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BEACHES OF THE FUTURE: ANALYZING TERRITORIAL DISPUTES IN SOUTH AMERICA

by

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September 2016

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Chile has been able to resolve disputes with other countries with shared borders but has yet to yield to Bolivia's aspirations for sovereign access to the sea. This thesis examines three case studies of territorial or boundary disputes utilizing Chile as the nexus: the Beagle Channel dispute between Chile and Argentina; the Chile-Peru Maritime Boundary Dispute; and Bolivia's pursuit of sovereign access to the Pacific Ocean. Through analysis of dyadic attempts at resolution via an international relations lens, this research finds that nations in dispute are likely to terminate conflict with the presence of an international resolution body, a desired mutual peace, and leaders that promote favorable discourse toward settlement.

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BEACHES OF THE FUTURE: ANALYZING TERRITORIAL DISPUTES IN SOUTH AMERICA

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ABSTRACT

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Chile has been able to resolve disputes with other countries with shared borders but has yet to yield to Bolivia's aspirations for sovereign access to the sea. This thesis examines three case studies of territorial or boundary disputes utilizing Chile as the nexus: the Beagle Channel dispute between Chile and Argentina; the Chile-Peru Maritime Boundary Dispute; and Bolivia's pursuit of sovereign access to the Pacific Ocean. Through analysis of dyadic attempts at resolution via an international relations lens, this research finds that nations in dispute are likely to terminate conflict with the presence of an international resolution body, a desired mutual peace, and leaders that promote favorable discourse toward settlement.

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LIST OF ACRONYMS AND ABBREVIATIONS

DV	dependent variable
EEZ	exclusive economic zone
ICJ	International Court of Justice
IV	independent variable
OAS	Organization of American States
PLN	Picton, Lennox, and Nueva
U.K.	United Kingdom
UNCLOS	United Nations Convention on the Law of the Sea

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I. INTRODUCTION

A. MAJOR RESEARCH QUESTION

In recent decades, dispute resolutions in Latin America have shown that rivalry and rapprochement have impacted international relations for the better. For example, Chile and Argentina signed the Treaty of Peace and Friendship in 1984, resolving an enduring dispute over the Beagle Channel.[1] Since then, they have profited from regional trade and democratic peace. In 2014, Chile and Peru achieved results for their maritime dispute from the ICJ; the settlement opened more opportunities for developing closer ties and expanding integration. As Chile has successfully resolved two border disputes, one wonders why Chile and Bolivia are still distanced.[2] For over a century, Chile has refused to yield to Bolivia's salient aspirations for sovereign access to the Pacific Ocean. Chile has settled disputes with its other neighboring states, and yet, the major obstacle Bolivia seeks to overcome fails to resonate.

What factors cause resolution of border disputes in Latin America? This thesis investigates what factors likely drive states in choosing to settle territorial or border disputes. Widespread and often enduring, territorial disputes the world over have escalated to interstate war; however, in the last two hundred years, a number of states have peacefully settled disputes through use of the International Court of Justice (ICJ), bilateral negotiations, or arbitration.[3] The rewards to resolving these disputes are many, including economic exchange, mutual defense cooperation, and diplomatic relations. To find out why some states resolve disputes and why others do not, I examine three Latin American dyads that have engaged in territorial disputes, and attempt to seek out a general application theory that might explain what factors matter in the resolution process.

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[1] James L. Garrett, "The Beagle Channel Dispute: Confrontation and Negotiation in the Southern Cone," *Journal of Interamerican Studies and World Affairs* 27, no. 3 (1985), 81, DOI:10.2307/165601.

[2] Edgardo Manero, "Strategic Representations, Territory and Border Areas: Latin America and Global Disorder," *Geopolitics* 12, no. 1 (2007), 11, https://halshs.archives-ouvertes.fr/halshs-00233006/document.

[3] Krista E. Wiegand, *Enduring Territorial Disputes* (Athens, GA: University of Georgia Press, 2011), 2.

B. IMPORTANCE

Territorial disputes have long been a foundation for conflicts in the international arena—land claims have essentially been the root of all other types of conflicts because they tend to create ripples of tension. By identifying the logic used by states involved in disputes, we may be able to achieve steps toward peace and stability. Analyzing cases in the Americas—an area with relatively little research—should be a routine and necessary tenet in securing our understanding of "our shared home," a term emphasized by former commander of U.S. Southern Command, Admiral Jim Stavridis.[4] Dispute resolution research is valuable for military and foreign policy formulation in the United States, academic advancement, and the changing role of international institutions.

First, the commander of United States Southern Command (US SOUTHCOM) holds building partner nation capacity within the South American region top priority. Through the process of establishing and maintaining relationships to ensure national security, our military relies on continued engagement and cooperation with our allies.[5] The United States shares many values with Chile, including stances on human rights, promotion of democracy, and pursuance of strong economic policies. Studying how Chile resolves or does not resolve its border disputes bears relevance on our U.S. military and diplomatic interests, and, more generally, holds relevance among any international partner relationship.

Second, there are not enough literatures outside of the subject area of Europe address the topic of territorial disputes and its eventual lead up to crises and war.[6] In the Asian and Latin American region, more territorial disputes exist, yet gaps in research remain.[7] By examining special cases in South America and applying existing theoretical

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[4] James Stavridis, Partnership for the Americas: Western Hemisphere Strategy and U.S. Southern Command (Washington, D.C.: National Defense University, 2010): xvii.

[5] United States Southern Command, "Commander's Priorities," Defense.gov, accessed November 16, 2015, http://www.southcom.mil/aboutus/Pages/ Commander's-Priorities.aspx.

[6] Paul K. Huth, Standing Your Ground: Territorial Disputes and International Conflict, (Ann Arbor, MI: University of Michigan Press, 1998), accessed October 16, 2015, 6, http://site.ebrary.com/lib/nps/Doc?id=10327048.

[7] Wiegand, *Territorial Disputes*, 90–91.

perspectives, we, as an academic community focused on policy, can sharpen our understanding of state behaviors regarding enduring disputes elsewhere.

Lastly, educating ourselves on the conditions that enable border conflicts may help us to understand how to de-escalate them. While the majority prefers to maintain diplomatic solutions in a time where full-scale war is now rare, the potential for negative economic and political impact is greater with the existence of unresolved boundary and territorial disputes. Paying attention to these challenges and their causes may better equip the international community to understand sources of conflict and formulate improved foreign policy.

Given the importance of this question, I expect that additional research in this field will contribute to an increasingly important collection of literature. Chapter II focuses on exploring what has already been addressed about territorial disputes through different schools of international relations (IR) theory. In this next section, I present my plan of action for analyzing the research question.

C. RESEARCH DESIGN

This thesis examines and compares three case studies. Each dyad includes a territorial or border dispute that generated one or more resolution attempts, which, in this thesis, are categorized as dependent variables (DV).

The countries examined in each of these dyadic cases (Chile–Peru, Chile–Argentina, and Chile–Bolivia) follow the "most similar" research method. Likewise, all of the dyads are similar; they represent regional rivalries and border issues while controlling for colonial and religious history.[8] At the very core, each dyad has resulted in war with each other and consists of Spanish-speaking democracies that were former Spanish colonies. Additionally, I selected these dyads because they have shared a range of disagreements unrelated to political borders as well. While attempting to create a perfect "most-similar research design," it is important to note that it is barely possible to

[8] John Gerring, *Social Science Methodology: A Critical Framework* (Boston: Cambridge University Press, 2001), 210.

find a "*near* perfect" design in the real world.[9] Through the "most-similar method," each case (territorial or border dispute) tests each hypothesis on dichotomous variables using "more subtle differences of degree." While each differs in outcome (resolved dispute versus unresolved dispute), each variable represents an absent or present similarity, which will help assess what factors and characteristics of each dyad lead to resolution.[10]

Chile, which currently remains the most stable country in the region, was selected as the nexus in this analysis to allow for more control and depth throughout the thesis structure. The other countries represented vary along the fields of human development index, globalization, competitiveness, and the like. These differences help explain the logic behind decisions of territory and border resolution; namely, the impact that being landlocked might have on winning an appeal for disputed land and maritime access.

I have chosen a categorization scheme based on Western international relations theory and its three most common schools of thought—realism, liberalism, and constructivism. The categorization scheme provides a streamline of thought and aligns the analysis for sake of organization of the thesis. Implicitly, levels of analysis are used whenever possible by virtue of my research, primarily through second image (that of the state); however, if possible, first and third image may be applied.

In this thesis, I examine political border disputes in the Chile–Argentina and Chile–Peru dyads, while the Chile–Bolivian dyad, involving an irredentist claim, capitalizes on discussions of previous guarantees that hint toward bilateral negotiations (see Figure 1). I also research the types of bilateral agreements these dyadic relationships attained in order to be considered a dispute resolution. Argentina and Peru signed multiple treaties and protocols in regard to their specific challenges; however, few issues in question still remain (e.g., a section in the Patagonian ice field that remains unmapped due to varying geography).[11]

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[9] Ibid.

[10] Ibid.

[11] Emmanuel Brunet-Jailly, *Border Disputes: A Global Encyclopedia, Vol. 1* (Santa Barbara, CA: Abc-Clio Incorporated, 2015), 450.

The research takes into account all published information until the end of 2015. The sources I use for analysis are primarily sources from the Western Hemisphere in English and Spanish. To provide nationalist views, this research includes perspectives from country-sourced articles, blogs, source documents, and books. This thesis attempts to answer the more general causes for dispute question but primarily concentrates on this particular South American region.

D. THESIS OVERVIEW

The following chapter focuses on the three main theoretical perspectives of international relations (realism, liberalism, and constructivism) as applied to boundary disputes. Chapter III discusses the first case study, the Beagle Channel conflict between Chile and Argentina. This chapter highlights one of the earlier boundary resolutions made with Chile during both environments of military and democratic governments. Then, the case study on Peru and Chile's maritime border conflict is discussed in Chapter IV. Although this studies a maritime border dispute, Peru's involvement is important in context to the Bolivia question, as they both had lost valuable land to Chile in the 19th century. Chapter V focuses on challenges from Bolivia that involve multiple issues of desiring maritime access or negotiating over lost territory that once connected to the Pacific Ocean. I intend to apply the approaches and principles gained from each preceding chapter to establish an expectation regarding the outcome of the Bolivian plea for maritime access. The conclusion, where I make an overall supposition of the Bolivia-Chile boundary dispute, ties the research together. Through these case studies, I may be able to provide an answer to the question of border disputes that may be applied to conflicts in not only the South American region but elsewhere.

Figure 1. Location of Dyads in South America[12]

[12] Adapted from *World Atlas*, last modified July 12, 2016, http://www.worldatlas.com/webimage/countrys/sa.htm.

II. MAIN THEORETICAL PERSPECTIVES

A. INTRODUCTION

Chapter Four in Bolivia's 2009 Constitution is titled *Reinvindicatión Marítima* ("Seacoast"), which declares its inalienable right of the territory that once gave them access to the Pacific Ocean, referring to the lost Antofagasta region, which they lost to Chile in the War of the Pacific.[13] Bolivia thus challenged Chile on an irredentist claim—a movement intended to reclaim and reoccupy a lost homeland—that is symbolic, as well as economically valuable, to the landlocked country. The dispute has since been taken to the International Court of Justice (ICJ). If we consider the 1904 treaty, which was agreed upon and signed by both parties (according to President Evo Morales in 2013 and effectively imposed on Bolivia "down the barrel of a gun"), it is uncertain that this plea is a legitimate claim.[14] Few works provide insight to Chile's obstinate attitudes toward dealing with Bolivia on this issue. Although the literature focuses on historical aspects of territorial and boundary disputes armed conflict between dyads it does not analyze the factors and conditions resolutions surrounding them.[15]

Those who have examined this field scholarship and provide answers to the research question have provided numerous factors that align with certain interstate relationships. I endeavor to explore these probable answers, which generally fall into three schools of IR theory. For this analysis, the potential hypotheses are presented and grouped by the realist, liberal, and constructivist approaches.

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[13] *Constitución Política del Estado Plurinacional de Bolivia* (2009) (Constitution of Bolivia): ch. IV, art. I, accessed December 12, 2015, http://www.presidencia.gob.bo/documentos/publicaciones/constitucion.pdf.

[14] Gideon Long, "Bolivia-Chile Land Dispute Has Deep Roots," *BBC News,* April 24, 2013, http://www.bbc.com/news/world-latin-america-22287222.

[15] Huth, *Standing Your Ground*, 18.

B. REALISM

1. Literature Review

A number of authors argue that exploiting disputed territory as bargaining leverage in concession talks is the reason why disputes endure. Krista E. Wiegand believes that target states may purposely maintain disputes toward negotiations over other unresolved issues in the future. Using a dual strategy of issue linkage—taking into account the matters of politics, economics, and diplomacy—"states can benefit from the endurance of a territorial dispute, and therefore they will pursue dispute strategies that best meet their ability to achieve bargaining gains with other disputed issues."[16]

Jorge I. Dominguez et al. make a similar argument that supports an overall strategy of coercive bargaining in which a state will choose militarization of a dispute as a tactic to negotiate. The incentive to militarize becomes a state's bargaining tool; it will cause other states to intervene, thereby reducing the cost of its aggression and creating a moral hazard—the "risk for further escalation is low" because other states will interfere.[17]

While not as fervent as Wiegand, David R. Mares looks at a past Argentina-Chile dispute involving the Beagle Channel dispute and militarized bargaining as a model. According to Mares, "Policymakers usually negotiate without any recourse to military force," but the use of military strengths can influence the terms greatly.[18] Mares draws upon Argentina's weak bargaining position for one or more islands off the Beagle Channel at the southern tip of South America. Like Dominguez, Mares points out that militarized bargaining costs play a factor for escalation, as in the case with this conflict. In his example, Argentina needed to figure out how to broaden Chile's bargaining range in order to keep them out of the Atlantic.[19] Additionally, Mares examines hypotheses that

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[16] Wiegand, *Territorial Disputes*, 43.

[17] Jorge I. Dominguez et al., "Boundary Disputes in Latin America," *United States Institute of Peace* (Purdue: Purdue University, 2003): 27, accessed October 9, 2015, https://www.usip.org /sites/default/files/pwks50.pdf.

[18] David R. Mares, *Violent Peace: Militarized Interstate Bargaining in Latin America.* (New York: Columbia University Press, 2011), 8.

[19] Ibid., 138.

ask whether power preponderance within a dyad, not parity, affects whether or not two states go to war or peace over a dispute.[20]

Bolivia's irredentist claim of natural resources lost from the War of the Pacific is a "paradigm not only of the relationship between conflict and sovereignty on resources but also of the return of secessionism, irredentism and annexationism."[21] Edgardo Manero draws upon the resurgence of Latin American conflicts attributed to controversies regarding control of flows—legal commodities like oil and minerals, as well as illegal goods like drugs. Even more than just a traditional territorial claim, the issue centers on a demand for sovereignty from a landlocked country resourced in non-renewable resources.

2. Hypothesis

The realist approach believes that states—relative to their neighbors—strive to seek power to increase their national power or to remain competitive within a system of anarchy. Given that realist theory suggests that strong states involved in territorial disputes are more likely to choose increasing their capacity for defense and as a form of power projection, the target state (in this example, Chile) may choose not give into Bolivia's request. The theory also leads to the belief that states are unlikely to concede territory if they already maintain an advantage or wish to maintain the status quo. A country like Chile may refuse to risk territory in order to maintain the status quo; however, once that status is lessened or compromised, bargaining leverage is no longer a question. For any other salient issues that result afterward, the target state (i.e., Chile, in this case) may not be capable of gaining the upper hand. I believe Chile will maintain the resource-rich area until a new resource becomes attractive enough to the target that it has potential to boost its own economic influence and power. In this respect, I hypothesize that

> *HR_1:* If a target state perceives that giving up bargaining leverage through concessions of territory will not threaten its national security or lose its status quo as a power, a resolution is more likely to take place. Conversely, if a target state perceives that giving up bargaining

[20] Ibid., 115.

[21] Manero, "Strategic Representations," 30.

leverage through concessions of territory will threaten its national security or its status quo, this will decrease the likelihood of resolution.

C. LIBERALISM

1. Literature Review

Political leaders who choose to endure border or territorial disputes may do so because of the implications of domestic policy. This school of thought posits that leaders are likely to turn to arbitration or implore the use of third-party arbitration when they are afraid to make decisions on their own.[22] According to Paul K. Huth, the lack of incentive to seek a dispute resolution exists because territorial concessions are perceived as a foreign policy defeat.[23] Huth and Todd Allee claim that leaders who "anticipate significant domestic audience costs for the making of voluntary, negotiated concessions are likely to seek the 'political cover' of an international legal ruling."[24] Legal dispute resolution is more likely if the issue is greatly salient to domestic audiences; to be able to justify the making of concessions, Huth and Allee argue that the authority should be mandated as "part of a ruling by an international court or arbitration body."[25] By the same grain, the authors have developed this theoretical model that may be applied to other legal disputes.[26]

In another work, Huth and Allee say that realist critics fail to make a compelling logical case that domestic-level variables should not be expected to shape the foreign policy choices of state leaders."[27] Their theoretical analysis for democratic peace, in which "domestic political institutions and norms of behavior can influence state policy in international disputes," is plausible.[28] They define their collective analysis as a modified

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[22] Kenneth Schultz, "Borders, Conflict, and Trade," *Annual Review of Political Science* 18 (2015): 136, accessed October 20, 2015, DOI: 10.1146/annurev-polisci-020614-095002.

[23] Huth, *Standing Your Ground*, 184.

[24] Todd L. Allee and Paul K. Huth, "Legitimizing Dispute Settlement: International Legal Rulings as Domestic Political Cover," *American Political Science Review* 100, no. 2 (2006): 219.

[25] Ibid.

[26] Ibid., 232.

[27] Paul K. Huth and Todd L. Allee, *The Democratic Peace and Territorial Conflict in the Twentieth Century* (Cambridge: Cambridge University Press, 2002), 16.

[28] Ibid.

realist approach that finds leaders concurrently managing their tenure and positional power with their national security interests overseas.

Mares discusses a view consistent with the democratic peace theory, which claims that "democratic polities 'rarely wage war on one another'"; the promotion of democracy will increase the level of international security among neighboring states—namely, two democracies.[29] States of the Western Hemisphere are assured in this belief, and just in case, the Organization of American States (OAS) adopted a resolution in which "a threat to democracy in any Western hemisphere nation automatically constituted a threat to the security of all American nations."[30] With regard to the Argentina-Chile conflict dispute, Mares argues Argentinian leaders were faced with balancing avoiding military conflict with its Chilean neighbor and the commitment to the bi-oceanic principle, which he called a "public good."[31] Losing control over a public good would redefine itself relative to Chile; its effect on domestic policy would result in a loss of control in the territorial dispute.

Another solution to territorial and border disputes can be as easy as taking it to a third party, such as International Court of Justice (ICJ) in The Hague for ruling. *The Economist* published a piece of work that exposed a "grown-up way to settle a long-standing border dispute" between Peru and Chile.[32] Peru took its case for maritime dispute to the ICJ, which gave a challenger state an opportunity to benefit economically from an international actor. Following the verdict, an act of war was not pursued; on the contrary, what resulted was a shared outlook to strengthen economic and diplomatic ties between the two states. If Chile and Peru are able to cooperate under the world stage to maintain its maritime boundaries, their story may be an example to other states that are currently under pressure to concede to contestants—this is "how one boundary is redrawn

[29] Mares, *Violent Peace*, 84.

[30] Ibid.

[31] Ibid., 139.

[32] "A Line in the Sea: Here's a Grown-up Way to Settle a Long-Standing Border Dispute," *The Economist*, February 1, 2014, http://www.economist.com/news/americas/21595481-heres-grown-up-way-settle-long-standing-border-dispute-line-sea.

could end up affecting other maps, too."[33] It is Bolivia's hope that by following Peru's lead, the ICJ may fix their wounds. Of note, the majority of ICJ cases that already have an existing treaty that demarcates a set boundary—much like Bolivia and Chile—will revert to the judgment stated in the treaty. Territorial claims of the "treaty" category, as in Bolivia's case, are easier to assert due to its existence of documentation, rather than the existence of customary international law or general principles of law.[34]

2. Hypotheses

In regard to the liberal democratic peace theory, democratic norms and institutions are more likely to encourage neighbors to negotiate a dispute and avoid military conflict.[35] These shared norms and institutions are complementary causes for states to refrain from acting aggressively and instead toward maintaining a sort of peace. Similarly, the assertion that free trade influences international relations could potentially mean success for Bolivia. In contrast to realist theory, the liberal school of holds that interdependence may be an option to preserve peace between neighbors and act as a benefit to both economies. Therefore, I hypothesize that

> *HL_1* If both states perceive that maintaining the status of democratic peace, mutual cooperation, and reciprocal interdependence is more beneficial than costly, the likelihood of resolution increases. Conversely, if both states perceive that maintaining the status of democratic peace, mutual cooperation, and reciprocal interdependence is more costly than beneficial, then the likelihood of a border dispute resolution decreases.

The case for sovereign access to the sea was brought to the International Court of Justice at The Hague, Netherlands, for ruling. In 2008, Chile had been challenged by Peru regarding a dispute for its maritime border. As the challenger, Peru enacted third-party arbitration that finally resulted in a delimitation of the maritime boundary in early 2014. Where fishing practices and trade played factors, the dispute was of great importance to both countries where a boundary had not been agreed on before. By following the third-

[33] Ibid.

[34] Brian Taylor Sumner, "Territorial Disputes at the International Court of Justice," *Duke Law Journal* 53 (2004), 1781, accessed December 12, 2015, http://www.jstor.org/stable/40040452.

[35] Huth and Allee, *Democratic Peace*, 6.

party intervention model exhibited by Peru, similar results may happen in the case of Bolivia. This is the following hypothesis:

> *HL_2:* If there is an international resolution body present, then a resolution is more likely to take place. Conversely, if there is no international resolution body, the likelihood of a border dispute resolution decreases.

D. CONSTRUCTIVISM

1. Literature Review

A few Latin America countries continue to carry on disputes stemming from lingering colonial issues. Edgardo Manero explores different takes on strategic representations in the region by arguing that an ideology of conquest led to what we now view as Latin American geopolitics.[36] He argues that Chilean traditional nationalism has been a factor worth noting in Bolivia's desire to regain access to the sea. The impoverished nation of Bolivia continues to struggle without a territory involving "resources, whether 'real' or 'imagined.'"[37] Although this is a factor, he writes that the anti-Chile feeling should also be looked at in more detail "in the context of the resistance to the depredation of national resources, which are exploited by transnational firms"; the Bolivian movement for access is not only fighting for the principles against natural resource exports but demonstrating "a refusal of the detrimental conditions of natural resource negotiations that have damaged the Bolivian state and its citizens."[38]

Marcus Kornprobst addresses how irredentist disputes in Europe were peacefully resolved using what he calls "dejustification."[39] He argues that those who brought down the justification for the territorial dispute did so by changing the ideology surrounding the claim. Social construction of the geopolitics in a region gives way to the dynamics in the disputes; an "identity narrative" constructs the borders.[40] Kornprobst claims there are two

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[36] Manero, "Strategic Representations," 23.

[37] Ibid.

[38] Ibid., 31.

[39] Marcus Kornprobst, *Irredentism in European Politics: Argumentation, Compromise and Norms* (Cambridge: Cambridge University Press, 2008), 228.

[40] Ibid.

levels of social construction that are important to dispute settlement: deep level and adjustment level. The deep level is how the borders are imagined, and is completely ingrained in the identity narrative. A nation defines itself by which it "distinguishes between those inside and those outside of the nation."[41] The adjustment level, by contrast, regards "how nations invent and reinvent the quality of their borders within these parameters."[42] While he claims that coming to a peaceful resolution solely on changing the deep level is difficult, changes to the adjustment level can lead to peaceful resolution, and even friendship, citing the Republic of Ireland as an example. If justification regarding the legitimacy of borders can unravel, then nations can withdraw their irredentist claim—de-justification.[43]

2. Hypothesis

Concerning ideologies, states may choose to address disputes depending on its fluctuations in leadership. Different administrations are capable of prompting strong discourse to promote feelings of nationalism and ownership of territory while others can lessen the emphasis of a particular border issue in order to reduce its importance to the state. Strands of constructivist theory believe that the "capacity of discourse [can] shape how political actors define themselves and their interests, and therefore modify its behavior."[44] The end of the Cold war can be attributed to the collective decision of the leaders of the Soviet Union and the United States; while this argument gives agency in individuals, it can apply to these case studies. Actors who had political impact were able to change the behaviors of the state—in the form of policy, patriotic and national discourse, and the like. The nation's expectations derived from their behaviors, therefore reshaping state identity. The constructivist school cannot predict why countries choose to solve a dispute or the nature of the conduct between the involved parties, but it offers the notion that change is possible. With that being said,

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[41] Ibid.

[42] Ibid., 229.

[43] Ibid., 229.

[44] Stephen M. Walt, "International Relations: One World, Many Theories," *Foreign Policy* 110 (1998): 41, accessed November 11, 2015, http://www.jstor.org/stable/1149275.

