

# Towing the Line

The Chile-Peru border dispute jeopardizes the region's deep-sea artisanal shark fishery

The crew of the *Gamalu II*, a 30-ft fishing boat based in the Peruvian port of Ilo, were happy to arrive safely home. Their August shark-fishing trip had been eventful, to say the least.

Two hundred miles or so out to sea, all radio contact had been lost when a wave broke over their wheelhouse, smashing the windows, soaking their equipment and putting their high-frequency (HF) radio—their only means of

restrictions on their movements, they have to constantly chance their luck and pit their wits against the Chilean navy border patrols.

The *Gamalu II* had set sail 31 July 2007 and returned to Ilo port on 22 August 2007. With a catch of 800 kg of mako shark, 3,000 kg of blue shark and 350 kg of fins, the gross estimated earnings for the trip would be around US\$8,200. According to local sources, mako-shark meat fetches between US\$1.5 and US\$2 per kg, blue shark, between US\$0.8 and US\$1.5, and fins, between US\$11 and US\$12 per kg.

Under current arrangements with Chile, vessels wanting to sail through this sea area must request permission three hours in advance before arrival at the border. Subsequent authorization then takes between one and three hours. While in Chilean waters, Peruvian fishing vessels must report their position every six hours.

When they return from international waters, permission must be requested again. With its radio out of action, the *Gamalu II* had no way of asking for permission.

## Crew deported

Without prior permission, or if caught fishing in Chilean waters, the fishermen can be intercepted and their small boats towed back to the port of Arica. Here their catch would be dumped, the crew deported back to Peru, and the vessel owner obliged to pay a heavy fine of around 3 mn pesos (around 4,000 Euros or US\$5,920). The Chilean navy does not listen to excuses, or take account of equipment failure, or involuntary

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communication—out of action. Their desperate attempts to repair it proved in vain.

Faced with the choice of a 700-plus-mile round trip back home to evade crossing the Chilean patrolled seas, or cutting the corner and taking a straight line home, they chose the latter to avoid running out of fuel.

The legal course would have involved sailing north to cross the line of parallel marking the border with Peru, and then turning east.

Picked up by a Chilean spotter plane, they were chased by the Chilean navy, but narrowly escaped capture and the consequent loss of their valuable catch. The plight of these feisty Peruvian deep-sea fishermen is pitiable.

Due to a festering border dispute and arrangements that place severe

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- **Rodrigo Barría Reyes**, “Chile - La vida en el límite marítimo: El complicado control de la Armada chilena sobre los pesqueros peruanos”, article in *El Mercurio, Santiago de Chile*, 27 August 2007
- **Wikipedia: Controversia de delimitación marítima entre Chile y el Perú** ([es.wikipedia.org/wiki/Controversia\\_de\\_delimitaci%C3%B3n\\_mar%C3%ADtima\\_entre\\_Chile\\_y\\_el\\_Per%C3%BA](http://es.wikipedia.org/wiki/Controversia_de_delimitaci%C3%B3n_mar%C3%ADtima_entre_Chile_y_el_Per%C3%BA))

blackouts in communication. Any non-authorized vessel is treated as illegal.

On Monday 13 August 2007, Chile recalled its Ambassador to Peru in protest over Peru disputing the position of the maritime boundaries between the two countries. It followed the publication by Peru of an official chart showing a maritime territory claimed by Chile as an 'area of controversy', in need of resolving (Supreme Decree No 047-2007).

Peru considers that the maritime borders with Chile have never been properly demarcated. Not so, says Chile; the boundaries are clearly defined in the provisions of international treaties that are in force. Peru claims that the border should follow a straight line that bisects the coastline, passing through agreed baselines. For Chile, the border follows a line of parallel, 18° 21' 00".

The international treaties referred to by Chile include the 1952 Maritime Zone Declaration (Santiago Declaration: Declaración de Zona Marítima) and the 1954 Agreement on Special Maritime Frontier Zone (Convenio sobre Zona Especial Fronteriza Marítima), signed by Chile, Peru and Ecuador. The former recognizes that the jurisdictional rights of each country extend 200 nautical miles out to sea.

