign Affairs of Colombia indicated that there was a system of delimitation between signatory countries of the Santiago Declaration [of 1952] based on the line of the parallel. Ministry of Foreign Affairs, Agreement on the Delimitation of Marine and Submarine Areas and Maritime Cooperation between the Republics of Colombia and Ecuador, Second Edition 1979. Bogotá. D.E.

2

The 200 - Mile Maritime Zone: Sovereignty and Jurisdiction

- On June 23, 1947, Chile declared its sovereignty and jurisdiction over the sea and continental shelf adjacent to its coasts up to a distance of 200 nautical miles. On August 1, 1947, Perú published Supreme Decree No. 781 with similar characteristics.

Official Declaration of the President of Chile, Gabriel González Videla, of 23 June 1947 establishes the following:

“CONSIDERING:

1. That the Governments of the United States of America, of Mexico and of the Argentine Republic, by presidential declarations made on 28 September 1945, 29 October 1945 and 11 October 1946, respectively, have categorically proclaimed the sovereignty of their respective States over the land surface or the continental shelf adjacent to their coasts, and over the adjacent seas within the limits necessary to preserve for the said States the natural riches belonging to them, both known and to be discovered in the future;
2. That they have explicitly proclaimed the rights of their States to protect, preserve, control and inspect fishing enterprises, with the object of preventing illicit activities threatening to damage or destroy the considerable natural riches of this kind contained in the seas adjacent to their coasts, and which are indispensable to the welfare and progress of their respective peoples; and that the justice of such claims is indisputable;
3. That it is manifestly convenient, in the case of the Chilean Republic, to issue a similar proclamation of sovereignty, not only by the fact of possessing and having already under exploitation natural riches essential to the life of the nation and contained in the continental shelf, such as the coal-mines, which are exploited both on the mainland and under the sea, but further because, in view of its topography and the narrowness of its boundaries, the life of the country is linked to the sea and to all present and future natural riches contained within it, more so than in the case of any other country;
4. That international consensus of opinion recognizes the right of every country to consider as its national territory any adjacent extension of the epicontinental sea and the continental shelf;
5. That the State has the obligation to protect and guard the exploitation of the natural riches contained in this territory, on sea, on land, and in the air;

The President of the Republic hereby declares:

(1) The Government of Chile confirms and proclaims its national sovereignty over all the continental shelf adjacent to the continental and island coasts of its national territory, whatever may be their depth below the sea, and claims by consequence all the natural riches which exist on the said shelf, both in and under it, known or to be discovered.

(2) The Government of Chile confirms and proclaims its national sovereignty over the seas adjacent to its coasts whatever may be their depths, and within those limits necessary in order to reserve, protect, preserve and exploit the natural resources of whatever nature found on, within and below the said seas, placing within the control of the government especially all fisheries and whaling activities with the object of preventing the exploitation of natural riches of this kind to the detriment of the inhabitants of Chile and to prevent the spoiling or destruction of the said riches to the detriment of the country and the American continent.

(3) The demarcation of the protection zones for whaling and deep sea fishery in the continental and island seas under the control of the Government of Chile will be made in virtue of this declaration of sovereignty at any moment which the Government may consider convenient, such demarcation to be ratified, amplified or modified in any way to conform with the knowledge, discoveries, studies and interests of Chile as required in the future. Protection and control is hereby declared immediately over all the seas contained within the perimeter formed by the coast and the mathematical parallel projected into the sea at a distance of 200 nautical miles from the coasts of Chilean territory. This demarcation will be calculated to include the Chilean islands, indicating a maritime zone contiguous to the coasts of the said islands, projected parallel to these islands at a distance of 200 nautical miles around their coasts.

(4) The present declaration of sovereignty does not disregard the similar legitimate rights of other States on a basis of reciprocity, nor does it affect the rights of free navigation on the high seas”.



Supreme Decree No. 781 of 1947

Republic of Perú

The President of the Republic

CONSIDERING:

That the continental submerged shelf forms one entire morphological and geological unit with the continent;

That the shelf contains certain natural resources which must be proclaimed as our national heritage;

That it is deemed equally necessary that the State protect, maintain and establish a control of fisheries and other natural resources found in the continental waters which cover the submerged shelf and the adjacent continental seas in order that these resources which are so essential to our national life may continue to be exploited now and in the future in such a way as to cause no detriment to the country's economy or to its food production;

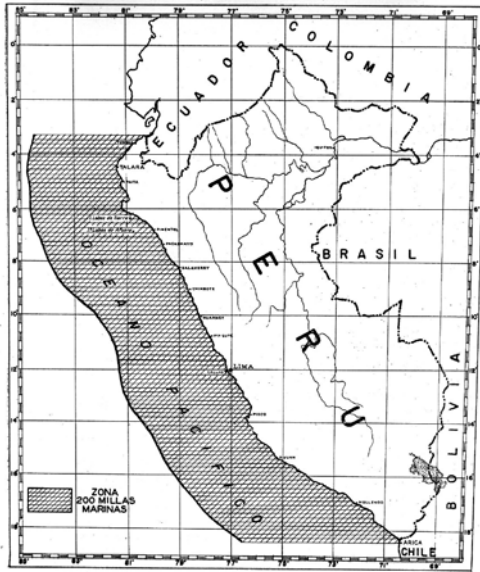
That the value of the fertilizer left by the guano birds on islands off the Peruvian coast also requires for its safeguard the protection, maintenance and establishment of a control of the fisheries which serve to nourish these birds;

That the right to proclaim sovereignty and national jurisdiction over the entire extension of the submerged shelf as well as over the continental waters which cover it and the adjacent seas in the area required for the maintenance and vigilance of the resources therein contained, has been claimed by other countries and practically admitted in international law (Declaration of the President of the United States of 28 September 1945; Declaration of the President of Mexico of 29 October 1945, Decree of the President of the Argentine Nation of 11 October 1946; Declaration of the President of Chile of 23 June 1947);

