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**CONFLICT RESOLUTION THROUGH REGIME FORMATION - THE PERUVIAN
– ECUADORIAN BORDER CONFLICT.**

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ABSTRACT

Along 188 years Peru and Ecuador maintained an open dispute over their shared border line. A Conflict that started in 19th century based on Independency theories over South-American boundaries had its end in 1998 through a peaceful process of conflict resolution. The peace process was influenced by International Relation theories and ideas such as international regimes, globalization, integration, cooperation, social development and political regional traditions.

The conflict resolution process did not focus only in bringing peace by settling the border line between Peru and Ecuador, but it focused instead on the creation of an international regime between Peru and Ecuador to proportionate binational/and regional social and economic development, economic integration, and political cooperation. The conflict resolution process was successful and it highlighted a new era for South-America International Relations.

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INTRODUCTION

In January of 1995 a small scale war broke out in the Cenepa region. Cenepa is an Amazonian jungle region that is the heart of a bigger area called Cordillera del Condor located on the boarder between Peru and Ecuador. The war was the third armed conflict between Peru and Ecuador and represented more than 150 years of conflictual border dispute over the same area. The dispute started in Colonial times and remained unsolved until 1998. This particular dispute always had great potential to escalate to massive violence but never actually did.

Territories and boundaries have always represented a great deal to the modern states. As in other parts of the World, in South-America, territory was intimately connected to issues as economy, sovereignty and national identity (Bowman, 1942, pg.761).

International relation played an important role in this conflict. The 1995 war was cessed in only one month directly after the Itamaraty treaty of 17th of February 1995 was signed. The cease fire counted with the intervention of third parties: Brazil, USA, Chile and Argentina. Also, a recall on Rio Protocol of 1942 provisions engaged the six countries into immediate mediations, towards four years of negotiations, and a final resolution to the border issue. In October of 1998 the border was finally settled for good when the parties and the third parties signed the Global and Definitive Peace Agreement.

What make this case of especial analytical interest is not exactly the time within it endures, or the political and cultural characteristics it assumed along those one hundred and eighty eight years. After all the conflictual parties belong to the Patria Grande (the big nation), where religion, colonial heritage, struggle for economic and social development, culture, and *mestissage* are shared values.¹ The interest keystone is found inside the conflict resolution. South- America had always had its own way of dealing with local international conflicts. South-American states posses a rooted tradition of intervention as third parties in neighbour's conflicts (Klepak, 1998, pg.5), from belicious issues to economic or political ones. Such intervention is done in the forms of "mediation" and "good

¹ According to Hal Klepak it is wrong to talk about Latin America. The concept is a social science creation that based exclusively in the Spanish language encloses more than 20 nations though north, central and south America in order to be clear of whom I intend to speak about I will only use the term South- American in my dissertation (Klepak, 1998, pg. 5).



offices”. Briefly, mediation and good offices are peaceful and amicable interventions where the third party - the mediator or the government representative – present: a) a concrete solution to the quarrel in the first case; b) and general help to find a solution in the second case. However, this conflict was the first one to count on third-party intervention at such a deep level of commitment and participation (Simmons, 1999, pg.8).

Also a new tradition of South-American international politics influenced the case: integration and cooperation through international arrangements (Cannabrava, 1999, pg. 1). The cited traditions in conflict resolution always brought proud (patriotism) to South-American

nations as consolidates democracies for which peace is a most dear value. The case is a remarkable example of a successful international regime (emerged in 1942 with Rio Protocol and perpetuating until 1998) addressing respectively: navigation, integration, confidence building and border demarcation.

Historically, the regime formation emerged from the Rio protocol of 1942. The provisions of the Rio Protocol were suitable to solve the conflict, but due to the lack of resources its implementation ended up being “dead letter”. The World War II changed the face of the protocol and it did not complete the regime it had started.

However, the hopes were not lost. The Rio protocol would be invoked once again to start negotiations during the Cenepa war in 1995. The protocol provided rules and procedures that finally settled the matter for good, finalizing the regime creation between Peru and Ecuador through the Global and Definitive Peace Agreement of 1998.

The Peru-Ecuador case turned out not being only the most long-standing border dispute in South-America, but a great example of how multilateral mechanisms could work to provide the “link-issue” necessary to regime formation and consequently to peaceful conflict resolution. Instead of solving only the top line problem – the border - the regime addressed underlined problems such as navigation, social development, regional security and regional political cooperation.

The conflict resolution process took four years of negotiations, from March of 1995 to October of 1998, and constituted the most efficient multilateral peace operation (peace-keeping, peace-maintaining, and confidence building) in the South-American history (Marcella, 1995, pg. 46). Finally, South-America achieved regional security stability without any feeling of latent tension (Cannabrava, 1999, pg. 01).

This study will demonstrate how the regime formation drawn by the Global and Definitive Peace Agreement of 1998, actually was elaborated, developed and refined in a high institutionalized environment. The South-American traditions in peaceful conflict resolution represent the institutions that are not only prescribed by international law, but the ones established through common practice to rule such territorial disputes.

Even though those institutions are neither written or regulated by any multilateral South-American international treaty (a positive legal body of laws), they have been in practice since the Independency era (common law) (Trindade, 1984, pg.5). Therefore, the achievements of the Global and Definitive Peace Agreement of 1998 and the institutions created before, during

and after the treaty, actually represented the culminant point of the South-American international institutional development.

The case study could be done through many different approaches, such as economical, political, sociological, anthropological, and legal. However, those bilateral aspects restrict the study to only Peruvian and Ecuadorian views. That choice leaves aside vital international aspects. To bring the study to the International level means to embody Brazil, USA, Argentina, Chile and the South-America traditions to the conflict resolution study. After all, the events from the Peru and Ecuador case are not fully explainable without using International Relations Theories such as regime formation. It is almost impossible to deny the existence of many international institutions along the conflict history.

More precisely and especially, the case study can be most profited when using theories of International Regime formation such as Oran Yong `s theory (Young, 1998, pg. 98). I decided to use the Oran Young theory because it seemed to explain better the case. Oran Young developed his own model for a successful regime formation. And I intend to use his theory as a tool to search for good understanding of my case; meaning theory is used as my analytical framework to understand conflict resolution.

Therefore, I intend to answer to the following research questions:

- 1- What were the contextual factors that provided the auspicious environment into which the regime formation of the Global and Definitive Peace Agreement of 1998 occurred? Here I will search for understanding South-American regional institutions such as the third party intervention. I will also search the understanding of the regional political development and respective cultural factors (such as national identity and patriotism) along the conflict period.
- 2- Do Oran Young Regime Formation theory and his model for a successful regime formation help in understanding the case? Here I intend to search for the problem-structure.
- 3- How the regime formation accomplished final conflict resolution? How did issues link together? My point here is to highlight, when possible, the issue-linkage. The Global and Definitive Peace Agreement regime of 1998 involved much more than just a border issue. Actually, this regime created links between many other issues, and through this linkage mechanism the border dispute got easily solved.

After introduction my thesis will follow the bellow arrangement and purposes:

Introduction – this initial chapter will briefly draw essential lines of the conflict. The purpose is to prepare the reader to understand the international institutional political environment in which the conflict between Peru and Ecuador was solved.

Theory Chapter - this chapter will give the reader the theoretical background to follow up the analytical discussions afterwards. I will present Oran Young`s theory to be applied to the case study, and justifications for doing so.

Methodology – this chapter will present, explain and justify the methods chosen to write this dissertation. Also, I will explain how the methods were used to the data I gathered about this case study.

Historical Background chapter of the border Conflict between Peru and Ecuador – this chapter begins bringing up some essential South-American conflict resolution tradition. After, this chapter comments vital history of the Colonization period when the border conflict began to be shaped. The conflict begins at the Independency era. The chapter purpose is to show the shifts of the conflict through time, also to provide the reader with historical bases to understand the conflict resolution of 1998.

Empirical Chapter – this chapter will be divided using theoretical tools. This option is due to the mobility it will provide to go back and forth in the historical line. The chapter will be divided in according Oran Young`s theory of regime formation: a) agenda formation; b) negotiations and c) operationalization.

Conclusion – this chapter will gather all findings and information provided by the other chapters with the goal to answer the research question herein proposed. Also, this chapter will try to highlight underlined aspects concerning the conflict resolution. I intend to track how it is possible to achieve a successful peaceful conflict resolution through regime formation in the existing South-American institutionalized environment.

1. THEORY CHAPTER

Herein I present theory about International Relations, Oran Young `s theory of Regime Formation and his model for a successful regime (Young, 1998). Hasenclever, Mayer and Rittberger state that the discipline of International Relations: “consists in studying the interests of states and also how they perceive such interests inside the global scenario (Hasenclever et al. 2002, p.5).

International Relations study the interplay between states, and its main facets, such as sovereignty, international law and international politics. Usually this interplay is mediated by an international institution – such as in the Peruvian- Ecuadorian border case. Herein, the whole analytical approach starts from that affirmation: institutions matter in influencing states behaviour. Therefore: “Institutions matter at a minimum by mediating between underlying structures and outcomes in an issue area we should be able to understand outcomes in that area by highlighting these institutional arrangements” (Hasenclever et al. 2002, p. 275).

“In this sense, the study of international regimes offers a micro-level approach to understanding the micro-level phenomenon of integration. Along the same lines, any given regime not only reflects an end towards which the norms and rules are directed, it also involves a procedure for regulating conflicts. When international regimes are seen as procedures for the regulation of conflict, it becomes plausible to think of these institutions as contributing to a civilizing process in international politics, in which the conduct of conflict is institutionalized and does not lead to a resort of violence” (Levy et al. 1995, p. 280).

International Relation debate has been dominated by three different theories that diverge in their own “explanatory variables” for regime formation (Hasenclever 2002, p.1). Those theories are: realism (based on a power-based approach), [neo] liberalism (based on an interested-base approach) and cognitivism (based on a knowledge-base).

1.1- Conceptual framework – defining regimes

Let us begin with some questions: what is an International Regime? How an International Regime is formed? The first question refers of the regime concept however; scholars affirm that there is some sort of inconsistency and misuse of actual concepts which generates an awkward feeling of displeasure among academics and students.

Hasenclever et al. mention a “crucial disease”, lack of agreement upon an international regime uniform concept (Hasenclever et al. 2002, p.8). To Oran Young: “the whole enterprise of regime analysis continues to rest on a shaky foundation” (Hasenclever 2002, p.8) because

the definition is: “conceptually thin” (Hasenclever et al. 2002 p.12). Also, Levy et al. say that one of the major criticisms concerns the definition of regimes refer to its essentially contested nature (Levy et al. 1995, p. 273/274).

After acknowledging the concept discussion; Levy, Young and Zurn present a definition, starting from the famous Krasner definition,² they affirm that “*International Regimes are social institutions consisting of agreed upon principles, norms, rules, procedures and programs that govern the interaction of actors in specific areas*” (Levy et al. 1995, p 274). Another definition is Haufler`s: “regimes are social institutions created by states to eliminate or alleviate collective-action problems at the international level”. (Levy et al., 1995, p. 317). Those definitions clarify also the difference between regimes and institutions.

These definitions point “indistinguishable components”: principles, norms, rules procedures or programs (Levy et al. 1995, p. 317/318). Briefly, principles represent goals/desires to guide the action of regime actors, e.g. financial policy, environment policies and etc. Norms concern to the issue area of a specific regime, e.g. international navigation rights in Peru- Ecuador case. Rules are concrete and usually are specified in written documents in which certain regime is based, e.g. the Global and Definitive Peace Agreement of 1998³ (Levy et al. 1995, p. 371).

Levy et al. believe that their definition entails a better understanding of regimes than Krasner’s (Levy et al. 1995, pg. 373). Their definition distinguishes International Regimes from International organization (which are the material entities), and also from the broad picture of International Society (which consists on principles for conduct for all issue-areas). Emphasise are placed at a minimum level of formalization and common expectations to recognize the existence of a regime.

² Krasner in 1983 defines Regimes as: “implicit or explicit principles, norms, rules, and decision-making procedures around which actors expectations converge in a given area of international relations. Principles are beliefs of fact, causation, and rectitude. Norms are standards of behaviour defined in terms of rights and obligations. Rules are specific prescriptions or proscriptions for action. Decision-making procedures are prevailing practices for making and implementing collective choice.

Kratochwil and Ruggies in 1986 define regime: “international regimes are commonly defined as social institutions around which expectations converge in international issue-areas. The emphasis on convergent expectations as the constitutive basis of regimes gives regimes an inescapable intersubjective quality (...). (Hasenclever 2002, p.16).

³ They usually deal with assessment, implementation and compliance of regimes. Procedures and programs involve much of national legislation.

Levy et al. state the relevance of international social practices by framing the concept of social institution. However, they emphasise the fact that integrating social aspect to international regimes can or cannot implicate in their fusion with respective conventions (the set of regimes rules itself). And the social aspect could have lead Oran Young to conclude that “International Regimes are common agreements of multilateral ideas acceptable and documented within a “constitution contract” (Young 1994, p. 83/84).

The second question refers to regime formation. Regime formation “encompasses the reformation of existing institutional arrangements as well as the creation of new institutions where none have previously existed” (Levy et al. 1995, p.279). Oran Young affirms that a regime is formed to establish rules of behaviour (social aspect), “the rules of the game”, by which actors involved in the conflict direct or indirectly will have to follow (Young 1994, p. 81/82).

Moreover, a concrete definition, and also understanding of regime formation will depend upon which theory you opt to analyze facts. Actually, theories will build a different model for International Regimes.

1.2. – The regime debate.

Regime debate encompasses three main schools of thought: realism, (neo) Liberalism and Cognitivism. The three schools of thought form a sort of “time line” from the oldest one (realism) to the newest one (cognitivism).

Realism theory began to gain academic attention in the end of the 1930`s. Realism is a power based theory, focusing on the dichotomy of dominant actor (the ones with power) and hegemony (the ones with no power). Realism was the model prevailing during the 19th century⁴ with the monopoly of power, rationality, convenience and political strategy as keystones for states and actors⁵ to realize their goals (Hasenclever, 2002, pg. 3/5). To Realism the presence of equivalent powers turns impossible to achieve some bargaining, and therefore, to constitute any sort of regime. To Realism international institutions represent “a common will” of powerful states, serving as channels to their interests and providing a new “balance of power” that result in cooperation among international actors (Hasenclever et al. 2002, p.3) (Hasenclever, 2002, pg. 3/5).

⁴ And here lies one good explanation why the concentration of power is so vital to this theory once in the 19th century the world was divided between great nations.

⁵ Realism still sustain that states are the ones with most importance, disregarding the role of civil institutions or international organization in the international scenario.

Realism characteristics are: “(1) a pessimistic view of human nature; (2) a conviction that international relations are necessarily conflictual and that international conflicts are ultimately resolved by war; (3) a high regard for values as international security and states survival; (4) a basic scepticism that there can be progress in international politics compared to domestic political life. (Jackson and Sørensen 2007, p.60).

Critics concern situations where power is not the main issue in a given conflict and dominant powers can find themselves in situations where they will have to negotiate. States have an objective knowledge of conflictual situations, but they must not disregard culture and social perspectives of the issue. Realism ignores the possibility of a leader with persuasion skills, someone or some state that will be able to bring cooperation instead of the will of dominant power (Jackson and Sørensen 2007, p.60/64).

Liberalism has arisen with the Liberal states. (Neo)Liberalism is a modern version to Liberalism and it has emerged in the 1970`s. Liberalism and Realism share the same meta-theoretical approach of rationalism and self-interest of states. The common ground between Realism and Neoliberalism is: the international anarchic; states are the main international actors; states are responsible to establish international regimes (Baylis et al. 2006, p. 370/371).

Particular points of Liberalism are: (1) believe in a good human nature; (2) a belief in cooperation in international relation; (3) a high regard for the rule of Law (Jackson and Sørensen 2007, p.99/100). And According to Hasenclever et al. the main theoretical difference relies on the goals states seeks when engage themselves in a specific regime (the behavioral model) (Hasenclever et al. 2002, p. 26).

Liberalism emphasises that institutions provide better understanding and collaboration between states, and focus on economic and political impacts of institutions. So, Liberalism is conscious of the importance of the game theory⁶ sustaining that “things” change only when dominant powers have interest in so (Baylis et al. 2006, pg. 370/372). Therefore: “interested-based theories of regimes adopt an unequivocally institutionalistic perspective, i.e. they portrait regimes as both effective and resilient”. (Hasenclever et al. 2002, p.4). So,

Neoliberalism admits that not only power and states interest shape regimes, but also aliens ideas and interests do, such as NGO`s, national opinion and International institutions.

⁶ It is important to notice that realism is aware of the interplay between two levels games. The existence of a game in the international arena and other in the national arena do not implicate in the maximization of the beneficial gains.

Starting from neoliberalistcs orientations in 1984 Robert Keohane elaborated the *contractualism* theory. It is one of the most discussed theories until today. The innovation of his theory was the element of “utility” framing two keystones: utility and collaboration (Hasenclever, 2002, pg. 26).

Cognitivism is a sociological based theory that denies that the rational element. Social or cognitive factors are mainly the ones of previous learning in similar situations and they can produce an interactive decision process (Wendt and Duval 1989, p. 53). Here there is a shift from concentration of power to social-knowledge and ideas with a true belief of institutions: “constituting state actors as subjects of international life in the sense that they make meaningful interaction by the latter possible” (Wendt and Duval 1989, p. 53). Bargaining is an element of regime formation, entailing a learning process in which actors are able to find mutually agreeable solutions to common problems, e.g. cultures, styles and identity.

Here through the dispersal of power it is possible to make room for coalition, cooperation and public choice. According to Hasenclever et al. cognitivism searches for the intersubjective meaning and shared understanding over power. Rules and norms are interpreted from this perspective, meaning that a breach of rule will be judged from community` s eyes. To understand the cognitive model it is necessary to connect the intersubjective aspect with the theory of communicative action (Hasenclever et al. 2002, p. 27). Criticisms address the uncertainty of concepts as consensual knowledge, shared understandings and etc. And if the concept is a reachable one – is it a spontaneous process or does it need an engine?

