



# **International Boundary Study**

**No. 172 – May 19, 1980**

## **Ecuador – Peru Boundary**

**(Country Codes: EC-PE)**

**The Geographer  
Office of the Geographer  
Bureau of Intelligence and Research**

**INTERNATIONAL BOUNDARY STUDY**

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**PERU – ECUADOR BOUNDARY**

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## PERU – ECUADOR BOUNDARY

### THE GEOGRAPHER'S INTRODUCTION

The Office of The Geographer will soon enter its third decade of publishing the International Boundary Study series. As readers are aware, the studies themselves comprise a boundary delineation, a cartographic depiction, a brief analysis, and a bibliography. Descriptions of actual boundary agreements, rather than studies of unresolved boundary issues, have offered the fundamental rationale for the continuation of the series - and so it shall continue to be. The Office of The Geographer is also interested, however, in boundary studies that more acutely define the political geography of states.

Thus, we offer as a slight break with tradition a precis of William L. Krieg's Ecuadorean - Peruvian Rivalry in the Upper Amazon. Mr. Krieg, a retired Foreign Service officer with long experience in Latin America, is eminently suited to write a history of the region. His work, we believe, will help fill some of the gaps missing in a definitive study of Latin American boundaries that still awaits an author.

Owing to the length of the original study - approximately 300 pages - it was not possible for this Office to publish Mr. Krieg's analysis in its entirety. Nevertheless, copies of Mr. Krieg's work may be obtained by writing the Office of Long-Range Assessments and Research, Room 6842, Department of State, Washington, D.C. 20520. It should be borne in mind that neither the completed work nor the short precis that appears in this International Boundary Study should be interpreted as representing the official policy or opinion of the Department of State. The views expressed are solely those of the author.

## AUTHOR'S FOREWORD

The objective of this study is to provide the background required for an understanding of the boundary dispute between Ecuador and Peru, a hardy perennial among inter-American controversies. It is not designed to propound any particular thesis, much less to take sides in the dispute. Evaluations of the significance of the positions adopted by the parties over the years have been included, and it is anticipated that both Ecuadoreans and Peruvians will disagree with certain of the opinions expressed. The author can only assure readers that there is no intention to offend national sensibilities. It must be stressed that the views are entirely those of the author and do not reflect, except coincidentally, the policies of the U.S. Government or the Department of State.

Primary attention has been focused on the period after the entry into effect of the Rio Protocol of 1942 which attempted to fix the boundary between the rival states and which was guaranteed by Argentina, Brazil, Chile and the United States. Very little has previously been published on the efforts of the guarantors to work out the problems which arose in the execution of the protocol. These problems proved so intractable that the demarcation of the boundary has not yet been completed, leaving the guarantors with a residual responsibility which they may yet be called upon to discharge.

In addition to the survey of the post-1942 period, it was considered desirable to include information regarding the origins of the dispute and earlier attempts at solutions. Much of this material will be appearing for the first time in English.

The author is deeply indebted to many persons whose assistance has been invaluable in preparing the manuscript. Former Ambassador Maurice M. Bernbaum, Dr. Bryce Wood and Dr. William Lofstrom read the first draft and made extremely helpful suggestions on matters of substance. In addition, Dr. Wood kindly loaned his autographed copy of the most recent edition of Dr. Jorge Perez Concha's Ensayo historico-critico de las relaciones diplomaticas del Ecuador con los Estados limitrofes, which was otherwise unavailable in Washington. Mrs. Madeline Naumann and my wife also reviewed the draft and aided immensely in improving the style and in the correction of typographical errors.

A special word of recognition is due Ms. Sandra H. Shaw and Mr. William Hezlep who prepared the excellent maps which accompany and illustrate the text. To the best of my knowledge, the map of the Santiago - Zamora zone showing the location of the boundary markers already emplaced and the location of the undemarcated area has not been previously published in this country.

The staff of the Library and of the Retrieval Branch of the Foreign Affairs Document and Reference Center of the Department of State have been unusually kind, patient and helpful in unearthing obscure references which have made it possible to collect the data which went into this volume. All these good people deserve warmest thanks without in any way sharing responsibility for the errors the author has committed.

Finally, a word of gratitude is due to Marlene Garcia, who struggled through the original hand-written manuscript, and to Lee Henderson, who has coped tirelessly with the frustrating eccentricities of word processing machines and the many changes and corrections imposed by the author.

The close-off date of this study is April, 1979.

William L. Krieg  
Bethesda, Maryland

## **ECUADOREAN - PERUVIAN RIVALRY IN THE UPPER AMAZON**

### **ABSTRACT**

The dispute between Ecuador and Peru over their boundaries in the Upper Amazon basin is perhaps the lengthiest unresolved controversy among the South American states. It has thrice led to hostilities between the neighboring countries, threatened inter-American solidarity at the onset of World War II, forced a reorganization of the Organization of American States (OAS) and still places obligations on the United States, Argentina, Brazil and Chile as guarantors of a peace settlement concluded in 1942 but not yet completely executed. Although the dispute is quiescent in April 1979, it could be revived either as a result of a chance incident or of the exigencies of domestic politics in either country. In this event it would constitute a problem for the United States and the other guarantors.

