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Peru Seeks to Take Border Dispute with Chile to International Court

by LADB Staff
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The Peruvian government has decided to take its dispute with Chile regarding maritime borders in the Pacific Ocean to the International Court of Justice (ICJ) in The Hague. At a summit of the Comunidad Andina de Naciones (CAN), the presidents of the two countries discussed the ocean-borders issue but came to no resolution. Peru's President Alan Garcia announced on June 18 that "the moment has arrived" to go to The Hague with the bilateral issue.

The administration of Chile's President Michelle Bachelet said the basis for defending its claims before the tribunal was "extremely solid." Chile says line is straight, Peru wants southwest diagonal Peru has battled with Chile about maritime rights for years (see NotiSur, 2005-11-18), with border communities in Peru becoming hotbeds of resentment since they view Chile as withholding access to tens of thousands of square kilometers of rich fishing territory. Chile's argument is that the two countries signed agreements in 1952 and 1954 that established the current borders.

Peru contends that the borders have never been clearly defined and that the 1950s agreements only determined fishing areas, not national borders. In 2005, Peru passed a law establishing its interpretation of the ocean border. Chile believes that a line extending parallel to latitude, starting at the point of the two countries' border and running horizontally, is the appropriate boundary according to the agreements.

The border lies between the cities of Tacna, Peru, and Arica, Chile. However, Peru's legislature has passed a law that establishes the border as a line equidistant from the two countries' shorelines, meaning it extends diagonally, relative to the equator, 370 km to the southwest. If Peru won the dispute, it would increase its ocean rights over an area of almost 38,000 sq km. The area contains rich fishing waters and possibly other resources.

Under the Chilean interpretation that the line should extend parallel to the equator, Peru's ocean rights relative to its southern shores are much smaller. The southwestern diagonal line into the Pacific that Peru contends is the true measure extends along a 30-degree angle from the latitudinal parallel that Chile contends.

In addition to using a parallel line to describe the ocean border, Chile also argues that the point from which it is measured is not along the shoreline but at "milestone 1" (hito 1), some 220 meters inland toward the northeast.

'Suit will not affect relations’
Garcia told the Peruvian Congress in his June 18 address that "an ample consensus exists" on the issue. "We have arrived at the moment in which Peru has taken the decision to appeal to international bodies, the first of which is the ICJ at The Hague."

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Garcia added that he had informed Bachelet of his decision at the CAN summit in Tarija, Bolivia. He said that he spoke with Bachelet "with clarity and transparency" and that she recognized "the sovereign right" of Peru to present its case in international court. He maintained that the decision would not effect the good bilateral relations between the two countries and noted that the balance of trade between them favors Peru.

"I believe an ample consensus exists that Peru present its case strongly but serenely, with that signifying neither an offense nor an affront, but rather a mere judicial protest," said Garcia, adding that his Foreign Relations Ministry would determine the most opportune moment and "tactical" date to take the case to the ICJ.

Chilean Foreign Relations Minister Alejandro Foxley responded that Chile's arguments were extremely sound, saying, "We are clear on how to defend ourselves, and we are going to do so without any vacillating....We have complete confidence that the Chilean position will prevail." Foxley reiterated the view that the maritime delimitation "responds to international agreements in effect for decades."

"If Peru goes to the court," said Foxley, noting that his office had not yet received official notice of the suit, "Chile will bring its position before that court....Chile is a country that has always trusted in the international judicial system and we have no fear of those bodies."

Foxley pointed to the agreements of the 1950s and a 1929 treaty between the two countries. Bolivian ocean access supposedly moving forward Peruvian nationalists view the dispute as recuperating some of the losses Peru suffered after the War of the Pacific (1879-1884), when Chile took large territorial sections of Peru and Bolivia, cutting off Bolivia's sovereign access to the ocean.

Bolivian and Chilean officials have recently been seeking to resolve Bolivia's demand for ocean access. Foxley said on June 24, "We are facilitating ocean access [for Bolivia], with concrete measures like equipping the port of Iquique and Antofagasta and Arica."

Foxley said since it was a policy issue "just as much for the president of Bolivia [Evo Morales] as for the president of Chile, backing with much consensus within the country is necessary." "We don't want to set a deadline: it is necessary to educate [the public] so the people understand that in the 21st century countries have to truly integrate, not only rhetorically," said Foxley. Bilateral diplomatic relations have been cut off between Bolivia and Chile since 1978, after the failure of ocean-access negotiations. Foxley claimed that re-establishing relations depended on La Paz, not Santiago.

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