The theory debate actually represents the core of my work. It is one of the: “major differences separating the three schools of thought is the degree of institutionalism that power-base, interested-base, and knowledge-based theories of regimes tends to espouse” (Hasenclever et al. 2002, p.2). All three theories still have different outcomes and conclusions when facing empirical facts.

1.3. A model on regime formation

Starting from criticism on the three main schools of thought, Oran Young based on institutional bargaining (negotiation stage) elaborates hypothesis for a successful regime formation in his book *International Governance: protecting the environment in a stateless society* of 1994 (Young 1994, p. 98). After, Young elaborates his model of regime formation in the book *Creating Regimes: Arctic Accords and International Governance* of 1998.

Oran Young`s Regime formation theory is an analytical tool to understand four years (febrerary/1995 to October/1998) of intense negotiations among Peru, Ecuador and the fours guarantors` countries- Brazil, USA, Chile and Argentina- in order to reach peaceful resolution. After all, negotiation procedures were abided by rules and norms that constituted an International Regime.

Young`s theory focuses on bargaining in itself, emphasising collective actions, and the dichotomy between productive (or integrative) bargaining versus distributive (or positional) bargaining. Young`s model is divided into three phases: agenda formation, negotiation and operationalization (Young, 1998, pg. 98).

Young`s model takes into account different elements inside the regime formation of international alliances, such as natural features, the existence of interfering socio-economic, and political linkages. Therefore, Young`s model is a blend of the three main theories.

1.3.1 – Regime formation phases - steps into creating a regime

Young`s model divides the regime formation into: agenda formation (pre-negotiation), negotiation and operationalization (or post- negotiation) (Young, 1998, pg. 97). Young states that phases can easily overlap, being sometimes hard to identify them separately. The stages complexity nature provides the overlapping, where in most of cases, they need to go forward and backwards openly. Therefore, institutional bargaining has means in the past, present and future. Overlapping is not an obstacle to the process it actually constitutes the dynamic of international regime formation. “The political dynamic is an evolutive and non-static one having the process an atmosphere of openness and fluidity. (Young 1994, pag.3)

Pre-negotiation or agenda formation – begins when an issue goes beyond national border into the international arena. Then the issue becomes relevant to the international community, which starts to make efforts and claims for resolution. This process can be voluntary when states or actors bring the issue forwards inside the international scenario; or the issue can gain international attention through some large scale event such as a war (Young, 1998, pg. 99).

This starting phase is central for the rest of the process because it involves the identification of the problem, or its redefinition (finding underlined issues) by states and actors. In order to guarantee the problem definition some elements must be composed alongside the agenda formation stage, which Young calls as indicators: actors, driving forces, context, collective- action problems, tactics and design- perspective (Young, 1998, pg. 97/100).

Actors are the figures involved directly in the regime formation process, and they can be states, police makers, NGOs, national institutions and influential individuals groups. Inside the regime formation process they form what Young call as intellectual leadership because they retain influential decision power in the process. Usually, a regime formation involves a multicuity of actors and by consequence a single issue can end being advocated by different international and national actors with different views of concepts and resolution of it (Young, 1998, pg. 100).

As said above, issues are able to get into many different agendas. They accomplish that through driving forces. Driving forces mean all material conditions, ideas and interests carried out by actors such as burocracts, public officials, or any other form of intellectual leadership. Driving forces are very powerful in the agenda formation stage because actors are driven by different ideas and interests and therefore, each different actor end up reshaping the issue, sometimes broadly or sometimes slightly (Young, 1998, pg. 99).

The diversification of opinions between actors is good for the next stage of negotiation. However, at the agenda formation stage the intense diversification of opinions can be an obstacle when generates misunderstanding and difficulty to structure the issue (Young, 1998, pg. 98/100).

The above problem can be overcome by a good articulation of the collective-action problems. Young, adopting a Cognitivists view portrays the importance of social factors through collective-action problems. For him, it is vital that good and clear communication is present in order to avoid misunderstanding between actors. A clear communication involves problems of language and clarity when exposing ideas and interests. Also, through a clear communication parties will ensure trust and confidence along the agenda formation stage, ensuring by consequence the continuation of the regime formation process (Young, 1998, pg. 99) (Young, 1994, 109).

In order to guarantee clear and good communication among actors and also to make a better political environment to settle issues, it is necessary to resort to the use of tactics. Tactics mainly refer to political strategies used by actors to manage the interaction of Young`s indicators throughout the regime formation stages. Tactics or strategies will differ mainly in culture and political aspects (Young, 1998, pg. 101). A good point is that actors can assume other actors strategies just by acknowledging cultural and political perspectives in order to enhance the agenda formation phase.

Also, a design-perspective is desired. The design- perspective represents the goal or desires of actors along the agenda formation process, meaning what they want to achieve in the end of this phase. Players must focus in forming “the big picture” of issues in order to achieve their common goal. Also, actors must put “aside” or “on hold” some small issues and also their own political institution formal position to embrace a more broad open perspective (Young, 1998, pg. 101). Actually actors have increased chances to achieve own interests along the whole process of regime formation if in the agenda formation phase they accept to first address “the big picture”.

To conclude, agenda formation is an open process involving efforts to define the basis and nature of the problem (Young, 1998, pg. 97). With no doubt political action will picture the issue demonstrating the essential political context of the agenda formation process. So, the indicators above will be influenced by the context in which the issue exists. Changes and shifts in the political environment can both lead to dispute resolution or dispute increase.

Negotiation –Young emphasises negotiations as a hard bargaining process where the goal is to reach contractual terms, represented by institutional arrangements. Negotiation ends with the signature of an international agreement, e.g. a treaty (Young, 1998, pg. 11). Contract here is an open term to many forms of international legal documents (Young, 1998, pg. 12)

The contrarianism mode of the negotiation stage can be illustrated by Young’s hypothesis:

- a) Issues at stake lend themselves to treatment in a contractarian mode - here, the emphasis is upon: an integrative bargaining, the veil of uncertainty, and consensual rules/agreements (Young, 1994, pg. 107);
- b) The availability of arrangements that all participants can accept as equitable is necessary for institutional bargaining to succeed (Young 1994, p. 107) - equity is the keystone. Equity involves a general feeling that parties have their own interests treated fairly. So, equity deals with “satisfaction” about the process itself and parties own interests. Although, there is no model of equity, once it deals with human affairs, there are some community standards identifiable inside culture behaviour;
- c) The identification of salient solutions (or focal points) desirable in simple terms increase the possibility of success (Young 1994, p.109) - salience must be based on clarity and simplicity. There are two aspects: 1- legal language is most of the time doubtful, legal terms are vague and in most cases can fit more than one interpretation; 2- language can also be an obstacle when parties have not the same mother tongue.

However, Young emphasises that there can exist informal deals or tacit agreements between parties, meaning that international regimes can acquire informal elements as any other social institution where practice is the key element (Young, 1998, pg. 11).

Negotiation is a structured phase where from beginning the identity of the players is defined, the rules of the game are clarified to participants and the issues to be addressed are also clarified (Young, 1998, pg. 15). Actors will do their best to achieve any “leverage of bargaining that is available to them” (Young, 1998, pg. 13). Although creativity is the keystone in this phase, parties can not usually foresee the outcome of negotiations since it is an exploratory process. The objective of this stage is to set the regime formation process in motion, reach consensus among parties and settle winning coalitions (Young, 1998, pg 14). The objectives have the goal to frame the future contract or institutional arrangement.

To Oran Young this phase is essentially of a political nature and also clearly embedded in neoliberalism thoughts and once again Young uses the indicators as explanatory tools (Young, 1998, pg. 15).

Actors are mainly represented by entrepreneur’s leadership who has political skills to develop coalitions around the negotiation text acceptable to all parties (Young, 1998, pg. 15). In this phase, actors confront the two level games where they have to make political acceptable deals to suit opposite interests they have to support, e.g. public x private; local x regional interest, national x individual groups, and etc. therefore, it is easy to identify that Driving forces are in the direction of the “best agreement” that players can achieve to ensure a general consensus and also their own interests.

So, during negotiations actors will deal with two problems: the two level game and to ensure winning collisions. The communication or Collective –action problems is represented in the game (theory) during negotiation. Actors` skills must avoid at any cost a gridlock situation, where negotiations will simply stop. Parties must be aware that reaching the “next step” is fundamental to the whole enterprise of regime formation (Young, 1994, pg. 105).

Once players are usually more comfortable in this phase, they tend to make use of their own personal tactics skills to ensure a secure agreement. They will make use of “credible commitments” to ensure negotiation flowing. Committal tactics actually set room for hard bargaining and usually incorporate promises and threats (Young, 1998, pg. 16).

The context is a political one. Politics will be the environment in which issues develop and reach definition. Young set some hypothesis for successful when: d) the probability of

success in international bargaining rises when clear and reliable compliance mechanisms are available (Young 1994, p. 110) – soft-law problems. Most important is to have transparent rules for all. The sense of compliance must be easy to verify and to police. And: e) Exogenous shocks or crises increase the probability of success in efforts to negotiate the terms of governance systems (Young 1994, p. 111) - outside factor as political, social, economic and culture environment plays frequently a significant role inside negotiations process.

The goal of the negotiation phase or the Design – perspective (or even the structural focus of this phase) is to maintain an ongoing and “open conversation” between involved parties towards a final consensual agreement. Actors have to have a clear goal inside negotiations to ensure that it does not stop for any sort of problem, and eventual bulks must be overcome using initial agreements. Negotiations must reach a contractual agreement (Young, 1998, pg 15/16).

Here Young have some hypothesis for success: f) Institutional bargaining cannot succeed in the absence of effective entrepreneurial leadership on the part of individuals (Young 1994, p. 112) - participants must be skilled in inventing new institutional arrangements and brokering the overlapping interests of parties concerned with a particular issue (the two level game). They must seek to gain for themselves in the form of material rewards or enhance reputation. There are real significance of multiple actors, consensual rules, integrative bargaining, problem-resolving activities, and transnational alliances and multivariate analysis.

Post-negotiation or operationalization– covers all necessary steps to bring life to the contract terms agreed upon within the previous phase. Although it seems an easy task Young states that formed regimes can collapse if something goes wrong at this stage (Young, 1998, pg. 15). Operationalization represents “all material and economic needs” of the recent created institutions to act and carry out their mandates (Young, 1998, pg. 16).

Operationalization is divided in two elements or two steps: domestic (is the bigger one, from paper to practice) and international (minimum apparatus). So, mainly there are international and national procedures to be carried out to complete the regime. Usually, contract terms demand more procedures from the national level than from the international one making the national step longer and more complex than the international step. The international element is represented by the fomentation that institutions need to be implemented, and also, some international administrative structure (Young, 1998, pg. 17). The national element is represented by ratification, implementation and local administrative

apparatus (Young, 1998, pg. 17). Those processes are more complicated and usually take much time to be implemented. Ratification is the legislative process to internalize international documents into the national legal system. The administrative power will have to provide the means to create the institutions related in the contract terms, providing the implementation of the international agreement. Locally, administrative departments will have to provide buildings, machines, personal to the new created institutions that will put into practice the international regime (Young, 1994, pg. 106/114).

Young's model here adopts a neo-realism view when emphasizing the importance of economic and material elements to conclude the regime formation. Once more, Young uses some indicators to analyse the operationalization stage of regime formation.

Driving forces into play are the contract terms. Contract terms allocate power when they distribute tasks among the actors. Also, contract terms allocate material resources represented by money investments. Fomentation is a vital driving force because it is the starting point to commence the whole operationalization stage. Actors are represented by structural leadership; they are the personal who will work from now on inside the institution created by the contract terms. Also, a structural leader is someone who will press the operationalization procedure forwards towards the end designed in the contract terms, e.g. to search for partnership (entrepreneurs) to help in the material and financial aspect (Young, 1998, pg. 16).

Collective-action problems are represented by the dialogue between the international institutions and national institutions. This dialogue should provide benefits and interaction between international and national institutions. National environment will be the context in which the international institutions will have to operate. Therefore, institutions must be always aware of the national scenario, bureaucracy and administrative structure. Actors must develop some local tactics to overcome those contextual barriers to have a good interaction with the national context.

Design- perspective is the multiplicity of unrelated elements. Meaning that operationalization ends when the international regime finally has passed into the domestic practice. The goal is to achieve some sort of regime absorption by the society; when the regime would be deeply rooted in the culture and social life of national and/or international communities (Young, 1994, pg. 106/114).

In order to provide a better clarification of Young's indicators inside the respective regime formation stage I present a graphic illustration.

	Driving-forces	Actors	Collective-action	Context	Tactics	Design-perspectives
Agenda Formation	Ideas are the main forces.	Intellectual and individual groups leadership	Clear Communication among actors	Political environment	Those will depend upon culture and political characteristics of actors	Forming a big picture of the issue
Negotiation	General consensus x individual interest	Entrepreneur's leadership	Two level Game theory	Political Nature	A Secure agreement is a keystone.	Keep the conversation open and always going on.
Operationalization	Contract terms and money investments	Structural leadership	Dialogue between national and international levels.	National political environment	Focus to overcome bureaucracy and administrative barriers	National and cultural absorption of the regime

1.4. Relevant Comments

Young's model is: "the most original and ambitious among his many contributions so far is a *model of regime formation*." (Hasenclever et al. 2002, p.68). It is an interested-based model because it shows selfish actors searching for realizing their own interests through collaboration. Hasenclever et al. says that Young's model has been successful when faced to empirical data. It actually showed an elevated degree of adroitness, leading to its fortification as a theory. However, the authors state also that Young's model still claims more elaboration (Hasenclever et al. 2002, p.77/82). Hopefully, my case study will also reinforce the adroitness of Oran Young's theory.

2. METHODOLOGY CHAPTER

In this chapter I explain and justify the methods I have chosen to write my thesis. I chose the Peruvian and Ecuadorian border conflict resolution of 1995-1998 as my case study. I decided to use Oran Young's International Relation regime formation theory to analyse the process of political and peaceful conflict resolution. Resuming, my work consisted in testing Oran Young's theory upon the Peruvian and Ecuadorian border conflict case.

In order to accomplish a good analysis I decided to make use of qualitative research. And using tools as textual analysis I intended to understand the process of conflict resolution and to find "general lines" for future similar conflicts.

2.1 Case study

Case study is a research method or strategy that: "tries to illuminate a decision or set of decisions: why they were taken, how they were implemented, and with what results (Yin, 2003, pg. 12/15).

The study of the border conflict between Peru and Ecuador is close to my personal interest and background as I come from Brazil. The case is about the peaceful conflict resolution process (a set of decisions) that settled the Centenary border dispute between the two South-American states through regime formation for good (implementation and results). The case is not the only one of its kind but has special nuances related to the South-American region.

Also, the Peruvian- Ecuadorian border conflict case is one example of an ongoing successful international regime formation as result of a peaceful conflict resolution process in South-America. The regime was not only successful to settle the border but it is still in place proceeding to improve political, economical and social integration/ cooperation between Peru, Ecuador and other South-American countries.

The Peruvian – Ecuadorian case study was born in the international arena through regional theories of the 19th century Independence era of South-American states. Along the 188 years of border conflict, other states than Peru and Ecuador, e.g. Spain, USA and Brazil were always participating on the conflict as third parties.

The application of international relation theories and ideologies such as international regime formation and globalization guided parties towards conflict resolution. Therefore, I deliberated "wanted to cover contextual conditions – believing that they might be highly

pertinent to my phenomena study” (Yin, 2003, pg. 13). And: “Phenomena and context are not always easily distinguishable in real life-situations” (Yin, 2003. pg. 13).

Therefore, I needed an International theory to understand the case. According to Yin theory development is an essential part of design phase (Yin, 2003, pg. 28). Theory defines the appropriate research design and data collection, becoming the main vehicle for generalizing results (Yin, 2003, pg. 33). However, instead of developing my own theory, I chose to make use of Oran Young theory and his theoretical hypothesis for a successful international regime formation contained in the book *International Governance: protecting the environment in a stateless society* of 1994 (Young, 1994, pg. 104/111). Oran Young`s theory is interesting because it diverges from mainstream International Relations Theory. His theory adds new elements to the main theories and elaborates a model for a successful regime formation.

According to Yin case studies are used to contribute to our knowledge related to individuals, groups, organizations, social, political phenomena (Yin, 2003, pg. 1). Yin points out that case study supplies the research desire to understand the complexity of social phenomena, allowing the researcher to grasp the holistic and meaningful aspects of real-life (Yin, 2003, pg.2). That was exactly my priority goal: to analyse the Peruvian- Ecuadorian case in order to understand an international political phenomena in its complexity through a holistic and real-life perspective.

Case studies are not an easy task for qualitative researchers. A case study can provide the student with potentially enormous historical data. The analysis of a case study such as this one demands that the student observes and makes use of the historical background scenario in order to a social science historical understanding that justifies how the particular case study was created (Evera, 1997, pg. 4/5). Social science methodology should take in consideration historical events to provide understanding of state policy and policy makers` decisions (Evera, 1997, pg. 5). The Peru and Ecuador border dispute case study provided me with all the cited opportunities.

2.2 Qualitative Research

Qualitative research has the “ability to study phenomena which is simply unavailable elsewhere” (Silverman, 2003, pg. 43). Qualitative research provides more than simple operational definitions to phenomena. It can through contextual sensitivity put together many

phenomena to show a broad picture (Silverman, 2003, pg. 43). Qualitative methods will enable you to understand the meaning of events in a social context (Gillham, 2005, pg. 10).

Since I was analysing at the international level a broad picture was necessary to be able to link many phenomena that constituted the whole process of conflict resolution. Only a qualitative approach could give me the insights I needed to search for meanings. A qualitative approach would also provide me the possibility to reach “modifications” to a theory, or different results from those already existing in literature (Gillham, 2005, pg. 10).

A Qualitative approach was also most appropriate in terms of the research questions raised and available data. I had in hand lots of political, economic and international relations information, but I was able to find only some numerical data corresponding to the budget of the war and the costs of the war during the 188 years of conflict. Also, my data did not provide me with numbers or variables to evaluate political decisions that shaped the conflict resolution process in qualitative terms.