### **ORIGINS**

While the origins of the controversy may be traced to rivalries within the Inca Empire before the Spanish conquest, its actual roots are in the colonial period. In those days the territory east of the Andes between the Marañon and Caqueta Rivers was handed back and forth between the Viceroy of Lima and Bogotá until, when independence came, its true jurisdictional status was in doubt. Disagreement over possession of this vast area was a factor leading to war between Colombia and Peru in 1829 in which Colombia gained the upper hand. Peru was prepared at that time to surrender the territory north of the Marañon, but before the details could be worked out, Ecuador split off from Colombia, and the balance of power tilted in favor of Peru.

For many years after independence both disputants were so torn with civil strife that agitation on the boundary issue was limited, but in 1857 the Ecuadorean government offered a large tract of land east of the Andes to European holders of defaulted bonds. This time Peruvian objections were so strenuously pressed that war resulted in 1859 - 60. The Peruvians occupied Guayaquil while Ecuador dissolved into anarchy. The Peruvians compelled the leader of one Ecuadorean faction to sign a treaty recognizing Peruvian

sovereignty over the trans-Andean region, but this so-called Treaty of Mapasingue was later repudiated by both sides.

Ecuador's claims were considerably weakened by its inability to settle most of the Oriente, as the trans-Andean area was called. Ecuador's population consisted of a small class of landowners, merchants and professionals who controlled the country's politics, on one hand, and masses of mostly Indian agricultural laborers bound to the soil on the other. There was no substantial group of free men to strike out into the wilderness and establish homesteads. The climate in the Oriente was exceptionally trying, combining equatorial heat, almost constant rainfall and hordes of insects which spread disease and made life almost unbearable. Only the nomadic Indians knew how to survive in the jungle, and they periodically attacked and killed would-be settlers.

Another factor which hindered Ecuador's validating its claim was the extreme difficulty of communications and transportation. Although on the map Quito appears much closer to the disputed area, it proved easier to reach from Peru. In 1853 Peru organized a governmental unit with headquarters at Iquitos and from that center gradually expanded its dominion north and west up the rivers.

### **ATTEMPTED SOLUTIONS**

Efforts to solve the boundary tangle were carried out both bilaterally and through arbitration. The Garcia - Herrera treaty of 1890 would have provided Ecuador with a narrow beachhead on a navigable portion of the Marañon, but the Peruvian Congress refused to authorize ratification. In 1905 the parties revived an earlier agreement for arbitration by the King of Spain. The substance of the award being proposed to the King by his Council of State leaked out in 1910; it was generally favorable to Peru and caused a furor of patriotic rage in Ecuador. For a time Peru and Ecuador were on the verge of war, and only an offer of mediation by the United States, Argentina and Brazil averted hostilities. The mediators were unable to effect a settlement of the basic problem, however, and the King of Spain withdrew as arbiter without issuing an award.

With the passage of time the disparity between Ecuador's strength and that of Peru increased. Three events in the 20th century added to Peru's advantage:

— In 1922 Colombia and Peru reached agreement on their boundaries in the Amazonian region. Colombia abandoned its claims to the territory between the Marañon and the Putumayo, thus in effect recognizing Peru's sovereignty over most of the disputed region.

— In 1929 Peru and Chile settled their long-standing controversy over Tacna and Arica, which meant that Chile largely lost interest in supporting Ecuador diplomatically and militarily.

— The Leticia dispute between Colombia and Peru (1932 - 34) revealed Peru's deficiencies in military training, armament and communications and filled the Peruvian military with a fierce determination to regain its lost prestige.

From this point on Peru became unwilling to compromise with Ecuador and was prepared to make good its territorial claims by force if necessary. The only diplomatic lever which proved effective against Peru was the threat of airing the boundary problem before a major inter-American conference. To avoid the possibility of such a confrontation at the Buenos Aires Conference for the Maintenance of Peace, Peru consented in 1936 to hold long-deferred talks with Ecuador in Washington after which points still not agreed upon would be arbitrated by the President of the United States. As a preliminary, both sides agreed to maintain the status quo in the disputed zones, an arrangement which the Peruvians interpreted as leaving under their control all areas not actually occupied by Ecuador. This status quo line became a de facto boundary and, with some variations, was the basis for the eventual agreement in 1942.

The Washington talks began on September 30, 1936, but soon bogged down in interminable bickering. The US Government remained aloof from the negotiations in view of its role as final arbiter, but the Peruvian delegation broke off the talks in September 1938, avoiding the projected arbitration.

## **RESORT TO FORCE**

In the succeeding years relations between Ecuador and Peru deteriorated steadily, and the Peruvian military concentration on the Ecuadorean frontier became increasingly menacing. Although inter-American agreements called for consultation among Foreign Ministers in case of threats to the peace, Ecuador's Foreign Minister, Julio Tobar Donoso, held back from calling for such a meeting, probably for fear of further exacerbating the situation, but he did on April 6, 1941, send a circular note to the other American Republics pleading for support in settling the controversy and offering to accept "any juridical method to attain that solution...."

