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Argentina-Uruguay

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Agreement between the Government of Argentina and the Government of Uruguay Relating to the Delimitation of the River Plate and the Maritime Boundary between Argentina and Uruguay

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Limits in the Seas No. 64 (1975)

Maritime Boundary Agreements (1970-84) 106 (1987)

13 ILM 251 (1974)

I Canadian Annex 273 (1983)

II Libyan Annex No. 32 (1983)

I Conforti & Francalanci 185 (1979)

I SUMMARY

In its 92 articles the Río de la Plata Treaty not only delimits both parties' jurisdiction within the river (taking into account within the river, *inter alia*, the navigation channels), but also establishes the maritime boundary between the parties, seaward of the closing line at the mouth of the river. No account is taken of navigation channels seaward of the closing line of the river.

The treaty provides, in its Article 10, that the lateral maritime boundary and the continental shelf boundary between Uruguay and Argentina is defined by an equidistant line, determined by the adjacent coasts, which begins at the midpoint of the straight baseline that joins Punta del Este (Uruguay) and Punta Rasa del Cabo San Antonio (Argentina).

The boundary is an all-purpose delimitation line, referring both to the maritime and the continental shelf boundary. It does not refer specifically to the exclusive economic zones of the parties.

The outer limit of the boundary line, seaward of the closing line is not indicated. This is perhaps because the continental shelf in this area has a natural

prolongation beyond 200 nautical miles (m.m.), which would eventually be subject to the rules of delimitation with the area provided in Article 76, paras. 4, 5, and 6 and Annex II of the 1982 Law of the Sea Convention.

II CONSIDERATIONS

1 *Political, Strategic, and Historical Considerations*

In 1961 the two countries issued a joint declaration on the outer limit of the Río de la Plata, which states that the River Plate extends from the parallel of Punta Gorda to an imaginary straight line joining Punta del Este (Uruguay) and Punta Rasa del Cabo San Antonio (Argentina).

The maritime area seaward of the closing line of the river was delimited by means of an equidistant line, determined by the adjacent coasts method, beginning at the mid-point of that straight baseline.

It is understood that originally the Argentine authorities preferred to establish the delimitation by means of a parallel from the mid-point, as is done in the Pacific Ocean in other South American maritime delimitations. That method would have led to inequitable results for Uruguay, which had already agreed, in a joint declaration with Brazil, to follow the median line in its delimitation on the other maritime boundary to the north. In the joint declaration in 1969 both Uruguay and Brazil expressed their common view that the median line was the method adopted by international doctrines and practices, and in multilateral conventions, particularly Article 12 of the 1958 Geneva Convention on the Territorial Sea, thus suggesting that it should be followed in this delimitation.

2 *Legal Regime Considerations*

The consequence of the establishment of a closing line at the mouth of the Río de la Plata is that the waters behind that line are internal waters, within the exclusive jurisdiction of the parties. The closing line at the mouth of the river has been protested by several maritime powers, adducing its length of 118 n.m. and asserting that the applicable legal regime should be that of multinational bays or estuaries.

Argentina and Uruguay have answered these protests by asserting that, according to historical, geographical, and legal considerations, the Río de la Plata is a river: (1) it is not only called so but has also been treated as such since its discovery in 1515; (2) this character is confirmed by the nature of the enclosed water body, which is not salted as that of the sea; (3) the existence of deep currents; (4) its extremely shallow depths which make it navigable only by dredged channels; and, finally, (5) the existence of a series of sand banks between Punta del Este and Punta Rasa, constituting a typical bar at the mouth of the river. In answering the above-mentioned protests,

both states have confirmed their respect for the freedom of navigation in these waters, established under existing treaties and decrees.

Article 2 and following of the Río de la Plata Treaty determine the respective jurisdictions of the parties within the river, according to the nature of the activity to be exercised therein, or the geographical features of the course. A line of equidistance is fixed in certain sections.

The maritime delimitation only begins seaward of the closing line. Since the parties are recognized to have equal rights within the river, the maritime boundary had to start from the midpoint of the closing line. Despite an initial inclination in certain quarters in Argentina to follow from that midpoint the line of its parallel as in the Pacific, the parties finally agreed to adopt the line of equidistance determined by the adjacent coasts method. In so doing, they followed the same criterion which had been adopted by Brazil and Uruguay in a joint declaration issued in 1969.

Both Argentina, on 19 January 1967, and Uruguay, on 3 December 1969, claimed a 200-mile territorial sea, but freedom of navigation and overflight in that area is guaranteed by the treaty. Today, in the light of the developments in the Law of the Sea, the boundary line may be considered as an all-purpose delimitation line, dividing both the exclusive economic zone and the continental shelf of the parties.

The treaty contemplates the possibility of exploitation of a bed or deposit extending on either side of the line. In such a case, the bed or deposit shall be exploited in such a way that the distribution of the volume of the resource extracted from the bed or deposit must be proportional to the volume of the resource located on each side of the line.

The treaty also provides for a common fishing zone, seaward of 12 nautical miles, measured from the respective coastal baselines, for duly registered vessels of their flags. This zone is determined by two arcs of circles with radii of 200 n.m. whose center points are, respectively, Punta del Este (Uruguay) and Punta Rasa del Cabo San Antonio (Argentina). The whole area encompassed by these two arcs constitutes the common fishing zone.

