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## THE BOUNDARY DISPUTE BETWEEN PERU AND ECUADOR

In an article in this *Journal* some years ago, Professor Georg Maier analyzed the legal cases presented by the Republics of Peru and Ecuador during their long boundary dispute and concluded that the Ecuadorian Government had a much stronger de jure title to the disputed territory, while the Peruvian Government's claim rested primarily on a strong de facto title.[1] Consequently, he argued that the 1942 Rio Protocol which awarded the Peruvian Government the bulk of the territories in question was not an equitable solution to the dispute since such a solution would lie between the extremes of Ecuador's de jure case and Peru's de facto case.[2] He further concluded that a more equitable solution should be sought so the dispute would no longer be an impediment to amicable relations between the two countries. The conclusion of this writer is that the Peruvian Government's de jure case in the dispute was stronger than that of the Ecuadorian Government and that Peru's legal case was then buttressed by a prolonged occupation and development of much of the disputed area. Furthermore, even if the Rio Protocol was not an equitable solution to the problem, no legal justification exists for demanding the renegotiation of a pact signed and ratified by both the Peruvian and Ecuadorian Governments and then guaranteed by four other American Governments.

The geographical area disputed by the Republics of Ecuador and Peru consisted of three separate territories: Tumbez, Jaén, and Maynas.[3] Tumbez was a desert area of approximately 500 square miles on the Pacific seaboard between the Tumbez and Zarumilla Rivers. Jaén, an area of less than 4,000 square miles, lay on the eastern side of the Cordillera of the Andes between the Chinchipe and Huancabamba Rivers. As Maier pointed out, both Tumbez and Jaén were subject to Peruvian sovereignty after 1822, the year Peru became an independent state.[4] Maynas, the third and

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vention. It was further held that in the fall of 1971, there had been a practice of inhuman treatment at one other interrogation center, which had been tolerated at the level of the government authorities. Application No. 5310/71, Ireland against the United Kingdom of Great Britain and Northern Ireland, Report of the Commission (adopted on January 25, 1976).

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[1] G. Maier, *The Boundary Dispute Between Ecuador and Peru*, 63 AJIL 28–46 (1969).

[2] The Protocol of Peace, Friendship, and Boundaries was signed at Rio de Janeiro on January 29, 1942.

[3] For maps of the disputed areas, see F. DE LA BARRA, TUMBEZ, JAEN, Y MAYNAS 48 (1961) and PERU, MINISTERIO DE GUERRA, BIBLIOTECA MILITAR DEL OFFICIAL No. 31: ESTUDIO DE LA CUESTION DE LIMITES ENTRE EL PERU Y EL ECUADOR 37, 40 (1961).

[4] *Supra* note 1, at 28–29. A. WAGNER DE REYNA, LOS LIMITES DEL PERU 41 (1962); L. A. Wright, *A Study of the Conflict between the Republics of Peru and Ecuador*, 98 GEOGRAPHICAL JOURNAL 253 (1941). The population of Jaén adhered to the Republic of Peru in 1821 and their representatives attended the Peruvian Congresses of 1822, 1826, and 1827. Representatives of Tumbez also attended these first three congresses.

largest of the disputed territories, included well over 100,000 square miles of land. It was a triangularly shaped region outlined by the headwaters of the Amazon tributaries on the west, the Yapurá or Caquetá Rivers on the north, and the Chinchipe-Marañón-Amazon Rivers on the south. After independence, much more of the vast area of Maynas was under the jurisdiction of Peru than Ecuador, but the inhospitable character of the terrain limited either country's capacity to occupy all of it effectively.[5]

The conflicting territorial claims of the Peruvian and Ecuadorian Governments arose from the uncertainty of Spanish colonial administrative and territorial divisions. Colonial jurisdictions were often vague and overlapping, while boundary surveys were either inadequate or nonexistent. Consequently, even when South American Republics agreed that their new national boundaries should reflect those of the former colonial administrative units, they still found it extremely difficult to delineate their frontiers. In this regard, the territorial dispute between Peru and Ecuador was typical rather than unique in the post-independence period since all of the new South American Republics were involved in one or more boundary disputes.[6]

The principal legal arguments of the Peruvian and Ecuadorian Governments centered on conflicting interpretations of the rule of *uti possidetis de jure*.[7] Under this rule of regional international law, the Latin American states formerly a part of the Spanish Colonial Empire agreed to fix their international boundaries along the same lines as the former colonial administrative areas. While *uti possidetis* was generally accepted by all Latin American states, it has no validity in universal international law, and even in Latin America the parameters of its application have remained uncertain. Furthermore the complexity of colonial documents and the fact that colonial boundaries were vaguely defined and inaccurately drawn have always made any attempt to apply the rule of *uti possidetis* extremely difficult.[8]

[5] WAGNER DE REYNA, *supra* note 4, at 41; Wright, *supra* note 4, at 254. Maynas was liberated from Spanish rule in 1821 but had to be reliberated in 1822. Representatives from Maynas attended the 1826 and 1827 Peruvian Congresses. Maynas, also spelled Mainas, is frequently referred to as the Oriente.