Possibly in reaction to the circular, the acting Argentine Foreign Minister on May 8 proposed that Argentina, Brazil and the United States offer their "friendly services" to the parties in an effort to effect a settlement. Ecuador accepted at once, but Peru agreed only to accept "good offices" - a procedure limited to bringing the parties together but excluding any form of mediation.

It was too late, however. Alleging Ecuadorean incursions, the Peruvian military took the bit in its teeth and on July 23, 1941, launched a full-scale invasion of Ecuador. Outnumbering the Ecuadorean forces at least four to one, the incomparably better equipped Peruvians within two days had shattered Ecuadorean defenses and proceeded without serious opposition to occupy almost all the indisputably Ecuadorean province of El Oro despite a promise by the Foreign Minister to cease hostilities and retire behind the 1936 status quo line. The military was simply not amenable to civilian control; even after a cease-fire went

into effect on July 31, Peruvian forces continued to advance, especially in the trans-Andean sector where Ecuadorean outposts were captured during August and even into September.

Whether by foresight or luck, the Peruvians had chosen the best possible time for their invasion. The United States was deeply concerned with the war in Europe and the threatening situation in the Far East; the inter-American system had not yet developed the procedures for dealing with the intra-hemispheric aggression, and no state wished to involve itself deeply in so intractable a dispute. Nevertheless, considerable pressure was brought to bear on the Peruvians, first to withdraw, and, when they proved adamant, to moderate their demands and submit to mediation.

### **THE RIO CONFERENCE (1942)**

The entry of the United States into the war after the attack on Pearl Harbor reduced our leverage even more. Now, hemispheric solidarity was perceived as essential, and, in particular, Peru's copper, rubber and quinine were urgently required for the war effort. The situation between Ecuador and Peru had to be regularized.

In January 1942 the Foreign Ministers of the American Republics met in Rio de Janeiro to decide on joint action against the Axis, and Brazil's Foreign Minister, Oswaldo Aranha, took the lead in working out a settlement of the Ecuadorean situation. Inevitably the weight of the pressure fell on Ecuador, whose bargaining power was virtually zero. The Ecuadorean delegation was warned that this was their last chance to settle; otherwise the mediators would withdraw their support and Peru might then capture Guayaquil, Loja and Cuenca; even the possibility that Ecuador might be partitioned seemed real to Foreign Minister Tobar.

In the end Tobar signed for the best deal Aranha could extract from the tenacious Peruvians. Ecuador had to surrender its hope for access to the Marañon, but it retained the eastern flanks of the Andes and the headwaters of the Napo, navigable by shallow draft vessels. Peru reluctantly conceded Ecuador the right to free navigation on the Amazon and its northern tributaries. Although Peru got the bulk of the territory, the portion Ecuador retained was higher and enjoyed better drainage. Later it was found to have good deposits of petroleum, and few inhabitants were affected by the new boundary. Considering Ecuador's relative weakness and its inability to develop a large region economically, the settlement was not altogether unfavorable.

Besides providing for the withdrawal of Peruvian troops from Ecuadorean territory, the Rio Protocol, as the agreement became known, was guaranteed by the United States, Argentina, Brazil and Chile, and the guarantors were to help the parties resolve any disagreements which might arise in the execution of the agreement. Since these obligations continue until the boundary is completely marked and since this task has not yet been completed, the obligations assumed by the guarantors in 1942 still continue. The stalemate persists in spite of an article in the protocol which permits the parties, with the



collaboration of the guarantors, to make such reciprocal concessions as may be needed to adjust the boundary to geographic realities.

## **IMPLEMENTING THE PROTOCOL**

The principal obstacle to the execution of the Rio Protocol has been its intense unpopularity in Ecuador and the corresponding pressure on Ecuadorean governments to seize any excuse to seek its revision. Such an excuse appeared when US Air Force aerial photographs revealed that one of the geographic boundary points listed in the protocol did not exist. The objective of successive Ecuadorean governments became the revision of the boundary laid down in the protocol so as to permit sovereign access to the Marañon - an access clearly excluded by the wording and intent of the protocol. Failing to overcome Peru's adamant opposition to such alteration, Ecuadorean revisionism reached a climax in 1960 when President-elect Jose Maria Velasco Ibarra announced that the protocol was null because it had been imposed by force contrary to inter-American agreements. The Ecuadorean government has refrained, however, from formally denouncing the protocol and has in practice observed its general provisions.

During the 1950's and 60's the guarantor states were kept busy ironing out the many frontier incidents between Ecuador and Peru. Over time their function came to include almost any friction on the boundaries whether or not the execution of the protocol was involved. By sending out teams of military observers when violence threatened to break out, the guarantors were able to prevent any major armed confrontations, but their several proposals for the solution of the boundary problem all failed of acceptance by one party or the other.

