The Hague Resolves Peruvian-Chilean Maritime Dispute

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The International Court of Justice (ICJ) on Jan. 27 resolved a six-year maritime border dispute between Peru and Chile. However, the decision sparked a new conflict regarding a triangle of land in the border area.

Peru, whose Congress defined the maritime border with Chile in November 2005, had filed the border claim with the ICJ in January 2008 (NotiSur, Nov. 18, 2005). It claimed maritime limits had not been established in a border treaty with Chile and asked the court to determine the sea limits in accordance with international law (NotiSur, Feb. 8, 2008).

Following the filing of the case in The Hague, Chile argued that fishing agreements signed by Ecuador, Peru, and Chile had established maritime limits in 1952 and 1954.

The ICJ verdict last month, which is final and binding, states "that the maritime boundary between the Parties starts at the intersection of the parallel of latitude passing through Boundary Marker No. 1 with the low-water line, and extends for 80 nautical miles along that parallel of latitude to Point A. From this point, the maritime boundary runs along the equidistance line to Point B, and then along the 200-nautical-mile limit measured from the Chilean baselines to Point C."

While Chile had argued that the limit began at Marker 1, Peru had countered that the beginning was at the Punto de la Concordia, 300 meters southeast of the coastal border. The ICJ set the initial point of the maritime border by projecting a line from Marker 1, 300 meters to the southeast of the coastal border, Manuel Rodríguez Cuadra, Peru’s former foreign minister and principal promoter of the maritime demand, told the Peruvian daily La Primera.

"We have received news that will change Peru’s history because, as of today, the map of Peru will be changed, and changed in a positive way since it incorporates approximately 50,000 sq km of the Mar de Grau into national territory," Peruvian President Ollanta Humala said upon hearing the ruling. "This represents more than 70% of the total we had asked for in our claim."

For Chile, the ruling represents a loss of economic rights over an area of 20,000 to 22,000 sq km.

Chilean President Sebastián Piñera said, "While Chile will retain full maritime and air navigation in the area, the transfer is without a doubt a regrettably loss for our country."

The ICJ ruling determined the course the maritime boundary will take but left it up to the two neighboring countries to set coordinates. Members of the foreign relations and defense ministries from both countries began work on that task Feb. 6 in Santiago, Chile, at a meeting dubbed 2+2. Government representatives at the 2+2 meeting expressed confidence that they would agree on setting a complete boundary definition no later than March 25.

Piñera, who will turn over the Chilean presidency to President-elect Michelle Bachelet March 11, said he deeply disagrees with the decision, but said Chile will accept and comply with it.
Local fishers affected

From the point of view of Gen. Roberto Chiabra, Peru’s former defense minister, the ruling was a political victory for both governments although also a social defeat for both.

"Peru won, but Tacna lost; Chile won, but Arica lost," Chiabra said on Radio Capital, referring to artisan fishers in Peru’s southern department of Tacna and Chile’s northern department of Arica. "Our people are sad because of the risk that their fish and fishing boats will be confiscated and they will be fined."

"[Artisan] fishers can’t afford to go to the area designated in the ruling. I suppose this will benefit industrial fishing enterprises with necessary boats and equipment. I can only say that small, independent fishers haven’t won anything," said David Patiño, president of Tacna’s Sindicato de Pescadores Artesanales Morro Sama.

Tacna resident Luis Felipe Calderón, an MBA professor at the private Universidad ESAN (UE), called the victory at The Hague a partial victory. "The sea area Peru recovered is quite significant economically for industrial fishing even though the artisan-fishing situation will continue being the same as always," he said in an interview published in the daily La Primera.

Peruvian journalist César Hildebrandt agreed, noting in his weekly publication Hildebrandt en sus Trece, "It is an exclusive economic zone. It will be important if we know how to take advantage of it. For now, we lack fishing fleets as well as capital resources to enter in an advantageous manner."

Local Arica fishers told reporters that the ruling from The Hague harms them because it reduces the area where they can fish by 30%.

For Sergio Guerrero, president of the Sindicato de Pescadores Artesanales Independientes de Arica, said the decision directly affects independent deep-sea fishers.

"One must differentiate between industrial and independent fishers. The industrial fishers are not affected because they don’t venture beyond 20 miles. Nevertheless, independent fishers, who fish to feed costal areas and take their catch to the tables of Chilean families, are the ones who must go out beyond 80 miles. In other words, it affects the homemakers and tourism because restaurants will no longer have this type of product," Guerrero told the Chilean daily El Morrocootudo.

Ruling sparks new dispute

The two governments now disagree on the sovereignty of a 3.7-hectare "land triangle" that lies between Milestone 1 and a point known as Concordia or "point 266." Both claim that piece of land.

The land dispute came after Piñera said that, since the court’s decision confirmed the maritime border beginning at Marker 1, it therefore ratified Chile’s sovereignty on the land triangle.

Humala responded in the press, saying, "I’ve told President Piñera that we believe there is no controversy regarding the land triangle. Based on the Treaty of 1929 and subsequent agreements, that territory belongs to Peru. We hold firm on that position."

In 1929, the Tratado de Lima allowed Peru to recover the Department of Tacna, which Chile had occupied after the 1879-1883 War of the Pacific. In setting the boundary between the two countries, the treaty also definitely made Arica part of Chile.
The Treaty of 1929 established Tacna and Arica would be divided with Tacna going to Peru and Arica going to Chile. In addition, it said that "the dividing line between the two parts—and, as a result, the border between Peru and Chile—will begin at a place on the coast called Concordia, 10 km north of the bridge over Río Lluta."

Peruvian Foreign Minister Eda Rivas maintained that the ICJ justices did not make any decision on the land border and that, in practice, his country will retain possession of the area where Peruvians own the land but not the sea. "We are going to have 300 meters of dry coast. Although that isn't normal, there are six cases in the world where, for different reasons, there is a dry coast," she said, emphasizing that the area "isn't disputed," openly contradicting the Chilean position.

While Peruvian authorities maintain there is no land dispute, they said that, if Chile insists on claiming the triangle of land, Peru would invoke a clause of the Treaty of 1929, which states that arbitration of such disputes will go to the president of the United States.

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