> *HC_1:* If it is within the agenda of political leadership to promote discourse in favor of a resolution, a resolution is more likely to take place. Conversely, if it is within the agenda of political leadership to promote discourse against border dispute resolution, then a resolution is less likely to take place.

In the 21st century, most states have been established for quite some time—territories have been drawn and set and connected technologically, economically, and politically for many years. The increasing interdependence between nations in all regions becomes not only complicated, but transcends to the complex. The goal of this thesis is to explore which of these eight hypotheses about whether a target country chooses to continue or resolve a territorial or border dispute appears to hold, and in what potential combinations. Perhaps it is not as simple as saying one reason or another is the main factor for settling a dispute—it may be more intricate as that; however, I think that a few reasons are stronger than others and the task is to find out what those reasons are.

E. METHOD OF CODING

Each case study will present resolution attempts (dependent variable) that relate to the dispute subject matter. At the end of each chapter sub-section, a summary table will list whether each IR-based hypothesis, the independent variables (IV) is a factor in the outcome (Yes or No). Indicated in the final column of each period's summary table, the outcome of each resolution attempt, or dependent variable (DV), is numerically coded. The DV is coded according to the strength of agreement between the two parties; outcomes are evaluated on a 4-point scale, measuring two types of partial resolution:

- 1 = no resolution: no parties agree on the terms of resolution
- 2 = partial resolution: one of the parties agree to the terms of resolution
- 3 = partial resolution: both parties agree on terms of resolution, not ratified
- 4 = resolution: both parties agree to terms of resolution; ratified, complied to terms

The IR-based hypotheses are evaluated against each attempt, with the majority of documented endeavors in this chapter reflecting at least a partial resolution.

F. PREDICTIONS

Based on my research, I predict that the pattern exhibited by Latin American countries involved in these types of conflicts will choose and rely on arbitration. Over 20 cases in Latin America have been resolved through some form of arbitration; in contrast, countries outside the American continent still amount to the single digits.[45] Although it can depend on the norms of the government, most democratic-leaning countries are willing to comply with decisions made by organizations within the system to which they also belong.

In an era where the likelihood of militarized conflict wanes, the likelihood that nations will come together depends on the realization of economic integration and cooperation among them. It may be beneficial to make compromises in order to attain this level of stability. In a salient issue such as the sovereign access to the sea, Bolivia needs to be willing to concede as well as its target state.

In addition to these theories, I also predict that the "magic button" that pushes disputes to settlement depends on the support of the nation's leadership. Regardless of government type, people in positions of power also have the power of persuasion; therefore, governing bodies have the ability to influence outcomes when they demonstrate commitment toward a decision.

[45] Beth A. Simmons, "Capacity, Commitment, and Compliance: International Institutions and Territorial Disputes," *Journal of Conflict Resolution* 46, no. 6 (December 2002): 836, DOI: 10.1177/002200202237931.

III. CHILE–ARGENTINA DYAD

A. INTRODUCTION

Chapter III examines the first of three disputes discussed in this thesis: the Beagle Channel dispute, one of the most long-lasting boundary disputes between Argentina and Chile. Since the enactment of the 1984 Treaty of Peace and Friendship, Chile and Argentina have institutionalized cooperation and interdependence.[46] Multilateral forums such as Mercosur and the OAS have benefitted both countries in economic integration, creating shared interests.[47]

To determine what conditions or factors might bring two states of a territorial dispute to the negotiating table, I examine the process that led to the Beagle Channel dispute's final resolution. To explain this, Chapter III intends to achieve three things. First, this chapter discusses the historical background of the dispute between the two major states, and the border conflict that arose out of the late 19th century. Second, this chapter studies each arbitration attempt since its first border-related agreement in 1881. The resolution attempts examined in this dyad are the 1881 Boundary Treaty of Limits; the 1893 Protocol between Chile and Argentina; the 1902 General Treaty of Arbitration; the Protocols of 1915, 1915, and 1960; the 1977 Arbitral Award; and the conclusive 1984 Treaty of Peace and Friendship. Third, this chapter explores how each resolution attempt reached an outcome, drawing from the three schools of IR theory discussed in the previous chapter. Each section concludes with an application of four hypotheses, alongside the DV as the outcome of the resolution itself. Through this process, I provide a better understanding of what factors might lead a major power like Chile to choose a path to resolution over a path of an enduring dispute—as is in the case with Bolivia's aspiration for sovereign access to the sea.

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[46] Randall R. Parish, Jr., "Democrats, Dictators, and Cooperation: The Transformation of Argentine-Chilean Relations," *Latin American Politics & Society* 48, no.1 (April 2006), 143, http://onlinelibrary.wiley.com/resolve/doi?DOI=10.1111/j.1548-2456.2006.tb00341.x.

[47] Ibid., 167.

B. BACKGROUND OF THE BEAGLE CHANNEL DISPUTE

The Beagle Channel dispute lasted almost a century as one of the earliest conflicts between Argentina and Chile since their independence. They share one of the longest borders in the world to include the communal Andes Mountains, which makes territorial control challenging. The rendering of the informal *uti possidetis juris* in 1810, a guiding principle that provided newly independent sovereign states to retain the same borders that their preceding regions held prior to independence, established the boundary beginnings within Latin America.[48] Prior to the 1881 Boundary Treaty, the first of a long series of border resolution attempts, conflicting claims by both countries in the Andean and southern regions already existed in the 1840s.[49] Unfortunately, due to other urgent matters at the time, the friction that existed regarding claims in the southern uninhabited territories would take a backseat.

The source of the Beagle Channel dispute—named after the natural water boundary in the southern region—originated from the dual claims of inherited lands by both Argentina and Chile.[50] Argentina achieved independence in 1816 and Chile in 1818. After the Spaniards had colonized and left the region, the two countries discovered their inheritance of overlapping parts of the Patagonia—the region shared by the two nations in the Southern Cone. Due to their economic importance and strategic location along the Beagle Channel (see Figure 2), the islands of Picton, Nueva, and Lennox (affectionately known as the "PLN group") stand at the heart of this controversy.[51]

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[48] Garrett, "Dispute," 86.

[49] Ibid.

[50] Lisa Lindsley, "The Beagle Channel Settlement: Vatican Mediation Resolves a Century-Old Dispute," *A Journal of Church and State* 29 (Fall 1987): 435.

[51] Garrett, "Dispute," 82.

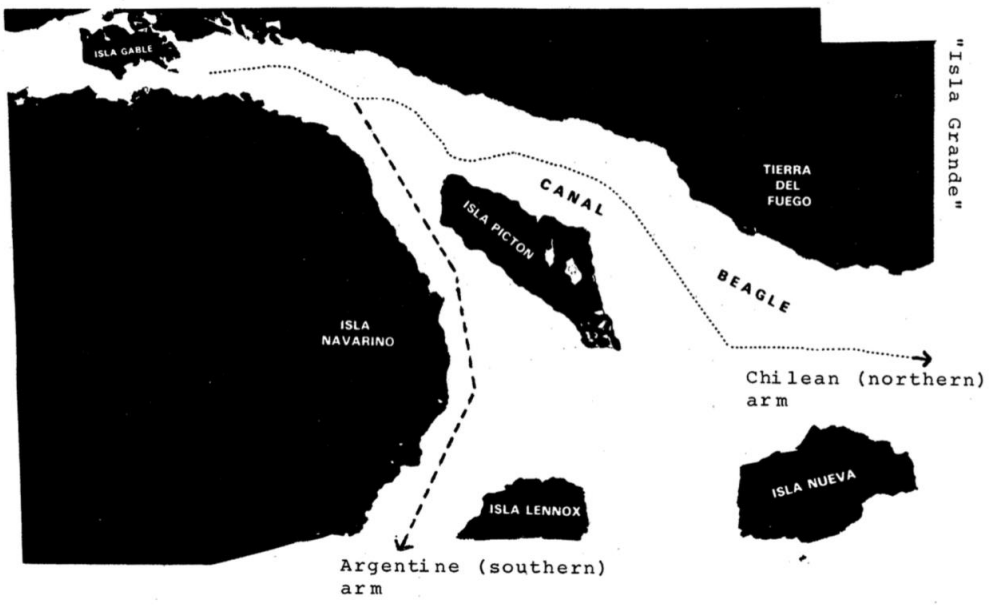

Figure 2. The Chilean and Argentine Interpretations of the Beagle Channel Path around the Islands of Picton, Nueva, and Lennox[52]

After the signing of the 1881 treaty, which failed to address the specific confines of the Beagle Channel, both Chile and Argentina unsuspectingly claimed sovereignty over the critical body of water.[53] Since 1884, Argentina operated a military base in Ushuaia Bay, on Tierra del Fuego, moving many of its ships through the channel and around the PLN islands. Unconnectedly, Chile had been providing land to settlers ever since 1892. Altogether, this occurred without any communication between the two neighbors.[54] In 1894, Argentina objected the colonies Chile had granted to settlers on Nueva and Picton; unsuccessful in resolution, Chile stubbornly made a formal claim on the islands.[55]

A part of the dispute generated within Article III of the 1881 Treaty, which assigned all land and islands south of the Beagle Channel to Chile. Without the types of reliable maps to validate the borders outlined in the terms, Chilean and Argentine claims

[52] Ibid., 83.

[53] Ibid., 89.

[54] Ibid.

[55] Ibid.

were both interpreted differently (see Figure 3). This drew major scrutiny, considering the significance of the islands' location to unexplored Antarctica. An incomplete picture would render the *uti possidetis juris* ineffective and give additional cause to head toward territorial conflict.[56]

Consequently, the major questions surrounding the issues were, "Did Argentine sovereignty stop at the water's edge in the channel?" and the other, "Which path did the Beagle Channel follow in its eastern mouth?"[57] The answers to these questions decided whether Argentina would have access to its Ushuaia military base via the channel. Overall, the country that ultimately won possession of one, two, or all three of the contested islands would determine the state of maritime control and access to a potentially valuable area.

[56] Ibid., 86.

[57] Mares, *Violent Peace*, 133.

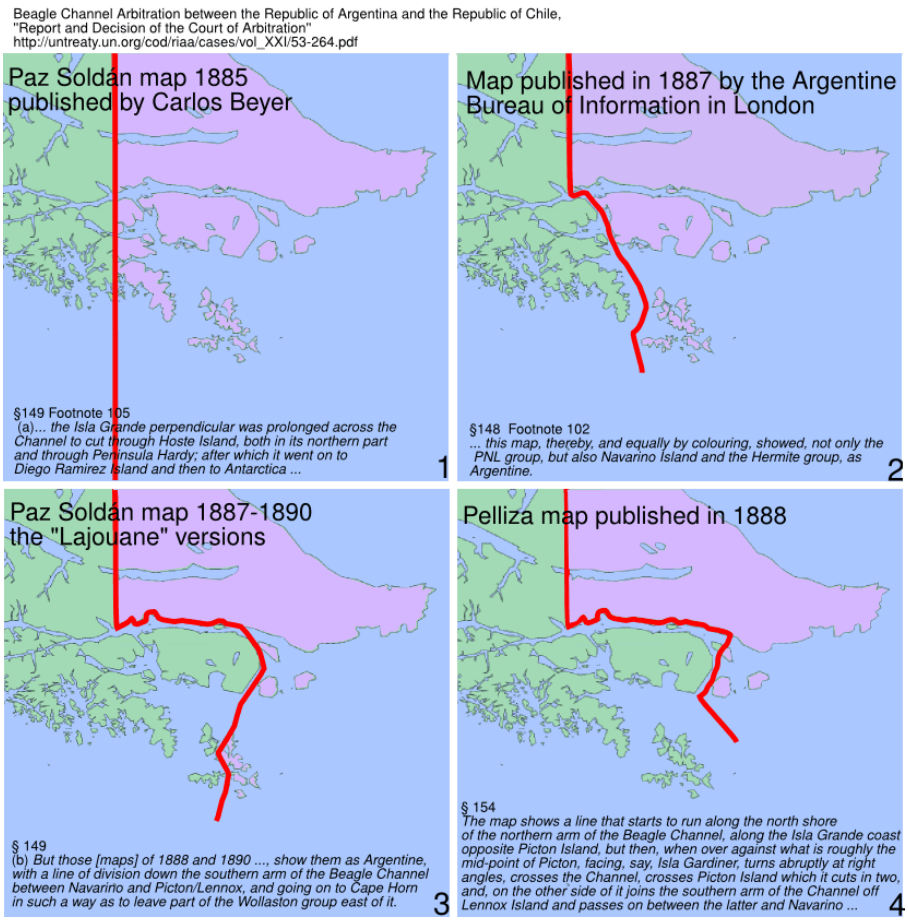

Figure 3. Argentine Views of the 1881 Boundary Treaty, Maps Drawn According to Report and Decision of the Court of Arbitration[58]

Originally regarded solely for its extremely cold temperatures and lack of contribution to wealth, possession of the PLN group remained low in priority to either country during the initial stages of demarcation.[59] At the time of the Treaty of 1881, maritime law allowed coastal states the rights to a three-mile shelf.[60] This rule changed in the mid-1940s when the United Nations Convention on the Law of the Sea (UNCLOS) established a 12-mile territorial limit and a 200-mile exclusive economic zone (EEZ).[61]

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[58] "Report and Decision of the Court of Arbitration," *Wikipedia.org*, accessed April 27, 2015, https://commons.wikimedia.org/w/index.php?curid=4677595.

[59] Lindsley, "Vatican," 436.

[60] Ibid.

[61] Ibid.

The creation of this rule further complicated the unresolved case, as ownership of the PLN group became further blurred and required stricter lines of territorial distinction. The islands' total size averages to approximately 40 square miles of area; however, with the 200-mile EEZ in place, custody over the group would extend control to over an additional 30,000 square maritime miles.[62] Aside from these changes in maritime jurisdiction, the later discovery of petroleum and fish in the area would sweeten the deal.[63] Once aware of the potential of petroleum, the strategic and economic worth of the South Atlantic would move from trivial to extremely valuable for both Argentina and Chile.[64] The appealing Beagle Channel region would expand the shelf area for either nation, promote further exploration in the Antarctic region, and increase wealth and power.

C. TESTING THE HYPOTHESES—ATTEMPTS AT RESOLUTION

1. Resolution Attempt: 1881 Boundary Treaty

In return for its neutral role in the War of the Pacific, Chile recognized Argentina's sovereignty over Patagonia through the Boundary Treaty of 1881.[65] Also known as the Irigoyen-Echevarria Treaty, it was named after the Foreign Affairs Minister Bernardo de Irigoyen from Argentina and Don Francisco de B. Echeverria from Chile.[66] The Treaty formed the initial foundation of boundary limits at a time when border problems began to increase friction between both countries. Though both Argentina and Chile had long maintained possession of the area from the Rio Negro and southward, the border areas north of the Beagle Channel (the Puno area of the Andes region) forced the neighbors to the brink of conflict.[67] Multiple incidents occurring in the Straits of

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[62] Garrett, "Dispute," 82.

[63] Ibid., 83–84.

[64] Ibid.

[65] United Nations Office of Legal Affairs, "Dispute between Argentina and Chile Concerning the Beagle Channel," *Reports of International Arbitral Awards,* Volume XXI (1977), 84, accessed February 26, 2016. http://legal.un.org/riaa/cases/vol_XXI/53-264.pdf.

[66] Ibid.

[67] David R. Struthers, "The Beagle Channel Dispute between Argentina and Chile: An Historical Analysis," (master's thesis, Defense Intelligence College, 1985), 31, http://www.dtic.mil/cgi-bin/GetTRDoc?Location=U2&doc=GetTRDoc.pdf&AD=ADA163393.

Magellan and with foreign ships, such as the Chilean seizure of the *Jeanne Amelie*, a French vessel (despite permission from the Argentines to be in those waters[68]), propelled the governments to pause and take advantage of the assistance offered by local U.S. representatives.[69] As a result, the newly minted Treaty specified the terms agreed to by both: all islands east of Tierra del Fuego belonged to Argentina; islands west of Tierra del Fuego, as well as those situated south of the Beagle Channel and north of Cape Horn, belonged to Chile.[70] Regrettably, the definition as "south" and the exact Beagle Channel limits were ambiguously addressed.[71]

Furthermore, the Treaty also provided a foundation for the concept of *bioceanismo*, or the bi-oceanic principle.[72] Designed to define a peaceful co-existence between both South American nations, it obscurely assigned Chile to watch over the Pacific and Argentina in the Atlantic.[73] As an addition to the Treaty of 1881, the 1893 Protocol endeavored to clarify certain parts of the parent document; inconveniently, the Protocol was ratified without any accompanying maps.[74] According to Argentina, the Treaty and its supporting protocols denoted the enforcement of the bi-oceanic principle.[75] The part of the Protocol relevant to *bioceanismo* came from Article II:

> According to the spirit of the Boundary Treaty, the Argentine Republic retains its dominion and sovereignty over all the territory extending to the east of the main range of the Andes and as far as the Atlantic Coast, and the Republic of Chile the territory west as far as the Pacific Coast; it being understood that, by the provisions of that Treaty, the sovereignty of each State over the respective littoral is absolute so that Chile cannot claim any

[68] Ibid.

[69] Ibid.

[70] Lindsley, "Vatican," 436.

[71] Garrett, "Dispute," 82.

[72] Mares, *Violent Peace*, 133.

[73] Ibid.

[74] Lindsley, "Vatican," 436.

[75] Garrett, "Dispute," 91.

point towards the Atlantic nor can the Argentine Republic claim any point towards the Pacific.[76]

a. Key Takeaways from 1881 Boundary Treaty

Absent from the Treaty of 1881 was the reference to the islands south of Tierra del Fuego. The Treaty's two notable articles, II and III, addressed the immediate border concerns, but failed in creating a sharper picture. Article I appeared to be the least ambiguous in its address of the boundary's end found at the 52nd parallel. The setback found in the Article dealt with its postponement of responsibility relating to future watershed divide concerns: If, in the future, uncertainties emerged after this Treaty issuance, the matter "shall be amicably solved by two Experts, one appointed by each party."[77] Moreover, the Article mentioned that if the two Experts failed to agree, an outside party—selected by both Argentina and Chile—shall be called in to decide among them.[78] At the Treaty's conclusion, a catch-all phrase puts future matters into the hands of an external resolution body: "any question which may unhappily arise between the two countries . . . shall be submitted to the decision of a friendly Power."[79]

To encourage passing of the resolution, Chilean officials urged their leadership to press with approval in order to avoid unexpected disruptions to the pending Bolivia-Peru peace treaty.[80] Chileans believed relinquishing Patagonian lands would not damage any vital interests, and, at that point, they possessed nothing on the sparse areas while Argentina did.[81] In addition, Argentine leadership fostered support of this treaty. In the name of bioceanismo, Irigoyen appealed to the Congress, proclaiming "that the treaty meant that the Argentine flag would be 'the only one that will fly . . . from the Rio Negro to the Strait and Cape Horn.'"[82]

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[76] *Chilean-Argentine Relations: The Beagle Channel Controversy: Some Background Papers*, s. n., (1978): 87–88.

[77] Ibid., 83.

[78] Ibid., 84.

[79] Ibid.

[80] Garrett, "Dispute," 88.

[81] Ibid.

[82] Ibid.

b. Application of Hypotheses

This initial resolution attempt illustrated the states' need to provide a clear delineation of territory, but was not indicative of the realist approach. At this early stage of bilateral geopolitics, mutually acknowledged borderlines did not exist between the two states. The realist argument (HR_1) relies on the value that states place on giving up bargaining leverage through concessions. Whereas the spirit of the 1881 Treaty solely addressed the border information gap, it never implied alteration of the status quo. Both countries' sovereign claims over the contested area clearly revealed their perception of territory as valuable, but the realist approach cannot explain the outcome of the agreement. Though Chile's reasoning for the resolution prompt could be traced to the general use of territory or bodies of water as instruments of power, its circumstances with Bolivia and Peru at the time seemingly mattered more.

The first liberal argument (HL_1) can explain the outcome, given the treaty's intent to peaceably establish spheres of influence for each state. The states' plan to draft a treaty of boundary limits rather than engage in conflict demonstrated a determination to maintain a sort of democratic peace. *Bioceanismo*, a cooperative and respectful principle, was most evident in the decision to divide the Tierra del Fuego and Andes range down the center.[83] "Desirous of terminating in a friendly and dignified manner the boundary controversy," there was a deep recognition to resolve disagreements peacefully.[84] I argue that this treaty set the initial conditions—via amicable and cooperative approaches—for future conferences.

My second hypothesis based on the liberal theory (HL_2) cannot explain this outcome given that the Treaty referenced use of decision-makers within the governments rather than external to the region. Although the Treaty was devised with a pathway allowing third party involvement, it does not meet the criteria of utilizing an international resolution body for adjudication. The treaty laid out the foundation for territorial consensus with the stipulation that any forthcoming cases may be decided by another

[83] Struthers, "Historical Analysis," 32.

[84] *Chilean-Argentine Relations*, 83.

commissioned group of administrators, rather than spelling out a more permanent demarcation; these "experts" would be designated by each government.

Examination through the constructivist lens indicates that prompting strong discourse in favor of resolution explains the attempt's positive outcome. In Chile, officials appealed to heads of government in respect to the resolution's importance and championed its approval; by doing so, they reasoned, the potential for unwanted political disruptions would be eliminated. The constructivist argument (HC_1) can account for this outcome, given that the leadership had direct impact on the sway of 1881 Treaty's approval.

In summary, the 1881 Boundary Treaty can be described through the liberal and constructivist theories (see Table 1). Irigoyen and Echeverria signed the treaties in favor of a peaceful border resolution rather than conflict, eliminating the notion that the political leaders desired discourse against a settlement. Both parties settled on a contract that remained unchallenged until the 1900s, when further clarification was necessary for the Andes Mountains and Isla Grande lines of demarcation.

Table 1. Hypotheses Application to 1881 Boundary Treaty

Sub Case	Leverage Through Concessions (HR_1)	Mutual Peace and Cooperation (HL_1)	International Body (HL_2)	Discourse (HC_1)	DV: Outcome of Resolution Attempt
1881 Boundary Treaty	No	Yes	No	Yes	4

2. Resolution Attempt: 1893 Protocol

As discussed, the Protocol came into being to further clarify the boundaries in the *Cordillera de los Andes*, regarding disputed claims in the Andean mountain range.[85] Argentina objected to an incorrectly placed boundary marker that designated a portion of

[85] Struthers, "Historical Analysis," 36.

the Puna de Atacama region to Chile; Argentina fervently rejected this notion.[86] Originally, the naming convention was based on a belief that geographical boundaries from crest to crest followed the same suit as the water-parting line.[87] Once again, the zone in question only addressed to the extent of the 52nd parallel.[88] Since the 1881 Treaty, Argentina and Chile had slowly established settlements in the southern region along the Beagle Channel without much resistance, since odds of skirmishes in this vast area were less likely. For example, in the early 1880s, English Protestant settlers were the first to occupy the area now called Ushuaia; in 1884, the Argentines established a military base there.[89] Chile also began to establish regional settlements, such as Puerto Pabellón in 1892.[90] Nevertheless, the Patagonian claims and northern borders were central to these early treaties, regardless of the events occurring in the maritime sphere.

Like the 1881 Treaty, the 1893 Protocol was ratified without accompanying maps; however, according to Argentina, it was the first time the bi-oceanic principle was embedded in a dispute resolution. The statements materialized in Article II (see Section B, "Background"), based on the *uti possidetis juris* principle from 1810. Although the majority of the Chileans publicly rejected Argentina's request to remove the marker, envoys from both governments came together to eagerly negotiate with diplomacy than with military might.[91]

a. Key Takeaways from 1893 Protocol

The Protocol accomplished three things. First, it set to supplement the Boundary Treaty by expounding upon the questionable terms of the Boundary Treaty. To validate that the Protocol was nothing more than amplification of the parent document, Article X noted that the "preceding stipulations do not impair in the very least the spirit of the

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[86] Robert N. Burr, *By Reason Or Force: Chile and the Balancing of Power in South America, 1830–1905* (Berkeley, CA: University of California Press, 1967), 204–205.

[87] Ibid.

[88] *Chilean-Argentine Relations*, 87.

[89] Garrett, "Dispute," 89.

[90] Ibid.

[91] Burr, *By Reason or Force,* 205.

