

THE MARITIME PROBLEM OF BOLIVIA

INTRODUCTION

In the frame of the United Nations General Assembly, on September 24, 2003, Carlos Mesa, Vicepresident of the Republic of Bolivia at the time, made reference to the Bolivian sea coast demand and asked Chile to act in the light of the 21st Century circumstances. At the 58th Plenary Session of the UNGA, he said: "Today, more than ever before, I want to reaffirm at this forum that Bolivia will never relinquish its just claim for a sovereign access to the Pacific Ocean, because it was born as an independent Republic with a sea coast. This demand, which is already more than one hundred years old, is not the result of obstinacy or caprice but of the shortage of our economic resources and huge geographic handicaps that diminish our market competitiveness .

The fact of having been land-locked holds back not only our economic growth but also the welfare of our citizens as the analysis of the challenges faced by all land-locked countries has shown.

The restoration of the status of a coastal state is an act of justice and it has been for us unavoidable. In this understanding, we will continue searching for solidarity and support from the international community.

Our vocation and determination towards integration and economic complementation with neighboring countries lead us to call upon the Government and people of Chile to act looking at the future, by repairing a historical damage that has kept us anchored in the seventeenth century.

Two days after, before the OAS Permanent Council, the Bolivian Vicepresident pointed out the need to solve, as a first priority issue, the selling of natural gas to the United States and Mexico. Carlos Mesa explained at the OAS the deep crisis in Bolivia and the acts of violence all over the country which undermined its democratic stability.

Mesa said:" I believe we are going through a polarization of the country, a radicalization of positions, thus, we need dialogue, to come nearer, and the will to give up positions. For Carlos Mesa, radicalism

should not be formulated when the future of the country was being decided.

Concerning the sea coast problem, Carlos Mesa said that the War of 1879 between Chile, Bolivia and Peru has changed Bolivia into a land-locked State. The country, which had a coastal area of more than 120,000 square kilometers (around 46,153 square miles) lost that territory as a consequence of the Pacific War.

That territory was unjustly seized from Bolivia and it is a historical obligation for all Bolivians to recuperate a free and sovereign access to the sea. Bolivians have always been absolutely categorical about this claim.

Later on, the Vicepresident recalled that Bolivia and Chile have a traumatic and unresolved relationship in which Bolivia demands Chile to update its anachronistic position according to the requirements of the 21st Century. For a country that has looked at the future with so much intelligence, it would be also very important to look at its future relationship with Bolivia. According to the Bolivian Government, the Bolivian claim does not imply an excessive sacrifice from Chile, a privileged country for its long coast, and which has by nature, a relation of complementarity with the western part of Bolivia and the southern part of Peru.

PRESIDENTIAL MESSAGE ON JANUARY 4, 2004

After the October crisis exploited, the demand for a sea coast was brought up again in the regional and multilateral levels. On January 4, 2004, President Carlos Mesa addressed Bolivians and the international community underlining that the Bolivian Seacoast Problem lay at the core of the violent events in October. One of the crucial questions at that moment was if the Bolivian gas was going to be sold or not through a Chilean port.. . A great majority of Bolivians expressed their opposition to this alternative because there was a pending problem with Chile. Before deciding to benefit a specific region of that country, the Government and people of Bolivia wanted to recuperate their sovereign access to the sea.

The Bolivian claim is not only a bilateral question. In October (2003), it became a potential element of destabilization in the region because it put at risk the Bolivian democracy and generated a critical situation marked by uncertainty. The neighboring countries and other States in the region were concerned because the Bolivian crisis could extend itself over other nations. For that reason, at present, the Maritime Problem of Bolivia is a matter of interest for the international community, and thus, stability in the region goes necessarily through the solution of the Bolivian Seacoast Problem.

The Government and the people of Bolivia are grateful to the President of Venezuela, Hugo Chávez; to the President of Cuba, Fidel Castro; to the President of Brazil, Luiz Inácio Lula Da Silva; to the President of Uruguay, Jorge Batlle; to Former President of the United States of America, Jimmy Carter; to the Secretary General of the United Nations, Kofi Annan , for all of them, who on behalf of their countries, organizations or convictions have supported and support Bolivia today. Those voices of support and solidarity ratify that the claim of Bolivia is legitimate, just and absolutely necessary for its development and it is linked to stability in the region.

The Government of Bolivia demands Chile an attitude coherent with innovative currents of the 21st century , appeals to Chile's understanding, for both countries will not be able to have a flowing relationship, unless the question of sovereignty is solved. The people of Bolivia would like to think deeply together with the President of Chile and the Chilean people on the future of their mutual relations. Both nations can build a common destiny, once Bolivia has returned to the coasts of the Pacific Ocean.

If the solution to the Maritime Problem of Bolivia has to go through the decision of Peru, the Bolivian Government appeals to the constructive spirit of the Peruvian people. Bolivia and Peru are closely united by their culture, history, a common past, present and future. We hope Peru can give a positive answer, if it were necessary, concerning a fundamental issue for Bolivia.

THE EXTRAORDINARY SUMMIT OF THE AMERICAS

During the extraordinary Summit of the Americas, convened at Monterrey, Mexico in January 2004, President Carlos Mesa declared that : “we look at the future with faith, and convoke President Lagos and the Chilean Government to search together with us a definite solution to our sea-coast claim. The Bolivian Head of State declared that international good relations respond to the need of solving problems which should be solved for a reason of justice.

Afterwards, the President of Bolivia pointed out that the re-establishment of diplomatic relations between Bolivia and Chile will become a reality in the very moment that the Maritime Problem has been solved definitively. The proof that such a problem existed was that it was being discussed.

