

**INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA**



2017

Public sitting

held on Monday, 6 February 2017, at 10 a.m.,

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

President of the Special Chamber, Judge Boualem Bouguetaia, presiding

**DISPUTE CONCERNING DELIMITATION OF THE MARITIME BOUNDARY  
BETWEEN GHANA AND CÔTE D'IVOIRE IN THE ATLANTIC OCEAN**

(Ghana/Côte d'Ivoire)

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**Verbatim Record**

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Uncorrected

Special Chamber  
of the International Tribunal for the Law of the Sea

<i>Present:</i>	President	Boualem Bouguetaia
	Judges	Rüdiger Wolfrum Jin-Hyun Paik
	Judges <i>ad hoc</i>	Thomas A. Mensah Ronny Abraham
	Registrar	Philippe Gautier

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*Ghana is represented by:*

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*as Agent;*

Mrs Helen Ziwu, Solicitor-General,

*as Co-Agent;*

*and*

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Mr Fui S. Tsikata, Reindorf Chambers, Accra,

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Mr Godfred Dame, Adviser to the Attorney-General,

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Mr Theo Ahwireng, Petroleum Commission,  
Mr Lawrence Apaalse, Ministry of Petroleum,  
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Mr Michael Aryeetey, GNPC-Explorco, Accra,  
Mr Nana Boakye Asafu-Adjaye, former Chief Executive, Ghana National Petroleum Corporation, Accra,  
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Mr Thomas Manu, Ghana National Petroleum Corporation, Accra,  
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*Côte d'Ivoire is represented by:*

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Dr Ibrahima Diaby, Director-General of PETROCI,

*as Co-Agent;*

*and*

Mr Thierry Tanoh, Minister of Petroleum, Energy and the Development of Renewable Energy,

Mr Adama Kamara, Avocat, Côte d'Ivoire Bar, Partner, ADKA, Special Adviser to the Prime Minister,

Mr Michel Pitron, Avocat, Paris Bar, Partner, Gide Loyrette Nouel,

Mr Alain Pellet, Professor of Law (emeritus), former Chairman of the International Law Commission,

Sir Michael Wood, K.C.M.G., Member of the International Law Commission, Member of the English Bar,

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Ms Tessa Barsac, Master, Université de Paris Ouest, Nanterre La Défense, France,

*as Counsel;*

H.E. Mr Léon Houadja Kacou Adom, Ambassador of Côte d'Ivoire to the Federal Republic of Germany, Berlin, Germany,

Mr Lucien Kouacou, Engineer in the Directorate-General of Hydrocarbons,

Ms Nanssi Félicité Tezai, Assistant to the Agent,

*as Advisers.*

1 **THE PRESIDENT OF THE SPECIAL CHAMBER** (*Interpretation from French*):

2 Ladies and gentlemen, first of all, I would like to welcome all the delegations, the  
3 delegation of Côte d'Ivoire and the delegation of Ghana, but I would also like to take  
4 this opportunity to welcome two newcomers here: Her Excellency Ms Gloria Afua  
5 Akuffo, Attorney-General and Minister for Justice of the Republic of Ghana, and His  
6 Excellency Mr Thierry Tanoh, Minister for Petroleum, Energy and the Development  
7 of Renewable Energy of the Republic of Côte d'Ivoire.

8  
9 I would also like to congratulate them on their appointment to their respective  
10 governments and I wish them every success in their new functions.

11  
12 The Special Chamber of the Tribunal formed pursuant to article 15, paragraph 2, of  
13 the Statute of the Tribunal is meeting today to hear the arguments of the Parties in  
14 the Dispute Concerning Delimitation of the Maritime Boundary between Ghana and  
15 Côte d'Ivoire in the Atlantic Ocean (Ghana/Côte d'Ivoire).

16  
17 It should be recalled that, by Special Agreement concluded on 3 December 2014,  
18 the representatives of the Republic of Ghana and the Republic of Côte d'Ivoire  
19 agreed to submit their dispute concerning delimitation of the maritime boundary in  
20 the Atlantic Ocean to a special chamber of the Tribunal to be formed pursuant to  
21 article 15, paragraph 2, of the Statute of the Tribunal.

22  
23 Notification of the Special Agreement was given on 3 December 2014 and the  
24 Chamber was created by an Order of the Tribunal on 12 January 2015. The case  
25 was entered as No. 23 in the List of Cases.

26  
27 On 27 February 2015, Côte d'Ivoire submitted a Request for the prescription of  
28 provisional measures to the Special Chamber in accordance with article 290,  
29 paragraph 1, of the United Nations Convention on the Law of the Sea and, on  
30 25 April 2015, the Special Chamber delivered its Order on the prescription of  
31 provisional measures.

32  
33 I now give the floor to the Registrar to summarize the procedure in this case  
34 subsequent to adoption of that Order.

35  
36 **THE REGISTRAR:** Thank you, Mr President.

37  
38 By Order dated 24 February 2015, the President of the Special Chamber fixed the  
39 time-limits for the filing of the written pleadings in the case, namely 4 September  
40 2015 for the Memorial of Ghana, and 4 April 2016 for the Counter-Memorial of Côte  
41 d'Ivoire. These pleadings were filed within the prescribed time-limits.

42  
43 By Order dated 16 March 2016, the Special Chamber authorised the submission of a  
44 Reply by Ghana and a Rejoinder by Côte d'Ivoire and fixed the time-limits for the  
45 filing of these written pleadings.

46  
47 Further to a request by Ghana, these time-limits were extended, by an Order of the  
48 President dated 25 April 2016, to 25 July 2016 for the Reply of Ghana and  
49 14 November 2016 for the Rejoinder of Côte d'Ivoire. The Reply and the Rejoinder  
50 were filed within the prescribed time-limits.

1  
2 Mr President, I shall now read the submissions of the Parties.

3  
4 In its Memorial and Reply, Ghana requested the Special Chamber to adjudge and  
5 declare that - I quote:

- 6  
7 1) Ghana and Côte d'Ivoire have mutually recognized, agreed, and applied an  
8 equidistance-based maritime boundary in the territorial sea, EEZ and  
9 continental shelf within 200 M.  
10  
11 2) The maritime boundary in the continental shelf beyond 200 M follows an  
12 extended equidistance boundary along the same azimuth as the boundary  
13 within 200 M, to the limit of national jurisdiction.  
14  
15 3) In accordance with international law, by reason of its representations and  
16 upon which Ghana has placed reliance, Côte d'Ivoire is estopped from  
17 objecting to the agreed maritime boundary.  
18  
19 4) The land boundary terminus and starting point for the agreed maritime  
20 boundary is at Boundary pillar 55 (BP 55).  
21  
22 5) As per the Parties' agreement in December 2013, the geographic coordinates  
23 of BP 55 are 05° 05' 28.4" N and 03° 06' 21.8" W (in World Geodetic System  
24 1984 datum).  
25  
26 6) Consequently, the maritime boundary between Ghana and Côte d'Ivoire in the  
27 Atlantic Ocean starts at BP 55, connects to the customary equidistance  
28 boundary mutually agreed by the Parties at the outer limit of the territorial sea,  
29 and then follows the agreed boundary to a distance of 200 M. Beyond 200 M,  
30 the boundary continues along the same azimuth to the limit of national  
31 jurisdiction. The boundary line connects the following points, using  
32 loxodromes - end of quote.

33  
34 A table with the list of the coordinates for each of these points is reproduced in the  
35 submissions contained in the Reply of Ghana, at pages 163 and 164.

36  
37 *(Interpretation from French)*

38  
39 Mr President, in the submissions in its Rejoinder, whose content reflects the  
40 submissions set out in its Counter-Memorial, Côte d'Ivoire requests the Special  
41 Chamber to - and I quote:

42  
43 reject all Ghana's requests and claims, and to declare and adjudge that

- 44  
45 1) the sole maritime boundary between Ghana and Côte d'Ivoire follows the  
46 168.7° azimuth line, which starts at boundary post 55 and extends to the outer  
47 limit of the Ivorian continental shelf;  
48  
49 2) the activities undertaken unilaterally by Ghana in the Ivorian maritime area  
50 constitute a violation of:

- 1  
2 (i) the exclusive sovereign rights of Côte d'Ivoire over its continental shelf, as  
3 delimited by this Chamber;  
4  
5 (ii) the obligation to negotiate in good faith, pursuant to article 83, paragraph 1, of  
6 UNCLOS and customary law;  
7  
8 (iii) the obligation not to jeopardize or hamper the conclusion of an agreement,  
9 as provided for by article 83, paragraph 3, of UNCLOS; and;

10  
11 3) Ghana has violated the provisional measures prescribed by this Chamber by  
12 its Order of 25 April 2015;

13  
14 4) and consequently to declare and adjudge that:

15  
16 (a) Ghana is obliged to transmit to Côte d'Ivoire all the documents and data  
17 relating to the oil exploration and exploitation activities which it has  
18 undertaken, or which have been undertaken with its authorization, in the  
19 Ivorian maritime area, including the oil transport and development operations,  
20 including those listed in paragraphs 9.29 and 9.31 of Côte d'Ivoire's Counter-  
21 Memorial;

22  
23 (b) Ghana is obliged to ensure the non-disclosure, by itself and by its co-  
24 contractors, of the information mentioned in paragraph (4) (a) above;

25  
26 (c) Côte d'Ivoire is, moreover, entitled to receive compensation for the damages  
27 caused it by Ghana's internationally wrongful acts; and to

28  
29 invite the Parties to carry out negotiations in order to reach agreement on this  
30 point, and

31  
32 to state that, if they fail to reach an agreement on the amount of this  
33 compensation within a period of six (6) months as from the date of the Order  
34 to be delivered by the Special Chamber, said Chamber will determine, at the  
35 request of either Party, the amount of this compensation on the basis of  
36 additional written documents dealing with this subject alone.

37  
38 End of quote.

39  
40 With its Order of 15 December 2016, the Special Chamber fixed 6 February 2017 as  
41 the date for the opening of the hearing. Pursuant to the Rules of the Tribunal, copies  
42 of the written pleadings have been made accessible to the public today and will be  
43 placed on the Tribunal's website.

44  
45 Thank you, Mr President.

46  
47 **THE PRESIDENT OF THE SPECIAL CHAMBER** (*Interpretation from French*):

48 Thank you, Mr Registrar. Today's sitting, in the course of which Ghana will present  
49 the first part of its statement, will last until one o'clock and, as usual, there will be a  
50 30-minute break between 11.30 and midday.

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*(Continued in English)*

I note the presence of the Agent, Co-Agent, Counsel and Advocates of the Republic of Ghana at the hearing. I now invite the Agent of Ghana, Minister Gloria Afua Akuffo, to introduce the delegation of Ghana. You have the floor, Madam Minister.

**MS AFUA AKUFFO:** Mr President, Members of the Special Chamber, the delegation of Ghana includes Co-Agent Mrs Helen Ziwu, Solicitor-General of the Republic of Ghana. Also in the delegation are Counsel and Advocates Ms Marietta Brew Appiah-Opong, who is the immediate past Attorney-General and Minister for Justice of the Republic of Ghana. We also have Professor Philippe Sands QC of Matrix Chambers, London; Mr Paul S. Reichler of Foley Hoag LLP, Washington; Mr Fui Tsikata of Reindorf Chambers, Accra, Ghana; Professor Pierre Klein of the Centre of International Law, Brussels, Belgium; Ms Clara E. Brillembourg of Foley Hoag LLP, Washington, USA; Ms Anjolie Singh of New Delhi, India; Mr Daniel Alexander QC of 8 New Square, London; and Ms Alison Macdonald, also of Matrix Chambers, London.

**THE PRESIDENT OF THE SPECIAL CHAMBER:** Thank you, Madam Minister.

*(Interpretation from French)* I also note the presence at the hearing of the Agent, Co-Agent and Counsel and Advocates for Côte d'Ivoire.

I now give the floor to the Agent for Côte d'Ivoire, Minister Adama Toungara, to introduce his delegation.

**MR TOUNGARA** *(Interpretation from French):* Mr President, Members of the Special Chamber, allow me to introduce to you the members of the delegation of the Republic of Côte d'Ivoire, which I am honoured to lead.

I am Minister Adama Toungara, Agent for the Republic of Côte d'Ivoire;

Mr Thierry Tanoh is Minister for Petroleum and Energy and the Development of Renewable Energy for Côte d'Ivoire;

Dr Ibrahima Diaby, Director-General of the national oil company, PETROCI, and Co-Agent for the Republic of Côte d'Ivoire;

His Excellency Mr Léon Houadja Kacou Adom, Ambassador of Côte d'Ivoire to Germany;

Ms Nanssi Félicité Tezai, Assistant to the Agent.

Our Counsel and Advocates are:

Mr Adama Kamara, Avocat, Côte d'Ivoire Bar, Partner, ADKA, Special Adviser to the Prime Minister;

Mr Michel Pitron, Avocat, Paris Bar;

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Mr Alain Pellet, Professor of Law (emeritus), former Chairman of the International Law Commission;

Sir Michael Wood KCMG, Member of the International Law Commission, Member of the English Bar;

Ms Alina Miron, Professor of Law.

Our Counsel are:

Ms Isabelle Rouche, Avocate, Paris Bar, Gide Loyrette Nouel;

Mr Jean-Sébastien Bazille, Avocat, Paris Bar, Gide Loyrette Nouel;

Ms Lucie Bustreau, Avocate, Gide Loyrette Nouel;

Mr Jean-Baptiste Merlin, PhD, Université de Paris Ouest, Nanterre La Défense; and

Ms Tessa Barsac, Master, Université de Paris Ouest, Nanterre La Défense.

Thank you, Mr President.

**THE PRESIDENT OF THE SPECIAL CHAMBER:** Thank you, Minister.

*(Continued in English)* I now give the floor to Ms Marietta Brew Appiah-Opong to begin her statement. Ms Brew Appiah-Opong, you have the floor.

**MS BREW APPIAH-OPONG:** Mr President, Members of the Special Chamber, it is my pleasure and privilege to appear before you again on behalf of Ghana.

As you may be aware, there has been a change of government in Ghana. However, despite that change, the current and former governments have worked together closely to ensure the smooth running and continuity of this case. The current and former government are completely united in their commitment to Ghana's national interest. This unity is demonstrated by my presence here alongside my successor as Attorney-General, Ms Gloria Afua Akuffo, who is my colleague at the Ghana bar and indeed a good friend.

Mr President, Members of the Special Chamber, this case is tremendously important to Ghana and, as you know, it has been my privilege to represent Ghana as Agent since the case began in 2014, supported by a team both within Ghana and abroad. Today, I am delighted now to hand over the role of Agent to the capable hands of Ms Akuffo for this important final stage of the case, and so, Mr President, it is my humble request to ask you to call on Ms Akuffo to introduce Ghana's first round of oral submissions. Thank you, Mr President.

**THE PRESIDENT OF THE SPECIAL CHAMBER:** I thank Ms Brew Appiah-Opong for her statement. I now give the floor to the Agent of Ghana, Ms Gloria Afua Akuffo. Madam Minister, you have the floor.

1  
2 **MS AFUA AKUFFO:** Mr President, Members of the Special Chamber, I bid you good  
3 morning again. As part of my responsibilities as Attorney-General and Minister for  
4 Justice of the Republic of Ghana, I am privileged to serve as Agent for Ghana in  
5 these proceedings, and it is in that capacity that I address you this morning. I am  
6 very pleased that my predecessor, Ms Marietta Brew Appiah-Opong, is present with  
7 me today as part of Ghana's team. She has worked tirelessly on this case from its  
8 inception, and I would like to acknowledge her tremendous service to Ghana  
9 throughout the case. Despite the change of government, she has continued to work  
10 closely with me in preparation for this hearing, as well as addressing you today. This,  
11 in my respectful view, attests to the stability of our democracy and also underscores  
12 the fact that on the matter that brings us before this Special Chamber, Ghana stands  
13 united.

14  
15 May I also express my gratitude to this Special Chamber of the International Tribunal  
16 for the Law of the Sea for the way these proceedings have been conducted. I am  
17 advised that since the commencement of this arbitration, the Registry of this Tribunal  
18 has managed the case with admirable efficiency. This, together with the commitment  
19 of the Special Chamber itself, has ensured an expeditious hearing of this case, to the  
20 mutual benefit of both parties. I am certain that, in spite of the differences in the  
21 cases of the parties, we stand together, united, in the expression of our gratitude to  
22 the Special Chamber.