The treaty provides that any dispute concerning its interpretation or application which cannot be resolved through direct negotiations may be submitted by either party to the International Court of Justice whenever said dispute could not be resolved by a conciliation procedure within a joint Comisión Administrativa del Río de la Plata.

3 Economic and Environmental Considerations

The common fishing zone established in Article 73 of the treaty, beyond the agreed boundary, is based on the fact that the main fishing species for commercial exploitation move towards the south, seeking cooler waters, in the summer months. The treaty provides that the volume of catch per species is to be determined equitably, in proportion to the ichthyological resources of each of the parties, evaluated on the basis of scientific and economic criteria.

Brazil-France (French Guiana)

Report Number 3-3

Agreement Between the Government of Brazil and the Government of France Relating to the Maritime Delimitation Between Brazil and French Guiana

Signed: 30 January 1981

Entered into force: 30 January 1981*

Published at: Maritime Boundary Agreements (1970-84)
87 (1987)
25 ILM 367 (1986)
I Canadian Annex 669 (1983)
II Conforti & Francalanci 205 (1987)

I SUMMARY

The treaty between France and Brazil, dated 30 January 1981, establishes the maritime limit between the adjacent coasts of French Guiana and Brazil by means of a line drawn from the midpoint of the closing line of the bay of Cyapock, a binational bay shared by Brazil and France. This line presents slight variations with respect to a line of strict equidistance, but it affects an exchange of areas of approximate equivalence.

This boundary is an all-purpose one, applying both to the sea area and the continental shelf, as made clear by the treaty which states that the maritime boundary includes the continental shelf.

The outer limit of the boundary is not specified but both parties have claimed a 200-nautical mile (n.m.) exclusive economic zone (France) or territorial sea including the sea floor and its subsoil (Brazil). Consequently, the maritime limit may be considered to reach to that distance. The coasts involved in this delimitation are adjacent.

* Article 3 of the agreement provides that the treaty will come into effect on the date of the signing of the documents.

II CONSIDERATIONS

1 *Political, Strategic, and Historical Considerations*

The treaty provides that the starting position of the boundary is at the intersection of the boundary in the bay of Cyapock and the outer limit of the bay.

In the preamble of the treaty, it is stated that the parties concluded it in consideration of the Utrecht Treaty of 11 April 1713, the decision of the Court of Arbitration of the Swiss Federal Council of 1 December 1900, and pursuant to the application established by the Mixed Franco-Brazilian Commission on the delimitation of boundaries.¹

2 *Legal Regime Considerations*

France, a party to the 1958 Convention on the Continental Shelf, claimed, on 12 February 1978, a 200-n.m. exclusive economic zone and Brazil claimed, on 25 March 1970, a 200-n.m. territorial sea which includes the floor of the sea and its subsoil.

The treaty is said to be based on the applicable rules and procedures of international law, and to take into consideration the work of the Third United Nations Conference on the Law of the Sea. Consequently, the boundary is a single line applying both to the continental shelf and the exclusive economic zone.

This agreement provides that all disagreements that could occur between the parties on the interpretation or application of the treaty will be resolved by peaceful means recognized by international law.

3 *Economic and Environmental Considerations*

Economic considerations, the exploitation of the resources of the area, or environmental concerns do not seem to have influenced the delimitation of the boundary line.

4 *Geographic Considerations*

The relationship of the coasts of the parties is one of adjacency.

The boundary is perpendicular to the general direction of the coasts of Brazil and French Guiana. It coincides roughly with the line of equidistance because of the straight baseline and the absence of promontories or other special circumstances on the coasts of either party that would markedly affect an equidistant line.

¹ The decision of the Court of Arbitration of the Swiss Federal Council of 1 December 1900 is published in LA FONTAINE, *Pasicrisie Internationale*, 564-578.

The relevant coasts in the delimitation area are roughly of the same length, so no question of proportionality seems to have arisen in this case.

5 Islands, Rocks, Reefs, and Low-Tide Elevations Considerations

The island of Le Grand Connétable, off the coast of French Guiana, influences the location of the equidistant line, but the parties decided not to take it fully into account in the first half of the boundary. However, the area thus lost by French Guiana was compensated by a projection of the second half of the boundary line towards the northeast.

No rocks, reefs, or other special geographical characteristics appear to exist in the boundary area that would call for special treatment or consideration.

6 Baseline Considerations

As already indicated, the starting position of the maritime limit was fixed at the intersection of the boundary in the bay of Cyapock and the outer limit of the bay. This signifies that a closing line of the bay was established as a baseline with the agreement of both parties.

7 Geological and Geomorphological Considerations

There do not appear to be any distinct seabed features that could have been used to affect the delimitation of the boundary.

8 Method of Delimitation Considerations

The method used was to define the boundary line by the loxodromic curve of the true azimuth. This line varies slightly from a line of strict equidistance, as may be seen in the attached map taken from the annexes to the Reply submitted by Canada in the Gulf of Maine case.² The attached map shows that the boundary to 200 n.m. produces an exchange of areas between the parties of approximate equivalence.

9 Technical Considerations

The maritime limit is defined by the loxodromic curve of the true azimuth $41^{\circ} 30'$, drawn from a point situated $04^{\circ} 30' 30''$ N. lat. and $51^{\circ} 38' 12''$ W. long. This azimuth and these coordinates are relative to the Brazilian geodetic system of reference, Datum Horizontal - Corrego Alegre. This geodetic system is the one on which the Brazilian nautical chart No. 110, first edition,

² I, CANADIAN ANNEX, Agreement No. 84.