At his arrival in La Paz, President Mesa said that in the Bolivian Government’s understanding the re-establishment of diplomatic relations would be a reality when the Maritime Problem of Bolivia was definitely solved, and it will not be the starting point but the end of the negotiation process. Then, Mesa has observed his Chilean colleague’s lack of coherence, for he has affirmed that the Maritime Problem of Bolivia was a bilateral one, but at the same time, he avoided a presidential encounter.

SUPPORT FROM THE HONORABLE CONGRESS OF THE REPUBLIC OF BOLIVIA

The Bolivian Congress, in a Special Session, on January 20, 2004, approved Declaration 002/03 and Resolution 019/03-04. In the Declaration the H. National Congress of Bolivia expressed its firm conviction that the sea coast claim is an inalienable right of the Bolivian people. Secondly, it states its strongest and most determined support to the actions taken by the President of the Republic in the international arena regarding the Bolivian Seacoast Claim oriented to obtain a free, sovereign and useful outlet to the Pacific Ocean. Thirdly, it states that the Bolivian people, represented by its main social, political and economic organizations maintains the most solid unity on a historical claim, and finally it expresses its appreciation to

governments and peoples of the region and the international community for their support to Bolivia.

At the meantime, the Congress Resolution, approved points out in the first place, that on February 14, it is the 125th anniversary of the Chilean occupation and on October 20 is the Centennial Commemoration of the Treaty of 1904 concluded between Bolivia and Chile. It also states unanimously that the Republic of Bolivia has not renounced and will never renounce to its legitimate right of return to the sea.

Thirdly, it recalls that Chile is the only country in the hemisphere with which Bolivia does not have diplomatic relations, (a fact) that shows the existence of a problem.

The Resolution also mentions that Bolivia has important natural gas resources which can not be directly exported for Bolivia does not have a seaport of its own.

At the end, the document points out that the Bolivian Seacoast Claim is a matter that needs to be approached bilateral and trilaterally whenever a definite solution to the problem is being searched, and multilateral, because it has become an issue of hemispheric and international interest (concern).

Based on that rationale, the national congress decided to conform a Special Committee headed by both chambers Commissions of International Relations in order to coordinate permanently with the Executive Branch all relevant actions oriented to obtain a solution for the Bolivian Seacoast Problem, and instructed members of Congress to disseminate at all regional, continental and world inter-parliamentary fora the just Bolivian Seacoast Claim, asking for their support and solidarity in the solution for its geographical seclusion.

Never before, the National Congress has shown such a unity and unanimity concerning the Bolivian Seacoast Claim.

DIPLOMATIC AND HISTORICAL BACKGROUND REGARDING THE LOSS OF THE BOLIVIAN SEACOAST AND ITS CONSEQUENCES FOR INCREASING POVERTY IN BOLIVIA.

BOLIVIA'S HISTORICAL PROPERTY TITLES ON THE PACIFIC SEACOAST.

Bolivia has historical property titles on the Pacific seacoast. Its rights on the territories located on the coasts of the Pacific Ocean go back to the Spanish colonial period and its legality is beyond any doubt. However, because of some Chilean historians' persistence trying to demonstrate their arguments contrary to facts, we feel obliged to recall the historical and diplomatic background.

THE VICEROYALTY OF PERU

The Viceroyalty of Peru was established by Spain in 1542 as an administrative and political entity. During the colonial period, it included the present territories of Colombia, Ecuador, Bolivia and Peru as well as Chile and Argentina. Different historical studies testify that the boundaries of the Royal Audiencia of Charcas, the administrative entity on which the Republic of Bolivia was established later on, reached the coasts of the Pacific Ocean.

The Royal Audiencia of Charcas extended from the Loa River in the North (21°N Lat.) and the Salado River in the South (between 26° and 27° S Lat.). Laws IX and XII of the "Recopilación de Indias" (1) clearly established that jurisdiction. In fact, when Bolivia was born as an independent republic in 1825, that was precisely the jurisdiction of the Bolivian Department of Potosí.

On April 18, 1548, Spanish peacemaker La Gasca defined the boundaries between the Viceroyalty of Peru (to which the Royal Audiencia of Charcas belonged) and the Capitanía of Chile, having established the 25th parallel as the northern demarcation line of Chile. This same criteria was also expressly mentioned to Emperor Charles V by Pedro de Valdivia, the Conqueror of Chile in a letter dated October 15, 1550.

Then, It is clear that Chile never owned any territories beyond the Copiapó Valley, and that fact was subsequently recognized in all maps

published in the world until 1880. Based on that rationale, the Bolivian sovereignty was unquestioned as far as the 25th parallel.

THE VICEROYALTY OF RIO DE LA PLATA

Since 1776, it was decided that the Real Audiencia of Charcas be under the jurisdiction of the Viceroyalty of Rio de La Plata. In fact, this new Viceroyalty was created with the “gubernaciones” (governorates) of Paraguay and Tucuman, Charcas and the province of Cuyo, that is to say, extending over the present territories of Bolivia, Argentina, Paraguay, the Eastern Strip and the Brazilian state of Rio Grande. The Royal Audiencia of Charcas had four districts, namely, La Paz, Santa Cruz, Potosí and Charcas. The District of Potosi was divided into six sections, namely, Porco, Chayanta, Atacama, Lopez, Chichas and Tarija. Consequently, the littoral on the Pacific Ocean or Atacama was part of Potosi. Atacama had as its boundary the Salado River, next to the Paposos (25°S Lat 31’ 36’’).

