INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

2026

Public sitting

held on Wednesday, 11 November 2026, at 5:30 p.m.,

at the International Tribunal for the Law of the Sea, Hamburg,

President Maurice K. Kamga presiding

Case concerning hydrocarbon exploitation in the South-West Atlantic Ocean

(*Argentina* v. *United Kingdom*)

(Request for provisional measures)

Verbatim Record

Uncorrected

Present:	President	Maurice K. Kamga
	Judges	David J. Attard
		Markiyan Z. Kulyk
		Roman Kolodkin
		Liesbeth Lijnzaad
		María Teresa Infante Caffi
		Jielong Duan
		Kathy-Ann Brown
		Ida Caracciolo
		Hidehisa Horinouchi
		Thembile Elphus Joyini
		Zha Hyoung Rhee
		Osman Keh Kamara
		Konrad Marciniak
		Slim Laghmani
		Sylvia Ama Adusu
		Bimal N. Patel
		Lan-Anh Thi Nguyen
		George Rodrigo Bandeira Galindo
	Judges *ad hoc*	Raúl Vinuesa
		Vaughan Lowe
	Registrar	Ximena Hinrichs Oyarce

Argentina is represented by:

Mr Mario Javier Agustín Oyarzábal, The Legal Adviser, Ministry of Foreign Affairs; Member of the International Law Commission; Member of the Institut de Droit international,

as Agent;

Ms Betina Pasquali de Fonseca, Ambassador of the Argentine Republic to the Federal Republic of Germany, Berlin, Germany,

as Co-Agent;

and

Mr Marcelo Gustavo Kohen, Professor Emeritus of International Law, Geneva Graduate Institute of International and Development Studies; Member and former Secretary General of the Institut de Droit international,

Mr Nicolaas Jan Schrijver, Professor Emeritus of Public International Law, Leiden University; Member and former President of the Institut de Droit international,

as Counsel and Advocates,

Mr Agustín Giustiniani, Lecturer, LL.M. in International Dispute Settlement, MIDS, Geneva, Switzerland,

as Counsel,

Ms María Ibarzábal Murphy, Legal and Technical Secretary, Office of the President of the Argentine Republic,

Mr Juan Ignacio Stampalija, Legal and Administrative Secretary, Ministry of Economy,

Mr Santiago Castro Videla, Deputy Attorney General,

Ms Maite Fernández García, Consul General of the Argentine Republic in Hamburg, Germany,

Mr Alejandro Horacio Luppino, Deputy Legal Adviser, Office of the Legal Adviser, Ministry of Foreign Affairs,

Mr Juan Pablo Paniego, Director of Treaties, Ministry of Foreign Affairs,

Mr Juan Manuel Galindo Roldán, Office of the Legal Adviser, Ministry of Foreign Affairs,

Ms Laura Antonella Márquez, Office of the Legal Adviser, Ministry of Foreign Affairs,

Mr Pablo Agustín Alonso, Office of the Legal Adviser, Ministry of Foreign Affairs,

Ms Daniela Luisina Varela, National Directorate for the Malvinas and South Atlantic Islands, Ministry of Foreign Affairs,

Mr Mariano Pagliettini, Deputy Consul of the Argentine Republic in Hamburg, Germany,

Mr Facundo Daniel Rodríguez, Advisory Council on Issues Related to the South Atlantic, Ministry of Foreign Affairs,

Mr Mateo Trossero, Legal and Technical Secretariat, Office of the President of the Argentine Republic,
Mr Julián Rivainera, Office of the Attorney General,
Mr Juan Ignacio Goya, Office of the Attorney General,
Mr Rafael Iribarne, Office of the President of the Argentine Republic,

as Government Representatives and Counsel.

The United Kindgom is represented by:

Ms Sally Langrish, Legal Adviser, Foreign, Commonwealth and Development Office,

as Agent;

Mr Paul McKell, Legal Director, Foreign, Commonwealth and Development Office,

as Co-Agent;

and

Rt. Hon. Ellie Reeves KC MP, Attorney General,

as Advocate,

Sir Michael Wood KC,
Mr Sam Wordsworth KC,
Lord Verdirame KC,
Ms Amy Sander KC,
Ms Belinda McRae,

as Counsel and Advocates.

Ms Naomi Hart,

as Counsel,

Mr Simon Young, Attorney General, Falkland Islands,
The Hon. Jack Ford MLA, Member of the Legislative Assembly, Falkland Islands,

as Representatives of the Falkland Islands Government,

Mr Fraser Janeczko, Assistant Legal Adviser, Foreign, Commonwealth and Development Office,
Ms Chloe Harris, Assistant Legal Adviser, Foreign, Commonwealth and Development Office,

Ms Alison Kemp, Deputy Director, Foreign, Commonwealth and Development Office,

Ms Flora Burles, Communications Officer, Foreign, Commonwealth and Development Office,

Ms Chris Bradley, Research Analyst, Foreign, Commonwealth and Development Office,

Mr Jack Stewart, Senior Laywer, Attorney General's Office,

Mr Liam Hunt, Principal Private Secretary, Attorney General's Office,

Mr Robert Williams, Special Adviser, Attorney General's Office,

as Advisers.

THE PRESIDENT: Good afternoon. The tribunal will continue the hearing in the *Case concerning hydrocarbon exploitation in the South-West Atlantic Ocean (Argentina* v. *United Kingdom), Provisional Measures*. We will now hear the second round of oral arguments of the United Kingdom. I now invite Mr Wordsworth to take the floor. You have the floor, please.

MR WORDSWORTH: Thank you very much, Mr President, members of the Tribunal. As to the order of the United Kingdom's response today:

a. First, I will be responding on *prima facie* jurisdiction and the issue of plausibility, responding chiefly to Professor Kohen.
b. Ms Sander will then respond to the case as now being put under Part XII of the Convention.
c. Lord Verdirame will be responding on certain issues on the facts and on irreparable prejudice, to be followed by Sir Michael Wood on the issues on urgency.
d. The Agent for the United Kingdom, Ms Langrish, will then conclude and read out our final submissions.

Turning, then, to *prima facie* jurisdiction, there are number of points of common ground between the Parties.

a. First, as to the substantial nature of the hurdle of *prima facie* jurisdiction, it appears to be accepted that "issues of jurisdiction should not be treated lightly in the proceedings on provisional measures" and "there must be a reasonable basis for the Tribunal to assert jurisdiction".[1]
b. Second, it appears to be accepted that there is no jurisdiction for an arbitral tribunal under Part XV to determine issues concerning land sovereignty.
c. Third, that in considering whether it is being asked to determine a dispute concerning sovereignty over land, the arbitral tribunal will need "to isolate the real issue in the case and to identify the object of the claim".[2] In the words of the arbitral tribunal in the *Coastal State Rights* case, the "key question … is whether a sovereignty dispute over land is an issue ancillary to a dispute concerning the interpretation or application of the Convention, to which its jurisdiction could be extended."[3]

Now, this morning, Argentina had to confront its claim as it is actually put in its 28 September submission of the dispute to arbitration.[4]

[1] *The "Zheng He" Case (Luxembourg* v. *Mexico),* Provisional Measures, Order of 27 July 2014, Separate Opinion of Judge Kulyk, para. 14. See also *Case concerning the detention of three Ukrainian naval vessels (Ukraine* v. *Russian Federation)*, Provisional Measures, Order of 25 May 2019, ITLOS Reports 2019, p. 283, Declaration of Judge Lijnzaad, para. 5; *Legality of Use of Force (Yugoslavia* v. *Belgium),* Provisional Measures, Order of 2 June 1999, I.C.J. Reports 1999, p. 124, Separate Opinion of Judge Higgins, para. 29.
[2] See e.g. *Mauritius* v. *UK*, Award, para. 208; *Coastal State Rights (Ukraine* v. *Russia),* Award on Preliminary Objections of 21 February 2020, paras. 157-160 and 191-194.
[3] *Coastal State Rights (Ukraine* v. *Russia),* Award on Preliminary Objections of 21 February 2020, para. 194.
[4] Annex 1 to the Request.