Boundary Treaty."[92] The failure to comprehensively recognize the gaps in both the Treaty and Protocol eventually led to the source of the Beagle Channel controversy. At the time, however, these decisions solved the issues close at hand and simultaneously released Chile from having to sort out complications with Argentina during the War of the Pacific.[93]

Second, the Protocol continued its inclusion of "Experts" to provide a ruling over questionable water-divides—where boundary lines could be demarcated on the ground with the assistance of Assistant Engineers. These entities would solve cases "foreseen in the second part of Article I of the Treaty of 1881," in the event the geographical features of the Cordillera change.[94] Article V of the Protocol placed deadlines on the Assistant Engineers of this project to complete ground demarcation—again not establishing permanency on boundaries through the document, but via actions forthcoming.[95]

Third, it housed the language Argentina would later reference regarding *bioceanismo*. Vehemently maintained by the Argentines, the bi-oceanic principle had been a constant underlying issue. Moreover, an Argentine atlas drafted up in 1891 made light of this viewpoint, but was disregarded in the Protocol of 1893. Unfortunately, the Protocol missed another chance to address the problems of the Beagle Channel and the PLN group, an issue that remained dormant until the early 1960s.

b. Application of Hypotheses

Given that the nature of this protocol was a supplement of the 1881 Boundary Treaty without implications of amending the status quo, HR_1 can be ruled out in this period. Argentina and Chile arrived at a resolution with the potential to concede or redraw borderlines. Although it does not deliberately define the principle of *bioceanismo*, it certainly is implied from in the text of Article II of the 1881 treaty that both countries agreed upon: "the sovereignty . . . over the respective coastline is absolute . . . Chile

[92] *Chilean-Argentine Relations*, 90.

[93] Burr, *By Reason Or Force*, 155.

[94] *Chilean-Argentine Relations*, 88.

[95] Ibid.

cannot lay claim to any point towards the Atlantic, just as the Argentine Republic can lay no claim toward any toward the Pacific."[96] I argue that consent of this "bi-oceanic" principle demonstrated acknowledgement of the boundaries. The trust put into the Protocol also reaffirmed that the issue was not considered high-risk to their national defense. Chile was the target state in this case, and consented to the terms for further demarcation.

Bearing in mind the message of peaceful order in the Protocol preamble, the first liberal argument can explain the outcome of the attempt. Consistent with the Treaty, the Protocol continues to call on "experts" to preside over questionable circumstances; I assume that these statements are written to maintain a non-violent method of resolution. By wishing to "establish . . . a complete and sincere accord corresponding to their antecedents of confraternity and common glory," it is perceived that both countries viewed mutual cooperation as South American neighbors as beneficial.

Similar to the terms specified in the parent Treaty, adjudication options continue to be handpicked within the region. Given this fact, the second liberal approach—regarding international resolution parties—cannot account for the successful outcome. Both governments opted to select decision makers internal to their own people. The utilization of internal judges alludes to the relationship's considerably low level of prevailing tension. At this point, the argument can be ruled out, but the contingency to select multinational adjudicators will begin to find relevance in the years ahead.

Each country's public sphere revolved around the boundary negotiations. Attitudes were aggravated by newspaper media, which could "serve to misguide public opinion."[97] Through concerted efforts to conciliate the fascination of the public, both Argentine and Chilean boundary experts and their protocol negotiators agreed to keep the terms private until its approval. By delaying the notification of the Protocol's conditions, the leadership gained control over releasing information and subsequently, control over the outcome. Given that both parties worked together to promote discourse in favor of the

[96] United Nations Office of Legal Affairs, "Dispute between Argentina and Chile," 125.

[97] Burr, By Reason or Force, 205.

policy, the constructivist argument also explains this period. Rather than negative discourse leading to a non-resolution, the opposite occurred.

The 1893 Protocol, like the Boundary Treaty, can be described through the liberal and constructivist theories (see Table 2). In addition to the precedent set in 1883, political leadership played a role in directing the public sentiment toward settlement of the dispute.

Table 2. Hypotheses Application to 1893 Protocol between Chile and Argentina

Sub Case	Leverage Through Concessions (HR_1)	Mutual Peace and Cooperation (HL_1)	International Body (HL_2)	Discourse (HC_1)	DV: Outcome of Resolution Attempt
1893 Protocol	No	Yes	No	Yes	4

3. Resolution Attempt: 1902 General Treaty of Arbitration (*Compromiso*)

Continuing the quest to consolidate peace and improve bilateral relations, the 1902 arbitration acted to resolve differences and territorial disputes still in question. Initiated by Chile's desire to reach a comprehensive settlement, bilateral negotiations in Santiago resulted in the *Pactos de Mayo*, a body of work establishing much of the present day Chile-Argentina border.[98] All boundary-related questions had been submitted to "a friendly Power" for decision since the 1881 and 1893 agreements.[99] The 1902 General Treaty (comprised of the *Pactos de Mayo*) became the first to establish the precedent in assigning an international authority to settle their regional disputes; the dyad nominated King Edward VII of the United Kingdom (U.K.) as the final arbitrator.[100]

[98] American Society of International Law, "Treaty of Arbitration Concluded between Argentina and Chile, signed May 28, 1902," *American Journal of International Law* 1, no. 3, supplement: Official Documents (July 1907): 290, accessed July 11, 2016, http://www.jstor.org/stable/2212472.

[99] Struthers, "Historical Analysis," 332.

[100] Ibid., 55.

a. Key Takeaways from Treaty

Like its antecedent, the 1902 *Compromiso* (as the agreement was also called) communicated the intent to amicably resolve disputes by way of a named arbiter.[101] The preamble illustrates the countries' "mutual desire of solving, by friendly means, any question," describing the treaty to be broad in all matters, "whatever nature they may be."[102] Article III of the *Compromiso* specifically stated that His Britannic Majesty's Government was named as the main arbitrator.[103] As a backup, a mediator would be named from the Swiss Confederation in the event that either Chile or Argentina severs relations with the U.K.[104]

The resolution did not succeed in tackling the developing issues in the Beagle Channel region. Communication was difficult in these larger areas, and the protocols could only address areas in dispute at the time. Although the results of the Award solved four disputed areas along the frontier, the totality of protocols did not specifically resolve matters of the Beagle Channel and *Laguno del Desierto* (see Figure 4).[105] After Britain determined the outcome, another year would pass until the "experts" mentioned in the Protocol would even begin to tackle the Beagle Channel issue.[106]

[101] Burr, *By Reason or Force*, 252.

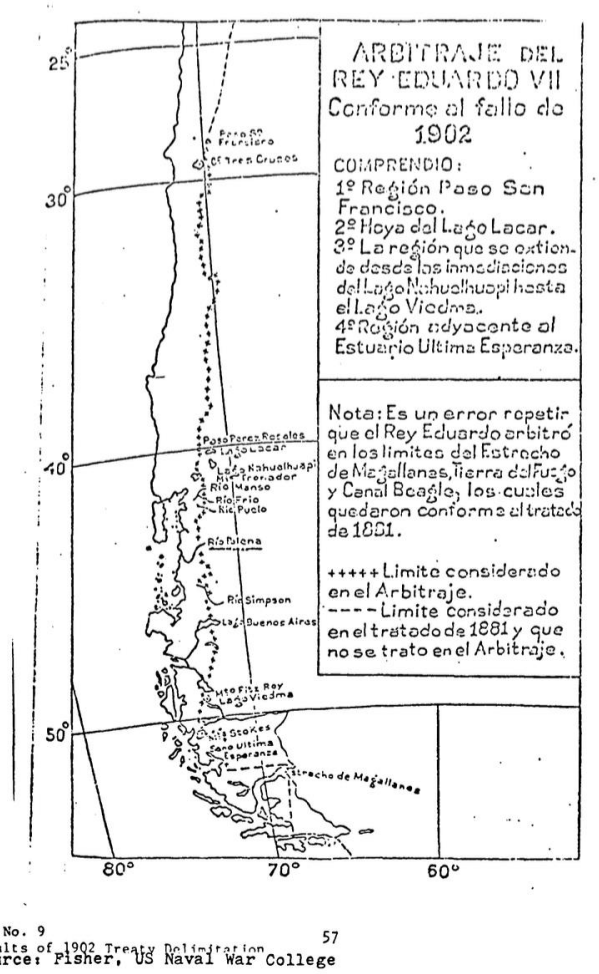
[102] *Chilean-Argentine Relations,* 91.

[103] Ibid., 92.

[104] Struthers, "Historical Analysis," 339.

[105] Ibid., 55.

[106] Ibid., 56.



Map No. 9
Results of 1902 Treaty Delimitation 57
Source: Fisher, US Naval War College

Figure 4. Results of the 1902 Treaty Delimitation Awarded by King Edward VII of the United Kingdom[107]

Alternatively, these arbitration treaties managed to cool tensions between the Argentina and Chile, two stockpiling players involved in a Southern Cone arms race.[108] Though the Beagle Channel would not be settled by this particular agreement, a significant part of the Treaty included a binding agreement that limited naval armaments for both powers. To limit the opportunity for armed conflict, the convention signed in May of 1902 documented the dyad's reduction of naval armament acquisition for each—

[107]Ibid., 68.

[108] Ibid., 55.

and from making any new ones.[109] Having economic interests in both states, the British encouraged this statute.[110] Additionally, this clause appeared to be a manifestation of the bi-oceanic principle that Argentina still claimed and Chile repudiated; it intended to maintain an "equivalence of disarmaments" for Chile in the Pacific and Argentina in the Atlantic.[111]

b. Application of Hypotheses

Chile's wartime proficiency from its most recent experience in the War of the Pacific built up a substantial amount of weight in territory. Chile had annexed a large amount of territory from Peru and perhaps viewed these Argentine border disputes as a relatively lesser risk.[112] Nevertheless, Chile agreed to equalize naval disarmament and concede according to the monarch's decision. Given that Chile showed a willingness to give up any leverage upon agreement of British mediation, the realist argument can be ruled out here.

The *Compromiso* promoted a huge wave of respect between the countries, producing multiple mutual guarantees of diplomacy. The treaty did three main things: it bound both countries to submit inquiries to an external party; it excluded all previously decided questions from future arbitration; and it communicated a reciprocal stance on naval de-armament.[113] Encompassing these types of well-intentioned clauses, the first liberal argument can explain the outcome of the attempt. Committed to resolve its border disputes and repair broken relations, Argentina and Chile both deemed it mutually beneficial (rather than costly) to sign the arbitration treaty.

The international resolution body personified in the British monarch debuted in this arbitration, certainly accounting for the second liberal argument. The British award that succeeded the agreement did not shadow either Chile's water-parting line or

[109] American Society, "Treaty of Arbitration," 294.

[110] Ibid.

[111] Struthers, "Historical Analysis," 58.

[112] Burr, *By Reason or Force*, 161.

[113] Ibid., 253.

Argentina's highest peak theory from the previous treaty, but rather was drawn at an intermediary point.[114] Although this approach triggered protests from either side, both parties eventually agreed to move forward with arbitral demarcation.[115] The decision of an arbiter—along with the *Compromiso's* clause permitting invocation of other arbiters—led to a deal and set the precedent for external parties in the future.

In this section, the constructivist approach is ruled out since there is not sufficient evidence or research that can demonstrate a strong case of political leadership involvement. As in the previous arbitration attempts, Argentina and Chile arrived at a resolution by employing means of diplomatic peace and the use of external parties (see Table 3).

In whole, the entire premise of the arbitration was to ensure both sides remained on equal footing regarding matters of territory, security, and defense—without erupting in war. In this attempt at arbitration, the *Compromiso* was instrumental in repairing faulty borders in the four areas named by the treaty; unfortunately, much of the south remained unexplored at a time when the PLN group seemed strategically unimportant.

Table 3. Hypotheses Application to 1902 *Compromiso*

Sub-Case	Leverage Through Concessions (HR_1)	Mutual Peace and Cooperation (HL_1)	International Body (HL_2)	Discourse (HC_1)	DV: Outcome of Resolution Attempt
1902 *Compromiso*	No	Yes	Yes	No	4

4. Protocols from 1915, 1938, and 1960

Following the 1902 General Treaty of Arbitration, exploration continued in the Southern Cone during the next fifty years with disregard to the Beagle Channel and the surrounding areas. Due to developing neutrality issues, as well as the hindrance of World

[114] Ibid., 256.

[115] Ibid.

War I, the Beagle Channel became important enough to bring Chile and Argentina to the table once again.[116] Chile's claim on the islands of Picton and Nueva, the easternmost islands south of the Channel, prompted a request from Argentina to jointly resolve the Beagle Channel axis to refrain from potential military dispute.[117] Chile agreed to pursue the effort, but not according to the terms set forth by Argentina.[118] To reconcile these disputes, multiple protocols between 1915 and 1960 attempted to address independent regional incidents that occurred after the 1902 *Compromiso*. Within these bilateral negotiations, they sought solutions for arbitration, and eventually, a dispute resolution; unfortunately, in every attempt, the protocols failed to attain ratification—a partial resolution. This section summarizes the main points in each Protocol and examines each outcome against my hypotheses thereafter.

a. 1915 Protocol for Arbitration between Chile and the Argentine Republic

To address Chile's claim on the PLN group and to avoid further territorial misinterpretations, the Chilean and Argentine governments established a protocol in June 1915. Their respective plenipotentiaries agreed to submit the Beagle Channel controversy to an established precedent from the 1902 Treaty—His Britannic Majesty.[119] This protocol was the first to mention Lennox, the southwestern-most island of the PLN group.[120] The Protocol's single Article determined which of High Contracting Parties would sign the treaty, as well as defined the arbitrator's duty of formulating the rules for adjudication.[121] The senates of both countries approved the deal, while "their respective House of Representatives did not;" consequently, the protocol was never ratified.[122]

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[116] Struthers, "Historical Analysis," 59.

[117] Garrett, "Dispute," 89.

[118] Ibid.

[119] Chilean-Argentine Relations, 95.

[120] Garrett, "Dispute," 89.

[121] Chilean-Argentine Relations, 95.

[122] Garrett, "Dispute," 89.

b. 1938 Protocol for Arbitration between Chile and Argentina

The second attempt in the post-*Compromiso* period took place in May 1938 with the intent of resolving "the only remaining controversy."[123] Continuing peaceful relations as states of "international brotherhood," both governments agreed on choosing an arbitrator from the United States to weigh in on the Beagle Channel dispute.[124] Before the matter fully materialized, the arbiter, Attorney General Homer S. Cummings, unexpectedly died. As a result, the endeavor stagnated. As if following a pattern, the protocol was also drawn up but never reached ratification by either party.[125]

c. 1960 Protocol for Arbitration between Chile and the Argentine Republic

Sparked by a dangerous incident that happened in the Beagle Channel, Argentina and Chile came together to negotiate once again. In 1958, conflict nearly ensued over Snipe Isle (Figure 5), an unoccupied islet located northeast of Navarino Island and positioned approximately equidistant from the Channel's shorelines.[126] Both countries had declared the island as possessions, and going back and forth between lighthouse destruction and construction (as a way to stake its claim).[127] Since any operation reports in this area suffered delay in reaching the seat of government, the militaries were on the verge of conflict before the presidents were able to avert the incident.[128]

In a third attempt to discuss a resolution dispute since the *Compromiso*, Argentina and Chile drafted a protocol for arbitration in June 1960. Argentina conditionally agreed that Lennox and adjacent islets would be under Chilean sovereignty, while the two Becasses Islands—located directly east of Snipe—would belong to Argentina.[129] In particular, the Protocol declared that the manner in which this reciprocal recognition transpired "does not imply in any way the intention to indicate a criterion to the

[123] Ibid.

[124] Ibid.

[125] Struthers, "Historical Analysis," 61.

[126] Garrett, "Dispute," 89.

[127] Struthers, "Historical Analysis," 63.

[128] Ibid.

[129] *Chilean-Argentine Relations*, 100.

International Court of Justice," the chosen arbiter for the rest of the territorial disputes.[130] Chile's Congress found Argentina's offer of Lennox Island to be unfavorable, since the reciprocal terms would leave Chile with less navigational latitude in the channel.[131] Hence, this matter remained unresolved as a result of the countries' legislatures withholding their mandate, leaving the 1960 protocol unratified.[132]

Figure 5. Snipe Islet of Beagle Channel[133]

5. Application of Hypotheses

These protocols were built upon the inconclusiveness of the previous protocol. Sharing many similarities in analysis, they are analyzed in this section as one large episode. Indications of territorial concessions were unknown in the first two protocols, so the realist approach cannot explain their outcomes. Given the dyad's indecision in matters related to sovereignty (which were exposed mostly in the culmination of the Snipe Incident and 1960 rejection of the Lennox-Becasses exchange), the realist

[130] Ibid.

[131] Mares, *Violent Peace*, 134.

[132] Lindsley, "Vatican," 437.

[133] "Location of the Snipe Island at the East Side of the Beagle Channel," *Wikipedia.org*, accessed August 12, 2016, https://en.wikipedia.org/wiki/Snipe_incident#/media/File:Snipe-island.png.

argument helps in revealing their preferences for territory. The protocol, however, resulted in a partial resolution—with both parties in agreement—indicating the incongruence of HR_1 in this 1960 attempt as well.

At each protocol, the Argentine and Chilean governments invariably emphasized peaceful negotiations, which take into account the first liberal approach. By this point in history, the importance of conflicting claims grew significantly due to a multitude of factors: Ushuaia developed and attracted more people to the southern area, Antarctica drew increased international curiosity, and more resources were discovered in Tierra del Fuego in the mid-20th century.[134] Considering both states continued dispute resolution in a civilized manner despite tensions, HL_1 still drove them to attempt a decision. Although these resulted in partial resolutions, the intent found in the statements exuded a desire to eliminate "grounds for misunderstandings" that may get in the way of strengthening their friendship.[135]

The trend for international body resolutions continues to prove the second liberal approach as a mainstay. Despite the mediators Argentina and Chile had nominated (the British monarch was selected in 1915, the American attorney general in 1938, and the ICJ at The Hague in 1960) never got a chance to provide their services, they still played key roles of the attempts at arbitration.

Given that there is no specific data showing domestic politics played a part in influencing the protocols, HC_1 is ruled out. Decisions by both Argentina and Chile were hampered by congressional leadership; however, I suspect that the decision to reject ratification in 1960 was linked to the increasing aspirations for the PLN island group—and ultimately, the surrounding waters.

The 1915, 1938, and 1960 Protocols were unable to meet their aims (see Table 4). All three protocols were political whims, demonstrating both governments' ineffectiveness in reaching an agreement on the contested Beagle Channel area. These deficiencies led to more difficulty as external military and territorial tensions continued to

[134] Struthers, "Historical Analysis," 62–63.

[135] Ibid., 345.

rise in the 1970s and 1980s. All of these unratified documents can be explained through the liberal IR hypotheses. Moreover, they show the sliver of willingness for both countries to settle the longtime dispute, rather than to endure it.

Table 4. Hypotheses Application to the 1915, 1938, and 1960 Protocols

Sub Case	Leverage Through Concessions (HR_1)	Mutual Peace and Cooperation (HL_1)	International Body (HL_2)	Discourse (HC_1)	DV: Outcome of Resolution Attempt
1915 Protocol	No	Yes	Yes	No	3
1938 Protocol	No	Yes	Yes	No	3
1960 Protocol	No	Yes	Yes	No	3

6. 1977 Resolution Attempt

The events prefacing the 1977 Arbitral Award was influenced by a series of domestic and international dynamics that evolved from the general Cold War atmosphere of territorial stability.[136] The outcome of this period's attempt was decided by third parties, which resulted unfavorably for Argentina. David Struthers argues this period "was a failure" because instead of resolving the Beagle Channel dispute, it made matters worse by ignoring the need for political solution.[137]

a. Discussions Preceding the 1971 Arbitration Agreement

In 1964, both countries signed a joint statement to present the case to the ICJ, which aligned with the intention of the Protocol in 1960 and patterned external adjudication.[138] During the process of arbitration, Chile acted unilaterally and stated its intent to take the dispute to the United Kingdom for a decision, citing the 1902 Protocol

[136] Andres Villar Gertner, "The Beagle Channel Frontier Dispute between Argentina and Chile: Converging Domestic and International Conflicts," *International Relations* 28, no. 2 (June 2014), 215.

[137] Struthers, "Historical Analysis," 12.

[138] Lindsley, "Vatican," 437.

terms.[139] Dumbfounded, Argentina suspended further negotiations.[140] Even more, the British crown refused to arbitrate with the consent of both countries.[141]

In 1969, the Argentine National Security Council tried rekindling talks to resolve due to its national importance.[142] Given Chile's refusal to negotiate directly, Argentina accepted to submit to arbitration under a compromise that allowed for both the ICJ and British Crown to participate.[143] Under the compromise, the ICJ would decide the case merits presented and send the result to the Queen; Her Majesty would not be able to modify the decision, but only reject or accept the decision.[144] This was not the first time that the U.K. had a role in Argentine-Chilean disputes; however, the political tensions regarding the Malvinas would have made acceptance of an award that favored Chile rather difficult.[145] Despite this, Argentina agreed only if the document primarily ran through international law and that all were clear in what exactly needed to be resolved—the definition of the Beagle Channel boundary and which nation would claim sovereignty over Picton, Lennox, and Nueva.[146]

b. 1971 Agreement for Arbitration (Compromiso)

The formal Agreement for Arbitration, signed in July 1971, assigned five judges to the ICJ court (from the U.S., U.K., France, Nigeria, and Sweden) to ready the results for the Queen.[147] The zone submitted for arbitration was dubbed the "Hammer," a six-point area that included the PLN group.[148] The nations' cases for sovereignty included three pleadings submitted by each party, supplemented with written testimony and oral

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[139] Ibid.

[140] Ibid.

[141] Ibid.

[142] Mares, *Violent Peace*, 134.

[143] Lindsley, "Vatican," 438.

[144] Ibid.

[145] Struthers, "Historical Analysis," 73.

[146] Ibid., 77.

[147] Lindsley, "Vatican," 438.

[148] Ibid.

proceedings.[149] *Bioceanismo* and the *uti possidetis juris* clause, rooted in the 1881 Treaty, dominated Argentina's cases in theme.[150] On the other hand, Chile alleged that the Channel's eastern mouth opened up between Isla Grande and the PLN group, thus, all islands south of that Channel belonged to them.[151] Chile also claimed that the "Atlantic" described in the Treaty was not in reference to *bioceanismo*, but rather to the *islands* on the Atlantic.[152]

The Argentine president, General Alejandro Lanusse, wanted to promote regional integration with its neighbor—and navigation rights would need to be more transparent for that to occur.[153] In this arbitration, he expected to retain at least one island (Lennox, the most easternmost) assuming *bioceanismo*.[154] Though the arbitration process endured for almost six years, the submittal to arbitration demonstrated that both still were capable of overcoming their differences, despite the existing uncertainty pertaining to the acceptance of terms.[155]

c. 1977 Arbitral Award

The Court found that the PLN group stood south of the controversial Beagle Channel; subsequently, all three islands were awarded to Chile in February of 1977.[156] Argentina was shocked by the Court's decision, as it had always believed it would at least receive one or two of the three islands—not lose all three.[157] The Court did not agree that *bioceanismo* was sound enough reason to interpret the 1881 Treaty, which was primarily based on specific geographical features.[158] Furthermore, the Court found that awarding

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[149] Ibid.

[150] Struthers, "Historical Analysis,"

[151] United Nations Division for Ocean Affairs and the Law of the Sea, *Digest of International Cases on the Law of the Sea* (New York: United Nations Publications, 2007), 13.

[152] Struthers, "Historical Analysis," 88–89.

[153] Mares, *Violent Peace*, 134.

[154] Ibid.

[155] United Nations Office of Legal Affairs, "Dispute between Argentina and Chile," 63.

[156] Mares, *Violent Peace*, 135.

[157] Ibid.,134.

[158] Ibid., 135.

maritime boundaries was outside their jurisdiction and should be resolved bilaterally;[159] this was in response to Argentina seeking bilateral negotiations with Chile concerning the zone's maritime environment.[160]

(1) Key Outcomes of Award

After the decision was issued, ratified, and accepted by the Queen, Chile quickly acknowledged the decision and claimed a 200-mile EEZ extended in a southeastern direction from the mouth of the Beagle Channel.[161] Argentina adamantly believed that the jurisdiction should follow the maritime law used in the 1881 Treaty of Boundary Limits—a three-mile limit rather than a 200-mile EEZ.[162] Struthers argues that this decision constituted "a failure by the Court and the Arbitrating Party [U.K] to realize the need to address this case not only from a legal perspective, but also from a political one."[163]

The outcome fulfilled Argentina's concern. By claiming sovereignty to the PLN group, Chile could potentially draw a boundary line southward into the ocean and potentially access Antarctica, posing a "threat to resource exploitation and movement."[164] With all previous arbitrations supporting the Chilean perspective, it is possible that Argentine leadership sensed their position was threatened in both regional influence and rights to potential wealth.[165] Consequently, Argentina—under military President Jorge Rafael Videla—withheld approval of the decision, and nine months after,

[159] Ibid.

[160] Lindsley, "Vatican," 438.

[161] Ibid.

[162] Ibid.

[163] Ibid.

[164] Garrett, "Dispute," 83.

[165] Struthers, "Historical Analysis," 85.

issued a Declaration of Nullity.[166] Although Argentina came to the negotiating table, its disagreement with the result ranked higher than compliance with international norms.[167]

(2) Application of Hypotheses

It is possible to view Argentina's rejection as a blow to national prestige; however, it is conceivable that they reject the fact they are now bound from access to vital resources.[168] Lanusse believed Argentina would acquire at least one island, but instead left empty-handed. Acquiring a considerable amount of access to the ocean, Chile's new-fangled prizes elevated its status. Given that both states submitted the case to an outside party while understanding the risk involved showed that the realist approach cannot explain the outcome.