CREATION OF THE REPUBLIC OF BOLIVIA (1825)

Bolivia was established as an independent Republic in 1825. After the Independence War from Spain the territories of the new American States were established under the principle “UTI POSSIDETIS JURIS OF 1810”. The Bolivian territory included the former Royal Audiencia of Charcas. In 1826, Mariscal Antonio José de Sucre, President of Bolivia took measures to modernize the political division of the country. As a matter of fact, Bolivia was divided into five “*départements*”, namely Chuquisaca, La Paz, Cochabamba, Santa Cruz and Potosí. These political and administrative units were also subdivided into provinces, and these last ones into “cantons”. Atacama, having as its capital San Pedro de Atacama belonged to the jurisdiction of Potosi. It was a dry and arid region, without water which had, however important nitrate, borax and copper ores.

Only in 1867, the *Département* of Litoral was created. It was politically subdivided into two provinces, namely, La Mar with its capital, Cobija and Atacama with its capital San Pedro de Atacama. When Bolivia was born as a Republic, the Litoral had around 3,700 inhabitants. In 1885, 5,500, and in 1879, the population was of 15,000 people. Its area was nearly 120,000 square kilometers (around 46,153 square

miles). Two rivers defined its boundaries, the Loa River to the North (Peruvian border line) and the Salado River to the South (Chilean border line). The ports on the Bolivian coast were Antofagasta, Cobija and Tocopilla, the bays of Mejillones, Algodonales and Herradura and the small bays of Catico, Guanillos, Michilla, Tames, Gualaguala, Cobre and Paquica. Also some small towns such as Calama and San Pedro de Atacama have developed within this territory.

FIRST TREATY OF FRIENDSHIP, COMMERCE AND NAVIGATION SIGNED BETWEEN BOLIVIA AND CHILE

The territorial status of Bolivia was never questioned by Chile. In fact, the 1822, 1823 and 1833 Chilean Political Constitutions recognized that the northern boundary of Chile was the Atacama Desert. This position is also reflected in the first bilateral Treaty on Friendship, Commerce and Navigation signed by both countries. This was approved by the Congress of Chile between 1833 and 1834.

CHILEAN INCURSIONS ON BOLIVIAN COASTS

The growing importance of nitrates in the world markets together with the fact that Bolivia had a scarce population in the province of Atacama and reduced economic resources to exercise its authority, encouraged many Chilean adventurers since 1840 to settle in that territory and exploit it without Bolivian permission. Bolivia wanted to solve these violations through friendly dialogue with migrants. However, Chile refused to talk about the issue while it continued occupying the Bolivian territory.

FIRST TREATY ON LIMITS SIGNED BETWEEN BOLIVIA AND CHILE (1866)

The first Treaty on Limits between Bolivia and Chile was signed on August 10, 1866. The boundary was settled on parallel 24° S Lat. It also determined the partnership in the exploitation of guano, metals and minerals in the territory between parallels 23° and 25° S Lat. In this way, Chile achieved its goal to advance as far as the 24° S Lat. and was allowed to work and exploit existing riches as far as 23° S Lat.

SECOND TREATY ON LIMITS SIGNED BETWEEN BOLIVIA AND CHILE (1874)

On August 6, 1874, the second Treaty on Limits was signed between the two countries. It maintained the division line on 24° S Lat. And the rights for Chilean exploitation as far as 23° S Lat. It was also agreed that Chilean industries would not be taxed during 25 years.

On June 1875, a Complementary Treaty to this instrument was signed in order to amend Articles 3 and 10 and incorporate an arbitration clause.

THE TEN CENTS TAX

After the ratification of the 1874 Treaty, a British Company asked the approval of a concession to exploit nitrate. The Bolivian Congress determined to charge 10 cents to every “quintal” (100 pounds) of exported nitrate. This measure provoked a claim from Chile that thought the treaty was violated in spite of the fact it was meant to apply only to Chilean enterprises, not British. Then the Government of Bolivia declared that it was open to accept arbitration provided by the same treaty.

THE OCCUPATION OF ANTOFAGASTA

Nonetheless, on February 14, 1879, Chile decided to occupy the port of Antofagasta where there were no military forces. After having taken over Antofagasta, Chile occupied the ports of Cobija, Mejillones and Gatico, the small towns of Calama and San Pedro de Atacama, besides the mining ores in Caracoles.

THE PACIFIC WAR

In 1879, Bolivia was led to a war that did not want nor looked for. It had to defend its sovereignty and because of a defensive treaty signed with Peru, it intended to stop the invasion to that territory. Chile declared war to Bolivia and Peru on April 5, 1879. The conflict was unfair because Chile, aware of its purpose had armed itself in advance

Bolivia and Peru found themselves almost without war means, and the aftermath of the war was the loss of the Bolivian Littoral on one hand, and the occupation of Tarapacá, Tacna and Arica on the Peruvian side.

The 1879 Pacific War started with the Chilean armed invasion to the Bolivian littoral. It is important to point out the heroic defense of Calama where Eduardo Abaroa, the most outstanding Bolivian civil hero, played a crucial role. As a consequence of that conflict, the country lost 120.000 square kilometers (around 43,153 square miles) of its territory along with 400 kilometers (248.6 miles) of its coast line, including several ports, bays and small bays as well as its sovereign access to the sea.

In the Bolivian lost territory, copper ores were discovered at Chuquicamata one of the most important mines not only in Chile but in the world. Also, important resources of guano and nitrate were lost. All of this has contributed greatly to the development of Chile. Besides, some of the most important deposits of sulfur were found later on in the former Bolivian province of Atacama. Another consequence of the littoral loss was that Bolivia could not benefit from the hydrologic riches and natural resources of the sea bed. Last but not least, progress and prosperity of the northern region of Chile is due to the active commerce that exists at present with Bolivia.

