

# **Maritime Delimitation between Peru and Chile<sup>1</sup>**

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<sup>1</sup> Translation of the document “Delimitación Marítima entre el Perú y Chile”, edited by the Ministry of Foreign Affairs and published at ‘El Comercio’ newspaper on 22 March 2009.

## Presentation

On 19 March 2009, the Agent of the Republic of Peru, Ambassador Allan Wagner Tizón, has filed before the International Court of Justice (ICJ) the Memorial of our country in the contentious case on maritime delimitation with Chile, within the deadline of 20 March 2009, established by the ICJ.

The Memorial contains a detailed exposition of the elements of fact and law that underpin the application presented by our country on 16 January 2008, as well as the conclusions and submissions presented to the Court to safeguard and render effective the rights of Peru over its maritime domain. To this respect, it should be remembered that the subject of the bilateral juridical controversy refers to the delimitation of the maritime spaces of both countries, starting from the point where the land boundary between Peru and Chile reaches the sea, that is, starting from the point named Concordia, in conformity with the Treaty of Lima of 1929.

Peru has requested the Court to determine the maritime boundary between both countries on the basis of the principles and norms of international custom, as sanctioned in the conventions on the law of the sea and as applied in the jurisprudence regarding the cases of maritime delimitation. In accordance with principles and norms, the tracing of an equidistant line starting from the coasts of both countries is called for in order to achieve a solution of equity, in the absence of special circumstances in the area.

Peru has also requested the Court to adjudge its sovereign and exclusive rights over the area of Peruvian sea extending beyond 200 nautical miles off Chilean territory and that that country considers to be part of the high seas.

The Court has fixed 9 March 2010 as the deadline for the presentation of the Counter-Memorial of the Government of Chile.

The said tribunal can subsequently authorise or dispose the presentation of a reply by the plaintiff and a rejoinder by the defendant. Upon the closure of the written phase of the proceedings, the oral phase shall be opened, and upon its closure the International Court of Justice shall deliver its judgment, which is binding and final for the parties.

The Memorial and the other documents presented by both countries during the written phase are confidential due to the reserved nature of the process, established by the Court and shall be made public at the start of the oral phase.

Finally, it is important to highlight once again Peru's pacifist stance in recurring to the highest supranational judicial instance to solve the controversy on maritime delimitation with Chile, which confirms our country's strong commitment to the international principle of settling controversies by peaceful means.

Lima, 19 March 2009  
José Antonio García Belaunde  
Minister of Foreign Affairs

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## **Maritime Delimitation between Peru and Chile**

### **Supreme Decree No. 781 of 1947**

With the object of protecting, preserving and using the natural resources existing in the sea adjacent to its national coasts, by means of Supreme Decree No. 781 of 1 August 1947 Peru proclaimed its sovereignty and jurisdiction over a zone between said coasts and an imaginary line parallel to them and traced on the sea at a distance of 200 nautical miles, measured following the geographic parallels.

Peru reserved its right to “modify such limits in accordance with supervening circumstances which may originate as a result of further discoveries, studies or national interests which may become apparent in the future.” This is to say that such measurement was made with a provisional character and was therefore subject to modification.

Supreme Decree No. 781 did not in any way establish the maritime boundary between Peru and Chile, as the maritime boundaries between two countries are not capable of being determined unilaterally, but must result from negotiation between the States concerned. This has thus been established by the International Law of the Sea, the writings of publicists and the jurisprudence of the International Court of Justice.

### **The Declaration on the Maritime Zone (Declaration of Santiago) of 1952**

On 18 August 1952, Chile, Ecuador and Peru signed the Declaration on the Maritime Zone, commonly known as “Declaration of Santiago”. Article II of this instrument disposes that the three signing countries “proclaim as a norm of their international maritime policy” that exclusive sovereignty and jurisdiction over the maritime area adjacent to their respective coasts up to a minimum distance of 200 nautical miles corresponds to each State. Article III of the Declaration of Santiago specifies that “the exclusive jurisdiction and sovereignty over this maritime zone shall also encompass exclusive sovereignty and jurisdiction over the seabed and the subsoil thereof.”