Viewed as a whole, the guarantors' activities cannot be regarded as more than marginally effective. For one thing, their procedures were exceedingly cumbersome. In deference to Brazil's position as the leading Amazonian power, meetings of the guarantors' representatives were held in Rio de Janeiro and chaired by the Brazilian representative - usually the Foreign Minister. The rule of unanimity was followed, which meant that untold hours were spent in reaching agreement on phraseology. Then any proposal which emerged had to be submitted to the respective Foreign Offices for approval, and the views of the four embassies in Lima and Quito were usually sought. Final decisions frequently required weeks or even months to reach, allowing small incidents to develop into full-blown crises. Once a crisis was past, the representatives in Rio tended to forget about Ecuador and Peru in their natural preoccupation with bilateral relations.

Relations among the guarantors were not always harmonious. Argentina and the United States were at loggerheads during most of the 40's, leaving Brazil to act alone in the name of the guarantors. There was also a tendency for the guarantors to take sides with one or the other disputant; Argentina frequently seemed to favor Peru while Chile leaned toward Ecuador. Any indication that any guarantor might take unilateral action was sure to encounter the disapproval of the others. By and large, the guarantors' operations

compared unfavorably with those of the OAS when acting under the provisions of the Rio Treaty of 1947.

## **THE BOUNDARY AND THE 11TH INTER-AMERICAN CONFERENCE**

The strained relations between Ecuador and Peru were to a great extent responsible for restructuring the OAS under the charter revisions of 1967. At the Caracas Inter-American Conference in 1954, Quito had been selected as the site for the next meeting of the highest OAS body in 1959. As the time for the meeting approached, Peru let it be known that it would not attend if Ecuador raised the boundary question; Ecuadorean press and politicians insisted, on the other hand, that the subject be ventilated. No solution to this impasse could be found, and after a number of postponements, plans for holding the conference at Quito were scrapped and a new system of annual General Assemblies was substituted.

## **THE HEAT LESSENS**

As the '60's merged into the '70's, much of the heat went out of the Ecuador - Peru controversy. In part, this may have been a generational development: those who had experienced the humiliation of 1941 were gradually passing from center stage and being replaced by younger men who found other, fresher issues to exploit. The Ecuadorean electorate seems to have wearied of the boundary dispute; it had been carried as far as it could go. The Rio Protocol had been officially (though not formally) declared null, and since it was out of the question to attack Peru, there really wasn't much more to be done. Primarily, however, interest diminished because other issues arose to replace Amazonia in the forefront of public attention. Happily, many of these issues found Ecuador and Peru on the same side; unhappily, many of them tended to strain relations between Ecuador and the United States.

Beginning in 1952 Chile, Ecuador and Peru had joined in extending their jurisdictions over 200 miles of the sea adjacent to their coasts for the protection of natural resources, especially fisheries. The result was many clashes between Ecuadorean and US interests, culminating in 1971 when Ecuador with Peruvian backing haled the United States before a Meeting of Foreign Ministers of the OAS. Ecuador along with Peru also became a member of the Andean Pact, one of the objectives of which was the restriction and control of foreign investments.

Ecuador welcomed Peruvian President Fernando Belaunde's plans to construct a highway through the eastern scarp of the Andes - carefully avoiding the disputed areas. The two countries are also working on plans for the joint development of frontier zones, and both have had friction with large American petroleum companies. It seems that the United States is contributing to a relaxation of Ecuadorean - Peruvian tensions by replacing Peru as Ecuador's principal antagonist in international relations.

## **THE CARTER INITIATIVE**

Although there had been inconclusive behind-the-scenes talks between Ecuadorean and Peruvian officials, the boundary issue had receded in public awareness until President Carter raised the question with Presidents Morales Bermudez of Peru and Poveda of Ecuador on the occasion of signing the Panama Canal treaties in September 1977. President Carter expressed the hope that the boundary dispute might be resolved in such a way as to give Ecuador access to the Marañon. The two presidents agreed to instruct their foreign ministers to discuss the matter.

At first it appeared that a negotiated settlement on the basis of Ecuadorean access to the Marañon might be possible, but it soon became clear that the sovereign and contiguous access sought by the Ecuadoreans would be unacceptable to the Peruvian military and Peruvian public opinion. Talks were suspended after Ecuador's Foreign Minister referred in an address on February 9, 1978, to "Ecuador's essential and unrenounceable rights over the Amazon River," and the boundary question again receded into the background as the military in both countries prepared to turn the reins of authority over to civilian hands.

## **THE OUTLOOK**

It seems unlikely that this long-lasting dispute will be resolved in the near future, and there appears to be little the guarantors can do, jointly or singly, to hasten a solution.

No Ecuadorean government, civilian or military, can publicly recognize Ecuador's permanent exclusion from the great Amazon - Marañon River, and no foreseeable Peruvian government can grant it. The principal threat to peaceful coexistence lies in a chance skirmish of border patrols. The military authorities have attempted to preclude this possibility by keeping their patrols on opposite sides of the Cordillera del Condor, which has thus in effect become a de facto boundary.