[6] B. WOOD, THE UNITED STATES AND LATIN AMERICAN WARS, 1932–1942 at 3 (1966). Approximately thirty boundaries demarcated the Latin American states at the time of independence, and disputes over the location of twenty of them lasted into the twentieth century. The Republic of Peru, for example, had prolonged border disputes with all five of its neighbors, and none of these conflicts was resolved before the turn of this century.

[7] For examinations of the respective legal cases, see F. Morales Padrón, *La frontera peruano-ecuatoriana*, 2 ESTUDIOS AMERICANOS 455–66 (1950); PERU, DOCUMENTOS RELATIVOS A LA CONFERENCIA PERU-ECUATORIANA DE WASHINGTON, 49–81 (1938); E. ARROYO DELGADO, LAS NEGOCIACIONES LIMITROFES ECUATORIANO–PERUANAS EN WASHINGTON, 44–53 (1939); and Pastoriza Flores, History of the Boundary Dispute Between Ecuador and Peru 67–70 (1921) (unpublished doctoral dissertation, Columbia University).

[8] G. SCHWARZENBERGER, INTERNATIONAL LAW 1, 21, 304–05 (1957). As Schwarzenberger points out, the Guatemala–Honduras Boundary Arbitration of 1933 is a good example of the uncertainties of the rule of *uti possidetis*. The Special Boundary Tribunal in that arbitration left open the question of whether possession in 1821 meant

The Republic of Ecuador based its case for the application of *uti possidetis* on a series of decrees published by the King of Spain starting in 1563 with a *cédula* awarding Maynas, Quijos, Jaén, and any adjoining land, *i.e.*, the whole of the area in dispute, to the *Audiencia* of Quito. Ecuador maintained, under the doctrine of *uti possidetis* and the *cédulas* of 1563, 1717, 1739 and 1740, that the disputed territories were first part of the *Audiencia* of Quito, then part of Gran Colombia, and finally became part of the Republic of Ecuador when it emerged in 1830 after the breakup of Gran Colombia.[9] The Republic of Peru argued that the essence of independence in the Americas was the sacred and inalterable character of movements of self-determination. Within this greater principle, the Peruvian Government argued that *uti possidetis* served only as a guide to the demarcation of actual boundaries and not as a basic principle for the assignment of provinces or the organization of states.[10] Peru had a strong legal case here since a corollary to the rule of *uti possidetis* existed which gave provinces the right to attach themselves to the republic of their choosing.[11] From this argument, the Peruvian Government concluded that the territories in question were Peruvian because the population of Jaén, Tumbez, and Maynas had voluntarily adhered to Peru at the time of Peru's independence and several years before the independence of Ecuador.[12]

The Peruvian Government developed two refinements to its general argument that the principle of self-determination was most relevant to the question of the ownership of Jaén, Tumbez, and Maynas. Through a *cédula* on July 15, 1802, the King of Spain separated for ecclesiastic and military purposes the provinces of Maynas and Quijos, except Papallacta, from the Viceroyalty of New Granada and transferred them to the Viceroyalty of Peru. The Peruvian Government claimed that the *cédula* of 1802 was a valid guide for determining the jurisdiction of Maynas; however, it always put forth this claim as secondary to its title to the area based on the principle of self-determination. Ecuador unconvincingly attempted to counter

de jure or de facto possession. Furthermore, the Tribunal found it difficult to determine the actual frontier line in 1821 because the Spanish colonial administration had never fully established frontiers nor even established administrative authority in many areas of the border zone.

[9] Morales Padrón, *supra* note 7, at 458; Flores, *supra* note 7, at 67–70; and ARROYO DELGADO, *supra* note 7, at 44–53.