In this way, the three signing countries agreed that each one of them would have a maritime zone not less than 200 miles wide along their entire coasts and not just along portions of them. Regarding the issue of maritime delimitation, article IV of the Declaration of Santiago textually points out the following (the underlining is ours):

*“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.”*

This article IV has an exceptional character as it is circumscribed to the case of the existence of islands in the proximity of the neighbour State and establishes the criterion that shall be applied for the delimitation of the maritime zone corresponding to them. In accordance with the aforementioned article, the method to be applied exclusively to the maritime zone of islands is that of the geographic parallel of the point at which the land boundary of the respective States reaches the sea. Given that between Peru and Chile this situation does not present itself Article IV is not applicable to the Peruvian-Chilean relationship.

Consequently, the Declaration of Santiago does not include any agreement regarding delimitation between the general maritime zones (those projected from the continental coasts) of the signing countries.

To sustain that the geographical parallel should be applied to the maritime delimitation between Peru and Chile- where there are no islands- would not be in accordance with the Law and a clearly inequitable situation would result, to the exclusive prejudice of Peru whose south zone would be seriously shortened, reaching only 27 nautical miles in Punta Sama (Tacna), 46 nautical miles in Punta Coles (Moquegua) and 120 nautical miles in Camaná (Arequipa).

The juridical nature of the controversy between Peru and Chile resides precisely in the absence of a maritime delimitation treaty between both countries.

### **Agreement relating to a Special Maritime Frontier Zone of 1954**

On 4 December 1954 Chile, Ecuador and Peru signed an agreement to avoid the imposition of sanctions to “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” that intrude in the waters of the neighbouring country, as mentioned in its whereas part.

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With this purpose, the first article of the aforementioned agreement disposes that: "A special zone is hereby established, at a distance of 12 nautical miles on either side of the parallel which constitutes a maritime boundary between the two countries."

The expression "maritime boundary" in the said article cannot and should not be interpreted but in function of a convened line with the exclusive purpose of orienting the artisan fishing vessels.

As can be easily realised, the effects of this agreement are limited to the scope of artisan fishing

Article 4 of the 1954 Agreement additionally establishes that "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."

Consequently, the Agreement relating to a Special Maritime Frontier Zone cannot be interpreted in any way as abrogating from the fundamental principle contained in the Declaration of Santiago regarding the rights of the coastal State over the sea adjacent to its coasts up to the minimum distance of 200 miles.

It can be pointed out that while Peru ratified the 1954 Agreement on 6 May 1955, Chile only ratified it on 16 August 1967 and forty years later on 24 August 2004 it unilaterally registered it before the United Nations, handling which does not correspond to a boundaries treaty.

### **Documents of 1968 and 1969 between Peru and Chile**

In 1968 and 1969 Peru and Chile signed documents for the orientation of fishermen who carried out activities near the coast. To that end, two leading beacons were built which projected a beam of light in the direction of parallel 18°21'03" S, which coincides with the geographic parallel corresponding to Boundary Marker No. 1 of the Peruvian-Chilean land boundary. This Boundary Marker No. 1 is not the point at which the land boundary reaches the sea. By virtue of the second article of the Treaty of Lima of 1929, the point at which the land boundary reaches the sea is called "Concordia" and is located to the South-West of Boundary Marker No. 1 (see Figure No. 1)

### **Subsequent evolution**

The Peruvian position on maritime delimitation between States with adjacent coasts was officially presented by the President of the Delegation of Peru in the Third Conference of the United Nations on the Law of the Sea in 1980, in the sense that, failing a specific convention on delimitation expressly agreed to definitively fix the maritime boundaries, and where there were no special circumstances or historic rights recognised by the parties, the equidistant line should as a general rule be applied.

In accordance with this position and conforming to the rules of the new Law of the Sea, on 23 May 1986 the then Minister of Foreign Affairs of Peru set out the non-existence of an agreement of maritime boundaries between both countries to the Minister of Foreign Affairs of Chile, as well as the inequitable situation deriving from the application of the geographic parallel. Subsequently, the Ambassador commissioned for this step outlined to the Minister of Foreign Affairs of Chile that the parallel line should be considered as a formula which, despite having fulfilled the express objective of avoiding incidents with seafarers with scant knowledge of navigation, was not adequate to satisfy the requirements of safety to the greater attention in administering marine resources, with the aggravating circumstance that an extensive interpretation could generate a notorious situation of inequity and risk situation, to the detriment of the legitimate interests of Peru, that would come forth as seriously damaged.

This was later confirmed by a diplomatic Note from the Embassy of Peru in Chile which accompanied an Aide-Mémoire regarding the presentation made to the Ministry of Foreign Affairs of Chile.