And its response to the first claim which it makes before the arbitral tribunal, that is the claim that it has chosen to highlight to the arbitral tribunal, is that you should just ignore this for the purposes of establishing your provisional measures jurisdiction. It was said by Professor Kohen that the provisional measures do not concern this first claim.

The Tribunal will have it firmly in mind that Argentina's claim (1) is that the United Kingdom is "in breach of the international obligation to respect the sovereignty and sovereign rights over the maritime areas, in accordance with Articles 2, 56 and 77 of UNCLOS".[5]

And the task of this Tribunal is, as established in the express wording of article 290(5), and as you have confirmed for example in the *Arctic Sunrise* case, is to "satisfy itself that *prima facie* the Annex VII arbitral tribunal would have jurisdiction".[6] It follows that Argentina's primary claim to sovereignty and sovereign rights cannot just be disregarded as Argentina now wishes. Although Argentina wants you now to focus on its claim (2) concerning the alleged "obligation to refrain from taking unilateral measures" in relation to "maritime areas subject to an international dispute", claim (1) cannot be disregarded when it comes to assessing the true object of the claim submitted to the arbitral tribunal.

And as we explained yesterday, that true object is to seek the determination of and/or to advance Argentina's claim to sovereignty. As is clear from the 28 September submission of the dispute to arbitration, and as indeed confirmed by the highest representatives of Argentina, the filing of the dispute and the making of the Request now before you "serve [Argentina's] permanent and inalienable objective of recovering the full exercise of our sovereignty over the Malvinas Islands, South Georgia, the South Sandwich Islands and the surrounding maritime areas."[7]

Now, to make good our point that this dispute does not concern the law of the sea and is both outside your jurisdiction and does not meet the plausibility standard, I will be addressing Argentina's submissions in the following order:

a. First, its case that there is an obligation within UNCLOS not to take unilateral measures in the case of a land sovereignty dispute, which Argentina says can be located by interpreting together a number of disparate provisions, with a particular emphasis being placed on articles 279 and 300.

b. Second, I will be addressing its case that the United Kingdom is asserting its coastal State rights and asking you to proceed on the assumption that the United Kingdom is the coastal State. And the short answer is that this is simply a mischaracterization of our case, which is precisely about the absence of jurisdiction under UNCLOS to determine who is the coastal State.

[5] Communication of 28 September 2026, para. 17(1); see also paras. 19 and 25.
[6] *Arctic Sunrise*, Order of 22 November 2013, para. 58.
[7] President Milei Statement at the Ibero-American Summit, 5 November 2026, translation by UK.

c. Third, I will look at Argentina's case that the decolonization context changes everything, including its submissions on resolution III.

d. And, finally, I will pick up on some miscellaneous points on which Argentina has placed emphasis, including the 1995 Declaration and the UK's argument on article 298, which Argentina appears to have misunderstood.

So I turn first to the argument on the existence of an obligation under the Convention not to take unilateral measures in the case of a land sovereignty dispute.

Professor Kohen emphasized Argentina's reliance on articles 279 and 300 of the Convention, and you will recall that Sir Michael Wood made submissions on those two provisions yesterday.

Part of Argentina's case here seeks to rely on the recent *Coastal State Rights* Award and, yesterday, Professor Kohen described the Annex VII tribunal in that case as having concluded that "the duty of non-aggravation of the dispute exists under articles 279 and 300 of the Convention". What is being suggested is that there is a general duty to settle disputes under articles 279 and 300, which applies to disputes concerning land sovereignty, and a duty not to aggravate such disputes.

But as Sir Michael emphasized, article 279 is concerned only with an obligation to settle by peaceful means disputes "concerning the interpretation or application of the Convention". It thus uses the language that one sees repeated throughout Section I and 2 of Part XV of UNCLOS. It is not some broader obligation to settle all disputes that are said to concern maritime areas, such as disputes over who is the relevant coastal State. There is nothing whatsoever in the paper of the British Institute that Professor Kohen referred to yesterday to suggest otherwise, and he took out of context wording concerning provisional arrangements in maritime delimitation cases.[8]

And it is useful to explain further why the tribunal in the *Coastal State Rights* Award stated that the provision cannot "serve as the sole and independent basis or 'docking point'" for a claim. [9] The tribunal was there considering the ward in the *South China Sea* case, which referred to "a duty on parties engaged in a dispute settlement procedure to refrain from aggravating or extending the dispute or disputes at issue during the pendency of the dispute settlement process".[10] The duty under consideration was thus limited to non-aggravation in the context of an existing dispute settlement procedure; it was not a duty to settle disputes more generally. The *Coastal State Rights* tribunal agreed.[11] There was no finding in either case of any obligation of the kind that Argentina alleges, namely, to refrain from unilateral measures of exploration and exploitation of natural resources pending resolution of a territorial sovereignty dispute.

[8] ITLOS/PV.27/C37/1, p. 18, lines 10-16.
[9] *Coastal State Rights*, Award, 22 April 2026, para. 1219.
[10] *South China Sea*, Award, 12 July 2016, para. 1169.
[11] *Coastal State Rights*, Award, 22 April 2026, para. 1216.

In fact and importantly, the *South China Sea* tribunal specifically recognized that there was no general duty of non-aggravation at all. This completely undermines Argentina's case, both under articles 279 and 300, and more broadly. The tribunal said as follows: "Neither the Convention, nor international law, go so far as to impose a legal duty on a State to refrain from aggravating generally their relations with one another, however desirable it might be for States to do so".[12] That passage was expressly approved by the *Coastal State Rights* tribunal.[13]

The *Coastal State Rights* tribunal similarly recognized, as Sir Michael explained yesterday, that article 300 is merely ancillary in nature,[14] and Argentina has not explained – and could not explain – how article 300 operates in any relevant way with any applicable provision of UNCLOS.

So that, coupled with Sir Michael's remarks of yesterday, is the answer to Argentina's claim with respect to articles 279 and 300. They go nowhere.

That brings me then to Professor Kohen's other stated basis for the alleged prohibition on unilateral acts in UNCLOS. This is his point that "it is possible to give a combined or joint interpretation of the provisions of the Convention". In other words, Argentina cannot locate an applicable provision in UNCLOS, and hence it seeks to create a patchwork of provisions to fill the gap.

There is one immediate and obvious answer to this point. The wording that Argentina would wish to find in an obligation of the Convention is in resolution III, which I will return to shortly, and which has no binding force whatsoever. If it were the intention of the UNCLOS parties to include an obligation equivalent to the wording of resolution III, they would have included that wording in the Convention – or they would have seen no need for resolution III because they would have considered that it was already a matter of obligation within the Convention.
There are two further points to make for completeness.

First, there is no legal basis for this approach to interpretation. In his argument yesterday, Professor Kohen relied on an observation of Ambassador Tommy Koh and the ICJ's advisory opinion in the *Namibia* case. As to these:

a. Ambassador Koh's remark that "the provisions of the Convention are closely interrelated and form an integral package" was made in a very specific context, where States were wishing to accept some parts of the Convention but to reject others. Amassador Koh was rejecting that approach. As he explained: "Thus it is not possible for a State to pick what it likes and to disregard what it does not like."[15] His remark offers no support whatsoever for the interpretative approach that Argentina now advocates.

[12] *South China Sea*, Award, 12 July 2016, para. 1174.
[13] *Coastal State Rights*, Award, 22 April 2026, para. 1219.
[14] *Coastal State Rights*, Award, 22 April 2026, para. 1219.
[15] Ambassador Tommy Koh, 'A Constitution for the Oceans', available here: https://www.un.org/depts/los/convention_agreements/texts/koh_english.pdf.

b. As to the *Namibia* advisory opinion, Professor Kohen referred to the Court's well-known dictum that "every international instrument must be interpreted and applied within the framework of the entire legal system in force at the time of interpretation." This was not about seeking to interpret a disparate series of provisions within a single treaty to create a new obligation not in the treaty, and that is reflected in the fact that when this Tribunal endorsed this method of interpretation in the recent *Climate Change* Advisory Opinion at paragraph 135, it did so in the context of addressing the principle of interpretation in article 31(3)(c) of the Vienna Convention, which concerns taking into account relevant rules of international law applicable between the parties. That principle does not help Professor Kohen. Article 31(3)(c) cannot create an obligation where there is none.