A qualitative approach would enable me: a) to explore the complexities that are beyond the scope of other “controlled” approaches; b) to get under the skin of a group or organization to find out the “informal reality” perceived only from inside; c) to have an inside view of the case; d) to carry out the research into the process leading to results (Gillham, 2005, pg. 11). In my case study this meant: a) to explore the complexities of a South-America international relations; b) to understand the hidden dynamics and interests behind the border conflict; c) to have a broad x particular view of the case; d) to analyse events in order to search for general guidelines for future similar border conflict.

So, I realised that my research question (referring to political and international contexts), the analytical approach (Young`s theory of international regime formation) and the available data (political, economic, international literature) was best suited for a qualitative approach.

2.3 Textual analysis - a method

I chose to make use of textual analysis of literature and treaties as an analytical tool or method. First I need to clarify what kind of method textual analysis is? According to McKee textual analysis is an “educated guess” of the most likely interpretation inside the texts (McKee, 2003 pg 3). The interpretation of texts, books, articles have the purpose of understanding a particular case in a particular time line, in a particular society. Therefore, it is possible to see a variety of ways in which we can interpret reality (McKee, 2003, pg 3).

Silverman also defines texts generally (primary sources) as: “data consisting of words and/or images which have become recorded without the interference of a researcher” (Silverman, 2006, pg. 153). Silverman highlights how written text underlines the character of qualitative data (Silverman, 2006, pg. 153).

Silverman talks about the possibilities to use texts as the topic not only as sources from a constructionist point of view. He states that usually texts are used as a background and how researchers use to privilege the accounts of people over the written data. He concludes that it is wrong to disregard texts and that qualitative researches make too little from rich texts, and there are several scientific relevant reasons to analyse such data. (Silverman, 2003, pg. 157; 194):

- 1- Richness – close analysis of written texts reveals presentational subtleties and skills;
- 2- Relevance and effect – texts influence how we see the world and the people in it; e.g. advertisements;
- 3- Naturally occurring – texts document what participants are actually doing in the world without being dependent on asking a researcher;
- 4- Availability – texts are usually readily accessible and not always dependent on access or ethical constraints. They maybe quickly gathered they encourage us to begin earlier the data analysis.

And Hart presents other few reasons (Hart, 2001, pg.3):

- 1- help you to identify the work already done or in progress that is relevant to your work;
- 2- help you to avoid some pitfalls and errors of previous research;
- 3- Enable you to find gaps in existing research, thereby giving you a unique topic (Hart, 2001, pg. 3).

My case study deals with political decisions taken inside the highest government cupola. The peaceful process of conflict resolution had the participation of states presidents, ambassadors, senior military personnel and high administrative personnel. The international arena of my study was easier accessed by texts than by personnel contact, since government positions change from time to time. But, the texts that documented the whole process were still there for research.

There are four main methods for textual research: content analysis, analysis of narrative structures, ethnography, and membership categorization device analysis (Silverman, 2003, pg. 195).

The case study of the border conflict between Peru and Ecuador is a long story. I had to have in mind that my data was composed of documents encompassing the time line from when the border conflict arises in 1810 until it is solved in 1998. After reading my data I came to the conclusion that despite my intentions of discussing and analysing the international regime formation of 1995-1998 as a result of a successful and peaceful conflict resolution; to achieve that goal I had to tell a longer story.

Propp and Greimas argue that the narrative form is essential to all story- telling. The structure of a narrative has the objective to persuade the reader (Silverman, 2003, pg. 165/167). Therefore, the narrative fitted my kind of analysis which is a historical account, but at the same time trying to support facts with a theoretical analysis to understand what drove events leading to a regime formation.

My thesis structure would have to involve two essential characteristics: 1- events that lead to the conflict resolution of 1998 followed a time line; 2- events followed the three steps of a regime formation. Therefore, along my work I tried to combine as better as I could these two important aspects in order to give a good analytical structure for developing thoughts and conclusions.

2.4 Sources – primary and secondary

According to Thody literature includes “all secondary sources for your research such as printed texts, film, audio tape, presentations and lectures, archival sources, legislation, websites and etc” (Thody, 2006, pg 89).

My next step was to read, analyse and extract the best from my data. I soon realised that the amount of literature I had demanded me to be extremely observant. The task was to try to figure what lied underneath the texts tracking 188 years of border conflict. Therefore, I tried to contrast one opinion with a different one, or with a similar one, trying to pinpoint what was really important and what were mere personal opinions.

Criticism was my main guideline when reading my data (Thody, 2006, pg. 98). I read the literature with a critical eye intending not to accept one truth but allow for many possible answers to the facts that created the border conflict and those which led to its resolution in 1998.

I had in mind that the most interesting documents of this case study for me to work with would be official internal documents produced by state representatives during the negotiation sections from 1996 to 1998. I tried to get access through internet, libraries and official departments. Unfortunately the answers were always the same: top secret classified documents can not be released to open public.

However, I could gather other sorts of primary sources. My primary sources are mainly official documents that were accessible to the public. I managed to access: treaty texts, two letters to the League of Nations (League of Nation Official Journal, December 1938), two official texts from Brazilian ex-ambassadors (Cannabrava, 1999/ Biato, 1999) and one document from the Ecuadorian foreign ministry (El Problema Territorial Ecuatoriano-Peruano, 1995).

I was also able to find a good range of data at the Tromsø University Library. But, the material was a bit too limited. The texts were old, e.g. 1939, and mainly from European scholars. Since I come from Brazil I could recognize some missing regional and cultural links to understand events that were simply neglected by European scholars. In order to develop my discussion I had to grasp these regional views and feelings about political decisions in South-America. So, I decided to go on field work in June of 2008.

My case study deals with six countries: USA, Brazil, Argentina, Chile, Peru and Ecuador. Being Brazilian I had no problems going to any of those states concerning visas or language. But the problem was time and budget to go to all of them. I had to decide for one of them.

It would be hard to point out which state had the most important participation in the conflict resolution process. But, Brazil had an immense participation in the whole Peruvian and Ecuadorian conflict resolution process. It was present since 1910 to 1998. Also, Literature highlights the importance of the Brazilian president Fernando Henrique Cardoso and the Brazilian ambassadors in the international regime formation of 1998 that settled for good the border dispute (Cannabrava, 1999, pg. 1/2). Those facts and a dose of pragmatism made my decision to go to Rio de Janeiro.

The Rio Protocol of 1942 were negotiated and signed in Rio. Rio was the capital of Brazil until 1960 and the most important libraries are settled there. Although the capital was transferred to Brasilia, still many federal departments are in Rio.

Before leaving to field work I had researched about Brazilian scholars whom have written about the Peruvian-Ecuadorian border dispute. I e-mailed university professors and the foreign relations Rio –office to make appointment for interviews.

I find out that most of the official personnel that worked with the negotiations of 1995-1998 were retired. The ones left on duty were inaccessible for me. I only got negative replies for my requests. I decided then to limit my search to written texts. I went to the Court House Library and Universities Libraries where I could find a large amount of interesting data. Until I left Rio none of my attempts to contact people related to the conflict resolution process succeeded. In particular special government personnel were very kind but refused to receive me with many excuses.

When I returned to Norway in July I tried once more to contact people by e-mail. Again I failed to make contact. Therefore, my intentions to gather data through interviews had to be put aside.

In the end of my field work I had lots of literature from European, North- American and South-American scholars. Also, I had a few texts from people who have participated in the conflict resolution process, e.g. an article from the Brazilian ambassador Ivan Cannabrava (Cannabrava, 1999). Even though, I was in doubt of my sources and thought it would not be enough to develop a good analysis, according to Hart that “a researcher needs to be completely familiar with your topic” (Hart, 2001, pg. 2). And to have a vast literature can be as important as to have a vast collection of first-hand data. The evaluation of the existing literature can reveal new insights and provide new information that can only be accessed by such a method (Hart, 2001, pg 2).

The multicity of sources proved to be very profitable material along my writing process. The possibility of facing primary sources with secondary sources along the analytical process provided me good explanations and new insights of facts.

2.5 Reliability and Validity of the data

After commencing the writing process I realised one problem: how could I trust my data? Am I being influenced by the facts or by the writer’s opinions? This problem is known by methodology as reliability, and Hammersley defines: “refers to the degree of consistency with which instances are assigned to the same category by different observers or by the same observer on different occasions” (Silverman, 2003, pg. 46).

Kirk and Muller argue that: “qualitative researches can no longer afford to beg the issue of reliability. While the forte of field research will always lie in its capacity to sort out the validity of propositions, its results will go ignored minus attention to reliability. For reliability to be calculated, it is incumbent on the scientific investigator to document his or her procedure” (Silverman, 2003, pg. 47).

Reliability implies also: “The objective is to be sure that if a later investigator followed the same procedures as described by an earlier investigator and conducted the same case study all over again, the later investigator should arrive at the same findings and conclusions” (Yin, 2003, pg. 37). The goal is to minimize errors and biases in a study (Yin, 2003, pg. 38).

In my case the problem of reliability was present because my sources were mostly secondary sources. How could I trust the texts without facing them with the “raw” material contained in the official documents that were denied access to open public? Therefore, all I had were scholars observations of the facts, and obvious that their observation came together with personal insights.

Silverman states that reliability problem does not only occur inside qualitative research, but can happen with quantitative research as well. Also, he implies that observing social events do not demand accurately tools because they are always in flux (Silverman, 2003, pg. 46).

I had to develop a way to verify reliability of my data. Since all that I had was documents I sought reliability by data triangulation, meaning crossing my data and comparing many different sources. I sought to base my propositions in more than one source. Eventually, I found out that all information pointed to the same answers, or direction, or conclusions. So, after taking deep consideration about my finding I could realise two possibilities: 1- or it is all wrong, all texts and literature; or it is right and I am going in the right direction. I really felt I was going in the right direction.

The validity critic refers that case study: “fails to develop a sufficient operational set of measures and subjective judgments are used to collect data” (Yin, 2003, pg. 35). The solution is to always use a vast range of sources – “multiple sources of evidence in a manner to convert lines of Inquiry” (Yin, 2003, pg. 36).

Also, external Validity refers to: “knowing whether a study` s findings are generalizable beyond the immediate case study” (Yin, 2003, pg. 37). Critics say that a single case study offer poor bases for generalization. Yin concludes that this statement is incorrect because case

studies rely on analytical generalizations not statistical generalizations as surveys do (Yin, 2000, pg. 37). Yin states that theory must be replicated in other case studies being able to produce the same results.

Validity relates to the truth of explanations. Silverman states that many qualitative researches do not properly compare their case study with similar cases with opposite results. This is a consequence of the extended immersion in the field demanded for qualitative research or that the researcher chooses telling the “best” examples (Silverman, 2003, pg. 47).

Another problem I faced was: how to deal with a single study case. Yin advises that multiple case studies are always better than a single case study (Yin, 2003, pg. 53). He also says that a multiple case study gives the researcher with an immediate possibility for replication (Yin, 2003, pg. 53). Yin remarks that single case studies are characterized by its uniqueness, but that also can be a problem of justification (Yin, 2003, pg. 55).

The Peruvian- Ecuadorian border conflict has the uniqueness aspect cited by Yin, and along my data collection it proved to be justification enough. First, I could not find any mention in texts about a similar case in South-America. On the contrary, only references to how peculiar and unique the Peruvian- Ecuadorian border dispute was (Herz, 2000, pg. 10). The uniqueness of the case is based on its regional features. That made extremely difficult for me to find a pattern for comparison with another peaceful conflict resolution cases in South-America.

Also, my case study represents 188 years of history, in which there were many failed attempts to accomplish a border settlement. Many treaties, negotiations and international regimes between Peru and Ecuador came before the Global and Definitive Peace Agreement of 1998. However, there is the possibility to find “general lessons from a single incident” (Gillham, 2005, pg. 101). The study case presents many general lessons of how international institutions can be used as a tool for peaceful conflict resolution.

As Gillham affirms: “institutions direction and achievements or failures can be illuminated by a case study of the process of change, of decay or improvement” (Gillham 2005, pg. 101).

Resuming, I intended to apply a theoretical model to a case study with the goal to search for generalizations. Not simple generalizations, but generalizations that can and should guide similar cases to have the same end.

3. HISTORICAL BACKGROUND CHAPTER – THE CONFLICT CONTEXT

The Peru and Ecuador border dispute is one of the most long-standing in history. It involves no less than one hundred and eighty eight years of dispute from 1810 to 1998. A historical background is illustrative to understand the nuances and shapes that the conflict took along the years.

This chapter will also demonstrate the beginning of the border conflict. How the issue was first delineated by both Peru and Ecuador; meaning based in what sort of claims the conflict was first internationally raised. Geographical features of the strife region will be presented because they relate directly to the Ecuadorian and Peruvian claims through time. Also, there is the purpose to identify the strategic, political and economic interests of Peru and Ecuador to the region.

3.1 Characteristics of conflict resolution in South- America

It is very common to stress the success and effectiveness of the conflict resolution process between Peru and Ecuador of 1998 (Cannabrava, 199, pg. 1). However, it is often forgotten to stress the great importance of context in which the conflict took place. South-America is the international context inside which the border conflict between Peru and Ecuador emerged, evolved and was solved. So, this section has the goal to provide some knowledge, and also show some examples, about the pre-existing regional institutions in place and especially how they work to achieve conflict resolution.

South-America has developed a regional style when dealing with local international conflicts. This style evolved historically and led to a tradition among the states of peaceful intervention as third parties. Usually states have many options of intervention procedures in helping to settle down disputes as third party: a) bilateral diplomatic negotiations, b) good offices, c) mediation, d) commissions of Inquiry and e) arbitration (Simmons, 1999, pg. 6). South-American traditions were so solid at the beginning of the 20th century that they got codified inside the Bogotá Pact of 1948⁷. An interesting fact is that during the 19th and first half of the 20th century, it was preferable between South-American states to solve disputes resorting to arbitration (Simmons, 1999, pg. 7).

However, more recently that preference had diametrically changed. Nowadays, it can be clearly identified a new South-American tendency of disregarding strict and codified

⁷ This pact is practically inoperative because of the great numbers of reservations made by the signatories and the small number of ratifications (Trindade, 1984, pg. 21). What characterizes the disregard for positive pre-settle conflict resolutions methods.

procedures to emphasise flexible methods more adequate to the concrete case (Trindade, 1984, pg. 20/22). To follow positive pre-settled methods is not so important anymore, but to use a method able to address the issue and achieve peaceful conflict resolution.

So, a central aspect of the South-American intervention tradition involves a status of “belonging to the same region” idea, where neighbours are the ones most capable and suitable to intervene through good offices and mediation. Between 1945 and 1974, 162 boundary conflicts occurred among South-American neighbour states, most of them counted with intervention to provide conflict resolution⁸ (Trindade, 1984, pg. 6). Those interventions were voluntary, in most cases, meaning that the third party instead of being asked to intervene ends up asking voluntary to be involved.

It is crucial to differentiate lines between the third party intervention tools before going forward. First of all, mediation and good offices are diametrical different from arbitration. Arbitration is a public and legal procedure with pre-established rules. The negotiation between the parties can occur with or without third parties, and it has a pre-hand schedule (Aleixo, 2000, pg. 129). Also, at arbitration the figure of the judge is very present, but in mediation and good offices the “judge” simply disappears to give place to the “mediator” (Aleixo, 2000, pg. 123).

According to José Carlos Aleixo it is very hard to define a clear distinction between good offices and mediation. Jorge Pereira Basso affirms: “the good offices and mediation has in common the pacific intervention of a third party... (...). The main difference is that mediation offers a concrete solution for the conflict, while good offices do not⁹ (...) (Aleixo, 2000, pg. 124-125). Also, Aleixo presents Hoijer `s differentiation saying that mediation is: “the act though one or more states accept to intermediate officially one negotiation with the goal to reach a pacific solution between two or more states”; while good offices are: “one third party looks for open communication channels with no much engagement in the resolution” (Aleixo, 1995, pg. 304).

⁸ The mentality of finding individual and particular solution instead of just applying pre-handed international mechanisms.

⁹ “Les buenos oficios y la mediación tienen como rasgo común la intervención de un tercero en la solución pacífica de un conflicto internacional. Este tercero puede ser un estado, una organización internacional, o una personalidad eminente. Ahora bien, entre los buenos oficios y la mediación existe una diferencia de grado. El carácter predominante de la mediación radica en que el mediador propone una fórmula concreta de solución del conflicto, mientras que eso no sucede en los buenos oficios. Aquí simplemente quien los ejerce busca lograr el acercamiento de las partes con el objeto de que por sí solas lleguen a una solución satisfactoria del diferendo. (Aleixo, 200, pg. 124).

Inside the mediation process is important to count on creativity, the work of historians, politics, economists, psychologists and other professional opinions because they are decisive when it comes to understand the problem (Aleixo, 2000, pg. 138). The mediator usually does not participate in the final decision, but as an exception we find Peru and Ecuador border conflict case.

Another characteristic of those kinds of interventions is that negotiations usually occur abroad the conflictual states. Mediation and good offices are very slow forms of conflict resolution, and studies have proven that it takes a lot of time to achieve a solution, even partial ones, e.g. the Peru and Ecuador dispute took almost four years of negotiations, from February of 1995 to October of 1998. However, that fact does not impossibility the parties to settle an agenda to be followed (Aleixo, 2000, pg. 127).

Most of the critics are raised around the efficiency of the mediation and good offices as good conflict resolution methods (Trindade, 1984, pg 8). Statistics of worldwide studies showed that between 1945 and 1971, only in 50 cases of conflict based on territory, was negotiation successfully applied (Trindade, 1984, pg.8/11). However, South-America has examples of successful mediations, e.g. a) Vatican state over the Beagle Canal conflict between Argentina and Chile; b) The Costa Rican, Guatemalan and Nicaraguan Chancellors work during the El Salvador conflict; c) The Peruvian juristic Bustamante during the El Salvador conflict. Definitively, mediation and negotiations are statistically optimal instruments to deal with problems when the issue is sovereignty (Trindade, 1984, pp. 8/11).¹⁰

Direct diplomatic negotiation has also had its share of success in South-American conflict resolution. It worked in the cases of: a) Argentina and Uruguay over the Prata River; b) Brazil and Argentina over the Paraná River; c) and USA and Panama over the canal regime.