[10] PERU, RESUME OF THE HISTORICAL–JURIDICAL PROCEEDINGS OF THE BOUNDARY QUESTION BETWEEN PERU AND ECUADOR 3, 14 (1937); F. TUDELA, THE CONTROVERSY BETWEEN PERU AND ECUADOR 12–38 (1941); PERU, THE QUESTION OF THE BOUNDARIES BETWEEN PERU AND ECUADOR (hereinafter cited as QUESTION); Statement of the Peruvian Delegation to the Washington Conference concerning the scope of the boundary negotiations with Ecuador, in accordance with the Protocol of the 21st of June, 1924, within the historical-juridical process of the controversy, 6–7 (1927); and A. ULLOA SOTOMAYOR, POSICION INTERNACIONAL DEL PERU 17 (1941).

[11] Maier, *supra* note 1, at 36.

[12] R. PORRAS BARRENECHEA, EL LITIGIO PERU-ECUATORIANA ANTE LOS PRINCIPIOS JURIDICOS AMERICANOS 7 (1942) and M. H. CORNEJO AND F. DE OSMA, MEMORANDUM FINAL PRESENTADO POR LOS PLENIPOTENCIARIOS DEL PERU EN EL LITIGIO DE LIMITES CON EL ECUADOR 16–17 (1909).

this argument and pressed for the applicability of the older colonial decrees only by claiming that the *cédula* of 1802 separated Maynas and Quijos from the *Audiencia* of Quito for ecclesiastical and administrative ends but not in any political sense.[13] The Peruvian Government also argued that the principle of *uti possidetis* was not applicable until the complete end of colonial dependence, which it interpreted to be the 1824 Battle of Ayacucho. Since 1810 was generally accepted in Latin America as the year from which *uti possidetis* was applicable, Ecuador refused to consider the later date of 1824, especially since by that year the populations of Jaén, Tumbez, and Maynas had all expressed their intention to become a part of the Republic of Peru.[14]

The three other documents of legal importance to the dispute were the treaties of 1829 and 1832 and the supposed Pedemonte–Mosquera Protocol of 1830. The first document, the Treaty of Peace signed by Gran Colombia and the Republic of Peru at Guayaquil on September 22, 1829,[15] recognized as the boundary between the signatories the limits of the ancient Viceroyalties of New Granada and Peru. However, while the 1829 treaty established a commission of limits to fix the boundaries, it neither established a clear boundary line nor definitely settled the boundary question; it merely specified a procedure to be followed. The treaty did not even mention Jaén, Tumbez, or Maynas, much less impose on Peru a specific obligation to surrender those territories. Article VI of the 1829 treaty left the final solution of the problem to the boundary commissioners. Treaty ratifications were exchanged on October 27, 1829, but Gran Colombia ratified unconstitutionally without congressional approval.[16] Boundary negotiations between the Governments of Peru and Gran Colombia were halted in May of 1830 when the latter state split into the three secessionist states of Venezuela, Ecuador, and Colombia. Two years later on July 12,

[13] PERU, QUESTION, *supra* note 10, at 15–7; Morales Padrón, *supra* note 7, at 458; D. H. ZOOK, ZARUMILLA–MARAÑON: THE ECUADOR–PERU DISPUTE 28–29 (1964); and A. WAGNER DE REYNA, HISTORIA DIPLOMATICA DEL PERU, 1900–1945, 1, at 173 (1964). Maier (*supra* note 1, at 34) was incorrect in stating that the Republic of Peru based its legal claim on this document as its claim based on the *cédula* of 1802 was always secondary to the title based on the principle of self-determination.

[14] V. SANTAMARIA DE PAREDES, A STUDY OF THE QUESTION OF BOUNDARIES BETWEEN THE REPUBLICS OF PERU AND ECUADOR 277–80 (1910) and ULLOA, *supra* note 10, at 19–20.

[15] Art. XIV. 20 BRIT. AND FOR. STATE PAPERS 1311, 13 MARTENS, NOVEAU RECUEIL 23, 82 PARRY, CONSOLIDATED TREATIES SERIES 463.

[16] PERU, QUESTION, *supra* note 10, at 10; WAGNER DE REYNA, *supra* note 13, at 25; Flores, *supra* note 7, at 33, 38–40, 44–45; J. PEREZ CONCHA, ENSAYO HISTORICO-CRITICO DE LAS RELACIONES DIPLOMATICOS DEL ECUADOR CON LOS ESTADOS LIMITROFES 145–47 (1959). L. H. Woolsey, *The Ecuador-Peru Boundary Controversy*, 31 AJIL 98–99 (1937). Maier was inaccurate in his statement that the 1829 treaty was duly ratified by both signatories as Gran Colombia's ratification was imperfect. He was misleading to suggest that the treaty provided for a "clear and unambiguous definition of the boundary" as the exact boundaries of the Viceroyalties of Peru and New Granada were uncertain which was the reason the treaty provided for a commission of limits. *Supra* note 1, at 38.