Second, Professor Kohen referred to a number of provisions in the Convention that do provide for some form of cooperation – articles 63, 64, 66, 67 and 123. But this is a point strongly against Argentina. It merely highlights that, where the States Parties to UNCLOS wished to include an obligation of cooperation or the like, such as with respect to certain fish stocks, they did so. They did not leave the matter to be inferred from a basket of other provisions.

The simple point is that if you add a series of zeros, you still get to zero. Argentina has abandoned any reference to articles 2, 56 and 77. Professor Kohen, this morning, also disavowed any reliance on articles 74(3) and 83(3) for the provision that he seeks to construct. Articles 192 and 194 do not assist and, for the reasons that Ms Sander and I developed yesterday, the central claim under those two provisions is dependent on Argentina's assertion of sovereignty over the Falkland Islands. That leaves articles 279 and 300 which, for the reasons I've just given, plainly do not establish the obligation that Argentina seeks to construct.

And there is no "black hole" if the United Kingdom is right in its entirely conventional interpretation of UNCLOS, as was suggested by Professor Kohen.

The Convention applies to the maritime zones surrounding the Falkland Islands. The United Kingdom accepts and acknowledges that. It also ensures that it complies with the Convention, as the United Kingdom has explained in diplomatic correspondence to Argentina. If a State Party to UNCLOS had a complaint about the way in which the United Kingdom is applying its rights and obligations under the Convention to the Falkland Islands' maritime areas, that would, in principle, be a matter concerning the interpretation and application of the Convention, and one that, in principle, would be subject to Part XV. But that is not the case before you. The United Kingdom's compliance with its own obligations is not the subject of Argentina's claim. It is Argentina's alleged rights as to being the putative coastal State that are the subject of Argentina's claim.

I turn, then, to Argentina's argument this morning that the United Kingdom's case requires Argentina, this tribunal and the Annex VII tribunal all to accept the United Kingdom's claim to sovereignty as "manifestly true".[16] That is just a willful mischaracterization of the United Kingdom's position. The United Kingdom does not

[16] ITLOS/PV.27/C37/3, p. 1, lines 32-34.

say that this Tribunal, or the Annex VII tribunal, should validate or recognize its claim to sovereignty. Its position is precisely the opposite: that tribunals under Part XV do not have jurisdiction to take a position at all on a disputed sovereignty claim or who is the proper coastal State.

Professor Kohen also said this morning that the present case is indistinguishable from the *South China Sea* case.[17] Again, this is incorrect. As I explained yesterday, Argentina's position is that the United Kingdom cannot be assumed to have sovereignty, and this is the basis for jurisdiction in respect of Argentina's claim. In contrast, in *South China Sea*, the tribunal expressly approached the Philippines' claim "from the premise – as the Philippines suggests – that China is correct in its assertion of sovereignty over Scarborough Shoal and the Spratlys".[18] The basis on which the Philippines asked the tribunal to resolve its claim was therefore the 180-degree opposite of the approach Argentina adopts in its claim.

Great weight was also placed this morning on the particular context of decolonization, and the alleged importance of resolution III. I start with resolution III, as to which there are four short points to develop.

First, resolution III is not part of the Convention, as Sir Michael explained yesterday. At the Third Conference, the participants did consider including an earlier form of resolution III as a provision in the Convention – first, as article 136 within a special part on "Territories under foreign occupation or colonial domination"[19] and subsequently as a "transitional provision".[20] In moving the text of resolution III to a transitional provision, the Chairman explained, "it must be recognized that the article raises issues which go beyond the scope of the law of the sea."[21] This proposal ultimately was not accepted, in the light of the controversy surrounding it. This means that resolution III is not a relevant source of rights and obligations under UNCLOS, and expressly not.

Second, the very fact that resolution III is deliberately outside the terms of the Convention demonstrates that, as the Chairman of the Conference indicated, it is a matter extraneous to the Law of the Sea and to the Convention. So, resolution III does have some importance: it reinforces the United Kingdom's point that matters of territorial sovereignty, including the specific matters addressed by resolution III in the context of decolonialization, are entirely outside Part XV of the Convention.

Third, resolution III does not give rise to any binding legal obligation. As Professor Roger O'Keefe has explained, the "vagueness of the obligations it imposes and the uncertainty over the territories to which it applies would seem to deny it the

[17] ITLOS/PV.27/C37/3, p. 7, lines 13-19.
[18] *South China Sea (Philippines* v. *People's Republic of China)*, Award on Jurisdiction and Admissibility, 29 October 2015, para. 153.
[19] UNCLOS III, Informal Single Negotiating Text (Part II), UN Doc. A/CONF.62/WP.8/PartII.
[20] 'Revised single negotiating text (Part II), 6 May 1976, UN Doc. A/CONF.62/WP.8/Rev.1/Part II, p. 172.
[21] 'Revised single negotiating text (Part II), 6 May 1976, UN Doc. A/CONF.62/WP.8/Rev.1/Part II, pp. 153-154.

fundamentally norm-creating character required."[22] In seeking to hold the United Kingdom to its so-called "commitment" under resolution III, Professor Kohen relied on the comments of a British representative at the Third Conference. That statement was selectively quoted. In fact, it was a direct response to the Argentine representative's statement explaining why Argentina was refusing to sign the Final Act on the basis of resolution III, as the Tribunal can see.[23] The relevant passages we have highlighted but we ask you to read it all:

> ... with a view to reaching a compromise, the United Kingdom had been prepared to go along with that text provided the other parties concerned, including Argentina, were also prepared to go along with it ...

The United Kingdom emphasized that, for its part:

> ... the United Kingdom intended to exercise any offshore rights around the Falkland Islands for the benefit of the people of the Territory. It would do so in Compliance with Article 73 of the [UN] Charter.

There are two points to take from this:

a. The United Kingdom was only prepared to "go along" with resolution III if Argentina did, which it did not.
b. The United Kingdom expressly indicated that it intended to exercise any offshore rights around the Falkland Islands for the benefit of its people, notwithstanding resolution III.

The fourth and final point is that Argentina's long-standing position is that resolution III has no application to what it describes as "the Malvinas question". It has repeatedly made this clear:

a. In September 1982, upon the approval of the Final Act.[24]
b. In December 1982, in a written statement at the third UN Conference.[25]
c. In its declarations upon the signature and ratifications of the Convention.

In particular, Argentina said:

> The signing of the Convention by the Argentine Government does not imply acceptance of the Final Act of the Third [United Nations] Conference on the Law of the Sea.

And you can see, just below, that Argentina

> ... places on record its reservation to the effect that resolution III, in annex I to

[22] Roger O'Keefe, 'Palm-Fringed Benefits: Island Dependencies in the New Law of the Sea' (1996) 45 ICLQ 408, 416.
[23] UNCLOS III, 184th plenary meeting summary records, 24 September 1982, UN Doc. A/CONF.62/SR.184, pp. 10-11, §§88-90.
[24] UNCLOS III, 184th plenary meeting summary records, 24 September 1982, UN Doc. A/CONF.62/SR.184, pp. 10-11, §§88-90.
[25] UNCLOS III, 'Statement by the delegation of Argentina dated 8 December 1982', UN Doc. A/CONF.62/WS/35.

the final Act, in no way affects the "Question of the Falkland Islands" ....

Now, Professor Kohen sought to distance himself from Argentina's observations earlier today. But we do not follow his explanation. The correct position is that Argentina has repeatedly stated that the resolution does not apply to the Falkland Islands.