That article 37 of the Constitution establishes that all mines, lands, forests, waters and in general all sources of natural wealth pertain to the State, with the exception of rights legally acquired;

That in fulfillment of its sovereignty and in defense of national economic interests, it is the obligation of the State to determine in an irrefutable manner the maritime dominion of the Nation, within which should be exerted the protection, conservation and vigilance of the aforesaid resources;

With the advisory vote of the Cabinet:



PERUVIAN MARITIME ZONE DECLARED IN
 SUPREME DECREE N°. 781 OF AUGUST 1, 1947
 APPROXIMATE EXTENSION: 182,294 SQUARE MILES or 626,240 square kilometers

DECREES:

1. To declare that national sovereignty and jurisdiction are extended to the submerged continental or insular shelf adjacent to the continental or insular shores of national territory, whatever the depth and extension of this shelf may be.
2. National sovereignty and jurisdiction are exercised as well over the sea adjoining the shores of national territory whatever its depth and in the extension necessary to reserve, protect, maintain

and utilize natural resources and wealth of any kind which may be found in or below those waters.

3. As a result of previous declarations the State reserves the right to establish the limits of the zones of control and protection of natural resources in continental or insular seas which are controlled by the Peruvian Government and to modify such limits in accordance with supervening circumstances which may originate as result of further discoveries, studies or national interests which may become apparent in the future and at the same time declares that it will exercise the same control and protection on the seas adjacent to the Peruvian coast over the area covered between the coast and an imaginary parallel line to it at a distance of two hundred (200) nautical miles measured following the line of the geographical parallels. As regards islands pertaining to the Nation, this demarcation will be traced to include the sea area adjacent to the shores of these islands to a distance of two hundred (200) nautical miles, measured from all points on the contour of these islands.

4. The present declaration does not affect the right to free navigation of ships of all nations according to international law.

Issued at the House of Government in Lima on the first day of August of the year nineteen hundred and forty seven.

J.L. Bustamante R.

E. García Sayán

The agreement between both countries regarding the area and measurement of the respective maritime zones originates from these texts.

International Legal Instruments

- In 1952, Chile, Perú and Ecuador signed the **Declaration on the Maritime Zone** which confirms that the line of the parallel is the maritime delimitation of their respective 200 miles. This Declaration constituted an unequivocal expression of rights of sovereignty over a 200 mile maritime zone and, additionally, has become a cornerstone of the new law of the sea.
- This Declaration established in its Article IV that “[i]n the case of island territories, the zone of 200 nautical miles shall apply to the entire coast of the island or group of islands. If an island or group of islands belonging to one of the countries making the declaration is situated less than 200 nautical miles from the general maritime zone belonging to another of those countries, the maritime zone of the island or group of islands shall be limited by the parallel at the point at which the land frontier of the States concerned reaches the sea”. This article confirms the parallel as the general boundary of the maritime sovereignty and jurisdiction of the three countries, even if there was an island whose 200 miles could be theoretically projected over the neighboring maritime zone.
- The Minutes of the First Session of the Legal Affairs Commission of the First Conference on the Exploitation and Conservation of the Maritime Resources of the South Pacific, held on August 11, 1952, records that the delegate from Ecuador suggested “that the declaration be drafted on the basis that the boundary line of each country’s jurisdictional zone be the respective parallel of the point at which the frontier of the countries reaches the sea”.

Declaration on the Maritime Zone of 18 August 1952

1. Governments have the obligation to ensure for their peoples the necessary conditions of subsistence, and to provide them with the resources for their economic development.
2. Consequently, they are responsible for the conservation and protection of their natural resources and for the regulation of the development of these resources in order to secure the best possible advantages for their respective countries.
3. Thus, it is also their duty to prevent any exploitation of these resources, beyond the scope of their jurisdiction, which endangers the existence, integrity and conservation of these resources to the detriment of the peoples who, because of their geographical situation, possess irreplaceable means of subsistence and vital economic resources in their seas.

In view of the foregoing considerations, the Governments of Chile, Ecuador and Perú, determined to conserve and safeguard for their respective peoples the natural resources of the maritime zones adjacent to their coasts, formulate the following declaration:

I) The geological and biological factors which determine the existence, conservation and development of marine fauna and flora in the waters along the coasts of the countries making the Declaration are such that the former extension of the territorial sea and the contiguous zone are inadequate for the purposes of the conservation, development and exploitation of these resources, to which the coastal countries are entitled.

II) In light of these circumstances, the Governments of Chile, Ecuador and Perú proclaim as a norm of their international maritime policy that they each possess exclusive sovereignty and jurisdiction over the sea along the coasts of their respective countries to a minimum distance of 200 nautical miles from these coasts.

III) The exclusive jurisdiction and sovereignty over this maritime zone shall also encompass exclusive sovereignty and jurisdiction over the seabed and the subsoil thereof.

IV) In the case of island territories, the zone of 200 nautical miles shall apply to the entire coast of the island or group of islands. If an island or group of islands, belonging to one of the countries making the declaration is situated less than 200 nautical miles from the general maritime zone belonging to another of those countries, the maritime zone of the island or group of islands shall be limited by the parallel at the point at which the land frontier of the States concerned reaches the sea.

V) This declaration shall be without prejudice to the necessary limitations to the exercise of sovereignty and jurisdiction established under international law to allow innocent and inoffensive passage through the area indicated for ships of all nations.