THE PROPOSALS OF DOMINGO SANTA MARIA, THE CHILEAN CHANCELLOR

On December 3, 1879, Domingo Santa Maria, who became later on President of Chile, wrote a letter to his friend, Jose Victorino Lastarria, that reads as follows: "We, now owners of the whole Bolivian littoral and of the whole Department of Tarapaca should give a way out and an entrance door to Bolivia..." A year later, in November 1880, he would repeat these same ideas in another letter addressed to Rafael Sotomayor, Minister of War in campaign: "Let us not forget that we cannot drown Bolivia. Deprived of Antofagasta and the whole littoral which it owned before, as far as the Loa (River) we should give it a port of its own an outlet that allows it enter without fear, without asking for permission..." Santa Maria did not conceive Bolivia as a land-locked

country and asked if his country without consulting interests other than those of its own, could modify the map of (South) America.

THE ANCON TREATY SIGNED BETWEEN PERU AND CHILE (1883)

The 1883, the Treaty of Ancon established peace between Peru and Chile. Peru has given up the Tarapaca province to the latter and agreed on having a plebiscite to define the status of the Peruvian provinces in Chile's possession.

In 1884, Bolivia was forced to sign a Truce Pact. Because of this international instrument, Chile justified the occupation of the Bolivian territories annexed during the war and decided to administrate the Bolivian custom-houses and took over the revenues as a war tribute.

THE TRUCE PACT

Bolivia, threatened by new hostilities with Chilean troops concentrated in Puno, Tacna, Mollendo and Calama, felt compelled to sign a Truce Pact on April 4, 1884 in Valparaiso, Chile. The terms of the Pact were maintained confidential until congresses of both countries approved it in 1884. On May 30, 1885, it was also signed a Complementary Protocol. Both instruments were entirely beneficial to Chile and encouraged the expansion of Chilean products in the Bolivian market. Thus, Chile's hegemony was complete.

THE ANNEXATION OF ANTOFAGASTA

On July 12, 1888, the Chilean government took action on a bill of law that created the Chilean Province of Antofagasta, which was discussed and approved by the Chilean Senate earlier in January 1887.

Bolivian authorities protested not only because of the Senate's decision but particularly, for the creation of a province on Bolivian territory which was not given up in the Truce Pact. In spite of this, Bolivia could not impede the annexation of its territory. Antofagasta was rich in nitrateores. Bearing in mind that nitrates were widely used to increase the agricultural productivity, they became Chile's main source of exports income until the First World War.

TREATY OF PEACE AND FRIENDSHIP SIGNED BETWEEN CHILE AND BOLIVIA (1895)

Bolivia and Chile were very close to reach a final peace agreement in 1895, when both governments signed five interrelated accords. The first one concerned Chile's sovereignty on Bolivian occupied territory, mentioned in the 1884 Truce Pact, and financial obligations resulting from war and Chilean occupation. The second one, made reference to the cession of Arica or the small bay of Victor by Chile, after the dispute between Chile and Peru solved their dispute. The third one was on Commercial Rules. The last two Protocols, considered indivisible and a "comprehensive package", ruled credits and financial obligations. These treaties did not enter into force because the Chilean Congress did not approve the fifth protocol that dealt with the indivisibility issue of both instruments concerning the transference of territories and the rebuilding of peace.

ABRAHAM KONING'S DIPLOMATIC NOTE

At the beginning of the 20th Century, the Chilean government appointed Abraham Koning as Minister Plenipotentiary in La Paz, Bolivia. On August 13, 1900, Mr. Koning addressed a diplomatic note to the Government of Bolivia, containing an "ultimatum" that diplomatic history remembers as one of the most brutal and cynical document of all times, because it was meant to consolidate the right to acquisition of territories by force. The diplomatic note read as follows: "At the end of war, the victorious nation imposes its conditions and demands payment for expenses. Bolivia lost and did not have money to pay for, so it surrendered its littoral. This cession is indefinite, for an indefinite period of time; So it says the Truce Pact: It was an absolute cession, unconditional, perpetual... As a consequence, Chile does not owe anything, does not have any obligations, not even to give a piece of land nor a port (to Bolivia) It is an error widely disseminated which is daily repeated on the streets by the media to believe that Bolivia has the right to claim a port in compensation for its littoral. There is no such a thing. Chile has occupied the littoral and has grabbed it with the same criteria that Germany annexed Alsace-Lorraine to the Empire, with the same title the United States of North America has taken over Puerto Rico. Our rights are rooted in victory, the supreme law of nations.... The fact that the littoral is rich and is worth lots of

millions, we already knew that. We keep it because of that same reason. If it did not we would not have interest to keep it for ourselves.

This letter was an ultimatum to the Government of Bolivia , and in the long run, it settled the terms of the Peace Treaty that both countries would sign later on.

FRIENDSHIP AND PEACE TREATY SIGNED BETWEEN BOLIVIA AND CHILE (1904)

Bolivia, without ports, nor transit facilities, as well as its customs under Chilean administration, and also with its territory on the seacoast militarily occupied, was forced to accept the terms of a treaty imposed by Chile on December 25, 1903. The aforementioned treaty was rubricated in Santiago by Ministers of Foreign Affairs Pinilla for Bolivia and Edwards for Chile. The treaty ratified the terms of Abraham Koning's ultimatum in 1900. The final version of the Friendship and Peace Treaty was signed in Santiago, Chile on October 20, 1904.

In exchange for the littoral, Chile gave Bolivia free transit facilities, an indemnity of 300.000 L (British pounds) and a railroad from Arica to La Paz , in the understanding that the section on Chile's side would be under its administration. This is how Bolivia became a land-locked country.

It is important to underline the fact that since 1904, Bolivia was tireless and persistent in its claims to return to the coasts of the Pacific Ocean.