As to the context of decolonization and the decolonization process more broadly, the United Kingdom does not need to engage with Professor Kohen's so-called "elephant in the room", the seven factual points that he emphasized this morning and said were "unchallengeable and unchallenged".

As I have just elaborated, the Third Conference of the Law of the Sea specifically considered the issue of decolonization, and the participants in the negotiations decided that the text that had been developed to deal with this issue belonged outside the Convention. In these circumstances, there is no justification for seeking to bring the decolonization issue to bear on the interpretation of provisions of the Convention that have absolutely nothing to do with it. Indeed, to interpret the Convention in the way that Argentina seeks – in effect to reintegrate the wording of resolution III into the Convention – would be to go directly counter to the intention of the States Parties to UNCLOS.

It is for this reason that the United Kingdom is entirely correct to say that, if the alleged obligations not to engage in unilateral acts and to settle disputes are to be found in the actual provisions of the Convention, then they apply to all disputes where there is an issue as to who is the relevant coastal State, including all the long-standing disputes that I referred to yesterday afternoon.

Further, none of the texts on which Professor Kohen relies – including resolution III – are legally binding. They could not be prayed in aid as relevant agreements or rules of international law for the purposes of article 31 of the Vienna Convention.

Although Argentina places reliance on various UN General Assembly resolutions, none impose legal obligations relevant to the issues that the Tribunal must decide.[26]

Professor Kohen referred to the Special Chamber's judgment in *Mauritius/Maldives*, but there, the UN General Assembly resolutions at issue had addressed the question of sovereignty that was relevant to the Special Chamber's determination, as opposed to merely saying that there is a dispute, and it appears anyway that the key point for the Chamber was not the existence of the resolutions, but instead the ICJ advisory opinion that it considered had decisive implications for the sovereignty issue.[27] By contrast, where there was no equivalent advisory opinion, the tribunal in the *Coastal State Rights* case did not accord to the relevant General Assembly resolutions the weight sought by the claimant.[28]

[26] See e.g., *Coastal State Rights*, Award of 21 February 2020, paras. 172-174.
[27] *Mauritius/Maldives,* Judgment of 18 January 2021, paras. 245-246.
[28] *Coastal State Rights*, Award of 21 February 2020, paras. 175-177.

We also heard reference yesterday and this morning to the 1995 Joint Declaration on Cooperation over Offshore Activities in the South-West Atlantic. Three very short points:

First, the declaration applied to activities only in a specific area, and that area was defined by precise coordinates, and it does not include the Sea Lion Field.

Second, the Argentine Government terminated the Joint Declaration in 2007.[29] So it could have no relevance to the current phases of the Sea Lion Project, even if the field were in the relevant Special Area, which it was not.

Third, the arrangements for cooperation were expressly without prejudice to the United Kingdom's claim to sovereignty and sovereign rights over the relevant area.

Finally, I can deal briefly with Professor Kohen's points of this morning on article 298 of the Convention. His submission was that article 298 provides optional carve-outs to jurisdiction for certain types of dispute – namely, disputes concerning maritime delimitation and historic bays and titles – but it does not allow carve-outs for disputes concerning land sovereignty.[30]

Well, that is precisely the point. As I explained yesterday, article 298 contains carve-outs for certain very sensitive matters under UNCLOS where not all States were willing to consent to compulsory dispute settlement, including with respect to maritime delimitation disputes. If it were the case that disputes over who is the coastal State (that is, disputes over territorial sovereignty) fell within the jurisdiction conferred by article 288(1), it is certain that an optional carve-out would have been included for such disputes as well, including if they were within the decolonization context. The fact that there is no such carve-out leads to the very strong conclusion that such disputes were not within the scope of jurisdiction in the first place.

Mr President, members of the Tribunal, it remains the case that Argentina is asking the arbitral tribunal to determine and/or advance and "serve" its case on territorial sovereignty, and this Tribunal is being enlisted in that process. But there are no genuine free-standing claims under UNCLOS, and hence the essential requirements of *prima facie* jurisdiction and plausibility are lacking.

I thank you for your attention and ask you to call on Ms Sander.

THE PRESIDENT: Thank you, Mr Wordsworth. I now give the floor to Ms Sander for her statement. You have the floor, Madam.

MS SANDER: Mr President, members of the Tribunal, I will be responding to Professor Schrijver's submissions this afternoon addressing Part XII.

Argentina's case in that regard has undergone further evolutions and remains somewhat unclear. In particular, yesterday I squarely stated that it was "incumbent on Argentina to state expressly if it is now alleging that the United Kingdom is

[29] Request, Annex 22.
[30] ITLOS/PV.27/C37/3, p. 6, lines 42-46 – p. 7, lines 1-4.

breaching its own obligations". As I will explain this evening, the clarity I had sought was not provided.

I will address three aspects of Argentina's submissions and, in the course of doing so, seek to clarify what Argentina's case actually is.

The first aspect goes to Argentina's claim that the UK is preventing Argentina from complying with its obligations under Part XII.

As I said yesterday, Argentina did not set out in its Request what measures it wished to take to discharge its Part XII obligations but has been prevented from taking. In the course of oral submissions, the only measure that Argentina had said in concrete terms that it wants to take in this regard is to account for greenhouse gas emissions of the Falkland Islands.

As I explained yesterday, the premise for this argument could only be that Argentina is sovereign over the Falkland Islands. That is because, as this Tribunal's Climate Change Advisory Opinion makes clear,[31] the due diligence obligations under Part XII, including in respect of greenhouse gas emissions, apply to activities under a State's jurisdiction or control.[32] So, once again, therefore, this is Argentina's same sovereignty claim in yet another new wrapper.

As I also highlighted yesterday, Argentina has avoided spelling out what provisional measure would be required to meet its concern that it cannot account for emissions from the Falkland Islands. This alleged concern would not be resolved merely by a suspension of the Sea Lion Project. It would require Argentina to be given control over the Falkland Islands so that it could account for emissions there. How this Tribunal could possibly make a provisional order to that effect, which plainly entails a determination of sovereignty, remains a mystery.

Equally, it is not clear how Argentina could say that it requires such a measure from this Tribunal as a matter of urgency.

Argentina has expended its time talking about the United Kingdom's own emissions accounting, and that is not legally relevant as Argentina's case is that *it* should do the relevant accounting. Its purpose seems to frame the United Kingdom in a negative light, and it is important that I correct the narrative it has presented.

Professor Schrijver submitted yesterday that the Falkland Islands "has been placed outside any kind of international reporting" with respect to greenhouse gas emissions.[33] He said that "as a consequence of the British policy" there was a "black hole" in this respect.[34] That is not correct.

---

[31] *Request for an Advisory Opinion Submitted by the Commission of Small Island States on Climate change and International Law*, Advisory Opinion, 21 May 2024, para. 396.
[32] *Request for an Advisory Opinion Submitted by the Commission of Small Island States on Climate change and International Law*, Advisory Opinion, 21 May 2024, para. 396.
[33] ITLOS/PV.26/C37/1, p. 32, lines 11-12.
[34] ITLOS/PV.26/C37/1, p. 32, lines 15-19.

The United Kingdom does report on the greenhouse gas emissions of the Falkland Islands pursuant to the United Nations Framework Convention on Climate Change – the UNFCCC – which is extended to the Falkland Islands, and the United Kingdom has been so reporting for over two decades.

This Tribunal has described the UNFCCC as lying at the "core" of the international legal framework addressing climate change.[35] In accordance with articles 4 and 12 of the UNFCCC, the United Kingdom has published national inventory reports since 2007.

On the screen now is a table from the United Kingdom's most recent report of April 2026:[36]

a. As set out in the text highlighted at the top, this table shows "Emissions of GHGs in terms of carbon dioxide equivalent emissions including all estimated GHG emissions from the Crown Dependencies and relevant Overseas Territories".
b. At footnote 3, also highlighted, it states "geographical coverage of this table includes the Overseas Territories and Crown Dependencies which are included in the scope of the UK's ratification of the UNFCCC", and, as I explained, that includes the Falkland Islands.