Additionally, Chile was not at a considerable military advantage; both were refraining from military conflict, and Argentina still attempted to resolve the issue diplomatically. Given that Argentina was still convinced that peaceful order was beneficial overall—regardless of the global context—HL_1 can help explain its preference for coming to the table. The research also intimates that General Lanusse promoted his reasons to resolve in the name of regional integration with Chile, where HL_1 might also apply.

Regardless of Argentina's annulment of the Award, it still had agreed to allow two international resolution bodies to partake in the dispute. In this case, voiding the Queen's decision was possibly due in part to the political factor (developing tensions with the British over another set of islands), so HL_2 cannot be ruled out to explain this resolution. In both the Award and the 1971 Agreement, a persistent willingness remained among both parties to continue mediation for the sake of international diplomacy.

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[166] Ibid., 79.

[167] Arie M. Kacowicz, "Compliance and Non-Compliance with International Norms in Territorial Disputes: The Latin American Record of Arbitrations," in *The Impact of International Law on International Cooperation: Theoretical Perspectives*, eds. Eyal Benvenisti and Moshe Hirsch (Cambridge, UK: Cambridge University Press, 2004), 213.

[168] Ibid., 85.

The decision seemed to have caused agitation between governments, especially among Argentina, since military nationalism grew in significance during this time.[169] Author James L. Garrett states, "With government approval, if not direction, the Argentine press reported . . . its government's hardline position."[170] The constructivist argument can help to explain the outcome given that the Argentine press influenced the public to support the rejection because it threatened "national honor," which people favored to agree.[171] The effect of the government on its constituents via the press lent itself to prove that discourse played a huge part in the partial resolution (see Table 5).

For an internationally-determined resolution to work, it must be in the self-interests of both parties involved. Argentina's decision to deny the ICJ's decision can be equivalent to the failure of following through with last step of ratification. Both parties understood there was inherent risk in including third parties for dispute resolution, so for them to reach a mutual agreement also involves inherent trust in the process, to include the choice of mediator.

Table 5. Hypotheses Application to 1977 Arbitral Award

Sub Case	Leverage Through Concessions (HR_1)	Mutual Peace and Cooperation (HL_1)	International Body (HL_2)	Discourse (HC_1)	DV: Outcome of Resolution Attempt
1977 Arbitral Award	No	Yes	Yes	Yes	2

7. 1984 Resolution Attempt

The 1984 Treaty of Peace and Friendship took place under the divine guidance of the Vatican. This final resolution came after many years of bilateral negotiations and in total, a century of controversy. The pathway to mediation was close by, but not without

[169] Lindsley, "Vatican," 440.

[170] Garrett, "Dispute," 94.

[171] Ibid.

protests and a few failed measures. Of these, the most notable Acts happened in 1978–1979, leading up to the Papal mediation.

a. 1978 Act of Puerto Montt

In 1978, both Presidents Videla of Argentina and Augusto Pinochet of Chile met in Puerto Montt, Chile, keen on finding a solution. Although frustrated, they decided that negotiations would be pursued bilaterally, rather than third party mediation, and they would do so via a series of three commissions.[172] Signed on February 20, the 1978 Act specified that the commissions addressed at least the following: the major issues of the southern zone delimitation; courses of action to promote peaceful physical integration and economic development; and questions on policy coordination in Antarctica and the Straits of Magellan.[173]

While it was in the best interest of both leaders to reach an agreement through established commissions, the goal was never realized. The first commission was not as successful as hoped. Here, the governments were to define the issues and propose a way ahead; instead, it ended inconclusively just as the second commission began talks.[174] The maritime jurisdiction debates frustrated both parties, impacting progress on the second commission.[175] By this time, Pope John Paul II had inserted himself into the matter by offering his services to mediate; however, the countries declined as the commissions were in progress.[176]

b. 1979 Act of Montevideo

The 1979 meeting of the nation's presidents in Montevideo helped to establish the path to the final resolution in the Beagle Channel Dispute, setting off a chain of discussions attempting to solve the maritime and territorial issues of their region. At this point, both governments were consumed by military rule. Ideologies of national pride

[172] Struthers, "Historical Analysis," 125.

[173] United Nations Office of Legal Affairs, "Dispute between Argentina and Chile," 238.

[174] Struthers, "Historical Analysis," 126.

[175] Garrett, "Dispute," 96.

[176] Ibid.

played a role in both countries and complicated their diplomatic relations.[177] Nationalism was more robust in Argentina as it was the path chosen to compensate for its "weak legal basis."[178] In addition to the Beagle Channel, other claims such as the Malvinas and Antarctica were thrown into the stakes to make the matter more significant.[179] To bolster their plea for territory, the Argentine government shepherded an unsuccessful anti-Chile media campaign to build public support of Beagle Channel claims; this led to mobilization of both militaries.[180]

Despite Argentina's overall "weak bargaining position," Mares argues the nation turned to military force to signify its stance on the issue and to "broaden Chile's bargaining range."[181] Chile responded by attempting to invoke the Rio Pact, a "hemispheric defense" treaty that stipulates that an attack against one country is an attack against all.[182] Argentina chose to seize the islands and declare war; both naval squadrons came as close as 20 nautical miles before adverse weather postponed the attack long enough for the Vatican to offer its services of mediation.[183]

The Vatican sent Cardinal Antonio Samore, the Pope's envoy, to offer a solution other than military force.[184] With plenty of international mediation experience and an admirable reputation to boot, the Pope was decided as arbitrator in an effort to keep the issue pacific.[185] Using the shared Catholic religion as a reason to bond the two countries under a fair trial, Argentina and Chile signed the Act of Montevideo on January 9, 1979, agreeing to let the Holy See mediate the dispute regarding the southern region (initially challenged by Argentina) and also to refrain from force.[186]

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[177] Lindsley, "Vatican," 440.

[178] Ibid.

[179] Ibid.

[180] Ibid.

[181] Mares, *Violent Peace*, 138.

[182] Struthers, "Historical Analysis," 130.

[183] Mares, *Violent Peace*, 138.

[184] Struthers, "Historical Analysis," 130.

[185] Ibid.

[186] United Nations Office of Legal Affairs, "Dispute between Argentina and Chile," 240.

c. 1984 Treaty of Peace and Friendship (Papal Mediation)

In 1980, Pope John Paul II personally made a proposal accepting his role as mediator for the Beagle Channel dispute, stressing the fact that it was unique war had never existed between the two neighbors.[187] He ensured they recognized their connection by language, faith, and religion—and they should strive to never lose that quality.[188]

The two countries were prone to take their time during negotiations, so the Pope requested that they respond to the proposal in mid-January 1981.[189] The proposal suggested that the maritime limit only extend to 10 miles instead of 200, and between miles 12 and 200 would be designated a "zone of shared resources" or "sea of peace."[190] Chile reacted with confident reply, although Pinochet had said the proposal was "not fully satisfactory."[191] Argentina neither rejected nor accepted the proposal; however, after Raul Alfonsín was elected into the Argentine Presidency in 1983, he promised the Beagle Channel dispute would be his top foreign policy priority and vowed to acknowledge the bi-oceanic principle in further negotiations.[192] By reversing old-fashioned Argentine rhetoric, Alfonsín became the "impetus" in achieving an agreement with Chile.[193] Unlike his predecessors, he was confident that negotiating would not necessarily mean a "loss of honor" for the nation.[194] Pinochet also recognized that opposing the dispute further would continue to isolate his nation economically; economic integration with Argentina would provide a better option for Chile.[195]

Dragging their feet, the Vatican pushed to proceed with talks. The Malvinas conflict with the U.K. seemed to distract Argentina from making negotiations, but according to repeated reports, when the parties came to the table, they approached talks

[187] Ibid., 243.

[188] Ibid

[189] Garrett, "Dispute," 98.

[190] Ibid.

[191] Ibid..

[192] Ibid., 98–99.

[193] Lindsley, "Vatican," 447.

[194] Ibid.

[195] Parish, Jr., "Democrats," 159.

with optimism and much interest to settle.[196] Both governments anticipated opposition from the public, so they agreed on a setting the treaty to a vote no less than thirty days from its release (a solution suggested by Alfonsín).[197] In response to the "consultation" vote, both Chileans and Argentines had mixed reactions; some Argentines felt trapped between having to choose between "peace and war," while some Chileans saw the resolution was "too generous."[198] Both presidents had given speeches and endorsed the agreement as a solution to achieving a sound fiscal system and peace between nations.[199]

For Argentina, especially, Alfonsín needed to make a case to his constituents that basic security concerns would continue to be protected.[200] A resolution would free up efforts to concentrate on something bigger: the Malvinas Islands;[201] settling the conflict sooner would keep the Argentine military from fighting two fronts.[202] Since over 70 percent of qualified voters participated, the treaty was ultimately accepted and both nations acknowledged the concessions and compromise made by each other.[203]

(1) Key Outcomes of the Treaty

The Beagle Channel dispute was settled. The 1984 Treaty of Peace and Friendship was signed, outlining the necessity for peace and friendship among the neighbors, the defined maritime boundary, and the call for a Binational Commission to strengthen economic development and integration.[204] Chile and Argentina decided on a three-mile legal limit from the islands in the area, with all other countries abiding by the 200-mile limit.[205] The resolution was "transactional" because both parties ceded

196 Garrett, "Dispute," 99.

197 Ibid.

198 Ibid., 100–101.

199 Ibid.

200 Huth, *Standing Your Ground*, 148.

201 Ibid.

202 Lindsley, "Vatican," 447.

203 Garrett, "Dispute," 101.

204 United Nations Office of Legal Affairs, "Dispute between Argentina and Chile," 253–254.

205 Garrett, "Dispute," 102.

something of interest.[206] Also, the process was very significant in the history of public diplomacy, in that the new boundary line recognized Chile's sovereignty of the PLN island group while respecting the principle of *bioceanismo* in the southern waters.[207]

(2) Application of Hypotheses

Given the fact that both nations agreed regardless of the fact that these concessions risked a change in status quo, the realist argument cannot explain this outcome of resolution. In this case, Chile was in a strong bargaining position yet accepted the Treaty's terms in order to settle for peaceful relations (see Table 6). Additionally, during the Act of Montevideo, there was strong evidence of the two military powers refraining from surrendering territory. In spite of the fact Chile would possibly lose an island once committed to papal mediation, Pinochet signed the agreement. Chile was recognized as a South American power, maintaining the status quo; yet, by choosing to comply with the Act de-escalated military tensions. Chile's decision to push forward contradicted the realist approach that asserts Chile would refrain from agreeing to resolve otherwise. Argentina also conceded in the interest of peace, its administration willing to promote the Treaty to preserve security and establish healthier economic relations.

Through the papal proposal, the two states agreed to halt military conflict and progress toward a peaceful stance. Given that they used the Catholic Church as a conduit for mutual cooperation, HL_1 can explain the outcome. During the strains of military rule and the events that played out in and around Argentina, there had been endeavors to rally toward war; however, though Argentina's actions leaned toward ensuing conflict, both the Act of Montevideo and the Treaty of Peace and Friendship specified an obligation "not to resort to force in their mutual relations."[208]

Clearly, the acceptance of the Vatican as arbitrator is a preferred choice between Chile and Argentina. The capacity of Pope John Paul II as an impartial entity (and his ability to contribute sticking power) demonstrates the strength of adherence to the Treaty.

[206] Lindsley, "Vatican," 448.

[207] Ibid.

[208] United Nations Office of Legal Affairs, "Dispute between Argentina and Chile," 250.

Given the fact both countries view this authority as unbiased, fair, and a reason to come to the table, the second liberal argument continues to describe this final outcome.

My findings indicated that leadership communicated to their people the importance of the settlement, especially since the terms impacted both governments. The persuasions of both Pinochet and Alfonsín were crucial in ensuring the resolution would be well-received by their people. Given that the leaders understood the stakes and were able to convey that the nation would not diminish national pride as a result, HC_1 can help in explaining the result. Discourse drove the resolution in a positive manner, proclaiming that elements such as security and nationalism were not going to be threatened.

This final Treaty is presently still in effect (Figure 6), helping to bolster peace in the region and increase long lasting beneficial and mutual cooperation. The resolution was elucidated by both liberal approaches and the powerful use of discourse to reach its ultimate settlement.

Table 6. Hypotheses Application to the 1984 Treaty of Peace and Friendship

Sub Case	Leverage Through Concessions (HR_1)	Mutual Peace and Cooperation (HL_1)	International Body (HL_2)	Discourse (HC_1)	DV: Outcome of Resolution Attempt
1984 Treaty of Peace and Friendship	No	Yes	Yes	Yes	4

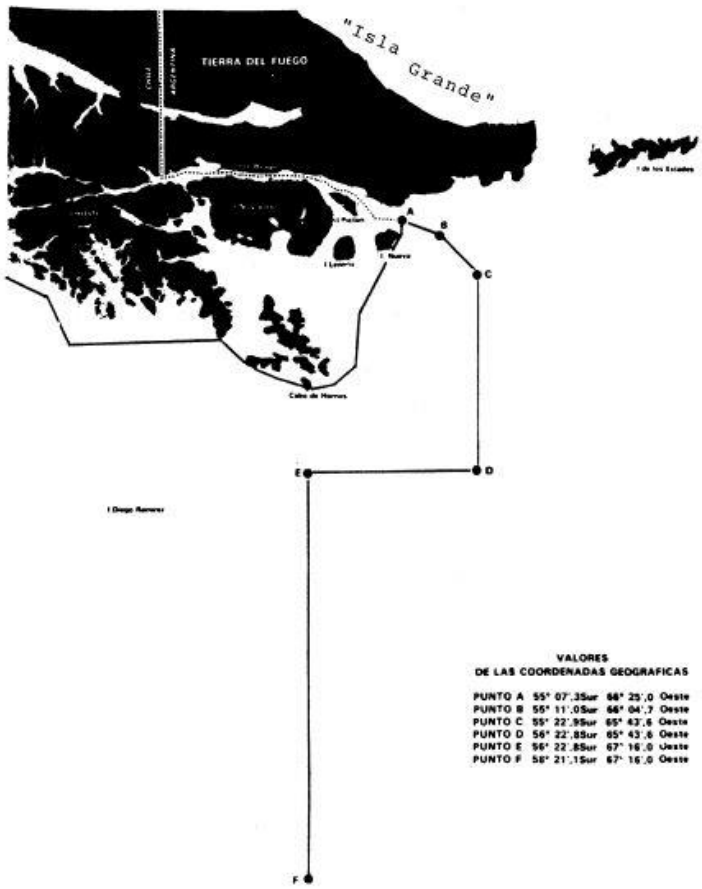

Figure 6. Boundary Set by the 1984 Treaty of Peace and Friendship[209]

D. ANALYSIS OF RESOLUTIONS AND CONCLUSION

When each period is analyzed for the general profitability of maintaining territory as bargaining leverage, the information shows that the attempts from this dyad are less likely to follow the realist argument (see Table 7). Other than the potential Lennox-Becasses exchange in 1960, HR_1 was not an issue. In all eight resolution attempts, HR_1 failed to turn up as a factor; therefore, we can reject all realist arguments in this dyad.

[209] Garrett, "Dispute," 103.

Table 7. How Each Hypothesis Explains Each Attempt at Resolution for the Chile–Argentina Dyad

Sub Cases	Leverage Through Concessions (HR_1)	Mutual Peace and Cooperation (HL_1)	International Body (HL_2)	Discourse (HC_1)	DV: Outcome of Resolution Attempt
1881	No	Yes	No	Yes	4
1893	No	Yes	No	Yes	4
1902	No	Yes	Yes	No	4
1915	No	Yes	Yes	No	3
1938	No	Yes	Yes	No	3
1960	No	Yes	Yes	No	3
1977	No	Yes	Yes	Yes	2
1984	No	Yes	Yes	Yes	4

The desire for mutual cooperation and peace among the Chilean-Argentine dyad was a big factor in all of the attempts. In three of the four cases that resulted in full resolution, at least one other IV was present. The final attempt applies three of the independent variables, still rejecting the realist-based hypothesis. The 1977 is the main outlier: despite having the makings of a full resolution, the attempt is later nullified by Argentina. The renegade rejection of the determination was a reaction to an Award that fully favored Chile rather than mutually beneficial or lent itself to any compromise.

Since the final resolution, the countries have "advanced further in their security cooperation agenda."[210] The number of initiatives they have managed to create may not have been possible without first attaining this enduring resolution; Kristina Mani agrees that territorial disputes would have prevented a strong and durable relationship in their security cooperation.[211] To this day, there exists an unsolved dispute regarding the Patagonian ice fields; because of their histories of strong democratic transitions,

210 Kristina Mani, "Political Learning through a Transgovernmental Network: Resolving the Argentine-Chilean Border Dispute during the 1990s," in *American Crossings: Border Politics in the Western Hemisphere*, ed. Maiah Jaskoski, Arturo C. Sotomayor, and Harold Trinkunas (Baltimore: JHU Press, 2015), 82.

211 Ibid.

Argentina and Chile have both gained experience in managing their relationship in order to mutually benefit from one another.[212]

The majority of arbitrations regarding the Beagle Channel conflict have gone to international parties. The second liberal argument played a factor for most of the attempts, but particularly headlined in the final resolution. In Chile's many territorial matters, the Beagle Channel had been the fourth resolution via arbitration involving Argentina.[213] Jose Miguel Barros, Ambassador and Agent for Chile, once indicated that the Arbitral Award had "intrinsic worth as a juridical instrument," since the decision was comprised of players who "represent the main forms of civilization and the principal legal systems of the world."[214] This view captures the general Chilean attitude regarding the use of international adjudication, coming from a long line of favorable arbitral awards. Schultz theorizes that states would seek to have a resolution managed by a third party primarily due to fear—fear that it would not be implemented or ratified if accomplished solely by the participants, or fear of the costs that making concessions would generate.[215] Beth Simmons' findings show evidence that when there has been a history of multiple ratification attempts and failures, the likelihood of arbitration increases.[216] She also presents that those governments operating in or striving for some form of liberal democracy tend to be more willing for a decision made by an outside party—as in the case with this chapter's dyad.[217] Also, when both share an affinity for the role of institutions and a particular form of governance, they will be more apt to place the responsibilities of their affairs into that which is governed by the rule of law.[218] During the years of the military regime in Argentina, there was a potential progression

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[212] Ibid., 82–83.

[213] *Chilean-Argentine Relations*, XII.

[214] Ibid.

[215] Schultz, "Borders, Conflict, and Trade," 136.

[216] Simmons, "Capacity," 839–40.

[217] Simmons, "See You in 'Court'? The Appeal to Quasi-Judicial Legal Processes in the Settlement of Territorial Disputes," in A Road Map to War: Territorial Dimensions of International Conflict, ed. Paul Francis Diehl (Nashville: Vanderbilt University Press, 1999), 211.

[218] Ibid.

toward military conflict; this led to a reluctance in settling by any means other than bilateral negotiations.

Aside from the indisputable power of political discourse, the Vatican's encouragement played a dual role while acting as mediator. In the last few resolution attempts, his emphasis on the importance of the dispute resolution influenced the actions of each country. In 1977, Argentina annulled a decision issued by the world's highest court. Their government's strong backing on the rejection influenced that of the public and the press—essentially saber rattling in Chile's presence. Alfonsín's commitment to resolve the issue as part of his political promise, however, contributed to the Pope's overall process in the treaty. Presidential power furthered the progress toward cooperation with the timing of Pinochet and Alfonsín.[219]

The presence of liberal and constructivist arguments both factored in the dyad's dispute resolution. The practice of diplomatic relations was a mainstay in many of these occasions, and the implementation of external arbiters or the strong advocacy of government contributed to a sound settlement. Argentina, in fact, even found itself close to the brink of war. In the span of over a century, this dyad has been partial to considering diplomatic alternatives. The process used to settle this dispute is a "model of successful diplomacy" by refraining from war after years of controversy.[220] The Pope was used as the mediator of "last recourse," after multiple attempts of bilateral negotiations.[221] The presence of compelling discourse coupled with a consistent practice of statesmanship and an external judge ultimately brought the Beagle Channel dispute to a close.

[219] Parish, Jr., "Democrats," 145.

[220] Simmons, "See You," 211.

[221] Lindsley, "Vatican," 453.

IV. CHILE–PERU DYAD

A. INTRODUCTION

Chapter IV examines the second of this thesis's case studies: the maritime border dispute between Chile and Peru. As former belligerents in the War of the Pacific, Chile and Peru have built their economic relations since the 2014 ruling at The Hague. On the economic side, both are members of the Trans-Pacific Partnership, OAS, and also founded, along with Colombia and Mexico, the Pacific Alliance.[222] Since 2009's Peru-Chile Free Trade Agreement came into force, trade has benefitted both nations.[223] As of 2014, Peru was the fourth largest recipient of Chilean investment, and is still growing.[224]

This relationship, however, was not always good-natured. After Chile had won the War of the Pacific against Peru and Bolivia in 1883, Chile gained control over a mass quantity of resource-rich regions along the Pacific Ocean.[225] Between Chile and Peru, the Treaty of Ancón was signed, which allowed for a perpetual appropriation of the Arica and Tacna regions.[226] According to the treaty, Chile was to occupy the provinces for ten years, and then through a plebiscite, the provinces would either stay with Chile or return to Peruvian control.[227] Eventually in 1929, the Treaty of Lima was established—with the help of the United States—and outlined the current territorial claims of a Peruvian Tacna and a Chilean Arica.[228] Unfortunately, neither of these treaties answered the maritime

[222] Gideon Long, "Chile-Peru: Moving on from the Past," *BBC News*, January 28, 2014, accessed August 20, 2016, http://www.bbc.com/news/world-latin-america-25924381.

[223] "Acuerdo de Comercio Chile – Peru (Chile–Peru Trade Agreement) *Sistema de Informacion Sobre Comercio Exterior (Information System on Foreign Trade)*, accessed August 20, 2016, http://www.sice.oas.org/Trade/CHL_PER_FTA/Texto_s.pdf.

[224] Long, "Moving On."

[225] Angel V. Horna, "Maritime Dispute (Peru v. Chile): Background and Preliminary Thoughts," *Ocean Yearbook* 23 (2009): 196.

[226] Ibid., 197.

[227] Ibid.

[228] Ibid., 198.

boundary question, although the Treaty of Lima asserted, "no question relating to limits should remain pending."[229]

In 2008, Peru submitted an application to the ICJ concerning the delimitation of a Chile-Peru maritime boundary and the recognition of Peru's sovereign rights to zone 200 nautical miles from its coast but outside Chile's EEZ.[230] Chile argued the boundary had already been established from previous treaties and is defined by a parallel of latitude from their shared land boundary point out 200 nautical miles to the west.[231]

Why does this matter? By delimiting the maritime boundary according to Chile's justification, Peru would lose a significant zone of ocean space that falls into the Humboldt Current, an area rich in marine life.[232] For Chile and Peru, an estimated $200 million in annual fishing revenues were at stake, in addition to huge quantities of national pride.[233]

In this dyad, Peru acted as the challenger state involved in a relationship long strained by a history of territorial disputes. This chapter on the Chile-Peru relationship first explores the background preceding Peru's initial boundary challenge. Then, it analyzes a more contemporary effort at dispute resolution using the same set of IR-based hypotheses. From this analysis, I attempt to explain how and why Chile and Peru came to a resolution regarding a matter based on sea beds and water columns—that of a maritime boundary dispute.

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[229] Ibid., 198.

[230] International Court of Justice, "Application Instituting Proceedings Filed in the Registry of the Court on 16 January 2008: Maritime Dispute (Peru v. Chile)," January 16, 2008, accessed August 20, 2016, 2, http://www.icj-cij.org/docket/files/137/14385.pdf.

[231] Don Anton, "The Maritime Dispute Between Peru and Chile," *E-International Relations*, March 18, 2014, accessed August 18, 2016, http://www.e-ir.info/2014/04/21/the-international-court-of-justice-and-the-peru-chile-maritime-case/.

[232] Ibid.

[233] "Peru-Chile Border Defined by UN court at The Hague," *BBC News*, January 28, 2014, accessed August 21, 2016, http://www.bbc.com/news/world-europe-25911867.

B. BACKGROUND OF THE PERU-CHILE MARITIME BOUNDARY DISPUTE

The differing claims in this dispute lie in the value placed on bilateral treaties and the law of the sea. The first three agreements are the most referenced in the Court's decision and offer a prelude to the question of the maritime boundary dispute.

1. 1947 Proclamation

According to the Proclamation, Chile and Peru agreed on certain maritime rights extending 200 nautical miles originating from their coastlines.[234] Both parties also agree that although maritime rights are proclaimed, the language does not indicate any formation of an international maritime boundary.[235]

2. 1952 Santiago Declaration

Chile, Ecuador, and Peru together "proclaim as a norm of their international maritime policy that they each possess exclusive sovereign and jurisdiction over the sea along the coasts of their respective countries to a minimum distance of 200 nautical miles from these coasts."[236] Through this language, the ICJ determined this document to be an international treaty.[237] Though parts of the Declaration appeared relevant to the subject of maritime borders, it failed to declaratively establish a lateral boundary from the point of the Chile-Peru sea-land point, much less characterize the boundary to follow a parallel of latitude.[238] The result of the treaty was a boundary that ran close to the 181st parallel; later Peru would argue the premise of this treaty was "merely a fishing agreement that did not fix the maritime boundary."[239]

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[234] International Court of Justice, "Maritime Dispute (Peru v. Chile): The Court Determines the Course of the Single Maritime Boundary between Peru and Chile," 2, press release, January 27, 2014, accessed April 16, 2016, http://www.icj-cij.org/docket/files/137/17928.pdf.

