



ESTADO PLURINACIONAL DE BOLIVIA  
Embajada La Haya – Países Bajos

**Bolivia's Response to the Question of Judge Owada**

Bolivia has the honour herewith to submit its response to the question of Judge Owada on defining the meaning of the term “sovereign access to the sea” and determining the specific content of that term as used for determining its position on the jurisdiction of the Court.

With regard to the relevance of this question to the jurisdiction of the Court, Bolivia observes that its case on the merits is that Chile has repeatedly agreed to negotiate Bolivia's sovereign access to the Pacific Ocean to resolve the problem of its landlocked situation. To the extent that the meaning of that term and its specific content can be defined, it is necessary to determine the understanding of the parties in the successive agreements they have concluded. The existence and specific content of the parties' agreement, Bolivia respectfully submits, is clearly not a matter for determination at the preliminary stage of proceedings, and must instead be determined at the merits stage of proceedings.

For the purposes of jurisdiction, it is sufficient to note that the agreement to negotiate, and the final result of such negotiations, are two distinct and separate matters, as recognized in the Court's jurisprudence.<sup>1</sup> The hypothetical modification of the 1904 Treaty at some point in the future is a matter of speculation that is clearly not at issue in this case. Furthermore, the parties have repeatedly agreed that granting Bolivia's sovereign access to the Pacific Ocean is a matter independent of the 1904 Treaty and that it does not require any innovation thereof.

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<sup>1</sup> *Gabcikovo-Nagymaros Project (Hungary/Slovakia)*, Judgment, I.C.J. Reports 1997, p. 7, para. 141.



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In this regard, Bolivia reiterates once more that its case on the merits is not about the precise modalities or specific content of sovereign access to the sea, since that is a matter to be agreed by the parties, negotiating in good faith. It recognizes only that based on the existing agreement to negotiate, such sovereign access may be achieved by a modality to be specified by a future agreement among the parties.

The broad understanding of the parties as to the definition of “sovereign access to the sea”, as reflected in their successive agreements to negotiate and the various proposals to find a solution, is that Chile must grant Bolivia its own access to the sea with sovereignty in conformity with international law.