On the following page of the report is the table you now see on your screen:

a. the highlighted text at the top states that the table shows "Aggregated emission trends per source category, including all estimated GHG emissions from the Crown Dependencies and relevant Overseas Territories".
b. Again, highlighted there, we see a footnote that confirms the "geographical coverage of this table includes the [Overseas Territories] … which are included in the scope of the [United Kingdom's] ratification of the UNFCCC", and this includes the Falkland Islands.

Yesterday, Professor Schrijver criticized the UK as having "withheld application of the Paris Agreement"[37] to the Falkland Islands. In fact, the United Kingdom engaged in consultations with the Falkland Islands, and the Falkland Islands has not requested that the Paris Agreement be extended to it. But, as I have just explained, that does not give rise to an accounting lacuna.

Further, and in any event, Argentina's position on the extension of climate agreements to the Falkland Islands has been starkly inconsistent. Having criticized the United Kingdom for not extending the Paris Agreement to the Islands, when the United Kingdom did extend the UNFCCC to those Islands, Argentina objected, and it

[35] Advisory Opinion 21 May 2024, para. 67.
[36] *https://naei.energysecurity.gov.uk/sites/default/files/2026-04/NID_90-24.pdf* at p. 41.
[37] ITLOS/PV.26/C37/1, p. 33, lines 22-23, emphasis added.

objected because of its sovereignty claim.[38] It did the same when the United Kingdom extended the Doha Amendment to the Kyoto Protocol to the Islands.[39]

I turn to the second aspect of Argentina's submissions. This is its argument that, to obtain the provisional measures it seeks, it need not be the coastal State in respect of the area under consideration. Professor Schrijver said, "it is enough that it is the coastal State next door". He said that, because there is a risk of harm to "undisputed Argentine" waters, the United Kingdom's own obligations under Part XII are engaged.

As I said yesterday and revisited at the start of my statement today, if Argentina is alleging the United Kingdom is in breach of its own Part XII obligations, it must say so squarely. It has not done so, but that must be the implication here. At least this aspect of its substantive case now appears to be that the UK is responsible for some sort of risk of transboundary harm.

However, this new argument does not relate to the provisional measures sought. As set out in Argentina's formal submissions as of this morning, provisional measure (c) relates only to the United Kingdom preventing Argentina from performing its own obligations. There is no measure referring to the United Kingdom allegedly causing transboundary harm in violation of its own obligations.

Furthermore, the allegation is wholly unfounded.

The only basis on which Argentina asserts a risk of harm is with respect to a potential oil spill.

Argentina's submission in this regard seemed to amount to an assertion that could apply to any offshore oil production, including the 400 wells that Argentina has drilled off its own coast. There is a risk of an oil spill with any such activity.

But what is the risk in the case of the specific project at issue here?

That is a question addressed within the extensive 2000-page EIS produced in respect of the specific project.

Professor Schrijver presented a slide entitled "Sea lion in numbers" which sets out figures under a heading entitled "The Risk". However, these figures do not represent the likelihood of the relevant events occurring. They represent the potential probability of impact if those events were to occur.

The EIS does assess the likelihood of an oil spill occurring and from different sources. The two sources that Professor Schrijver focused on yesterday were, first, a

[38] Communication dated 27 March 2007, available on UNTS here: https://treaties.un.org/pages/ViewDetailsIII.aspx?src=TREATY&mtdsg_no=XXVII-7&chapter=27&Temp=mtdsg3&clang=_en

[39] C.N.429.2020.TREATIES-XXVII.7.c dated 6 October 2020 available at https://treaties.un.org/doc/Publication/CN/2020/CN.429.2020-Eng.pdf.

spill involving what he described as "the floating production vessel"[40] – the 'FPSO' vessel – and secondly, a well blowout.[41]

So, taking first the FPSO scenario, Table 12.17 of the EIS is entitled "Summary of the risk assessment for all oil spill scenarios". One of the specific scenarios addressed is catastrophic loss of the FPSO. The relevant section of the table is now on your screen. As indicated by the yellow highlighted text, the likelihood of an oil spill in this scenario is assessed to be "very unlikely".

That matches the fact, also recorded in the EIS, that "[t]here are no recorded examples that match the worst-case scenario modelled here in over 20 years of global FPSO operations".[42] Even the lesser risk of a large vessel colliding with the FPSO was assessed as 5.1 times 10 to the power of minus 8 – that is, a probability of around 1 in 19.6 million. As explained in the EIS, that low risk reflects the scarcity of vessels in the area and the low speeds of those vessels that are in the vicinity of the FPSO.[43]

Taking the scenario of a subsea well blowout, the EIS explains that the likelihood of this occurring can be higher for a High Pressure/High Temperature, or HP/HT, reservoir, but the Sea Lion reservoir is not one of these.[44]

On your screen is Table 12.8 from the EIS. This table addresses blowout frequencies for offshore operations. As indicated by the highlighted text, the risk of a blowout during development drilling for any individual well is assessed at 3.4 times 10 to the power of minus 5 – a risk expected to materialize for only 1 in every 20,834 wells.

But to try and bolster its case in this regard, Argentina has honed in on a malfunction of a blowout preventer in 2015. As I said yesterday, that malfunction occurred over a decade ago during an exercise conducted by a different operator.[45] It was quickly repaired and, significantly and contrary to what was suggested yesterday, led to no release of hydrocarbons.[46]

Professor Schrijver also sought to cast aspersions as to the effectiveness of oil spill response equipment on the basis of "prevailing weather conditions of the Sea Lion field":[47]

a. At page 202 of the EIS, there is a table that sets out a detailed list of the recovery equipment that would be available. I can't fit this table on a slide because the list is so long – it runs to four pages.
b. As to weather conditions, the careful analysis presented by Rockhopper

[40] ITLOS/PV.27/C37/1, p. 30, lines 10-11.
[41] ITLOS/PV.27/C37/1, p. 30, line 14.
[42] EIS, p. 1206, para. 12.1.6.2.2.
[43] EIS, p. 985, para. 11.1.4.4.1, p. 1206, para. 12.1.6.2.2.
[44] EIS, p. 1200, para. 12.1.6.1.2.
[45] Witness statement of Mr Samuel Moody, para. 53.
[46] Witness statement of Mr Samuel Moody, para. 53.
[47] ITLOS/PV.27/C37/1, p. 31, lines 8-9.

demonstrates that as compared to other well-known oil and gas provinces[48] the conditions in the area at issue are comparatively favourable.

c. Critically, all oil spill modelling scenarios in the EIS have included allowances for weather conditions and location for oil spill response effectiveness modelling.[49]

What all of this shows is that, in respect of the Sea Lion Project, the United Kingdom has clearly discharged its Part XII due diligence obligations and obligations to assess environmental risk, and there is no risk of serious harm to the marine environment. There is simply no basis for seeking a provisional measure on any contrary argument.

I turn now to the third aspect of Argentina's submissions this morning, namely, the allegation that Argentina is prevented from complying with its Part XII obligations because the United Kingdom is in breach of articles 206 and 199. Without saying in terms that these alleged breaches are the target of its provisional measures request, Professor Schrijver stated that they are "linked" to the third provisional measure requested.

Taking the article 206 allegation, Professor Schrijver alleged that the United Kingdom did not "notify" or "communicate its assessment, as article 206 requires".[50] Three points in response.

First, the United Kingdom has complied with article 206:

a. Article 206 provides for the assessment of activities under a State's jurisdiction or control, and states that the results of the assessment shall be communicated as provided for in article 205. Article 205 provides that States shall publish reports of the results obtained.
b. The EIS conducted with respect to the Sea Lion Project was published.
c. As Ms McRae explained yesterday, the original version of the EIS has been published since July 2024, and as to Professor Schrijver's insinuation that this was insufficient for Argentina to be aware of the EIS, I point you to Argentina's press release of 11 September 2025.[51]

My second point concerns what Argentina says the "link" is between the UK's alleged breach in this regard and the obligations that Argentina is allegedly prevented from performing:

a. Its argument, as far as we were able to understand it, is that because the UK allegedly isn't publishing its report, it – Argentina – is being prevented from performing its obligations under Part XII.
b. However, any relevant obligations under that Part are engaged only with respect to activities under a State's jurisdiction or control. I made this point yesterday with respect to due diligence obligations under articles 192 and 194, and article 206 is expressly limited to such activities.