From October 2000 onwards there was an exchange of Notes between Peru and Chile regarding the maritime delimitation issue and in 2004 Peru formally proposed the start of negotiations to end the controversy. Chile refused to negotiate.

Fulfilling the mandate of article 54 of the Political Constitution and upon an initiative of the Executive, Congress passed Law 28621, Peruvian Maritime Domain Baselines Law, enacted on 3 November 2005 (see Figure No. 2). Following said baselines the outer limit-southern sector- of the Maritime Domain of Peru was graphed, as recorded in the Chart approved by Supreme Decree No. 047-2007-RE dated 11 August 2007. In said Chart the existence of overlapping maritime zones projected from the coasts of Peru and Chile due to the orientation of the coasts of both countries can be appreciated. Said space constitutes the area in controversy between both States (see Figure No. 3).

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Additionally, the configuration of an area of sea within the Maritime Domain of Peru whose Eastern side is contiguous to the area in controversy can be observed in said map (see the triangular- shaped area that appears to the West of the area of overlapping or area in controversy, in Figure No. 3). Said area, which unquestionably corresponds to Peru, is contained within a larger area named by Chile as “Chilean presential sea”, and which according to Chilean legislation, it would correspond to Chile to have a presence.

### The Peruvian application before the International Court of Justice

Due to the fact that Chile has refused to negotiate a treaty on maritime boundaries with Peru, on 16 January 2008 our country presented its application before the International Court of Justice of The Hague (the Netherlands) requesting that it proceed to the maritime delimitation between both States. The resort to the Court is founded in the American Treaty on Pacific Settlement of 1948, commonly known as the “Pact of Bogotá”, to which Peru and Chile are parties. Said treaty constitutes the legal way to resort directly to the Court, without the need of any special agreement, in application of its article XXXI.

Said article establishes the abiding of the parties of the Statute of the International Court of Justice, to the jurisdiction of said Court in all controversies of juridical nature regarding the interpretation of a treaty as well as in any question of International Law, among others (see the text of that article in annex No. 7).

The Statute and Rules of the International Court of Justice regulate the formal aspects of the proceedings, such as the establishing of deadlines for the presentation of pleadings by the parties and for the taking of evidence.

The proceedings can last for several years.

Peru maintains its will to solve this controversy within the juridical scope of the International Court of Justice of The Hague, without affecting the dynamism of the whole of the bilateral agenda between both countries which spans the political relations, trade, investment and cooperation.

## ANNEXES TO THE INFORMATIVE DOCUMENT

1. Application of the Republic of Peru instituting proceedings. Case concerning maritime delimitation between the Republic of Peru and the Republic of Chile
2. Supreme Decree No. 781 of 1 August 1947
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7. American Treaty on Pacific Settlement (Pact of Bogotá). Signed at Bogotá on 30 April 1948. Article XXXI

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Figure No. 1. Point Concordia of the land boundary between Peru and Chile

Figure No. 2. Baselines Map

Figure No. 3. Chart of the Outer Limit –Southern Sector– of the Maritime Domain of Peru



>Historical moment: The President of the Republic, Alan García, announces to the Congress the presentation of the Application.

## Application of the Republic of Peru instituting proceedings

### CASE CONCERNING MARITIME DELIMITATION BETWEEN THE REPUBLIC OF PERU AND THE REPUBLIC OF CHILE

ANNEX No. 1 TO THE INFORMATIVE DOCUMENT

To the Registrar  
International Court of Justice

I, the undersigned, duly authorized by the Government of the Republic of Peru, of which I am the Agent, have the honour to submit to the International Court of Justice, in accordance with Articles 36 (1) and 40 (1) of its Statute and Article 38 of its Rules, an application instituting proceedings brought by the Republic of Peru against the Republic of Chile in the following case.

#### I. Subject of the Dispute

1. The dispute between Peru and Chile concerns the delimitation of the boundary between the maritime zones of the two States in the Pacific Ocean, beginning at a point on the coast called Concordia according to the Treaty of 3 June 1929. The dispute between Peru and Chile also involves the recognition in favour of Peru of a large maritime zone lying within 200 nautical miles of Peru's coast, and thus appertaining to Peru, but which Chile considers to be part of the high seas.

#### II. The Facts

2. The maritime zones between Chile and Peru have never been delimited by agreement or otherwise. Peru, accordingly, maintains that the delimitation is to be determined by the Court in accordance with customary international law.