On July 3, 1978, Ecuador and Peru both became signatories of the Brazilian-sponsored Treaty of Amazonian Cooperation, and Ecuador thereby achieved its ambition to be recognized as an Amazonian state - an ambition long blocked by Peru. A next step toward improved relations might well be the conclusion of the treaty of commerce and navigation foreshadowed in the Rio Protocol. This would prepare the way for Ecuadorean trade down the Napo River whenever the Ecuadorean Oriente becomes sufficiently developed to require surface commercial transport. Whether or not the conclusion of such a treaty would have much economic effect, it would contribute psychologically to better relations, and only in an atmosphere free from tension can agreement on the boundary eventually become possible. Until then, both sides will have to live with the problem - as they have during their entire national existences.

## APPENDIX I

### THE RIO PROTOCOL

Executive Agreement Series 288

#### PEACE, FRIENDSHIP, AND BOUNDARIES BETWEEN PERU AND ECUADOR

#### PROTOCOL BETWEEN PERU AND ECUADOR

(SIGNED ALSO BY REPRESENTATIVES  
OF THE UNITED STATES OF AMERICA,  
ARGENTINA, BRAZIL, AND CHILE)

Signed at Rio de Janeiro, January 29, 1942.  
Approved by the Congress of Ecuador February 26, 1942.  
Approved by the Congress of Peru February 26, 1942.

(Translation)

#### PROTOCOL OF PEACE, FRIENDSHIP, AND BOUNDARIES BETWEEN PERU AND ECUADOR

The Governments of Peru and Ecuador, desiring to settle the boundary dispute which, over a long period of time, has separated them, and taking into consideration the offer which was made to them by the Governments of the United States of America, of the Argentine Republic, of the United States of Brazil, and of Chile, of their friendly services to seek a prompt and honorable solution to the program, and moved by the American spirit which prevails in the Third Consultative Meeting of the Ministers of Foreign Affairs of the American Republics, have resolved to conclude a protocol of peace, friendship, and boundaries in the presence of the representatives of those four friendly Governments. To this end, the following plenipotentiaries take part:

For the Republic of Peru, Doctor Alfredo Solf y Muro, Minister of Foreign Affairs; and

For the Republic of Ecuador, Doctor Julio Tobar Donoso, Minister of Foreign Affairs;

Who, after having exhibited the respective full powers of the parties, and having found them in good and due form, agree to the signing of the following protocol:

## ARTICLE ONE

The Governments of Peru and Ecuador solemnly affirm their resolute intention of maintaining between the two peoples relations of peace and friendship, of understanding and good faith and of abstaining, the one with respect to the other, from any action capable of disturbing such relations.

## ARTICLE II

The Government of Peru shall, within a period of 15 days from this date, withdraw its military forces to the line described in article VIII of this protocol.

## ARTICLE III

The United States of America, Argentina, Brazil, and Chile shall cooperate, by means of military observers, in order to adjust to circumstances this evacuation and retirement of troops, according to the terms of the preceding article.

## ARTICLE IV

The military forces of the two countries shall remain in their new positions until the definitive demarcation of the frontier line. Until then, Ecuador shall have only civil jurisdiction in the zones evacuated by Peru, which remain in the same status as the demilitarized zone of the Talara Act.

## ARTICLE V

The activity of the United States, Argentina, Brazil, and Chile shall continue until the definitive demarcation of frontiers between Peru and Ecuador has been completed, this protocol and the execution thereof being under the guaranty of the four countries mentioned at the beginning of this article.

## ARTICLE VI

Ecuador shall enjoy, for purposes of navigation on the Amazon and its northern tributaries, the same concessions which Brazil and Colombia enjoy, in addition to those which may be agreed upon in a Treaty of Commerce and Navigation designed to facilitate free and untaxed navigation on the aforesaid rivers.

## ARTICLE VII

Any doubt or disagreement which may arise in the execution of this protocol shall be settled by the parties concerned, with the assistance of the representatives of the United States, Argentina, Brazil, and Chile, in the shortest possible time.

## ARTICLE VIII

The boundary line shall follow the points named below:

A) In the west:

- 1) The mouth of the Capones in the ocean;
- 2) The Zarumilla River and the Balsamal or Lajas Quebrada;
- 3) The Puyango or Tumbes River to the Quebrada de Cazaderos;
- 4) Cazaderos;
- 5) The Quebrada de Pilares y del Alamor to the Chira River;
- 6) The Chira River, upstream;
- 7) The Macara, Calvas, and Espindola Rivers, upstream, to the sources of the last mentioned in the Nudo de Sabanillas;
- 8) From the Nudo de Sabanillas to the Canchis River;
- 9) Along the whole course of the Canchis River, downstream;
- 10) The Chinchipe River, downstream, to the point at which it receives the San Francisco River.