The latter establishes a special 10-mile-wide zone, either side of the line of parallel that constitutes the maritime border, starting from outside territorial limits (12 nautical miles). The purpose of this corridor is to regulate the frequent 'innocent and accidental' violations of the maritime boundary zone between the countries by artisanal fishing operations.

Peru says that the 1954 Agreement on the Special Maritime Frontier Zone is only a fisheries agreement, and not a border treaty. According to Peru, it is only by mistake that maritime limits are mentioned, and that these are not defined in any treaty.

The affair was given impetus following Chile's ratification of the United Nations Convention on the Law of the Sea (UNCLOS) in 1997. The nautical charts submitted by Chile to the UN in September 2000 showed the 18° 21' 00" line of parallel as forming the maritime

frontier between the two countries. Peru responded by sending a note to the UN rejecting this line of parallel as

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the maritime boundary between the two countries. Peru is unwilling to ratify UNCLOS, which it sees as violating its national sovereignty.

Then, in 2005, a draft bill was submitted to the Peruvian Congress that proposes where the baselines of Peru's maritime boundaries should be. It sets out to establish where the Peruvian coastline ends, where its territorial sea begins, and the extent of Peru's maritime jurisdiction out to a distance of 200 miles. It defines the maritime border with Chile as a line bisecting the coast at right angles and extending 200 nautical miles out to sea. The bill was approved on 3 November 2005, and, on 12 August 2007, through Supreme Decree 047 - 2007, a new map of Peru's maritime boundaries was approved as part of Law No 28.621 on the Baselines of Peru's Maritime Dominion. It high-

TORIBIO MAMANI MACHACA



Crew of the fishing vessel *Pamela*, which has just returned from a 15-day fishing trip outside Chile's EEZ



Inside the radio room of Pamela, a fishing vessel based in the port of Ilo, Chile

naval exercises also recognize the area south of this line of parallel as Chilean territory.

UNCLOS indicates that, in general, in such a dispute between two States, a median line should be taken as the boundary, based on points equidistant to the baselines claimed by either side, and following geographic lines such as lines of latitude or lines of meridian. In the case of Peru, if the baseline is taken from the point of Concordia, as defined in the 1929 Treaty of Lima, and the border follows the line of parallel that runs through this point,  $18^{\circ} 21' 08''$ , then Chile's maritime zone begins only 80 nautical miles from the fishing town of Mollendo, 40 miles from the port of Ilo, and zero from Tacna.

For the fishermen of southern Peru and northern Chile, the relative positions of maritime boundaries are clearly all-important. Some Chilean industrial-fishing-sector estimates put the market value of resources extracted annually from the area under dispute at around US\$500 mn. Some US\$300 mn come from sales of anchoveta, and another US\$200 mn from mackerel and horse-mackerel sales. Chile and Peru are world leaders in catching fish, and their economies are heavily dependent on fish exports. In 2005, Chile was ranked third, after China and Peru, with catches of 5.33 mn tonnes, and with fish exports worth US\$3.08 mn. One-third of Chile's fish catch comes from Northern Region I of Tarapaca, which borders Peru. It seems unlikely to give up access to this 'area of controversy'.

In southern Peru, the boundary lines have far-reaching implications for the deep-sea artisanal fishermen of Ilo and neighbouring fishing hamlets (*caletas*). They have to cross this marine territory to access their fishing grounds outside the 200-mile zone, facing the coast of Chile. Either that, or undertake a zig-zag 700-mile-plus round trip, at huge extra costs in fuel, and wear and tear on vessels, equipment and crew, considerably increasing their risks.

### Artisanal fleet

According to the Peru Ministry of Production Statistics, 56 per cent of the artisanal fleet of Ilo, some 269 vessels, engage in longline fishing. Based in

lights the area of around 38,000 sq km over which Chile claims sovereignty as an 'area of controversy'.