1832, the Governments of Peru and Ecuador agreed in a Treaty of Friendship, Alliance, and Commerce[17] to recognize and respect their present limits until a boundary convention was negotiated. The treaty did not specify, however, whether the phrase "present limits" referred to the territories then in the physical possession of the Governments of Peru and Ecuador or to the territories of the Viceroyalties referred to in the treaty of 1829. The Peruvian Government later insisted on the first interpretation and the Ecuadorian Government on the second.[18]

Several basic points were in contention between the Peruvian and Ecuadorian Governments when they argued over the applicability of the 1829 and 1832 treaties. First, there was the question of the extent to which the 1829 treaty actually fixed a boundary. The Ecuadorian Government maintained that the treaty definitely settled the question, while the Peruvian Government argued that it established a principle of delimitation and a procedure to be followed rather than an actual line. In support of its position, the Ecuadorian Government later introduced the Pedemonte–Mosquera Protocol into its legal brief. According to Ecuador, the Peruvian Foreign Minister, Carlos Pedemonte, and the Gran Colombian Minister to Peru, General Tomás C. Mosquera, agreed to a protocol on August 11, 1830, which determined the basis of departure for the border commissioners established in the 1829 treaty. In this protocol, the Peruvian representative supposedly accepted the Marañón River as a frontier leaving in doubt only whether the border would be completed with the Chinchipe or Huancabamba Rivers. The Peruvian Government never accepted the authenticity of this protocol, and, to prove its point, showed that General Mosquera sailed from Lima's port, Callao, on August 10, the day before the protocol was theoretically signed. It also argued that Mosquera had ceased to represent Gran Colombia by August 11 and that, in fact, Gran Colombia had ceased to exist because Venezuela seceded before that date.[19]

The second basic point in contention was whether or not the Republic of Ecuador was legally the party to assume the rights and obligations of the Republic of Gran Colombia, when that national entity ceased to exist. As Brierly has pointed out, when a state ceases to exist, its treaty rights and obligations generally cease with it.[20] Therefore, since Gran Colombia

[17] Art. V. 16 BRIT. AND FOR. STATE PAPERS 1242, 9 MARTENS, NOVEAU RECUEIL 26, 80 PARRY, CONSOLIDATED TREATIES SERIES 97.

[18] SANTAMARIA DE PAREDES, *supra* note 14, at 29, 247–48; TUDELA, *supra* note 10, at 27–28.

[19] L. ULLOA CISNEROS, ALGO DE HISTORIA. LAS CUESTIONES TERRITORIALES CON ECUADOR Y COLOMBIA Y LA FALSEDAD DEL PROTOCOLO PEDEMONTE–MOSQUERA (1911); Wright, *supra* note 4, at 265; PERU, QUESTION, *supra* note 10, at 10. The Colombian Government had a copy of the Pedemonte–Mosquera Protocol but did not mention it until 1904, and the Ecuadorian Government first introduced it into its legal brief in an *Exposición* filed on October 20, 1906. The Peruvian Government also pointed out that a document of such importance as the Pedemonte–Mosquera Protocol would have required congressional approval if it had existed and none was given.

[20] J. L. BRIERLY, THE LAW OF NATIONS 153 (6th ed., 1963).

split into three secessionist states in 1830, it is difficult to accept Maier's argument that the Ecuadorian Government would legally assume the treaty rights and obligations of Gran Colombia including the 1829 treaty. Furthermore, even if the doctrine of the succession of states had limited applicability, it could not make the Republic of Ecuador the successor to Gran Colombia's boundary to the south because that boundary had never been fixed. In fact, the boundary commission provided for in the 1829 treaty never met.[21]