23  
24 Mr President, Members of the Special Chamber, admittedly, it is always preferable  
25 that States try to resolve their disagreements through negotiation before recourse to  
26 litigation. The referral of disputes to international tribunals cannot and should not be  
27 treated lightly, particularly where, as in this instance, the dispute is between two  
28 neighbours who, for many decades, have enjoyed close and friendly relations. In  
29 spite of the recent disagreement as to the position of our maritime boundary, the  
30 relationship between Ghana and Côte d'Ivoire remains cordial, a testament to the  
31 strength of our relationship.

32  
33 In the spirit of our undoubted commitment to the rule of law and good  
34 neighbourliness, Ghana initially tried to resolve issues through negotiations. We  
35 invoked the jurisdiction of this authoritative International Tribunal, in the form of this  
36 Chamber, only after ten rounds of negotiations proved futile. In turning to this Special  
37 Chamber, Ghana's primary objective and interest is to secure legal certainty and,  
38 thereby, bring finality to a dispute with a valued neighbour.

39  
40 After decades of shared reliance on the customary equidistance boundary, Ghana  
41 was dismayed when, in 2009, Côte d'Ivoire suddenly departed from the common  
42 understanding that the Parties had relied on for so long. The stability of that  
43 understanding had been to our mutual benefit, as it provided a common basis for the  
44 conduct of our respective affairs in the territory in question. The customary  
45 equidistance boundary was also the basis for significant investments by third parties  
46 on either side of the maritime boundary, all of whom placed justifiable reliance on  
47 what Ghana and Côte d'Ivoire had long said and done in their respective territories.  
48 Consequently, prior to 2009, there was no dispute between the Parties regarding the  
49 location of their maritime boundary. It is therefore particularly unfortunate that Côte  
50 d'Ivoire's new position was first communicated, not to Ghana directly, but to third

1 party operators of concessions offered by Ghana which Côte d'Ivoire had long  
2 known about and never previously objected to.

3  
4 Ghana's consistency on the issue of the maritime boundary with Côte d'Ivoire is, in  
5 our view, a virtue, which stems from the fact that there has been a long-agreed,  
6 mutually-recognized boundary. There is no valid reason to depart from a maritime  
7 boundary which the Parties have both long considered as lawful and equitable in its  
8 effects. It is for this reason that the Parties, for not less than five decades, accepted  
9 an equidistance boundary upon which they have both justifiably relied. It is of note  
10 that in all the negotiations before the commencement of this case Côte d'Ivoire did  
11 not present, and has still not presented, any reasonable grounds for departing from  
12 that shared understanding.

13  
14 Notwithstanding Côte d'Ivoire's deviation from this long-shared understanding,  
15 Ghana patiently remained at the negotiating table for over ten rounds of talks. These  
16 negotiations yielded some progress. The two countries agreed on the precise  
17 coordinates of the land boundary terminus as well as the charts to be used for the  
18 selection of the base points. Ghana carefully considered the various shifting  
19 positions of Côte d'Ivoire. We responded in detail, both orally and in writing, with a  
20 view to achieving a lasting, amicable solution. Unfortunately, nothing more was  
21 achieved. Ghana was therefore constrained to resort to arbitration.

22  
23 The maritime boundary between these two States is not just an abstract line in the  
24 water. Relying on the customary equidistance boundary, both States have spent  
25 decades developing their petroleum industries. As you heard at the Provisional  
26 Measures stage, and as you have seen in the written pleadings on the merits, the  
27 boundary lies in the region of some of the most significant oil reserves in West  
28 Africa. In reliance on the agreed boundary, Ghana has licensed a number of oil  
29 concessions, and many millions of dollars have been spent on development and  
30 active production. These petroleum operations are hugely important to Ghana's  
31 economy. The World Bank estimates that between 2006 and 2012 the national  
32 poverty rate in Ghana fell sharply, from 31.9 per cent to 24.2 per cent. In 2014, oil  
33 accounted for 9.3 per cent of Ghana's overall GDP, and 13.5 per cent of domestic  
34 revenue.<sup>1</sup> Ghana's oil industry has contributed significantly to this increase in  
35 prosperity.

36  
37 Côte d'Ivoire accuses Ghana of using the development of its oil industry to annex  
38 territory which does not belong to it. With due deference, that is far from the case.  
39 The truth is that Ghana developed its oil industry based on a pre-existing maritime  
40 boundary as mutually agreed and recognized by both Parties. It is on the basis of  
41 this tacit, mutual understanding that over many years Ghana has developed this  
42 industry step by step, openly, from the first licensing of blocks, through decades of  
43 studies, exploratory drilling and the eventual drilling of wells. Understandably, Ghana  
44 was taken aback by Côte d'Ivoire's demand in 2011 that work should stop in  
45 Ghana's oilfields.

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<sup>1</sup> See Written Statement of Ghana, 23 March 2015, para. 53, with citations.

1 Mr President, Members of the Special Chamber, Professor Philippe Sands will set  
2 out the legal issues that lie at the heart of this case in greater detail. It is therefore  
3 sufficient for me to give a preview.

4  
5 Although the Parties have put before you hundreds of pages of submissions and  
6 annexes, the central task that the Special Chamber faces is, we say, quite simple.  
7 Ghana respectfully asks you to affirm the customary equidistance boundary as our  
8 maritime boundary. In carrying out this task, you are assisted by a wealth of maps  
9 and charts which set out this boundary, and which have been made available to you.  
10 Primarily, this is not a maritime delimitation case, but rather a request to declare the  
11 existence of a boundary which the Parties have themselves long agreed and  
12 delimited in practice and in consequence.

13  
14 The evidence before this Special Chamber clearly shows that the principle of  
15 equidistance ought to be affirmed as the equitable solution because *the Parties*  
16 *themselves* have adopted an equidistance-based line; but even if they had never  
17 considered this matter and the question of delimitation arose for the first time during  
18 this case, we submit that equidistance is the principle which ought to be adopted.  
19 The geography of the relevant coasts makes it very straightforward to draw an  
20 equidistance line. Côte d'Ivoire tries to make this task appear complicated. Indeed, at  
21 some points it suggests that it is impossible to draw an equidistance line, but  
22 eventually concedes that drawing the equidistance line is indeed straightforward.  
23 The Special Chamber would have noted that their provisional equidistance line is in  
24 close proximity to the customary equidistance boundary and the provisional  
25 equidistance line that we have prepared for the purpose of our alternative argument.  
26 Drawing an equidistance line was not complicated in 1957, nor in 1960, nor in 1976,  
27 nor in 1988, nor in 2009, and cannot be any more complicated today. Mr Reichler will  
28 address you further on this aspect of Ghana's case.

29  
30 The fairness and good sense of equidistance as a method of delimitation in the  
31 circumstances of this case make it understandable why the two States adopted it as  
32 a basis for their customary boundary. It is impossible to think of a fairer solution.  
33 A fairly-drawn agreed line does not suddenly become unfair simply because one  
34 State decides that it would be economically more advantageous for it if the line were  
35 drawn somewhere else.

36  
37 Ghana submits that this case is both unusual and simple. It is unusual because the  
38 maritime boundary has already been agreed upon; it is simple because, given the  
39 coastal geography, it is a textbook case where equidistance can be easily and  
40 conveniently applied to reach a fair resolution. The two approaches, agreement and  
41 delimitation, lead to the same result. Ghana asks this Special Chamber not to be  
42 swayed by the rather extravagant case Côte d'Ivoire seeks to present here by relying  
43 on a bisector theory and its related maps to create a huge area as the so-called area  
44 in dispute. Their bisector claim is so unrealistic that it should be dismissed out of  
45 hand. After five decades of agreement and reliance, the plausible dispute, if any, is  
46 the much narrower dispute between the Parties' competing equidistance lines.  
47 Ghana therefore invites the Special Chamber to uphold what the parties have long  
48 observed in practice and under their respective domestic laws.

1 Mr President, may I conclude with a brief outline of Ghana's first round of speeches,  
2 and, in so doing, introduce the members of Ghana's delegation again.

3  
4 After Professor Sands, you will hear from Mr Paul Reichler on the coastal geography  
5 of the two States. Mr Fui Tsikata will then address the history and conduct of the  
6 Parties as reflected in the agreed customary equidistance boundary.

7  
8 In our second session tomorrow, Professor Pierre Klein will explain why the  
9 customary equidistance boundary reflects a tacit agreement as a matter of  
10 international law. Ms Clara Brillembourg will address the land boundary terminus,  
11 and Professor Sands will then address the maritime boundary up to 200 nautical  
12 miles and why Côte d'Ivoire's argument for a bisector is incorrect and inappropriate.  
13 Mr Reichler will follow and demonstrate to you why, in this case, the location of the  
14 customary equidistance boundary as supported by both Parties for five decades is  
15 appropriate, correct, and results in the equitable solution required by the Convention  
16 and case law.

17  
18 Session three, tomorrow afternoon, will be introduced by Ms Anjolie Singh, who will  
19 address delimitation beyond 200 nautical miles. She will be followed by Professor  
20 Klein, who will present Ghana's case on why Côte d'Ivoire is estopped from  
21 opposing the long-agreed customary equidistance boundary. Mr Daniel Alexander  
22 will then explain how Ghana has fully respected this Tribunal's Provisional Measures  
23 Order. Finally, Ms Alison Macdonald will demonstrate that Ghana has fully respected  
24 Côte d'Ivoire's sovereign rights and complied with article 83 of UNCLOS.

25  
26 Mr President, Members of the Special Chamber, I thank you for your kind attention  
27 and now ask you to call on Professor Philippe Sands.

28  
29 **THE PRESIDENT OF THE SPECIAL CHAMBER** (*Interpretation from French*): I  
30 would like to thank the Agent for Ghana for her presentation. I now give the floor to  
31 Professor Phillippe Sands.

32  
33 **MR SANDS** (*Interpretation from French*): Mr President, Members of the Special  
34 Chamber, it is a special honour for me to appear before you on behalf of the  
35 Republic of Ghana. My task this morning is to place the case in its context and to  
36 briefly reiterate Ghana's arguments. You yourselves will have noticed, on the basis  
37 of the written documents, that Ghana's submissions are clear and coherent. They  
38 are also characterized by consistency, faithfully following the approach developed by  
39 Ghana over many decades. Finally, they are wholly consistent with the case law of  
40 this Tribunal and with that of other international courts and tribunals. These four  
41 features distinguish our approach from that of our eminent opponents. The different  
42 points that I will now make will of course be further developed by my colleagues,  
43 both today and tomorrow.

44  
45 Let me begin with a simple statement, which I would like you to keep in mind. As the  
46 written pleadings have demonstrated, Ghana and Côte d'Ivoire have mutually  
47 recognized, respected and applied a common maritime boundary, and they done so  
48 for more than 50 years. This boundary follows an equidistance line, and that is the  
49 correct approach – and in this particular case the only possible approach – to this  
50 matter, if regard is had to all the relevant considerations, whether considerations of

1 geography, law or case law. Accordingly, Ghana's central argument is that the  
2 Special Chamber should confirm – confirm – that the customary limit following an  
3 equidistance line recognized by both States for more than half a century constitutes  
4 the common maritime boundary.

5  
6 It is only in the alternative, were the Special Chamber to come to the very unlikely  
7 conclusion that there was no customary maritime boundary between the Parties, that  
8 Ghana requests the Chamber to proceed to the delimitation of the maritime  
9 boundary in accordance with the Montego Bay Convention. In this case, that would  
10 lead to the same result that would be arrived at if Ghana's main argument were  
11 followed. You would be required to implement the traditional three-stage method:  
12 first of all, to draw a provisional equidistance line; then to ascertain whether there are  
13 relevant circumstances that require this line to be adjusted in order to achieve an  
14 equitable result; and, finally, to check that that line does not produce a manifest  
15 disproportion. The application of this method would lead to the same conclusion,  
16 namely an equidistance line that would follow the same course as that recognized by  
17 the two Parties in their practice as the maritime boundary for more than five  
18 decades. The provisional equidistance line that would be newly constructed would  
19 ultimately have to be adjusted in order to take into account 50 years or more of  
20 practice, characterized by the agreement, which have led Ghana to place reliance on  
21 the representations produced by Côte d'Ivoire, placing Côte d'Ivoire in a situation of  
22 estoppel. As you will see, the required adjustment is minimal.

23  
24 Thus, all roads lead to a customary boundary following an equidistance line which  
25 reflects the actual geographical and legal situation in this case. Any approach other  
26 than that of equidistance would place the International Tribunal for the Law of the  
27 Sea in a position that is as unreasonable as it is unlikely. At the very time when the  
28 Tribunal's contribution in this area of law is starting to be significant, as is shown by  
29 the recourse that other international courts and tribunals are having to its case law,  
30 the instant case offers the Tribunal an opportunity further to establish the principles  
31 which it has set out, and it is difficult to see why it would wish to take a different  
32 approach, unless it wishes to disqualify itself from settling disputes of this kind.

33  
34 Côte d'Ivoire is asking you to find that the well-established practice between the  
35 Parties and this mutually recognized boundary is merely a figment of Ghana's  
36 imagination. With all due respect, our esteemed opponents are wrong. The  
37 recognition and acceptance by the two States of the existence of a common  
38 maritime boundary based on equidistance goes back to even before the Convention  
39 on the Law of the Sea – it would seem, even before the birth of Côte d'Ivoire, which  
40 adopted this approach in 1957 – and has continued for almost three decades after  
41 the two States became Parties to the Convention. The two States have largely  
42 benefited from the stability generated by this accepted boundary, in particular  
43 because it has enabled them to ensure the peaceful development of the exploitation  
44 of their natural resources. It was only in 2009 that all this changed. The change took  
45 place unilaterally, rejecting fifty years of Ivorian practice. The change took place only  
46 after the discovery of oil deposits on the Ghanaian side, near the maritime boundary.  
47 Quite clearly, it was not changes in geography or the law that led Côte d'Ivoire to  
48 abandon the position which it had maintained for many years; but, more simply, its  
49 desire to obtain better access to the natural resources in the area.

50

1 Let us begin with the coastal geography. It is well established that in the area that we  
2 are looking at here, the basic principle is that “the land dominates the sea”. *A priori*  
3 this needs no further explanation. However, on reading the written pleadings of the  
4 Parties you might think that you are required to take into consideration two  
5 completely different coasts.

6  
7 As Ghana explained in its Memorial, its coast extends over some 555 kilometres  
8 along the Gulf of Guinea from its land boundary terminus with Côte d’Ivoire to the  
9 west to its boundary with Togo to the east. Between the boundary with Côte d’Ivoire  
10 and Axim, over a distance of 95 kilometres, and before a change in the direction of  
11 the coast, Ghana’s coastline follows a south-east axis. Between Axim and the area  
12 around Cape Three Points the direction of the coastline is more southward, before  
13 changing at Cape Three Points and following a north-easterly direction for 430  
14 kilometres up to the border with Togo.

15  
16 The Ivorian coast extends over approximately 525 kilometres from the boundary with  
17 Ghana in the east to the boundary with Liberia in the west.

18  
19 As Ghana explained in its Memorial, the Ivorian coast is quite similar to that of  
20 Ghana, at least to the extent that it is wholly lacking in irregularities and anomalies.  
21 As you are fully aware, there are no marked changes of direction here, no  
22 promontories or peninsulas, nor are there any seaward features such as rocks or  
23 islands.

24  
25 What is remarkable as far as the relevant coasts of the Parties are concerned is their  
26 linearity and their stability. Mr President, this explains why the two States were easily  
27 able to adopt a maritime boundary following an equidistance line as far back as the  
28 1950s and 1960s, and then to respect that boundary for more than five decades. The  
29 attempts by the other Party to represent these coasts as concave or convex and  
30 unstable are manifestly unfounded, as Mr Reichler will show shortly. Given the lack  
31 of coastal irregularities, agreement was reached at the outset on a maritime  
32 boundary following an equidistance line. Such a line could also easily be constructed  
33 today, should the Chamber deem it necessary.