So far, Chile has refused Peru's requests to open negotiations on signing a maritime boundary agreement. It argues that the treaties of 1952 and 1954 constitute boundary treaties between the two countries. Peru has announced that it will try to resolve the dispute peacefully using conciliation procedures available under international law.

With this in mind, Peru is preparing a case to present to the International Court in The Hague, in similar fashion to Nicaragua and Honduras. Under the Bogota Pact of 1948 (the American Treaty on Peaceful Solutions), to which both Chile and Peru are signatories, in cases where a solution cannot be found, both parties have the right to go to the International Court of Justice, where the decision on the interpretation of treaties or questions of international law is binding.

In practice, Chile continues to exercise sovereignty over this 'area of controversy'. Its naval patrols are mandated to detain and tow back to Arica any vessels that stray across the parallel  $18^{\circ} 21' 00''$  into Chilean-claimed waters, confiscate the catch and deport the crew, after imposing a heavy fine on the vessel owners. The joint Chile-Peru

the port of Ilo, Toribio Mamani, who has been following the fishing in Ilo for most of his life, confirms that all these vessels are engaged in deep-sea fishing. According to Toribio, as fishing crews rotate, there are probably at least 2,000 fishermen working out of Ilo on these vessels. He reckons that an additional 1,500 or so work from adjacent centres, such as Vila Vila, Moro Sama in Tacna Region and Matarani and Mollendo in the Arequipa Region.

Toribio provides a repair-and-maintenance service from his electronics workshop in Ilo. On a completely voluntary basis, and at his own cost, he also operates a radio link with the fishermen out at sea. This is used to feed messages to, and from, the fishermen's families, serving as an emergency communication channel, and through which he is able to provide verbally transmitted weather reports, and other such information. His equipment is basic, and he dreams of being able to provide fishermen with meteorological information on a real-time basis, and to be able to know the exact positions of the artisanal fleet on a real-time basis in case emergencies arise.

"Our deep-sea fishing vessels have two main seasons," says Toribio. "During the six months from September to February, they target *perico* or *dorado* (dolphin fish or *mahi mahi*, *Coryphaena hippurus*), with fishing trips lasting one week on average. From April to August, their main quarry is the blue shark (local name *tiburón azul*, *Prionace glauca*) and shortfin mako shark (local name *tiburón diamante*, *Isurus oxyrinchus*), with sporadic catches of swordfish. Shark-fishing trips last between 15 and 20 days, depending on how far away the fish are. When the wind reaches around 28 or 29 knots (Beaufort 6-7), it is not possible to work, and vessels must try to keep position with sea anchors made of nylon rope."

A small part of the shark catch landed in Ilo is consumed locally. Most is transported to Lima, where it is distributed to other centres. Shark meat is a popular dish in Peru. Specialized traders buy the fins for export.

Writing in Chile's *El Mercurio* on 27 August 2007, in an article entitled "Chile: Life on the Maritime Frontier:

The Chilean Navy's Complicated Job of Controlling Peruvian Fishermen", Rodrigo Barría Reyes graphically described

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the plight of these fishermen. He takes up the story from the angle of the Chilean navy's search operation for the Ilo-based vessel, the *Gamalu II*, "a tiny and aged Peruvian fishing vessel that is sailing through Chilean waters with all the grace of a chunk of Styrofoam", and which "all day has had to evade the frenetic search of the *Contramaestre Ortiz*, the Chilean naval vessel that is giving its all, with engines at 1,600 rpm, to reach and capture it."

Here, such a task, out at sea almost 200 km off the Chilean coast, is enormous. To find a tiny little boat in this infinite sea is a painstaking task that must combine technology and persistence, says Barría Reyes. He describes the naval vessel leaving the port of Arica, with the ship's commander, Frigate



TORIBIO MAMANI MACHAKA

The plight of these feisty Peruvian deep-sea fishermen is pitiable due to a festering border dispute with Chile

Captain Jorge Felipe Keyer, playing his favourite Los Cuatro Cuartos compact disc, with “Los que nunca volverán” (“Those who never return”) through the ship’s loudspeaker system. Commissioned in 1993, the *Contramaestre Ortiz* is 42.5-m long, displaces 518 tonnes, has a crew of 33, a top speed of nearly 20 km/hr (15 knots), and is armed with 20-mm, 40-mm and 60-mm machine guns. It is heading for the exact area where “Peru currently disputes as its own a portion of sea that Chile has no intention of giving up.”