3. However, Chile contends that both States have agreed on a maritime delimitation starting at the coast and then proceeding along a parallel of latitude. Moreover, Chile has refused to recognize Peru's sovereign rights in a maritime area situated within the limit of 200 nautical miles from its coast (and outside Chile's exclusive economic zone or continental shelf).

4. Since the 1980s, Peru has consistently endeavoured to negotiate the various issues in dispute, but it has constantly met a refusal from Chile to enter into negotiations (see e.g.: Annex 1). By a Note of 10 September 2004 of its Minister of Foreign Affairs (Annex 2), Chile firmly closed the door on negotiations.

#### III. The Jurisdiction of the Court

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 (Annex 3). This provision reads as follows:

##### ARTICLE XXXI

*"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 juridical 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 and extent of the reparation to be made for the breach of an international obligation".*

6. Both Peru and Chile are Parties to the Pact of Bogotá. No reservation in force at the present date has been made by either Party under the Pact.

#### IV. The Legal Grounds upon which Peru's Claims are Based

7. The principles and rules of customary international law governing maritime delimitation, as reflected in the relevant provisions of the 1982 United Nations Convention on the Law of the Sea ("UNCLOS") and developed by the jurisprudence of the International Court of Justice and other tribunals, constitute the main sources of law applicable to the present dispute.

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8. The fundamental guiding principle for the delimitation of the exclusive economic zone and the continental shelf between States with adjacent coasts, as expressed in Articles 74 and 83 of the Convention, is that the delimitation "shall be effected by agreement on the basis of international law, as referred to in Article 38 of the Statute of the International Court of Justice, in order to achieve an equitable solution". As interpreted by the recent jurisprudence of the Court, this principle is largely similar to the principle of "equidistance/special circumstances" concerning the delimitation of the territorial sea between States with adjacent coasts, as expressed in Article 15 of the Convention.

9. Under international law, both Peru and Chile are entitled to a maritime domain adjacent to and prolonging their respective land territory to a distance of 200 nautical miles from their baselines. On this basis and due to the geographic configuration of the coast, their entitlements overlap. As long as no agreement has been reached by the Parties in respect of the delimitation of their respective maritime zones and in the absence of special circumstances of such a nature as to put into question the equidistance line, such equidistance line achieves an equitable result. The maritime boundary between the Parties should be determined accordingly.

10. In contrast, a dividing line along a parallel starting from the coast, advocated by Chile, does not meet the fundamental requirement of achieving an equitable result, nor does it stem from any agreement between the Parties.

11. The delimitation should begin at a point on the coast called Concordia, the terminal point of the land boundary established pursuant to the Treaty and Complementary Protocol to settle the issue of Tacna and Arica -Treaty of Lima- of 3 June 1929 (Annex 4), the coordinates of which are 18° 21' 08" S and 70° 22' 39" W (see Annex 5) and extends to a distance of 200 nautical miles from the baselines established by the Parties. This is in conformity with Article 54, paragraph 2, of the Peruvian Constitution of 1993 (Annex 6), the Peruvian Law No. 28621 on the Maritime Domain Baselines of 3 November 2005 (Annex 5), the Peruvian Supreme Decree No. 047-2007-RE of 11 August 2007 (Annex 7) and Article 596 of the Chilean Civil Code as amended by Law No 18.565 of 23 October 1986 (Annex 8) which all concur in fixing the outer limit of their respective maritime entitlements up to a distance of 200 nautical miles measured from the baselines.

12. Under well established principles and rules of international law, Peru is also entitled to the maritime areas lying within 200 nautical miles of its baselines and beyond 200 nautical miles from Chile's baselines, and Chile's contentions to the contrary are devoid of merit.

### V. Decision Requested

13. Peru requests the Court to determine the course of the boundary between the maritime zones of the two States in accordance with international law, as indicated in Section IV above, and to adjudge and declare that Peru possesses exclusive sovereign rights in the maritime area situated within the limit of 200 nautical miles from its coast but outside Chile's exclusive economic zone or continental shelf.

14. The Government of Peru, further, reserves its right to supplement, amend or modify the present Application in the course of the proceedings.

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

All communications relating to this case should be sent to the Embassy of the Republic of Peru to The Netherlands, Nassauplein 4, 2585 EA, The Hague, The Netherlands.