34  
35 Given the actual geographical situation in the case at hand, it is not surprising that  
36 the historical practice of the Parties had been clear and unambiguous up until 2009.  
37 Côte d’Ivoire does not really try to call this into question. Numerous elements of this  
38 practice, but not all of them, contributed to the oil activities that began in the 1960s,  
39 after the two States became independent, even though the first signs of interest in  
40 offshore exploitation of natural resources date back to the colonial period.

41  
42 In 1952 a first exploration mission was carried out in the territorial waters of what  
43 was then the colony of Ivory Coast. Similarly, a first concession was granted to the  
44 Gold Coast Gulf Oil Company in 1956 off the coast of what is now Ghana. A first  
45 offshore oil concession was awarded off the Ivorian coast in 1957 to the Société  
46 Africaine des Pétroles. The limit of that concession to the east was the same  
47 boundary following an equidistance line that Côte d’Ivoire was to call into question 52  
48 years later.

1 It is important to note that this concession was based on a decree adopted in 1957  
2 by the President of the French Council of Ministers on behalf of the colony of Ivory  
3 Coast. That decree specified that the eastern limit of the concession identified in  
4 article 2 was constituted by

5  
6 the portion of the limit of the territorial waters of Ivory Coast and of the Gold  
7 Coast, and of its possible seaward prolongation, between points E and F  
8 defined hereafter.  
9

10 There was no map accompanying this decree, which, moreover, does not give any  
11 precise coordinates for points E and F. The text does, however, provide that the total  
12 surface area of the concession is 9,640 square kilometres. Only a maritime boundary  
13 following an equidistance line produces that surface area. We have shown points A,  
14 B, C, D, E, F and G on our chart. The boundary line EF between Ivory Coast and the  
15 Gold Coast is based on equidistance, and you can now see it extended seaward. In  
16 other words, the legislation of the time referred to a boundary following an  
17 equidistance line and the concession that was granted then followed that maritime  
18 boundary. The maritime boundary, as gradually extended seaward, continued to be  
19 relied on until 2009. The limits of the concession are not just what Côte d'Ivoire  
20 would have you believe. They are in reality a reflection of the conviction of the State  
21 regarding the extent of the maritime areas to which it had an entitlement.  
22

23 A decade later, in 1968, Ghana divided its maritime territory into 22 blocks of  
24 concessions, including a block adjacent to Côte d'Ivoire, bordered to the west by the  
25 maritime boundary already identified, following an equidistance line. In 1970  
26 Mayflower Volta Petroleum started drilling operations in that concession. Offshore  
27 activities were really ramped up for both countries in the 1970s. Ghana's offshore  
28 activities included the drilling of 14 wells in the two first years. In 1978, 27 wells were  
29 drilled on the Ghanaian side. In the same period Côte d'Ivoire awarded an offshore  
30 licence to a consortium composed of Shell and Esso in 1970. The eastern limit of  
31 that concession was, once again, the customary boundary following an equidistance  
32 line with which you are now familiar. This agreement was renewed with Esso five  
33 years later, in 1975. The drilling activities carried out by the Esso consortium led to  
34 oil being discovered in the Béliér field in 1974, and finally to the drilling of 27 wells.  
35 All this practice was based on an agreed maritime boundary, what we call the  
36 customary boundary based on an equidistance line.  
37

38 Côte d'Ivoire agreed to this for many years. On 14 October 1970, for example, the  
39 Ivorian President Felix Houphouët-Boigny confirmed the existence of the customary  
40 boundary following an equidistance line when he adopted Presidential Decree 70-  
41 618. That text expressly recognized the existence out to sea of a "border line  
42 separating the Ivory Coast from Ghana" between points K and L, and specified its  
43 precise location, in this case following the customary equidistance line. Ghana was  
44 entirely justified in placing reliance on that decree, and that is what it did, as did  
45 various private investors.  
46

47 In 1975 Côte d'Ivoire created PETROCI, its wholly state-owned national gas and oil  
48 company. Between 1975 and 1990 Ivorian oil activities were numerous and  
49 substantial. They all took place on the Ivorian side of the agreed boundary, the  
50 customary equidistance line. Many concessions were granted and we would invite

1 our opponents to identify a single one that was on the Ghanaian side of the agreed  
2 boundary. More than a hundred offshore wells were drilled at the invitation of Côte  
3 d'Ivoire and with the participation of PETROCI. Each of them was drilled on the  
4 Ivorian side of the maritime boundary.

5  
6 In 1977 Côte d'Ivoire adopted the act delimiting the maritime areas placed under the  
7 national jurisdiction of the Republic of Côte d'Ivoire. Article 8 of this act, filed with the  
8 United Nations Division for Ocean Affairs and the Law of the Sea, explicitly  
9 recognized the principle of equidistance as the basis for Ivorian maritime boundaries.  
10 This act was consistent with prior practice and was fully respected until 2009; and  
11 until this very day it has not been amended or abolished. Indeed, during the 34 years  
12 that followed the adoption of this act, each of the oil concessions granted by Côte  
13 d'Ivoire in the eastern-most maritime zones, without one single exception until 2011,  
14 have been bounded to the east by the customary boundary following an equidistance  
15 line. You can see this illustrated on a number of charts and maps.

16  
17 For its part, Ghana carried out substantial offshore activities in areas extending  
18 beyond its territorial waters during the 1970s and 1980s. These activities led to the  
19 first discoveries of oil on its continental shelf. In the 1980s Ghana, in turn, created its  
20 own national oil company, GNPC. Its exploration activities were ramped up as from  
21 the mid-1990s.

22  
23 The two States expressly recognized, and in much the same way, the customary  
24 boundary following an equidistance line. In 1977, for example, Ghana obtained from  
25 Côte d'Ivoire the permission for a vessel carrying out seismic surveys to pass over  
26 the customary boundary to enter into Ivorian waters. In their exchanges, the two  
27 States recognized the existence of the maritime boundary and its precise location.  
28 This became established practice, and the drilling of the West Tano-1 well, close to  
29 the customary maritime boundary based on equidistance, started in 1999, leading to  
30 the discovery of oil in that area. All of this took place without the shadow of a protest  
31 from Côte d'Ivoire.

32  
33 Since the beginning of the 2000s, Ghana's offshore concessions have been the  
34 subject of sustained activities and oil deposits have also been discovered in the  
35 West Cape Three Points and Deepwater Tano blocks. The same pertains to the  
36 Ivorian side: in the 2000s at least 15 wells were drilled in the Côte d'Ivoire offshore  
37 concessions, all on the Ivorian side of the customary boundary following an  
38 equidistance line.

39  
40 In the middle of the 2000s, Ghana awarded concessions to two consortia led by  
41 Kosmos and Tullow, respectively. The activities in relation to these concessions,  
42 known and accepted by Côte d'Ivoire without the least objection, led to the discovery  
43 of significant quantities of oil in this area in 2007. In the same year, fully aware of the  
44 activities being carried out on the Ghanaian side of the boundary, Côte d'Ivoire also  
45 granted concessions to Tullow on the Ivorian side of the joint maritime boundary.

46  
47 It is also in 2007 that PETROCI presented to the Ghanaian authorities a request for  
48 an authorization to cross the customary boundary line following an equidistance line  
49 with a view to carrying out seismic surveys. These surveys related to concessions  
50 granted to YAM's Petroleum one year earlier. Once again, PETROCI's request

1 illustrates a mutual, explicit recognition by both States of the existence of, and  
2 location of, their joint maritime boundary. Both Parties produced representations and  
3 both placed reliance on those representations.

4  
5 Other governmental activities also show the respect manifested by both Parties with  
6 respect to the customary boundary following an equidistance line. In May 2009, Côte  
7 d'Ivoire presented its submission to the Commission on the Limits of the Continental  
8 Shelf, established by the 1982 Convention. This submission respected the  
9 customary boundary based on equidistance. It identified points, as you can see, OL-  
10 CL-1 to OL-CL-6. You can see them on the screen. These points were wholly  
11 consistent with the customary boundary following an equidistance line, which you  
12 can now see on your screen. This submission was in existence for seven years and  
13 was only withdrawn on 24 March 2016 – 2016, Mr President – only ten days before  
14 Côte d'Ivoire filed its Counter-Memorial in the framework of the instant case. I think  
15 this speaks volumes. The withdrawal of its initial submission shows that Côte d'Ivoire  
16 was fully aware that its current submission was not consistent with prior practice. We  
17 shall revisit this point later. Just let me say for the time being that the reasons  
18 advanced by the other side to justify the withdrawal of this submission are both  
19 artificial in nature and not very convincing.

20  
21 (*Continued in English*) After five decades of consistent practice, Côte d'Ivoire  
22 suddenly changed direction. The change that occurred in February 2009 would be  
23 the first of many changes of direction. The initial change seems to have been  
24 prompted by the discovery of significant oil reserves in Ghana's Jubilee field. Thus,  
25 during a bilateral negotiation, and without any notice, Côte d'Ivoire simply  
26 abandoned the long-agreed customary equidistance boundary. In February 2009 it  
27 opted for a "geographic meridian approach", i.e., a line due north-south.<sup>2</sup> The  
28 meridian it chose was then changed in May 2010.<sup>3</sup> The following year, in November  
29 2011, Côte d'Ivoire changed its mind again, now opting for an angle bisector, yet  
30 another new direction.<sup>4</sup> Then, in May 2014, it changed its mind once more, putting  
31 forward a different version of the angle bisector.<sup>5</sup> Yet even during this period, as  
32 Côte d'Ivoire was communicating its changes of position to Ghana, it continued to  
33 offer concession blocks that respected the agreed, customary boundary.

34  
35 In light of the decades of the States' mutual recognition and application of the  
36 equidistance boundary described fully in our written pleadings,<sup>6</sup> and which I have  
37 here briefly summarized, you might now begin to understand why Côte d'Ivoire's  
38 initial change of position in 2009 came as a great surprise to Ghana. Its pleadings  
39 are an equally great surprise. Côte d'Ivoire writes that it has in fact been in "constant  
40 opposition"<sup>7</sup> to the customary equidistance boundary. Where is the evidence of that  
41 "constant opposition", Mr President? There is none before you. Côte d'Ivoire asserts  
42 with no evidence to support its claim.<sup>8</sup>

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<sup>2</sup> MG, para. 3.105.

<sup>3</sup> *Ibid.*, para. 3.109.

<sup>4</sup> *Ibid.*, para. 3.112.

<sup>5</sup> *Ibid.*, para. 3.117.

<sup>6</sup> See MG Chapter 3; RG Chapter 2.

<sup>7</sup> RG, para. 2.10; Rejoinder of Côte d'Ivoire (14 Nov. 2016) (hereinafter "RCI"), para. 6.27.

<sup>8</sup> See for example, RG, para. 2.11.

1 In support of that alleged “constant opposition”, Côte d’Ivoire offers information on  
2 just two isolated events, years apart and years ago. Mr Tsikata will elaborate on  
3 these later this morning, so let me just touch on them briefly. The first is the 15<sup>th</sup>  
4 Ordinary Session of the Joint Commission on Redemarcation of the Ghanaian-  
5 Ivorian Border, held in Abidjan between 18 and 20 July 1988. Côte d’Ivoire claims  
6 that, at that meeting, it proposed an alternative method of delimitation, to replace  
7 equidistance. This seems to be a point to which Côte d’Ivoire attaches great  
8 importance, yet the evidence before you shows that, following the meeting, the  
9 matter was simply never raised again. To the contrary, for the next twenty-one years  
10 each State, Côte d’Ivoire and Ghana, continued its activities exactly as it had for the  
11 past three decades, recognizing and giving effect to the customary equidistance  
12 boundary.<sup>9</sup> This is not an example of opposition or of “constant opposition”. This is  
13 an example of constant continuation.  
14

15 The second event relied upon by Côte d’Ivoire to prove “constant opposition” is said  
16 to be found in Ghana’s 1992 invitation to formally delimit their maritime boundary.<sup>10</sup>  
17 Côte d’Ivoire claims that this invitation from Ghana proves the lack of agreement  
18 between the two Parties as to an existing maritime boundary, and that the matter  
19 remained an open question. To further support this claim of “constant opposition”  
20 Côte d’Ivoire invokes its request that activities be suspended in the border area  
21 pending final delimitation. But if we look at line 24 of that document, you will see that  
22 on its face it does not amount to protest at all. It says:

23  
24 The Ivorian government ... hopes therefore that both countries will abstain  
25 from drilling ops in the zone whose status remains to be determined.<sup>11</sup>  
26

27 It is an expression of hope, and one limited in time, not a protest, and it was never  
28 followed up.  
29

30 As Ghana has recognized, the customary equidistance boundary has not been the  
31 subject of a formal delimitation. Ghana’s invitation was intended to do no more than  
32 to formalize that which had already been agreed: a customary boundary based on  
33 equidistance that had already been acknowledged, through mutual recognition, by  
34 tacit agreement and acquiescence. Yet what is clear on the evidence before you is  
35 that the Joint Commission never met again, and that Côte d’Ivoire’s hope faded  
36 away and was dropped. The evidence points clearly to the conclusion that neither  
37 Party attached importance to the issue in the years that followed. It offers no  
38 evidence of opposition from Côte d’Ivoire.<sup>12</sup>  
39

40 Rather, all of the evidence before this Special Chamber makes clear that Côte  
41 d’Ivoire was entirely comfortable with the customary equidistance boundary from  
42 1957 until 2009, when the discovery of the Jubilee oil reserves came to light. Côte  
43 d’Ivoire has nothing substantive to say about its own recognition of the equidistance  
44 boundary from the late 1950s to 2009.  
45

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<sup>9</sup> MG, para. 3.98.

<sup>10</sup> RG, para. 2.49.

<sup>11</sup> CMCI, Vol. III, Annex 16 (Télégramme du Ministère des Affaires étrangères ivoirien à l’Ambassadeur de Côte d’Ivoire à Accra (1 April 1992)).

<sup>12</sup> RG, para. 2.53.

1 Against that background, let me say something more about Côte d'Ivoire's approach  
2 to the method of delimitation. Having abandoned five decades of adherence to the  
3 customary equidistance boundary, as well as its own national law, since 2009 Côte  
4 d'Ivoire has advanced a number of different theories as to how it now says the  
5 maritime boundary should be delimited afresh. We say you do not have to engage in  
6 such an exercise at all, since the Parties have adopted and agreed a customary  
7 boundary since at least 1957, and we invite you to confirm the existing boundary. We  
8 invite you too to make crystal clear that it is not open to a State to engage in a  
9 consistent and constant recognition of a boundary, as Côte d'Ivoire has, on which  
10 reliance is placed by the neighbouring State and third parties over an extended  
11 period of time, and then simply choose to drop that position. If the Chamber were to  
12 reject our invitation, with all it would imply for the stability of relations both in this  
13 case and in other situations, any fresh act of delimitation cannot follow the approach  
14 proposed to you by Côte d'Ivoire.

15  
16 In February 2009 Côte d'Ivoire proposed a delimitation based on a meridian, one  
17 that did not even originate at BP 55.<sup>13</sup> You can see that in the dotted line on your  
18 screen. The following year, in May 2010, it proposed a changed meridian.<sup>14</sup> That  
19 new approach lasted for just eighteen months: in November 2011 Côte d'Ivoire  
20 abruptly changed its position again and you can see the new position on the screen.  
21 This is a new theory, namely, angle bisector. Then, a little more than two years later,  
22 in May 2014, it abandoned that bisector line for a new and completely revised  
23 bisector line.<sup>15</sup> If you compare the customary equidistance boundary with Côte  
24 d'Ivoire's first meridian claim, in February 2009, you will see that it originally claimed  
25 an additional 25,200 square kilometres. But since February 2009 that claim has  
26 changed over and over again. First, it decreased to 14,900 square kilometres, then  
27 increased by about double to 26,100 square kilometres, and then in 2014 they added  
28 an additional 5,000 square kilometres to their claim.