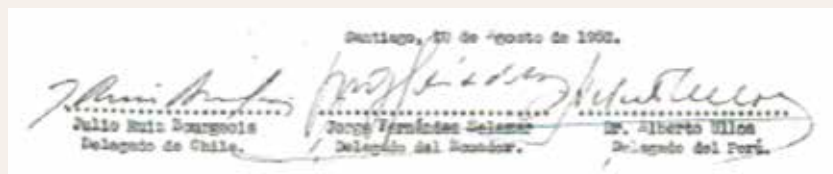
VI) For the application of the principles contained in this Declaration, the Governments of Chile, Ecuador and Perú hereby announce their intention to sign agreements or conventions which shall establish general norms to regulate and protect hunting and fishing within the maritime zone belonging to them, and to regulate and coordinate the exploitation and development of all other kinds of products or natural resources existing in these waters which are of common interest.

(Signed:) Julio Ruiz Bourgeois, Delegate of Chile

(Signed:) Jorge Fernández Salazar, Delegate of Ecuador

(Signed:) Dr. Alberto Ulloa, Delegate of Perú

(Signed:) Fernando Guarello, Secretary-General



Santiago, 10 de Agosto de 1960.

Julio Ruiz Bourgeois, Delegate of Chile. Jorge Fernández Salazar, Delegate of Ecuador. Dr. Alberto Ulloa, Delegate of Perú. Fernando Guarello, Secretary-General.

Signatures in original.

RATIFICATIONS:

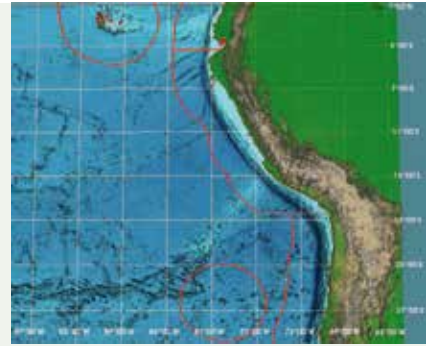
CHILE: Supreme Decree No. 432 of 23 September 1954
(Official Gazette of November 22, 1954 and April 5, 1955)

ECUADOR: Executive Decree No. 275 of 7 February 1955
(Official Register No. 1029 of January 24, 1956).

PERÚ: Legislative Resolution No. 12.305 of 6 May 1955,
with execution order by Supreme Decree of May 10, 1955 (El
Peruano of 12 May 1955).

COLOMBIA: Deposited instrument of accession on 16 April 1980 in the Ministry of Foreign Affairs
of Ecuador. Law 7, Article four of 4 February 1980.

Registered in the General Secretariat of the United Nations on 12 May 1976, Treaty Register No. 14.758.



- Two years later in 1954, the same three countries signed the Agreement on the Special Maritime Frontier Zone, which establishes a tolerance zone of 10 nautical miles at both sides of the “parallel which constitutes the maritime boundary between the two countries”.

AGREEMENT RELATING TO A SPECIAL MARITIME FRONTIER ZONE

The Governments of the Republics of Chile, Ecuador and Perú, in conformity with the provisions of Resolution X of 8 October 1954, signed at Santiago de Chile by the Standing Committee of the Conference on the Exploitation and Conservation of the Maritime Resources of the South Pacific,

Having noted the proposals and recommendations approved in October of this year by the said Standing Committee

of the Conference on the Exploitation and Conservation of the Maritime Resources of the South Pacific,

Having noted the proposals and recommendations approved in October of this year by the said Standing Committee,

Having appointed as their Plenipotentiaries:

His Excellency the President of the Republic of Chile: His Excellency Mr. Alfonso Bulnes Calvo, Ambassador Extraordinary and Plenipotentiary of Chile in Perú;

His Excellency the President of the Republic of Ecuador: His Excellency Mr. Jorge Salvador Lara, Chargé d'affaires a.i. of Ecuador in Perú; and

His Excellency the President of the Republic of Perú: His Excellency Mr. David Aguilar Cornejo, Minister for Foreign Affairs of Perú, who,

CONSIDERING:

Experience has shown that innocent and inadvertent violations of the maritime frontier between adjacent States occur frequently because small vessels manned by crews with insufficient knowledge of navigation or not equipped with the necessary instruments have difficulty in determining accurately their position on the high seas;

The application of penalties in such cases always produces ill-feeling in the fishermen and friction between the countries concerned, which may affect adversely the spirit of cooperation and unity which should at all times prevail among the countries signatories to the instruments signed at Santiago; and

It is desirable to avoid the occurrence of such unintentional infringements, the consequences of which affect principally the fishermen;

HAVE AGREED AS FOLLOWS:

1. A special zone is hereby established, at a distance of 12 nautical miles from the coast, extending to a breadth of 10 nautical miles on either side of the parallel which constitutes a maritime boundary between the two countries.
2. The accidental presence in the said zone of a vessel of either of the adjacent countries, which is a vessel of the nature described in the paragraph beginning with the words "Experience has shown" in the preamble hereto, shall not be considered to be a violation of the waters of the maritime zone, though this provision shall not be construed as recognizing any right to engage, with deliberate intent, in hunting or fishing in the said special zone.
3. Fishing or hunting within the zone of 12 nautical miles from the coast shall be reserved exclusively to the nationals of each country.
4. All the provisions of this Agreement shall be deemed to be an integral and supplementary part of, and not in any way to abrogate, the resolutions and decisions adopted at the Conference on the Exploitation and Conservation of the Maritime Resources of the South Pacific held in Santiago de Chile in August 1952.

IN WITNESS WHEREOF, the respective Plenipotentiaries of the Governments of Chile, Ecuador and Perú have signed this Agreement in three copies at Lima on 4 December 1954.