Respectfully submitted,

**Allan Wagner**  
Agent of the Government of the Republic of Peru

**ANNEXES TO THE APPLICATION OF PERU TO THE INTERNATIONAL COURT OF JUSTICE**

1. Note of the Ministry of Foreign Affairs of Peru of 19 July 2004.
2. Note of the Minister of Foreign Affairs of Chile of 10 September 2004.
3. American Treaty on Pacific Settlement (Pact of Bogotá) of 30 April 1948.

**See in:**

Department of International Law of the Organisation of American States.  
<http://www.oas.org/juridico/english/treaties/a-42.html>

4. Treaty for the Settlement of the Dispute regarding Tacna and Arica, with Additional Protocol – Treaty of Lima- of 3 June 1929.

**See in:**

United Nations Treaty Collection, LNTS Database  
<http://treaties.un.org/Pages/LONOnline.aspx>

5. Law No. 28621, Peruvian Maritime Domain Baselines Law

**See in:**

Digital Archive of Legislation in Peru, Congress of the Republic of Peru  
<http://www.congreso.gob.pe/ntely/default.asp>

6. Article 54, paragraph 2 of the Political Constitution of Peru of 1993.

**See in:**

Congress of the Republic of Peru. Constitution  
<http://www2.congreso.gob.pe/RelatAgenda/constitucion.nsf/constitucion>

7. Peruvian Supreme Decree No. 047-2007-RE of 11 August 2007.

**See in:**

Official Journal El Peruano, Legal Norms, Search of Norms of the Ministry of Foreign Affairs of 12 August 2007.  
[www.elperuano.com.pe](http://www.elperuano.com.pe)

8. Article 596 of Chilean Civil Code, according to the modification of Law 18.565 of 23 October 1986.

**See in:**

Library of the National Congress of Chile  
<http://www.bcn.cl/leyes/pdf/actualizado/172986.pdf>

**Supreme Decree No. 781  
1 August 1947**

ANNEX No. 2 TO THE INFORMATIVE DOCUMENT

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

With the advisory vote of the Cabinet:

**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.

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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 a 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**

**MARITIME DELIMITATION BETWEEN PERU AND CHILE**

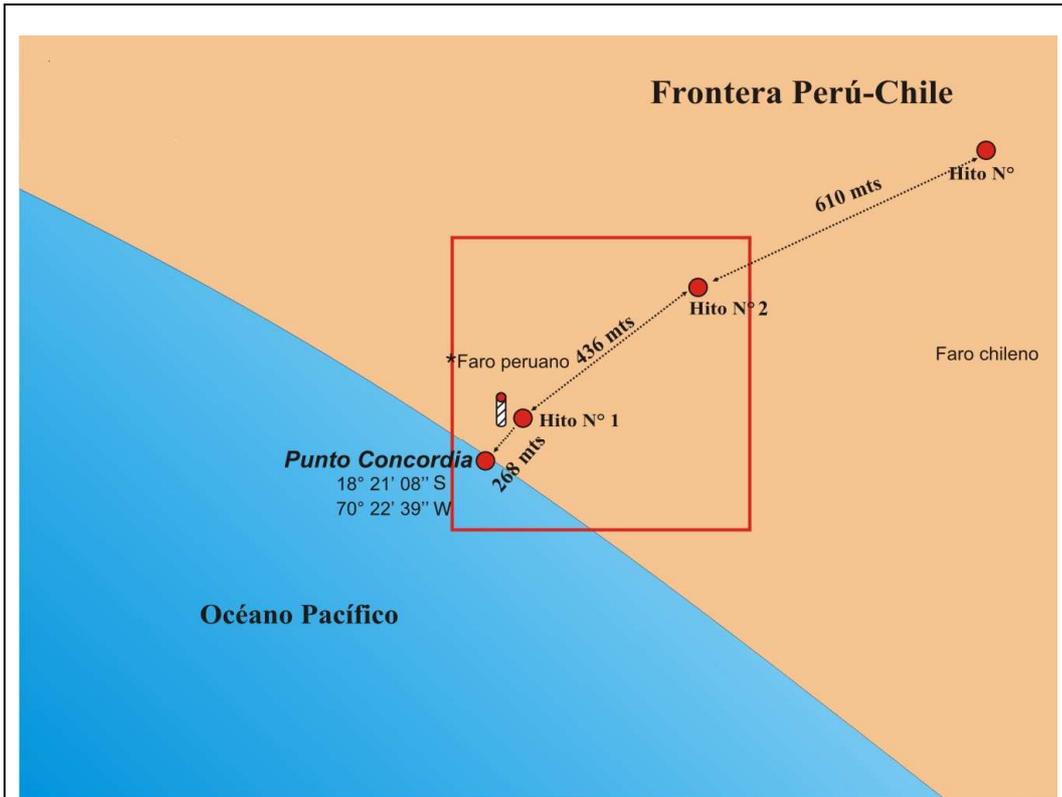


Gráfico N° 1. Punto Concordia de la frontera terrestre entre el Perú y Chile.  
 \*Nota: El Faro Peruano fue destruido por el terremoto del 2001.