After analysing the particularities of the South- American conflict resolution tradition, it is easy to see why the four guarantors: USA¹¹, Argentina, Chile and Brazil got intimately involved in the Peru and Ecuador territory dispute. It is also possible to understand the degree of involvement and commitment of the Rio Protocol four guarantors: solving the conflict without outside intervention (UN, international organizations and etc.) represented to South-American nations a way to show self- capacity to solve their own problems; showing enough political development as well established democracies.

¹⁰ See Table in the end of this section.

¹¹ Despite USA is not a South-American country during 1998 it played by the South-American rules.

The border dispute between Peru and Ecuador happened inside a scenario of South-American pre-established conflict resolutions institutions. To illustrate some South-American border conflicts and their resolutions, I present the following table.

1. Cases of no dispute

Argentina/Uruguay
Brazil/Venezuela

Brazil/Guyana

2. Disputes settled/handled through negotiation
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Argentina/Bolivia	1872-1925	Guyana/Suriname	1975-1995
Argentina/UK	1820-1995	Bolivia/Brazil	1837-1925
Brazil/Colombia	1826-1937	Bolivia/Chile	1858-1995
Colombia/Ecuador	1830-1916	Bolivia/Paraguay	1825-1938
Colombia/Nicaragua	1890/present	Brazil/Paraguay	1860s-1932
Colombia/Peru	1822-1933	Brazil/Peru	1821-1913
Brazil/Uruguay	1825-1995	Colombia/Panama	1903-1924

3. Cases involving authoritative third-party rulings

... In which the parties complied with the ruling:

	Dates of dispute	(ruling date)	by	“loser”	Comments
Argentina/Brazil	1858-1989	(1895)	U.S.	Argentina	
Argentina/Chile	1872-1903	(1899)	U.S.	not clear	Los Andes
Argentina/Chile Argentina	1847-1966	(1966)	UK	Chile	Palena sector/70% to
Argentina/Chile	1847-1994	(1994)	regional	Chile	Laguna del Desierto
Argentina/Paraguay	1840-1939	(1878)	U.S.	Argentina	
Colombia/Venezuela delayed 25 years		1838-1932 (1891)	Spain	Venezuela	compliance

... In which the parties did not comply with the ruling:

Comments	Dates of dispute	(ruling date)	by	rejecter	
Argentina/Chile 1984.	1847-1984	(1977)	UK	Argentina	Beagle Channel, settled
Argentina/Chile rejected	1847-1994	(1902)	UK	Chile	awards in 4 sectors; 2
Bolivia/Peru concessions	1825-1911	(1909)	Arg.	Bolivia	resolved by Peru’s
Chile/Peru	1881-1929	(1924)	U.S.	Peru	re: holding of a plebiscite

Ecuador/Peru deters ruling	1842-1998	(1910)	Spain	Ecuador	non-compliance threat
Ecuador/Peru 1960	1842-1998	(1945)	Brazil	Ecuador	initially accepts; rejects in
Guyana/Venezuela arbitration	1951-present	(1899)	U.S.	Venezuela	rejects UK/Venezuela

3.2. The Peruvian and Ecuadorian border conflict history

The dissensions between Peru and Ecuador started in the Colonial period. As it is known at the colonization time both Peru and Ecuador were Spanish colonies; those countries had then other names and dimensions. Ecuador was a part of the Viceroyalty of Gran- Colombia while Peru was the Viceroyalty of Peru (Maier, 1969, pg.27).

Spain used to regulate matters as territory through Royal Cédulas. There was no scientific method, nor cartography instruments, nor real interests when it came to territory division. After all, territory divisions actually had only administrative purposes since all belonged to the Spanish Kingdom (Maier, 1969, pg. 28).

During this period the disputed area moved back and forth between Peruvian and Ecuadorian hands, creating the first “dispute feelings” between the Viceroyalties. Those changes delineated the first claims for boundary dispute¹². Despite the uncertainty of facts, it is known that most part of the strife territory (Maynas = Iquitos city) has always been under occupation of the Viceroyalty of Peru¹³.

After Colonization the disputed area got more clearly defined. It enclosed three regions: Tumbes, Jaén and the Oriente, summing approximately around 3,242 square miles of territory (Maier, 1969, pg. 28). The oriente (orient) was the Maynas province and it had approximately 100.000 squares miles, having a triangular shape, formed by the headwater of the Amazon tributaries on the west, the Inapurá River on the north and the Chinchipe- Marañon River on the south. Tumbes was a desert of approximately 500 squares miles on the Pacific board between Tumbes and Zarumilla Rivers. Jaén was less of 4.000 squares miles laid on the eastern side of the Andes Mountains, between the Chinchipe and Huancabamba Rivers (Woolsey, 1937, pp. 98) (St. John, 1977, pg. 322).

¹² Cédulas of 1563, 1717, 1739, 1740 and 1802. (Maier, 1969, pg. 33/34; pg. 37).

¹³ According to documents from the USA Peace Institute, history seems to prove that expeditions to the Amazonian region had always started in Lima, being Quito only in the way to the final destiny.

However, since that time there were already navigation difficulties. It was difficult to navigate up river from Lima, and impossible to navigate to the Amazonian basin from Quito because of the Andean Mountains (Biato, 1999, pg.241). Controlling this specific region represented numerous advantages because through the Amazon and its tributaries one could cross the Continent from the Pacific Ocean to the Atlantic Ocean.

Actually, geographical lines provide a natural boundary between the countries. The Andean mountains and the desert make a natural border in the orient part; while in the occident part, the Amazonian basin and the Marañón River make another. Those natural lines defined occupation, making Peru much more present than Ecuador in the region (Biato, 1999, pg. 241).

The independency era did not overcome the territory dispute. Independency was a period of getting free of all Spanish rules and bounds, including the territorial divisions. So, many border wars occurred in that time. That made the Independency era very interesting considering the solutions found to avoid the proliferation of border disputes. The intention was to prevent an era of fratricidal behaviour between South-American nations. Therefore, new South-American republics were constructed upon two doctrines: *uti possidetis juris* (a provision of the Bogotá Treaty of 1811), and self-determination (Maier, 1969, pg. 36).

Uti Possidetis was a regional rule of international law where new formed republics agreed to maintain the boundaries as they were before in the colonial times (St. John, 1977, pg. 323). However, self-determination¹⁴ was also accepted and every province could attach itself to the republic that it could more identify to.

Therefore, the Independency doctrines relied on people decision to choose to which republic they would please to belong to. According to Maier, that happened to Maynas, whom has always considered itself as part of Peruvian territory (Maier, 1969, pg. 36).

Another important point lays on two different interpretations of the *Uti Possidetis* doctrine at the time. According to *Uti Possidetis Juris (or Jure)* the borders shall be exactly as they were drawn by Spanish cédulas (Ecuadorian position); while to *Uti Possidetis facto* held for boundaries according to real and continuous possession of the provinces and regions (Peruvian position) (Simmons, 1999, pg.4).

¹⁴ It is crucial to mention that the principle was not legitimized in any international instrument. The Elites who made the independence and the creation of the new republics needed to build a system that would not fall in the face of territorial revisionism or even resist to other kinds of colonization from other power, e.g. USA (Herz, 2002, pg. 23).

Although the South-American international doctrine of the Independency period seemed to work fine to other similar cases, the imprecision and vagueness of old documents, made it impossible to settle the boarder between Peru and Ecuador (St. John, 1977, pg.323). Georg Maier points out another different interpretation of the principles assumed by Peru and Ecuador. Peru stated that the doctrine was post-independency and Ecuador stated that the doctrine applied prior to the independency (Maier, 1969, pg. 37) (Biato, 1999, pg. 241).

It can be said that this doctrine will be crucial for the dispute because Ecuador will plead until 1995 the region based on the treaty of 1829 and Royal documents from the Colonial times – *a de jure* right-, while Peru will rest its claims a self-determination principle based on its effective colonization and occupation of the region – *a de facto jure* (Woolsey, 1937, pg. 98).

It is important to understand the string that pulled the independence era in South-America. South- American new republics besides facing the usual problem of liberating from the Spanish Empire domination; also had to face the task to unify a vast and unexplored territory (Herz, 2002, pg. 22). Politically, territory was the main element of sovereignty; this link only grew with time, and shaped the notions of nationalism in both countries (Herz, 2002, pg. 24). That explains why Peru and Ecuador did not want to accept any sort of territory loss.

Also, the growing hostility between the countries was due to the scientific regional exploration in the 19th century that disclosure many great natural and economic resources as: rubber, oil, gold, fishery, and bio-diversity in the Amazonian forest (Bowman, 1942, pg. 758).

The following period was characterized by the consolidation of the new republics. However, in 1829 the dispute intensified and the first war broke out in the region. After the war, in which Colombia (which Ecuador was part of at the time) was a winner, the Guayaquil treaty was signed.

The treaty recognized as the boundary the ancient division between the Viceroyalties of Gram- Colombia and Peru. The flaw of the treaty was to merely specify a procedure to be followed instead of defining the boundary (St. John, 1977, pg. 325)¹⁵.

¹⁵ An important provision gave rise to Ecuador claims until nowadays, Article V provided that: “both parties acknowledge as the limits of their respective territories, those belonging to the ancient Viceroyalties of New Granada and Peru prior to their independence with such variations as they deem it convenient to agree upon...” (Maier, 1969, pg. 37).

Also, according to Georg Maier, the treaty of 1829 lost its validity due to three factors: it had no definitive statement of the boundary; one party of the treaty ceased to exist when in 1830 Colombia was separated into Venezuela, New Granada and Ecuador; the treaty was superseded by the treaty of July of 1832 between Peru and Ecuador (Maier, 1969, pg. 38/39).

In South-America from the 1900 to the 1940 many treaties between countries gave a different shape to all borders (Woolsey, 1937, pg.331). However, the hostility between Peru and Ecuador remained during this time resulting in approximately 34 episodes of confrontation over the Amazonian region (Woolsey, 1937, pg. 332).

One of the skirmishes in 1941 took great proportions and led again to declared war. In order to settle for good the border dispute Rio Protocol was signed in 1942. The protocol represents the end of an époque and the starting point for the regime in order nowadays.

4. THE PERUVIAN – ECUADORIAN BORDER DISPUTE FINAL SOLUTION CHAPTER – achieving conflict resolution through a regime formation process.

The discussion chapter analyses the conflict resolution process in itself. The regime formation will be analytically divided in three stages: agenda formation (around 1990 to 1995), negotiations (1996 to 1998) and operationalization (1998).

4.1 Brief Comments on the Peruvian and Ecuadorian conflict resolution phases.

Oran Young states that the phases of a regime formation often overlap one another (Young, 1994, pg. 3). The border conflict between Peru and Ecuador is not different and the phases overlap so deeply that it is difficult to be precise when one begins or ends. I will, therefore, relate strategic events to the phases of regime formation, in doing so it will be easier to identify the steps of the conflict resolution process through regime formation.

Agenda formation is the initial phase of a regime formation. There were two agenda formation stages: a) right after the Peruvian and Ecuadorian war of 1941 ending with the Rio Protocol of 1942; b) after 1981 when new clashes happened in the border region. It is a peculiar long stage and it was framed by a special context of local and worldwide events such: sovereignty, cultural issues, international politics and economic interests.

Agenda formation is the phase where the actors are defined. Actor`s definition coincides with the third party intervention of USA, Brazil, Argentina and Chile. Therefore, the role of each actor was established by the position they assumed in the conflict.

The 1960`s, 1970`s and 1980`s were marked by the international disagreement about the validity and enforcement of the Rio Protocol regime of 1942. The intentions were to make clear that the conflict continued in the Cordillera del Condor area. Also, neither Ecuador nor Peru would give up such a profitable region without “fights”.

The ultimate point of the conflict revival was the Cenepa War of January of 1995. It was the main event to reallocate the border issue (to Cordillera del Condor) and to once again re-open negotiations between Peru and Ecuador.

The war ended with the Itamaraty Peace treaty of February of 1995 and some of the Rio Protocol provisions were invoked to re-start negotiations. The negotiation stage started in 1996 and lasted to October of 1998 with the signature of the Global and Definitive Peace Agreement. The operationalization of the new regime was a success and is still in place.

4.2 The Rio Protocol of 1942

The Rio Protocol was the first decisive event in the regime formation in the 1990`s, so this section intends to unveil its particularities. The Rio Protocol was a failed regime, but it provided many elements to the successful regime of 1998. Rio Protocol regime was the connecting bridge from failure to success.

The Rio Protocol precedent scenario discloses the formation of the actors' role. It unveils the alliance formed by third party intervention the Rio protocol. Going a little backwards in time, let us briefly review the Spanish arbitration. In 1889 Peru and Ecuador settled a new arbitration and elected the King of Spain as arbiter. Peru and Ecuador expected a rapid and efficient award but after more than 10 years of the King's delay, both countries started to erupt once again hatred feelings for each other (Zook, 1964, pg. 365/366).

Aware of the potential war between Peru and Ecuador, the secretary of the USA Philander C. Knox communicated to Argentina, Brazil, Ecuador and Peru on March 24, 1910 his intention in offering American services as a mediator, at the same time inviting the other three local powers to do the same (Zook, 1964, pg. 367). Following the South-American tradition of third party intervention in neighbouring conflict, the three countries accepted the mediation task by presenting official notes to Peru and Ecuador (Zook, 1964, pg. 368).

Here a special relationship or role between those five (six in 1942 when Chile got involved) countries was formed. This relationship was different from what we have seen before in Europe or even in South-America. All studies consider the alliance of 1910 as fundamental to the conflict resolution because it developed itself over the years providing the confidence building environment that was able to build trust and cooperation between Peru and Ecuador in 1995/1998 (Herz, 2000, pg.30).

After the Peace Protocol of 1924 negotiations were held during Washington D.C. conferences between the years 1936 and 1938. However, both Peru and Ecuador had the feeling that the conferences were totally unproductive; in fact, they only intensified the dispute (Biato, 1999, pg.241). Since no agreement was reached, there was a general feeling that the solution seemed further than ever, and finally in July of 1941 the most expensive and biggest war broke out in the Cenepa region (Herz, 2000, pg. 31).

In 5th of July of 1941 Peruvian arms conquered the provinces of El Oro and Lojas inside Ecuadorian territory. Ecuadorian president Arroyo del Rio surrendered after three months of war when the Ecuadorian army was defeat (Herz, 2000, pg. 34). According to Gabriel Marcella the war of 1941 was a "one-side" war because Peruvian forces invaded Ecuador

with 15.000 troops against only 3.000 Ecuadorian soldiers. (Marcella, 1995, pg. 5). The military of both states at that point assumed great influence in the conflict shaping ideas and inspirations¹⁶.

In October of 1941, Brazil, USA, Argentina and Chile (Chile was called by Ecuador to intervene in its favour), answering to South-American traditions, re-offered their services as mediators (Maier, 1969, pg. 43). The regime formation process started and a military operation was formulated to ensure peace and a demilitarized zone was negotiated; troops from USA, Brazil, Argentina and Chile were sent to the region (Herz, 2000, pg. 35).

Worldwide events, especially the Second World War, interfered greatly in the agenda formation stage, and they ended up shading the potency of the protocol. In the end little time was left to solve the border issue, especially considering the complexity of the case. Those reasons changed the “mentality” of the negotiators to put the situation “on hold” and focus on the real European enemy threat to the continent security¹⁷ (Klepak, 1998, pg. 73).

The international context urged for a rapid pacification of the American Continent. The new South-American cooperation habit established itself and worked fine between the years 1939 and 1945 (Klepak, 1998, pg. 24).

The negotiation stage occurred in a record time of only six months and ended with the Rio Protocol of Peace, Friendship, and Boundaries between Peru and Ecuador (lately known as the Rio Protocol) was signed in 29th of January of 1942 at the Third Consultative Meeting of the Ministers of Foreign Affairs of the American Republic at Rio de Janeiro (Klepak, 1998, pg. 18)¹⁸. The Rio Protocol portrayed an international and regional context that could carry to two paths: hope for a lasting settlement for the last-standing South- American conflict; or to corroborate existing controversies.

The Rio Protocol of 1942 preamble states:

“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 Argentina Republic, of the United States of Brazil, and of Chile, of their friendly services to seek a prompt and honourable solution to the

¹⁶ Those ideas and aspirations would drive to a strong reformist’s ideology of military dictatorship in the following decades (Marcella, 1995, pg. 5).

¹⁷ South-America was more occupied with other tasks: a) the Nazi and Fascist sympathizers from its territory; b) Andean states provided agricultural and mineral supplies to the Allies; c) European army, navy or special force from enemies (Klepak, 1998, pg. 23).

¹⁸ At the same Conference it was advised to American states to establish an Inter-American Defence Board and an Advisory Committee for Political Balance (Klepak, 1998, pg. 21).

program, and moved by the American spirit which prevailed in the third Consultative Meeting of the Ministers of Foreign Affairs of the American Republics...”(Preamble of the Rio Protocol, Simmons, 1999, pg. 25).¹⁹

The Rio Protocol addressed for the first time the term “guarantors”. The term reaffirmed the alliance of 1910 to collaborate and assist Peru and Ecuador in solving the border dispute (Marcella, 1999, pg. 23). Their responsibilities can be resumed to: a) help the parties to the conflict layout, and mark a definitive boundary (article 5 of the protocol); b) assist Peru and Ecuador in addressing any dispute that might arise, if that was deemed necessary (articles 6, 7, and 9 of the protocol) (Palmer, 1997, pg. 112).

The Guarantors role meant responsibility to:

Article V – The activity of the United States, Argentina, Brazil, and Chile shall continue until the definitive demarcation of the frontiers between Peru and Ecuador has been completed, this protocol and the execution thereof being under the guaranty of the countries mentioned at the beginning of this article (Simmons, 1999, pg. 26 Appendix).

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 (Simmons, 1999, pg. 26, Appendix).

Some underlined interests or self-interests for those countries intervention can be exposed. According to Hal Klepak USA only wanted to get the issue out of the way and stronger the continental solidarity against the AXIS²⁰ states (Klepak, 1998, pg 74). Chile was more interested in not having the problem spread to Santiago. Argentina wanted to prevent USA to look upon what was happening in Buenos Aires at the time. And Brazil wanted more then ever to strong its relations with USA and at the same time to prove its leadership in the balance of power in South-America (Klepak, 1998, pg. 74).