For the Government of Chile: **ALFONSO BULNES CALVO**

For the Government of Ecuador: **JORGE SALVADOR LARA**

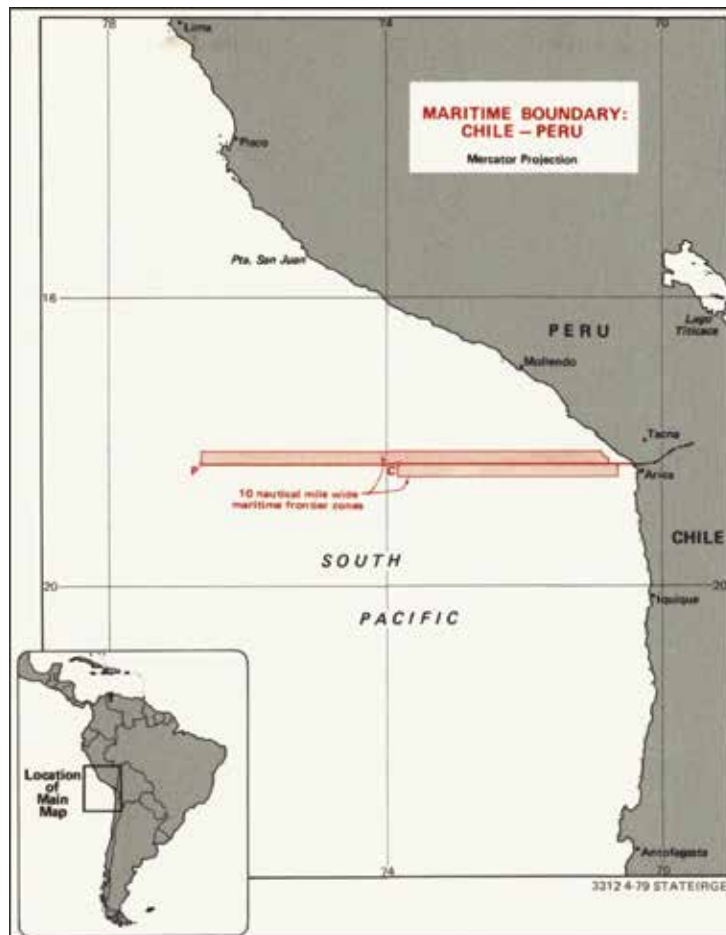
For the Government of Perú: **DAVID AGUILAR CORNEJO**

EXPLANATORY NOTE ON PROVISIONS OF THE AGREEMENTS

At the request of the Plenipotentiary Delegate of Ecuador, it is noted that the organization and functioning of the marine biology stations, referred to in Article Two of the “CONVENTION ON THE ANNUAL ORDINARY MEETING OF THE PERMANENT COMMISSION”, shall be the responsibility of each signatory country, maintaining the necessary connection for research purposes in connection with the Permanent Commission.

Similarly, regarding to the “**AGREEMENT RELATING TO A SPECIAL MARITIME FRONTIER ZONE**”, it was attested that the “accidental presence” referred to in its Article Two was to be determined exclusively by the authorities of the country whose maritime jurisdictional boundary would have been transgressed.

- A specific example of these principles is found in the Agreement on the Regulation of Permits for the Exploitation of the Resources of the South Pacific, of 1954, which reaffirms the right of each coastal State to authorize fishing and maritime hunting in its respective 200 mile zone.



Special Maritime Frontier Zone (1954).

Source: United States Department of State, Office of the Geographer, *Limits in the Seas*, No. 86 (Chile-Peru), 1979.

- In 1955, by Supreme Resolution No.23, Perú subjected the cartographic and geodesic work related to the Peruvian maritime zone referred to in the Supreme Decree of 1 August 1947 and the Declaration of Santiago of 18 August 1952, to specific requirements consisting of “1.The said zone shall be limited at sea by a line parallel to the Peruvian coast and at a constant distance of 200 nautical miles from it; 2.In accordance with clause IV of the Declaration of Santiago, the said line may not extend beyond that of the corresponding parallel at the point where the frontier of Perú reaches the sea”.

On its turn, in 2010, Ecuador approved Nautical Chart IOA 42, that graphically shows the maritime boundary Ecuador – Perú, as well as the external maritime limit, South sector, of Ecuador, in accordance with Article 1 of Supreme Decree 959-A of 28 July 1971 (in respect of straight baselines), the **Declaration of Santiago on Maritime Zone**, of 1952 and the **Agreement Relating to a Special Maritime Frontier Zone**.



Nautical Chart.

DECLARACIÓN SOBRE ZONA MARÍTIMA
Santiago, 18 Agosto, 1952
CONVENIO COMPLEMENTARIO A LA DECLARACION DE SOBERANÍA
SOBRE LA ZONA MARÍTIMA DE 200 MILLAS
Convenio sobre Zona Especial Marítima del 04 Diciembre, 1954

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Chile-Perú and Ecuador implement the Maritime Zone and respect the agreed delimitation. Colombia participates in the CPPS, accedes to the Maritime Zone and takes part in the Agreements on Implementation.

Coastal States of the Southeast Pacific exercise their authority over all areas where maritime sovereignty and jurisdiction are declared, and over which they apply municipal and international law. These areas relate mainly to activities such as: Navigation, Scientific Research, Exploration of the Continental Shelf, Environment, Natural Resources, Fishing, Monitoring of violations in the Maritime Zone, Emergencies, Meteorology and Mining.



Regional Scientific Research Ships.

Colombia Accedes to the Declaration of Santiago of 1952

The Official Joint Declaration signed by the Ministers of Foreign Affairs of Chile, Perú, Ecuador and Colombia on 9 August 1979 deals primarily with the incorporation of Colombia as a contracting Party to the **Declaration on the Maritime Zone** or **Santiago Declaration** dated 18 August 1952 and to the **Convention on the International Legal Personality of the Permanent Commission for the South Pacific**, signed in January 1966 by Chile, Ecuador and Perú.