29  
30 As matters stand today, Côte d'Ivoire has sought to increase its maritime entitlement,  
31 as you can see on the screen, by 31,100 square kilometres. It has adopted this  
32 approach, presumably, in the hope that you, this Tribunal, might somehow "split the  
33 cake" in a way that is favourable to them. But the cake created by Côte d'Ivoire is a  
34 totally artificial cake. Côte d'Ivoire's true claim is much smaller: it is the difference  
35 between the customary equidistance boundary supported by Ghana, and the  
36 provisional equidistance line which Côte d'Ivoire has now presented to you in its  
37 written pleadings, on which we will have much more to say. Let us look at both of  
38 them on the screen. The difference between these two claims is just 2,416 square  
39 kilometres, which is less than one-tenth of its primary claim. If there is a cake to  
40 divide – and we say there is not, because there is an agreed customary equidistance  
41 boundary, you are looking at it. It is not a big cake. If there is truly a dispute between  
42 the Parties – and we say there is not, given the decades of mutually concordant  
43 recognition and application of an agreed customary equidistance boundary – then  
44 these 2,416 square kilometres represent the only plausible area in dispute; on Côte  
45 d'Ivoire's case, that is the only true difference between where we say the boundary is  
46 and has long been, and where Côte d'Ivoire now finally says it should be.

47

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<sup>13</sup> MG, para. 3.105.

<sup>14</sup> *Ibid.*, para. 3.109.

<sup>15</sup> *Ibid.*, para. 3.117.

1 There will be more to say about the numerous different approaches advanced by  
2 Côte d'Ivoire in this case. What all have in common, however, is the disproportionate  
3 effect they would have on Ghana's coastal projection, and the severe diminution they  
4 would occasion for Ghana's maritime entitlement.<sup>16</sup>

5  
6 Even more significantly, the approach finally settled on by Côte d'Ivoire in its written  
7 pleadings is internally contradictory. In Chapter 6 of its Counter-Memorial, for  
8 example, it argues for a bisector, on the basis that any other approach is unfeasible  
9 or inequitable; yet in the very next Chapter – Chapter 7 – it acknowledges at length  
10 that an equidistance line is both possible and capable of being equitable in its  
11 result.<sup>17</sup> Mr President, this seems to be the very first case of maritime delimitation in  
12 which a Party advancing a claim makes two contradictory arguments in its first  
13 written pleadings. This confirms that the bisector claim is a total artifice.

14  
15 There is no escaping what Côte d'Ivoire recognizes: there are “no compelling  
16 reasons” to depart from equidistance.<sup>18</sup>

17  
18 Côte d'Ivoire thus faces considerable difficulties. It is a Party in a maritime boundary  
19 case which wishes to disavow five decades of its own legislation and application of a  
20 boundary, a Party that concocts a bisector claim whilst simultaneously recognizing  
21 that an equidistance line is appropriate and equitable. It comes as no surprise then –  
22 even if it is regrettable – that it has had to resort to other artifices: silence,  
23 manipulation (both of cartography and geography), invention, contradiction, and  
24 inaccuracy. We invite you to treat the pleadings of Côte d'Ivoire with caution, both as  
25 to what is said and what is not said.

26  
27 Let me offer a few examples. As to silence, we have noted that Côte d'Ivoire had  
28 nothing to say in its Rejoinder on the matter of the maps you will recall it filed in the  
29 Counter-Memorial and then chose to withdraw. These were the original Annexes C6  
30 and C7. By way of example, you can see the original Annex C6 on the left, and the  
31 revised Annex C6 on the right. What was changed with the revision? The originals  
32 on the left depicted the lines indicating the maritime boundaries claimed by Côte  
33 d'Ivoire with both its neighbours, Ghana and Liberia. You can see those lines  
34 highlighted in yellow. For obvious reasons, in the revised version the lines were  
35 removed, as you can see on the right. Côte d'Ivoire claimed the change – removing  
36 lines on a chart – was merely, as it put it, “[t]he correction of a slip or error,” but this  
37 is not correct. Original Annex C6 depicts Côte d'Ivoire's boundary lines to the east  
38 and the west not as equidistance lines, as had been the case on both sides, but as  
39 bisector lines on both sides. By removing the boundary lines, it appears that Côte  
40 d'Ivoire was attempting to hide its true claim and strategy in this and related cases,  
41 which is for maritime boundaries to the east and to the west that expand ever more  
42 widely as they leave the coast.<sup>19</sup> This of course also manifestly contradicts Côte  
43 d'Ivoire's argument about concavity.

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<sup>16</sup> MG, para. 1.14.

<sup>17</sup> CMCI, para. 7.1.

<sup>18</sup> *Delimitation of the Maritime Boundary between Bangladesh and Myanmar in the Bay of Bengal (Bangladesh/Myanmar)*, Judgment of 14 March 2012, ITLOS Reports 2012, p. 4, para. 223 (quoting *Maritime Delimitation in the Black Sea (Romania v Ukraine)*, Judgment, ICJ Reports 2009, p. 61, para. 116).

<sup>19</sup> RG, Vol. II, Figure 3.20; Ghana letter to Registrar 25 April 2016.

1  
2 As to manipulation, this has occurred in relation to maps, arguments and evidence,  
3 we say with much regret. For example, in relation to the Ivorian decrees of 1970 and  
4 1975, Côte d'Ivoire has argued that, following the unambiguous language of Article 8  
5 of the 1970 Decree, Article 4 of the 1975 Decree serves as further clarification, as it  
6 purportedly offers evidence that the customary equidistance boundary was never  
7 accepted as the Parties' shared maritime boundary. Yet, as we explained in the  
8 written pleadings,<sup>20</sup> Côte d'Ivoire has ignored the text that immediately precedes  
9 what it quotes. That text states, as you can see on your screens:

10  
11 An exclusive licence is granted...whose limits are...the boundary line  
12 separating Côte d'Ivoire from Ghana between points K and L. <sup>21</sup>

13  
14 The words removed by Côte d'Ivoire are clear: "the boundary line". They confirm that  
15 we are dealing here with an agreed maritime boundary, and not merely the existence  
16 and location of the eastern limit of the concession.<sup>22</sup>

17  
18 Another example of manipulation may be found in the references in the Rejoinder to  
19 purported examples of State practice that are said to be based on bisector lines.<sup>23</sup> I  
20 will return to this tomorrow, so today let me be brief: First, it should be noted that  
21 seven of the eight agreements Côte d'Ivoire invokes predate the signing of UNCLOS  
22 and are far from being representative of the evolution of the Law of the Sea. Second,  
23 State practice is of limited general application; States are free to adopt any number  
24 of extra legal considerations in reaching a bilateral agreement.

25  
26 Third, Côte d'Ivoire's sketch maps illustrating the so-called "bisecting lines" seek to  
27 create an impression that the boundaries were generated using the bisector  
28 methodology. This is plainly incorrect. The examples it provides undermine its case,  
29 rather than strengthening it. I will say more on this tomorrow.

30  
31 Moreover, Côte d'Ivoire has been selective in its reliance upon the facts of those  
32 cases that it does invoke. Over these next two days, Mr Reichler and Professor Klein  
33 will provide specific examples of selectivity.

34  
35 Similarly, we have noted that Côte d'Ivoire invokes its own internal conflict to try to  
36 explain away its consistent practice between 1992 and 2007, when it followed the  
37 customary boundary. In that period, as we have shown, there was considerable  
38 development in the relevant area, as Côte d'Ivoire introduced legislative changes  
39 aimed at its offshore blocks, drilling continued, and a number of concessions were  
40 granted and every single one of them respected the customary boundary. Internal  
41 conflicts had no impact whatsoever.

42  

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<sup>20</sup> MG, paras. 3.20- 3.24.

<sup>21</sup> CMCI Annex Vol. IV 59 (Décret n°70-618 accordant un permis de recherches pétrolières aux sociétés ESSO, SHELL et ERAP (14 October 1970)); MG, Vol. IV, Annex 23 (Republic of Côte d'Ivoire, Decree 70-618 granting an exclusive Petroleum Exploration Permit to ESSO, SHELL & ERAP Group (14 October 1970)).

<sup>22</sup> RG, para, 2.30.

<sup>23</sup> RCI, para. 1.8 and n. 25 with associated sketch maps.

1 As if silence and selectivity were not enough, Côte d'Ivoire has even resorted to  
2 invention, distorting the geographical reality of the case that is before you. In its  
3 Rejoinder, for example, Côte d'Ivoire refers to Ghana's westernmost district of  
4 Jomoro as a "peninsula".<sup>24</sup> The Oxford Dictionary defines a peninsula as "a piece of  
5 land almost surrounded by water or projecting out into a body of water." As you can  
6 see on your screens, the Jomoro district in Ghana is not surrounded by water and  
7 does not project out into a body of water; it is not a peninsula. The international  
8 boundary between the two States was drawn to provide equal access to, and  
9 enjoyment of, a major river and lake.<sup>25</sup> The Jomoro area is not an anomaly; it is not a  
10 peninsula.

11  
12 I turn finally to the contradictions. On the screen you can see plates D 3.5 on the left  
13 and D 3.6 on the right from the Côte d'Ivoire Rejoinder. As you can see, plate D 3.5  
14 is titled (*Interpretation from French*) "The relevant coasts for applying the  
15 equidistance/relevant circumstances method".<sup>26</sup> (*Continued in English*) On plate D  
16 3.5 you will see the green arrows that indicate Côte d'Ivoire's view of the projection  
17 of Côte d'Ivoire's entire coast Now, if you look carefully at the most eastern of those  
18 green arrows – those on the right-hand side, which are located between Abidjan and  
19 the border with Ghana – you will see that they have been prepared on this plate to  
20 show Côte d'Ivoire's coast projecting in a westerly direction, aligning almost perfectly  
21 with the direction of the pink arrows which are indicative of Ghana's coastal  
22 projection: both sets of arrows point to the west.

23  
24 Now let us superimpose on Plate D 3.5 the green arrows that Côte d'Ivoire uses on  
25 its next plate, Plate D 3.6, which is entitled (*Interpretation from French*) "the cut off  
26 effect of the line claimed by Ghana."<sup>27</sup> (*Continued in English*) Removing D 3.5, and  
27 using only the arrows as depicted on D 3.6, you see the manifest contradiction.  
28 Whereas the green arrows at that location used to point in a westerly direction on  
29 Plate D 3.5, they have been shifted in D 3.6 and redirected to project east rather  
30 than west. This is supposedly to indicate the projection of Côte d'Ivoire's coast.  
31 There is plainly a contradiction between D 3.5 and D 3.6. Côte d'Ivoire has, in effect,  
32 altered the direction of its coast to suit its cartographic needs. This is both  
33 contradiction and manipulation. Since both plates cannot be right, we look forward to  
34 hearing later in the week which of these two plates Côte d'Ivoire intends to discard.

35  
36 Such inconsistencies run like a thread throughout Côte d'Ivoire's case. After five  
37 decades of consistent practice, all of a sudden Côte d'Ivoire changes its position.  
38 That change seems to have taken place without the benefit of careful and proper  
39 reflection, and the consequence is to be seen in the pleading – a mass of  
40 contradictory positions over ten rounds of negotiations that took place between the  
41 two Parties between 2009 and 2014.

42  
43 The inconsistency persists to this day and into the pleadings. Take a look a  
44 paragraph 3.36 of the Rejoinder. Having argued on Plate D 3.5 that an equidistance  
45 line has a cut-off effect throughout its maritime area within the whole 200 nautical

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<sup>24</sup> RCI, para. 21 ("péninsule").

<sup>25</sup> RG, para. 3.72.

<sup>26</sup> RCI, p. 84, Sketch map D 3.5 ("Les côtes pertinentes pour l'application de la méthode de l'équidistance/circonstances pertinentes").

<sup>27</sup> *Ibid.*, p. 88, croquis D 3.6 ("Effet d'amputation de la ligne revendiquée par le Ghana").

1 miles zone, at paragraph D 3.36, Côte d'Ivoire now argues that if there is a cut-off  
2 effect such as to adjust an equidistance line – and we say that there is not – it only  
3 begins to have an effect “à amputer”, as Côte d'Ivoire puts it – at a point some  
4 distance away from the coast. In fact, it is located some 150-plus miles from the land  
5 boundary terminus, that is to say at the point of intersection between Côte d'Ivoire's  
6 green easterly-directed arrow and the (*Interpretation from French*) “customary line  
7 claimed by Ghana.” (*Continued in English*) The customary equidistance boundary,  
8 which you can see *here* in red, cuts off only much further away, far off the coast. The  
9 concession made in paragraph 3.36 is significant.

10  
11 Mr President, Members of the Special Chamber, this Chamber's function is to apply  
12 the law to the facts. Côte d'Ivoire invites you to disregard all previous case law and  
13 come to a conclusion that is anchored neither in geography or in practice but which  
14 is somehow said to be “fair and equitable” in all the circumstances. It is not, and it  
15 cannot be fair or equitable to depart from an established boundary that has been  
16 recognized and respected by both Parties for over 50 years, which has been relied  
17 upon by both States to develop their oil industries and is reflected and respected by  
18 their own national laws. Côte d'Ivoire has concocted a vast, newly “disputed area”,  
19 and it has done so to gain access to natural resources situated in waters which Côte  
20 d'Ivoire had, until 2009, long accepted as belonging to Ghana. The maritime  
21 boundary is, and has always been, where Ghana says it is. It follows an equidistance  
22 line which dates back to at least 1957. That is the maritime boundary we ask you to  
23 confirm. Any other approach will wreak havoc with the law, the rights of both States,  
24 and the rights of third parties, including investors.

25  
26 Mr President, Members of the Special Chamber, I thank you for your patient  
27 attention, and perhaps this is a convenient moment at which to take a coffee break,  
28 whereupon Mr Reichler will be available to address you.

29  
30 **THE PRESIDENT OF THE SPECIAL CHAMBER** (*Interpretation from French*):  
31 Thank you, Professor Sands. It is now 11.32. We will have a coffee break for 30  
32 minutes and resume at 12 o'clock.

33  
34 I draw the Ghanaian delegation's attention to the following. Apparently there are still  
35 two speakers left and there is only one hour available. We might be able to offer you  
36 an extra five minutes if we are feeling generous, so please try to restrict your  
37 interventions after the coffee break to 30 minutes plus five. Thank you.

38  
39 (Break)

40  
41 **THE PRESIDENT OF THE SPECIAL CHAMBER** (*Interpretation from French*):  
42 Please be seated. We resume our session with the first speaker, Mr Reichler.

43  
44 The Chamber has calculated the remaining speaking time and the Ghanaian  
45 delegation will be able to speak until 13.05.

46  
47 **MR REICHLER:** Mr President, Members of the Special Chamber, good morning.

48  
49 It is an honour for me to appear before you in these proceedings, and to serve as  
50 counsel for the Republic of Ghana.

1  
2 As is customary at the outset of the oral hearings, I will set the stage by setting out  
3 the geographical circumstances of this case. As you will be aware from the written  
4 pleadings, the Parties take markedly different approaches to these geographical  
5 circumstances. Of course, geography is a given. It is a gift of Mother Nature, which  
6 neither Party is permitted to change or refashion; but in this case each of the Parties  
7 has emphasized different aspects of the given geography in order to support its own  
8 conclusion as to where the boundary lies. For that reason, I think it might be most  
9 helpful to you if today I were to call your attention in particular to the differences in  
10 the approaches that the Parties have taken in their respective presentations of what  
11 they each regard as the geographical circumstances pertinent to this case.  
12

13 However, before addressing the differences between the Parties, I would like to  
14 highlight three very significant points of agreement on matters of geography. First,  
15 the Parties are agreed on the precise geographic coordinates of the land boundary  
16 terminus, at boundary post 55, and that it is the starting point for the maritime  
17 boundary.<sup>28</sup> Second, the Parties agree that the coastline in the vicinity of BP 55, on  
18 both the Ghanaian and Ivorian sides of it, is almost perfectly straight. Relatedly, they  
19 agree that there are no significant geographic features interrupting that straightness  
20 between Axim on the Ghana side and Abidjan on the Ivorian side, a distance of  
21 approximately 200 km.<sup>29</sup> Third, the Parties agree that there are no offshore features,  
22 such as islands, rocks or cays in this area or, indeed, in any area that might have  
23 influence on the course of the boundary.<sup>30</sup>  
24

25 It appears from these agreed geographical facts that the Ghana/Côte d'Ivoire  
26 coastline should be a textbook case for the maritime boundary between the two  
27 States to follow an equidistance line. A nearly perfectly straight coastline with no  
28 offshore features would seem to offer the ideal circumstances for a boundary based  
29 on equidistance. Indeed, Ghana has consistently taken that position since it  
30 achieved independence in 1957, until negotiations for a formally agreed boundary  
31 treaty began with Côte d'Ivoire in 2008. It is the position that Ghana took throughout  
32 those negotiations from 2008 until 2014, and throughout these proceedings since  
33 2014.<sup>31</sup> This was Côte d'Ivoire's position too, for more than 50 years. Based on this  
34 coastal geography, Côte d'Ivoire, like Ghana, recognized that the boundary followed  
35 an equidistance line. This was Côte d'Ivoire's position from even before its  
36 independence in 1960 until at least 2009.<sup>32</sup>  
37

38 However, that is not Côte d'Ivoire's current position. In these proceedings it adopts a  
39 very different approach, arguing for the use of an angle bisector.<sup>33</sup> Yet, proving that  
40 old habits and customs die hard, Côte d'Ivoire also acknowledges that an equitable  
41 result can be achieved through equidistance, by starting with a provisional

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<sup>28</sup> See Memorial of Ghana (4 Sept. 215) (hereinafter "MG"), paras. 2.2, 3.116, 4.13-4.14; Counter-Memorial of Côte d'Ivoire (4 Apr. 2016) (hereinafter "CMCI"), paras. 2.29, 7.28; Reply of Ghana (25 July 2016) (hereinafter "RG"), para. 3.94; Rejoinder of Côte d'Ivoire (14 Nov. 2016) (hereinafter "RCI"), para. 2.102.