B) In the east:

- 1) From the Quebrada de San Francisco, the watershed between the Zamora and Santiago Rivers, to the confluence of the Santiago River with the Yaupi;
- 2) A line to the outlet of the Bobonaza into the Pastaza. The confluence of the Conambo River with the Pintoyacu in the Tigre River;
- 3) Outlet of the Cononaco into the Curaray, downstream, to Bellavista;
- 4) A line to the outlet of the Yasuni into the Napo River. Along the Napo, downstream, to the mouth of the Aguarico;
- 5) Along the latter, upstream, to the confluence of the Lagartococha or Zancudo River with the Aguarico;
- 6) The Lagartococha or Zancudo River, upstream, to its sources and from there a straight line meeting the Guepi River and along this river to its outlet into the Putumayo, and along the Putamayo upstream to the boundary of Ecuador and Colombia.

## ARTICLE IX

It is understood that the line above described shall be accepted by Peru and Ecuador for the demarcation of the boundary between the two countries, by technical experts, on the grounds. The parties may, however, when the line is being laid out on the ground, grant such reciprocal concessions as they may consider advisable in order to adjust the aforesaid line to geographical realities. These rectifications shall be made with the collaboration of the representatives of the United States of America, the Argentine Republic, Brazil, and Chile.

The Governments of Peru and Ecuador shall submit this protocol to their respective Congresses and the corresponding approval is to be obtained within a period of not more than 30 days.

In witness thereof, the plenipotentiaries mentioned above sign and seal the present protocol, in two copies, in Spanish, in the city of Rio de Janeiro, at one o'clock, the twenty-ninth day of January, of the year nineteen hundred and forty-two, under the auspices of His Excellency the President of Brazil and in the presence of the Ministers of Foreign Affairs of the Argentine Republic, Brazil, and Chile and of the Under Secretary of State of the United States of America.

(L.S.)	Alfredo Solf y Muro
(L.S.)	J. Tobar Donoso
Signed)	Sumner Welles
Signed)	E. Ruiz Guinazu
Signed)	Juan B. Rossetti
Signed)	Oswaldo Aranha

A TRUE COPY  
Department of State for Foreign Affairs  
Rio de Janeiro, D.F., January 30, 1942.

Jose Roberto de Macedo Soares  
Chief of the Division of International  
Acts, Congresses, and Conferences

## APPENDIX II

### PROTOCOL OF FRIENDSHIP AND CO-OPERATION BETWEEN COLOMBIA AND PERU (IN PART) AND ITS ADDITIONAL ACT

LEAGUE OF NATIONS TREATY SERIES  
Vol. 164, pp. 22 ff.

#### TRANSLATION

No. 3786 - PROTOCOL OF FRIENDSHIP AND CO-OPERATION  
BETWEEN THE REPUBLIC OF COLOMBIA AND THE REPUBLIC  
OF PERU. SIGNED AT RIO DE JANEIRO, MAY 24TH, 1934

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#### Article 4.

In view of the common needs of the two States in the basins of the Amazon and the Putumayo, Peru and Colombia shall conclude special agreements on Customs, trade, free river navigation, the protection of settlers, transit, and the policing of frontiers, and shall adopt such other agreements as may be necessary to obviate any difficulties that arise or may arise in that frontier region between the two countries.

#### Article 6.

In order to ensure that the agreements referred to in Article 4 shall be concluded, and to stimulate their execution, there shall be created a commission of three members appointed by the Governments of Peru, Colombia, and Brazil, the chairman being the member appointed by the last-named country. The seat of the commission shall be in the territory of one or other of the High Contracting Parties, within the limits of the region to which the aforementioned agreements apply. The commission shall have power to travel from place to place within those limits, in order to co-operate more effectually with the local authorities of both States in maintaining a state of permanent peace and good neighborliness on the common frontier. The term of office of this commission shall be four years, but may be extended if the two Governments so decide.

Sub-section I. The joint commission in question shall have no police powers, administrative functions or judicial competence in the territories subject to the jurisdiction of the High Contracting Parties, whose authority shall be exercised therein to the full.



Sub-section 2. Nevertheless, if, in the execution of the aforesaid agreements, which are integral parts of the present Protocol, conflicts should arise on account of acts or decisions involving a violation of any of those agreements, or relating to the interpretation thereof, or to the nature or extent of the reparation due for the breach of any such agreement, and should such conflicts be brought to the commission's notice by the parties concerned therein, the commission shall refer them, with its report, to the two Governments, in order that the latter may, by common consent, take the necessary action.

Sub-section 3. In default of such an understanding, and after 90 days have elapsed since the date of the communication to the two Governments, the conflict shall be settled by the commission. Either of the two Governments may appeal from this decision to the Permanent Court of International Justice at The Hague within 30 days.

Sub-section 4. The two governments shall request the Government of Brazil to co-operate in forming the commission.

## ADDITIONAL ACT

CONSTITUTING AN INTEGRAL PART OF THE PROTOCOL SIGNED ON THE SAME DATE BY THE DELEGATIONS OF PLENIPOTENTIARIES OF COLOMBIA AND PERU, AND MENTIONED IN ARTICLES 4 AND 6 OF THE SAID PROTOCOL.

### I.

#### Article I.

There shall be complete freedom of navigation and transit between the fluvial territories of Colombia and Peru in the basins of the Amazon and Putumayo. In the exercise of this freedom, no distinction shall be made between national flags. Nor shall any distinction be made between the nationals of the two Contracting States, nor between persons proceeding from either State to the territory of the other, nor between their property or possessions. The nationals of both States shall be treated on a footing of perfect equality in either State. No distinction shall be made on the grounds of origin, destination, or route of traffic.