Protection of the Marine Environment

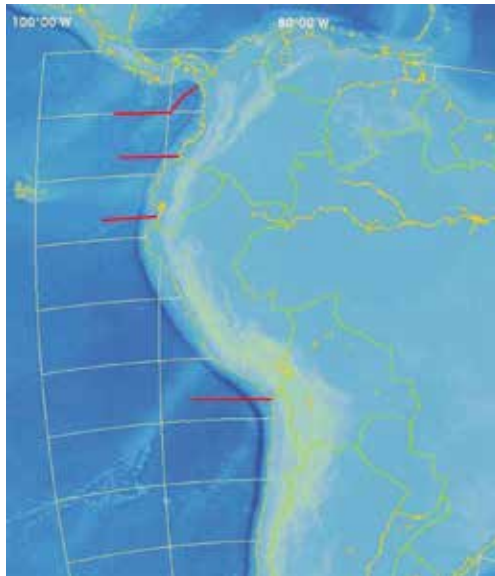
- On November 12, 1981, in Lima, Chile, Perú, Ecuador and Colombia signed the Agreement on the Protection of the Marine Environment and the Coastal Area of the South-East Pacific. Article 1 of this agreement establishes that the geographical area of application “shall be the maritime area and the coastal area of the South-East Pacific within the maritime zone of sovereignty and jurisdiction of the High Contracting Parties up to the 200-mile limit and, beyond that zone, the high seas up to a distance within which pollution of the high seas may affect that area”.
- This Agreement provides (No. 5 of Article 3) that Parties are required to adopt “all measures necessary to ensure that activities under their jurisdiction or control are so conducted that they do not cause damage by pollution to others or to their environment, and that pollution arising from incidents or activities under their jurisdiction or control does not, as far as possible, spread beyond the areas where the High Contracting Parties exercise sovereignty and jurisdiction”. Namely, the Parties, assuming the possibility of transfrontier pollution, shall take measures to prevent its spreading beyond the 200 miles and, likewise, that it does not exceed the limits of their respective zones. Again, it is noticeable that the Parties had no doubts that the limits were already established.
- In view of the above, each Party through the relevant authorities shall be responsible for monitoring pollution within their respective maritime zones of sovereignty and jurisdiction (Article 7).
- Article 11, No. 1 of the Agreement sets forth that the High Contracting Parties “shall endeavor to formulate and adopt appropriate procedures for determining civil liability and compensation for damage resulting from pollution of the marine environment and coastal area caused by natural or juridical persons in their maritime and coastal areas as a consequence of any infringement by such persons of the provisions of this Agreement and its supplementary instruments”, and ensure that their legal systems provide for recourses to allow compensation or other relief for damages caused by natural or juridical persons under their jurisdiction (Article 11, No.2).

Meteorology

In this domain, mention can be made of the fact that the Protocol of the Programme for the Regional Study of the El Niño phenomenon in the South-East Pacific (ERFEN) of 1992 establishes that its scope of application is the “area of influence of the phenomenon of El Niño and other anomalies, both in the maritime zone under the sovereignty and jurisdiction of the State Parties up to 200 miles, and in their continental and insular territories”. (Article II, No.1), and “The Parties will extend the application of this Programme outside this area, according to the requirements of the investigation of the phenomenon of El Niño and other anomalies”. (Article II, No.2).

Scientific Research

The Permanent Commission for the South Pacific (CPPS) in compliance with Resolution No. 18 of the XXII Ordinary Meeting held in 1996, called for Regional Joint Cruises of Oceanographic Research to be conducted. In this context, Colombia, Ecuador, Perú and Chile decided to study the oceanographic, meteorological and biological conditions of their respective jurisdictional maritime zones as of 1998. The first scientific activity included a surface study to a maximum depth of 500 meters, covering an area located between 7° North latitude and 25° South latitude, extending to the west between 100 and 300 miles from the coast. The second Regional Cruise took place between May and June of 1999 with the purpose of carrying out a regional study of the El Niño phenomenon and drawing up an image of environmental characteristics during a cold spell (La Niña). The area covered between 7° North latitude and 25° South latitude, between the coast and a maximum of 650 nautical miles. Mention should be made that in the case of the Peruvian jurisdictional sea, the *transectas*, direction followed by ships searching oceanographic information, was limited by the geographic parallel of Boca de Capones (Ecuador) and by the geographical parallel of Arica (Chile).



The IX Regional Joint Cruise of Oceanographic Research, coordinated by the CPPS, took place between September and October 2006. A total of four vessels belonging to research institutions of Colombia, Ecuador, Perú and Chile participated in this activity.

The area of study covered from 7° North latitude to 32.08° South latitude. The zone studied in the Chilean jurisdictional sea comprised the area between 18° 25' South latitude in Arica and 32° 18' South latitude. The purpose of this Regional Cruise was to gather basic meteorological data (air temperature, atmospheric pressure, course and speed of wind, type and amount of clouds, level and course of waves). The information gathered was used to draw charts of surface temperatures and salinity to a depth of 500 meters along 12 transectas to the coast with stations up to a maximum distance of 395 nautical miles, and at a distance of 100 meters.

PARTICIPATION OF CHILE IN UNCLOS

In 1997 Chile ratified the **United Nations Convention on the Law of the Sea of 1982**.

Pursuant to general principles of international law this Convention provides that: Where there is an agreement in force between the States concerned, questions relating to the delimitation of the exclusive economic zone or continental shelf shall be determined in accordance with the provisions of that agreement. (Article 74, paragraph 4; Article 83, paragraph 4).

