



IN THE INTERNATIONAL COURT OF JUSTICE

**THE PLURINATIONAL STATE OF BOLIVIA,
APPLICANT**

V.

THE REPUBLIC OF CHILE

MEMORIAL OF THE PLURINATIONAL STATE OF BOLIVIA

COMES NOW the Plurinational State of Bolivia and for their Memorial to the Court states the following:

STATEMENT OF FACT:

1. On August 6th 1825 Bolivia became an independent state. At that time its borders extended to the Pacific Ocean.
2. The Border Treaty of 1866 marked the Bolivian-Chilean border at parallel 24°, giving both Bolivia and Chile ocean access.
3. In 1879 Chile invaded Bolivia and occupied the port of Antofagasta, denying Bolivia of their historic coastal territory and initiating the War of the Pacific.
4. Additionally, Chile annexed the Peruvian territory consisting of Tacna and Arica.
5. Under pressure from Chile, Bolivia signed a Truce Pact in August of 1884 which accepted Chile's military occupation of the coastal territory.
6. Under the Truce Pact of 1884 Chile consented to Bolivian access to their littoral on the basis of free trade between the two nations pending a treaty of peace.
7. After months of negotiations, Bolivia and Chile signed three related agreements culminating in the Special Treaty of Transfer of Territories: 1) Bolivia recognizes Chilean sovereignty over their formal littoral for assumption of certain Bolivian financial obligations 2) A reciprocal trade agreement 3) Chilean commitment to Bolivia to provide Tacna and Arica through plebiscite or direct negotiations failure to do so resulting in Chilean succession of territory and sovereignty from the Cove of Vitor to the Valley of Camarones.
8. Two subsequent agreements between Chile and Boliv' in 1895 and 1896 concluded that Bolivian cession of their littoral to Chile would be voided upon failure of Chile to provide Bolivia with Tacna and Arica. Additionally, both signatories concluded that all three agreements must be ratified for any single one to be valid.
9. Upon learning of the Special Transfer of Territories Treaty Peru vehemently denounces any attempt by Chile or Bolivia to control Tacna or Arica.
10. In April 1898 Chile and Peru agree to the Billinghurst-Latorre protocol, stating that Tacna and Arica sovereignty would be established by the plebiscite- Chile

- loses the plebiscite.
11. Chile refuses to cede the Bolivian littoral after losing the plebiscite and instead offers Bolivia railroad access to a Chilean seaport.
 12. In 1904 Bolivia and Chile signed the Treaty of Peace and Friendship, where Chile asserted its right to occupied Bolivian coastal areas. Chile also agrees to provide commercial transit rights at selected Chilean ports.
 13. On January 10 1920 Chile confirmed a Bolivian proposal restating Chile's prior commitments (which were not voided by the Treaty of Peace and Friendship) to give Bolivia a route to the ocean.
 14. After a series of delays and dropped negotiations, Bolivia again sought its promised territory through bilateral dialogue. On June 9th 1987 Chile denied Bolivia's claims and refused to uphold its own prior international commitments.

STATEMENT OF JURISDICTION

- (a) In the 1948 American Treaty on Pacific Settlements, Article XXXI states, "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".
- (b) Both Bolivia and Chile are signatories to this treaty without any current reservations.

ARGUMENTS

- a) Under the Special Treaty on the Transfer of Territories, signed by both parties in 1895, Chile agreed to give Bolivia sovereign access to the sea. Chile never fulfilled this provision, establishing a breach in an international agreement.
- b) In the 1904 Treaty of Peace and Friendship Chile gained control over disputed coastal territory claimed by both nations. Chile reestablished their commitment to free trade between the two nations and guaranteed Bolivia commercial transit rights at selected Chilean ports. Chile has ultimately denied Bolivia access to said ports breaching their treaty.
- c) Furthermore, Bolivia signed the Treaty of Peace and Friendship under coercive pressure from Chile. Per Chapter one Article I of the American Treaty on Pacific Settlements, to which both Bolivia and Chile are members, "[all signators] agree to refrain from the threat or the use of force, or from any other means of coercion for the settlement of their controversies." As a result of Chile's unlawful coercion the Treaty of Peace and Friendship is invalid.

SUMMARY AND REQUESTS

The Plurinational State of Bolivia requests the court to compel Chile to provide Bolivia sovereign and natural access to the sea. Under the Special Treaty on the Transfer of Territories Chile agreed to provide Bolivia with such access, but has never fulfilled this obligation. Bolivia also requests that the court overlook the Treaty of Peace and Friendship which ceded Bolivia's claim to coastal access, as it was signed under Chilean coercion and is in direct violation of the American Treaty of Pacific Settlements.