[235] Ibid.

[236] Ibid.

[237] Ibid.

[238] Ibid.

[239] "Chile and Peru: A Line in the Sea," *The Economist*, January 27, 2014, http://www.economist.com/blogs/americasview/2014/01/chile-and-peru.

3. 1954 Special Maritime Frontier Zone Agreement

Chile, Ecuador, and Peru also signed the 1954 agreement that established a zone of tolerance. The point of origin started 12 nautical miles from the coast and encompassed an area 10 nautical miles of either side of the parallel (see Figure 7). The Zone's purpose was twofold: it constituted the maritime boundary; and prevented national fishing vessels from inadvertent violations, avoiding "friction between the countries concerned."[240] The court found that an international boundary was named in this agreement but failed to specify "when and by what means the boundary was agreed upon."[241] This is to say that the agreement did not detail line of direction or boundary points. Similarly, during the *Nicaragua* v. *Honduras* dispute in 2007, the Court had previously stated, "Evidence of a tacit legal agreement must be compelling . . . a permanent maritime boundary is a matter of grave importance and agreement is not easily to be presumed."[242]

[240] International Court of Justice, "Maritime Dispute (Peru v. Chile)," 2.

[241] Ibid.

[242] United Nations Office of Legal Affairs, "Maritime Dispute (Peru v. Chile): Judgment of 27 January 2014," *Summaries of Judgments, Advisory Opinions and Orders of the International Court of Justice*, accessed August 21, 2016, 6, http://legal.un.org/icjsummaries/documents/english/206_e.pdf.

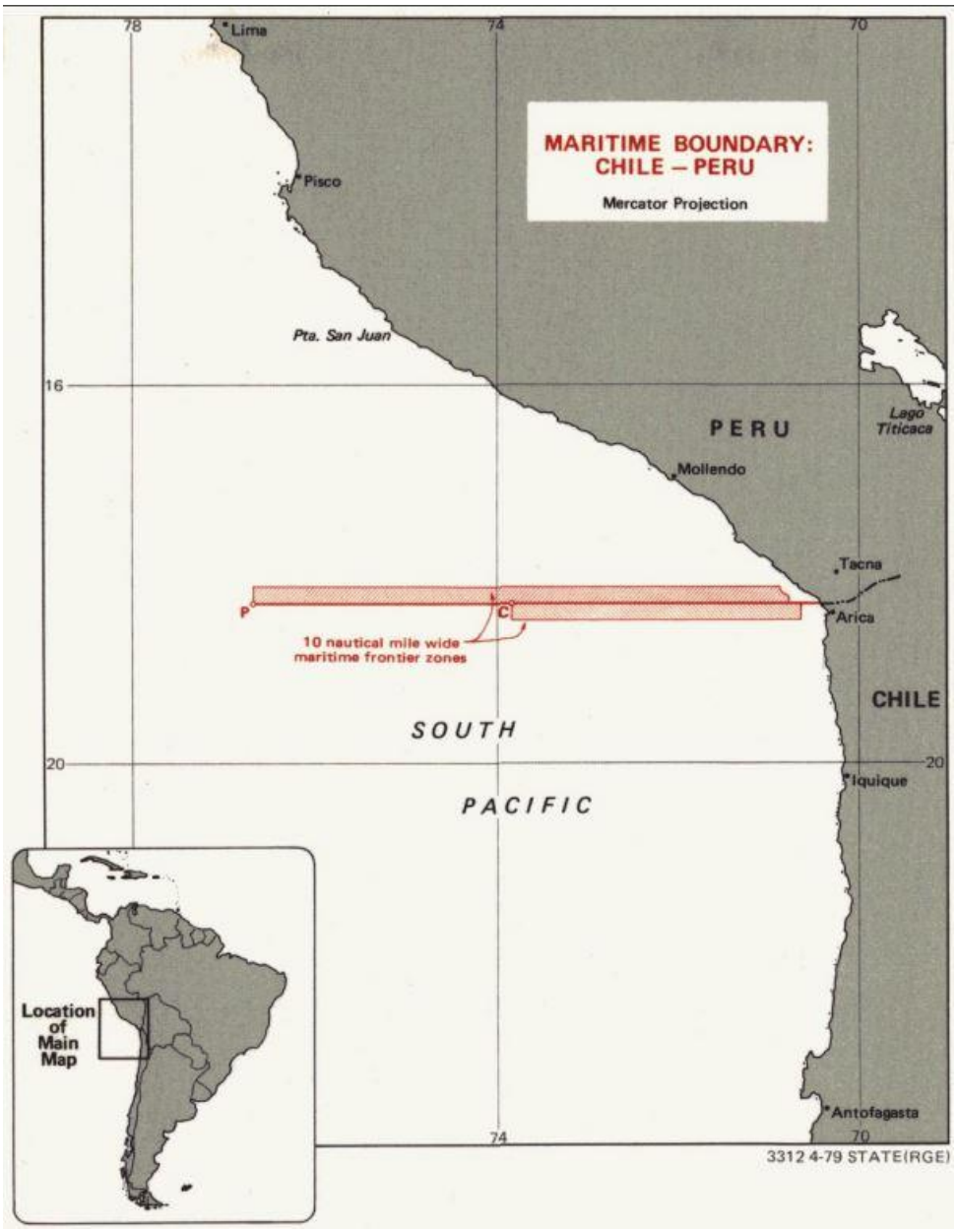

Figure 7. Agreement Annotating Special Maritime Frontier Zone of 10 nm on Each Side of Parallel[243]

[243] Office of the Geographer, Bureau of Intelligence and Research, "No. 86 Maritime Boundary: Chile-Peru," *Limits in the Seas* 86 (July 2, 1979), 8, http://www.state.gov/documents/organization/58820.pdf.

4. 2008 Application to the International Court of Justice

By 1997, Chile had signed and ratified the United Nations Convention on the Law of the Sea (UNCLOS), which is the legal authority for the oceans and seas of the world.[244] Despite the fact that Peru contributed greatly to its creation in 1982, Peru is not a party member of the UNCLOS; the Peruvian Constitution prevented it from ratifying it, stating "in its maritime domain the State exercises sovereignty and jurisdiction, without prejudice to the freedom of international communications."[245] After Chile declared to the UN the existence of an agreed maritime boundary, Peru argued that Chile's map was illegitimate since no treaty in the past had ever indicated consent by both parties.[246] Peru, thus, sent an application to the ICJ challenging that very fact—a bilateral maritime boundary agreement did not exist; subsequently, Peru asked the Court to determine the Chile-Peru maritime boundary.[247] In its application, Peru also made claim to the areas situated 200 nautical miles from its coastline, which overlap with Chile's maritime claim.[248]

Chile issued a counter-memorial in 2010, dismissing all claims by Peru. In return, Chile adjudged that an agreed maritime boundary existed. The acknowledgement and enforcement by Peru are found in the 1952 Declaration in Santiago ("the said line may not extend beyond that of the corresponding parallel at the point where the frontier of Peru reaches the sea"), and through the practical measures taken by both parties in 1968 and 1969 (where each country built one lighthouse at the point where the common border entered the sea thereby marking the land and maritime boundary).[249] Additionally, the boundary

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[244] Stephen Fietta and Robin Cleverly, *Practitioner's Guide to Maritime Boundary Delimitation* (New York: Oxford University Press, 2015), viii.

[245] Edward Ferrero Costa, "Latin America and the Law of the Sea," in *Regions, Institutions, and Law of the Sea: Studies in Ocean Governance*, eds. Harry N. Scheiber and Jin-Hyun Paik (Boston: Martinus Nijhoff Publishers, 2013), 392.

[246] Maria Teresa Infante Caffi, "*Peru v. Chile*: The International Court of Justice Decides on the Status of the Maritime Boundary," *Chinese Journal of International Law* 13 (2014), 746, accessed August 10, 2016, DOI: 10.1093/chinesejil/jmu037.

[247] Ibid.

[248] International Court of Justice, "Application Instituting Proceedings Filed in the Registry of the Court on 16 January 2008," 6.

[249] International Court of Justice. "Counter-Memorial of the Government of Chile: Volume I," March 9, 2010, accessed August 20, 2016, 302–303, http://www.icj-cij.org/docket/files/137/17188.pdf.

followed a latitude parallel of 18° 21' 00" S; and Peru was only entitled to the zone extending above said parallel.[250] The basis of their defense was the tripartite of treaties from 1947, 1952, and 1954.[251] To augment the argument, Chile claimed the boundary had been adopted during the time the 200 nautical mile maritime limit was established and through years of established practice in the maritime regions (see Figure 8).[252]

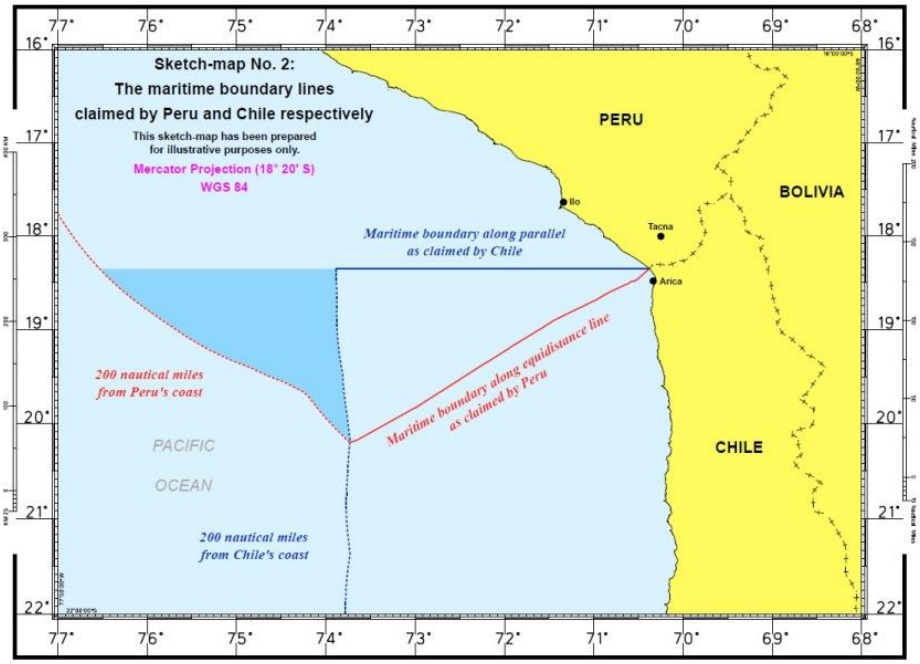

Figure 8. Maritime Boundary Lines Claimed by Peru and Chile, Respectively[253]

Chile understood that a maritime boundary already existed, and the Court should be summoned only to confirm its existence.[254] Conversely, Peru disputed that fact,

[250] Ibid. 305.

[251] Caffi, "*Peru v. Chile*," 746.

[252] Ibid.

[253] Uzma S. Burney, "International Court of Justice Defines Maritime Boundary Between Peru and Chile," *American Society of International Law*, February 10, 2014, accessed April 16, 2016, https://www.asil.org/insights/volume/18/issue/3/international-court-justice-defines-maritime-boundary-between-peru-and.

[254] Mitja Grbec and Marko Pavliha, "The International Court of Justice and the Peru-Chile Maritime Case," *E-International Relations,* April 21, 2014, http://www.e-ir.info/2014/04/21/the-international-court-of-justice-and-the-peru-chile-maritime-case/.

arguing that the parallel Chile referenced is "totally inequitable" disadvantaging Peru.[255] As a result, the ICJ needed to determine whether a maritime boundary existed—if so, what was its blueprint?

5. 2014 ICJ Ruling

The ICJ made its decision on the dispute based on five issues. First, the Court needed to determine whether the parties had a maritime boundary agreement already in existence.[256] Determination of this answer required a thorough comb-through of its previous bilateral treaties; the previous section details those agreements and shows that a binding maritime boundary was named, but unclear.[257]

Second, was the nature of the boundary solely applicable to the water column, or did it include the seabed and the subsoil? Within the context of the 1947 Proclamation and the 1952 Santiago Declaration, maritime claims were described according to the sea-bed and the waters that lay above it; the court named it as an "all-purpose" claim since no other distinctions were made.[258]

Third, the extent of the agreed maritime boundary was next in question. The Court recalled the purpose of the agreement was to set up a zone of tolerance for fishing boats. Using the "relevant practice of the Parties" to help support the finding, the Court examined fisheries activity in the mid-1950s (relevant to the 1954 Agreement) and found that fishing boats seldom operated past 60 nautical miles from the coastline.[259] The 200 nautical mile zone between Peru and Chile, established in the late 1940s and early 1950s, was to "protect the 'Humboldt Current Large Maritime Ecosystem'"—not by the capacity of national fisherman to fish up to that particular point.[260] Taking in the broader scope and the evidence provided, the Court determined that the agreed boundary extended to 80

[255] Ibid.

[256] International Court of Justice, "Maritime Dispute (Peru v. Chile)," 2.

[257] Ibid.

[258] Ibid., 2–3.

[259] Grbec and Pavliha, "Maritime Case."

[260] Ibid.

nautical miles along the parallel from its point of origin on land.[261] Today, it is still confusing to Chilean officials why the ICJ selected 80 miles, thereby reducing the parallel extension from 200 miles.[262]

Fourth, the court needed to determine the start point of the maritime boundary agreed by both parties in 1954. Using the 1968–1969 lighthouse arrangements, the Court determined the maritime boundary start point is the where the line of latitude passes through Boundary Marker 1.[263]

Fifth, the court was to resolve the boundary's course from Point A—the 80 nautical mile point at the end of the existing maritime boundary. To determine the boundary past Point A, the court utilized a standard three-stage procedure. The procedure established an equidistance line aimed at avoiding "excessive amputation" of either Chile or Peru's projections.[264] In conclusion, the Court's ruling was the following:

> The Court concludes that the boundary between the Parties at the 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.[265]

In the end, both countries conceded something. Despite the fact that Peru only gained a smaller zone than desired, President Sebastián Piñera called it "a lamentable loss" for Chile; approximately 35 percent of its steady catch will be stripped.[266] Originally asking for 23,600 square miles of new fishing waters for its proposed boundary, Peru walked away carving about 8,000 square miles of Chile's EEZ (see

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[261] United Nations Office of Legal Affairs, "Judgment of 27 January 2014," 8–9.

[262] Pascale Bonnefoy, "Court Grants Peru Ocean Territory Claimed by Chile," *New York Times*, January 27, 2014, accessed August 19, 2016, http://www.nytimes.com/2014/01/28/world/americas/court-grants-peru-ocean-territory-claimed-by-chile.html?_r=1.

[263] International Court of Justice, "Maritime Case (Peru v. Chile)," 2.

[264] Grbec and Pavliha, "Maritime Case."

[265] United Nations Office of Legal Affairs, "Judgment of 27 January 2014," 8–9.

[266] Long, "Moving On."

Figure 9).[267] Peru had envisioned the border advancing southward into Chilean territory, but accepted another 10,800 square miles of former international waters.[268] The effort by the Court displeased both governments, yet both agreed to adhere to the verdict.

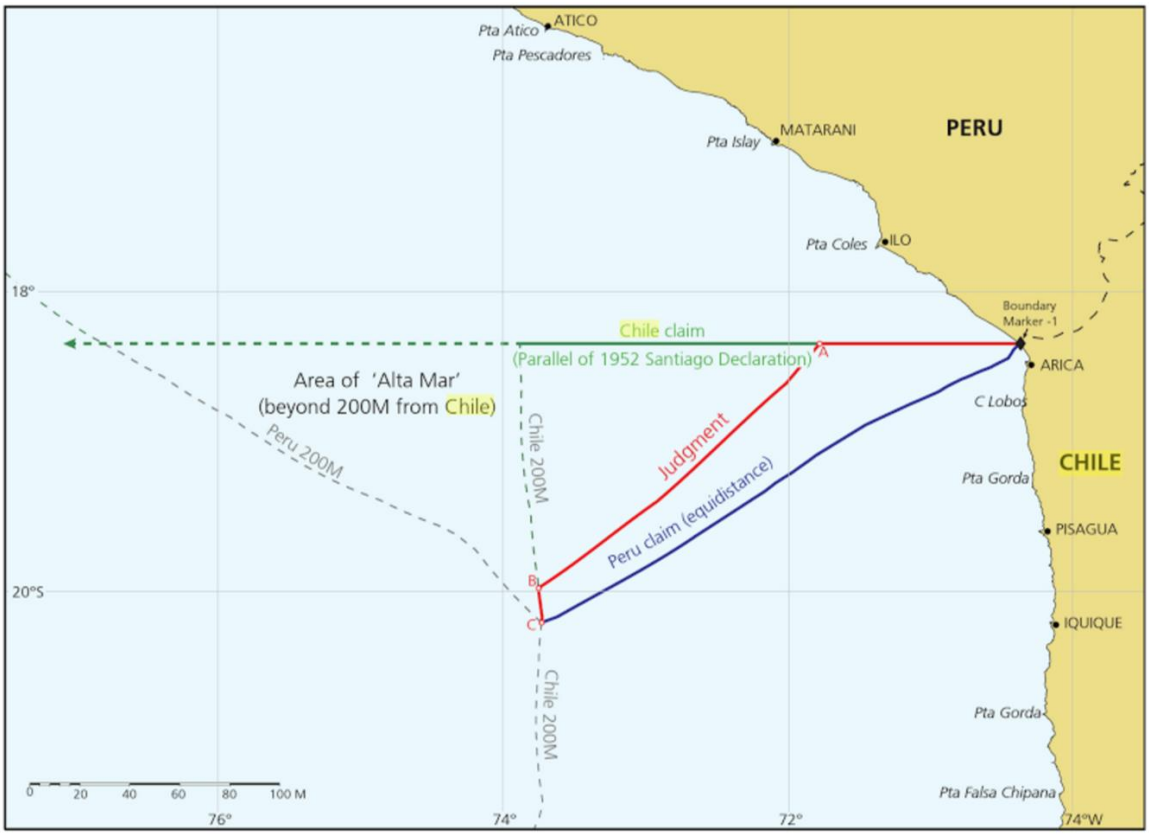

Figure 9. Claims by Chile and Peru and the ICJ's Final Judgment[269]

C. TESTING THE HYPOTHESES—ATTEMPT AT RESOLUTION

1. Application of Hypotheses

Peru unilaterally submitted the application to The Hague; why, then, did Chile take action and contest the dispute? Chile could have chosen to take the case, as is—no protest—but the Pacific power countered the argument with numerous occasions to

[267] Bonnefoy, "Court Grants Peru Ocean Territory."

[268] Long, "Moving On.

[269] Fietta and Cleverly, *Practitioner's Guide*, 535.

showcase their significant bilateral history.[270] Accepting the controversy would, in the long run, only exacerbate other basic issues in the foreseeable future. By deciding to contest and cite previous settlements in accordance with the law of the sea, Chile might have anticipated its responses would advantage it in the greater diplomatic realm.[271] Neither Chile nor Peru came before the ICJ threatening to break off relations in lieu of the results; although national pride appeared to be an issue, their shared trust in the Court's decision of an international boundary outweighed the politics.[272]

At the time the ICJ received the case, the status quo was in Chile's favor. Notably, in the weeks before the Court announced the ruling, both countries expressed publicly compliance to the outcome of the resolution.[273] Given that Chile—the perceived target state in this dispute—blindly accepted the risk of losing the fishermen of Iquique and Arica in the north, the realist argument (HR_1) can be ruled out. Arguably, the loss of fish worth more than $100 million a year was not salient enough to leave up to an unpredictable maritime boundary.[274] States in a realist world would generally be concerned about the balance of power; in this case, the legitimate maritime boundary symbolized the available leverage that each country put at risk.[275]

Despite the tumultuous history of bitter territorial exchanges, Chile and Peru recognized the benefits from resolving the enduring boundary dispute. There were many signs that leadership wished to move past the 19th century war legacy. In a Public Sitting conducted on December 6, 2014, the Agent for Chile Van Klaveren Stork opened with the following:

> Chile and Peru have lived together in peace for 130 years. We have worked together on innumerable occasions to further economic integration and development and to improve the lives of our peoples. Chile conducts

[270] Caffi, "*Peru v. Chile*," 761.

[271] Ibid.

[272] Ibid., 746.

[273] Grbec and Pavliha, "Maritime Case."

[274] "Chile and Peru: A Line in the Sea."

[275] John J. Mearsheimer, "The False Promise of International Institutions." *International Security* 19, no. 3 (1994): 12, DOI:10.2307/2539078.

> its relations with Peru based on principles of good faith, mutual respect and observance of international agreements.[276]

Though the mention of peaceful relations does not substantially appear in any of the written proceedings, I argue the very act of submitting a dispute to be strengthened by the ICJ demonstrates pursuit of a peaceful solution. Recently, Chile and Peru joined Colombia and Mexico to establish the Pacific Alliance in 2012, reinforcing their preference to benefitting economies across borders.[277] Referring to cooperation and friendship, Peruvian President Ollanta Humala said in 2014, "the end of the dispute will allow us to begin a new stage in our relations with Chile," which has shown much economic promise since then.[278] Though the effects of the ruling mean that both states look to consider more technical issues such as base points and coordinates, as well as redefine the norms of the maritime environment, the doors of diplomacy have been opened because of their commitment to comply.[279] Today, the general data shows both nations are profiting from bilateral investment and regional stability. Given that Chile and Peru consented to the unforeseeable settlement of the Court to continue maintaining mutual cooperation, the first liberal approach (HL_1) can explain this outcome.

In this resolution attempt, it is undoubtedly clear that the second liberal argument (HL_2) played a role. Submitting a case to the ICJ is an expensive ordeal and takes a considerable amount of time to achieve a ruling—in this case, results finalized in six years.[280] The Court has been considered the most authoritative court to date, relying on an inflexible group of judges that allow states very little participation in its proceedings.[281] Throughout the development of their history, Latin American states have

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[276] International Court of Justice, "Public Sitting in the case concerning the Maritime Dispute (Peru v. Chile)," *Verbatim Record*, December 6, 2014, accessed August 20, 2016, 12, http://www.icj-cij.org/docket/files/137/17210.pdf.

[277] Long, "Moving On."

[278] M. R., "Chile and Peru's Pacific Dispute," *The Economist Explains* (blog), January 28, 2014, accessed August 20, 2016, http://www.economist.com/blogs/economist-explains/2014/01/economist-explains-21.

[279] Caffi, "*Peru v. Chile*," 761.

[280] Sotomayor, "Legalizing and Judicializing," 40.

[281] Ibid.

had a propensity to build collective perceptions around neutrality and impartiality.[282] By involving this process of legalization, the boundary dispute escaped major politicization and the likelihood for military conflict.[283] To substantiate their consent for an international resolution body, both governments embedded their surroundings with people of judicial backgrounds.[284] Moreover, as a consequence of Peru and Chile's desire to avoid demilitarization of the boundary, the legal appeal of the ICJ provided that instrument of policy.[285] While the states marked time until the ruling, the dispute was considered "temporarily frozen" and "In Court We Trust" was thus adopted as the dyad's unofficial motto.[286] This sort of pledge to adherence developed within both governments and led to a final resolution.

This contemporary topic allowed for more accessible outlets on discourse, and in turn, more ways for political leadership to mobilize their constituents. In the broad scope of the matter, both administrations viewed the boundary dispute as an obstacle to continued integration and development. Though it was initially elevated to the international status through a unilateral process, both the target and challenger state actively drove the nature of the conflict. While former senior officials from both Chile and Peru have warned against a possible flare up in military operations, these opinions have been countered by incumbents who believe resources and funds should be spent on combatting poverty rather on weapons.[287] At the hearing's initiations in 2008, then-Chilean President Michelle Bachelet, made it known that both countries were going to continue the "path of integration and friendship," despite the lawsuit.[288] Bachelet's

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[282] Ibid.

[283] Ibid., 56.

[284] Ibid., 57.

[285] Ibid., 57.

[286] Ibid., 57.

[287] "Mora: Perú Debe Tener "Capacidad Disuasiva" para Afrontar Fallo de La Haya (Peru Must Have 'Deterrent Capability' to Face Failure of The Hague)," *El Comercio Peru*, July 24, 2011, accessed August 25, 2016, http://elcomercio.pe/politica/gobierno/mora-peru-tenercapacidad-disuasiva-afrontar-fallo-haya-noticia-944331.