Concerning Peru and Ecuador: “each country takes a position on the dispute that seems to have less to do with any specific strategic or economic value associated with the areas in question than with a strong feeling of nationalism” (Marcella, 1999, pg. 23).

A two level game was in play: the national interest from each country involved in the conflict x the general interest in solving the border issue between Peru and Ecuador (St. John, 1977, pg. 329). After the signature of the treaty its provisions were put into practice and border demarcation began. However, the operationalization stage was never completed and the conflict not resolved.

¹⁹ It is so easy to identify the South-American traditions in conflict resolution just by reading the preamble of the treaty. However, the letter also gives the impression of the pressure put upon Peru and Ecuador to accept not only the intervention but also the **prompt solution**.

²⁰ Axis Countries, or nation or alliance were the appositives of the Allies in the World War II. They were Germany, Italy and Japan according to the tripartite pact of 1940.

The regime failure is elucidated by the following facts. First, Article IX states:

“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 ground. 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 ratifications shall be made with the collaboration of the representatives of the United States, Argentina, Brazil and Chile” (Simmons, 1999, pg. 27, Appendix)²¹.

The Rio Protocol prescribed a joint demarcation boarder commission with the assistance of the four guarantors. The demarcation process began in 1943 but some geographical features of the terrain such as the tropical rainforest and constant bad weather demanded adjustments to some boundaries marks (Fishel, 1998, pg. 58) (Weidner, 2000, pg. 279).

Between 1942 and 1948 the commission was able to demark 95% of the boundary and the guarantors’ participation facilitated rapidly and satisfactory solution to eventual problems (Palmer, 1997, pg. 113). However, one mark could not be settled because article VIII, letter B, number 1 of the protocol states: “From the quebrada de San Francisco, the watershed between the Zamora and Santiago rivers, to the confluence of the Santiago River with the Yaupi (Simmons, 1999, pg. 26, Appendix). So, at the Amazonian basin the boarder should be placed at the “*divortum aquarium*” (watershed) between the Zamora and Santiago Rivers precisely at the confluence of the Santiago and Yaupi Rivers – that region is known as Cordillera del Condor (Weidner, 2000, pg. 281).

Peru and Ecuador agreed upon arbitration to accomplish the demarcation task, also electing Brazil as arbitral. In July of 1945 the technical procedure was delegate to the Brazilian navy officer Braz Dias de Aguiar (Herz, 2000, pg. 35) which award completed the border demarcation and final border line.

In 1946 the US Army Air Corps found by an aerographical study that due to a technicality the Santiago-Zamora /Amazonian basin scathe in the Brazilian award used false geographical information, therefore drawing an erroneous border line. This geographical fact would change the political context of the following operationalization phase (Fishel, 1998, pg. 57).

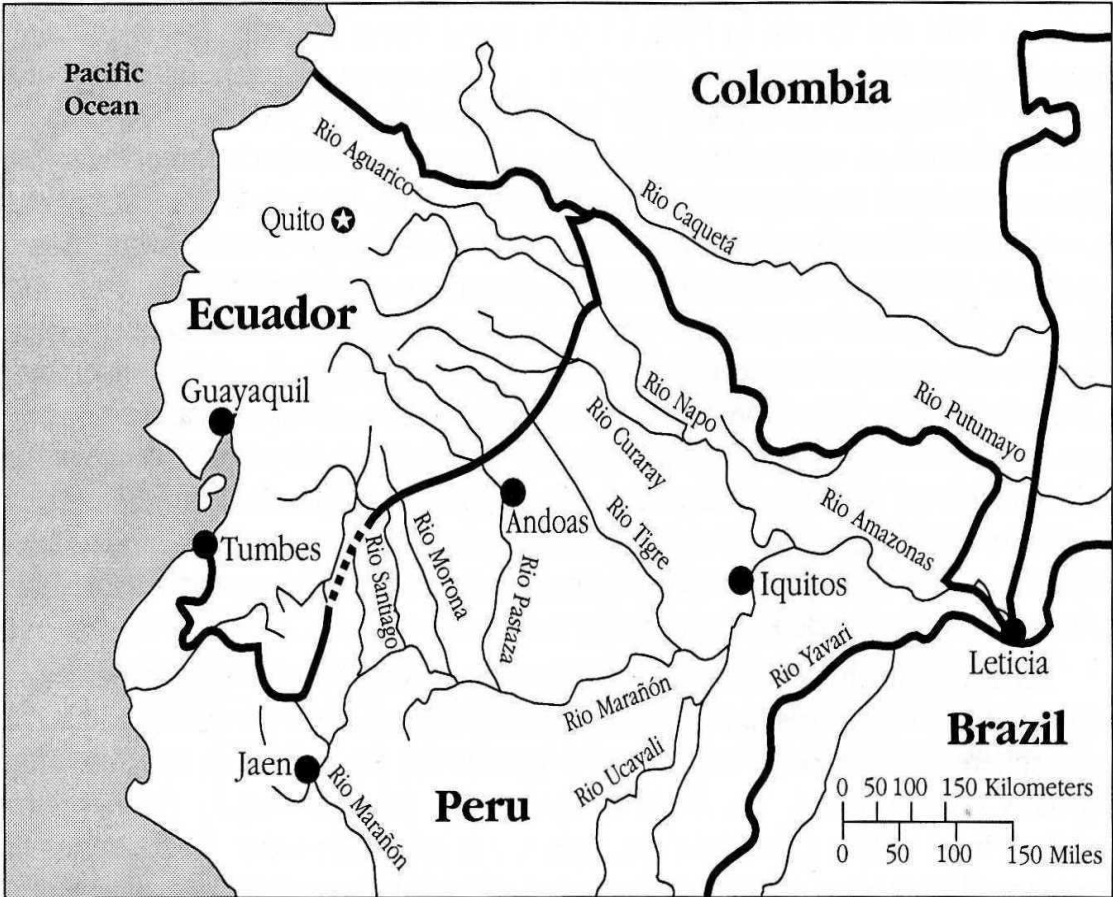
The American study discovered the headwater of the Cenepa River at the Cordillera del Condor (Fishel, 1998, pg. 58/59). Therefore: “the height of the land that was to determine the

²¹ Article IX of the Rio Protocol settle the “boundary line” according: to the west and east coordination’s following ten different geographical points being all mainly rivers outlets and confluence of rivers and the ocean.

border was not where the agreement had stipulated in one small section because of the presence of a previously uncharted river and a mountain spur (Palmer, 1997, pg. 113).

Resuming, the Cenepa River, previously considered being a short stream was revealed to be a 118 miles (190 km) independent fluvial system located between the Zamora and Santiago Rivers. As a consequence, there was not one but two *divortum aquarum* at the region (St. John, 2009, pg. 80). In 1948 Peru and Ecuador disagreed about the Rio Protocol boundary line and dissolved the border commission (St. John, 2009, pg.80). The unmarked area of Cordillera del Condor and the Cenepa River headwater totals around 78 squares miles as shows the map bellow:

Map 2. Rio de Janeiro Protocol Boundary, 1942



The stippled part of the border line above represents the Cordillera Del Condor area.

The problem suited perfectly the Ecuadorian interest and Cordillera del Condor area turned to be the perfect excuse for avoiding the whole deal. The Rio Protocol had its “end” in

1948 when Ecuador and Peru assumed internationally different positions about the validity and enforcement of the Rio Protocol basically assuming the following claims:

Peruvian public positions: Peru stated that Rio Protocol was valid and executable, so there was no more border dispute (Herz, 2000, pg. 36). Also to Peru there was no invasion from its part because Peru was actually only occupying a rightfully territory (Herz, 2000, pg. 36). It also represented a national “vindication” after loosing territory to Brazil, Argentina and Colombia in recent previous years (Klepak, 1998, pg. 73).

Ecuadorian public position: Ecuador stated that the protocol was not executable and therefore, the conflict remained unsolved simply based on the discovery of “new” territory after the protocol (Herz, 2000, pg.36). Ecuador claimed also that there was a huge pressure from American Powers to accept the protocol (Herz, 2000, pg. 36). At that time Ecuador was going through internal difficult situations such as: a nil army power, south and east parts of territory being occupied by enemies; and treasury bankruptcy (Klepak, 1998, pg. 74).

In the words of the historian Bryce Wood the Rio Protocol may have ended the war and gathered Interamerican solidarity, but, it achieved a peace without friendship (Marcella, 1995, pg.6). After all, the Protocol verified the status quo line of 1936 representing the loss of 5,392 squares miles to Ecuador”: (Marcella, 1995, pg. 6/7). Ecuador was not granted with the access to the Marañon and Amazon rivers or neither any territory at the Amazonian basin. As a matter of fact Ecuador opened hand of what it has claimed over those 100 years inside the protocol provisions (Herz, 2000, pg. 36). The protocol represented a national symbol of injustice and shame to Ecuadorian nation.

According to Maier, the protocol meant to Ecuador great losses: a) the national identity as an Amazonian country; b) the lost of territory; and c) the economic loss of the access to the Atlantic Ocean through the Amazon and the local natural resources²² (Maier, 1969, pg.43).

The most important omission of the Rio Protocol of 1942 is to disregard national culture, though the conflict was about popular identification of both sides to Amazonian territory. Not only a rich subsoil in various types of minerals, including petroleum, and potential area to future development of Andean agriculture (Marcella, 1999, pg. 145), drove both Peru and Ecuador to dispute the region; but also a strong feeling of nationalism.

²² The boundaries drawn in Rio Protocol made Ecuador loose 2/3 of the Orient and also deprived Ecuador from the outlet of the Amazon River (Maier, 1969, pg.43).

Some scholars defend that the Rio Protocol to have worked as a regime. According to Palmer, the Rio Protocol provided both states with instruments to deal with the uncertainty of the territory and the navigation problems (Palmer, 1997, pg.111). Article VI concedes to Ecuador the same navigation rights over the Amazons tributaries enjoyed by Brazil and Colombia and some more to be agreed upon inside a specific Commerce and Navigation treaty (Palmer, 1997, pg. 112). Also, articles VII and IX admit in pre-hand the possibility of boundaries adjustments due to geographical realities (Palmer, 1997, pg. 113).

Despite critics, in the words of Palmer: “the Rio Protocol is the longest-standing multilateral peacekeeping in the hemisphere, if not perhaps in the world” (Palmer, 1997, pg. 110).

4.3 Ecuadorian and Peruvian boundary claims from 1960`s to 1995 – the pre- scenario to the Global and Definitive Peace Agreement regime of 1998.

The Rio Protocol failed as a border solution regime. Although no physical conflict took place in the following years the antagonism between Peru and Ecuador continued to flourish and flourish.

The revival of the dispute can be related to the rise of military governments in South-America in 1960`s and 1970`s. The military Juntas ideology of the dispute was “imperative” and “resolution by force”. Those qualities were firmly discarded by the previous democratic governments during the Rio Protocol negotiations (Marcella, 1995, pg.6).

The Peruvian new military Junta of 1968 started a national campaign of rearming the army calling upon USA and even to Soviet Union for supplies. At the same time, Ecuador found oil supplies that economically allowed Ecuadorian army to re-equip with new fashion weapons (Simmons, 1999, pg.12).

In 1960 the president of Ecuador declared publicly that Rio Protocol was null and void (Herz, 2000, pg. 36). The president declaration at the time basically consisted in three allegations: (1) upon legal and historical rights; (2) Rio Protocol was signed by the guarantors´ pressure; (3) the treaty is not executable because of certain anomalies of geography (Palmer, 1997, pg. 111).

The 1970`s was dedicated to a policy of disarmament in Latin America, but particularly in the Andean region. The Declaration of Ayacucho of 1974 represented the promise for a decrease in military expenditures and increases the development funds by all Latin American governments (Klepak, 1998, pg. 76).

In the 1980`s democratic governments returned to South-America. The Ecuadorian military endorsed the return of civil government in 1979 and Peruvian civil government was restored in 1980. However, periodical small clashes at the border led the Peruvian military to expand too (Marcella, 1999, pg. 183). South-American states adopted neoliberalistic economic policies (Herz, 2000, pg. 40). Those facts together led Peru and Ecuador to enjoy internal stability and once again national stakes about the border were raised (Palmer, 1997, pg.115).

In January of 1981, Ecuador drove forces to Cordillera del Condor to take over three Peruvian military posts. Peru reacted immediately and a series of skirmishes took place (Simmons, 1999, pg. 11). On the 22nd of January an Ecuadorian post named Falso Paquisha opened fire on a Peruvian helicopter. Ecuador states that the Peruvian helicopter attacked the Paquisha garrison starting the **Paquisha Incident of 1981** (Klepak, 1998, pg. 77).

The Civil-military relationship in both Peru and Ecuador was always a problematic one where the civilian perceived to stay on power but often needed military assistance (Marcella, 1999, pg.35). In 1981 the public opinion comparison towards the Peruvian and Ecuadorian governments endorsed feelings of unfinished business (driving-forces ideas) in both nations (Herz, 2000, pg. 34). Political parties, Labour Unions and the media demanded daily in both countries a not amicable position toward the border issue (Marcella, 1999, pg. 36).

Why did these two democracies want war at this point? After all, the international relation doctrine states, in the words of the Secretary of Defence of USA in 1995: “Democracies tend to settle internal conflicts peacefully and share respect for human rights. They also tend to settle external conflicts peacefully”. Most of the external conflicts are resolved through mediation (Marcella, 1995, pg. 9).

Edward Mansfield and Jack Snyder affirm: “the recent border skirmishes between Ecuador and Peru, however, coincides with democratizing trends in both states and a nationalist turn in Ecuadorian political discourse context. Curiously, the three wars between Peru and Ecuador occurred in periods of partial democratization (Marcella, 1995, pg.9).

Latin American experience certainly seems to suggest that democracies, at least, stable ones, follow the above rule, and are less likely to go to war with one another than dictatorships. However, the rule has an exception made by the degree of democracy – if it is a

weak democracy, as most cases in South-America are – it tends to be more bellicose than dictatorships under special circumstances and public opinion (Klepak, 1995, pg 125)²³.

Facing the war of 1981 Peru invoked Rio Protocol provisions and asked to the guarantors help. Ecuador based on the invalidity of Rio Protocol position, called on the OAS (Organization of the American States) (Palmer, 1997, pg. 114). In the 23rd of February of 1981 a cease-fire was reached after intense diplomatic activity to avoid the escalation of the incident to a real war (Klepak, 1998, pg. 78). Military peace was reached but the mediation failed. OAS renounced involvement in the conflict and denied the border settlement request. OAS explained that this resolution should involve the continent's main powers for negotiating the issue within the South- American framework of the Rio Protocol of 1942 rather than within a collective security forum (Herz, 2000, pg. 36).

Peruvian and Ecuadorian international policies started to value a South-American cooperation feature. Such cooperation increased enormously the diplomatic activity in South-America (Klepak, 1998, pg. 78). And after the Paquisha incident of 1981 the conflict focus and perceptions started to shift from only a territorial dispute to a “particular aspect of the long and conflict-ridden historical process of nation building typical of South-American republics”. And: “an expression of the travails of constituting a national identity and articulating it territorially” (Herz, 2000, pg. 32). The Paquisha incident demonstrated that the border conflict was assimilated into both countries national perceptions to the point where one can see a true “culture of conflict”²⁴ (Marcella, 1999, pg. 196).

The next decade would be dedicated to warfare at the Cordillera del Condor region. Peru and Ecuador increased troops and outposts in each side of the border (Herz, 2000, pg. 39). In 26 of January of 1991 small scale warfare happened at Cordillera del Condor. The episode was known as the Teniente Ortiz incident. Ecuadorian patrols moved into Peruvian territory and a Peruvian patrol went out to meet it (Klepak, 1998, pg. 79).

Diplomatic officers of Peru and Ecuador feared the worst with both troops meter away from one another. By a telephone call, the diplomats reached an agreement that was not formal neither written - known as the Gentleman's agreement (Klepak, 1998, pg. 79). The

²³ Gabriel Marcella argues that in the herein case democracy complicated rather than easier the conflict; hardening positions instead of soften them (Marcella, 1999, pg. 35).

²⁴ The culture of conflict happened when the historical facts endured for so long that produced social structures of conflict in both nations based on deep sentiments of nationalism and national honor (Marcella, 1999, pg. 196).

Gentlemen's agreement or Pacto de Caballeros re-established hito 19 and decreed the removal of the Pachacutec outpost. This treaty will ensure no armed confrontation until 1995 (Herz, 2000, pg. 40).

The Gentlemen's pact contained interesting confidence-building measures although both Peruvian and Ecuadorian nations lived a passion moment around the border dispute (Klepak, 1998, pg. 79). The pact called for (Klepak, 1998, pg. 79): 1- a commission allocated to the disputed place; 2- mutual troops withdraw from the region in 48 hours and the demilitarization of the area within 30 days; 3- Resolve the question of where the border marks should be placed.

However, in the 1990's a new context emerged with the Cold War ending and the world new order established a different scenario. From now on the international community would have more active participation and international security would be strengthened by conflict mediation and resolution processes (Herz, 2000, pg. 39). Locally, the end of the Cold War brought more independence to South-American countries that now could autonomously negotiate their own interests (Herz, 2000, pg. 39). The independence "feeling" could be noted in the South-American environment with the Brazilian offer of diplomatic negotiations to Peru and Ecuador governments in August of 1991 and achieved a serious military confrontation (Herz, 2000, pg. 41).

A domestic instability granted by economic problems, widespread impoverishment, external debt and Guerrillas' movements in both Peru and Ecuador seemed to have contributed to a "shift of mind" towards the border conflict. The internal problems were too big and left no space for border conflict at that moment (Simmons, 1999, pg. 11). And Peru and Ecuador started to reshape the boundary issue.

Peru took advantage of the occasion to reaffirm its loyalty to the Rio Protocol of 1942 provisions, recognized that the border problem perceived after the Rio Protocol of 1942 (Herz, 2000, pg. 41). Alberto Fujimori was elected in 1990. The new president had new ideas towards the border conflict such as a favour foreign policy to Peruvian participation in multilateral forums. (Herz, 2000, pg. 43).