CHANCELLOR SANCHEZ BUSTAMANTE'S MEMORANDUM

On April 22, 1910, Bolivian Chancellor Daniel Sanchez Bustamante, following President Eliodoro Villazon's directions, addressed a diplomatic note to Peru and Chile in which Bolivia explained its just claims and argued its willingness to obtain an outlet to the Pacific Ocean through the territories of Tacna or Arica which were under Chilean rule at the time, due to the fact that Treaty of Ancon was in force.

Sanchez Bustamante said: "Bolivia cannot live isolated from the sea. Today and always, it will do its utmost in order to have at least one useful port on the Pacific and will never remain passive every time the issue of Tacna and Arica is brought up, since the foundations of its very existence were threatened.... The cabinet in La Paz is ready to make proposals and satisfactory compensations to Santiago and Lima, in the understanding that they would like to begin negotiations and consider Bolivia's situation in the spirit of justice".

In spite of the tone of this request, Bolivia's claim did not succeed, mostly because the definite status of Tacna and Arica was not solved and it would remain unsolved for almost twenty years more.

THE LEAGUE OF NATIONS

After the First World War (1914 – 1918) there was a possibility to discuss the Treaty of 1904. First, at the Paris Conference in 1919, and later on at the League of Nations in 1920, the Bolivian delegation has proposed to revise the aforementioned treaty along with Peru who in principle had the same position concerning the Treaty of 1883. (Later on, that country withdrew its request).

At the same time, Chile declared that the League did not have the authority nor the power to adopt decisions concerning amendments to international instruments. However, the Chilean delegate Agustin Edwards, offered formally to solve the Bolivian Maritime Problem.

THE ACT OF JANUARY 10, 1920

The diplomat Emilio Bello Codecido who as Chancellor of Chile had signed the Treaty of 1904, visited La Paz in 1920 in order to sign an Act with Chancellor Carlos Gutiérrez. Bello Codecido made it clear that the Chilean Government was willing to propitiate a policy of the most sincere and closest understanding with Bolivia and also, to do its best to promote an agreement that allowed Bolivia to fulfill its concern regarding a sovereign access to the sea with the purpose of building solid foundations for a future friendship between both countries. Chile was open to offer Bolivia an outlet to the ocean by giving up an important piece of land in the northern part of Arica and inside the

railroad line in the territory subject to plebiscite , as has been stated in the treaty of Ancon.

THE KELLOG'S PROPOSAL

On November 30, 1927, the American Secretary of State, Frank Kellog, who was also a mediator in the dispute between Peru and Chile , considered the unjust situation of Bolivia after it lost its littoral and decided to send a Memorandum to the governments of both countries. Kellog proposed that they grant to Bolivia, in perpetuity, every right , title and interests they might have in the provinces of Tarapaca and Arica. The Chilean Government decided, in principle, to consider Kellog's proposal while Peru refused to surrender those territories. The Kellog's proposal was very near to obtain a final solution to the question of Tacna and Arica and allowed Bolivia to get closer to solve its geographical seclusion.

THE TREATY OF 1929 SIGNED BETWEEN PERU AND CHILE

In view that the plebiscite provided in the Treaty of Ancon signed between Chile and Peru did not take place, the United States of America promoted a negotiation between those countries. As a matter of fact, it was agreed that Chile would keep Arica ,while Peru would do the same with Tacna.

Bolivia felt impaired by this treaty, because in a complementary Protocol, it was stipulated that the governments of Chile and Peru could not, without a previous consent, give up to a third power the whole or part of the territories mentioned in the Treaty of 1929. The reference to a third power was a clear allusion to Bolivia. "Since then - says Daniel Salamanca , a former Bolivian President, Chile locked the outlet to the sea for Bolivia and gave the key to Peru".

THE 1950 NOTES

In 1950, Alberto Ostria Gutiérrez, Bolivian Ambassador in Chile and Walter Larraín, the Minister of foreign affairs of Chile, exchanged important notes in which they proposed that their governments start formal negotiations to satisfy the Bolivian concern by granting a corridor in the northern part of Arica. That proposal was favored by

Gabriel Gonzáles Videla, President of Chile at that time. However, he required a non territorial compensation . The compensation formula for Chile contemplated “to grant to Bolivia a strip of land, 10 kilometers (around 6 miles), neighboring the Peruvian border, running along the littoral, so that Bolivia could communicate with the Pacific Ocean through its own territory and build a port. In exchange, Chile could benefit from the waters of the Titicaca Lake to generate electricity for the provinces of Tarapacá and Antofagasta.

INTERVENTION OF HARRY TRUMAN

After different international initiatives were launched by the Bolivian diplomacy to update the maritime problem, the American President Harry Truman proposed that by peaceful means and direct negotiations, Chile and Bolivia consider formally the seacoast problem. At an OAS General Assembly, he said: “The waters of the high Andean mountains between Bolivia and Perú could be used to build a garden in the South American coast in the western side of Chile and Peru, giving Bolivia a port on the Pacific in exchange. The United States was open to finance the development of that region. Unfortunately, those diplomatic démarches were not fruitful.

THE DEVIATION OF THE WATERS OF THE LAUCA RIVER

In the middle of a tense and difficult bilateral relation, in April 1962, Chile decided to turn aside the Lauca River waters, an international river of successive course. As a matter of fact, Bolivia presented a claim to the OAS, but this Organization was not effective in solving this problem. The result was the breaking up of diplomatic relations between both countries.

THE 150th ANNIVERSARY OF THE CREATION OF THE REPUBLIC OF BOLIVIA.