<sup>29</sup> RG, paras. 3.21-3.22, 3.51, 3.101; CMCI, para. 6.22; RCI, para. 2.17.

<sup>30</sup> RG, paras. 3.51. See generally CMCI, paras. 1.15-1.34.

<sup>31</sup> See MG, paras. 2.25-2.31, 3.8-3.17, 3.40-3.52, 3.65-3.69, 3.102, 3.108, 3.110, 3.113; CMCI, paras. 2.54, 2.62.

<sup>32</sup> See RG, paras. 2.11 *et seq.*

<sup>33</sup> CMCI, Chapter 6; RCI, Chapter 3.

1 equidistance line and then adjusting it in the light of what Côte d'Ivoire argues to be  
2 relevant circumstances.<sup>34</sup> The change in position is that Côte d'Ivoire now argues  
3 that there is no existing equidistance boundary and that a new provisional  
4 equidistance line should be drawn and then radically adjusted so that it follows the  
5 same angle bisector that it now invites you to adopt as the boundary.<sup>35</sup>  
6

7 The differences between the Parties' positions at this time are attributable to four  
8 major differences in their approach to the geographic circumstances that form the  
9 physical context in which the present case is to be decided. I will address each of  
10 these four differences in turn.  
11

12 The first concerns the proper geographical scope. Our good friends on the other side  
13 now argue that your determination of the boundary between Ghana and Côte d'Ivoire  
14 must take into account not just Ghana and Côte d'Ivoire but the entire West African  
15 coastline, from Senegal to Gabon<sup>36</sup> – a coastline that extends for more than  
16 5,000 km across 14 different States. From *this* map, which is one of theirs, Côte  
17 d'Ivoire now argues for what it says is a boundary reflecting the general direction of  
18 the West African coast, which is said to run from south-west to north-east.<sup>37</sup> On this  
19 basis, it asserts coastal fronts that are said to project in a south-easterly direction.<sup>38</sup>  
20 Côte d'Ivoire argues from this premise that the Ghana/Côte d'Ivoire boundary should  
21 project seaward in the same direction, that is from north-west to south-east, so that it  
22 is “representative” of the entire West African coast.<sup>39</sup>  
23

24 In further support of this approach, Côte d'Ivoire invokes what it calls the “general  
25 direction” of the coastlines of Côte d'Ivoire and Ghana taken as a whole, which it  
26 depicts in *this* manner. As presented *here* by Côte d'Ivoire, this entire length of  
27 coastline, extending for nearly 1,000 km, is rendered as though it consists of a  
28 single, perfectly straight coastal façade, running from south-west to north-east.<sup>40</sup> For  
29 Côte d'Ivoire, this entirely artificial straight line is said to demonstrate that the coasts  
30 of Côte d'Ivoire and Ghana, like their rendition of the generalized coast of West  
31 Africa, project seaward in a south-easterly direction and that the maritime boundary  
32 should be drawn in that direction.<sup>41</sup>  
33

34 Ghana submits that Côte d'Ivoire has adopted the wrong approach to the  
35 geographical circumstances that guide the determination of the boundary in this  
36 case. In fact, Côte d'Ivoire is wrong both on the geography and the law. It distorts the  
37 geography in order to support its pre-determined position on the direction of the  
38 boundary, and it invokes circumstances that, under well-established principles  
39 derived from the case law, are irrelevant to boundary delimitation. For Côte d'Ivoire,  
40 the sea apparently dominates the land: it first decides how much sea it should be  
41 entitled to and then refashions the coastal geography to that end. We trust that the

---

<sup>34</sup> CMCI, para. 7.1.

<sup>35</sup> *Ibid.*, para. 7.64; RCI, Chapter 3.

<sup>36</sup> CMCI, paras. 6.49-6.69; RCI, paras. 2.36-2.42, 3.38-3.49.

<sup>37</sup> See CMCI, para. 6.45; RCI, paras. 2.37-2.38.

<sup>38</sup> CMCI, Sketch Map 7.9; RCI, para. 2.19, Sketch Map D2.2

<sup>39</sup> See RCI, paras. 2.20-2.22, 2.36-2.42.

<sup>40</sup> CMCI, Sketch Map 6.7.

<sup>41</sup> See *ibid.*, paras. 6.45-6.47; RCI, paras. 2.36-2.39, 3.12-3.16.

1 Special Chamber will see this argument for the artifice that it is as we proceed  
2 through the next slides.

3  
4 Let us begin with the West African coastline as a whole, from Senegal to Gabon. In  
5 the first place, one might ask, what have the coastlines of Senegal and Gabon to do  
6 with the determination of the maritime boundary between Côte d'Ivoire and Ghana?  
7 The same question might be asked about the coastlines of Gambia, Guinea-Bissau,  
8 Guinea, Sierra Leone, Liberia, Togo, Benin, Nigeria, Cameroon, and Equatorial  
9 Guinea: what do their coasts have to do with this case? Secondly, it is far from clear  
10 that the so-called "general direction" of the West African coast runs from south-west  
11 to north-east, or that the coastline generally projects seaward toward the south-east.  
12 As you can see on your screens, and at tab 2 of your Judges' folders, there are  
13 significant portions of the coast that project to the west, to the south-west and to the  
14 south. In fact, there is no single "general direction" of the seaward projection of the  
15 West African coast. But what if there were? There is no precedent in the case law for  
16 the proposition that the generalized coast of an entire continental land mass,  
17 constituting a multiplicity of national coasts, should predominate over the coasts of  
18 the two parties whose boundary is to be determined.

19  
20 To the contrary, the rule that has been applied is that each boundary case  
21 necessarily involves a separate exercise, one that depends on the  
22 geographical circumstances particular to the two parties, and whose result is  
23 also particular to those parties. As ITLOS observed in *Bangladesh v.*  
24 *Myanmar*:

25  
26 [T]he issue of which method should be followed in drawing the maritime  
27 delimitation line should be considered in light of the circumstances of each  
28 case. ... [It] should be one that, under the prevailing geographic realities and  
29 the particular circumstances of each case, can lead to an equitable result.<sup>42</sup>  
30

31 Côte d'Ivoire also falls into error in seeking to argue for, and then invoke, a so-called  
32 "general direction" of the Ivorian and Ghanaian coasts, one that is said to extend  
33 directly from Côte d'Ivoire's border with Liberia to Ghana's border with Togo.<sup>43</sup> This is  
34 another of their maps. They used it in both the Counter-Memorial and the Rejoinder;  
35 but no matter how many times they display it, it still misrepresents the actual coasts.  
36 The actual coasts cannot be rendered accurately as single straight lines without  
37 utterly distorting their directions, or, as shown here on Côte d'Ivoire's own map,  
38 turning more than 13,700 square kilometres of sea into land (on the Côte d'Ivoire  
39 side), and transforming 15,700 square kilometres of land into sea (on the Ghana  
40 side). Côte d'Ivoire's "generalized direction" line is plainly a manipulation of the actual  
41 geography, one that has been undertaken to create the impression of a coastline that  
42 projects seaward to the south-east. However, as you can see, these directional  
43 arrows are drawn from Côte d'Ivoire's fictional, single-direction coasts, not the actual  
44 ones.

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<sup>42</sup> *Delimitation of the Maritime Boundary between Bangladesh and Myanmar in the Bay of Bengal (Bangladesh/Myanmar)*, Judgment of 14 March 2012, ITLOS Reports 2012, p. 4 (hereinafter "*Bangladesh v. Myanmar*, Judgment"), para. 235.

<sup>43</sup> See CMCI, paras. 6.32, 6.42-6.46; RCI, paras. 3.12-3.13.

1 If the coasts of Côte d'Ivoire and Ghana are to be depicted as straight lines, *this* map  
2 is a more faithful depiction of them. The three purple lines on the Ivorian side reflect  
3 changes of direction near Sassandra and Abidjan. They show that the three different  
4 coastal façades project, from left to right on the map, to the south-east, to the  
5 south/south-east, and, in the area of the land boundary terminus, to the south-west.  
6 On the Ghanaian side, also moving from left to right on the map, in green, there are  
7 changes of direction at Axim, Cape Three Points, Songor Lagoon, and Cape Saint  
8 Paul. The five different coastal façades project, respectively, to the south-west, again  
9 to the south-west, to the south-east, to the south, and to the east/south-east. Of  
10 greatest significance the coastal façades of both Côte d'Ivoire and Ghana, in the area  
11 closest to the land boundary terminus, and for 100 km on either side of it, project  
12 seaward in the same direction: to the south-west (not to the south-east, as Côte  
13 d'Ivoire would have you believe). This map can be found at tab 3. Rendering all of  
14 these different-facing coasts as only a single straight line for each Party, let alone  
15 one that projects seaward to the south-east, obscures the fact that they all face  
16 different directions, and that the only relevant façades project to the south-west. It is  
17 difficult to avoid the conclusion that obscuring this critical geographical circumstance  
18 is precisely Côte d'Ivoire's purpose.

19  
20 In its Counter-Memorial, Côte d'Ivoire conspicuously avoided identifying the Parties'  
21 relevant coasts.<sup>44</sup> We pointed this out in our Reply.<sup>45</sup> Indeed, we gave the matter  
22 considerable emphasis; and our argument must have hit home. In the Rejoinder,  
23 Côte d'Ivoire evidently decided that it could not for ever remain silent on relevant  
24 coasts, and finally identified its approach.<sup>46</sup> This is very helpful.

25  
26 The Special Chamber will have noted that Côte d'Ivoire agrees with Ghana's  
27 identification of its own relevant coast. Côte d'Ivoire expressly admits, in the  
28 Rejoinder, that Ghana's relevant coast extends only from the land boundary terminus  
29 to Cape Three Points, because only that portion "*fait face directement à la zone à*  
30 *delimitter*."<sup>47</sup> Likewise, Côte d'Ivoire agrees that the Ghanaian coast east of Cape  
31 Three Points is not relevant in this case, because it (*Interpretation from French*)  
32 "projects in a south/south-east direction opposite to the area to be delimited."<sup>48</sup>  
33 (*Continued in English*) The Parties agree on this point.

34  
35 Where Côte d'Ivoire now differs from Ghana is in the identification of the relevant  
36 Ivorian coast. In the Rejoinder, Côte d'Ivoire takes the position that its entire coast is  
37 relevant, because, it says, its entire coast faces onto the area to be delimited.<sup>49</sup> I will  
38 come back to this difference between the Parties tomorrow morning, when I present  
39 Ghana's arguments on the course of the boundary up to 200 nautical miles, but the  
40 point I wish to underscore today is that Côte d'Ivoire, in its Rejoinder, has come  
41 around to the view that the only coasts relevant to determination of the boundary are  
42 those that face directly onto the area where the boundary is to be fixed. Those  
43 coasts, or sections of coast, that do not face onto that area, are not relevant. This, of

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<sup>44</sup> See CMCI, para. 8.48.

<sup>45</sup> See RG, para. 3.47.

<sup>46</sup> See RCI, paras. 3.17-3.32.

<sup>47</sup> *Ibid.*, para. 3.26.

<sup>48</sup> *Ibid.*.

<sup>49</sup> See *ibid.*, paras. 3.27-3.29.

1 course, is what the case law already says – but we welcome Côte d’Ivoire’s  
2 recognition of this reality nonetheless.

3  
4 What still troubles us, however, is the inconsistency of Côte d’Ivoire: on the one  
5 hand, they say that coastal segments – like those of Ghana between Cape Three  
6 Points and its border with Togo – which face away from the boundary area, are  
7 irrelevant; on the other hand, they say that the “general direction” of the entire West  
8 African coast, or at least of the entire coastline spanning Côte d’Ivoire and Ghana,  
9 should somehow be “taken into account” in fixing the boundary in this case.<sup>50</sup> This is  
10 a glaring contradiction. Côte d’Ivoire admits that the relevant coast for purposes of  
11 this case stops in the east at Cape Three Points, but still clings to its argument that  
12 the coast extending beyond Cape Three Points to Ghana’s border with Togo, and  
13 even beyond, is somehow pertinent.

14  
15 The approach is highly problematic. First, it introduces a new concept into the law of  
16 maritime boundaries, namely that of the so-called “representative coast”. For Côte  
17 d’Ivoire, even the relevant coast becomes irrelevant if it is not “representative” of the  
18 entire continental coast.<sup>51</sup> This is quite unorthodox. The case law is replete with  
19 references to the concept of relevant coast, and it is well defined; but we have been  
20 unable to find any references to “representative coast” or “non-representative coast”  
21 outside of Côte d’Ivoire’s pleadings. No court or tribunal appears to have considered  
22 this a factor in any prior maritime boundary case. Second, the very concept of  
23 “representative coast” inevitably contradicts – and undermines – that of “relevant  
24 coast.” For Côte d’Ivoire, a “representative coast” is one that follows what it considers  
25 the “general direction” of the entire continental coastline;<sup>52</sup> but, by Côte d’Ivoire’s own  
26 admission, this includes lengthy segments of coast that face away from the area  
27 where the boundary is to be fixed, and which cannot then be considered part of the  
28 relevant coast.<sup>53</sup> As a consequence, a “representative coast” is necessarily derived  
29 from coastal segments that are irrelevant to the case. There is no basis, in either  
30 geography or law, for taking such coasts into account.

31  
32 We say that, now that Côte d’Ivoire has accepted that the relevant coast, for  
33 purposes of this case, runs from its border with Liberia to Cape Three Points in  
34 Ghana, and that anything beyond Cape Three Points is irrelevant, it can no longer,  
35 with any plausibility, expect the Chamber to take into account the West African coast  
36 east of Cape Three Points, or, for that matter, west of its border with Liberia. In fact,  
37 for five decades the Parties agreed that only the coasts in the vicinity of the land  
38 boundary terminus, which face to the south-west, were relevant, and recognized a  
39 customary equidistance boundary based on those coasts.

40  
41 The upshot is this: the boundary begins at the land boundary terminus, which is  
42 located in the middle of the coastal segment where both relevant coasts face the  
43 south-west, and it must extend seaward in that direction, unless or until it is  
44 influenced by the other segments of the relevant Ivorian coast farther to the west. As  
45 I indicated, I will address these other segments tomorrow, in my presentation of  
46 Ghana’s position on the specific course of the boundary up to 200 nautical miles.

---

<sup>50</sup> RCI, paras. 2.38-2.39.

<sup>51</sup> See *id.*, paras. 2.21, 2.36.

<sup>52</sup> See *ibid.*, paras. 2.28, 2.34, 2.36, 2.38.

<sup>53</sup> See, e.g., *ibid.*, paras. 2.19, 2.20, 3.26.

1  
2 Against this background, I return to the disagreements between the Parties in regard  
3 to geography. I have dealt thus far with the first one of them on the proper geographic  
4 scope. I can deal with each of the other three disagreements in shorter order.

