

IN THE INTERNATIONAL COURT OF JUSTICE

**THE PLURINATIONAL STATE OF BOLIVIA,
APPLICANT**

V.

**THE REPUBLIC OF CHILE,
RESPONDENT**

MEMORIAL OF THE REPUBLIC OF CHILE

COMES NOW the Republic of Chile and for their Memorial to the Court states the following:

STATEMENT OF LAW:

1. Under the Treaty of Peace and Friendship of October 20th 1904, the Republic of Chile and the Plurinational State of Bolivia, then the Republic of Bolivia, officially negotiate an end to the War of the Pacific. The aforementioned Treaty declared the boundaries of each country's respective territories and recognized the sovereignty of the Republic of Chile over the former Bolivian coastal territory.
2. Paragraph 1 of Article 2 of the Treaty of Peace and Friendship states that: "By the present Treaty, the territories occupied by Chile by virtue of Article 2 of the Truce Pact of April 4th, 1884, are recognized as belonging absolutely and in perpetuity to Chile."

STATEMENT OF FACT:

Following the War of the Pacific, which was ended in 1904 with the signing of the Treaty of Peace and Friendship, the border of the Republic of Chile and the Republic of Bolivia was delimited, granting Chile sovereignty over coastal territory that once belonged to the Republic of Bolivia. In this treaty, the Republic of Bolivia recognized the absolute sovereignty of Chile over the previously Bolivian Territory. Prior to the ratification of the aforementioned treaty, The Republic of Chile offered Bolivia many options in which to gain access to coastal territory, all of which were rejected by the Republic of Bolivia.

In the years since the ratification of the Treaty of Peace and Friendship, the Republic of Chile has negotiated, despite no legal obligation to do so, with the now Plurinational State of Bolivia regarding Pacific coastal access. However, such negotiations have been unsuccessful in granting the Plurinational State of Bolivia such access. Despite these good faith efforts to negotiate with Bolivia, Bolivia argues that the Republic of Chile has failed to meet obligations set forth by the Peace Treaty of 1904.

However, the Republic of Chile has met all legal obligations explicitly stated in the 1904 Peace Treaty, which does not include obligations to negotiate Pacific coastal access.

STATEMENT OF JURISDICTION

1. The Plurinational State of Bolivia brings forth this argument from Article 31 of the Pact of Bogota which states that "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...The interpretation of a treaty.”

2. While Article 6 of the Pact of Bogota states, that “procedures...may not be applied to matters already settled by arrangement between the parties...which are governed by agreements or treaties in force on the date of the conclusion of the present Treaty,” and the Republic of Chile contends that the aforementioned dispute has been settled in the Treaty of Peace and Friendship in 1904, we recognize the Court’s ruling of jurisdiction based on Article 33 of the Pact of Bogota.
3. Article 33 of the Pact of Bogota states that “If the parties fail to agree as to whether the Court has jurisdiction over the controversy, the Court itself shall first decide that question.”

ARGUMENTS

1. The Plurinational State of Bolivia has failed to establish a legal obligation to negotiate access to the Pacific Ocean under the Treaty of Peace and Friendship or the Treaty of Transfer of Territory of 1895.
2. The Republic of Chile contends that oral or written statements indicating a willingness to entertain conversations or negotiations to allow Bolivia access to the Pacific Ocean do not facilitate a legally binding argument.

SUMMARY OF REQUESTS

Reiterating the failure of the Plurinational State of Bolivia to establish the existence of an explicit legal obligation to negotiate access to the Pacific Ocean or an explicit breach in such an obligation by the Republic of Chile, we would like to respectfully request that the Court DISMISS the artificial and unfounded claims of the Plurinational State of Bolivia.