[48] Witness statement of Mr Samuel Moody, para. 34.
[49] See s. 12.1.4.4.6; 1p. 401.
[50] ITLOS/PV.27/C37/3, p. 15, lines 15-16.
[51] Ramsay, Exhibit bundle tab 16, p. 3114.

c. So Argentina's case is predicated on it being the State with the relevant jurisdiction or control with respect to the Sea Lion Project. That is clearly a case that it, Argentina, is the coastal State. So it is a claim predicated on Argentina being sovereign over the Falkland Islands, and therefore outside jurisdiction under UNCLOS.

My third point is as follows: how in concrete terms does this new case on article 206 translate into a provisional measure? Argentina alleges, incorrectly, that the United Kingdom hasn't published its report, but they have the EIS in their hands. There is nothing more that this Tribunal could prescribe, especially on an urgent basis.

I turn to article 199. Argentina's new allegation is that the United Kingdom "does not plan responses jointly as article 199 requires". However, under article 199 the duty to cooperate in making contingency plans arises only in cases referred to in article 198. Article 198 refers to situations where a State becomes aware of "cases in which the marine environment is in imminent danger of being damaged or has been damaged by pollution". That is not this case.

Professor Schrijver mentioned a note verbale of 24 August 2026.[52] He said that Argentina asked for an exchange of views about contingency plans and search and rescue. The note verbale of this date at Annex B to the Notification of Arbitration says no such thing. It does refer to an exchange of views, but on the broader issues concerning hydrocarbon activities in the area and Argentina's sovereignty claim.

Mr President, members of the Tribunal, I thank you for your kind attention and I ask that you call Lord Verdirame to the podium.

THE PRESIDENT: Thank you, Ms Sander. I now invite Lord Verdirame to take to the floor. You have the floor, please.

MR VERDIRAME: Mr President, members of the Tribunal, I will be responding on the facts and on the question of irreparable prejudice.

There are a few points that I wish to emphasize on the facts in response to Professor Schrijver's remarks earlier today.

The first point is Professor Schrijver explanation for Argentina's decision to make a request now, in circumstances where, as Argentina accepts, 29 wells have already been drilled in the North Falkland Basin. His response was: "In less than one year, everything changed".

It is true that, as Ms McRae explained yesterday, the financial and contractual picture has changed for Navitas and its contractors. But, as she also explained by reference to the information provided by Mr Ramsay, appraisal and exploratory drilling is a "materially similar" process to development drilling.[53] Development drilling "also involves a drilling rig positioned above the well location, from which a hole is drilled through the seabed and progressively into the same geological formations

[52] ITLOS/PV.26/C37/2, p. 6, line 36.
[53] Witness statement of Ian Ramsay, para. 6.4.

beneath it. As drilling proceeds, casing is installed to support and isolate sections of the well, and drilling fluids are used to control the well and remove the rock fragments."[54]

To illustrate the point that, as he puts it, everything gets changed, Professor Schrijver showed this morning a slide which purported to illustrate the difference between exploration drilling and exploitation drilling. Our responsive slide is now on the screen.

The slide that Argentina used had a caption at the bottom which said "EIS [i.e., Environmental Study Impact] p. 149". This might have conveyed the impression that this slide originated from a document we submitted.

It did not. That slide did not come from Navitas's Environmental Impact Assessment or Mr Ramsay's statement; it is Argentina's creation. It did not accurately represent the situation in the relevant time frame. In the little time available, we have created a slide that seeks to do that, taking Argentina's slide as the starting point.

The purpose of this slide that we have put on the screen is to capture the position that would exist around 21 March 2027, which is the relevant period for purposes of the exercise of the exceptional power to grant provisional measures.

On the left-hand side, you see the extent of the exploration drilling that has taken place up until now, with 29 exploration or appraisal wells. Argentina only included one well on the left-hand side in its version of the slide, creating the impression that there had been only minimal activity to date. As you know, this is not true.

On the right-hand side, you see the position as of 21 March 2027 when the drilling of the first development well in the very same deposit that have been previously drilled for exploration would commence. It will take that first well at least a month to reach the reservoir, hence the arrow heading downwards. Even then, it will reach the reservoir but not extract any oil from it until March 2028.

You may recall that the right-hand side of the slide provided by Argentina looked very different. It was filled with lines reaching into the resevoir and with vessels. But that's because Argentina's slide captured or sought to capture the entire life of the project: the full extent of the development drilling, the extraction and the transportation of the oil once extracted. Indeed, Professor Schrijver kept referring to the period as one of 30 years, or 11,000 days.

But the Tribunal cannot concerned with what will happen in the next 30 years. The only time frame that can be of concern for present purposes is what might happen pending the constitution of the Annex VII arbitral tribunal.

The second point on the facts and which I would like to return briefly concerns environmental risk. As far as I can tell, Argentina has still not engaged with the information presented by the United Kingdom that the risk of environmental impact of the scheduled drilling, as compared to the previous drilling exercises, is not

[54] Witness statement of Ian Ramsay, para. 6.4.

materially different. I will not repeat the submissions made before by Ms McRae and Ms Sander.

The third point on the facts concerns the information that the United Kingdom presented to the Tribunal as to the severe prejudice that it would suffer if the primary provisional measure were to be ordered, in addition to the enormous prejudice that would be suffered by the companies. As you will recall, the risk of financial loss to the companies involved was of concern to this Tribunal in *Ghana/Cote d'Ivoire* case, as reflected in paragraph 99 of the Tribunal's Order.

Argentina made some criticisms about our submissions.

Argentina alleges that the estimates of losses are unsubstantiated. This is not right. They are supported by evidence. For example, the Rockhopper figure of 1 billion dollars is supported by the reference to the 865 million dollars equity raised in Mr Moody's statement at paragraph 60. Navitas's own figure, of which you are aware, is calculated based on termination costs and past costs.

Argentina said that Navitas's estimate of loss is undermined by the amount of the insurance policy for political risk that Navitas has contracted. We do not, with respect, understand this point. That insurance only guarantees the repayment of the debt to the lenders in the event of war or similar events. That is what page 194 of the Navitas Annual Report that was submitted confirms.

The final point on the facts that I will note is that there was no response to Ms McRae's submissions on the inevitability of the project's collapse. As she explained, the Tribunal must take, as its factual premise, that the project would no longer exist when it considers prejudice for the purposes of provisional measures.

Mr President, members of the Tribunal, I now turn to prejudice.

Argentina's Agent yesterday invited the Tribunal "to do what its Special Chamber did in *Ghana/Côte d'Ivoire* by its Order of 25 April 2015: to ensure that no new drilling takes place in a disputed area pending the arbitral award."[55]

As you have heard from us in the first round, Argentina's reliance on *Ghana/Côte d'Ivoire* is entirely misplaced.

It was a case about a delimitation dispute submitted to a Special Chamber of this Tribunal by joint agreement. Any principle laid out in that case can properly apply only to maritime delimitation disputes.

So Argentina is not asking the Tribunal to follow a precedent. It is inviting the Tribunal to make new law; to invent a new power for which there is no basis in UNCLOS. Professor Kohen has tried to justify this innovation by appeal to principles. But the reality is the opposite: this innovation has no legal basis and it would be contrary to principle.

[55] ITLOS/PV.27/C37/1, p. 38, lines 40-42.

This is the main legal reason why we submit that you should not accede to Argentina's request and make the exceptional "no new drilling" order that your Special Chamber made in that delimitation dispute.

It is also quite remarkable that Argentina's case on irreparable prejudice has changed.