5  
6 The second disagreement is about the significance of the concavity along Côte  
7 d'Ivoire's relevant coast. Côte d'Ivoire insists that this feature be taken into account,  
8 either as a reason for employing a delimitation methodology other than equidistance,  
9 or as a relevant circumstance that might call for adjustment of a provisional  
10 equidistance line.<sup>54</sup> Côte d'Ivoire goes so far as to say, that an unadjusted  
11 equidistance line "*amput[e]*", or amputates, the Ivorian coast from its natural  
12 projection into the open sea.<sup>55</sup> This was not its position for 50 years before 2009, and  
13 it is no more justifiable today.

14  
15 *This* map shows that Côte d'Ivoire's coast, taken as a whole, is mildly concave; but  
16 that, in itself, tells us very little. Concavity does not automatically require a departure  
17 from equidistance methodology, or constitute a relevant circumstance, or justify  
18 adjustment of an equidistance line. ITLOS made this clear in *Bangladesh v.*  
19 *Myanmar*.

20  
21 The Tribunal notes that in the delimitation of the exclusive economic zone and  
22 the continental shelf, concavity *per se* is not necessarily a relevant  
23 circumstance.<sup>56</sup>

24  
25 As the Tribunal explained, it is only

26  
27 when an equidistance line drawn between two States produces a cut-off effect  
28 on the maritime entitlement of one of those States, as a result of the concavity  
29 of the coast, then an adjustment of that line may be necessary in order to  
30 reach an equitable result.<sup>57</sup>

31  
32 The question, thus, is not whether there is a concavity, but whether there is a cut-off  
33 resulting from a concavity. The following maps (tab 4) show clearly that there is not.  
34 Let us start with the coastal segment nearest the land boundary terminus. Here, the  
35 Parties agree, the Ivorian coastline is very straight, and the projection of Côte  
36 d'Ivoire's coast is to the south-west, in parallel with the customary equidistance  
37 boundary. There is clearly no cut-off. Moving west along Côte d'Ivoire's coast, and  
38 focusing on the second segment of that coast, you can see that this segment projects  
39 in a south/south-easterly direction. There is no significant cut-off here, either. The  
40 projection does not even meet the customary equidistance boundary until well  
41 beyond 150 nautical miles.

42  
43 Moving farther west along Côte d'Ivoire's coast, the third and final coastal segment is  
44 considered relevant by Côte d'Ivoire but not by Ghana, because of its distance from  
45 the land boundary terminus, as well as its lack of influence on the equidistance line.  
46 This coastal segment projects south-easterly, but it does not meet the equidistance

---

<sup>54</sup> See CMCI, paras. 6.22, 6.24, 6.37-6.48; RCI, paras. 2.18-2.35.

<sup>55</sup> RCI, para. 3.34.

<sup>56</sup> *Bangladesh v. Myanmar*, Judgment, para. 292.

<sup>57</sup> *Ibid.*

1 line until well beyond 200 nautical miles. In fact, it does not meet the equidistance  
2 line until somewhere beyond the limits of national jurisdiction. There is thus no cut-off  
3 within or beyond 200 nautical miles.

4  
5 *These* maps, at tab 5, illustrate the difference between a concavity that causes the  
6 cut off of a State's coastal projection, and one that does not. In regard to Bangladesh,  
7 on the left, ITLOS ruled:

8  
9       The Tribunal observes that the coast of Bangladesh, seen as a whole, is  
10 manifestly concave. In fact, Bangladesh's coast has been portrayed as a  
11 classic example of a concave coast.<sup>58</sup>

12  
13 In these circumstances, the Tribunal found that the concavity “does produce a cut-off  
14 effect on the maritime projection of Bangladesh and that the line if not adjusted would  
15 not result in achieving an equitable solution, as required by articles 74 and 83 of the  
16 Convention.”<sup>59</sup> Turning to the map on the right, this shows that Côte d'Ivoire is  
17 nothing like Bangladesh. Its concavity is markedly less. Most importantly, it does not  
18 pull the equidistance line sharply across Côte d'Ivoire's coast, or cause it to  
19 significantly block the seaward projection of any portion of that coast. There is no  
20 cut-off effect.

21  
22 The geography does not support Côte d'Ivoire's efforts either to discredit the  
23 customary equidistance boundary long applied in practice, or adjust it. The concavity  
24 that is present in this case is geographically irrelevant. This is why both Parties  
25 agreed on a boundary following an equidistance line for more than five decades.  
26 Disagreement on this issue only arose in 2009, as Professor Sands told you, after oil  
27 was discovered on Ghana's side of the customary equidistance boundary. That  
28 appears to be what caused Côte d'Ivoire to go to such great lengths to refashion the  
29 coastal geography.

30  
31 The third disagreement between the Parties is over the stability of the coast in the  
32 area of the land boundary terminus. Côte d'Ivoire argues that the coast is too  
33 unstable to allow the fixing of base points or the construction of an equidistance  
34 line.<sup>60</sup> There are at least four reasons why Côte d'Ivoire is wrong.

35  
36 First, for five decades the Parties considered the boundary to consist of an  
37 equidistance line, and they had no problems with the stability of the coast.

38  
39 Second, even in these proceedings, Côte d'Ivoire itself had no difficulty fixing base  
40 points along the relevant coasts to construct a new provisional equidistance line.<sup>61</sup>  
41 This is Côte d'Ivoire's sketch map, which is also at tab 6. It shows that Côte d'Ivoire  
42 succeeded in establishing base points and in constructing a provisional equidistance  
43 line. In fact, Côte d'Ivoire's base points are not very different from the ones  
44 established by Ghana.

58 *Bangladesh v. Myanmar*, Judgment, para. 291.

59 *Bangladesh v. Myanmar*, Judgment, *Ibid.*, para. 293.

60 See CMCI, paras. 6.25-6.27; RCI, paras. 2.43, 2.47.

61 See CMCI, para. 6.16, Sketch Map 6.2.

1 Third, and for that reason, as you can see on this map and at tab 7, there is only a  
2 small difference between the customary equidistance boundary and Côte d'Ivoire's  
3 newly constructed provisional equidistance line.

4  
5 Fourth, Côte d'Ivoire has itself demonstrated the stability of this segment of the  
6 relevant coast by producing a new chart, based on a data gathered in 2014, where  
7 the coastline is very similar to the coastline in British Admiralty Chart 1383, relied on  
8 by Ghana, whose underlying data were collected as long ago as the 1840s.<sup>62</sup> This is  
9 at tab 8. There could be no stronger demonstration of coastal stability than the  
10 presentation of two charts, relying on data drawn 165 years apart, which depict no  
11 significant changes in the configuration of the coast over that very lengthy period of  
12 time.

13  
14 Finally, Côte d'Ivoire has submitted no evidence that the coast in the vicinity of the  
15 land boundary terminus, where all of the base points have been fixed by both  
16 Parties, is or has ever been unstable. Ghana pointed this out in the Reply. Indeed,  
17 Ghana showed that the only "study" submitted by Côte d'Ivoire with its Counter-  
18 Memorial concluded that erosion and accretion along this section of the coast were  
19 in equilibrium; hence, there was no instability.<sup>63</sup> In the Rejoinder, Côte d'Ivoire  
20 devotes just a few short paragraphs to the alleged "instability of the coastlines".<sup>64</sup> In  
21 them, Côte d'Ivoire admits that erosion is not an issue, but still insists that there is  
22 instability due to what they call "longshore drift".<sup>65</sup> No studies, reports or other  
23 evidence on this point were furnished to support that claim either. There is thus no  
24 evidence whatsoever that the coast is too unstable for the fixing of base points or the  
25 construction of a provisional equidistance line.

26  
27 Here again, a comparison with Bangladesh shows how weak Côte d'Ivoire's  
28 argument is. In its case against Myanmar before ITLOS, and its arbitration against  
29 India, Bangladesh argued, as Côte d'Ivoire argues here, that coastal instability  
30 rendered the fixing of base points and the drawing of an equidistance line unreliable,  
31 requiring resort to an angle bisector.<sup>66</sup> Unlike Côte d'Ivoire, Bangladesh  
32 demonstrated that the coastline in the Bengal Delta, one of the most morphologically  
33 dynamic locations in the world, was constantly changing.<sup>67</sup> Nevertheless, both  
34 tribunals rejected Bangladesh's argument, determined that base points could be  
35 fixed along the deltaic coast, and constructed equidistance lines in reliance on those  
36 base points.<sup>68</sup> In contrast with the Bengal Delta, the coast in the vicinity of BP 55 is a  
37 model of stability.

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<sup>62</sup> See RG, para. 3.28.

<sup>63</sup> See *ibid.*, para. 3.30

<sup>64</sup> See RCI, paras. 2.43-2.48.

<sup>65</sup> CMCI, paras. 1.21-1.23, 6.26. See also *ibid.*, para. 2.43.

<sup>66</sup> *Delimitation of the Maritime Boundary between Bangladesh and Myanmar in the Bay of Bengal (Bangladesh/Myanmar)*, Reply of Bangladesh (15 Mar. 2011), para. 3.104; *Bay of Bengal Maritime Boundary Arbitration (Bangladesh v. India)*, UNCLOS Annex VII Tribunal, Memorial of Bangladesh (31 May 2011) (hereinafter "*Bangladesh v. India*, Memorial of Bangladesh"), paras. 6.75-6.83.

<sup>67</sup> See *Bangladesh v. India*, Memorial of Bangladesh, paras. 2.13-2.22; *Delimitation of the Maritime Boundary between Bangladesh and Myanmar in the Bay of Bengal (Bangladesh/Myanmar)*, Memorial of Bangladesh (1 July 2010), paras. 2.9-2.16.

<sup>68</sup> See *Bay of Bengal Maritime Boundary Arbitration (Bangladesh v. India)*, UNCLOS Annex VII Tribunal, Award of 7 July 2014, paras. 327, 346; *Bangladesh v. Myanmar*, Judgment, para. 266 (utilizing the basepoint about which Bangladesh objected in the construction of its "provisional equidistance line.").

1  
2 Côte d'Ivoire simply cannot demonstrate that the relevant coasts are unstable, or  
3 that equidistance is unfeasible or inappropriate in the geographic circumstances of  
4 this case.

5  
6 The fourth and final disagreement on geography is over the nature of Ghana's coast  
7 in the vicinity of the land boundary terminus, and whether it should be ignored or  
8 given less than full effect in the determination of the maritime boundary, as Côte  
9 d'Ivoire argues.

10  
11 This disagreement begins with Côte d'Ivoire's characterization of Ghana's coast as  
12 the "Jomoro Peninsula".<sup>69</sup> We have highlighted in blue here and at tab 9 the portion  
13 of Ghana's coast that Côte d'Ivoire began to call the "Jomoro Peninsula" in its  
14 Rejoinder. There are several problems with this nomenclature. First, this is not a  
15 football stadium, to which Ghana, as the owner, has sold the naming rights. Only  
16 Ghana gets to name its own territory, and in Ghana's geographic lexicon there is no  
17 such place as the Jomoro Peninsula.

18  
19 Second, this territory may be located in Ghana's Jomoro District, but it is not a  
20 peninsula. It is not bounded by water on three sides, as Professor Sands explained,  
21 but only on two. As such, it is more properly referred to as an isthmus. One would  
22 expect that counsel who have represented Nicaragua for the last 33 years would  
23 know the difference.

24  
25 But, however this area of land is characterized, it is unquestionably Ghanaian and it  
26 unquestionably constitutes Ghana's coast, and Côte d'Ivoire does not disagree.  
27 Nevertheless, they argue that it should not be given full effect because, in their  
28 words, this part of Ghana's land territory, in English translation: "blocks the seaward  
29 projection of the Ivorian territory".<sup>70</sup> In other words, a landlocked part of Côte d'Ivoire,  
30 that has no coast, should be taken into account in the determination of the boundary  
31 in this case, because, if Ghana's coast in this area did not exist, the landlocked area  
32 would be the coast. This is an entirely novel argument, never seen before in the  
33 annals of maritime boundary delimitation.

34  
35 Why should Ghana's coast be ignored, and Côte d'Ivoire be treated as though it had  
36 one? Three reasons are given by our friends on the other side. First, they say that  
37 this part of the coast belongs to Ghana by "*un accident historique*",<sup>71</sup> an accident of  
38 history. What does that mean, exactly? *A result* of history, yes. But an "*accident*" of  
39 history? If so, that is counterfactual. The boundary between Ghana and Côte d'Ivoire  
40 was inherited from colonial times. It is the same boundary that was finalized by an  
41 agreement between the United Kingdom and France in 1905.<sup>72</sup> It follows the Tano  
42 River for more than 94 km, until the river debouches into the Tendo Lagoon, which is  
43 located directly behind the Ghanaian coast in the vicinity of the land boundary  
44 terminus. Just as the boundary follows the middle of the river, it then follows the  
45 middle of the lagoon. This was not accidental. It was the deliberate act of colonial

---

<sup>69</sup> See RCI, paras. 9, 1.29, 2.4, 2.51, 2.52, 2.55, 2.56, 2.61, 2.137, 3.13, 3.37.

<sup>70</sup> *Ibid.*, para. 2.53.

<sup>71</sup> CMCI, paras. 6.18, 7.47.

<sup>72</sup> See United States Department of State, *International Boundary Study No. 138: Côte d'Ivoire (Ivory Coast) - Ghana Boundary* (16 July 1973), pp. 2-3. MG, Vol. VI, Annex 82.

1 powers to divide the waters – which then represented a major means of transport  
2 and source of fresh water and fish – equally between the two colonies. Côte d'Ivoire  
3 states that it accepts the principle of *uti possidetis*.<sup>73</sup> We take them at their word, and  
4 assume this was not a mere accident of pleading – “*un accident de plaidoirie*”.

5  
6 Côte d'Ivoire's second complaint about this area has to do with its shape. Côte  
7 d'Ivoire refers to it as a “*langue de terre*”,<sup>74</sup> a tongue of land, as if that somehow  
8 discredits it. They seem to be saying the land dominates the sea, unless it is shaped  
9 like a tongue, but there is nothing in the case law to support that concept, and there  
10 is nothing in fact so terribly unusual about this sort of geographic configuration. What  
11 is *Chile*, if not an exceedingly long tongue that prevents Argentina from having a  
12 Pacific Ocean coast? But for this *Eritrean* tongue, Ethiopia would have a Red Sea  
13 coast, instead of being landlocked. Why not ignore the Gaza Strip, or reduce its  
14 effect, so that Israel could have a longer Mediterranean coast? *This* may be the  
15 narrowest tongue of all, or narrowest two tongues. They leave Bosnia completely  
16 landlocked, except for its tiny coast at Naum, where the seaward projection is  
17 immediately blocked by, speaking of peninsulas, one of Croatia's. All of these  
18 tongues are at tab 10.

19  
20 Côte d'Ivoire's third complaint about this part of Ghana's land territory is that it is no  
21 more than “a barrier beach”.<sup>75</sup> I am not sure where they think this characterization  
22 gets them. Here again, they invent another exception to the venerable rule that the  
23 land dominates the sea; apparently they think the land does not, if it is a barrier  
24 beach. There is, of course, no such exception. In any event, the Ghanaian land  
25 territory in this area cannot properly be characterized as a “barrier beach”. While the  
26 land in question includes a beach, it is backed by dense vegetation, between 2.5 km  
27 and 9 km deep, as is evident from the satellite photo of the area on your screens  
28 now, and at Tab 11.

29  
30 Mr President, in this case, we are talking about Ivorian land territory that has no  
31 coast, and therefore no maritime entitlements. The Ghanaian coast no more blocks  
32 the extension of Côte d'Ivoire's maritime entitlements in the Atlantic Ocean than  
33 Chile blocks Argentina's non-existent entitlements in the Pacific. If anything  
34 constitutes an impermissible refashioning of geography, it would be to ignore the  
35 coast of one State, which actually has one, in order to create a coast for another  
36 State, which does not. Côte d'Ivoire cannot be permitted to change the geographic  
37 circumstance to deprive Ghana of its coast, or to reduce the effect of that coast on  
38 the determination of the maritime boundary in this case.

39  
40 Mr President, in conclusion, this takes us back to where we began. The geographic  
41 circumstances present here offer a textbook case for an equidistance boundary,  
42 especially the remarkably straight and featureless coast, and the absence of any  
43 offshore maritime features. The geographic arguments on which Côte d'Ivoire bases  
44 its advocacy for abandonment of equidistance, or a radical adjustment of it, are  
45 either wrong or irrelevant. The so-called “general direction” of the West African coast  
46 is not as Côte d'Ivoire has described it, and is, in any event, not relevant to the  
47 boundary between Ghana and Côte d'Ivoire; the concavity along Côte d'Ivoire's

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<sup>73</sup> RCI, para. 2.49.