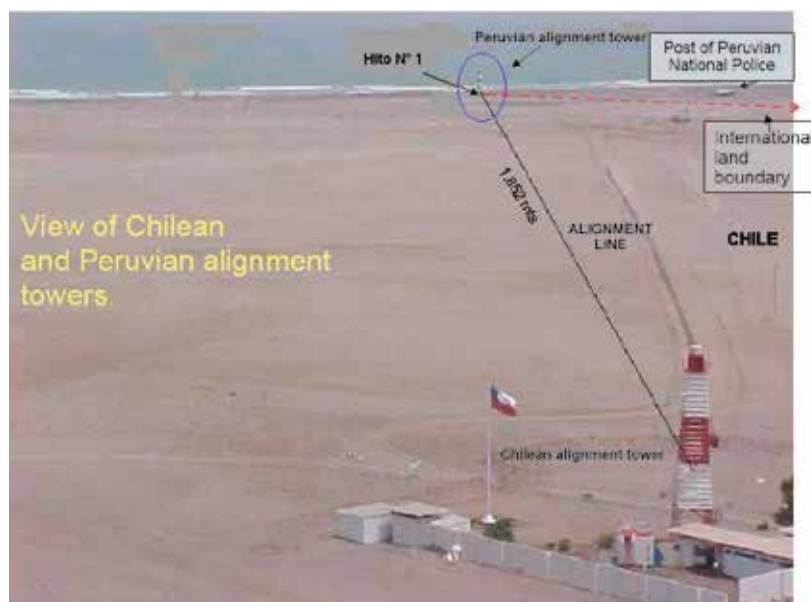
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The Maritime Boundary is the Parallel of Boundary Marker No.1 (18° 21' 03" S Latitude, local datum)

The agreed maritime boundary was materialized by several acts, especially in 1968 and 1969. These acts reflect the existence of an international agreement and were carried out with the active participation of Perú, with the aim of indicating the parallel of Boundary Marker No. 1 (i.e., by means of light signals that allow the boundary between the States to be identified). The maritime boundary between Chile and Perú is thus materially indicated at parallel 18° 21' 03" S.

The Act of 1968 containing the report signed by delegates of Chile and Perú on the Chilean-Peruvian Frontier is a legal instrument that records the implementation of the mission entrusted to them by their respective Governments, to carry out an *“on-site study for the installation of leading marks visible from the sea to materialize the parallel of the maritime frontier originating at boundary Marker number one (No. 1)”*.

This report was approved in its entirety by both Ministries of Foreign Affairs. As confirmed by the diplomatic note issued by the Peruvian Ministry of Foreign Affairs and replied by the Chilean Ministry of Foreign Affairs. In Note (J)-6-4/43 dated August 5, 1968, the Secretary General of the Ministry of Foreign Affairs of Perú stated *“that the Government of Perú approves in their entirety the terms of the document signed on the Peruvian-Chilean border on 26 April 1968 by the representatives of both countries in relation to the installation of leading marks to materialize the parallel of the maritime frontier”*.



In turn, Note No. 242 of 29 August 1968, the Embassy of Chile in Lima expressed that *“given that the parallel which it is intended to materialize is the one which corresponds to the geographical situation indicated by Boundary Marker No. 1 as referred to in the Act signed in Lima on 1 August 1930, the Chilean Government agrees that an ad-hoc Joint Commission should be constituted as soon as possible for the purpose of verifying the position of this pyramid and that, in addition, the said Commission should determine the location of the sites where the leading marks are to be installed”*.

These acts were followed by the construction of alignment towers to indicate the maritime limit and demonstrate that there was a mutual understanding of the maritime limit and latitude wherein it is located.



Peruvian Alignment Tower and Boundary Marker No. 1.

In 1969, a Mixed Commission of both countries verified the location and inspected the state of preservation of Boundary Marker No. 1 and several other markers. The Act states that: *“for the purposes of verifying the original geographical position of the concrete-made Boundary Marker number one (No. 1) of the common frontier and for determining the points of location of the Alignment Marks that both countries have agreed to install in order to signal the maritime boundary and physically to give effect to the parallel that passes through the aforementioned Boundary Marker number one, located on the seashore...”*.

These acts and the relevant diplomatic notes constitute effective agreements confirming the prior existence of a valid maritime boundary with full legal effect for both parties.

When this work was carried out, the two towers that “materialize the parallel of the maritime boundary” between both countries, were installed. Their alignment was visible and operative until 2001, when the tower erected by Perú was almost totally destroyed. It was not reconstructed.

Parallel 18° 21' 03” South latitude has been historically recognized and invoked by both countries as the maritime boundary. This latitude was based on local datum, determined and recorded by the Mixed Commission that acted in 1929 and 1930. Its equivalent in WGS84 datum is 18° 21' 00” S latitude.

On 5 August 1930, the Plenipotentiaries of Chile and Perú *“noted that the details regarding the location and specific characteristics of the boundary markers which, beginning in order from the Pacific Ocean demarcate the Peruvian-Chilean frontier line, are as follows...”*. Boundary Marker No. 1, made of concrete, is located on the seashore (“orilla del mar”) at coordinates 18° 21' 03” S and 70° 22' 56” W. The Marker provides a point of reference for the maritime boundary.

