

Campos de Hielo: why redefine them after an agreement reached 111 years ago?

Chile has two great ice masses in its southern Patagonian territory that give birth to important rivers and lakes: Campo de Hielo Norte and Campo de Hielo Sur. The first one has an area close to 4.200 square km; the second one, an area close to 13.900 square km. The first one is entirely Chilean, the second one borders on its eastern side with the Argentinian lakes Viedma and Argentino. This approximate 160 km boundary, which goes from Mount Fitz Roy to Mount Stokes, was agreed upon by both countries in September 1898 (1), 111 years ago, and was later confirmed - and again accepted by both Chile and Argentina - in November 1902, almost 107 years ago, by His Majesty King Edward VII Arbitral Award in the Argentine – Chile Boundary Case, with a specific map and precise mountain tops included. In 1998 Chile and Argentina agreed to work on a yet more precise boundary on this same borderline (2). The problem is that this redefinition could imply for Chile the loss of approximately 2.000 square km. The only solution to this situation, if no new agreement is reached, is to go back to the 1902 Arbitral Award. Neither the executive nor the legislative powers do have the authority to accept territory losses, unless explicitly authorized by the Chilean people having been duly informed about such an essential national decision.

To put the above figures into perspective, Israel has an area of 20.770 square km, while the West Bank does have an area of 5.879 square km. The Maipo Valley in Central Chile has an area close to 2.000 square km, including approximately 650 square km occupied by the capital city of Santiago.

The Boundary Treaty of July 1881 between Chile and Argentina, in fulfillment of the previous Treaty of April 1856, defined the boundary from the arid north to the southernmost island of Cape Horn. Particularly, from north to south as far as the parallel of latitude 52° S(3) the frontier line would run along the most elevated crests of the Cordillera de los Andes that divided the waters and pass between the slopes which descended one side and the other. The Additional and Explanatory Protocol of the Boundary Treaty of July 1881, signed on May 1893, stressed that all lands and waters situated to the east of the line of the most elevated crests of Cordillera de los Andes that may divide the waters shall be held in perpetuity to be the property and under the absolute dominion of the Argentine Republic, and that all lands and waters situated to the west of the line of the most elevated crests of the Cordillera de los Andes to be the property and under the absolute dominion of Chile. Furthermore, it also said that the sovereignty of each State over the respective coast line is absolute, in such a manner that Chile cannot lay claim to any point toward the Atlantic, just as the Argentine Republic can lay no claim to any toward the Pacific.

On September 1898 Chile and Argentina agreed upon, among other things, to a north – south boundary limit from Mount Fitz Roy to Mount Stokes, which goes almost as a straight longitude line between them and is further associated and pictured with Cerros Torre, Huemul, Campana, Agassiz, Hein and Mayo, from north to south, with their respective altitudes. The remaining border disagreements along the extended frontier were to be presented to Her British Majesty, then Queen Victoria, to arbitrate over them, as previously stated in the May 1896 Agreement between Chile and Argentina.

On November 1902, the arbitration proceedings started in May 1896 were finally settled under the Arbitral Award by His Majesty King Edward VII - successor to Queen Victoria - in the Argentine – Chile Boundary Case(4) . At the end of its Article III, it is stated that “From Mount Fitz Roy to Mount Stokes the line of frontier has been already determined”, referring that way to the September 1898 Agreement. In the corresponding report made by the Tribunal appointed by the Arbitrator, which went over much more territory delimitations than that particularly involved in the Mount Fitz Roy to Mount Stokes boundary line, its members state that the orographical and hydrographical lines are frequently irreconcilable and that neither fully conforms to the spirit of the Agreements which they are called to interpret. They further conclude that the question submitted to them is not simply that of deciding which of the two alternative lines is right or wrong, but rather to determine - within the limits defined by the extreme claims on both sides – the precise boundary – line which, in their opinion, would best interpret the intention of the diplomatic instruments submitted to their consideration.

It is obvious that what the Arbitral Award finally determined as borderline between Chile and Argentina certainly considered the approximate 160 km already existing and agreed upon boundary between Mount Fitz Roy and Mount Stokes over Campo de Hielo Sur. Moving now this boundary limit in either direction would weaken this 1902 important and common foundation for a friendly frontier between both countries, a foundation that has had nonetheless some mutually agreed upon adjustments along time but that needs no more, given that there is nothing to be “more precise” about.

Not long ago, in 1994, Chile lost under a new and questionable Arbitral Process a territory associated with Laguna del Desierto, nearby Mount Fitz Roy, that the same 1902 Arbitral Award had clearly allocated to Chile. The size of this loss amounted to almost 600 square km.

The proposed redefinition is not in Chile’s long term interests and as such, it should be rejected. Demeaning the integrality of the 1902 Arbitral Award, based on particular criteria that fit the interests of any one party but not the other, is not a long term solution for both countries. This is just a call to comply with what has already been agreed upon. Any change beyond that is conditioned on being consistent with our sovereign and long term interests. This is just not the case.

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Mapa Laudo Arbitral 1902

(1) On October 1st, 1898 Barros Arana (Chile) and Francisco Pascasio Moreno (Argentina) signed on the above September 1898 Agreement.

(2) The 1998 Agreement pursues to further precise the boundary limit that goes from Mount Fitz Roy to Cerro Daudet, being this last one approximately 12 km to the northeast of Mount Stokes.

(3) That is, south of Torres del Paine and Puerto Natales, being this town approximately located at latitude 51o 43’ S and thereby including the area of Campos de Hielo.

(4) Reports of International Arbitral Awards, The Cordillera de los Andes Boundary Case (Argentina, Chile), 20 November 1902, Volume IX, pp 37 – 49, United Nations.