<sup>74</sup> CMCI, para. 7.46; RCI, paras. 1.29, 2.4, 2.49, 2.50, 2.53, 2.60, 2.61, 3.33, 3.37.

<sup>75</sup> RCI, para. 2.55.

1 coast does not produce a cut-off effect and is therefore irrelevant; there is no coastal  
2 instability in the vicinity of the land boundary terminus; and the misnamed “Jomoro  
3 Peninsula” is a part of Ghana’s sovereign land territory whose coastline can neither  
4 be ignored nor discounted.

5  
6 That is why, as my colleague Mr Fui Tsikata will next explain, both Ghana and Côte  
7 d’Ivoire regarded equidistance as the proper basis for their maritime boundary for  
8 more than 50 years, and why both Parties – in their laws and decrees, in their  
9 concession agreements, in their official maps, and in their formal communications  
10 with each other and third parties – consistently referred to, treated and depicted the  
11 boundary between the two States as following an equidistance line. That is why, as  
12 you have seen in our written pleadings and will hear from my colleagues, Ghana  
13 submits that the Special Chamber should confirm and adopt that equidistance line as  
14 the maritime boundary.

15  
16 Mr President, Members of the Special Chamber, this concludes my presentation on  
17 the geographical circumstances. I thank you for your kind courtesy and patient  
18 attention, and request that you give the floor to my colleague, Mr Tsikata.

19  
20 **THE PRESIDENT OF THE SPECIAL CHAMBER** (*Interpretation from French*):

21 Thank you, Mr Reichler, for your presentation. I now give the floor to Mr Fui Tsikata  
22 to present his presentation.

23  
24 **MR TSIKATA:** (*Continued in English*) Mr President, distinguished Members of this  
25 Special Chamber, it is a special honour for me to appear before you and to address  
26 you on behalf of Ghana.

27  
28 My task is to demonstrate that the evidence before this Chamber – in the form of  
29 laws, maps, concession agreements, official correspondence, reports, and other  
30 material – plainly establishes that Ghana and Côte d’Ivoire have long proceeded on  
31 the basis that there was a defined and mutually accepted maritime boundary  
32 between them. The evidence also shows that they have represented to each other –  
33 and to third parties – that that is the case. It further shows that each has placed  
34 justifiable reliance on the representations of the other. The course of that boundary is  
35 represented in what Ghana has, in these proceedings, called the customary  
36 equidistance boundary, because, not accidentally, this mutually agreed maritime  
37 boundary is also, in fact, an equidistance-based boundary.

38  
39 I would respectfully adopt and commend to the renewed attention of the Chamber  
40 the presentations made by Mr Paul Reichler on behalf of Ghana at the hearing of the  
41 application by Côte d’Ivoire for Provisional Measures. On that occasion, as Members  
42 of this distinguished Chamber will no doubt recall, Mr Reichler set out key elements  
43 of the material in considerable detail and responded to the attempts by Côte d’Ivoire  
44 to re-interpret them or minimize their significance. Those presentations were, of  
45 course, based on Ghana’s written statement, which has since been elaborated upon  
46 in the written pleadings.<sup>76</sup>

47  

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<sup>76</sup> Memorial of Ghana (4 Sept. 2015) (hereinafter “MG”), Chapters 2 (Sections III, IV), Chapter 3,  
Chapter 4 (Sections III, IV), paras. 5.8-5.35; Reply of Ghana (25 July 2016) (hereinafter “RG”),  
Chapter 2.

1 Nothing that Côte d'Ivoire has put before the Chamber undermines Ghana's case.  
2 The response by Côte d'Ivoire has been limited to four points. In essence, it says:  
3 (1) that the documents which express and identify a boundary between Côte d'Ivoire  
4 and Ghana do not mean what they say; (2) that those who issued these documents  
5 had no authority to bind Côte d'Ivoire to a boundary line; (3) that Côte d'Ivoire has  
6 occasionally expressed itself as not recognizing that boundary; and (4) that Ghana  
7 has made statements showing that it does not think the parties have delimited their  
8 maritime boundary.

9  
10 I will seek to refresh your memory by drawing your attention to some of the  
11 documents on which Ghana relies for its contention that there is a tacit agreement  
12 between the Parties on an equidistance-based boundary. I will then ask you to reflect  
13 upon – and reject – the propositions made by Côte d'Ivoire in response. I will invite  
14 you to hold, first, that when an official document from the Government of Côte  
15 d'Ivoire or its state oil corporation says that there is a (*Interpretation from French*)  
16 “boundary line separating Côte d'Ivoire from Ghana” (*Continued in English*) or draws  
17 or marks a line on official maps and puts “Ghana” on the other side of it, in the sea,  
18 that can only be interpreted as an acknowledgment of an existing maritime boundary  
19 and of Ghana's sovereign rights on the other side of the line; second, that the  
20 belated attempt to distance the Ivorian State from representations by Government  
21 officials and PETROCI is untenable; third, that the very limited material Côte d'Ivoire  
22 invokes does not come close to providing support for its claim that it has not, over  
23 the course of its consistent practice, laws, concession agreements and official  
24 statements for more than five decades, agreed to the customary equidistance  
25 boundary between it and Ghana.

26  
27 Finally, I will invite you to conclude that the efforts by both Parties to attempt a formal  
28 delimitation have been based on recognizing an existing tacitly agreed boundary on  
29 which both Parties have placed great reliance over an extended period of time.

30  
31 I turn first to a selection of exemplifying documents most of which were issued  
32 officially by Côte d'Ivoire. There are many others that you will find in Ghana's  
33 pleadings.

34  
35 As Ghana has pointed out repeatedly, the maritime boundary between the two  
36 countries dates back to the 1950s. Professor Sands has drawn your attention to the  
37 Decree of 29 July 1957 issued on behalf of what was then the colony of Côte d'Ivoire  
38 by the President of the Council of Ministers in France.<sup>77</sup> This is included in your  
39 Judges' Folder at tab12. It acknowledges the existence of a maritime boundary  
40 between Côte d'Ivoire and Ghana dividing their respective territorial seas.

41  
42 Professor Sands showed you a modern rendition of the area of the concession as  
43 defined in the Decree. *Here* is a sketch map published in an industry journal in 1959  
44 showing the area of the concession. As you can see, it shows the same  
45 equidistance-based maritime boundary as Professor Sands showed you. You may  
46 also find this at tab 13.

47

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<sup>77</sup> Republic of Côte d'Ivoire, *Décret octroyant à la Société africaine des pétroles un permis général de recherches du type « A » en Côte d'Ivoire pour les substances minérales de la première catégorie* (29 July 1957) (CMCI, Vol. IV, Annex 57)

1 It should therefore not come as a surprise that subsequent texts from the highest  
2 authorities in Côte d'Ivoire maintain exactly the same position. This is the case with  
3 Decree No. 70-618 of 14 October 1970, issued 13 years after the 1957 Decree,  
4 which grants exclusive exploration rights to Esso, Shell and ERAP Group.<sup>78</sup> The  
5 original French along with the English translation of this Decree are in tabs 14 and  
6 15.

7  
8 Decree No. 70-618 also recognizes and explicitly says that there is a maritime  
9 boundary between Côte d'Ivoire and Ghana, identifying a line “between points K and  
10 L” as the relevant part of that boundary.<sup>79</sup>

11  
12 As you can see from *this* slide, the concession limit between points K and L follows  
13 an equidistance line. This is what is identified in the Decree as (*Interpretation from*  
14 *French*) “the boundary line separating Côte d'Ivoire from Ghana”.<sup>80</sup> (*Continued in*  
15 *English*) This tracks the same course as the line from the 1957 Decree, which can be  
16 found at tab 16.

17  
18 In 1975 Côte d'Ivoire renewed that concession. It issued a standard  
19 production-sharing contract for offshore concessions and accompanied it with a map  
20 of its oil concessions.<sup>81</sup> That map again shows the equidistance line as the boundary  
21 with Ghana, depicted by a standard dashed and dotted line extending into the sea  
22 beyond what Côte d'Ivoire represents as the limits of its easternmost concession.  
23 This is included at tab 17.

24  
25 The following year, in 1976, the Ivorian Ministry of Economy and Finance (in  
26 conjunction with the Secretariat in Charge of Mines and Hydrocarbons) produced a  
27 map<sup>82</sup> with the heading (*Interpretation from French*) “hydrocarbon exploration  
28 permit”. (*Continued in English*) This showed the limits of the Ivorian jurisdiction on  
29 the east. The legend of the map again clearly shows the broken/dashed boundary  
30 line, and it is labelled “*frontière*”. This is a clear and unambiguous indication of the  
31 furthest extent to the east of Cote d'Ivoire's maritime jurisdiction.

32  
33 I turn now to a map produced by Phillips Petroleum in 1980.<sup>83</sup> This shows offshore  
34 concessions awarded to it by the Governments of Côte d'Ivoire and Ghana in 1975  
35 and 1978, respectively, and which it was holding in 1980. Even though it is a map  
36 produced by an oil company, its significance is that it shows a perfect alignment of  
37 concessions along the customary equidistance boundary. This map is at tab 19 of  
38 your folder.

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<sup>78</sup> Republic of Côte d'Ivoire, *Décret No. 70-618 accordant un permis de recherches pétrolières aux sociétés ESSO, SHELL et ERAP* (14 Oct. 1970) (CMCI, Vol. IV, Annex 59); Republic of Côte d'Ivoire, Decree 70-618 Granting An Exclusive Petroleum Exploration Permit To Esso, Shell, & ERAP Group (Refers To Areas Granted Under Convention Of 12 October 1970), adopted on of 14 October 1970, reprinted in *Basic Oil Laws & Concession Contracts*, Supplement No. XLVIII (48) (Barrows, 1977) (hereinafter “Republic of Côte d'Ivoire, Decree 70-618”). MG, Vol. IV, Annex 23.

<sup>79</sup> *Ibid.*, art. 1(d).

<sup>80</sup> *Ibid.*; MG, Figure 3.5.

<sup>81</sup> MG, Figure 3.6.

<sup>82</sup> MG, Figure 3.7.

<sup>83</sup> MG, Figure 3.11.

1 In 1990 Côte d'Ivoire's Ministry of Mines announced the availability of new  
2 concession areas in a report that it published in English titled "Côte d'Ivoire  
3 Petroleum Evaluation".<sup>84</sup> This included a map of petroleum blocks.<sup>85</sup> The eastern  
4 blocks, to the right on this map, are bounded by the customary equidistance line,  
5 represented once again as a dashed line. On the other side of the line the Ivorian  
6 Ministry has written the word "Ghana", placed in the offshore part of the map. This  
7 map can also be found at tab 20.

8  
9 A map published the following year, 1991, by Côte d'Ivoire's Ministry of Industry,  
10 Mines and Energy jointly with PETROCI focused on Block CI-06. This repeats the  
11 dashed line, and you will see the word "Ghana" on the other side of the line, to the  
12 right of the map, again placed in the sea.<sup>86</sup> This is included for reference at tab 21.

13  
14 Two years later, a 1993 report published by the Ministry of Mines and Energy and  
15 PETROCI to announce "the opening of international bidding" for certain blocks<sup>87</sup>  
16 contains a map showing extensive drilling activity on the Ivorian side of the same  
17 dashed line.<sup>88</sup> Once again, you can see the word "Ghana" on the other side, placed  
18 in the sea. This map is at tab 22.

19  
20 In March 2002 PETROCI published a report titled "*Exploration Opportunities in Côte*  
21 *d'Ivoire...*".<sup>89</sup> This has a map<sup>90</sup> with the now familiar dashed line, representing the  
22 international boundary between the two States both on land and water, and  
23 extending in the sea beyond the southernmost Ivorian blocks. The word "Ghana"  
24 once again appears on the other side of the line. This can be found in tab 23 of your  
25 Judges' folder.

26  
27 This is repeated in the PETROCI map of 2005<sup>91</sup> contained in its publication titled  
28 "Deep Water Opportunities in Côte d'Ivoire".<sup>92</sup> - also at tab 24.

29  
30 This set of maps produced by the Ivorian Government shows a consistent pattern.  
31 All the maps show an eastern maritime boundary with Ghana depicted by a broken  
32 line. This practice is sustained right up to 2009 and, indeed, continues even beyond.

33  
34 I think we all agree that these lines on the maps issued by Côte d'Ivoire were not  
35 meaningless doodles. What could they be other than representations by Côte  
36 d'Ivoire of the international boundary that it believed to exist between the two

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<sup>84</sup> Ministry of Mines of the Republic of Côte d'Ivoire, *Côte d'Ivoire: Petroleum Evaluation* (1990). MG, Vol. V, Annex 36.

<sup>85</sup> MG, Figure 3.15.

<sup>86</sup> MG, Figure 3.16.

<sup>87</sup> Société Nationale d'Opérations Pétrolières de la Côte d'Ivoire (PETROCI), *Côte d'Ivoire 1993 Petroleum Evaluation Concessions* (1993), p. 2. MG, Vol. V, Annex 37.

<sup>88</sup> MG, Figure 3.17.

<sup>89</sup> Société Nationale d'Opérations Pétrolières de la Côte d'Ivoire (PETROCI), *Exploration Opportunities in Côte d'Ivoire....The Next Deep Water Producer in the Gulf of Guinea* (2002), p. 3. MG, Vol. V, Annex 38.

<sup>90</sup> MG, Figure 3.19.

<sup>91</sup> MG, Figure 3.20.

<sup>92</sup> Société Nationale d'Opérations Pétrolières de la Côte d'Ivoire (PETROCI), *Deepwater Opportunities in Côte d'Ivoire* (May 2005), p. 3. MG, Vol. V, Annex 39.

1 countries? Côte d'Ivoire is unable to offer a credible alternative meaning for this  
2 consistent practice through the decades.

3  
4 The attempts by Côte d'Ivoire to repudiate the authority of its maps led to some  
5 rather unfortunate statements.

6  
7 In relation to the agreement with the Esso Consortium, Côte d'Ivoire has suggested  
8 that the "*carte pétrolière*" representing the boundary following the equidistance line  
9 was prepared by Esso and was no more than that company's (*Interpretation from*  
10 *French*) "unilateral security measure that does not engage the responsibility of the  
11 Ivorian Government".<sup>93</sup> (*Continued in English*) The claim here appears to be that the  
12 co-ordinates of the concession area which were an essential part of an Agreement  
13 signed by Côte d'Ivoire with an international company, and then embodied in a  
14 national law as well as a Decree of the founding President, were no more than a  
15 unilateral act of a foreign company. The claim that it involves no exercise of authority  
16 on the part of the Ivorian Government is implausible.

17  
18 Côte d'Ivoire was not *terra nullius* and Esso was not Cecil Rhodes. 1970 was not the  
19 1880s. The Law enacted by Côte d'Ivoire,<sup>94</sup> the Decree issued by its President<sup>95</sup> as  
20 well as its publication in the official Ivorian Gazette<sup>96</sup> were self-evidently deliberate  
21 acts of organs and officials of the Republic of Côte d'Ivoire.

22  
23 As for the argument that maps issued by PETROCI cannot be evidence of tacit  
24 agreement, our respected older brother, the Agent of Côte d'Ivoire, M Adama  
25 Toungara, has told you that PETROCI is indeed the national oil corporation, which  
26 he founded as such.<sup>97</sup> My colleague Professor Pierre Klein will address the issue of  
27 the role of PETROCI more fully tomorrow. However, it comes as something of a  
28 surprise that the Government of Côte d'Ivoire, and especially the Ministry that is  
29 charged with the activities of PETROCI, would have allowed PETROCI, whatever its  
30 legal status, to issue so many maps over so many years that plainly identify the  
31 territory and maritime spaces of Ghana without authority of the Ivorian Government.  
32 The idea that PETROCI was somehow off on a frolic is hardly convincing.