1

**Figure No. 1.**

Point Concordia of the land boundary between Peru and Chile

**Figure No. 2.**

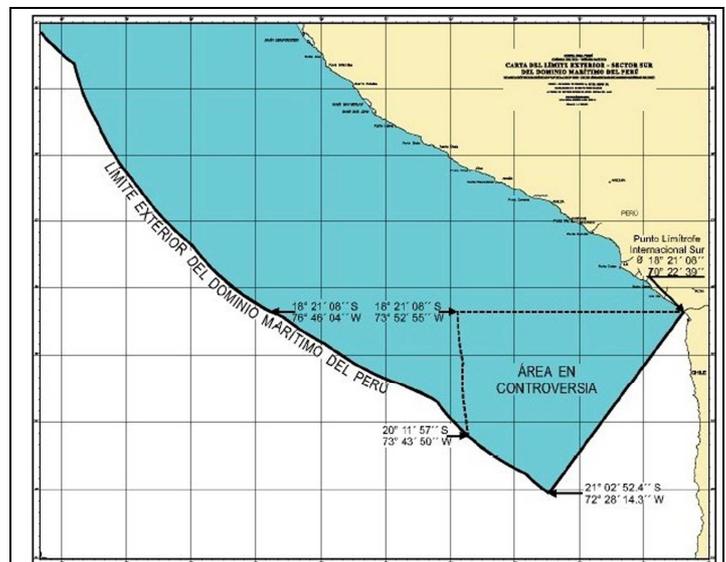
Baselines Map

**Figure No. 3.**

Chart of the Outer Limit –Southern Sector– of the Maritime Domain of Peru



2



3

## Declaration on the Maritime Zone ("Declaration of Santiago") 18 August 1952

### ANNEX No. 3 TO THE INFORMATIVE DOCUMENT

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 Peru, 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 the light of these circumstances, the Governments of Chile, Ecuador and Peru 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 Peru 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 co-ordinate the exploitation and development of all other kinds of products or natural resources existing in these waters which are of common interest.

Santiago, 18 August 1952.

**Julio Ruiz Bourgeois**, Delegate of Chile  
**Jorge Fernández Salazar**, Delegate of Ecuador  
**Alberto Ulloa**, Delegate of Peru  
**Fernando Guarello** – Secretary-General

#### RATIFICATIONS

**CHILE:** Supreme Decree N° 432 of 23 September 1954. (Official Journal of 22 November 1954).

**ECUADOR:** Executive Decree N° 275 of 7 February 1955. (Official Registry N° 1029 of 24 January 1956).

**PERU:** Legislative Resolution N° 12.305 of 6 May 1955, to be executed by Supreme Decree of 10 May 1955. (El Peruano of 12 May 1955).

**COLOMBIA:** Accession instrument deposited on 16 April 1980 at the Ministry of Foreign Affairs of Ecuador. Law 7ª, Art. 4 of 4 February 1980.

Registered at the United Nations Secretariat on 12 May 1976.

Certificate of Registry N° 21404 of 1 May 1979 – UN Convention N° 14758.

## **Agreement relating to a Special Maritime Frontier Zone**

**4 December 1954**

### ANNEX No. 4 TO THE INFORMATIVE DOCUMENT

The Governments of the Republics of Chile, Ecuador and Peru, 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,

Have appointed the following Plenipotentiaries:

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

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

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

Who,

### **CONSIDERING THAT:**

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:**

**First:** 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 the maritime boundary between the two countries.

**Second:** 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.

**Third:** Fishing or hunting within the zone of 12 nautical miles from the coast shall be reserved exclusively to the nationals of each country.

**Fourth:** 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 Peru have signed this Agreement in three copies at Lima on 4 December 1954.

### **FOR THE GOVERNMENT OF CHILE:**

(Signed:) ALFONSO Bulnes C.