Since 1981 Ecuador has been demonstrating inclinations toward renegotiating the border issue. Also, Ecuador changed position toward the guarantors' role in the conflict resolution when accepted with good will the diplomatic intervention (Herz, 2000, pg. 41). Ecuadorian president Osvaldo Hurtado made a public statement expressing: "the need to find a solution

that would permit us to resolve this issue in a definitive manner and find a stable a lasting peace” (Marcella, 1999, pg. 199).

In the 10th of January of 1992 Alberto Fujimori made the first presidential visit to Quito, the first even made by a Peruvian chief executive (Simmons, 1999, pg. 11). Right before the visit President Fujimori wrote a letter to Ecuadorian President Rodrigo Borja with a proposition to demarcate the two small remaining border sectors. In return Peru would grant navigation rights to Ecuador through the Amazon River, and the desired outlet to the Atlantic Ocean²⁵ (Simmons, 1999, pg. 11).

At his official visit to Quito in 1992 Alberto Fujimori re- presented his ideas about the border conflict resolution before the Ecuadorian congress house proposing: a) a navigation treaty where Ecuador would have unrestricted access to the Amazonian Basin and Peruvian ports and road facilities; b) extension of the frontier integration represented by 37 bilateral sectoral development projects; c) confidence-building through a security treaty (Marcella, 1995, pg. 10) (Klepak, 1998, pg. 80).

The process of ideas exchange between the Peruvian and Ecuadorian presidents may be considered as the beginning of new times in this conflict resolution (Herz, 2000, pg. 42/43). Unfortunately, the presidential negotiations did not succeed. Not one of the 37 projects was accepted by the Ecuadorian congress. The congress found it extremely hard to manipulate the public opinion once the proposals were unilaterally made by Peru and included no territorial gains for Ecuador (Marcella, 1999, pg. 104).

Fujimori’s proposal may be claimed the right solution in the wrong context. The Peruvian presidential proposals did not differ much from what would be agreed in 1998 but the conditions were still immature for their implementation as an international regime. And the new Ecuadorian president Duran Ballen (1992-1996) abandoned the friendly negotiation policy and reaffirmed the objection toward Rio Protocol of 1942 re-endorsing claims from the past (Simmons, 1999, pg. 11) (Herz, 2000, pg. 46)²⁶.

²⁵ As stated in article VI of the Rio Protocol of 1942.

²⁶ There are some scholars who point those negotiations are mere diversions for the future Cenepa War of 1995 (Herz, 2000, pg. 43). However, there are scholars who think the negotiations failed because of present internal circumstances such as the huge weight of conflictual history between the countries (Marcella, 1995, pg. 30).

Cooperation ideas (new driving-forces) between South-American countries started to flourish more and more altering the political context. As an example we have the MERCOSUR – South common market – established through the Asunción treaty of 1991 and lately amended by the Ouro Preto treaty of 1994 (Marcella, 1995, pg. 10). The MERCOSUR members were improving economic integration with a high-level consideration of South-American strategic issues.

Also the Andean Pact of 1991 established free trade along the following years between its members. However, it was not before 1994 that those ideas were really absorbed by the political and economic levels and started to be prioritized in the South-American international agenda (Klepak, 1998, pg. 80).

The South-American scenario was prospering with Globalization and its values being slowly incorporated by governments (Marcella, 1999, pg. 98). Pan –Americanism were alive and well although USA was still the greatest leadership in the Hemisphere. Peace and democracy seemed to flourish and prosperity was anchored by economic development. In 1994 South-American seemed finally “got on tracks” but only four weeks latter Peru and Ecuador would start another bloody war in the Cenepa Region (Klepak, 1998, pg. 82).

4.4 The Cenepa War of 1995 – the Agenda Formation phase – reframing the border issue.

The war started in 26 of January of 1995 with Ecuadorian troops attacking Peruvian Base Norte, at the eastern side of the Condor Ridge (the riverhead of the Cenepa River) in the Santiago-Zamora sector of the 78 km² disputed border area (Herz, 2000, pg. 43).

Mass violence took place at Tiwintza military base for nineteen days. It is estimated that the conflict claimed the lives of 500 to 1.500 persons. Also, the conflict cost to each side nothing less than one billion dollars (Simmons, 1999, pg 12).

Why this sporadic clash escalated to a minor war? Cenepa War was a military interest. In 1995, the civilian governments were trying to reduce the military budget share in both countries. Ecuadorian army lost its 12-15 % surtax on foreign oil companies. Therefore, Ecuadorian troops were “ready” for combat, willing to recover its budget and not willing to suffer once again a humiliating defeat at the border ground (Herz, 2000, pg. 45) (Simmons, 1999, pg. 12/14). Ecuadorian army had increased largely its apparatus in the last decades and the military was the most popular national institution (Marcella, 1995, pg. 13). The fact is that in both countries military had gained great political influence in the recent years. In Peru

military gained power due to guerrillas' movements such as the Sendero Luminoso. So, the clash event in itself can be explained by opportunity (Herz, 2000, pg.46).

According to Marcella, the war reassesses the emergent consensus that civil –military relations in Latin America were moving in the direction of less tension and greater civilian control. Democratic civilian-military relations demands that a civilian authority will be on charge of military operations, and that those are conducted under the legal and ethical methods (Marcella, 1995, pg. 13).

In Ecuador the greatest destabilizer of the peace process before the Cenepa war was the fact that the military was clearly not under the proper civilian control. As an example, Ecuadorian scholars alleged that military infiltrated many troops and installed outpost on the eastern side of the Condor range without the presidential knowledge or approval (Marcella, 1999, pg. 101).

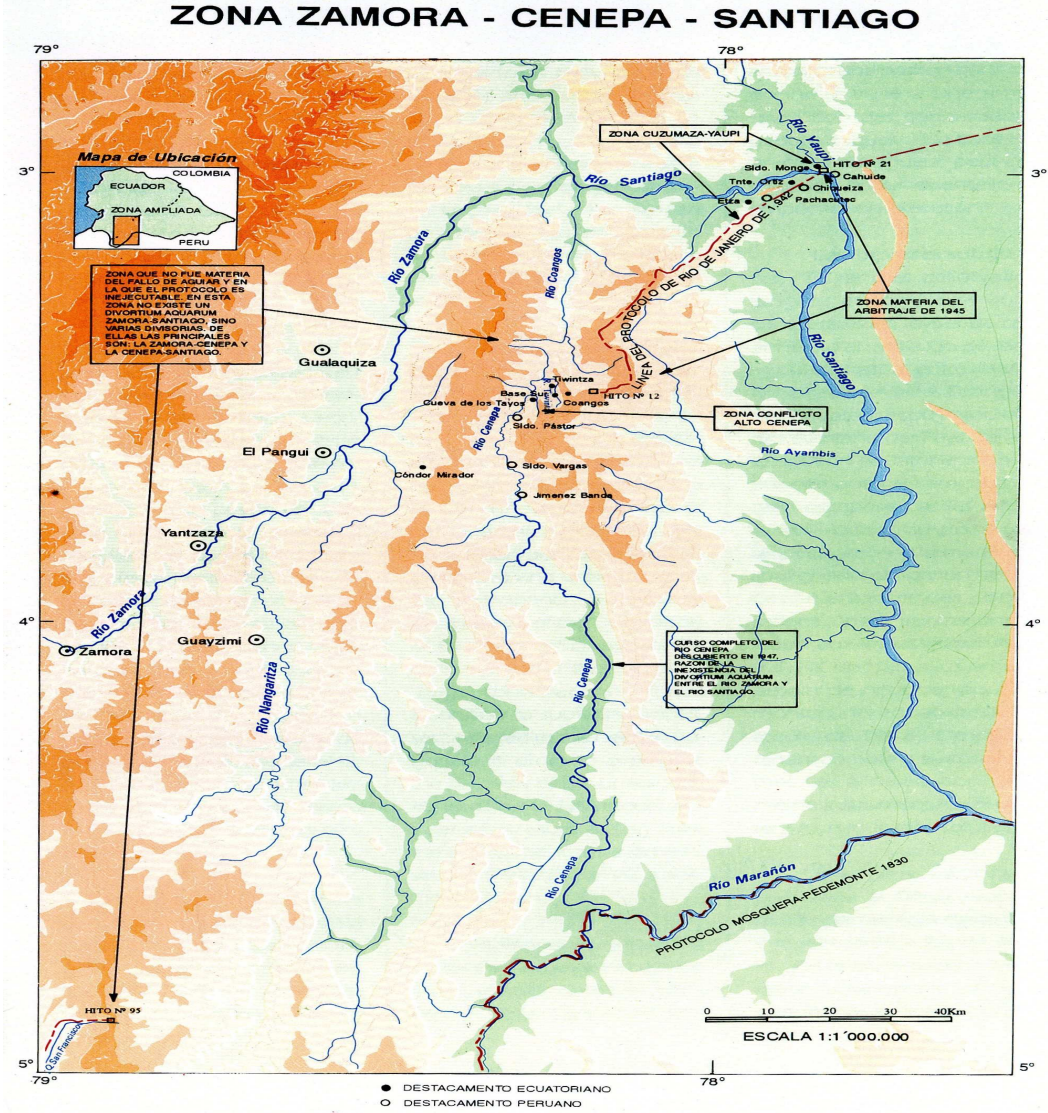
Fujimori demonstrated to be a severe leader when he closed the Peruvian congress in 1992. The opposition to his governments inflated warfare ideas concerning the border issue. Also, the Cenepa War happened in the meanwhile of the Peruvian elections (Marcella, 1999, pg. 101).

Therefore, it may be claimed that the Cenepa war was not only a matter of opportunity but a matter of domestic political events. The facts indicate that the Peruvian and Ecuadorian militaries were not exactly under the auspicious of the democratic civilian governments. The military still benefited of political power. The lack of authority from the part of the civilian officials and the great independence enjoyed by the military were key points for the Cenepa war.

South-America considered being a low profile zone of international tension where traditions of confidence building measures are usually applied. South-American countries do not resource to violence as usual as other countries and there is a strong feeling of fraternity or “patria grande” among nations (Klepak, 1995, pg. 120, 122, 124). The Peruvian-Ecuadorian boundary conflict follows the regional rule that Latin American international conflicts usually deal with civil-military relations and not with interstate power politics (Klepak, 1995, pg. 121).

On the 23rd of January, the Ecuadorian president summed the guarantors' ambassadors. Few days later the representatives of the guarantors countries met in Brasilia once more reassuming their responsibilities as guarantors states (Herz, 2000, pg. 50). Once again the old

actor alliance came into the picture, applying the old tactic and with the goal to reach a fresh new design perspective of the conflict. The fighting zone:



It is extremely hard to establish the point in time when the agenda formation ended and the negotiation started at 1995. The Cenepa war certainly called for a quick agenda formation and negotiations were started while the war was still going on. It is very certain that the phases overlapped and especially MOMEPA – military observation mission Ecuador-Peru was an element of the agenda formation and operationalization phases.

4.5 The Negotiation phase

On the 31 of January of 1995 the six countries met in Rio de Janeiro to negotiate a cease-fire to the Cenepa War. The first great impasse of the negotiations stage was the Peruvian and Ecuadorian disagreement about the validity of the Rio Protocol of 1942 (Biato, 1999, pg. 242). In February of 1995 Ecuador government decided to recognize the Rio Protocol as valid and in force. Therefore, negotiations became possible within the Rio Protocol procedural framework. The Ecuadorian official public acceptance of the Rio Protocol after 35 years of exhaustively denial was the bigger turn towards negotiations (Simmons, 1999, pg.13).²⁷

In the other hand Peruvian government recognized that Rio Protocol of 1942 did not encompass all substantial pending issues, or “subsistent impasses” such as the demarcation of the boundary line (Biato, 1999, pg. 242). Resuming, the negotiation phase was able to settle for good the Rio Protocol of 1942 as the only multilateral procedural mechanism applicable for the case (Herz, 2000, pg. 51).

The role of the Guarantors was another disagreement point at the beginning of negotiations. Ecuadorian negotiators were inclined to have the issue solved by arbitration²⁸. While, Peru wanted to follow the guarantors’ framework of the Rio Protocol of 1942. The difference was that the guarantors, in special USA, were more likely to assume a direct conflict deterrence role in the negotiations than they did in the past (Marcella, 1995, pg. 25). At this time, the guarantors concern was focused to coordinate military and political dimensions of reconstructing Peruvian and Ecuadorian bilateral relations through trust and friendship (Herz, 2000, pg. 49).

In February of 1995 the following negotiations meetings were held in Brasilia, Brazil. During the meeting the deputy foreign ministers of both Peru and Ecuador had agreed that the conflict resolution process would develop in three stages: 1) the stabilization of the military situation; 2) the procedural definitions of the outstanding point for the negotiations; 3) substantive negotiations of the points defined at the last stage (Herz, 2000, pg. 52).

On 17th of February of 1995 both sides signed the Itamaraty treaty (drawn by the four guarantors) which sets the framework of the decisions above. The Itamaraty treaty established an immediate cease-fire and called officially for the negotiation stage. Therefore, the treaty did not address territorial issues but only military questions such as the creation of guarantors’ observation posts near the conflict zone to ensure the cease-fire (Simmons, 1999, pg. 12).

²⁷ Ecuador did not recognize the validity of the Rio Protocol concerning the basins of Cenepa, Santiago, and Zamora Rivers; still claiming the old historical and geographical reasons (Herz, 2000, pg. 51).

²⁸ In especial, by other states than the guarantors (Marcella, 1995, pg. 25).

At this point the negotiation phase through the guarantors mediation has achieved: 1) cease-fire; 2) the separation and pulling back of the forces; 3) establishments of guarantors observes along the border; 4) the creation of a demilitarized zone; 5) an agreement for Ecuadorian-Peruvian security commission to take over responsibilities upon the departure of the guarantors observers (Marcella, 1995, pg. 23).

The new peaceful conflict resolution political ideology also spread into Peruvian and Ecuadorian society. A great national attitude change marked the first phase of the negotiation phase. For a long time the public opinion in both nations were strong and defiant to the government previous attempts towards peaceful resolution. Peruvian people feel that Ecuador was always generously treated and are simply ungrateful. This perception had always impeded Peruvian government to grant more to Ecuador without rasing a public response. While to Ecuadorian people felt always as the “eternal victim” (Klepak, 1998, pg. 84).

However, as the Brazilian ambassador Ivan Cannabrava resumed with the Cenepa War of 1995 there was a “window of opportunity” recognized by all involved actors to solve the border issue. A strong dose of pragmatism combined with regional democratic modernization ideology changed the mind of important segments in both Peru and Ecuador. Peru and Ecuador started to accept the ideas of popular aspirations of modernity and economic development extremely depended upon a definitive peace (Cannabrava, 1999, pg. 2).

A strong bound between political and societal ideas was formed. After all, an effective negotiation entails that mediators understand the emotions and nationalism sentiments involved that affect each country’s willingness to accept a compromise. A process of mutual education and information sharing is needed indeed for constructing confidence and security building measures²⁹ (Marcella, 1995, pg. 23).

The guarantors’ mediators had to admit that this boundary case involves much more than just geographical difficulties of Amazonian terrain and warfare history. Mediators have to be aware and respectful of Peruvian and Ecuadorian own historical interpretation of the conflict. Also, they will have to work with nationalism feelings of resentment and victimizing roles along history (Marcella, 1995, pg. 25).

Finally, at the end of the first phase of negotiations, all six countries involved in the dispute recognized that the conflict was more than a simple territorial dispute. This was the

²⁹ Public support was felt by the military at the Cordillera del Condor region. People on the street would show thumbs up to the MOMEPA soldiers as a sign of approval and satisfaction (Marcella, 1995, pg. 23/24).

best result of the collective action ever achieved in the Peruvian- Ecuadorian border issue. Until then, negotiation showed very fruitfully toward conflict resolution.

During 1996 four meetings between chancellors and presidents of the actors took place in Quito and Lima to define a calendar and form of direct negotiations (Biato, 1999, pg. 242). In 29th of October of 1996 with the signing of the Santiago Agreement the actors finally reached a final agreement on the procedural rules. The procedural rules to regulate the second stage of negotiations were (Herz, 2000, pg. 53):

- 1- Brasilia was defined as the venue for negotiations;
- 2- Each country would form a delegation with five members;
- 3- The negotiations would be held in state secrecy;
- 4- There was no timetable for negotiations;
- 5- The establishment and rules of the military observation mission MOMEPE.

4.5.1 Mediation Commissions – the second stage of the negotiation phase

Lately at the 6th of March of 1997 the second phase started when a “list of impasses” was handled by both Peru and Ecuador to the mediators. The list contained the substantive issues of both states. It was also agreed that no further issue could be added to the list, simply because its objective was to finally draw the “big picture” or the design perspective of the border conflict between Peru and Ecuador (Herz, 2000, pg. 53) (Cannabrava, 1999, pg. 3).

And the list consisted in: (Simmons, 1999, pg. 15):

Peruvian Case:

- 1- In the Lagartococha sector, the Guepi Rivers;
- 2- In the Cordillera del Condor region – necessity to demark the border as article 8 of the Rio Protocol:
 - a) between the boundary marker “Cunhuime Sur”, noted in the Dias de Aguiar Brief as from the point along the Zamora – Santiago height of land where the spur juts out, and the boundary marker “November 20”;
 - b) Between the boundary marker Cusumasa- Bumbuisa and the confluence of the Yaupi and Santiago Rivers.