Be that as it may, the voyage of the *Ortiz* is no more than routine in a zone where the search for Peruvian fishing boats that enter illegally or that fish with no licence inside the 200-mile exclusive economic zone (EEZ) is a constant. “It’s a completely routine job for us and has nothing to do with the boundaries affair that has arisen in recent weeks,” explains Kenneth Pugh, responsible for Naval Zone IV, the maritime area that stretches from Arica to Taltal. The current issue is this, says Barría Reyes: The fishermen of Ilo port have a penchant for the *tiburón azul* fishery—for blue shark—a species whose fins are particularly important, being considered as a potent aphrodisiac in some Asian markets. The problem for the Peruvians is that this shark prefers only those wa-

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ters between 18 and 20 degrees, which are located a little further out than 200 nautical miles, facing the Chilean coast.

“What they usually do, is ask for authorization to cut the journey by passing through Chile’s bit of the sea and so arrive in international waters where they proceed to catch shark”, Captain Juan Carlos Diaz, maritime governor of Arica, told Kenneth Pugh. “But it is not so rare for the Peruvians not to ask permission, fishing directly in Chilean waters or that their boats don’t match

up to the minimal safety conditions required to undertake crossings that usually last 15 days. If they have no permission or are fishing in Chilean waters, then we intercept them and tow their small boats back to Arica. The *Gamalu II* is precisely one of these ‘poor little boats’ that spend hours evading the *Ortiz*, which, despite having two lookouts on either side of the boat with their eyes glued to their binoculars and radar screens, was unable to distinguish something so small on the water.

In the hunt for *Gamalu II*, suddenly another Peruvian fishing boat appears, the *Pamela*. “To see these Lilliputian boats bobbing about like pieces of driftwood, one cannot but help be moved and amazed by the courage and lot of their crew”, says Barría Reyes. Crew members are generally four in number, and live on survival rations, with no toilet facilities and sleeping spaces on deck.

Most of the boat is given over to the bait storage and, in the lower part, in spaces with ice, every effort is made to preserve the shark catch. What they do have is navigation equipment and global positioning system (GPS) units, which allows them to know perfectly well whether they are in Chilean or Peruvian waters.

The *Pamela* has asked for permission, which is why she is not boarded. Megaphone in hand, an official of the *Ortiz* fires questions, while the Peruvians answer in a lively voice. “Where are you from? – Ilo; When did you set out? - Two days ago; Where are you headed? - International waters...”

Meanwhile, from the Iquique air base, a navy plane has taken off and is soon over Chilean waters, combing the area. In truth, without such aerial support, no search attempts whatsoever undertaken by navy ships would yield positive results in this maritime vastness.

### **Aerial surveillance**

The airplane locates the Peruvian fishermen, identifies them and advises the *Ortiz* where it can intercept them. The *Ortiz*, which was already headed back to Iquique, turns, accelerates its engines and sets off in hunt of a vessel that does not have permission to sail

in Chilean waters and which may have fished in the national economic zone.

The chase lasts for several hours. The *Ortiz* doubles the speed of the *Gamalu II*, but although it can be seen as a tiny speck on the radars, the lookouts scrutinizing the horizon ceaselessly cannot locate it. Suddenly, there to starboard, they manage to make out the silhouette of the *Gamalu II* a long way off, making its escape.

"It looks like they are going to escape. Normally, they don't sail at more than 10 km per hour. Let's see if they burn out their motor or run out of fuel," says the commander of the *Ortiz* in hopeful tones, and in full pursuit. On the bridge, activity is frenzied. There are people on the communication system, on the radar, tracing routes on a map and on lookout. Everyone is analyzing and calculating what can be done to catch up with the *Gamalu II*.