On August 6, 1975, the Organization of American States commemorated the 150th Anniversary of the creation of the Republic of Bolivia. In that opportunity a declaration was adopted making an explicit reference to the Bolivian maritime problem for the first time. The text of the declaration says: “The Permanent Council of the American States declares the following: “It is of continental concern

Bolivia's situation of (geographical) seclusion. This is why all American States offer to cooperate by conciliating reciprocal interests and promoting constructive understandings in the search of solutions that, according to international law, and in particular, to the Charter of the Organization of American States, help Bolivia to remove the difficulties that the situation of seclusion has brought along for its economic and social development.

It is important to point out what the Chilean delegate declared at that commemoration: "The Chilean delegation associates itself to the 150 anniversary of the Independence of Bolivia in a spirit of brotherhood, expressing its best wishes for the progress and welfare of its people. We share with joy this historical date that belongs also to the Americas where the political independence of South American countries has definitely culminated... The Chilean delegation approves the declaration of the Permanent Council and reiterates the spirit of the Joint Declaration of Charaña expressing once more its solidarity".

NEGOTIATION BETWEEN 1975 AND 1978

IN 1975, a negotiating process on a corridor and an enclave was started which implied the reestablishment of diplomatic relations between Bolivia and Chile. This process is known as the "Embrace of Charaña" and was led by former Presidents General Hugo Banzer from Bolivia and General Augusto Pinochet from Chile. The Government of Bolivia has asked Chile for a sovereign seacoast between the Concordia Line and the limit of the urban area of Arica. This coast should continue through a sovereign land strip as far as the Bolivian-Chilean border, including the transference of the Arica-La Paz railroad. The Chilean answer on December 19, 1975 was: "The proposal responds to reciprocal interests and it should not have any innovations regarding the Treaty of 1904. Chile would be in a position to negotiate the cession of a strip to the North of Arica as far as the Concordia Line... The road to Tambo Quemado would stay in Chilean territory. The aforementioned cession would be conditioned to the simultaneous exchange of territories... Installations or existing state owned buildings (Chacalluta Airport, Arica -Visviri Railroad, etc) in the territory to be surrendered will be acquired by the state that receives the territory in agreed prices. Afterwards, because of the Treaty of 1929, Chile made consultations with Peru on the issue. Peru proposed the alternative of

a tripartite geographical area. Chile broke up the negotiation process, in spite of the fact that Peru made its position more flexible. In brief: "The Embrace of Charaña" meant that the three countries presented their positions. In view that negotiations were not successful, Bolivia and Chile broke up diplomatic relations once more, in March 1978.

RESOLUTION 426 OF THE OAS GENERAL ASSEMBLY

At the Commemoration of the Centennial Anniversary of the Pacific War, during the OAS General Assembly, Bolivia obtained Resolution 426, considered the most important in the multilateral level. This resolution points out that the Bolivian maritime problem is an issue of permanent hemispheric interest and that it is necessary to search for a just and equitable solution that provides Bolivia with a sovereign and useful access to the Pacific Ocean. The resolution recognizes that the Bolivian maritime problem does not only affect Bolivia and Chile, it recommends, besides, to start negotiations in order to give Bolivia a free and sovereign connection with the Pacific Ocean.

MAIN OAS RESOLUTIONS

From 1979 to 1989, the OAS adopted eleven resolutions (one every year) on the Bolivian maritime problem. Chile has joined the consensus in 1980, 1981 and 1983.

Resolutions approved in 1980 and 1981 call upon concerned States to start, through relevant channels a dialogue that allows the most satisfactory solutions.

The 1983 resolution calls upon Bolivia and Chile, in the name of American brotherhood, to initiate an approaching and strengthening process of both nations, oriented to normalize their relations, including in particular, a formula to facilitate Bolivia a sovereign outlet to the Pacific Ocean based on reciprocal conveniences, rights and interests of the concerned parties".

In the above mentioned situations there has been a willingness of Chile to compromise the beginning of negotiations in order to search for a solution to the Bolivian maritime problem.

THE NEGOTIATION OF 1986- 1987

In 1987, the Government of Uruguay offered its cooperation so that both countries could negotiate the maritime problem in Montevideo. At that time, Bolivia demanded a corridor and the cession of the following enclaves: Tocopilla and the small bays of Camarones and Michilla. Unfortunately, Chile rejected Bolivia's proposal as a basis of negotiation.

The Bolivian Chancellor submitted two Memoranda. In the first one, Bolivia asked Chile the cession of a sovereign and useful seacoast linked to its territory through a strip of land of its own, limiting to the North with the Concordia Line, and to the South with the Lluta River as far as a point located to the West of Colonel Alcérreca and from there, a geodesic line as far as landmark XI of the present boundary between Bolivia and Chile.

The second Memorandum proposes three types of alternatives for enclaves located in territories not subject to the Treaty of 1929, namely, one in Camarones small bay as far Pisagua, the second, from Tocopilla to Cobija, and the third, from Mochilla small bay to Mejillones.

On April 21 and 23 1987, the Chilean delegation accepted ad referendum the aforementioned Memoranda.

On June 1987, Chile declined the consideration of such proposals and rather offered to study palliative solutions to Bolivia's geographic seclusion.

THE GOVERNMENT OF JAIME PAZ ZAMORA

Bolivian president Jaime Paz Zamora addressed his Chilean homologous Patricio Aylwin on the need of solving the maritime problem. On the other hand, Bolivia signed with Chile an Economic Complementary Accord (ACE 22) with the purpose of widening and diversifying the exchange of goods and services between both countries. During his administration, the OAS General Assembly approved a resolution which affirms the importance that the solution of Bolivia's maritime problem has, bearing in mind both parties, reciprocal advantages, rights and interests in order to reach a better it

understanding, solidarity and integration in the hemisphere. Besides, calls upon the parties to dialogue and leaves open the consideration of this problem to the request of parties concerned, for next Ordinary Sessions of the OAS General Assembly”.