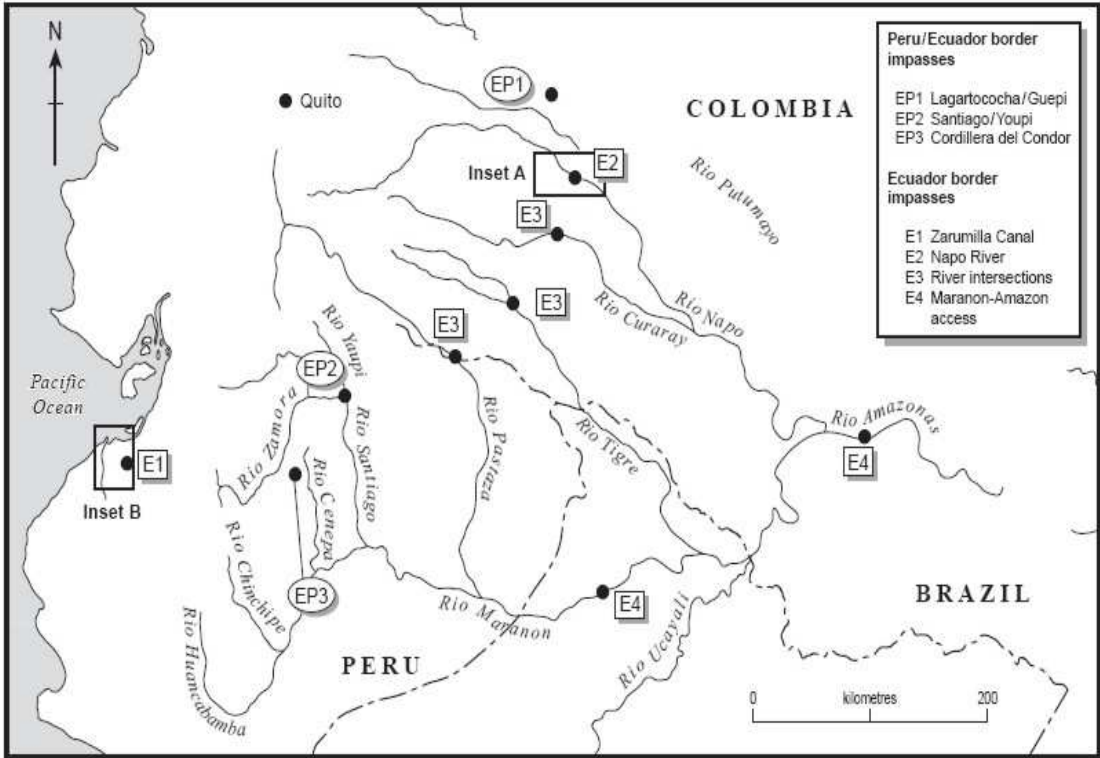
Ecuadorian Case:

1- Partial inexecutability of the Rio de Janeiro Protocol due to the absence of a watershed between the Zamora and Santiago Rivers. Free access and Ecuadorian sovereignty to the Marañon – Amazon.

2- Boundary demarcation problems: a) the Cuzumaza-Bambuiza sector; b) the Lagartococha- Guepi sector;

3- Problems produced by the intersecting of the rivers by the survey lines (Pastaza, Tigre, and Curaray rivers). Problems on the Napo River in the Yasuní- Aguarico sector;

4- The Zarumilla Canal.



MAP 2 - Peru and Ecuador Border Impasses

The mediators, for the first time ever in history, had in hands the procedural rules and the substantive matters (list of impasses) to move forward and start negotiating an effective and concrete solution to the boundary conflict (Simmons, 1999, pg. 13).

The Guarantors had to offer more guaranties in order to ensure real engagement in negotiations. So, they offered a double guaranty: 1- no imposition of any solutions; and 2- single undertaking would be the “rule” for negotiations decisions (Cannabrava, 1999, pg. 3).

Single undertaking means that each partial consensus about one of the disagreements points of the list of impasses would be considered valid only in the hypothesis of the satisfactory accord for all pending issues (Biato, 1999, pg. 243).

It was also necessary for the guarantors to make available for Peru and Ecuador complementary instruments such as financial and technical institutions to help in the next operationalization phase (Cannabrava, 1999, pg. 3). Although the guarantors enjoyed a vast range of powers they had the title of “observers” in all legal documents. That was of the “most creative if not unusual transmission of authority by sovereign legislatures to foreign states” (Simmons, 1999, pg. 20).

Issues would be discussed in sequence of the less complicate to the most complicated. The idea was to form a critical mass of to push forward the solution to the bigger issues. The parties would negotiate directly under the Guarantors “observation”. The conclusion was that a dynamic of confidence and good faith lead the negotiations forward (Herz, 2000, pg. 53).

The strategy adopted by the mediators’ involved skilled tactics. Communication facilities, formulation of strategies, manipulation of strategies were applied at all times during the hard negotiations (Herz, 2000, pg. 83). By Brazilian suggestion, the negotiations needed to abandon the historical and irreconcilable positions and re-orientate discussions by finding convergence points.

Six rounds of negotiations happened between April and November of 1997 representing the first time that Peru and Ecuador ever exposed clearly and objectively their claims in reference to the list of impasses (Biato, 1999, pg. 242). Negotiations had to face the difficulty of the collision between the legal and technical Peruvian arguments terms versus Ecuadorian political arguments terms (Herz, 2000, pg. 54).

From November 1997 impasses stopped negotiations and led the actors to a decision of dividing the negotiation into four major parts represented by four bilateral commissions (Herz, 2000, pg. 54). In January of 1998 all commissions had their schedules approved in the Rio de Janeiro Chronogram, through which the parties opted for a rapid and creative work. The goal was to provide an integrative and cooperative view of the issues, as it was present in the first phase of the negotiations, achieving mutual benefits for both states (Biato, 1999, pg. 242). The strategy was to define the zone of the future “contract”.

The commissions were elaborated to work with the most relevant issues of: Amazon basin; border integration and development; confidence- building and border demarcation.

Therefore, the second stage of negotiations were organized into four commissions groups, one working group and a mechanism of evaluation by the foreign ministers of Peru and Ecuador (Herz, 2000, pg. 55).

Each commission final work generated a treaty that altogether formed the Global and Definitive Peace Agreement of 1998. Below I try to gather commissions faced difficulties with the solutions presented at the respective accord.

I - The border economic integration commissions – this commission gathered at Washington DC, USA, where financial institutions were readily available to help. The objectives of the commission were to develop the frontier in general and to increase commercial activity between Peru with the creation of a “community of interests” (Herz, 2000, pg. 55). The final accord granted Peru and Ecuador with 3 billion dollars to provide the integration and the sustainable development of the frontier regions against the combined good and rational use of the sharing natural resources (Biato, 1999, pg. 244).

II - The confidence – building and security commission – the commission meetings took place in Santiago, Chile. The commission objectives were already designed in the Itamaraty Treaty of 1995, but this binational commission became permanent only in May of 1998. Apart from the general aim of constructing mechanism for confidence between Peruvian and Ecuadorian nations, the commission had the goal to assist societies sector in activities of communication and sharing of information (Herz, 2000, pg. 56) (Biato, 1999, pg. 244). Most of the work of this commission was already taken care by MOMEPE.

III – The navigation and commerce commission – the meetings took place in Buenos Aires, Argentina, between February and September of 1998. This commission had a gigantic challenge ahead it because it enclosed a central substantive impasse to overcome for achieving conflict resolution. First, it had to deal with the problem of the Amazonian basin and granting Ecuador free access to the basin, port facilities and customs benefits when actually most rivers cut across many international borders. Secondly, the commission had to create territorial and navigation transport integration mechanisms in the sectors where along Napo River small rivers were diverted. The commission great worry was to somehow grant Ecuador with the status of an Amazonian country – a concept really important to Ecuadorian national identity. International law and cultures issues were pondered by the commission throughout its work. The commission respected the principle that the border could not be changed in detriment of the free navigation right. The treaty granted Ecuador with economic-

commercial benefits of fluvial, terrestrial and aerial access to the region. Another important problem was sovereignty. The commission created two Ecuadorian port facilities inside Peruvian territory connected with strategic road lines. This was the solution to the fact that Amazonian rivers were not quite suitable for navigation on the Ecuadorian side. The principle adopted by the commission was the functional sovereignty. Through which it is possible to share natural resources. Only a flexible interpretation of sovereignty, navigation rights and historical aspects allowed both Peruvian and Ecuadorian claims to be attended. (Herz, 2000, pg. 57) (Biato, 1999, pg. 244).

IV – The border demarcation commission – the commission meetings were held in Brasilia, Brazil. The commission decided that a group of specialists, including nationals of Peru and Ecuador, would present a report about territorial issues. The report had to deal with what was previously pointed by the list of impasses: the Lagartococha sector, the Cuzumaza-Bumbuiza-Santiago. Yaupi confluence; and the Cuchuime Sur-20 de Noviembre sector. The commission made a distinction between cartographic and historical criteria, allowing Ecuador to keep the Teninete Ortiz military post within its borders. The geographical complexity involving the Zarumilla Canal demanded the creation of a special working group that met from March to April of 1998. The demarcation of the Zarumilla Canal (located at the Alto Cenepa watershed between the Zamora and Santiago rivers) brought immense problems to the commission. The final accord distributed the responsibility of the water flow in the proportion of 55% to Peru and 45% to Ecuador, enduring the water supplies for the river population. The most important achievement of this commission was finally set the border on the Upper Cenepa region (Cordillera del Condor) where Ecuador had finally recognized Peruvian sovereign right over the region. The award border settlement announced by the guarantors placed the boundary line in the unmarked sector on the summit (*cumbre*) of the Cordillera del Cónдор and provided for its demarcation by 23 *hitos* or boundary markers (Article 1 of the Border Integration Accord). In support of this decision, the guarantors cited the *Rio Protocol* and the award of Captain Braz Dias de Aguiar (St. John 2009, pg. 82). In return of this recognition the Tiwinza region would be handed to Ecuador. Another commission solution was the creation of two national parks, one in each side of the border. (Herz, 2000, pg. 58) (Biato, 1999, pg. 254). The two binational parks have the status of ecological reserves and are coordinated by both Peru and Ecuador (Cannabrava, 1999, pg. 4). No military forces or any sort of military activity is allowed in the region (Simmons, 1999, pg. 20). The agreement also accorded members of the native communities in the region free passage from one ecological zone to the

Other (St. John, 2009, pg. 83). What really happened was an example of territorial interchange in which both Ecuador and Peru at the same time surrender to each other small parts of territory and integrated the frontier.

With the Ecuadorian and Peruvian acceptance of solutions pointed by each commission the negotiations were ended. At the 23rd of October of 1998 the presidents Fernando Henrique Cardoso, Bill Clinton, Carlos Menen and Eduardo Frei submitted a letter to the presidents of Peru and Ecuador with a final proposition to small remaining issues. Following the negotiations principle of the single undertaking the proposal was accepted by Peru and Ecuador and the Act of Brasilia was signed by the six parties at the 26th of October of 1998 (Herz, 2000, pg. 59). According to the act: “2. (...) the boundary differences are definitively resolved between the states. Based on this, the states leave registered firmly and indeclinably the respective governments will of culminate, within the quickly time possible, the demarcation of the terrestrial boundary”. 3. at the same time, manifest their compromise of rendering the treaty to internal approval, with the purpose of ensuring a rapid ratification process”³⁰ (Acta Presidencial de Brasilia, United States Institute of Peace electronic collection, 2009, pg. 1).

4.6. The Operationalization phase

The last phase of the regime formation is the operationalization when material and economical elements bring life to previous institutions arrangements. At this point, there is a general feeling of relief caused by a final boundary agreement and also a friendly peaceful environment between Peru and Ecuador (Herz, 2000, pg. 63).

However, the actors are aware that what has happened in 1942 with the Rio Protocol could happen again if the operationalization stage fails. The absence of help from the Guarantors part can ruin easily the previous work because it is also the closing of all regime enterprise.

Operationalization is divided into two steps: international and national. The international step is represented by fomentation to implement international institutions and international administrative structure. The national step is represented by congress ratification, administrative implementation of institutions and local administrative apparatus.

4.6.1. The operationalization international step

³⁰ 3. Simultaneamente, manifestan su compromiso de someter los acuerdos que se suscriben en esta fecha, a los procedimientos de aprobacion de derecho interno, según corresponda, con miras a asegurar su mas pronta entrada em vigencia (Acta presidencial de Brasilia, United States Institute of Peace electronic collection, 2009, pg. 1).

The international element of operationalization stage was composed mainly by: 1- Guarantors military support – MOMEPE – designed by the Itamaraty Peace treaty of 1995; 2 - Economic obligations assumed in the Global and Definitive Peace Agreement of 1998.

Once again the analysis of the regime formation must assume that phases overlap many times during the whole process. The Peru- Ecuador case is no exception and here the international operationalization step happened together/ previously with the negotiation phase. This fact is explained by the Cenepa War. The war needed to be completely stopped to permit some amicable dialogue between the actors. Trust and respect had to be conquered by the Guarantors before negotiations went forward in 1995. No better way to do that than to engage themselves in stopping violence and demilitarizing the Alto-Cenepa region.

For organization purposes the economic element will be firstly commented, and after a brief overview of the military element will be presented in a sub-topic.

The border integration accord of 1998 contains two chapters on finances. Chapter 2 designs the binational fund for peace and development and chapter 3 designs a international financial consultative group Article 25 states: “the fund will be constituted by investments from the Peruvian and Ecuadorian governments and from the friend states, also from international institutions, NGOs and private institutions” (Acuerdo amplio ecuatoriano-peruano de integración, 2009, pg. 1). An economic development project for border integration represented the international fomentation. The border integration project had a budget of three billion dollars to be accomplished along the next ten years (Herz, 2000, pg. 60/61).

On 25 October 1998, the Interamerican Development Bank announced a US\$500 million loan for economic and social development in the frontier zone. As cited before, this was the first instalment in a US\$3 billion international commitment to develop the Ecuador-Peru borderlands (St. John, 2009, pg. 87).

The project would focus on transportation, electricity, tourism, fisheries and education on the frontier area. The fund was to be directed by an executive organ composed by eight members, half from each state, and according to article 25 of the Border Integration Accord had to issue a receipt of every five million received from the Inter-American Development Bank. In the Peruvian and Ecuadorian domestic arena, in order to accomplish the border integration project, many other bilateral projects were developed such as: binational fund for peace, liberalization of commerce, infrastructure and etc (Herz, 2000, pg. 61).

4.6.1.1 Military Observation Mission Peru-Ecuador - MOMEPE

Military support meant the material means to stop the war and permit the negotiations to go further. It also represented the first successful peace-keeping mission in South-America.

The Itamaraty Peace Agreement of 1995 prescribed the creation of a military observation mission to guarantee peace in the Cenepa War region. Therefore, in 17-18 of January of 1996 the six (guarantors plus Peruvian and Ecuadorian) foreign ministers signed an agreement for the creation of MOMEPE – Peruvian-Ecuadorian military operation mission – a joint military group charged with the mission to provide confidence-building bilateral mechanisms between Peru and Ecuador (Simmons, 1999, pg. 13).

Unlike the previous peacekeeping missions in America, MOMEPE did not involve extra-hemispheric parties as actors such as UN (Marcella, 1999, pg. 46). The military operation represented a far more active engagement from the Guarantors on the conflict resolution (Simmons, 1999, pg 13) it was a real application of the South-American traditions. MOMEPE was able to actually engage military as an active and positive actor to the conflict resolution.

MOMEPE was not all about military strategy. It was able to re-establish the hierarchical link between the civilian government and the military. The effectiveness of the mission depended crucially upon the interaction between the military officers and diplomats of the six parties. Both had one goal in mind: to separate troops and create conditions for amicable negotiations towards a lasting peace (Marcella, 1999, pg. 47).

The scheme was to have equal shares of command and responsibility to each of the four guarantors. A Brazilian general was the coordinator and each nation contributed with 10 officers headed by a colonel. USA provided aviation, operation, intelligence, communication and logistics to the observer officers (Marcella, 1999, pg. 47).

In May of 1995 MOMEPE had already established a routine of patrols of the disputed area, created operationalization centers at Base Sur and Tiwintza. The upper Cenepa valley was clear and the conditions perfect for the parties to go further creating a DMZ- demilitarized zone at the security area (Marcella, 1999, pg. 56).

In August of 1995 the DMZ was effectively working and the MOMEPE staff took one step forward and started the definitions of Procedures for continuation of the mission: confidence-building. The staff designed a “plan of conduct” or tactics with a top down strategy, over a period of 90 days. The plan consisted in substituting the guarantors’ observer officers by Peruvian and Ecuadorian officers within time (Marcella, 1999, pg. 59).

While the USA desired a more rapid integration process, the consensus among the guarantors was that fundamental changes would take time, and the most important was to build confidence between Peruvian and Ecuadorian military (Marcella, 1999, pg. 60).

MOMEPA action contributed to consolidate the new paradigm of military forces activities inside conflict resolution processes. The new idea is that military is more than just a force to separate adversary armies, but a diplomatic instrument to break down tensions and give dynamism to negotiations (Cannabrava, 1999, pg. 5).

MOMEPA achieved a great success in all aspects. It was a perfect peacekeeping mission both in tactical and negotiation levels. MOMEPA great success was able to shift the Peruvian and Ecuadorian societal understanding of the military institution from a dictatorial to a democratically instrument to ensure peace.

4.6.2. The operationalization domestic stage

The domestic step is the most complicated one and on which the whole enterprise will depend upon. Therefore, the five small accords that composed the Global and Definitive Peace Agreement were subjected and approved by the Ecuadorian and Peruvian congresses in record time (Herz, 2000, pg. 60). Peruvian congress approved the *Treaty of Frontier Integration* and the *Treaty of Trade and Navigation*, the only two draft agreements requiring congressional approval in Peru, by a wide margin in mid-November 1998. The Ecuadorian congress approved the *Treaty of Frontier Integration* later in the month, deferring approval of the *Treaty of Trade and Navigation* to the executive branch (St. John, 2009, pg. 87).

After the ratification procedure it was necessary for both Peru and Ecuador to create national instruments to coordinate the international and national level to avoid communicative-action problems.

The failure of Rio Protocol operationalization phase still haunted the Guarantors during negotiations. To avoid a similar situation the negotiations commissions tried to prescribe as many as possible national tools inside the Accords of 1998 to avoid failure at the next stage. Therefore, the Accords of 1998 had already designed the national institutions and how would they work. So, there was no much work left for domestic decisions. To Peru and Ecuador it was all about giving personnel and following the treaty instructions.

From now on the actor role in the conflict shifted from the executive (head of the states) to the administrative sector of the government. The Ecuadorian vessels could now reach the Atlantic Ocean from domestic waters while Peru preserved sovereignty over the contested

areas. Peru and Ecuador government started to bestow upon each other the label of most-favoured country. The title meant that both nations would enjoy facilities in navigation, land transit and commercial facilities. Ecuadorian vessels should be treated as Peruvian vessels in Peruvian waters, allowing great economic integration in the Cordillera del Condor area (Herz, 2000, pg. 60).