The Law of Territorial Demarcation of the Province of Tacna, Department of Tacna, No. 27.415 of 3 February 2001, provides that the Province is bounded on the South-West by the Pacific Ocean: *“The boundary begins at Boundary Marker No. 01” (Pacific Ocean), continues along the line of the coast until the mouth of Los Mendocinos stream...”*. To the East and South-East, the description of the frontier with Chile also indicated that it continued from Boundary Marker No. 80 to Boundary Marker No. 1 (Pacific Ocean), which confirmed that the South latitude of Peruvian territory is 18° 21' 03” S. Similarly, the Instituto Nacional de Estadísticas e Informática de Perú, INEI, referred in 1996 to the extension of the Peruvian territory, and identified parallels 0° 01' 48” (*Thalweg* of Putumayo River, Loreto) and 18° 21' 03” S (Pascana del Hueso, Tacna) as the extreme latitudes of the country. (<http://www1.inei.gob.pe/biblioineipub/bancopub/Est/Lib0347/N25/GEOGRAF.htm>).³

³ 2000 Statistics on the Environment reiterates the same data. <http://www.inei.gob.pe/biblioineipub/bancopub/Est/Lib0351/cap1-1.htm>

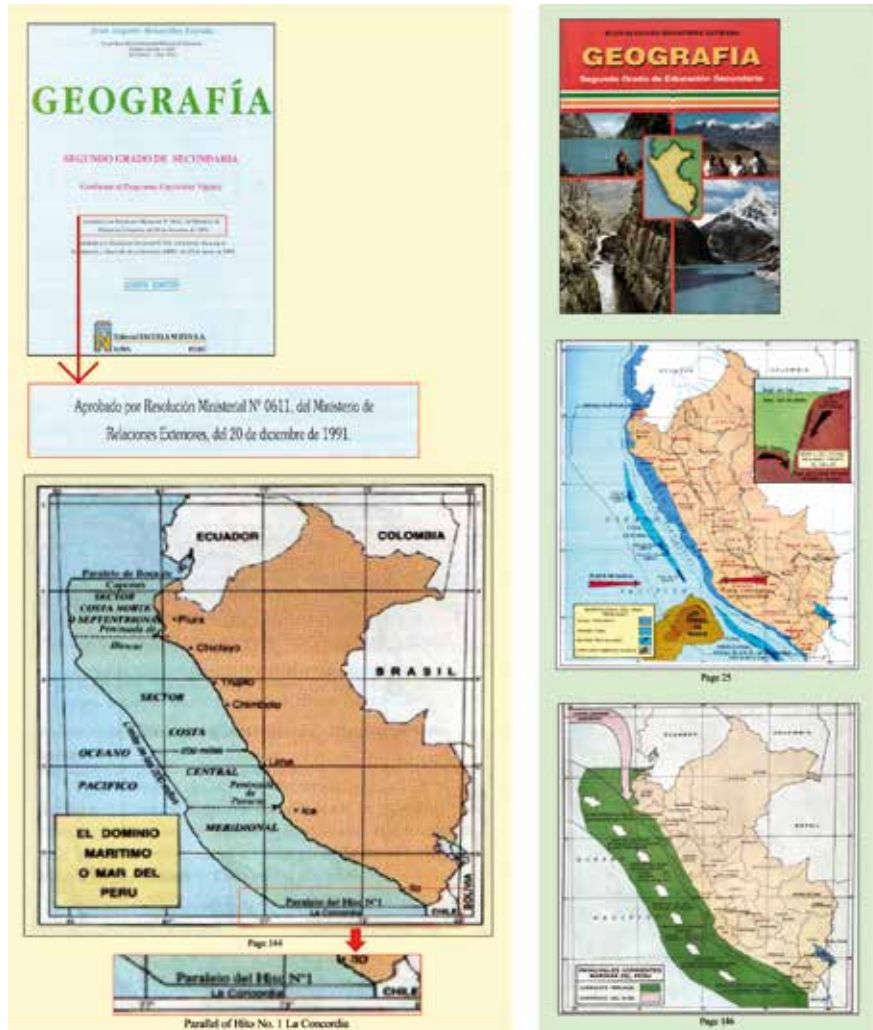
PERUVIAN SCHOOL TEXTS RECOGNIZE THE MARITIME BOUNDARY

- Perú, visión global y de síntesis, of Rosa Graciela Ponce de León Bardález, with a prologue by the Institute of Historic Maritime Studies of Perú [Instituto de Estudios Histórico-Marítimos del Perú], 1999 (p.19), states the following:

“Perú is situated in the central and western coast of South America, directly below the Equator between 0° 01’ 48” and 18°21’ 03” South latitude”.

- Atlas Histórico, Geográfico y de Paisajes Peruanos, Presidencia de la República, National Planning Institute (Geographic Consultancy) [Instituto Nacional de Planificación, Asesoría Geográfica], written from 1963 to 1970 (Lima, Perú), indicates:

“We name Peruvian Pacific [Pacífico Peruano] a portion of the Tropical Eastern Pacific Ocean located between latitudes that constitute the geographical frontiers of Perú to the North and to the South”. “In the south, the southernmost point of Perú is found in the department of Tacna, on the frontier with Chile, to the south of the point called ‘Pascana del Hueso’, on the shore of the Pacific Ocean and it has the following coordinates: 18° 21’ 03” Latitnde South, 70° 22’ 56” Longitunde West ”. This means that the southern end of Perú is the point located on the coordinate 18° 21’ 03” S corresponding to Boundary Marker No. 1.



6

The Maritime Case before the International Court of Justice

On 16 January 2008, Perú filed a claim against the Chilean State before the International Court of Justice (ICJ). Perú contends that there is a bilateral legal controversy over “the delimitation of the maritime spaces between both countries, starting from the point where the land frontier between Perú and Chile meets the sea pursuant to the 1929 Treaty on Boundaries”.

Perú requests that the Court determine the maritime boundary on the basis of principles and norms of international custom which, in its opinion, have been incorporated in the United Nations Convention on the Law of the Sea and have been applied in cases concerning maritime delimitation.

Perú also requests that the Court recognize its exclusive sovereign rights over an area extending beyond 200 nautical miles of Chilean maritime zone, up to now considered high seas.

With this request Perú intends to incorporate into its maritime domain a zone of the high seas, currently open to all States.