Its Request was focused on extraction. Indeed, the provisional measure that Argentina sought in the Request at paragraph 115(a) was

> ... that the United Kingdom prevent the commencement or continuation of the exploitation of hydrocarbon resources on the continental shelf....

Consistently with this, in his first speech yesterday, Argentina's Agent said:

> A threshold will be crossed: from exploration to drilling for the extraction of a finite resource. That step cannot be undone.[56]

As you know, this threshold will not be crossed until March 2028 at the earliest because the extraction of the finite resource will not begin before. The United Kingdom has assured the Tribunal of this.

Faced with this clear fact which disposes of its Request, Argentina decided to move the threshold.

Professor Shrijver yesterday said that what Argentina is now complaining about is not the extraction but also what happens well before extraction.

He said that the measure Argentina is seeking requires

> (1) suspending preparatory work and (2) abstaining from carrying out new drillings and installing the production infrastructure that is necessary for exploitation.[57]

This goes very well beyond Argentina's request at paragraph 115. It also goes beyond the provisional measure ordered in by the Special Chamber in *Ghana/Côte d'Ivoire*.

In its final submission Argentina says, and we now have it on the screen, that it is requesting that the United Kingdom

> shall take all necessary measures to ensure that no new drilling for exploitation, and no installation of production infrastructure, takes place….

Professor Shrijver again justified the new approach by saying:

[56] ITLOS/PV.27/C37/1, p. 9, lines 30-33.
[57] ITLOS/PV.27/C37/1, p. 18, lines 31-34.

> A project that has been fully prepared and installed and awaits only the order to spud the first well is not a project held in abeyance; it is a *fait accompli* all but in name.[58]

It is not a *fait accompli* in name because it is not a *fait accompli* in fact: the oil has not been extracted; the reservoir has not been depleted; the threshold that Argentina was originally complaining of has not been crossed.

A party that invokes the exceptional procedure of article 290(5) should not come to this Tribunal without having a clear idea of the real and imminent risk of irreparable prejudice that it says it is facing.

In any event, the works that precede exploitation, including development drilling in the very same deposits that have been drilled for exploration and other preparatory activities, cannot be assimilated to actual exploitation.

Mr President, members of the Tribunal, as I emphasized in my speech yesterday, all cases on prejudice ultimately turn on the specific facts.

In *Ghana/Côte d'Ivoire*, Ghana continued development drilling activity in order to ready the wells for production after the provisional measures order in April 2015.

Côte d'Ivoire complained that "drilling activities have been continued in the TEN field".[59] It complained, in particular, that in July and August 2015, and so while the Order was in force, "nearly 1,400 further metres' depth of rock were drilled, within a period of 24 days".[60]

In its final judgment, the Special Chamber, however, concluded that all of Ghana's activity was permitted under the Order.[61]

Crucially, on the facts of that case, by the time that judgment came out, Ghana was ready to start production. As you heard this morning, before the Provisional Measure Order in April 2015, Ghana's "first oil" date had been 2016. As a result of the proceedings, that date was pushed back to September 2017, which is when the final judgment was rendered.

But things would be very different here. The United Kingdom would find itself in a far worse position than Ghana. On the facts before you, the "first oil" date would be pushed back potentially indefinitely. This is because the facts before you show that the existing project would collapse and so a new project would have to be put in place once the order that Argentina is seeking is lifted.

Even assuming that new contractors could be found willing to take on the costs of developing the deposits, it would be necessary to arrange new financing; go through

---

[58] ITLOS/PV.27/C37/1, p. 36, lines 10-12.
[59] *Dispute Concerning Delimitation of the Maritime Boundary between Ghana and Côte d'Ivoire in the Atlantic Ocean (Ghana/Côte d'Ivoire)*, ITLOS Case No. 23, Judgment, 23 September 2017, para. 637.
[60] *Ibid*.
[61] *Dispute Concerning Delimitation of the Maritime Boundary between Ghana and Côte d'Ivoire in the Atlantic Ocean (Ghana/Côte d'Ivoire)*, ITLOS Case No. 23, Judgment, 23 September 2017, para. 652.

new regulatory processes and consultations; secure new environmental approvals. Those contractors would have to find new subcontractors, buy equipment, hire personnel, and so on.

Even in the best possible case scenario, therefore, where all these things happen smoothly, it would be many years before a new project could get back to the development drilling phase, which is the stage due to commence in March 2027.

The losses would be huge and there is no indication that Argentina would ever agree to compensate the United Kingdom for them.

As far as Argentina's alleged prejudice is concerned, paragraph 89 of the Order in *Ghana/Côte d'Ivoire* referred to activities that "result in **significant** and **permanent** modification of the physical character of the area".[62] Argentina's counsel omitted both of these crucial words this morning,[63] but they are central to the reasoning of the Special Chamber.

Not every modification is permanent and significant. Not every permanent modification is significant.

The Special Chamber considered that Ghana's drilling was significant and permanent by reference not to days or weeks or even months of drilling, but by reference to a much longer time frame, and that is because the reference period for the Special Chamber was the period that would go by between its Order and the final judgment.

The facts are different here. There is no drilling at all until 21 March 2027. Moreover, the drilling that is due to commence cannot be said to cross the threshold in *Ghana/Côte d'Ivoire* and to become permanent and significant as soon as it starts. The situation cannot be compared with the years of drilling that the Special Chamber would have had in mind in that case.

To conclude on irreparable prejudice in relation to Argentina's first measure, Mr President and members of the Tribunal, when Argentina invites you to follow *Ghana/Ivory Coast*, it is asking you to misapply that precedent as a matter of law. But it is also inviting you to stretch that decision very far beyond the specific circumstances that gave rise to it.

Mr President, members of the Tribunal, I thank you for your attention and will now you to give the floor to Sir Michael.

THE PRESIDENT: I thank you, Lord Verdirame. I now invite Sir Michael Wood to address the Tribunal. You have the floor, please.

MR WOOD: Thank you, Mr President. Mr President, members of the Tribunal, I shall be very brief.

---

[62] *Dispute Concerning Delimitation of the Maritime Boundary between Ghana and Côte d'Ivoire in the Atlantic Ocean (Ghana/Côte d'Ivoire)*, ITLOS Case No. 23, Order - Provisional Measures, 25 April 2015, para. 89.
[63] ITLOS/PV.27/C37/3, p. 11, lines 2-3.

I shall now address some of the points made by Professor Schrijver about article 290(5) of the Convention. That, of course, is the sole provision under which Argentina is asking this Tribunal to prescribe provisional measures.

I responded briefly to Professor Schrijver's main points yesterday afternoon, and explained that Argentina had not begun to show that the provisional measures it requested were urgent in the sense of needing to be prescribed pending the constitution of the Annex VII arbitral tribunal. Professor Schrijver continued to suggest that what mattered was whether they were needed pending the final decision of the Annex VII arbitral tribunal; "pending arbitration" as our friends opposite continue to say. That is simply not the case under paragraph 5 of article 290.

Of course, as Professor Schrijver said, such measures may continue in effect beyond the constitution of the Annex VII arbitral tribunal, which has the power to modify, revoke or affirm them, as indicated in article 290(5), or indeed to adopt new measures under article 290(1). But that is not the point. For the purposes of paragraph 5 of article 290, the test is whether it is necessary for you to exercise your extraordinary power under paragraph 5 to adopt such measures pending the constitution of the arbitral tribunal.

There is little I need add following Professor Schrijver's speech this morning. I accepted yesterday that, for the purposes of the urgency requirement in article 290(5) of the Convention, the arbitral tribunal must not only be constituted, but it must be able to function. The Parties agree on that. But what we appear to disagree on is what being "able to function" means in the context of prescribing provisional measures. It does not, for example, require the adoption of a full set of rules of procedure. The few rules that are needed can easily be adopted in a day or two. There is ample precedent for this, including with investment tribunals. And the other matters referred to by Professor Schrijver can also be adopted very rapidly; the appointment of the Permanent Court of Arbitration, or some other registry, the adoption of the terms of appointment of the five arbitrators. There are ample precedents for these matters and they are very straightforward.