[288] "Bachelet: Maritime dispute must not affect Peru - Chile friendship." *Peru This Week*. May 21, 2008. Accessed August 25, 2016. http://archive.peruthisweek.com/news-6505-business-bachelet-maritime-dispute-must-not-affect-peru-chile-friendship.

leadership led the population to carry on while the ICJ determined a verdict. In a joint statement held in 2012, then-Peruvian President Humala stated that the nation "will comply and execute the sentence that will define the differences that we are bringing before this court."[289] Furthermore, then-Chilean President Piñera preached that Chile was "confident and at ease" over the impending verdict, adding that their country has, is, and will continue to be respectful of the international law process.[290] Consequently, many people agreed in viewing the affair as an opportunity to put aside bitterness left from a war over a century ago.[291] Given this evidence, the constructivist approach arguing the capacity of discourse toward resolution cannot be ruled out.

D. ANALYSIS OF RESOLUTION AND CONCLUSION

Provided Chile and Peru's history, the question of bilateral conduct of diplomacy arises. There exists a sense of obscurity surrounding whether an agreed maritime boundary had been a concern prior to Peru's 2008 filing. Given the economic stakes, Peru claimed it had been seeking to bilaterally discuss the issue since 1985; according to Peru, Former Peruvian Foreign Minister Allan Wagner had first brought these boundary concerns to his Chilean counterpart Jaime del Valle.[292] This was followed up with a Memorandum to Chile written by the Peruvian Ambassador, Juan Miguel Bákula.[293] The note encompassed a peaceable tone, expressing that the established 200-mile zone gave the maritime zone a different meaning, given the characteristics of the sea's marine resources.[294] The memorandum also communicated that the formula used to determine

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[289] Manuel Vigo, "Peru and Chile Presidents Vow to Respect ICJ's Ruling on Maritime Dispute," *Peru This Week*, November 30, 2012, accessed August 25, 2016, http://www.peruthisweek.com/news-peru-and-chile-presidents-vow-to-respect-icjs-ruling-on-maritime-dispute-13218.

[290] Ibid.

[291] "Chile and Peru: A Line in the Sea."

[292] Carolina Miranda, "Allan Wagner: El Ideólogo de la Demanda Limítrofe Peruana," *La Nación Chile*, March 12, 2012, accessed August 22, 2016, http://www.lanacion.cl/allan-wagner-el-ideologo-de-la-demanda-limitrofe-peruana/noticias/2012-11-30/173822.html.

[293] Jose Miguel Bákula, *La Imaginación Creadora y El Nuevo Régimen Jurídico del Mar (Creative Imagination and The New Legal Regime of the Sea)*, (Lima; University of the Pacific, 2008), 100, accessed August 22, 2014, http://www2.congreso.gob.pe/sicr/cendocbib/con3_uibd.nsf/C88C1383AB5546180525790A00685A20/$FILE/laimaginacioncreadora.pdf.

[294] Ibid., 103–4.

Chile's so-called boundary was "no longer adequate to meet the requirements of the security needs" of the parties involved and leaving it to "broad interpretation could lead to an inequitable situation and therefor risk for Peru."[295]

What might have caused Chile and Peru to rely on an international resolution body for this dispute? Sotomayor argues that those elected democratically are often incentivized—and increasingly tempted—to participate in international institutions as a means to remove an issue from the environment of domestic politics and geopolitics.[296] In practice, the majority of Latin American countries have treated maritime disputes as a case for the ICJ.[297] This similar process will be revisited in Chapter V.

After Chile fought with Peru and Bolivia in the War of the Pacific, Chile's military advantage gained additional territorial assets enriched with natural resources that benefit its economy today. Since the second half of the twentieth century, however, solving problems by way of war in Latin America are diminished; the ideology of a shared feeling of Latin Americanism fostered a containment of militarized disputes.[298] Chilean histories concerning territorial disputes have thus far involved integration and arbitration, despite the economic, military, and technological advantage it maintains throughout the entire continent. Chile may have considered arbitration in the past even if it did not "expect any better deal from an arbitrator or a court" because of how it would bolster its reputation; if an external party would have arrived at the same outcome as a political compromise between Chile and its challenger states, this process of arbitration would make Chile appear more cooperative and diplomatic—whereas the former might indicate weakness.[299] In fostering those values of cooperation and the willingness to maintain democratic peace, research shows that political discourse can add to the impact.

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[295] Ibid., 104.

[296] Maiah Jaskoski, Arturo C. Sotomayor, and Harold Trinkunas, *American Crossings: Border Politics in the Western Hemisphere* (Baltimore: JHU Press, 2015), 210.

[297] Ferrero Costa, "Latin America," 395.

[298] Dominguez et al., "Boundary Disputes," 25.

[299] Simmons, "Capacity," 834.

Once again, the liberal and constructivist arguments found in this chapter highlight factors attributable toward dispute resolution (see Table 8). The ICJ judgment was a major step forward in facilitating diplomatic relations between two former belligerents, and it is hopeful that the same process can work for Bolivia in their quest for sovereign sea access.

Table 8. How Each Hypothesis Explains the Attempt at Resolution for the Chile–Peru Dyad

Sub Case	Leverage Through Concessions (HR_1)	Mutual Peace and Cooperation (HL_1)	International Body (HL_2)	Discourse (HC_1)	DV: Outcome of Resolution Attempt
Maritime Boundary Dispute	No	Yes	Yes	Yes	4

V. CHILE–BOLIVIA DYAD

A. INTRODUCTION

Chapter V examines Chile and Bolivia, a relationship that has remained generally strained since Chile dismembered the land once connecting Bolivia to the Pacific Ocean. Outside of a short period in the 1970s, Chile and Bolivia relations have been poor for decades.[300] Despite sharing a border, Bolivia holds in contention the area lost from the War of the Pacific; even more so, the landlocked country seeks a fully sovereign access west to the ocean.

The subject of access to the sea has been revived in different forms, from discussing the establishment of a land-to-sea corridor[301] to calling Chile to act on their obligation for negotiation to the sea (Bolivia's current submission to the ICJ).[302] Unlike in Peru's case, the issue presented in this chapter has been a salient one for over 130 years.

The impact of geography has been a sticking point for Bolivia. It has had nearly free ocean access, paying transport costs tariff-free for exports through Chilean ports; however, it claims that Chile's commitment to free transit is "not as wonderful as [they like] to portray."[303] Bolivia's hope is for Chile to return sovereign access in the form of land, particularly, the territory that once housed copper deposits once under Bolivian soil. The lost land known as the Antofagasta region has since contributed largely to Chile's export economy—with Bolivia sitting next door, observing their neighbor prosper from the coastline and its adjoining territory.

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[300] Long, "Bolivia-Chile Land Dispute."

[301] Manuel Prieto and Xurxo M. Ayán Vila. "Although The Loneliness is Great, Greater Yet is the Love of my Country," *Journal of Contemporary Archaeology* 1, no. 2 (2014), 328.

[302] International Court of Justice, "Reports of Judgments, Advisory Opinions and Orders: Obligation to Negotiate Access to the Pacific Ocean (*Bolivia v. Chile*)," June 18, 2013, accessed August 25, 2016, http://www.icj-cij.org/docket/files/153/17392.pdf.

[303] "Beaches of the Future? A South American Border Dispute Has Implications for International Law," *The Economist*, May 9, 2015, http://www.economist.com/node/21650578/.

In this final case study, I examine the dispute resolution attempts to predict what factors likely lead to the type of resolution that endures longer than the period of dispute. The official endeavors I present are predominantly initiated by Bolivia—this dyad's challenger state, which suggests the nature of their diplomatic relations. Chapter V aims to examine three things. First, I discuss the background of the enduring dispute. Second, I consider the nations' official resolution attempts, including the 1866 Boundary Treaty; the 1872 Lindsay-Corral Protocol, the 1874 Treaty of Limits; the 1904 Treaty of Peace and Friendship; the 1975 Charaña Embrace; the 2006–2010 13 Points; and the 2013 ICJ case filed against Chile. Third, drawing upon the analyses of outcomes through IR-based hypotheses, I speculate that my liberal and constructivist approaches apply in this dyad's ultimate outcome. By studying lessons learned from Chile's previous geopolitical affairs, I forecast what factors are most likely to ensure a full settlement, and in turn, may indicate a general application theory for dispute resolution.

B. BACKGROUND OF THE TERRITORIAL DISPUTE FOR SOVEREIGN ACCESS TO THE SEA

In April 2013, Bolivia filed an application to start proceedings against Chile's "obligation to negotiate in good faith and effectively with Bolivia in order to reach an agreement granting Bolivia a fully sovereign access to the Pacific Ocean."[304] The application specifically mentioned that their issue was not the dispute of the 1904 treaty, but of the obligation Chile has to negotiate a sovereign access to the sea, and its repudiation of that obligation.[305] Bolivia's claim of such an obligation is based on a question of international law, relating to the existence and breach of an obligation. Chile is being asked to negotiate on good faith, based on agreements in the past.

Bolivia continues to push for its entitlement—as a challenger state—to "take all measures necessary to ensure that the rights and facilities provided for . . . shall in no way

[304] Eduardo Rodriguez Veltze, *Obligation to Negotiate Access to the Pacific Ocean (Bolivia v. Chile): Written Statement of the Plurinational State of Bolivia on the Preliminary Objection to Jurisdiction Filed by Chile*, November 7, 2014, 1, http://www.icj-cij.org/docket/files/153/18622.pdf.

[305] Ibid., 8.

infringe [its] legitimate interests."[306] Chile, on the other hand, claims to already afford it access to the sea, and is in accordance with Article 125 from the UN Convention of the Law of the Sea—"land-locked states shall enjoy freedom of transit through the territory of transit States by all means of transport."[307] In Article 125, special terms and modalities "shall be agreed between the land-locked States and transit States concerned through bilateral, sub-regional, or regional agreements"; Chile asserts that this Bolivia has not even asked the ICJ to determine the specific modality of sovereign access, therefore, should not concern the ICJ.[308]

Throughout the proceedings, Bolivia failed to provide a definition of *sovereign access to the sea*, as access can take form in many ways—a corridor, coastal enclave, special zone, or something else. This thesis, nevertheless, has identified characteristics that perhaps might ratify the resolution for good; digging through previous efforts may strengthen these factors as part of an overall principle for dispute resolution in Latin America.

C. TESTING THE HYPOTHESES—ATTEMPTS AT RESOLUTION

1. 1866 Resolution Attempt: Treaty of Mutual Benefits (Treaty of Limits)

Chile and Bolivia attained independence from the Spanish in 1818 and 1825, respectively, building their nations upon the basis of *uti possidetis juris*. As in many early Latin American state formations, borderlines remained ill defined until resource discoveries introduced complications; both countries at least partially claimed the Atacama region during the uncertainty. Upon the discoveries of natural resources such as nitrates and guano in the desert region, territorial disputes materialized. In the early 1800s, Bolivia and Chile were laying claim to overlapping areas defined by parallels, leading Bolivia to reach a peaceful settlement with Chile. Many scholars agree that war

306 Ibid., 13.

307 United Nations, *United Nations Convention on the Law of the Sea, Montego Bay, Jamaica: Oceans & Law of the Sea*, http://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf.

308 Rodriguez Veltze, *Obligation to Negotiate Access*, 7.

would have ensued if not for the Spanish presence that remained until the late 1860s; consequently, a regional alliance formed out of solidarity against the Spanish.[309]

In 1866, Chile and Bolivia produced the Treaty of Mutual Benefits where both countries renounced former lines and re-established a boundary at the 24th parallel (see Figure 10). Chile pursued this settlement after failing to establish an alliance with Bolivia against Peru; this was in part to the increased Peruvian nitrate control over Chile at the time.[310] To address the mineral resources matter, a zone of "joint mineral exploration" was also established, allowing both to earn equally from profits and revenues derived in the region.[311] Although the treaty allowed for Bolivia to set up a customs house at the port of Mejillones (occupied *de facto* by Chile), Chile gained the better part of the deal.[312]

Despite that Chile, through this treaty, formally recognized Bolivia's sovereignty over the coasts of the Pacific Ocean, there were still many questions concerning interpretations by both countries, which complicated diplomatic relations.[313] The government of Bolivia heavily criticized the terms, and additional interpretations of the treaty unnerved its alliance to Chile. To Bolivia's misfortune, its attempt to clarify and revise the 1866 Treaty dissolved when the Bolivian National Assembly voided any acts done by the previous regime, which was led by the incompetent self-appointed dictator, General Melgarejo.[314]

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[309] Cristieli Carvalho dos Santos and Inaê Oliveira, "Obligation to Negotiate Access to the Pacific Ocean (Bolivia v. Chile)," *UFRGS Model United Nations* 2 (2014), 214, https://www.ufrgs.br/ufrgsmun/2014/files/ICJ2.pdf.

[310] Donald E. Worcester, "Naval Strategy in the War of the Pacific," *Journal of Inter-American Studies* 5, no. 1 (1963), 32, accessed August 31, 2015, http://www.jstor.org/stable/165281.

[311] Carvalho dos Santos and Oliveira, "Obligation," 215.

[312] Ronald Bruce St. John, *The Bolivia-Chile-Peru Dispute in the Atacama Desert* (Durham, UK: University of Durham, 1994), 8.

[313] International Court of Justice, "Application Instituting Proceedings Filed in the Registry of the Court on 24 April 2013: Obligation to Negotiate Access to the Pacific Ocean (*Bolivia v. Chile*)," April 24, 2013, accessed September 15, 2015, 12, http://www.icj-cij.org/docket/files/153/17338.pdf.

[314] St. John, *The Bolivia-Chile-Peru Dispute*, 10.

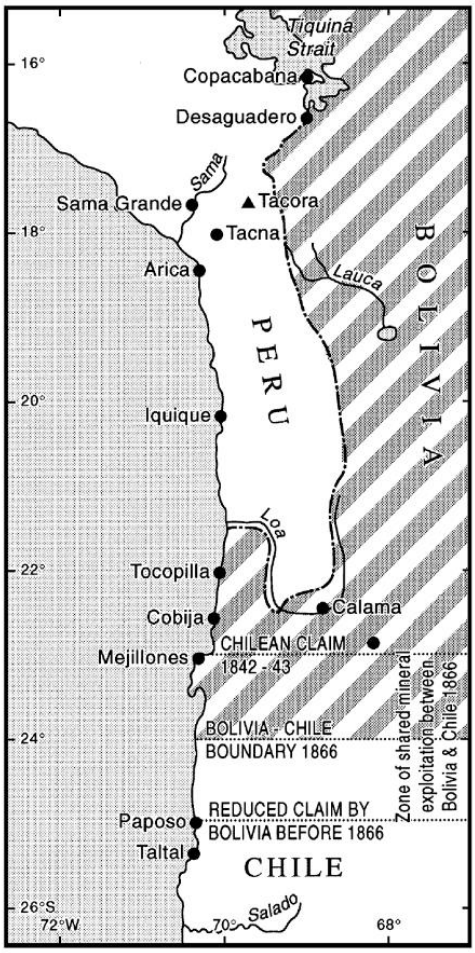

Figure 10. 1866 Treaty of Mutual Benefits[315]

a. Key Outcomes of Treaty

Most scholarship shows that Chile and Bolivia signed the Treaty to resolve the border question but promptly became discontent with it due to its multiple interpretations.[316] Within its seven articles, the main points concerned the exploitation of nitrates and guano and the drawing of the international boundary.

[315] St. John, *The Bolivia-Chile-Peru Dispute*, 9.

[316] Carvalho dos Santos and Oliveira, "Obligation," 215.

b. Application of Hypotheses

During the 19th century, realism played a role in state shaping due in part to the "balancing of alliances"; the regional states' potential economic gains influenced the establishment of these borders and zones.[317] Accounts of the Chilean-Bolivian exchange demonstrate an asymmetrical approach to resolution. The impetus for Chile to resolve the dispute with Bolivia was largely influenced by the threat of Peru for Pacific hegemony. During the 1866 negotiations, Chile had once volunteered to help Bolivia acquire Arica and Tacna—Peruvian provinces—but if Bolivia would give up its coastal outposts of Mejillones and Paposo.[318] Bolivia declined the offer, but this indicated the ambitions of Chile to gain control of the coastal territory.[319] Additionally, Bolivia believed it was entitled to a border much further south of the 24th parallel.[320] Ultimately, both governments were on good terms in their alliance against the Spanish colonizers, agreeing to settle on the 24th parallel and the shared zones between parallels 23 and 25.[321] Given that Chile and Bolivia both afforded its neighbor equal benefits in areas outside of its boundary (despite the resource advantage favored to Chile, learned later), the realist approach (HR_1) can help to explain this outcome.

Chile and Bolivia came to an agreement based on the perceived mutual benefits from the shared zones. Article 2 of the Treaty explicitly states that

> The Republics of Bolivia an Chile shall share equally the proceeds of the exploitation of the guano de posits discovered in Mejillones . . . as well as the export duties which shall be collected upon the minerals mined within the same territorial extension.[322]

A leading factor in this outcome relies on gains from the joint deal; therefore, the first liberal hypothesis (HL_1) can certain account for the result.

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317 Walt, "International Relations: One World, Many Theories," 31.

318 St. John, *The Bolivia-Chile-Peru Dispute*, 8.

319 Ibid.

320 Ibid.

321 Ibid.

322 William Jefferson Dennis, *Documentary History of the Tacna-Arica Dispute* (Iowa City, IA: University of Iowa Studies, 1927), 49.

Article 1 of the Treaty refers to a "commission of properly qualified experts, half of whose members shall be appointed by each one of the high contracting parties" to survey the *exact* Chile-Bolivia border line.[323] Despite reference to qualified experts, the Treaty does not give them agency for the bilateral decision. Given that there are no international parties, we can rule out the second liberal approach (HL_2) in this period.

The constructivist argument does not apply to the 1866 outcome as well. A number of Bolivians who opposed President Melgarejo and those were even aware of the littoral significance critiqued the signing of the agreement, but this did not impact the outcome.[324] Despite the Treaty being favorable to Chile, Melgarejo failed to counter with a plan to regain more control; instead, he gave away land and acted in accordance to his personal greed without much regard for promoting specific terms to the population.[325] Provided that he had little to no influence or regard for public support, HC_1 does not apply.

This period shows the DV was influenced by factors of realism and of mutual cooperation (see Table 9). However, other than mutual recognition that Bolivia once had coastline territory, many issues were left unsolved from this Treaty; the lack of attention to detail left relations to deepen in conflict.

Table 9. Hypotheses Application to the 1866 Treaty of Mutual Benefits (Boundary Treaty)

Sub Case	Leverage Through Concessions (HR_1)	Mutual Peace and Cooperation (HL_1)	International Body (HL_2)	Discourse (HC_1)	DV: Outcome of Resolution Attempt
1866 Treaty of Mutual Benefits	Yes	Yes	No	No	4

[323] Ibid.

[324] St. John, *The Bolivia-Chile-Peru Dispute*, 8.

[325] Waltraud Q. Morales, *A Brief History of Bolivia* (New York: Facts on File, 2003), 65.

2. 1872 Resolution Attempt: Lindsay–Corral Protocol

Upon the installation of Federico Errázuriz as Chile's new president, both Bolivian and Chilean governments made efforts to directly negotiate a plan to clarify the 1866 Treaty's vague provisions.[326] Criticisms from the 1866 Treaty brought about six months of discussions, culminating in the Lindsay-Corral Protocol of 1872. Negotiations between the two countries also renewed, since one of the terms opened up an opportunity for Chile and Bolivia to compromise on a future replacement treaty that mutually benefits both governments.[327] Despite rejection from Peru, both ratified the treaty.

a. Key Outcomes of Protocol

The pact emphasized the 24th parallel as the boundary, specified the cooperation of Bolivian and Chilean customs officers in the shared zone, and recorded the addition of materials other than metals listed in the previous agreement.[328] The Protocol, naturally, drew more criticisms from Bolivia. While the Chilean government described the pact as "nothing more than a clarification of the treaty of 1866 and claimed its rights had not increased," a number of Bolivians from the National Assembly believed it augmented their influence.[329] Additionally, Peru expressed concern of Chile's quest for regional dominance via the agreement, encouraging Bolivia to refuse the Protocol; afraid to hurt relations with Chile, Bolivia agreed to a secret defense alliance with Peru before appeasing Chile.[330]

Subsequently, Peru and Bolivia signed a Secret Treaty in 1873 promising to aid the other in situations of national sovereignty and maintaining independence.[331] While this seemed harmless at the time, Chile's awareness of this treaty was undoubtedly the

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326 St. John, *The Bolivia-Chile-Peru Dispute,* 10.

327 Monica Gangas Geisse and Hernan Santis Arenas, "The Bolivian Maritime Aspiration to Chilean Political Space: Towards a Non-Territorial Solution," in *The Americas: World Boundaries Volume 4,* ed. Pascal O. Girot (London: Routledge, 1994), 175.

328 St. John, *The Bolivia-Chile-Peru Dispute,* 10.

329 Ibid.

330 Ibid., 11.

331 Worcester, "Naval Strategy," 32.

pretext for the war to come. Although unfavorable to Bolivia, Peru urged its neighbor to sign the Treaty of Sucre in 1874—at the threat of Chile's new ironclad cruiser during an age that was still dominated by wooden ships.[332]

b. Application of Hypotheses

According to Chile, the Protocol was intended to explicate terms of the Treaty of 1866. Though most of the terms seem, in part, to favor Chile, Bolivia came to the table only after signing a defense treaty alliance with Peru. At this time, the Peruvian naval force was regarded as the dominant force along the Pacific; the subsequent secret treaty might have afforded Bolivia with additional leverage against both states, if needed.[333] Although Peru had urged Bolivia to disapprove the treaty due to the potential for Chile's influence to grow, Bolivia might have chosen to settle because the Peruvian alliance provided an element of security. I argue that Bolivia, influenced by Peru, made a tradeoff between its territory and the defense treaty. Given that Bolivia agreed to Chile's terms because it did not sense an immediate threat, the realist approach can explain the outcome.

Like the 1866 Treaty, the Protocol asked for continuing relations to be conducted "pacifically and amiably."[334] Provided that the document was established as a clarification of specific provisions and a calling for both parties' cooperation, the first liberal approach can also explain the outcome.

Both countries came to a resolution without use of a third party, much less an international resolution body. Additionally, the dissent that rose from the Bolivian National Assembly had very little impact on the results. Provided those reasons, both the constructivist and the second liberal approaches can be ruled out.

In line with the 1866 Treaty of Mutual Benefits, this period demonstrates consistencies in the approaches employed to reach a territorial resolution (see Table 10).

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[332] Ibid., 33.

[333] Dennis, *Documentary History*, 54.

[334] Ibid., 56.

In the next section, the dyad finally agrees on a substitute for the ambiguous boundary treaty; regrettably, this will be overcome by events that further complicate relations.

Table 10. Hypotheses Application to the 1872 Lindsay–Corral Protocol

Sub Case	Leverage Through Concessions (HR_1)	Mutual Peace and Cooperation (HL_1)	International Body (HL_2)	Discourse (HC_1)	DV: Outcome of Resolution Attempt
1872 Lindsay-Corral Protocol	Yes	Yes	No	No	4

3. 1874 Treaty of Limits between Bolivia and Chile (Treaty of Sucre/ Martinez-Baptista Agreement)

In November 1874, Chile and Bolivia established a new boundary treaty to annul the 1866 Treaty.[335] Eleven months earlier, Chile had become aware of the Peru-Bolivia "secret treaty," and decided to play it safe with this set of provisions.[336] While Chilean Prime Minster Carlos Walker Martinez insisted on discussing a new plan with Bolivia regarding nitrate deposits in the Atacama, José de la Riva Agüero, Peruvian Minister in Bolivia, urged its neighbor to break its arrangement with Chile or for an "unambiguous definite settlement to be reached between the two new warships of Chile be finished."[337] With word of a new, armed ironclad ship at sea, Peru then advised Bolivia to accept the Martinez proposals to avoid any new complications. Chile's strengthening navy afforded its government to impose just about any conditions on Bolivia regarding the littoral, so it was important for Bolivia to ratify. The Martinez-Baptista Agreement (referring to the dyad's prime ministers, signatories of the Treaty), or Treaty of Sucre, became the new

[335] United States, *The Alsop Claim: The Case of the United States of America for and in Behalf of the Original American Claimants in This Case, Their Heirs, Assigns, Representatives, and Devisees Versus the Republic of Chile Before His Majesty George V ... Under the Protocol of December 1, 1909* (Washington: U.S. Government Printing Office, 1910), 289.

[336] Dennis, *Documentary History*, 61.

[337] Ibid.

treaty of limits; in July 1875, supplementary articles were added on to address the questions of arbitration, territorial specifics, and urgency to ratify.[338] The parties complied with the Treaty, but only until the War of Pacific broke in 1878.

a. Key Outcomes of Treaty

In the new Treaty of Limits, both states re-established the 24th parallel as the boundary.[339] Joint fiscal control was relinquished, favoring Bolivia and granting it the authority to collect all tax revenue from the 23rd and 24th parallel. This agreement contained a clause that stipulated that current taxes would not be subject to any increase for the next 25 years; this action would ameliorate Bolivian-Chilean relations.[340] With respect to future disputes, all under treaty would be settled by arbitration.[341]

b. Application of Hypotheses

In terms of the settlement, the international boundary line had not changed. In fact, the mutual benefits were different for each party—Bolivia acquiring full rights to a former mining zone and Chile receiving a secure tax for 25 years. Chile agreed to an economic concession of the zone between the 23rd and 24th parallels, but made gains independent of territory. At the same time, Chile was increasing its inventory of naval ships, which would become valuable in the following years. In this period, Chile conceded by relinquishing its rights to condominium without perceiving a loss to its overall status. Given those factors, the realist argument can explain the outcome of resolution.