At the end of Jaime Paz Zamora’s Administration there was a strong political detachment between Bolivia and Chile.

REPORTS ON THE MARITIME PROBLEM OF BOLIVIA AT THE OAS GENERAL ASSEMBLY

Since 1950, Bolivia has decided to submit Annual reports on the Maritime Problem to demonstrate the permanent damage the geographic seclusion causes to its economy, which paradoxically represents meaningful benefits for Chile. These reports have received the solidarity of different countries of the Inter American community.

THE GONZALO SANCHEZ DE LOZADA ADMINISTRATION

During his first government term the formula : “Without conditions and without exclusions” was proposed. In six different opportunities, it was intended to open negotiations in order to obtain a sovereign outlet to the Pacific Ocean but without results. Finally, there was a bilateral rapprochement through confidential emissaries to talk about the maritime problem. Both sides exchanged information and explored solution formulas which, however, did not flourish.

THE HUGO BANZER SUAREZ ADMINISTRATION

One of the purposes of his administration was to present persistently the Bolivian seacoast claim. In this context, the Bolivian and Chilean Chancellors met at Algarbe, Portugal, and established a new working Agenda . Since then on, there were three political encounters of the highest level. On September 2000, Presidents Hugo Banzer and Ricardo Lagos met in Brasilia, in Panama (November 2000) and in Quebec (April 2001). As a result, Bolivia and Chile included in the Agenda all essential matters relevant to their bilateral relations, “without any exclusion”.

THE JORGE QUIROGA RAMIREZ ADMINISTRATION

After Banzer's resignation, Jorge Quiroga Ramirez succeeded to the Presidency. In November 2001, he met Chilean President Ricardo Lagos to continue conversations on the bilateral agenda. One of the main goals in Jorge Quiroga's external agenda was to develop the Pacific LNG Project concerning the exportation of Bolivian natural gas to North American markets through ports on the Pacific. At the same time, he wanted Bolivia to benefit from the gas exports, so that the country could have presence and gravitation on the Pacific by creating a Special Economic Zone.

During Sanchez de Lozada's Second term (August 2002-October 2003), negotiations on the Pacific LNG Project continued but without results.

ECONOMIC DAMAGES CAUSED BY THE GEOGRPHICAL SECLUSION.

Because of the Treaty of 1904, Bolivia was forced to surrender to Chile its littoral in perpetuity, in exchange for compensations which were not honored by the Chilean Government. For instance:

- a) Chile recognized in perpetuity the most extensive and widest free right to commercial transit through its territory and ports on the Pacific.**

The Chilean Government always tends to mention the advantages of a free trade for Bolivia. However, Bolivian exports do pay costs for crossing the border. The transit of goods through Chilean ports is not free. Besides, the dispositions of the Treat of 1904 and other Complementary Agreements are not honored by Chile for administrative, sanitary, security and other reasons, originating constant complaints, among Bolivian users of those transit ports.

On the other hand, Chilean authorities and institutions ask Bolivian transporters to pay not only excessive and unjustified amounts of money but also they make arbitrary charges for transferring containers in transit (GATE IN/GATE OUT:TACK), and for returning empty containers from ports to deposits.

Since the concession of Antofagasta port was made to Antofagasta Terminal International (ATI) on March 1, 2003, the cost of Bolivian export goods has been increased in 26%, per ton, plus \$US 2.00 for double manipulation of cargo and storage. As a result, many Bolivian mining enterprises decided to stop exporting minerals.

The transit of goods from and towards Bolivia through Chile has not always been "extensive and free". On the contrary, it is well known that Chilean authorities have restricted or impeded Bolivians to exercise this right. It already happened during the Chaco War (Between Bolivia and Paraguay) when Chilean authorities did not allow the transit of cargo to Bolivia and thus violated the Treaty of 1904 and the Convention on Commercial Traffic of August 6, 1912.

Also, Chilean authorities, by administrative decisions, retained mineral cargo destined to world markets, as a consequence of the Mine Nationalization in Bolivia which was decreed on October 31, 1952.

Labor strikes and protests among harbor workers in Arica and Antofagasta have affected the transit of Bolivian goods. That process is harmful for free transit which was stipulated in the treaty of 1904 and the Conventions of 1912 and 1936.

Bolivia's rights to free transit are also international comprises acquired by Chile which fall into the category of *intuito personae*. So, they cannot be transferred to a private agent, They are intrinsic responsibilities assumed by Chile under international law. Private enterprises cannot be responsible for Chile's obligations with Bolivia.

Because of the privatization of the Antofagasta Port, the coast of mineral exports has increased remarkably, this has affected the competitiveness of that sector.

Bolivia is deeply concerned for the next international bidding of the Arica Port, in the understanding that there would be a monopoly which will increase the Bolivian cargo that represents 80% of the existing cargo over there.

- b) The Treaty of 1904 states that: “ The Republic of Bolivia will have the right to build custom-houses on the ports of it designates for its commerce. For the time being, those ports are Arica and Antofagasta”**

Consequently, there is a Bolivian custom-house, represented by the “Administracion de Servicios Portuarios – Bolivia” (ASP–B) that supervises the transit from and out of the country.

The privatization of ports also restrains ASP-B actions and the control it can exercise.

In spite of the most extensive and free transit established by the Treaty of 1904, Chilean authorities have been not only reticent to Bolivia’s demands for new ports besides Arica and Antofagasta but also delayed those requests.

It is important to note that Bolivian foreign commerce is made only through the above mentioned ports.