Professor Schrijver presented a slide yesterday and again this morning (slide 25). This listed six different cases. It identified the period between this Tribunal's provisional measures orders and the first procedural meeting or the rules of procedure being agreed. Professor Schrijver's slide drew the conclusion that the period between these steps was between 3.8 and 9 months. The submission, we understand it, was that the Annex VII arbitral tribunal in our case would not be functioning until well after the drilling is scheduled to commence on 21 March 2027, at the earliest.

But this slide was dealing with entirely different situations. In each of those six cases, this Tribunal had already prescribed provisional measures under article 290(5) of the Convention. There was no urgent request for provisional measures presented to the arbitral tribunal on the day or in the days following its constituttion. There was no need for immediate procedural steps to address an urgent provisional measures request to the arbitral tribunal in those cases.

In our case, it would be entirely different. We are contemplating the situation in which Argentina might make an immediate request for provisional measures from the arbitral tribunal under article 290(1) of the Convention. As I explained yesterday, and again just now, there is no reason why the Annex VII arbitral tribunal could not, very shortly after its constitution, establish the few interim rules of procedure needed to govern the swift determination of a request for provisional measures made to that Annex VII tribunal. I highlight, in this respect, article 5 of Annex VII of the Convention, which makes plain that the arbitral tribunal is empowered to "determine its own procedure"; moreover, under article 6, the parties are obliged to "facilitate the work of the arbitral tribunal", which would include cooperating in the swift establishment of procedural rules where necessary. The United Kingdom would certainly stand ready to cooperate as necessary over such matters.

I shall not go through in detail each of the cases referred to by Professor Schrijver. He did not do so himself, either yesterday or today. But, by way of example, I would refer you to what actually happened in the *"Enrica Lexie"* case. This illustrates very well my point about the speed with which an Annex VII arbitral tribunal can act when necessary.[64]

On 11 December 2015, Italy filed a request for provisional measures under article 290(1) of the Convention. At this time, no rules of procedure were in place. Indeed, the Annex VII tribunal had not yet held its first procedural meeting.

However, despite the intervening holiday period, the Tribunal swiftly arranged a procedural hearing and put rules of procedure in place and thus acted promptly.

It is clear from the *"Enrica Lexie"* case that an Annex VII arbitral tribunal can, and indeed did, move expeditiously to establish a procedural framework to deal with a provisional measures request, even when it does not have rules of procedure in place at the time that the request is made.

Mr President, members of the Tribunal, the Annex VII arbitral tribunal in the present case could likewise act on a request for provisional measures under article 290(1) by January 2027. Argentina has manifestly failed to satisfy the urgency requirement under article 290(5) of the Convention.

Mr President, members of the Tribunal, I thank you for your kind attention and I request that you call the Agent for the United Kingdom, Ms Sally Langrish, to the podium. I thank you.

THE PRESIDENT: I thank Sir Michael Wood for his statement.

I understand that the Agent of the United Kingdom, Ms Langrish, will make some closing remarks and present the final submission of the United Kingdom.

I wish to recall that pursuant to article 75(2) of the Rules of the Tribunal, at the conclusion of the last statements made by a party at the hearing, its agent, without

[64] *The "Enrica Lexie" Incident (Italy* v. *India)*, Order on the Request for the prescription of provisional measures, 29 April 2016.

recapitulation of the arguments, shall read that party's final submissions. A copy of the written text of these, signed by the agent, shall be communicated to the Tribunal and transmitted to the other party.

I now invite the Agent of the United Kingdom, Ms Langrish, to make her closing statement and present the final submission of the United Kingdom.

You have the floor, Madam.

MS LANGRISH: Thank you, Mr President and members of the Tribunal. As this hearing draws to a close, I wish to reiterate the key themes of the United Kingdom's case. Mindful of time, we will be very brief.

We have four main points.

First, and most fundamentally, Argentina's claim is premised on it being able to exercise the rights of the coastal State. It is impossible to characterize its claim as anything other than a claim concerning sovereignty over land territory or seeking to advance its sovereignty claim. With respect, this Tribunal cannot be satisfied that the Annex VII tribunal will have *prima facie* jurisdiction over that claim.

Second, Argentina has not demonstrated any plausible rights which, critically, arise under the Convention itself. Instead, it has, at most, sought to demonstrate a plausible right to sovereignty. However, that is not a right which the Annex VII tribunal will be able to adjudge exists. It is also not plausible that there is an obligation to settle sovereignty disputes, or a free-standing obligation to act in good faith, arising from article 279 or article 300 of the Convention. None of those is a plausible right arising under the Convention.

Third, Argentina has not established urgency. The United Kingdom has given a confirmation that there will be no drilling prior to 21 March 2027, and we have explained that the Annex VII tribunal will be constituted sufficiently in time to deal with any request for provisional measures before then. No further licences will be granted as the licensing regime is suspended. In any event, hydrocarbon activities have been underway for several decades.

Fourth point: Considerations relating to prejudice militate against provisional measures being prescribed. Argentina has not established any prejudice that it will suffer. There is no real risk of environmental harm. Further, the jurisprudence does not support Argentina's stark assertion that development drilling, from the day it starts, inherently constitutes a form of irreparable prejudice. Rather, the Falkland Islands and their people, as well as the companies who have invested heavily in the Sea Lion Project over decades, are those who really stand to lose if this project were to be brought to a standstill.

As you have recalled, Mr President, article 7(2) of the Tribunal's Rules states that, at the conclusion of the last statement made by a party at a hearing, its agent shall read that party's final submissions. Accordingly, I read the following:

In accordance with Article 75(2) of the Tribunal's Rules, and for the reasons presented by the United Kingdom at the hearing on 10 and 11 November 2026, the United Kingdom respectfully invites the Tribunal to reject all the requests by the Argentine Republic for the prescription of provisional measures.

We will, of course, supply a written copy of those submissions in accordance with the Tribunal's Rules.

Mr President and members of the Tribunal, it now falls to me to express our gratitude to you for your diligence and kind attention throughout this hearing.

I wish also to thank the Registrar and the Registry staff for their cooperation and their professionalism that has ensured the smooth running of this hearing. We extend our gratitude to the interpreters and the transcript writers for their services to the hearing.

On behalf of the United Kingdom, I also thank the Argentine Republic's Honourable Agent, as well as its delegation for the spirit of cordiality in which this hearing has been conducted.

Mr President, member of the Tribunal, this brings the United Kingdom's oral submissions to their conclusion.

MR PRESIDENT: Thank you, Ms Langrish. We have now reached the end of the hearing. On behalf of the Tribunal, I would like to take this opportunity to express our appreciation for the high quality of the presentations made during the hearing. I would also like to thank the Agents of the Parties for their exemplary spirit of cooperation.

I now call on the Registrar to address questions in relation to documentation.

THE REGISTRAR: Mr President, pursuant to article 86(4) of the Rules of the Tribunal, the Parties may, under the supervision of the Tribunal, correct the transcript of their speeches and statements made on their behalf, but in no may case may such corrections affect the meaning and scope thereof. These corrections relate to the transcripts in the official language used by the party in question. The Parties are requested to use for this purpose the verified versions of the transcripts and not those marked as "Unchecked". The corrections should be submitted to the Registry as soon as possible and by Monday, 16 November 2026 at noon Hamburg time, at the latest. Mr President.

THE PRESIDENT: Thank you, Madam Registrar. The Tribunal will now withdraw to deliberate. The date for the reading of the order in this case is tentatively set to Saturday, 28 November 2026, at noon.

The Agents of the Parties will be informed reasonably in advance of any change to this date. In accordance with the usual practice, I request the Agents of the Parties to kindly remain at the disposal of the Tribunal in order to provide any further assistance and information that it may need in its deliberations prior to the delivery of the order. The hearing is now closed.

(The hearing closed)