Economically, the Treaty provisions had profited both Chile and Bolivia but not without the aid of security reinforcements, such as the secret Peruvian-Bolivian alliance or defense buildup of Chile. Both parties reached a settlement—in spite of its hasty process—to institute a border and a plan to benefit from shared interests. Since both

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[338] United States, *The Alsop Claim*, 291–92.

[339] Ibid., 288.

[340] Worcester, "Naval Strategy," 33.

[341] United States, *The Alsop Claim*, 291–92.

states perceived mutual cooperation would service beneficially, the first liberal hypothesis can also be applied to the outcome of this period.

Continuing in their dyadic pattern, Chile and Bolivia reached a resolution through bilateral means. They employed the same practices to create the supplementary treaty in 1875 as well. Additionally, there is no evidence in my research of political leadership promoting discourse in favor or against of a resolution. Based on these continuing forms of settlement, the international resolution and discourse arguments are disregarded.

In summary, only two of the four arguments are present in this outcome, which results in resolution (see Table 11). This would be the last time Chile would recognize Bolivia's sovereignty of the littoral before the loss of land as specified in the 1904 Treaty.

Table 11. Hypotheses Application to the 1874 Treaty of Limits

Sub Case	Leverage Through Concessions (HR_1)	Mutual Peace and Cooperation (HL_1)	International Body (HL_2)	Discourse (HC_1)	DV: Outcome of Resolution Attempt
1874 Treaty of Limits	Yes	Yes	No	No	4

4. Resolution Attempt: The War of the Pacific

In 1878, a new administration overlooked the guarantee for stable taxes in the mutual benefits zone. The Congress of Bolivia broke the contract when they imposed taxes on the nitrate company by adding ten cents of tax per quintal of mineral extracted; the increase was intended to raise money for the regions hit hard from a string of natural disasters.[342] A series of exchanges between the Antofagasta Nitrate and Railway Company—backed by Chile—and Bolivia resulted from the broken amity.[343] Angered, Chile argued that the tax increase violated the treaty signed in 1874.[344] The ensuing

[342] Strategic Management for Maritime Vindication, *The Book of the Sea* (La Paz, Bolivia: Ministry of Foreign Affairs of Bolivia, 2014), 29.

[343] Worcester, "Naval Strategy," 34.

[344] Ibid.

conflict became known as the War of the Pacific, and was dominated by Peru and the Chilean Navy; however, the Bolivia-Peru alliance forced Chile's hand to declare war on the both of them. News of Chile's secret declaration of war in 1879 on both Peru and Bolivia arrived without giving both countries time to strengthen their navies.[345] The Chilean occupation of Lima and other victories left Peru and Bolivia ultimately defeated.[346] In 1883, Chile and Peru signed the Treaty of Ancon, transferring the province of Tarapacá—home of the major port of Iquique—to Chilean hands.[347] In 1884, a truce between Chile and Bolivia resulted in the annexation of the littoral Antofagasta region, a highly resourced region with nitrates, copper, and other minerals.[348] Also during this truce, the Bolivian government representatives explicitly proclaimed that it would never "resign itself to not having a sovereign outlet to the sea."[349]

a. 1904 Treaty of Peace and Friendship Between Chile and Bolivia

Until 1904, no peace had been attempted between Bolivia and Chile. During the truce, notes and discussions exchanged between nations, but it was understood between both that nothing would transpire until the Chile received Tacna-Arica—this would not be done for another ten years after the truce.[350] Despite Bolivia's endeavors to reach an official peace agreement, the country received a lot of pushback. Abraham König one of the most notable notes had been issued by the Chilean plenipotentiary in La Paz, wrote: "It is a common error . . . in the press the opinion that Bolivia has the right to demand a port in compensation for her littoral . . . Chile has occupied the littoral and has taken possession of it with the same title . . . by which the United States . . . has taken Porto [sic] Rico."[351]

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[345] Ibid.

[346] *Encyclopedia Britannica*, s.v., "War of the Pacific," Last modified April 9, 2013. http://www.britannica.com/event/War-of-the-Pacific.

[347] Ibid.

[348] Ibid.

[349] Strategic Management for Maritime Vindication, *The Book of the Sea*, 32.

[350] Dennis, *Documentary History*, 232.

[351] Ibid., 233.

Nonetheless, Alberto Gutiérrez, the Bolivian minister, suggested to his Congress that Bolivia should prepare to relinquish their "aspiration for a seaport on the Pacific," but to understand that other forms of compensation would be negotiated.[352] It was important for Bolivia to receive recompense due to the incurred financial debts from the loss of coastline.[353] While Chile was in negotiations with Brazil over their *Pactos de Mayo*, came to Santiago to negotiate an official peace treaty.[354]

Chile soon came together with Bolivia to prepare a comprehensive treaty that would "re-establish the peace that was shattered in 1879."[355] The 1904 Treaty of Peace and Friendship guaranteed two major concessions to Bolivia—a railway connecting the port of Arica to La Paz, built by Chile; and free commercial transit for Bolivia across Chile.[356] Chile also mitigated Bolivia's financial troubles by assuming its obligations to commercial and private Chilean investments, affording Bolivians more fiscal independence.[357] On October 20, 1904, both accepted the peace treaty recognizing "the absolute and perpetual dominion of Chile over the territories it [had] occupied"[358]—Chile as proprietor of the coast and Bolivia a fully landlocked nation.

(1) Key Outcomes of Treaty

The most significant outcome is Bolivia's loss of the littoral, as well as sovereign access to the sea. For Bolivia, this was considered an official recognition of Chilean territory, but for Chile, this resolution was considered a "diplomatic victory."[359] In addition to outlining 96 points demarcating the boundary, the treaty maintained Chile's previous declarations concerning Bolivia's coastal access, derived from the transfer of

352 Burr, *By Reason or Force*, 257.

353 Dennis, *Documentary History*, 232.

354 Burr, *By Reason Or Force*, 257.

355 Ibid., 258–59.

356 Ibid., 258.

357 Ibid.

358 International Court of Justice, "Application Instituting Proceedings Filed in the Registry of the Court on 24 April 2013," 40.

359 Carvalho dos Santos and Oliveira, "Obligation," 217.

territories just 20 years prior.[360] Furthermore, Chile was skilled in tying Bolivia's circumstances to those of Chile; the only way Bolivia could be guaranteed a railway to Arica or a free port of entry there, the Tacna-Arica problem would have to favor Chile.[361]

(2) Application of Hypotheses

Bolivia, acting on its desire to avoid further financial duress, was considered the challenger state in this phase. It pushed Chile to attempt a negotiated settlement; consequently, Bolivia obtained a number of indemnities that ultimately benefitted in the short run. The treaty was also instrumental to its perpetual dominance of the Pacific.[362] The target state acquired additional territory; therefore, the realist hypothesis does not apply in this case because there was no leverage lost or threat to national security. On the other side, Bolivia relied on the resolution to stay relevant in international affairs. The railway, large sum payment, and profit earned from nitrates in the transferred region benefitted the Bolivians, but ultimately the provisions forced them to become financially dependent on the victor.[363]

By the very nature of the treaty's purpose, Bolivia and Chile took this opportunity to reconstruct their relations through a number of concessions. They respected the rules of war in a peaceful approach; the winner gained much more in wealth than the loser and both republics agreed upon those terms. Rather than choosing to use force, both came to the negotiating table to replace the indeterminate truce first established after the war and to generate a more suitable living arrangement. Given the fact that Chile and Bolivia held the treaty as a certified symbol of the shared will to move forward, the democratic peace aspect of the first liberal hypothesis can explain the outcome.

Although the resolution was jointly settled upon, the last article of the 1904 agreement directed all questions "regarding the understanding or execution of this treaty

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[360] International Court of Justice, "Application Instituting Proceedings Filed in the Registry of the Court on 24 April 2013," 14.

[361] Burr, *By Reason Or Force*, 258.

[362] Ibid.

[363] Dennis, *Documentary History*, 234.

shall be submitted to the Emperor of Germany for arbitration."[364] Considering that they chose a third party as a prospective conciliator, both nations either anticipated the discovery of incomplete items or believed that even their peace had limits. The resolution contained a fail-safe, demonstrating that the second liberal hypothesis—based on the international resolution body—contributed to the attempt of ending the dispute.

The circumstances after the war did not quite afford Bolivia a choice in signing or rejecting the resolution. What mattered to Bolivia were the provisions of the treaty, and whether they would have relieved the standstill existing between the two states. At this point in time, the resources Bolivia had lost to Chile forced it into a corner; therefore, it was unnecessary to convince the population for support. Political discourse was not a strong component of the resolution attempt and precludes the constructivist hypothesis.

As a predictable mechanism of war indemnity, the outcome of the resolution was expected. Through the peace treaty, Chile was able to offer Bolivia restitution of the riches they lost through the annexation, and allowed Bolivia to direct its efforts on settling financial debts and making preparations for the railway. During this period, the liberal hypotheses factored in this significant settlement, which would be later set as a point of departure for Bolivia's plight as a landlocked state (see Table 12).

Table 12. Hypotheses Application to the 1866 Treaty of Mutual Benefits (Boundary Treaty)

Sub Case	Leverage Through Concessions (HR_1)	Mutual Peace and Cooperation (HL_1)	International Body (HL_2)	Discourse (HC_1)	DV: Outcome of Resolution Attempt
1904 Treaty of Peace and Friendship	No	Yes	Yes	No	4

[364] Ibid.

5. Charaña Negotiations

The Act of Charaña—often referred to as the Charaña Embrace—stemmed from a meeting between Chilean President Augusto Pinochet and Bolivian President Hugo Banzer at the Declaration of Ayacucho in 1974 (see Figure 11). At the sesquicentennial celebration of the Battle of Ayacucho, eight Latin American countries came to consider limit acquisitions of arms to concentrate on developing their economies.[365] Pinochet sought an ally in Banzer's regime and together they viewed the circumstances fit for resolving their maritime disagreements.[366] On February 8, 1975, both presidents signed the Joint Declaration of Charaña, named after the Bolivian town, where they agreed to continue constructive discussions toward solving the dyad's critical issues.[367]

In December 1975, Bolivia received a note from Chile accepting the obligation to grant Bolivia a maritime coastline in addition to a transfer of sovereign rights. Specifically, in spirit of the Charaña negotiations, Chile proposed to connect that area of littoral—just north of Arica up to the Línea de Concordia—with a strip connecting Bolivia territory to the sea, outlined in the note.[368] This phrasing, which constituted an internationally acceptable basis for conciliation, gave Bolivia the backing to present the dispute to The Hague.[369]

Both governments dedicated efforts to revive bilateral relations that originated in the War of the Pacific; to their disfavor, Peru declined to grant Bolivian access to the sea because the proposed corridor would run between Peru and Chile, a corridor that Peru refused to relinquish.[370] A protocol within the 1926 Treaty of Lima specifies that if Chile

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[365] "Regional Arms Control Initiatives in Latin America and the Caribbean (1974-2003)," *U.S. Department of State*, January 21, 2009, accessed August 26, 2016, http://www.state.gov/p/wha/rls/119822.htm.

[366] Prieto and Ayán Vila, "Although The Loneliness is Great," 327–328.

[367] International Court of Justice, "Application Instituting Proceedings Filed in the Registry of the Court on 24 April 2013," 16.

[368] Strategic Management for Maritime Vindication, *The Book of the Sea*, 43.

[369] International Court of Justice, "Preliminary Objection of the Republic of Chile: Obligation to Negotiate Access to the Pacific Ocean (*Bolivia v.* Chile)," July 15, 2014, accessed September 15, 2015, 767, http://www.icj-cij.org/docket/files/153/18620.pdf.

[370] Prieto and Ayán Vila, "Although The Loneliness is Great," 328.

were to yield former Peruvian territory to Bolivia, Peru would first be consulted; Peru consented to the cession of territory, but only if the area at the coast would be under the shared sovereignty of all three states.[371] Chile refused Peru's proposal (see Figure 12), which diminished Bolivia's chance for a path to the sea and added to the eventual diplomatic breakup of negotiations between Pinochet and Banzer in 1978.[372]

Figure 11. General Augusto Pinochet (Left) and General Hugo Banzer (Right), at the Meeting in Charaña (Known as the "Charaña Embrace") in 1975[373]

[371] Strategic Management for Maritime Vindication, *The Book of the Sea*, 43.

[372] Prieto and Ayán Vila. "Although The Loneliness is Great," 328.

[373] Strategic Management for Maritime Vindication, *The Book of the Sea*, 44.

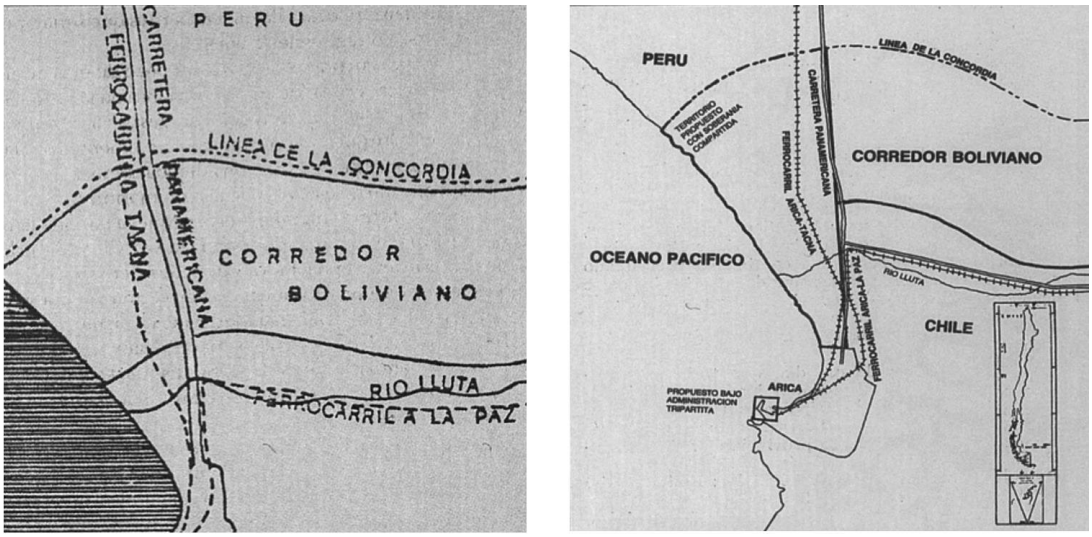

Figure 12. Sketch of the Corridor Proposed by Chile to Bolivia in 1975 (Left); Sketch of Bolivian Corridor with Zone of Shared Sovereignty, as Proposed by Peru (Right)[374]

a. Key Outcomes of Negotiations

The Declaration of Charaña appeared to have much promise in re-energizing diplomatic relations between Chile and Bolivia. The declarations Chile had made, to include an enumeration of corridor points, clearly confirmed intent toward a solution for Bolivia's landlocked state. In the December 1975 note, Chile also proposed that the cession would "be conditioned by a simultaneous exchange of territories," meaning Bolivia would offer a compensatory area to Chile equivalent to land it gained in the north.[375] In these discussions, both heads of government expressed a constructive attitude toward "a policy of harmony," only to have their plans complicated by Peru.[376] Though against the terms of the Treaty of Lima, the Declaration specifically stated, "Both Governments would commit not to cede the exchanged territories to a third power," summoning an imminent complication from Peru. If negotiations had been successful, Bolivia's need for a path to the sea would be met. Unfortunately, Chile's willingness to negotiate with Bolivia was not consistent with its willingness with Peru.

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[374] Ibid.

[375] Ibid., 129.

[376] Ibid., 127.

b. Application of Hypotheses

State behavior is often in response to other state threats—in this case, threats from Peru hindered the potential for a resolution to take place.[377] The Treaty of Lima in 1929 was regarded as a valued agreement representing Chile-Peru relations. Chile, as the target state, attempted to negotiate for Bolivian sea access, but the endeavor failed due to its connection to Peru. The capacity for stable trilateral relations weakened as a result of Chile's victory of the War of the Pacific. In the end, Chile was willing to concede territory to Bolivia, but was unwilling to submit to a shared zone of sovereignty with Peru—its only maritime competitor. Chile's actions indicated that even its desire for harmony had its limits. Given that Chile perceived that Peru's proposal for a shared zone would affect its status as a power, HR_1 can explain the failed results.

The governments entered into a renewal of bilateral relations with the aim of pursuing formulas of resolution.[378] Peru's proposal to the dyad threatened Chile's power and led it to perceive that a concession of territory—bilateral or trilateral—would be more harmful to its status quo. The ending of negotiations occurred when Chile refused to accept Peru's proposal and when Bolivia broke diplomatic ties due to impatience of action. Given that Chile perceived the suggestion for shared sovereignty was more costly than beneficial—regardless of the fact it would solve Bolivia's principal issue—the first liberal argument can explain the outcome.

The deliberations of this period were between Chile and Bolivia only. Independent factors contributed to the shaping of discussions, to include the support of the OAS, but the parties made no use of an external mediator for a resolution; therefore, HL_2 can be ruled out.

After receipt of Chile's December 1975 note, Banzer expressed acceptance of the suggested territorial exchange as a base of negotiation because he believed the nation of

[377] Sergio González Miranda and Cristián Ovando Santana, "El Abrazo de Charaña: Un Breve Instante Que Persiste en la Historia de Arica (Charaña Embrace: A Brief Moment that Lingers in the History of Arica)," *Estudios de Seguridad y Defensa* 6 (December 2015), 21.

[378] Strategic Management for Maritime Vindication, *The Book of the Sea*, 98.

Chile would not accept any other form of compensation other than territory.[379] Verbal Stockmeyer argues that the "mere mention of a possible territorial exchange" inconvenienced Banzer because of the strong opposition from the public.[380] Regardless, Banzer stood by for Chile to take on the motion of a joint controlled area until 1978, before the end of his military regime. He made steps to promote the agreement, but after years of anticipation, Banzer removed Bolivia from the state of negotiations. Given the mismatch of discourse to outcome, HC_1 is ruled out.

Despite the failure of Bolivia and Chile to attain a resolution, the Charaña Embrace was a brief political and diplomatic attempt of a mutual territorial transfer. Political commitments eventually impacted gains made from the initial meeting. Unlike the previous outcome that resulted post-war, the outcome followed the patterns of HR_1 and HL_1 hypotheses, suggesting that these arguments alone are not enough to solidify a final conclusion.

Table 13. Hypotheses Application to the 1975 Charaña Embrace

Sub Case	Leverage Through Concessions (HR_1)	Mutual Peace and Cooperation (HL_1)	International Body (HL_2)	Discourse (HC_1)	DV: Outcome of Resolution Attempt
1975 Charaña Embrace	Yes	Yes	No	No	1

6. 13 Point Agenda (*13 Puntos*)

In 2006, both outgoing Chilean President Ricardo Lagos and incoming President Michele Bachelet visited with newly elected President Evo Morales of Bolivia to discuss

[379] Valentina Verbal Stockmeyer, *Bolivia Contra Chile en La Haya: Tres Preguntas en Torno a la Negociación de Charaña (Bolivia against Chile in The Hague: Three Questions Regarding the Negotiations of Charaña), Horizontal Chile*, April 29, 2014, 14, http://www.horizontalchile.cl/wp-content/uploads/2015/04/Verbal-Chara%C3%B1a3.pdf.

[380] Ibid.

a way ahead.[381] Cooperatively, they explored the possibilities to export Bolivian gas through maritime access in addition to a number of political discussions.[382] Bachelet and Morales generated the 13 Point Agenda, which included points of negotiation such as border integration, illicit drug traffic control, and free transit of cargo.[383] The maritime question outlined in Point 6 was considered an issue that required stronger bilateral talks; unfortunately, at the time of the leaders' planned meeting in November 2010, Chile unilaterally postponed the talk indefinitely.[384] Since bilateral dialogue suspended in 2010, Bolivia took the issue to The Hague.[385]

a. Key Outcomes of Negotiations

In this phase, the negotiating period was scarce in discussion, as the fallout seemed to transform into a one-sided matter after the postponement. The maritime issue included in the 13 Points was the only point not addressed in their political dialogue. President Morales noted in 2012 that only some progress had been made in the other 12 points, but none had defining results.[386] The "unwillingness of the [Chilean] administration" compelled Bolivia to push for international assistance.[387]

b. Application of Hypotheses

Shortly after the 13 Point Agenda talks were put on hold, Bolivia claimed Chile had offered the landlocked state a maritime enclave—without sovereignty—to satisfy

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[381] Paul Cadiz, "¿Qué es la Agenda de los 13 Puntos Que Chile y Bolivia Buscan Retomar? (What Does the Agenda of the 13 Points of Chile and Bolivia Look to Regain?)," *La Tercera Política* (blog), January 29, 2015, http://www.latercera.com/noticia/politica/2015/01/674-614769-9-que-es-la-agenda-de-los-13-puntos-que-chile-y-bolivia-buscan-retomar.shtml.

[382] Ibid.

[383] Ibid.

[384] Strategic Management for Maritime Vindication, *The Book of the Sea*, 144.

[385] Carvalho dos Santos and Oliveira, "Obligation," 220.

[386] Ivan Paredes, "Evo Reclama Falta de Voluntad de Chile para Discutir Los 13 Puntos (Evo Claims Unwillingness to of Chile to Discuss the 13 Points," *La Razón*, February 15, 2012, http://www.la-razon.com/nacional/Evo-reclama-voluntad-Chile-discutir_0_1560444011.html.

[387] Ibid.

their necessity for sea access.[388] Morales expressed the need for results, since Bolivia cannot "settle for 'encouraging' statements."[389] In this attempt, Chile did not offer something equating to the challenger's idea of results, yet it demonstrated the maritime power's perception that this version of territorial concession could be an alternative. Chile's suggestion for a non-sovereign maritime enclave for Bolivia did not threaten its status quo; therefore, given the unsuccessful outcome of the negotiations, the realist hypothesis does not explain the absence of a resolution.

Morales met with Bachelet with the hopes of developing mutual trust between the nations and strengthening the relationship—the first point on the 13 Point Agenda.[390] Both presidents saw the essential importance of this when building this working agenda; however, the attempts came to a standstill after Chile stopped coming to the table on the issue. Given these cooperative intentions, HL_1 cannot explain this outcome.

The results of this period's outcome arrived without use of an international resolution body, but fueled the fire that eventually compelled Morales' administration to seek a solution elsewhere. In addition, the heads of government formulated the policy without the use of considerably influencing discourse to do so among their constituents. Provided those reasons, both the constructivist and the second liberal approaches can be ruled out.

In all, our hypotheses do not play a role in an outcome that essentially fell short (see Table 14). This example demonstrates that once diplomatic relations diminish, the challenger state will begin to exercise its other options if the issue is salient enough. With Peru, this outward-looking venture was successful in the case of the International Court. For Bolivia, their search for a sovereign path to the sea proved luckless many times under bilateral discussions with Chile. Morales once declared that the Bolivian struggle "must henceforward include another fundamental element, namely our recourse to international

388 "Bolivia y Chile Avanzarán en Agenda Maritime (Bolivia and Chile Advance in Maritime Agenda)," *El Día*, February 7, 2011, https://www.eldia.com.bo/index.php?cat=148&pla=3&id_articulo=54008.

389 Ibid.

390 Cadiz, "Agenda de los 13 Puntos."

tribunals and bodies, claiming a free and sovereign access to the Pacific Ocean, in law and in justice."[391]

Table 14. Hypotheses Application to the 13 Puntos

Sub Case	Leverage Through Concessions (HR_1)	Mutual Peace and Cooperation (HL_1)	International Body (HL_2)	Discourse (HC_1)	DV: Outcome of Resolution Attempt
13 Puntos	No	No	No	No	1

7. 2013 Application to the International Court of Justice

On March 23, 2011, the Bolivian anniversary of the *Día del Mar* (Day of the Sea), President Evo Morales took the platform to address the Bolivian people about the new direction, emphasizing international law and its success in attending to appeals regarding disputes.[392] After Chile declined to respond with a way ahead to solve Bolivia's maritime issue other than the statement, "Bolivia lacks any legal basis to access the Pacific Ocean through territories appertaining to Chile," Morales announced the decision to appeal to the International Court of Justice.[393] The application was filed on April 23, 2013, arguing that Chile had not followed through on its declarations to negotiate Bolivian sovereign access.[394] Because of Chile's inaction, Bolivia requested that the Court adjudge that Chile had breached its obligation to negotiate and, therefore, must promptly comply with its obligation to negotiate fully sovereign access to the Pacific Ocean.[395] To clarify, this is independent of the 1904 Treaty; Bolivia does not ask the Court to make a

[391] Strategic Management for Maritime Vindication, *The Book of the Sea*, 72.

[392] Ibid., 71–72.

[393] International Court of Justice, "Application Instituting Proceedings Filed in the Registry of the Court on 24 April 2013," 18.

[394] Ibid., 20.