### **FOR THE GOVERNMENT OF ECUADOR:**

(Signed:) J. Salvador Lara.

### **FOR THE GOVERNMENT OF PERU:**

(Signed:) David Aguilar C.

### **RATIFICATIONS**

**CHILE:** Decree N° 519 of 16 August 1967. (Official Journal of 21 September 1967).

**ECUADOR:** Decree N° 2556 of 9 November 1964. (Official Registry N° 376 of 18 November 1964).

**PERU:** Legislative Resolution N° 12.305 of 6 May 1955, to be executed by Supreme Decree of 10 May 1955. (El Peruano of 12 May 1955).

**Law No. 28621**

**Peruvian Maritime Domain Baselines Law**

**3 November 2005**

ANNEX No. 5 TO THE INFORMATIVE DOCUMENT

**THE PRESIDENT OF THE REPUBLIC**  
**WHEREAS:**

The Congress of the Republic has enacted the following Law:  
**THE CONGRESS OF THE REPUBLIC;**  
Has enacted the following Law:

**PERUVIAN MARITIME DOMAIN BASELINES LAW**

**Article 1.-**

**Purpose of the Law**

This law establishes, in compliance with Article 54 of the Political Constitution of Peru and in accordance with International Law, the baselines from which the breadth of the State's maritime domain is measured, up to a distance of 200 nautical miles, on which the Peruvian State exercises sovereignty and jurisdiction.

**Article 2.-**

**Determination of Baselines**

The Baselines are determined by the geographical coordinates contained in Annex 1, which start in the North at the astronomical coordinates Lat. 03°23'33.96"S, Long. 80°19'16.31"W (WGS84 Lat. 03°23'31.10"S, Long. 80°18'49.29"W), and ending in the South at the coordinates WGS84 Lat. 18°21'08" S, Long. 70°22'39"W, included in the six charts of Annex 2 of this Law.

**Article 3.-**

**Consideration as Internal Waters**

In accordance with International Law, the waters enclosed by the baselines established in Article 1 of this Law, are part of the internal waters of the State.

**Article 4.-**

**Outer Limit**

In accordance with the Political Constitution of the State, the outer limit of the maritime domain of Peru is traced in such a manner that every point of the mentioned outer limit is at a distance of two hundred nautical miles from the nearest baselines point, pursuant to the delimitation criteria established in International Law.

**Article 5.-**

**Elaboration of the Outer Limit Cartography**

The Executive Branch is in charge of elaborating the cartography corresponding to the outer limit of the maritime domain, in accordance with Article 4 of this Law.

**Article 6.-**

**Annexes 1 and 2 are Part of this Law**

Annexes 1 and 2 are an integral part of this Law.

**Article 7.-**

**Entry into force**

This Law shall enter into force the day following its publication in the Official Journal, 'El Peruano', being any preceding legal provision contrary to the rules contained in this Law abrogated, or left without effect, or modified, accordingly.

Let it be informed to the President of the Republic for its promulgation.  
In Lima, on the third day of the month of November of the year two thousand and five.

**MARCIAL AYAIPOMA ALVARADO**  
President of the Congress of the Republic  
**FAUSTO ALVARADO DODERO**  
First Vice President of the Congress of the Republic

**TO THE CONSTITUTIONAL PRESIDENT OF THE REPUBLIC**  
**THEREFORE:**

I order this law to be published and enforced.  
Given in the House of Government, in Lima, the third day of the month of November of the year two thousand and five.

**ALEJANDRO TOLEDO**  
Constitutional President of the Republic  
**PEDRO PABLO KUCZYNSKI GODARD**  
President of the Cabinet of Ministers

**Supreme Decree No. 047-2007-RE of 11 August 2007**  
**Approval of the Chart of the Outer Limit –Southern Sector- of the Maritime Domain of Peru**

ANNEX No. 6 TO THE INFORMATIVE DOCUMENT

**THE PRESIDENT OF THE REPUBLIC**

**WHEREAS:**

Article 54 of the Peruvian Political Constitution establishes that the maritime domain of the State comprises the sea adjacent to its coasts, as well as its seabed and subsoil, up to a distance of two hundred nautical miles measured from the baselines established by law;

In compliance with the above mentioned Constitution and pursuant to international law, Law No. 28621 –Peruvian Maritime Domain Baselines Law was issued on 3 November 2005, from which the width of the maritime domain of the State is measured up to a distance of two hundred nautical miles;

