



General Assembly

Distr.: General
20 October 2004
English
Original: Spanish

Fifty-ninth session

Agenda item 49

Oceans and the law of the sea

Letter dated 20 October 2004 from the Permanent Representative of Bolivia to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith the Declaration on the Centennial of the 1904 Treaty of the Ministry of Foreign Affairs and Worship of Bolivia (see annex).

On 20 October 2004, we will commemorate the centennial of the signing of the Treaty imposed upon Bolivia by Chile following the 1879 War of the Pacific.

I would therefore be grateful if you would have this letter and its annex circulated as a document of the General Assembly at its fifty-ninth session under agenda item 49, "Oceans and the Law of the Sea", which will be discussed in a plenary meeting on 16 November 2004.

(Signed) Ernesto Aranibar **Quiroga**
Ambassador
Permanent Representative

Annex to the letter dated 20 October 2004 from the Permanent Representative of Bolivia to the United Nations, addressed to the Secretary-General

Declaration on the Centennial of the 1904 Treaty

Ministry of Foreign Affairs and Worship of Bolivia

The War of the Pacific ended when the Government of Chile imposed a truce agreement upon Bolivia in April 1884. This agreement formally suspended hostilities and, in fact, served as the basis for the unilateral annexation by Chile of the Bolivian coastline. The note-ultimatum from the Chilean Minister Abraham Köning laid the foundation for the Treaty of 20 October 1904, which led to the loss of 120,000 square kilometres of Bolivian territory, including 400 kilometres of coastline, four ports and seven coves. Thereafter, the natural wealth of the Bolivian territory occupied during the conflict — guano, saltpetre and copper — served to sustain the development of the Chilean economy.

Although Chile granted a free-transit regime to Bolivia and permitted the construction of the railway between Arica and La Paz, the signing of the 1904 Treaty had a negative political and economic impact on Bolivia. The Treaty brought about Bolivia's landlocked status, restricted its development, obstructed its trade and represented a threat to its national security because the country's outlets to the sea remained under the control of its neighbour.

Since Chile subjected Bolivia to geographical isolation, 125 years have passed. Nonetheless, after all these years, the recovery of our Pacific coastline has become a permanent goal, one that Bolivia cannot disown. Since the end of the conflict, the issue of access to the sea has remained on the diplomatic agenda with Chile. It has also been present in our relations with Peru, and has gradually become incorporated into the agenda governing relations with the other countries which make up the international community.

Thus, the search for a solution to the geographical isolation of Bolivia has been recognized as a matter of permanent interest to the Organization of American States (OAS), as was expressed in the 1975 declaration by its Permanent Council and various resolutions of its General Assembly from 1979 onwards.

The harm which the 1904 Treaty has caused and is still causing to Bolivia is enormous, and the signing of that agreement has led to even greater economic damage. In macroeconomic terms, the impact of the country's landlocked status on its growth is estimated to be a loss of 0.7 per cent of GDP per year. Among the economic costs is the expenditure incurred by importers and exporters of goods by means of the trade route via Chilean ports and territory. There has also been significant damage in terms of maritime resources, because Bolivia, in losing its coastline, has been deprived of the wealth of fisheries and the ocean's other resources.

Consequently, an armed conflict in the 19th century had, and still has, major consequences by holding back Bolivia's economic and social development.

Commemorating the centennial of the signing of the 1904 Treaty is a source of great frustration in Bolivia. The Treaty was not the outcome of an equitable negotiation leading to a feeling of justice, but something imposed by force.

For Bolivia, seeking a useful and sovereign outlet to the sea is not an incidental or sporadic initiative but a patient and constant effort. The international community should be aware that Bolivia and Chile held negotiations on the issue of access to the sea in 1895, 1920, 1926, 1950, 1975 and 1987. Regrettably, those diplomatic endeavours repeatedly resulted in incomplete arrangements and failed processes.

In a series of bilateral meetings and multilateral forums, the Government of Chile has consistently made declarations concerning the inviolability of treaties, and of the 1904 Treaty in particular. Such statements have been repeated when the subject of access to the sea has been discussed, but they are not necessarily correct when it comes to the free-transit regime and the facilities supposedly provided to Bolivia's external trade. The transit of goods to and from Bolivia through Chilean ports and territory, as provided for in the 1904 Treaty, has never been "open and unrestricted" as the Government of Chile has stated. It is subject to a number of limitations and it is subject to Chile's political ups and downs, and this obstructs Bolivia's trade, subjecting it to constant rate increases and even to strikes and obstructions by various labour sectors. In that regard, the Chilean Government's policy of privatizing the ports of Antofagasta and Arica has had a negative impact on bilateral agreements which recognize the presence in Chilean ports of agencies of the Bolivian State, on the *intuitu personae* nature of the responsibilities of the Chilean State, and on Bolivian free-transit rights.

A century after the signing of the 1904 Treaty, the privatization of the port of Arica is harmful to the free-transit regime because the administration of that regime may not be delegated to third parties under any circumstances or on the basis of any legal provision. Furthermore, the monopolistic, sole-operator system which has been imposed in Arica without consulting Bolivia, which owns the cargo, has already begun to harm Bolivia's external trade because it has led to an exorbitant increase in the cost of port services, constituting an additional source of friction between the two States.

Despite Bolivia's constant appeals for the maintenance of an open and unconditional dialogue with the Government of Chile, it has not met with the positive response which would be appropriate in modern times. Nonetheless, aside from ephemeral political events, southern Peru, northern Chile and Bolivia have common historical and geopolitical realities and are economically complementary. However, neither integration processes nor the realization of transport and energy corridors will take place until Bolivia and Chile finally resolve the maritime-access issue.

Bolivia's claim is supported by justice, ethics and history. In that sense, the diplomacy and hemispheric understanding which are expressed in OAS resolutions are the factors which will make it possible for this continental problem to be resolved.

The absence of diplomatic relations between the two countries is one way in which Bolivia demonstrates to the international community the injustice of its confinement.

Despite all the above, and in the spirit of integration which should predominate in this new millennium, the Government of Bolivia once again invites the Government of Chile to reopen discussions within the framework approved by both countries at the Algarve meeting in 2000.

La Paz, 20 October 2004