The third major point of disagreement concerned the interrelationship of the treaties of 1829 and 1832. The Government of Peru argued that the 1832 treaty both nullified the treaty of 1829 and recognized Peruvian possession of Jaén, Tumbez, and Maynas.[22] The Ecuadorian Government contended that the 1829 treaty fixed a final boundary which was unaffected by the 1832 treaty. In supporting Ecuador's case, Maier suggested that the treaty of 1832 was never in force because ratifications were never exchanged. This was incorrect, as the Governments of Peru and Ecuador exchanged ratifications on December 27, 1831, and the Ecuadorian Foreign Minister acknowledged receipt of the ratified treaties on March 13, 1833.[23] As for Peru's argument that the treaty of 1832 rendered the treaty of 1829 null and void, there was no such statement in the treaty of 1832, but, as we have seen, it was far from clear that Ecuador inherited the rights and obligations of the 1829 treaty. In any case, since the treaty of 1829 did not fix a boundary, it was impossible to state unequivocally whether the "present limits" mentioned in the treaty of 1832 referred to the Viceroyalties of Peru and New Granada mentioned in the treaty of 1829 or to those territories in the actual possession of Peru and Ecuador when the treaty was signed. Therefore, Maier's conclusion that the 1832 treaty provided a status quo recognition of the boundaries between the Republics of Peru and Ecuador was meaningless because there was absolutely no agreement between the two states as to where the status quo lay.[24]

Between 1833 and 1887, the Peruvian and Ecuadorian Governments defended their respective legal cases while Peru continued to occupy Jaén, Tumbez, and much of Maynas. The dispute was not brought before any legal body in this period, but if it had been, the Peruvian Government appeared to have the stronger de jure case. If the rule of *uti possidetis* was applied to the issue, all of Spain's administrative acts up to the time of independence had to be considered, including the *cédula* of 1802. Furthermore, since the corollary to *uti possidetis* giving provinces the right to choose the republic they would adhere to would also have had to be ac-

[21] *Supra* note 1, at 39.

[22] PERU, QUESTION, *supra* note 10, at 10; TUDELA, *supra* note 10, at 12–38; L. A. EGUIGUREN, NOTES ON THE INTERNATIONAL QUESTION BETWEEN PERU AND ECUADOR. Part I. Maynas, 149 (1941).

[23] ZOOK, *supra* note 13, at 23–24. Ecuador's ratification was imperfect and its original copy of the ratified treaty was later misplaced. On March 26, 1846, the Ecuadorian Government received an authenticated copy of the 1832 treaty from the Peruvian Foreign Ministry.

[24] *Supra* note 1, at 40.

cepted as valid, Peru had a strong argument that the issue was not one of deciding the ownership of vast tracts of land but rather simply an issue of fixing the boundary between Ecuador and three provinces which had opted at the time of independence to become part of Peru. Under the doctrine of succession of states, Ecuador may have inherited limited rights to the boundary procedure outlined in the 1829 treaty, but that document was a weak foundation for a legal claim as it simply outlined a procedure which was never followed. As for the Pedemonte–Mosquera Protocol, its authenticity was so debatable that its introduction as a central pillar of Ecuador's legal case undoubtedly weakened that case rather than strengthening it. Finally, while the treaty of 1832 was duly signed and ratified, the ambiguous wording of the pact added very little support to either country's legal case. In addition to the relative strengths of Peru's de jure case, it then had the growing strength of its de facto case since it had occupied and continued to develop economically both Jaén and Tumbez since 1822 as well as much of Maynas.

In 1887, the Republics of Peru and Ecuador agreed to submit the legal aspects of their cases to the arbitral judgment of the King of Spain.[25] In the entire history of the dispute, the Spanish arbitration was the only time the two countries had anything resembling a day in court, and it is, therefore, significant that the representatives appointed by the King of Spain accepted almost all of the Peruvian Government's legal arguments. The projected award of the Spanish arbitration rejected Ecuador's attempt to reconstitute Viceroyalties and *Audiencias* dating back to 1563 and agreed with Peru's central argument that the real issue was one of fixing the boundaries between the different provinces that, at the time of independence, chose to join one state or the other. Accepting the rule of *uti possidetis*, the award further agreed that all of Spain's administrative acts up to the very moment of independence were applicable and not merely old decrees and thus accepted the validity of the royal *cédula* of 1802. As for the documents central to Ecuador's case, the award rejected the 1829 treaty saying Ecuador had lost its rights as a successor to Gran Colombia in the question when it signed the 1832 treaty. The award also concluded that the Pedemonte–Mosquera Protocol lacked authenticity, as well as the approval which was required from the Peruvian and Ecuadorian Congresses. Finally, the projected award agreed that the 1832 treaty had been ratified and that the ratifications were duly exchanged.[26] The projected award of the Spanish arbitration was disastrous for Ecuador's territorial pretensions, and when the terms became known, violent demonstrations broke out in Ecuador. For a time, war between Peru and Ecuador seemed imminent, and the clamor subsided only after the King of Spain resolved in November 1910, not to pronounce a sentence.