33  
34 Côte d'Ivoire contends that certain words in some of its decrees and contracts show  
35 that it has not tacitly agreed to the customary equidistance line. It refers in particular

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<sup>93</sup> Counter-Memorial of Côte d'Ivoire (4 Apr. 2016) (hereinafter "CMCI"), para. 2.101, quoting Minutes of the meetings of the Technical Committee responsible for gathering and updating information on the delimitation of the maritime boundary between Ghana and Côte d'Ivoire, 16-18 March 1992, p. 2, CMCI, Vol. III, Annex 14. ("a unilateral security act for which the Ivorian Government assumed no responsibility").

<sup>94</sup> Republic of Côte d'Ivoire, *Loi No.70-573 autorisant le Président de la République à signer avec le Consortium formé par les Société pétrolières ESSO, SHELL, et ERAP la Convention relative à l'exploration et à la production d'hydrocarbures liquides ou gazeux en Côte d'Ivoire* [Law No. 70-573 Authorising the President of the Republic to Sign with the Consortium formed by the Oil Companies ESSO, Shell, and ERAP and the Convention on the Exploration and Production of Oil and Gas in Cote d'Ivoire] (29 Sept. 1970). CMCI, Vol. IV, Annex 58.

<sup>95</sup> Republic of Côte d'Ivoire, Decree 70-618. MG Vol. IV, Annex 23.

<sup>96</sup> No. 53 of 26<sup>th</sup> October 1970. *Ibid.*

<sup>97</sup> Public Sitting at the International Tribunal for the Law of the Sea, Verbatim Record, TIDM\_PV15\_A23\_3\_. Corr.1, p. 24:5-23 (30 March 2015).

1 to expressions that particular coordinates are approximate or indicative, for  
2 information purposes, or do not represent the limits of national jurisdiction.<sup>98</sup>

3  
4 I have already referred you to the presidential Decree of October 1970, for example,  
5 where the concession area is defined, (*Interpretation from French*) "in the maritime  
6 portion" "by the boundary line separating Côte d'Ivoire from Ghana between points  
7 K and L".<sup>99</sup> (*Continued in English*) Then the Decree gives co-ordinates for all the  
8 points that it identifies, noting that (*Interpretation from French*) "the co-ordinates of  
9 points A, B, K, L, M and T are given indicatively".<sup>100</sup> Coupled with an  
10 acknowledgment of boundary lines, this is a suggestion that greater precision as  
11 regards points on them may be required. This does not negate the existence of a  
12 boundary in the areas identified; nor does it amount to a denial of its location and  
13 essential outlines. It says no more than that the precise co-ordinates of that agreed  
14 and mutually respected boundary line that you can once again see on the screen  
15 may yet have to be more precisely plotted. It does not make those texts irrelevant,  
16 inoperative or insignificant in relation to the information that they unambiguously  
17 show; and what they show is that the "*ligne frontière*" follows the customary  
18 boundary. This image comes again from tab 16.

19  
20 That Ghana's practice also reflected acceptance of the customary equidistance  
21 boundary is demonstrated by the Phillips Petroleum map published in 1980,  
22 identifying its blocks in both Cote d'Ivoire and Ghana which we showed you earlier. If  
23 I may remind you, it is at tab 19 of your folder.

24  
25 *Here is a map showing block demarcations by Côte d'Ivoire and Ghana as at*  
26 *2009.*<sup>101</sup> It is at tab 26 of your folder. This reflects each country's understanding of  
27 the area over which each is entitled to award concessions. It reflects their mutual  
28 practice over many decades as well as the representations they have made to each  
29 other and to third parties regarding their acceptance of the customary equidistance  
30 boundary. It is supported not only by the maps from Cote d'Ivoire to which we have  
31 referred but also by numerous other maps referred to in Ghana's pleadings.<sup>102</sup>

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<sup>98</sup> CMCI, paras. 2.102-2.109.

<sup>99</sup> *Décret No. 70-618 accordant un permis de recherches pétrolières aux sociétés ESSO, SHELL et ERAP* (14 Oct. 1970). CMCI, Vol. IV, Annex 59.

<sup>100</sup> *Ibid.*

<sup>101</sup> RG, Figure R2.21.

<sup>102</sup> *MG, para 3. 14, Fig. 3.3, Map of Ghana Showing the 22 Offshore Oil Concessions [in 1968].* MG, Vol. II, Annex M20; Vol. VIII, Annex 95; see also Ghana Geological Survey, *Ghanaian Oil Concessions, Offshore & Onshore (SRG/827A)* (1975, Ghana); MG, Vol. II, Annex M22; "The Search for Petroleum (Oil) in Ghana", pp. 7-9. MG, Vol. VIII, Annex 95. ; *MG, para 3.50, Fig. 3.13, Ghana Production Sharing Contract Areas* in Ministry of Fuel and Power, Ghana National Petroleum Corp., Republic of Ghana & Petro-Canada International Assistance Corporation Canada, *Opportunities for Petroleum Exploration in the Tano Basin-Ghana* (1986, Ghana), p. 4. MG, Vol. II, Annex M26; Vol. III, Annex 15.; *MG, para 3.60, Fig 3.21, Republic of Côte d'Ivoire, Contrat de Partage de Production d'Hydrocarbures avec Vanco Côte d'Ivoire Ltd. et PETROCI HOLDING, Bloc CI-401 [Hydrocarbons Production Sharing Contract with Vanco Côte d'Ivoire Ltd. and PETROCI HOLDING, Block CI-401]* (30 September 2005), p. 74. MG, Vol. II, Annex M10; Vol. V, Annex 40. ; *MG, Para 3.51, 3.52, Fig. 3.14, Ghana National Petroleum Corporation (GNPC), Fig. 1 [Map of Petroleum Exploration Opportunities]* in Republic of Ghana, *Petroleum Exploration Opportunities* (18 June 1986, Ghana), p. 2. MG, Vol. II, Annex M27; Vol. III, Annex 14. ; *MG, para 3.66, Fig. 3.28, Ghana National Petroleum Corporation (GNPC), Ghana Offshore Activity Map* (March 2002, Ghana). MG, Vol. II, Annex M32; Ghana National Petroleum Corporation (GNPC), *Ghana Offshore Activity Map* (August 2006, Ghana); MG, Vol. II, Annex M34. ; *MG, para 3.61, Fig. 3.22, Bassin Sedimentaire Onshore & Offshore*

1 In its Rejoinder, Côte d'Ivoire asserts that Ghana's position on tacit agreement is  
2 undermined by the absence of what it describes as "substantial" drilling in the  
3 disputed area before 2009.<sup>103</sup> The argument disregards the numerous licences that  
4 have been awarded by Ghana pursuant to which various activities have been  
5 pursued in the area. The Ivorian assertion ignores all the exploration work  
6 undertaken in the area over the decades, including the numerous seismic surveys  
7 and the drilling of exploratory wells.

8  
9 *This slide (also at tab 27) depicts in summary form all the history of drilling activity by*  
10 *grantees of Côte d'Ivoire and Ghana on their respective sides of the customary*  
11 *equidistance boundary from the 1950s up to 2009.<sup>104</sup> It shows that over more than*  
12 *50 years of oil activity not once did Cote d'Ivoire ever drill a well or even allocate a*  
13 *block on the side of the customary equidistance boundary that it long regarded as*  
14 *belonging to Ghana and that it now seeks to put in dispute. It is, of course, a basic*  
15 *feature of the oil industry that the largest investments and related field development*  
16 *activities, including the most intense drilling and other activity, follow from and are*  
17 *dependent upon decisions based on evaluation of exploratory work done and*  
18 *substantial sums spent during the earlier exploration phase.<sup>105</sup>In this case all the*  
19 *activities and expenditures were based on governmental representations as to where*  
20 *the boundary is located.*

21  
22 In its Rejoinder, Côte d'Ivoire seeks to construct from certain internal documents  
23 evidence that it did protest the exercise of rights by Ghana in the maritime boundary  
24 area. It is significant that at this final stage of these proceedings Côte d'Ivoire has not  
25 produced the "proposal" document that it claims to have submitted to Ghana in 1988.  
26 The documents that it has produced date to four years later: the minutes of the 1992  
27 internal meetings of its own officials, exhibited in Annexes 13-24 of its  
28 Counter-Memorial, in which they apparently discussed among themselves the idea  
29 of proposing a maritime boundary beginning at boundary pillar 54, going through  
30 boundary pillar 55 and extending in a straight line into the sea.

31  
32 These minutes show that no copy of that "proposal" was made available even to the  
33 officials who attended those internal meetings. In both annexes 13 and 19,  
34 documents made available to participants are listed.<sup>106</sup> In annex 13, seven  
35 documents are listed. None is indicated as having been submitted to Ghana in 1988,  
36 or at any other time. Among the documents listed in annex 19 are minutes of a 1988  
37 meeting of the Ghana/Côte d'Ivoire Joint Commission, but no document in the form

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*Bloc CI-100 [Sedimentary Block Onshore and Offshore, Block CI- 100]* in Republic of Côte d'Ivoire, *Contrat de Partage de Production d'Hydrocarbures avec PETROCI et YAM's PETROLEUM, Bloc CI-100 [Hydrocarbons Production Sharing Contract with PETROCI and YAM's PETROLEUM, Block CI-100]* (23 January 2006, Côte d'Ivoire), p. 74. MG, Vol. II, Annex M11; Vol. V, Annex 41.

<sup>103</sup> RCI, para. 4.6.

<sup>104</sup> Côte d'Ivoire and Ghana Drilled Wells, up to 2009. RG, Vol. II, Figure R 2.22.

<sup>105</sup> See, for example, Frank Jahn et al., *Hydrocarbon Exploration and Production*, 2<sup>nd</sup> edition, Chapter 1, especially Fig. 1.1 and Fig. 1.2, Elsevier (2008)

<sup>106</sup> Republic of Côte d'Ivoire, *Compte-rendu des réunions de la Commission nationale de réabornement des frontières* [Minutes of the Meetings of the National Commission to Redemarcate Borders] (12 & 19 Mar. 1992), p. 1. CMCI, Vol. III, Annex 13; Republic of Côte d'Ivoire, *Rapport de synthèse sur les travaux de la Commission de réabornement des frontières maritimes entre la Côte d'Ivoire et le Ghana* [Synthesis Report on the Commission to Redemarcate Maritime Borders between Ghana and Côte d'Ivoire] (1 Sept. 1992), p. 2. CMCI, Vol. III, Annex 19.

1 of an Ivorian proposal is mentioned in those minutes. All that there is in the records  
2 of those internal meetings, held in 1992, regarding the content of an Ivorian proposal  
3 is the recollection by unidentified persons of what was allegedly said four years  
4 earlier, in 1988. These unattributed recollections claim that things were said which  
5 are not reflected in the official minutes of the joint meeting. This is not evidence on  
6 which the Special Chamber can properly rely. But even if it might be, its probative  
7 effect is non-existent, given that the proposal was followed by another two decades  
8 of practice by Côte d'Ivoire that confirmed the existence of the long-established  
9 equidistance boundary with Ghana.

10  
11 Moreover, the minutes of the 1988 meeting state its objective as being to (*Interpretation*  
12 *from French*) “assess the state of progress of the work on re-demarcation of the land  
13 boundary between Côte d'Ivoire and Ghana, to examine outstanding issues and to  
14 study the possibility of delimiting the maritime and lagoon boundary existing between  
15 the two countries”.<sup>107</sup>

16  
17 (*Continued in English*) “Existing”: this is a contemporaneous record. It contradicts Côte  
18 d'Ivoire's claim that there was no identified, existing maritime boundary. It says that the  
19 purpose of the meeting was, *inter alia*, to examine the possibility of delimiting the  
20 “existing” maritime boundary between the two States – not a new boundary, not a non-  
21 existent boundary -, following work on the re-demarcation of the existing land boundary.

22  
23 Annexes 13 to 24 offer evidence of internal preparations by Côte d'Ivoire for purposes  
24 of making proposals to Ghana in 1992 or thereafter. The parties are agreed that no  
25 proposals were in fact made to Ghana following those preparations. The record of those  
26 internal Ivorian discussions confirms the existence of an agreement as to the maritime  
27 boundary, and the fact that such a boundary already followed an equidistance line. The  
28 discussions were evidently concerned with extending the project of the two countries,  
29 which began with the “réabornement” – re-demarcation – of their land boundary to the  
30 maritime boundary. That was not a repudiation of the existing maritime boundary.

31  
32 Evidently, in 1992, Côte d'Ivoire's officials thought that certain petroleum-related  
33 activities could form a basis for a re-examination of the maritime boundary. Côte  
34 d'Ivoire, according to these internal records, expressed the hope that there would be a  
35 suspension of petroleum operations around the maritime boundary pending such  
36 re-examination. According to annexes 16 and 17, on the instructions of its Ministry of  
37 Foreign Affairs, Côte d'Ivoire's Ambassador to Ghana conveyed that request to his  
38 hosts.<sup>108</sup> However, there is no indication that the precise area over which operations  
39 were to be suspended was identified to the Ghanaian authorities. In any case, no  
40 agreement on suspension was reached, and no protest was made.

41  

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<sup>107</sup> Republic of Ghana and Republic of Côte d'Ivoire, *Procès-verbal de la 15ème session ordinaire de la Commission mixte de réabornement de la frontière ivoiro-ghanéenne* [Minutes of the 15th Ordinary Session of the Joint Commission to Redemarcate the Ivorian-Ghanaian Border] (18-20 July 1988), para. 2 (emphasis added). CMCI, Vol. III, Annex 12.

<sup>108</sup> *Telegram* from H.E. Amara Essy, Minister of Foreign Affairs of Côte d'Ivoire, to H.E. Konan N'Da, Ambassador of Côte d'Ivoire to Ghana (1 Apr. 1992). CMCI, Vol. III, Annex 16; *Telegram* from H.E. Konan N'Da, Ambassador of Côte d'Ivoire to Ghana, to H.E. Amara Essy, Minister of Foreign Affairs of Côte d'Ivoire (30 Apr. 1992). CMCI, Vol. III, Annex 17.

1 Côte d'Ivoire has sought to explain the absence of evidence of protests by it to Ghana's  
2 exercise of sovereign rights in the areas to which it now lays claim by reference to  
3 internal crises after 1992. Yet Côte d'Ivoire at all material times engaged in international  
4 relations, and its Ministry of Foreign Affairs was functioning throughout. Ivorian  
5 authorities continued to offer concessions that followed the customary equidistance  
6 boundary during this period. As we have demonstrated in our Reply, its Ministry of  
7 Petroleum and national oil company, PETROCI, knew all about Ghana's activities,<sup>109</sup>  
8 and supported them<sup>110</sup> and continued to engage normally with the international  
9 petroleum industry and with its counterparts in Ghana, the Ministry of Energy and  
10 GNPC.<sup>111</sup>

11  
12 The issue, however, is not one of mere inertia by Côte d'Ivoire. There were numerous,  
13 regular, consistent, positive acts of re-affirmation of an existing equidistance-based  
14 maritime boundary. We have already referred to maps published by Côte d'Ivoire  
15 between 1992 and 2009 on a variety of occasions and in different contexts showing the  
16 equidistance line as the boundary between it and Ghana. We have also provided  
17 examples of either country's officials seeking and obtaining permission from the other  
18 for vessels to turn around in the latter's waters (with maps indicating the location of the  
19 boundary concerned) for the conduct of seismic surveys.

20

21 **THE PRESIDENT OF THE SPECIAL CHAMBER** (*Interpretation from French*):

22 Mr Tsikata, I am going to ask you to conclude, please.

23

24 **MR TSIKATA:** (Continued in English) Mr President, if you will permit me, I think I prefer  
25 to stop here and finish up tomorrow morning within ten minutes.

26

27 **THE PRESIDENT OF THE SPECIAL CHAMBER:** As you like. (*Interpretation from*  
28 *French*) Very good. I would like to thank Mr Tsikata for his presentation. This brings to  
29 an end today's session. Ghana's pleadings will resume tomorrow morning at 10 a.m.

30

31

(*The sitting closed at 1.20 p.m.*)

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<sup>109</sup> RG, paras. 2.14-2.27, 2.72-2.80, 2.84-2.86, 2.102-2.104.

<sup>110</sup> *Ibid.*, paras. 2.21-2.27, 2.44-2.48, 2.60-2.80, 2.84-2.86.

<sup>111</sup> *Ibid.*, paras. 2.66-2.71, 2.85, 2.95, 2.102-2.110.