Article 4 of said law provides that the outer limit of the maritime domain of Peru is traced in such a way that each point of the above mentioned outer limit is at a distance of 200 nautical miles from the nearest point of the baselines, in application of the delimitation criteria established by international law;

Article 5 of said law prescribes that the Executive Branch is responsible for elaborating the cartography of the outer limit of the maritime domain pursuant to the provisions set forth in Article 4 thereof;

The cartographic work has been based in the calculation of arcs of circles the radii of which are two hundred nautical miles in length measured from the baselines, so that each point of the outer limit is at a distance of two hundred nautical miles of the nearest point of the baseline;

It is deemed convenient to elaborate the cartography of the outer limit of the maritime domain of Peru in three sectors: southern sector, from contributing points No. 146 to No. 266 of the baselines; central sector, from contributing points No. 74 to No. 146 of the baselines; and northern sector, from contributing points No. 1 to No. 74 of the baselines, in the indicated order;

Pursuant to Paragraph 8), Article 118 of the Peruvian Political Constitution and Legislative Decree No. 560 –Law of the Executive Branch:

**DOES HEREBY RESOLVE:**

**Article 1.-** Let the attached chart be approved, which illustrates the outer limit –southern sector- of the maritime domain of Peru, traced in accordance with the provisions set forth in Articles 4 and 5 of Law No. 28621 and the international law.

**Article 2.-** This regulation shall be effective as of the day following the date of its publication in the Official Journal 'El Peruano'.

Given in the House of Government, Lima, this eleventh day of August of two thousand and seven.

**ALAN GARCÍA PÉREZ**  
Constitutional President of the Republic

**JOSÉ ANTONIO GARCÍA BELAUNDE**  
Minister of Foreign Affairs

**American Treaty on Pacific Settlement**  
**“Pact of Bogotá”**  
**Signed at Bogotá on 30 April 1948**

ANNEX No. 7 TO THE INFORMATIVE DOCUMENT

Relevant Article to the Application submitted by Peru to the International Court of Justice.

**CHAPTER FOUR**  
**JUDICIAL PROCEDURE**

ARTICLE XXXI. 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 juridical 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.

[...]

Done at the City of Bogotá, in four texts, in the English, French, Portuguese and Spanish languages respectively, on the thirtieth day of April, nineteen hundred forty-eight.



>Working Meeting of the Peruvian Team, Paris, 2008.

## Peruvian Delegation to the international Court of Justice

Ambassador Allan Wagner Tizón, Agent of the Republic of Peru to the International Court of Justice.  
Ambassador Jorge Chávez Soto, Co-Agent of the Republic of Peru to the International Court of Justice.  
Doctor Juan Vicente Ugarte del Pino, Peruvian Lawyer.  
Doctor Roberto Mac Lean Ugarteche, Peruvian Lawyer.  
Doctor Eduardo Ferrero Costa, Peruvian Lawyer.  
Doctor Alain Pellet, International Lawyer (France).  
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Doctor Rodman Bundy, International Lawyer (United States).  
Mr. Scott Edmonds, International Cartographer (United States).  
Lieutenant Commander (retired) Jaime Valdéz Huamán, Peruvian Cartographer.  
Minister Counselor Marisol Agüero Colunga, Coordinator of the Delegation

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*Viceminister Secretary-General*  
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*Agent of Peru to the International Court of Justice and Ambassador to the Netherlands*

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Doctor Cristóbal Aljovín de Losada, Advisor on historical issues.  
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Doctor Alejandro Deustua Caravedo, Legal Advisor.  
Doctor Raúl Villanueva Pasquale, Attaché on Legal and Jurisdictional Affairs of the Peruvian Embassy to the Netherlands.  
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First Secretary Alfredo Fortes García, Coordinator of the Advisory Office.  
First Secretary Ricardo De Urioste Samanamud, official.  
First Secretary Angélica Calderón Alvarado, official.  
First Secretary Juan José Plasencia Vásquez, official.  
Third Secretary José Rosas Gamero, official.  
Mr. Juan Clímaco Tamayo Tamayo, official.

### **Legal Advisory of the Ministry of Foreign Affairs:**

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Congressman José Vega Antonio.

Congressman José Vargas Fernández.

Congressman Alejandro Aguinaga Recuenco.

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Rear Admiral (retired) Héctor Soldi Soldi.

Doctor Juan José Ruda Santolaria, Commission's Secretary.