

## **IN THE INTERNATIONAL COURT OF JUSTICE**

**THE PLURINATIONAL STATE OF BOLIVIA,  
APPLICANT**

**V.  
THE REPUBLIC OF CHILE,  
RESPONDENT**

### **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:**

The Republic of Bolivia became an independent nation in 1825 with borders that extended to the Pacific Ocean, but Bolivia lost access to the Pacific Ocean as a consequence of the War of the Pacific. In 1866, Bolivia and Chile delimited their mutual border through the Boundary Treaty, with both countries retaining ocean access. Following this, Chile invaded Bolivia in 1879 to occupy the port of Antofagasta and start the War of the Pacific. During the war, on 4 April 1884, under pressure from Chile, Bolivia signed the Truce Pact, accepting Chile's military occupation of the coastal territory on the basis of free trade. As a result of negotiations, Bolivia and Chile signed Transfer Treaties of 1895, under which the countries attempted to iron out their differences. In October of 1904, the War of the Pacific came to an end with the Treaty of Peace and Friendship which established a new border between Bolivia and Chile along with commercial allowances. Following this, there have been continued negotiations and statements supporting Bolivia's right to access the Pacific Ocean.

#### **STATEMENT OF LAW:**

1. The 1895 Transfer Treaties were signed by both Bolivia and Chile, under which Chile would sell the previously Peruvian cities of Tacna and Arica to Bolivia, Chile would retain sovereignty over areas permitting Bolivia's access to the ocean and to establish a trade agreement between the two countries.
2. The Treaty of Peace and Friendship established a new border between Bolivia and Chile, where Chile continued to occupy Bolivian coastal areas and in exchange would build a railroad to allow commercial transport from Arica to La Paz.
3. These commitments for Chile to continue to negotiate access to the Pacific Ocean were confirmed by Bolivia and Chile in the Officially Approved Act of 10 January 1920, which established an agreement that countries would have open meetings in order to improve their relationships.

#### **STATEMENT OF JURISDICTION**

1. Article XXXI of the Pact of Bogotá grants the Court jurisdiction over disputes 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.”

2. Article XXXII of the Pact of Bogotá provides, “If the parties fail to agree as to whether the Court has jurisdiction over the controversy, the Court itself shall first decide that question.”
3. Both Bolivia and Chile are signatories to the Pact of Bogotá.
4. The subject matter of this dispute is whether Chile is obligated to negotiate in good faith with Bolivia, which has not previously been addressed in the Treaty of Peace and Friendship.

## **ARGUMENTS**

1. Under the 1985 Transfer Treaties, Chile agreed to give Bolivia sovereign access to the sea; however, Chile has yet to grant Bolivia this access, in violation of this agreement.
2. Coercion to sign a treaty is in violation of Chapter One, Article I of the American Treaty on Pacific Settlements, which states “[all signatories] agree to refrain from the threat or the use of force, or from any other means of coercion for the settlement of their controversies.” When Bolivia signed the 1904 Treaty of Peace and Friendship, Bolivia was under coercion from Chile, thus making this treaty invalid.
3. If the Court finds this treaty valid, Chile is still in breach of this treaty because they committed to guaranteeing free trade between the two nations and establish commercial transit rights, which Chile has denied up to this point.

## **SUMMARY OF REQUESTS**

The Plurinational State of Bolivia requests that the Court declare that 1) Chile has an obligation to negotiate with Bolivia to reach an agreement that grants Bolivia completely sovereign access to the Pacific Ocean; 2) Chile has breached this obligation; and 3) Chile must comply with this obligation in good faith, promptly, formally, within a reasonable time and, effectively, grant Bolivia fully sovereign access to the Pacific Ocean.