- c) Both countries would recognize and respect the rights of those “nationals or aliens who would have acquired legally territories that, because of the Treaty of 1904, will be under the sovereignty of one or the other country”.**

Article 2 of the Treaty of 1904 gave protection to Bolivian nationals who had property in those territories which, under the Treaty of 1904, were under Chile’s jurisdiction. In spite of this disposition, The Chilean Government promulgated a law that forced Bolivian citizens to go before Chilean authorities and defend their rights in a period of four months since the entry into force of this law. In fact, the same Supreme Court of Chile violated the rights of Bolivian landowners of the nitrate fields in Toco, giving its verdict against what was stipulated in the Treaty of 1904.

- d) Finally, Bolivia could benefit -if it were the case- from Article 8 of the Treaty of 1904 which states : “ the favors, exemptions, and privileges given by anyone of the Parties to a third one, will be able to be demanded by the other in the same conditions”.**

In fact, the above mentioned clause should have been activated as soon as Chile granted certain territorial and maritime facilities to Peru in compliance of the Treaty of Lima (1929). In that opportunity, Chile gave Peru a customs agency, a pier (in spite of the long coast Peru already has) and a railroad terminal.

According to Article 8, Chile should extend the same prerogatives to land-locked Bolivia. However, this did not happen at all.

GEOGRAPHIC AND ECONOMIC COSTS OF THE PACIFIC WAR

Bolivia lost to Chile 120.000 square kilometers (around 46,153 square miles), besides very important sources (reservas) of guano, nitrates and sulfur which contributed remarkably to Chile's development.

In the lost Bolivian territory, the copper ores of Chiquicamata, the most important in Chile and the world, were also discovered. Decades later, former President Allende said that "copper became the salary of Chile".

The high costs of transport and services Bolivia has to bear are a handicap to accede to international markets in conditions coastal countries can do. This fact makes Bolivia lose not only competitiveness but it also increases costs derived from the integrated transport system to have an access to the ports.

Bolivia was not able to develop any activities derived from sea products, which have important dynamics in world commerce and obtain good international prices nor services and industries linked to shipping activities such as shipyards, navy industry, port services, practice-piloting and storage (silos, deposits, patios, etc.)

On the other hand, as a consequence of the loss of its littoral, Bolivia cannot accede to richness and resources of the sea-bed, and ocean floor and subsoil, and does not benefit from selling sea products, minerals and petroleum nor take part in the activities in the Area.

Besides, Bolivia is in a very disadvantageous position to take part in the commerce of services and maritime transport with its own ships (flotas) and flag.

It is important to point out that part of the progress and prosperity of the northern part of Chile is due to the commerce with Bolivia . As it was mentioned before, 80% of the cargo in Arica is Bolivian, mining products are exported through the Antofagasta Port, and last but not least, a very important part of the smuggling that affects Bolivia comes from the Free Zone of Iquique.

Bolivian claims for an outlet to the sea are frequently used by Chile in its own political arena with the purpose of reaching consensus and internal support.

Finally, it is paradoxical to remember that a Military Government was more courageous than democratic ones to recognize the Bolivian seacoast problem and in searching for a definitive solution to the problem. Negotiations failed, because, inter alia, internal opposition in Chile considered that these issues should be solved by democratic governments which supposedly enjoyed more legitimacy and support. However, in spite of the fact that the democratic transition in Chile took place more than ten years ago, the maritime problem of Bolivia remains unsolved.

OTHER COSTS LINKED TO THE GEOGRAPHICAL SECLUSION OF BOLIVIA

The high costs of transportation and services on ports affect negatively the competitiveness of Bolivian products in the international commerce and are a handicap for the expansion of its foreign commerce which is mainly done with neighboring countries.

Bolivia has also difficulties to project itself towards the Pacific Basin, one of the most economically and commercially developed in the world during the last decades.

The geographical seclusion of Bolivia deeply restrains the competitiveness of its economy in connection with foreign investment and processes of technology transfer.

In Bolivia, it has been weakened or even lost the “seacoast awareness”, in fact, this situation does not allow project planning on commerce and

economic development in connection with perspectives offered by an access to the sea.

Because of its geographic seclusion, Bolivia was not able to benefit from the main migration waves which took place in the 19th and at the beginning of the 20th Centuries and were concentrated on the rims of South America.

Bolivia suffered a loss in productive activities and services because of its lack of an outlet to the sea. Such activities, including tourism, use of ports, road and railroad transportation took place rather in the Chilean territory and benefited its economy.

The transportation costs and port services demanded by Chile have to be paid in hard money which implies an important drainage of foreign currency in favor of Chile.

International organizations such as the International Monetary Fund (IMF) and the United Nations Commerce, Trade and Development (UNCTAD) have made studies in 1994 and 2001 that demonstrate the negative impact economic over costs have on land-locked countries economies, since a high percentage of their exports income covers the costs of transportation services and insurance. In addition, Bolivia needs to overcome problems originated in its own diverse and already difficult geography.

International analysts like Jeffrey Sachs, point out that land-locked countries loose 0,7 percentage points in their growth rate because of that condition. As a matter of fact, he results of that analysis shows that the costs of the geographic seclusion of Bolivia reach more than \$US 4,000 million. So, it can be inferred the loss suffered by the Internal Gross Product during more than 120 years of Bolivia's geographical seclusion.

CONCLUSION

It is important to point out that the maritime reintegration of Bolivia has been and is a permanent objective in its foreign policy, one Bolivia cannot disown. The people of Bolivia daily suffer the costs of its forced geographic seclusion.

At present, in spite of the fact of having huge natural gas resources(the second in South America), Bolivia cannot directly export it nor benefit to its population.

Chile is the only country in the occidental hemisphere with which Bolivia does not have diplomatic relations This fact shows the existence of a problem pending of solution.

La Paz, February 2004

(1) A compilation of laws and administrative measures in force during the Spanish colonial period in America.