As said before two ecological binational parks were created by the Global and Definitive Peace Agreement of 1998. One park located in each side of the frontier in the upper Cenepa region. Ecuadorians started to enjoy from free circulation on the Napo River region. Peru assumed the obligation to guarantee the water flow through the Zarumilla Canal, ensuring water supplies for life on the Ecuadorian riverside (Cannabrava, 1999, pg. 6).

Since the dialogue between national and international institutions worked fine, in January of 1999 the demarcation of the border recommenced. Ecuador was expected to construct most of the boundary markers while Peru will provide the helicopters to put them in place. Mine clearing in the border zone will be accomplished in two phases with the first phase focused on demining the immediate areas around the sites of the new boundary markers. Both Ecuador and Peru want the boundary markers in place as soon as possible so that all components of the Global and Definitive Peace Agreement of 1998 could be fully implemented. The border demarcation was finished in May (St. John, 2009. pg. 87).

After, the Peruvian and Ecuadorian presidents signed and integration accord. At the signature the Tiwintza region was handed over to Ecuador putting an end in the operationalization phase (Herz, 2000, pg. 61).

There is no much literature written after 2000 to base conclusion of what occurred in the last years. There is also an absence of media information after the year 2000. Those facts combined suggest that the conflict was really solved. Also, it suggests that the institutions in place are accomplishing their goals and the border integration was fulfilled since that time. In conclusion, the design-perspective was realized and the regime now is rooted into domestic practice.

5. CONCLUSION CHAPTER

The amazing features of this case study do not lie in the peaceful resolution itself, but lie in the third party intervention and the long-standing international successful regime formation.

First to say is that the Rio Protocol was a previous attempt to achieve conflict resolution through regime formation. The process reached the operationalization stage but stopped due to internal and external political events, and a weak intellectual leadership along the regime formation process. The Rio Protocol of 1942 ended being a failed regime. However, it was a bridge linking the old failures with new perspectives to the future. The Rio Protocol survived as a tool for third party intervention in the border conflict, and acted as the legal framework to re-open negotiations between Peru, Ecuador and the guarantors in 1995-1998.

The national and international scenario, the regime context, during the years of 1995 to 1998 was definitively in favour for the conflict resolution. New International Ideologies provide the tools to work the border conflict, e.g. cooperation, political integration and social and economical development. Globalization was certainly the path for those tools to reach South-American regional political environment.

Ideas of regional peace and regional security also contributed to the conflict resolution. An ideology of security based on peaceful methods ensured the political base for confidence building between Peru and Ecuador. Along the empirical chapter it is possible to see how often the international context contributed to increase the tensions between Peru and Ecuador. Therefore, International Relations influenced vitally in both conflict perpetuation, maintaining and resolution. Also, social aspects represented by ideas to overcome: differences, bad historical heritages, to prioritize political stability, social justice and modernization influenced the regime formation process. “The concept of a peaceful and stable region gathered by cooperation relations became a hegemonic idea and it was dealt by the actors as an asset” (Herz, 2000, pg. 83).

Another important contextual element was the high institutionalization level of the 1995-1998 process. The institutionalization level was represented by the legal documents framing the negotiations and the increasing relevance during the process of formal proposals by the mediators. Also, it demonstrated to the rest of the world that South-America had the capability to solve own problems and face head up the next millennium challenges. Integration and cooperation only confirmed the South-American status of a peaceful region,

representing a clear statement against external pressures toward heavy militarization and other attitudes contrary to our traditions.

The South-American integration continued to grow with the merging negotiations between the Andean Pact and the Mercosur. The idea is to “build sub-regional blocks” and then merge all to a single South-America block. Despite the political and economical beneficial aspects of integration we have the environmental one as well. This process only reengaged South-American states of the ideas on the Treaty of Amazonian Cooperation of 1978 to the integrated and sustainable development of the Amazonian region (Cannabrava, 1999, pg. 2/3). After all peace is an element of a sustainable environment for mankind.

Although, the regime states only the involvement of the parties, in many provisions of the Global and Definitive peace Agreement of 1998, the guarantors states appear assuming economical and political obligations. So, it may be claimed that this regime is a mixed one with main parties – Peru and Ecuador - and secondary parties – USA, Brazil, Argentina and Chile.

The case also shows that it is possible for an “outsider” state to assume a “regional” persona. USA is not a South-American state, but it had to adapt its mind towards South-American traditions to participate in this conflict resolution. USA had to drop out the dominant and dictating role to step into the guarantor role. The USA sensitivity in the case showed its status as a Global power and increased its credibility in the region. Maybe such multilateral character of third party arrangement present in the Peru-Ecuador case would not be able in an African or Asian context. But surely, some sort of cultural and societal adaptation is possible to achieve the same level of commitment for conflict resolution.

The Issue- linkage inside the regime created involved the topics of navigation, commerce, economic and social development, and border integration. Therefore, the focus is at the economical and social fields, leaving the border issue to “a secondary role”. The negotiations commissions had a strategy of breaking the issue into small ones, accessing the underlined issues, find solutions and finally linking all issues in a big picture. The keystone was to keep solution “small”, and instead of having “a single treaty”, Peru and Ecuador had five small accords that were gathered in their wholeness and called Global and Definitive Peace Agreement of 1998. Another negotiation commission strategy to link issues was to base negotiations in trust and confidence bounds achieved through cultural similarities.

Texts show no record of any conflict at the Peruvian and Ecuadorian border region since the Global and Definitive Peace Agreement of 1998. It may be claimed that the success was so great that facts happening afterwards lost their charm compared to the conflict resolution process itself.

The present case is not a closed and finished scheme, on the contrary, is a flexible and malleable one. The Peruvian and Ecuadorian case proves that there are no certain rules in conflict resolution only principles and paths to follow. After analysing the especial features and characteristics of the Peruvian and Ecuadorian border conflict resolution through regime formation, it may be claimed that the case can be used as a model in similar events and societies.

Concerning Young`s model, I sum up my empirical chapter findings bellow. Indicators sometimes will overlap and the same fact/event can explain one or more indicator.

5.1. The agenda formation stage

Exogenous shocks or crises increase the probability of success in efforts to negotiate the terms of governance systems (Young 1994, p. 111). The Cenepa war definitively showed itself as a greater external event – a driving force - that started officially the agenda formation phase, with re-opening the international discussion and re-starting negotiations about the Peruvian-Ecuadorian border dispute. However, South-America had another strong driving force of cooperation and integration ideology to take the situation under control. That was also the context in which the agenda formation occurred.

At a second look, the war showed to be an opportunity to re-install communicative-action by reinforcing communication, trust and confidence building between Peru and Ecuador. The Rio Protocol was reinforced as a multi-lateral procedural mechanism to re-open the process of regime formation and consequently for peaceful conflict resolution.

The availability of arrangements that all participants can accept as equitable is necessary for institutional bargaining to succeed (Young 1994, p. 107) - equity is the keystone. Peru and Ecuador started to feel as equitable parties along the agenda formation stage as a consequence of the clear and open communication about underlined issues and the friendly environment of negotiations.

Equity was a conquer of intellectual leadership that played an important role in supplying public opinion with motivation to readdress ideas of nationalism and sovereignty. Important figures as the Peruvian president Fujimori, the guarantors' ambassadors', foreign

ministers and guarantors` presidents made incomparable contributions for the conflict resolution when demonstrated strong hands to guide the process in a peaceful way. The leadership also acted through third-party intervention always showing a high degree of commitment toward regime formation and a final peaceful resolution.

The probability of success in international bargaining rises when clear and reliable compliance mechanisms are available (Young 1994, p. 110) – soft-law problems. There were in fact many previous arrangements to act as compliance mechanism to re-start the regime formation process: the Rio Protocol of 1942, the regional South-American peaceful intervention traditions and regional treaties for peaceful negotiations. Therefore, both Peru and Ecuador had to put aside legal disagreements concerning soft-law and rely on existing arrangements to stop the Cenepa War and once more re-engage in negotiations.

The design perspective of the agenda formation phase was based on ideologies of peace, regional stability, confidence-building and similar culture. The goal was represented by similar future interests for national and regional development, leading the agenda formation process to be effective and fast toward the next stage of negotiation.

5.2. The Negotiation stage

The previous stage ensured an auspicious environment to the negotiation phase where international and national interests converged. Exogenous shocks or crises increase the probability of success in efforts to negotiate the terms of governance systems (Young 1994, p. 111). The previous phase re-established the Rio Protocol as a valid document to guide the new regime formation process, and here it functioned as a driving force to set negotiations in motion.

The negotiations context presented itself as very peaceful and although Cenepa war has ended with the total demilitarization of the region, it was fresh in people`s memory and still worked as a driving force. Another exogenous fact composing the context was globalization. It worked as a driving force pushing forward the regime formation process to achieve economic and social developments as required by the present context. Also, South-American common markets were a driving force demanding peace at regional level.

Popular opinion started to represent a unanimous opinion towards a peaceful conflict resolution. Nationalism and sovereignty feeling were readdressed by Intellectual leadership to gain support for the political decisions that were happening in the international scenario of negotiation. That shift was a consequence of a good communicative- action work, ending

discordance between state interest and societal interest- the “two level game”. The confluence of peaceful ideology between political, military and societal sector was confirmed by public opinion surveys, e.g. in Ecuador, the concept of nationalism was shifting through slogans such as: “poverty has no nationality” to address the need to solve the border issue (Simmons, 1999, pg. 16/18)³¹.

Institutional bargaining cannot succeed in the absence of effective entrepreneurial leadership on the part of individuals (Young 1994, p. 112). Actors seek to gain for themselves in the form of material rewards (regional integration and development) or enhance reputation (South-American world respect). Transnational alliances and multivariate analysis were keystones in negotiation phase.

Actor political leadership’ attitudes to generate an inductive and constructive negotiation environment/context composed the merit of the whole negotiation process. Actors opted for continuation when opportunities of dropping out of negotiations frequently appeared easier (Simmons, 1999, pg. 16). The engagement of head of states combined with the use of high level professionals in the commissions paid the price for a serious and respectful role in negotiations process. Brazil played the role of leader among the Guarantors and provided the long-term leadership crucial for the conflict resolution (Simmons, 1999, pg. 19).

The availability of arrangements that all participants can accept as equitable is necessary for institutional bargaining to succeed (Young 1994, p. 107) - equity is the keystone. Mediators preoccupied mainly about Peruvian and Ecuadorian culture views of the border conflict to compose mutual beneficial options to reach good arrangements. The access to culture and confidence building measures permitted to establish a feeling of a negotiation process guided by equity for all participants. Therefore, negotiations followed an easy path toward issues solutions.

The negotiation stage tactics were guided by prudence and pragmatism leading to explore numerous formulas of persuasion contained in the Latin –American diplomatic arsenal. The guaranties offered by USA, Brazil, Chile and Argentina along negotiations transformed itself into a mediation instrument, fulfilling the mediator role described in paragraph 1 of article 33 of the United Nation Charter (Cannabrava, 1999, pg. 5).

³¹ In 1995 a public survey showed that 58% of Peruvian population and 71% of Ecuadorian population would accept the solving of the territorial issues with mutual concessions (Simmons, 1999, pg. 18).

The method or strategy for negotiations was crucial in this stage, “identification of salient solutions (or focal points) desirable in simple terms increase the possibility of success (Young 1994, p.109)”. Commission solutions were based on clarity and simplicity. The common language (Spanish/ Portuguese) helped to ensure the clarity of the contractual terms.

Also, the choice of assessing the underlined issues before entering into the border issue itself created the trust and amicable environment necessary to actually “divide” territory. That is what Young`s theory name issue-linkage. The adoption of the single undertaking voting process ensured the flowing of negotiations and impeded that negotiation got stuck in one single matter. The professionalism of the ones involved in the commissions provided the combination of using known international negotiations methods and a South-American regional cultural legacy, and that developed in a perfect negotiation environment.

Another strategy was to share negotiations into four commissions. Instead of assessing the problem in its magnitude, as it was done so many times before, this time the problem was shared into four pieces. All the four problem pieces were solved by a correspondent accord. All accords were simply matched together to form the Global and Definitive Peace Agreement of 1998;

Issues at stake lend themselves to treatment in a contractarian mode - here, the emphasis is upon: an integrative bargaining, the veil of uncertainty, and consensual rules/agreements. The Itamaraty treaty was the first arrangement to achieve consensual rules to access the issues of the negotiation phase. After that, many small arrangements were formalized in other documents such as the Santiago Treaty, the list of impasses and etc. Following the international regime system the contractarian mode was the choice to manage the conflict resolution process and the negotiation stage ended with the elaboration of the Global and Definitive Peace Agreement of 1998.

The veil of uncertainty was always present in a good way. It was presented to the parties as the gains and benefits of regional integration and cooperation towards regional social and economic development. Those desires integrated the negotiation stage design perspective, where regional integration and development had to overthrow territorial issues at any cost.

5.3 The Operationalization stage

Issues at stake lend themselves to treatment in a contractarian mode - here, the emphasis is upon: an integrative bargaining, the veil of uncertainty, and consensual rules/agreements (Young, 1994, pg. 107). The Global and Definitive Peace Agreement accords of 1998 were

the contract terms of the regime formed. It was also the starting point or main driving force of this phase. The operationalization is a sensitive stage and it was here that the Rio Protocol of 1942 failed. Having that in mind, the actors were inclined to put great efforts in the form of technical, economic information to use rightfully the donations. The driving forces of money and contract terms were strongly present.

The guarantors invested greatly with military support, MOMEPE military operation represented investment of personnel, budget, military intelligence and others resources. The goal or design perspective was not only to stop the warfare but to put in practice confidence building measures to end once for all with the military frivolity between Peru and Ecuador. MOMEPE is the most successful peace keeping mission in the Latin America. MOMEPE was the communicative-action solution to re-engage two important sectors of both Peruvian and Ecuadorian societies. Collective- action meant at the operationalization stage to achieve interaction between international and national levels.

The availability of arrangements that all participants can accept as equitable is necessary for institutional bargaining to succeed (Young 1994, p. 107). Equity was ensured by the contract terms that shared responsibilities and duties between Peru, Ecuador and the Guarantors for the realization of the institutions designed in the treaty. At the national level the necessity of sharing tasks, e.g. the binational park preservation; would increase the feeling of continuous equity among Peru and Ecuador. That also contributed for the creation of the actor structural leadership that will compose the institutions designed by the treaty of 1998.

Institutional bargaining cannot succeed in the absence of effective entrepreneurial leadership on the part of individuals (Young 1994, p. 112). Actors in this stage are the “structural leadership”, mainly represented by national and local administrative departments and personnel. The most important for actors in this stage is to be aware of administrative bureaucracy to overcome eventual contradictions between international and national rules or procedures. In order to accomplish that goal, actors must make use of personal and local strategies (which no data is available).

Also, the guarantors’ leadership was present in this stage of the regime formation. They put themselves in availability to help in any step of the way. Of course, in this stage the idea was to let Peru and Ecuador work for themselves to tight the bond of trust, confidence, cooperation and interaction.

Communicative action goal was to maintain the dialogue between international, national and local level. Even though now the context shifted from the international scenario to the national one, interaction would create an auspicious context to ensure Peruvian and Ecuadorian harmony between regional and national political economic interests. The new institutions were designed to work within a binational framework and peaceful policies and interaction can ensure a pragmatic context for them.

The probability of success in international bargaining rises when clear and reliable compliance mechanisms are available (Young 1994, p. 110). The operationalization stage had two main goals: compliance and total integration in the national practice. The mechanisms were all provided by the accords terms, that included annexes with procedural rules to the binational institutions created the treaty of 1998. The compliance is assured not only by treaty provisions but for the cooperation and integration regional ideology, traditions and other institutional arrangements such as Mercosur and the Andean Pact. Of course contract terms are never enough guaranties of compliance but the regional environment within which the regime was to work worked as a double-guaranty.

Total integration in the national practice is something that demands a long period of time to be accomplished. Successful international regimes, as social institutions, have to have integration into social practice as a natural end.

PERU AND ECUADOR BORDER CONFLICT REVIEW

	Agenda Formation	Negotiation	Operationalization
Driving forces	Conquer by force and gain territories ideas start to shift with the Cenepa war of 1995. Regional Cooperation and integration started to shift Peru and Ecuador positions toward the border dispute.	The Rio Protocol of 1942. Negotiations x arbitration. Globalization and the new era of cooperation in South-America.	Interamerican Development Bank donation of 500 billion dollars. Global and Definitive Peace Agreement of 1998.
Actors	Intellectual leadership – presidents, ambassadors, foreign ministers.	Intellectual leadership - Guarantor`s representatives, Peruvian and Ecuadorian political leadership and society.	Structural leadership - national/local administration departments and local administration personnel
Collective Action	Re- open communication between Peru and Ecuador through trust and confidence building measures.	Peruvian and Ecuadorian society interest converging with Peruvian and Ecuadorian governments interests.	To achieve perfect interaction between international and national institutions.
Context	Wars of 1941, 1981 and 1995. Security in America. Economic integration. Political cooperation.	Necessity to integrate and develop South-America. Great expense of war. Cooperation.	National context. National Political policies toward development and peace.
Tactics	South-American peaceful traditions of third party intervention through good offices and mediation.	Cultural bounds to build confidence. Single undertaking decisions. Issue-linkage = dividing issues / small solutions.	No data available. Supposition to be the same adopted in the earlier phases.
Design- perspective	Stop the violence at any cost. Find similar interests and access underlined issues toward next stage.	Economic, political development and regional integration must overthrow territory issues	Total national acceptance. The regime to be incorporated by national practice.

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MAP 2. Rio de Janeiro Protocol Boundary – Marcella, Gabriel; Downes, Richard (1999). *Security Cooperation in the Western Hemisphere: Resolving the Ecuador-Peru Conflict*. Miami: North-South Centre Press at the University of Miami.

Figure 2 – Peru and Ecuador Border Impasses - St. John, Ronald Bruce (2009) “Ecuador-Peru Endgame”. *IBRU Boundary and Security Bulletin Winter 1998-1999*, pp 79-85©.

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