#### Article 2.

Colombian vessels in Peru and Peruvian vessels in Colombia navigating on the common rivers of those countries, their tributaries and confluents, shall be exempt from all dues of whatsoever origin or denomination.

#### Article 3.

The coastwise trade or trade between one port and another of the same country, even if passing through foreign waters, with or without transshipment, shall, in either State, continue

to be subject to the laws of that State. The two States shall consider the possibility of reciprocally extending to specified limits on their respective fluvial coasts the advantages and restrictions relating to their own coastwise navigation.

#### Article 4.

Goods in transit shall not be examined by the fiscal or police authorities of either of the two countries.

#### Article 5.

In exercising the right, common to both States, of enacting provisions and adopting measures necessary for the general policing of the territory and for the application of the laws and regulations concerning the prevention and punishment of smuggling, health matters, precautions against diseases of animals and plants, emigration and immigration, and the importation or exportation of prohibited goods, it is understood that such provisions and measures shall not exceed the limit of what is necessary, and shall be applied on a footing of perfect equality to the nationals and goods of both countries, whether going from or to either of them, and in no case shall the freedom of navigation and transit granted by each country to the other in perpetuity under the Treaties in force be unnecessarily impeded.

#### Article 6.

Colombia and Peru may, when they deem it necessary, establish, by common agreement, dues in the nature of payments which shall be applied exclusively and in an equitable manner to the improvement of conditions of navigability on any one or more of their common rivers or their tributaries and confluents, and, in general, to the better service of navigation. Apart from such dues, which shall be equal for the nationals, vessels, and goods of both countries, no other charges shall be levied as between the two countries in respect of visas on consular invoices, health dues, tonnage dues, harbour dues, bills of lading, manifests, freight lists, crews' muster-rolls, passenger lists, mess-room lists, or any other due, whatever may be its denomination or the purpose for which it is levied, and vessels bound for the ports of one of the countries, whatever flag they may fly, shall not be compelled to convey officials of the other country engaged in the work of inspection or supervision, or to call at any ports.

#### Article 7.

Vessels owned or manned according to the laws of the country to which they belong shall be regarded as Peruvian vessels in Colombian ports and as Colombian vessels in Peruvian ports.

Both for the purposes of this Article and for those of Article 2, the following shall be understood to be included: ships, boats, launches, rafts for conveying timber, rubber, and

other articles, and in general all means of conducting trade and transit employed in the region, and the aforesaid shall enjoy the rights, advantages, and freedom that have been granted or may hereafter be granted by either country to its own nationals in respect of the conduct of their business and occupations.

#### Article 8.

The merchant vessels and warships of Colombia and Peru shall, moreover, enjoy all rights and franchises which either country has recognized or granted or may hereafter recognize or grant to any other State in respect of trade and fluvial navigation.

#### II.

#### Article 9.

The two States shall institute a special Customs regime to facilitate frontier traffic and to protect and develop trade in their adjacent fluvial regions. For this purpose, the Customs duties and accessory taxes or dues levied on goods of any provenance shall be identical in both countries in the said regions. The two countries shall agree to introduce a common tariff appropriate to the needs of the respective regions. Pending agreement upon such tariff, the highest tariff at present in force shall apply. The Customs regulations of both countries in the same regions shall, moreover, be uniform as regards the methods employed for collecting duties and as regards any rules, formalities and charges that may apply to Customs clearance operations.

#### Article 10.

A system of Customs franchises shall be established providing for the exemption from duties or taxes of products of either country imported in exchange for products received from the other country, to the same value, so that each country shall exempt products equivalent in quantity to those exported by the other.

#### Article 11.

In neither country shall duties, taxes or excise dues be levied on agricultural products, or products derived therefrom, coming from the frontier zones and intended for export.

Timber which is intended for preparation for export in sawmills shall be exempt from all import and export dues.

#### Article 12.

Persons, vessels flying any national flag, and goods in transit, which are bound for river ports of either country and have to call at the ports of the other, shall be exempt from all

taxes, dues or charges, and also from all such formalities as would in any way hinder, obstruct or adversely affect their transit. No deposit shall be required.

#### Article 13.

The aforementioned goods in transit shall in both countries be exempt from the requirement of consular visas and all other documents or formalities, except only such as are indispensable on grounds of public health and security. Any documents necessary shall be issued without the officials concerned being entitled to collect any taxes, dues, or charges whatsoever, and without freedom of transit being adversely affected or any unjustifiable delays being caused in the voyage or any surcharge on the freights.