As immediate precedents of the case, in 2005 Perú adopted Law No. 28621, the Peruvian Maritime Dominion Baselines Law, and in 2007, by Supreme Decree No. 047 - 2007-RE it drew for the first time the maritime zone it now claims, which overlaps the Chilean maritime zone and the high seas. In this map, Perú took as a point of reference a parallel located over the base point 266, which it unilaterally identifies as Concordia, at $18^{\circ} 21' 08''$ S (WGS 84) and not at $18^{\circ} 21' 00''$ S as agreed.

The Chilean position stresses that both references to point 266 or Concordia, unilaterally measured by Perú (who invokes the relationship between maritime delimitation and the land boundary from the Treaty of 1929 and Acts of 1930), and the new claim over an outer triangle of high seas are secondary aspects of the main question, which is that of the existence of a validly agreed delimitation.

CHILE MAINTAINS THAT:

- The maritime delimitation with Perú is a reality established by valid long-standing treaties between the parties, in force and implemented in law and in practice.
- In 1947, Chile and Perú issued concordant unilateral Declarations concerning a sovereign maritime zone over a maximum distance of up to 200 miles, reserving the right to extend it even further. The Peruvian proclamation (Decree No. 781), specifically established that its maritime zone should be measured “following the line of the geographic parallels”. It should therefore be limited in the south by a line following that of the parallel of latitude corresponding to the point where it ends its frontier with Chile.
- In 1952, in a multilateral treaty called the “Santiago Declaration on the Maritime Zone”, Chile, Perú and Ecuador recognized each state’s right to a maritime zone of exclusive sovereignty and jurisdiction over a distance of 200 nautical miles. In this instrument, the parties agreed that the general maritime zone corresponding to each began at the “parallel of the point at which the land frontier of the respective States reaches the sea” (Article IV). Hence, it was confirmed that Perú had the same lateral maritime delimitation with its neighbors as that this same country had proclaimed five years earlier.
- In 1954, the three countries met in order to jointly defend their extended maritime claims. The Minutes of this Conference expressly record that they considered resolved the point referring to “the dividing line of jurisdictional waters, which is the line of the geographic parallel traversing the point at which the land frontier of both countries reaches the sea”. In the same conference, the boundary was confirmed by the Agreement Relating to a Special Maritime Frontier Zone which is part of, and supplements the Santiago Declaration. This Agreement unmistakably refers to the “*parallel that constitutes the maritime boundary*” between the two countries.
- Chile, Perú and Ecuador have unilaterally, bilaterally and multilaterally recognized and implemented the agreed maritime boundary for over 50 years.
- For example, in a Presidential Resolution issued in 1955, Perú established that its maritime zone, referred to in the Decree of 1947 and the Santiago Declaration, was to be delimited on the sea by a line running parallel to the Peruvian coast, at a distance of 200 miles, and added unequivocally that, in accordance with Article IV of the Declaration the line “*shall not pass the line of the parallel corresponding to the point at which the frontier of Perú reaches the sea*”.

- The existence of the boundary has also been recognized by the publications of the United Nations, by third States, by authorities and in a widespread international doctrine representing different legal traditions, as well as in geographic and cartographic documents.
- The Peruvian claim over the zone of the high seas that would extend Peruvian “maritime domain” refers to an area open to the international community located south of the parallel that determines the agreed lateral maritime boundary, where there has never been a maritime claim.
- Perú has built a case that attempts to violate the *pacta sunt servanda* principle (every treaty in force is binding upon the parties to it and must be performed by them in good faith) as well as that of the stability of frontiers. The norms of the Law of Treaties, confirmed in numerous subsequent occasions over the past 50 years, are at stake.



Port of Arica.

The International Court of Justice

The International Court of Justice is the principal judicial organ of the United Nations. Its Statute is part of the Charter of the United Nations. The Court's jurisdiction extends to disputes of a legal nature that are submitted to it by States. The Court can only deal with a dispute when the States concerned have recognized its jurisdiction. No State can therefore be a party to proceedings before the Court unless it has consented thereto, by treaty or a declaration according to article 36 of the Statute.

The Court is composed of 15 judges of different nationalities elected on the basis of merit, and representing the world's diverse legal systems. They serve for 9 year terms and may be reelected. One-third of the judges are replaced in elections held every three years.

Composition of the International Court of Justice (August 2012)

President

Peter Tomka (Slovakia)

Vice-President

Bernardo Sepúlveda-Amor (Mexico)

Judges

Hisashi Owada (Japan)

Ronny Abraham (France)

Kenneth Keith (New Zealand)

Mohammed Bennouna (Morocco)

Leonid Skotnikov (Russian Federation)

Antonio A. Cançado Trindade (Brazil)

Abdulqawi Ahmed Yusuf (Somalia)

Christopher Greenwood (United Kingdom)

Xue Hanquin (China)

Joan Donoghue (United States)

Giorgio Gaja (Italy)

Julia Sebutinde (Uganda)

Dalveer Bhandari (India)

The Registrar of the Court is jurist Philippe Couvreur (Belgium).

If in a given case there is no judge of the same nationality as the parties, the latter are entitled to designate an ad hoc judge, in which case the Court may be composed of up to 17 members.

In the case Perú vs. Chile, each party has designated an ad-hoc judge: Chile nominated Professor Francisco Orrego Vicuña and Perú Judge Gilbert Guillaume.

In 2008, the Court resolved that both countries would file the Memorial (Perú) and Counter-Memorial (Chile) on or before March 20, 2009 and March 9, 2010, respectively. The countries filed the Memorial and Counter-Memorial within these time-limits. Subsequently, after meeting with the Representatives of each party, the Court resolved that Perú may submit a Reply on or before November 9, 2010 and Chile a Rejoinder on or before July 11, 2011. Each of the parties submitted its documents in due term. On 22 March 2012, the Court set the dates of the oral phase which will take place from December 3 to 14, 2012, accordingly. The Court will then deliberate and decide.



International Court of Justice in The Hague (The Netherlands).