The satellite phone rings. From the command centre ashore, the chief asks about the chase. The commander of the *Ortiz* hangs up and advises his crew: "We will do what we can to catch her. But if she crosses the border, then there is nothing we can do". A rapid-assault craft is readied, while a boarding party prepares suits and rifles. But the *Gamalu II* does not end up burning its motor out, nor does it run out of fuel. With the *Ortiz* only 2 km away, the Peruvians manage to cross the border.

Captain Keyer picks up a microphone and issues a statement: "The Peruvian vessel has crossed the maritime border. The chase is over. Everyone did well. Next time, he won't escape!" While the *Ortiz* changes course for Iquique, from out of the loud speakers come the patriotic melodies of Los Cuatro Cuartos.

According to Rodrigo Barría Reyes, the Chilean navy carries out patrols in the northern frontier zone every two weeks, and in 2006, six Peruvian boats were taken to Arica and their crews deported. So far this year, 350 Peruvian vessels have requested permission to cross Chilean waters; around 30 per cent of Peruvian boats sighted by the Chilean navy plane are not found by the navy's ships.

Peruvian fishermen invest around 3 mn (US\$5,920) pesos in their 15-day

fishing trips in search of sharks. Peruvian fishermen may earn between 150,000 and 200,000 pesos (US\$296

and US\$395) on one of these voyages.

While the *Ortiz* was in hot pursuit of the *Gamalu II*, in the port of Ilo the families of its crew were desperately awaiting news. Having lost radio contact, they were expecting that its radio distress buoy would be activated at any time. But, as there was no emergency as such, the crew could not do this.

"It arrived at the expected time. Everyone safe and sound. The fishermen's families and children were the happiest. As soon as it had come alongside, I asked the captain of the *Gamalu II* what had happened, and why he had been out of radio contact for one week. He told me that there were strong prevailing winds and high seas where they were fishing. In a sudden squall, a wave had crashed over the wheelhouse,

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BRIAN O'RIORDAN/ICSF



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smashing the windows and soaking all their HF radio communications equipment.”

Clearly, resolving the problems of these feisty Peruvian fishermen is far from simple, but Toribio feels that there are at least three areas where some ac-

day, where a boat is working, to be able to locate it in case of emergency, or to see it on a computer screen...These are dreams, my friend, but we are making progress, and with the arrival of the *perico* season, we are developing a fluid radio system both as backup and to provide necessary information...”

Meanwhile, silence has temporarily fallen on the diplomatic dispute between Peru and Chile over their maritime border, a dispute that the Peruvian deep-sea artisanal fishing fleet have learned to live with, and adapt to. ¶

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tions could be taken:

- in cases of involuntary communications blackout, as with the *Gamalu II*, penalties could be waived or reduced;
- the Chilean authorities should be open to mitigating circumstances; and
- the right of Peruvian vessels to innocent passage across Chilean waters should be recognized.

Toribio points out: “It is just over a year now that we have been requesting permission (from the Chilean authorities) to go and fish in international waters. This has the merit of far fewer artisanal vessels being captured than in previous years when making the crossing to and from these waters.”

Meanwhile, Toribio dreams on: “We long for telecommunications equipment that would enable more effective transmission of information to our artisanal fishermen... for example, having a radio repeater and autopatch that would make it possible to use a telephone for radio communication, or a small portable transceptor. Imagine having an operating system that allows for the transfer of meteorological data via HF radio signal and a high-seas vessel with radio, laptop and an interface through which any kind of information can be received; where they could comfortably download information that I had stored on my shore-based computer...Imagine our fishermen with satellite-communications equipment, and being able to know, at each hour of the

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[http://es.wikipedia.org/wiki/Controversia\\_de\\_delimitaci%C3%B3n\\_mar%C3%ADtima\\_entre\\_Chile\\_y\\_el\\_Per%C3%BA](http://es.wikipedia.org/wiki/Controversia_de_delimitaci%C3%B3n_mar%C3%ADtima_entre_Chile_y_el_Per%C3%BA)

#### Wikipedia Entry in Spanish