#### Article 14.

The High Contracting Parties shall without delay proceed to constitute a joint commission composed of three Colombian nationals and three Peruvian nationals, appointed by their respective Governments, to conduct work directed towards the fullest co-operation in Customs matters. This commission shall be instructed:

- (1) To propose a common Customs tariff for Colombian and Peruvian river ports in the region included in the basin of the common rivers;
- (2) To propose the unification of the Customs regulations to be applied by the authorities of both countries in those river ports;
- (3) To devise and propose the system of franchises referred to in Article 10;
- (4) To study all provisions relating to the policing of the frontiers to be applied by both countries in the above-mentioned fluvial territories, with a view to unifying the said provisions and adapting them in the best possible way to the needs of the region, so that they may afford the greatest facilities to the inhabitants thereof.

#### Article 15.

The joint commission referred to in the preceding Article shall further be instructed:

- (1) To propose to the Governments the establishment of an equitable system applying equally to both countries in respect of municipal dues levied on foodstuffs coming from farms in the neighborhood and on firewood, timber and palm leaves. Pending the establishment of such system, no such dues shall be levied in either country;
- (2) To propose regulations for a system of free trade, with exemption from all dues or taxes, in foodstuffs, medicaments, cotton fabrics and tools imported from abroad into the adjacent regions of the Putumayo. Pending the enactment of regulations for such a system, no dues or taxes shall be levied on the importation of such articles;

(3) To devise a system of co-operation for the purpose of preventing smuggling on their frontiers and facilitating the punishment thereof.

### III.

#### Article 16.

Both States shall endeavor to ensure that in the respective adjacent fluvial regions careful supervision is exercised with a view to the effective security of the enjoyment and exercise of civil rights and of the individual guarantees recognized by their laws in respect of settlers scattered in the forests and the inhabitants of towns and centres of population in their river basins. Both States consider the above-mentioned measures to be an essential condition of international juridical life.

#### Article 17.

Both States shall, in their fluvial territories, apply those principles of law which uphold the human dignity, the labor, and the freedom and well-being of their inhabitants, whether civilized or forest-dwelling. Accordingly, they recognize:

- (a) That labor is not to be regarded as a commodity;
- (b) That workers must be paid such wages as will secure them a suitable standard of life appropriate to their circumstances as regards both time and place;
- (c) That the rules laid down in either country in regard to conditions of labor must guarantee an equitable economic reward and have regard to the safety and health of the worker, the labor he performs, the climate, age, sex, nutrition, cultural requirements, and the necessary daily and weekly rest, and latter being of at least twenty-four hours duration;
- (d) That wages must be equal without distinction of sex;
- (e) That workers in forest regions must be specially protected from dangers and diseases.

#### Article 18.

In regard to forest-dwellers who are not adapted, or not fully adapted, to civilization, both States recognize that it is their fundamental duty to concern themselves actively, and more particularly in their respective adjacent zones, with the position of the native tribes, in order to defend, educate, and assist them, and to improve their present condition:

- (a) The development of public education shall be promoted by establishing schools in which instruction is given through the medium of the native languages.
- (b) All forced or compulsory labor shall be prohibited.
- (c) The transfer of property shall not involve any obligation to emigrate.

(d) Freedom of movement shall be guaranteed for the purpose of entering, leaving, passing through or returning to the country on one or more occasions without any formalities other than those that have been established by custom and by the general laws. Such formalities shall not apply to natives.

(e) The principles adopted by the League of Nations shall be applied in regard to alcoholic liquor, arms, and munitions, and for the purpose of preventing and combating diseases of plants and animals

(f) Steps shall be taken to prepare the natives, in their settlements, more particularly for civilized life in the regions from which they come, and in which the duty of attracting and preparing their fellows should be performed.

(g) The High Contracting Parties shall, at their own expense, maintain in specified places dispensaries adequately supplied with the drugs and apparatus necessary for the methodical, continuous or occasional treatment of natives suffering from diseases common in the region, or in epidemic periods. This service shall be technically organized for the purpose.

(h) The High Contracting Parties shall take the necessary measures to ensure that, both in private undertakings and also in special posts and foundations and in the native settlements, such plants as are adapted to the environment and prevent the development of certain diseases common in the regions, and due to malnutrition, shall be sown, and that the natives shall be taught to cultivate them.

(i) The High Contracting Parties shall determine the method by which the wages earned by the natives may be spent on tools, clothing, household goods, etc., but in no case on intoxicating liquor. They shall take steps to protect the natives from those who would exploit their ignorance and innocence.

(j) The same joint commission which is entrusted with the execution of the agreements shall organize an inspection service to ensure the faithful observance of the above-mentioned principles, for the application of which the loyalty and humanity of the two States shall be relied upon.

In faith whereof the Plenipotentiaries above named have signed the present Additional Act in duplicate and have thereto affixed their seals, in the city of Rio de Janeiro, on the twenty-four day of May, one thousand nine hundred and thirty-four.

(L.S.) R. Urdaneta Arbelaez  
(L.S.) Guillermo Valencia  
(L.S.) Luis Cano  
(L.S.) Victor M. Maurtua  
(L.S.) V.A. Belaunde  
(L.S.) Alberto Ulloa

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Government agencies and other interested parties may obtain copies of Mr. Krieg's study by writing to the Office of Long-Range Assessments and Research, Room 6842, Department of State, Washington, D.C. 20520.

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