[25] Convention between Ecuador and Peru, signed at Quito, Aug. 1, 1887, 78 BRIT. AND FOR. STATE PAPERS 47.

[26] PERU, THE QUESTION OF THE BOUNDARIES BETWEEN PERU AND ECUADOR: A HISTORICAL OUTLINE COVERING THE PERIOD SINCE 1910, at 12–18 (1936); Flores, *supra* note 7, 56–62; TUDELA, *supra* note 10, at 12–38.

After the King of Spain ended the Spanish arbitration, the Republic of Peru agreed to bring the dispute before the Hague Tribunal, but the Republic of Ecuador declined.[27] Confident in its legal right to the disputed territories, the Peruvian Government continued to demand a de jure arbitration of the dispute after 1910, while Ecuador insisted on a solution *de aequitate* either through arbitration or direct negotiations which would take into account what it saw as its moral right to an exit to the Amazon River.[28]

After fighting broke out along the frontier in 1941, the Ecuadorian and Peruvian Governments finally signed a Protocol of Peace, Friendship, and Boundaries in early 1942 which established a definite boundary between the two states.[29] The final settlement, largely the product of the mediatory efforts of the Governments of Argentina, Brazil, Chile, and the United States, was also guaranteed by these four states.[30] Therefore, Maier's final conclusion that the dispute should be reopened would be difficult to achieve even if it were justifiable, as both signatories and all four guarantors would have to agree to a proposal which only the Ecuadorian Government supports. The Peruvian Government is very satisfied with the provisions of the 1942 Protocol, and the four countries guaranteeing it have taken the position that a basic principle of international law is that a unilateral determination on the part of one party to a treaty of limits is not enough to invalidate the treaty or free the party from its obligations.[31] In seeking to

[27] ULLOA, *supra* note 10, at 179–82; Wright *supra* note 4, at 269; 8 J. BASADRE, HISTORIA DE LA REPUBLICA DEL PERU, 3582–83 (5th ed., 1963).

[28] For an examination of Peruvian and Ecuadorian negotiating positions between 1910 and 1942, see Ronald Bruce St John, Peruvian Foreign Policy, 1919–1939: The Delimitation of Frontiers 271–89, 429–93 (1970) (unpublished doctorial dissertation, University of Denver). PERU, *supra* note 7, at 30–40; ZOOK, *supra* note 13, at 146, 148; PERU, CONFERENCIA DE WASHINGTON PARA LA CUESTION DE LIMITES ENTRE EL PERU Y EL ECUADOR. Réplica de la delegación peruana a la contraproposición ecuatoriana del 9 de agosto de 1937, 1–13 (1937). In 1935, 1937, and 1938, the Peruvian Government proposed submitting part or all of the dispute to the Permanent Court of International Justice at the Hague, but the Ecuadorian Government refused all three proposals. Ecuador continued to hope for a solution, such as a total arbitration by the President of the United States, which would consider extra-legal arguments.

[29] Signed at Rio de Janeiro, Jan. 29, 1942, 56 Stat. 1818, E.A.S. No. 288, 3 BEVANS 700, 36 AJIL Supp. 168 (1942).

[30] INTER-AMERICAN AFFAIRS: 1942, AN ANNUAL SURVEY 15–16 (A. P. Whitaker ed. 1943); J. LLOYD MECHAM, THE UNITED STATES AND INTER-AMERICAN SECURITY 1889–1960, at 169–70 (1961); A. SOLF Y MURO, MEMORIA DEL MINISTRO DE RELACIONES EXTERIORES, Julio 1941 a Julio 1942, at LVI–LIX (1943).

[31] Since 1942, Ecuadorian politicians have occasionally criticized or even denounced the terms of the Rio Protocol. In response to one such outburst, the four countries guaranteeing the Rio Protocol sent telegrams to the Governments of Peru and Ecuador on December 7, 1960, expressing their mutual agreement that a basic principle of international law was that a unilateral determination on the part of one of the parties to a treaty of limits is not enough to invalidate the treaty nor will it free the state from the obligations of the treaty. They concluded that both parties must agree to a change before the stipulations of a treaty can be modified or before an international tribunal can be given the power to consider the case. Maier, *supra* note 1, at 45–46.

unilaterally void a treaty of limits, the Ecuadorian Government is challenging a rule of international law the overthrow of which would threaten chaos for the entire region, given the large number of boundary treaties signed in Latin America since independence.

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