[395] Strategic Management for Maritime Vindication, *The Book of the Sea*, 76.

determination of its right to sovereign access—although access is, indeed, Bolivia's aim—but to determine whether Chile has an obligation to negotiate (see Figure 13).[396]

The ICJ conferred with Bolivian and Chilean representatives to affix time limits on filing pleadings, as well as order of procedure;[397] primarily, this measure would compel Chile to act or respond within a reasonable time frame. Since 2013, Bolivia and Chile have presented statements and counter-statements that invoke the 1904 Peace Treaty and 1948 Pact of Bogotá, and if they are relevant to the dispute at hand.[398] The last known conclusion by the ICJ was in September 2015, a rejection of Chile's preliminary objection of whether the ICJ had jurisdiction in September 2015.

Figure 13. Map Showing Former Territories of Bolivia and Peru before the War of the Pacific[399]

396 International Court of Justice, "Summary of the Judgment of 24 September 2015: Obligation to Negotiate Access to the Pacific Ocean (*Bolivia v. Chile*)," September, 24, 2015, accessed April 15, 2015, 3, http://www.icj-cij.org/docket/files/153/18758.pdf.

397 Strategic Management for Maritime Vindication, *The Book of the Sea*, 76.

398 International Court of Justice, "Summary of the Judgment of 24 September 2015," 3.

399 Isabel Ferrer, "Bolivia Demanda a Chile ante el Tribunal de la ONU para Recuperar su Salida al Mar (Bolivia Demands Chile before the UN Tribunal to Regain Access to the Sea)," *El Pais*, April 24, 2013, http://internacional.elpais.com/internacional/2013/04/24/actualidad/1366795126_636025.html.

a. Application of Hypotheses: Projection of Outcome

As with the 2008 situation with Peru, Chile's position was a result of years of failed attempts. Faced with a challenge that saw no end in sight, and wanting to do something about it within his lifetime, President Morales's vision was to grant his deserving homeland to full sovereign access. To Bolivia's favor, the ICJ claimed jurisdiction of the dispute case;[400] to Bolivia's detriment, the decision of the international institution is constrained to the analysis of a historical obligation—not to designate an actual corridor for the landlocked state. The manner in which the international body is used cannot contribute to a determinate resolution. In any case, it is still possible to deduce, through IR analysis and from past territorial disputes with Chile, what factors might increase the likelihood of a resolution.

The realist approach suggests that Chile would be less likely to come to the negotiating table if it perceives that conceding territory threatens its power status. In the past, Chile rejected Peru's proposal for a joint zone with shared sovereignty. To some degree, that indicates that Chile regards loss of that highly contested land (and resource rich land) to be costly to its economy and national pride. To ensure a truly bilateral concession—that is, exclusion of Peru in the matter—Chile has to part with its own territory. Chile and Bolivia have participated in multiple fruitless negotiations—or rather, plans to negotiate—offering less and less opportunity for the matter to terminate. The last ICJ summary of judgment was indicative of Chile's conviction in the trial, which is that "Chile has no obligation to negotiate access to the sea."[401] Bachelet reinforced this belief many times, backing her country's "unyielding defense of . . . territorial integrity and national defense."[402]

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400 International Court of Justice, "Summary of the Judgment of 24 September 2015," 4.

401 Belén Marty, "Chile to World Court: No Negotiation on Sea Access for Bolivia." *PanAm Post*, May 11, 2015, accessed September, 1, 2015, https://panampost.com/belen-marty/2015/05/11/chile-to-world-court-no-negotiation-on-sea-access-for-bolivia/.

402 "Bachelet Rejects the Hague's Authority in Bolivia Sea Access Case," *PanAm Post*, July 8, 2014, accessed September 8, 2016, https://panampost.com/panam-staff/2014/07/08/bachelet-rejects-the-hagues-authority-in-bolivia-sea-access-case/.

The first liberal approach argues that if both states perceive that maintaining the status of democratic peace and mutual cooperation is more beneficial, both would come to a resolution. In the 2013 Application to the ICJ, President Morales' requested for a resolution regarding the maritime and territorial problem through peaceful means.[403] He has also directed the ICJ to the Pact of Bogotá—of which both are member parties. The accord renders "obligatory peaceful settlement itself," and with Chile and Bolivia subscribed to its purpose (and made publicly known to the ICJ at this time), both demonstrate an inclination to resolve peacefully.[404] However, since the 2013 lawsuit, Chile had expressed thoughts of withdrawing from the Pact, causing the legal aspect of desired peace to be negated.[405]

The presence of an international institution, which constitutes the second liberal argument, is utilized here in this resolution attempt. The length of time in which the ICJ takes to determine a case varies, but since the initial application, Bolivia has filed an application and Memorial in submission to the court; Chile has since filed a preliminary objection against whether the Court had jurisdiction.[406] Bolivia's respects the outcome of the 1904 treaty regarding land concession; thus, Morales argues that there is evidence of Chile declaring a responsibility to arrange for sea access.[407] If the ICJ does grant the outcome favoring Bolivia's request, their ruling conveys that Bolivia has a right to an expectation—and in the end may not result in attaining their ultimate aim. Though the outcome of the international resolution body may prolong the dream toward access, it could lead to other negative consequences with respect to Chile's international reputation.

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[403] International Court of Justice, "Application Instituting Proceedings Filed in the Registry of the Court on 24 April 2013," 6.

[404] International Court of Justice, "Summary of the Judgment of 24 September 2015," 5.

[405] Charlotte Karrlsson-Willis, "Chile to Consider Withdrawing from Regional Peace Treaty," *Santiago Times*, February 10, 2014, accessed September 9, 2016, http://santiagotimes.cl/2014/02/10/chile-consider-withdrawing-regional-peace-treaty/.

[406] International Court of Justice, "Preliminary Objection: Obligation to Negotiate Access to the Pacific Ocean (*Bolivia v. Chile*)," February 16, 2015, accessed July 15, 2016, 2, http://www.icj-cij.org/docket/files/153/18470.pdf.

[407] Strategic Management for Maritime Vindication, *The Book of the Sea*, 76.

The constructivist hypothesis states that if it is within the agenda of leadership to promote discourse in favor resolution, it is more likely to occur. As evidenced in this chapter, Bolivia is historically the main advocate of this dispute—and rightfully so. In the 1970s and with the recent 13 Points, there appeared to be an enthusiasm from the target state, which shows that political leadership and the type of discourse they advocate can be significant. Morales, who has championed Bolivia's quest for the sea multiple times and made it a main part of his platform, issued his address for international action their nationally symbolic *Día del Mar* (Day of the Sea), a parade commemorating the loss of territory to Chile in 1883. In addition, his administration had commissioned more than 30 artists to sing *Las Playas del Futuro* (Beaches of the Future) to perform at The Hague in order to regain international support.[408] Unfortunately, if Bolivia desires these beaches, Chilean leadership has to provide the same rhetoric if and when the ICJ determines negotiation is required.

D. ANALYSIS OF RESOLUTIONS AND CONCLUSION

1. Observations

Chile has shown—through its past disputes with Argentina and Peru—that it can attain resolutions if mutual peace, political discourse, and the use of an international resolution body are in play. This chapter's final resolution attempt demonstrates the presence of these three; however, the "question" of the dispute moves away from attaining territory and toward a more abstract idea—an expectation. Because these democratic states respect the sanctity of the 1904 Treaty, which cannot be reversed, Bolivia proceeded with a different to obtain its objective. Aside from national pride, Bolivia has made it clear through a century of undertakings that this will remain a constant mission for the Bolivia people because of its effect on a declining economy.

In all of the cases that resulted in resolution, HL_1 was present (see Table 15). The last successful attempt occurred at the 1904 Treaty of Peace and Friendship, where the Chile gained valuable lands from Peru and Bolivia as a result of the War of the Pacific.

[408] Council on Hemispheric Affairs, "Landlocked Bolivia's Symbolic Step Seaward," Council on Hemispheric Affairs, November 5, 2010, accessed August 26, 2016, http://www.coha.org/landlocked-bolivia's-symbolic-step-seaward/.

After this outcome, peaceful diplomatic relations begin to drop, which is also evident in subsequent resolution attempts. Also, the previous dyads featuring Argentina and Peru concluded with political leaders promoting discourse in favor of settlement, which the Charaña Embrace and 13 Puntos failed to do. The ICJ ruling does feature the constructivist argument, but it misses the mutual cooperation aspect and falls through in addressing the key subject of land allocation to Bolivia. If Chile does receive the ruling to negotiate terms with Bolivia, it is likely for Bolivia to win if its future head of government pushing for an absolute solution with its neighbor, while simultaneous striving to do so through peaceful means.

Table 15. How Each Hypothesis Explains the Attempt at Resolution for the Chile–Bolivia Dyad

Sub Case	Leverage Through Concessions (HR_1)	Mutual Peace and Cooperation (HL_1)	International Body (HL_2)	Discourse (HC_1)	DV: Outcome of Resolution Attempt
1866 Boundary Treaty	Yes	Yes	No	No	4
1872 Lindsay-Corral Agreement	Yes	Yes	No	No	4
1874 Treaty of Limits	Yes	Yes	No	No	4
1904 Treaty of Peace and Friendship	No	Yes	Yes	No	4
1975 Charaña Embrace	Yes	Yes	No	No	1
2006-10 13 Puntos	No	No	No	No	1
2013 ICJ Ruling	Yes	No	Yes	Yes	Pending

2. Why Does Bolivia Want Access to the Sea So Badly?

Although Bolivia is resource-rich with its growth attributed to the markets for gas exports, it still remains one of the least developed countries in South America. As of

September 2015, Bolivia ranks 158th out of 230 countries on the *World Factbook* list for gross domestic product (GDP) per capita and is the poorest in South America.[409] Bolivia attributes its current condition largely on the fact that it is landlocked.[410] Without access to oceans, the ease of transporting goods to and from ports is severely limited, and ultimately hinders trade and economic growth. There remains a tendency for enterprises to view landlocked states as unreliable in trade, since their role as a "transit country" can interrupt the flow of commerce.[411] As a transit country, Bolivia is susceptible to disruptions of imported goods; border officials often extract bribes from drivers and cause delays that keep the landlocked entity moving at a lower rate of progress than coastal states.[412]

On a wider scale, ideas and people typically flow much faster in maritime countries than those that are landlocked; these types of opportunity costs often bypass countries like Bolivia. With direct access to the sea, its prospects for economic development would improve; Bolivia shares this characteristic with other landlocked countries.[413] Also, they generally have weaker institutions, which have been linked to weaker GDP.[414] With a few exceptions (a prime example is Switzerland, which specializes in finance), the world's landlocked countries are considered to be generally poor. Compared to their maritime neighbors, the overall GDP of countries without a coastline is 40 percent lower.[415]

Despite Bolivia's obsession with the coast, there have been other numerous changes to the country's borders that have brought disadvantage to the country. Since its independence in 1825, Bolivia's territory has changed hands to all of its neighboring countries. In 1903, Bolivia sold the region of Acre, to Brazil in turn for monetary

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409 *World Factbook*, s.v., "Bolivia."

410 "Beaches of the Future?"

411 "Interiors: Why It's Better to Have a Coastline," *The Economist*, May 9, 2015, http://www.economist.com/news/americas/21650574-why-its-better-have-coastline-interiors.

412 Ibid.

413 Dominguez et al., "Boundary Disputes," 19.

414 "Interiors."

415 "Beaches of the Future?"

compensation as a result of the Treaty of Petropolis.[416] To follow Mackinder's theory, Brazil viewed the Mato Grosso-Paraguay-Bolivia area as a "heartland" that must be controlled by Brazil in order to fulfill its predestined "continental role."[417] Brazil fulfilled that by cutting off its northern territory, as well as its eastern portion in Mato Grosso. In the 1930s, Bolivia and Paraguay (both landlocked countries) fought over disputed territory; the Gran Chaco, which was thought to have oil reserves at that time. Despite being more advantaged in the war, Bolivia lost approximately two-thirds of the disputed territory to Paraguay.[418]

Bolivia's dismemberment was due to its ability to control its territory before aggressors.[419] Although these boundary changes were all resolved by mutual agreement, the loss of land has continued to fuel frustration with Chile, who remains indifferent. The frustrating Bolivian relationship with Chile represents not only the issue of sovereignty and territorial conflict, but of one of the few cases of irredentism in the Western Hemisphere.[420]

3. Compliance to the Ruling

The Chile-Bolivia dyad demonstrates an inability to reach settlement through bilateral means. Up until 2013, the protracted dispute had not actually been presented to an international resolution body, which changes a variable in Bolivia's century-long endeavor for its path to the sea. Peru and Argentina found settlement through an underlying mutual desire for peace; at this time, diplomatic relations between Chile and Bolivia lack the strength deemed essential for a resolution. The question still exists, though—will Chile and Bolivia comply with the ruling? In Latin America, there is already a normative framework that induces dyads to comply to international arbitration

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[416] American Geographic Society, "The New Boundary between Bolivia and Peru," *Bulletin of the American Geographical Society* 42, no. 6 (1910), 435, http://www.jstor.org/stable/199363.

[417] John Child, "Geopolitical Thinking in Latin America," *Latin America Research Review* 14, no. 2 (1979), 91.

[418] *Encyclopedia Britannica*, s.v., "Chaco War," accessed September 9, 2015, http://www.britannica.com/event/Chaco-War.

[419] Child, "Geopolitical Thinking," 105.

[420] Manero, "Strategic Representations," 11.

(Argentina's rejection in 1977 is an outlier) because the acceptance enhances state reputations.[421] If the ICJ rules in favor of Bolivia, I argue that Chile will comply for its own state self-preservation. Unfortunately, this does not solve the issue and the dispute may continue to endure. If the ICJ rules in favor if Chile, Bolivia may have to explore other options, or cope with its misfortune.

I postulate that with a more directed question and the presence of the liberal and constructivist approaches above, both states may come to a solution that satisfies the dyad. The less directed question concerning obligations and expectations in conjunction with all approaches noted above is less likely to result in a terminal resolution.

[421] Arie M. Kacowicz, *The Impact of Norms in International Society: The Latin American Experience 1881–2001* (Notre Dame, IN: University of Notre Dame Press, 2005), 76.

VI. CONCLUSION

As Latin American countries have celebrated their 200th year of independence, and while others approach that milestone in a few short years, there are still many long-lasting disputes that cover the region. The dispute between Nicaragua and Colombia has continued to manifest from territorial to maritime boundary dispute, similar to both controversies involving Argentina and Peru. The case is currently under the jurisdiction of the ICJ, giving credence to the relevance and importance of this research.

The purpose of Chapter VI is to provide an overview of the case studies discussed throughout this thesis, while discussing speculations of the dyadic analyses regarding dispute resolution. First, this chapter reviews the three dyads presented via an international relations scan, which provide a more streamline approach. Next, the findings indicate links across the chapters that help understand what factors are likely to bring states in territorial or border conflict to settlement. Knowledge of what theoretical tools attain resolution can be valuable in recognizing when a dispute likely ends. Finally, this chapter addresses possible areas for further development and research within the Latin American domain.

As a review, I examined three Latin American dyads that engaged in a territorial or border conflict. All case studies included Chile as the common link yet exhibited variation by country and by resolution outcome.

A. CASE STUDY SUMMARY

Chapter III discussed the territorial dispute with Chile and Argentina regarding the Beagle Channel, which, after a century of various treaties and agreements, resulted in an enduring resolution in the 1984 Treaty of Peace and Friendship. After years of disputing the islands, one variation changed from 1977 to 1984, where both states were influenced by a modification of an international mediator—the Vatican presence. Throughout all of the dyadic sub cases, HR_1 and HL_1 remained a constant presence in all outcomes. The varied constructivist and second liberal arguments varied in the sub cases with full resolutions, but both had not been present at the same time until the final

outcome in 1984, which has not been challenged since. From the rejection of the Arbitral Award in 1977 to the 1984 Peace Treaty, my research shows that both liberal arguments and the constructivist argument were present in the final outcome, rejecting this thesis's realist hypothesis. This chapter established that for this particular Chilean dyad, the combination of a desired mutual peace, presence of an international resolution body, and accompaniment of leaders that promote favorable discourse toward settlement are likely to terminate this type of conflict.

In Chapter IV, I investigated Peru's unilateral act concerning the maritime boundary with Chile. The issue had not been a major point of conflict until the mid-1980s, and even so, had not been administratively addressed between governments. Rather than spanning the period of a century, the case concluded in a matter of a few decades, and in the same manner as the Chile-Argentina dyad. The maritime boundary dispute functioned as its own sub case, with the constructivist and both liberal arguments playing factors in the outcome as in the previous dyad. Consistent with the constructivist approach highlighting the significance of political leadership, the resolution persisted after the fact. The parties committed to comply with the ICJ verdict, which fell short of the leverage argument.

Chapter V explored Bolivia's pursuit of sovereign access to the sea that demonstrated the turn of diplomatic relations at the point of war. Because of Bolivia's landlocked condition, access to the sea has become a salient mission in government policy. Through numerous attempts to attain a corridor to maritime access, Chile has not fully given in to the challenger's demands. Unlike interstate relations with Argentina and Peru, the outcomes of the various agreements are characterized by two phases of its history: pre- and post-War of the Pacific. The sub cases demonstrate that the realist argument and the lack of any constructivist strategy explain the failure for these resolution attempts. Due to the intrinsic power these states place in treaties, the 1904 cession of territory makes it complicated to manipulate. The current case in the ICJ was submitted under the premise of political discourse and the use of an international mediator; however, the attempt fails to mimic the pattern of Chile's previous disputes. Additionally, because of the binding treaty in 1904, the dispute question is Bolivia's

alternative to the actual illness of its government, which is the constant necessity for coastal territory to call its own.

B. FINDINGS

This thesis presents three case studies that cover three broad categories of geopolitical disputes—territorial, maritime, and irredentist. Over the first two chapters, the research discards the realist argument, which asserts that target states that perceive no threat to their status will. The argument failed in these cases because Chile was willing to tip the scale and focus more attention on peacemaking with Argentina and Peru, perhaps because of what a reciprocal alliance might produce for the nation. These cases demonstrate that one can desire peace, but simultaneously cannot risk concession—and vice versa. Only one argument (either HR_1 or HL_1) can be present, for they nearly contradict themselves in the pursuit of a resolution. For Chile to negotiate, the country must believe it will not lose any valuable interests that may significantly impact its status quo. At the same time, both governments must foster a relationship based on cooperation; this in turn establishes the inter-related constructivist argument. In Bolivia's case, it appears that Chilean leaders refrain from re-establishing relations, because at this time, the situation neither adds nor detracts from its current state of affairs in South America.

In both Argentina and Peru's case, the constructivist and liberal arguments were all present in its final outcome (see Table 16). Notably, each party within each dyad conceded something of interest with the employment of the external resolution body—thus, increasing its stake in their respective territorial or border question. Particularly, Chile lost full dominion over the island group and settled on a decision that was aided by papal influence of peace, friendship, and a common faith. The ICJ judgment erased Peruvian doubt regarding the questionable existence of the maritime boundary but was additionally accommodated by Chilean leadership, who saw the opportunity for the ruling to put aside emotions reeled from the war more than a century ago. Traditionally, Latin American states have used external parties for arbitration; they generally perceive that by acceptance of these arbitral awards, the reciprocity principle is strengthened.[422] The

[422] Kacowicz, *Impact of Norms,* 76.

desire for reciprocity is often related to something they want in return, such as resources, regional security, or formal alliances. Bolivia's use of the ICJ is aligns with the use in the other two dyads, but it alone will not be enough. For Chile to accept a third party, as it had in the past, it needs to perceive that something on the other side is there. As natural resources deplete from the region, there is bound to be that something; however, that cannot be measured with time, and time is not on Bolivia's side.

As mentioned, the constructivist argument derives from the desire for states to mutually cooperate. For Latin American states, political discourse can turn rapprochement into strong alliances, and from friends to foes. Nationalism can play a huge role in disputes resolution, as it does with Chile and Bolivia. Bolivians are accustomed to the anti-Chilean sentiment, while Chileans are imbued with the concept that the land is rightfully theirs to possess. De-justification, as in Kornprobst's argument, of these attitudes on nationalism and borders will give way to cordial relations, eventually influencing the use of the liberal approaches.[423]

Table 16. Summary of Findings from Case Studies

Sub Case	Leverage Through Concessions (HR_1)	Mutual Peace and Cooperation (HL_1)	International Body (HL_2)	Discourse (HC_1)	DV: Outcome of Resolution Attempt
1984 Treaty of Peace and Friendship (Argentina)	No	Yes	Yes	Yes	1
Maritime Boundary Dispute (Peru)	No	Yes	Yes	Yes	4
ICJ Ruling (Bolivia)	Yes	No	Yes	Yes	Pending

[423] Kornprobst, *Irredentism in European Politics*, 229.

1. Bolivia–Chile in Speculation

Since the 1904 Treaty of Peace and Friendship, the dispute has been fueled by economic hardship and sentiments of nationalism, making it one of the longest territorial disputes in South America. I speculate that Bolivia's issue can be resolved with the support of the target state, which must de-legitimize, or de-justify the importance of the territory. This also must be done under the foundation of a willingness for democratic peace, which proves to be a significant part of the resolution process. The combination of the liberal and constructivist theories have been reinforced in the two case studies as altogether necessary for dispute resolution. Rapprochement may be present throughout these dyads, but the dominance of the element of reciprocity must outweigh the other factors to be all the more considered.

Chile's current status suggests that the country has reaped the benefits from these dispute resolutions, because today they are prosperous and globally competitive. Chile's high rankings on multiple indices (world-ranked #7 on Economic Freedom Index and #1 within the South American region,[424] #42 on the Human Development Index,[425] and #150 out of 178 countries on the Fragile States Index[426]) correlate with its successes from this Award and many others. Even so, the Beagle Channel conflict demonstrated that Chile had refrained from exhibiting an overpowering desire to gain territorial advantage within the Southern Cone.

By examining the Southern Cone's current situation, one can see that a "virtuous circle" is in play: when countries are able to resolve disputes, trade increases. This likely increases the incentive to continue compliance, which decreases the prospect a state will

[424] Terry Miller and Anthony B. Kim, "Economic Freedom in America: A Supplement to the 2016 Index of Economic Freedom," The Heritage Foundation (Washington, DC: Institute for Economic Freedom and Opportunity, 2016), 14, http://www.heritage.org/index/pdf/2016/book/EconomicFreedomInAmerica.pdf.

[425] United Nations Development Programme, *Human Development Report 2015: Work for Human Development* (New York: UNDP, 2015), accessed February 12, 2016, http://hdr.undp.org/sites/default/files/2015_human_development_report.pdf.

[426] "Chile, Country Data & Trends," *The Fund for Peace*, accessed February 20, 2016, http://fsi.fundforpeace.org/2015-chile.

reach the point of military conflict—hence, lead to progress and integration.[427] Schultz cites evidence of this type of successful integration in Europe, arguing, "Borders that used to be fought over are now largely meaningless from the perspective of economic flows."[428] For example, he insists that in Croatia's case, the incentive to join the European Union was to propel the push to resolve its outstanding disputes with Slovenia. The liberal theory application means that economic integration and the apparent benefits are highly probable stimulants for dispute resolution.[429] Arguably, due to the rate of Chilean consumption of natural gas and the amounts that Bolivia contains, a resolution is probable in the future for Bolivian beaches.[430]

C. FUTURE RESEARCH

Territorial disputes have been a mainstay in international relations since the formation of states. In view of the limited scope of this thesis, there are possible areas for future research that could enrich the understanding of what factors bring states to the negotiating table. Research of alternative data sets may include investigating other schools of international relations theory, such as English School and neologisms of current traditional approaches. Another approach in narrowing the theories on disputes in Latin America is to conduct more case studies like this replacing Chile as the nexus model. Additionally, a deeper dive into the traditional IR schools may be analyzed using empirical data and other controls, such as Chile. Dividing the hypotheses examined in this thesis into more detailed studies only add to the literature of dispute resolution, especially to Latin American academia.

As the use of conventional warfare rapidly subsides, more and more conflicts turn to diplomatic means of settlement. Moreover, there is still so much more work to be done in shaping the field of research in Latin America, especially as more Latin American countries appear to value international institutions. Dr. Rodrigo Nieto Gómez, professor

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[427] Schultz, "Borders, Conflict, and Trade," 135.

[428] Ibid.

[429] Ibid.

[430] Samuel George, "Bolivia &Chile: Less Hot Air, More Gas," *Future Challenges*, May 2, 2013, accessed September 6, 2016, https://futurechallenges.org/local/news/bolivia-chile-less-hot-air-more-gas/.

of Geopolitics at Naval Postgraduate School, stated, "Borders are often conflicts frozen in time; they are geopolitical constructs that materialize in territories of linear configuration and are inscribed in space."[431] By gaining understanding of what certain territories and borders actually represent to nations can help policy-makers and scholars formulate strategies and contribute to the wide repertoire of diplomatic relations.

[431] Rodrigo Nieto Gómez, "Introduction to Comparative Border Security" (lecture, Comparative Border Security, Naval Postgraduate School, July 27, 2015).

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