

# INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA



2017

Public sitting

held on Monday, 13 February 2017, at 3 p.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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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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1 **THE PRESIDENT OF THE SPECIAL CHAMBER** (*Interpretation from French*): The  
2 Tribunal is now in session. We will continue to hear the oral pleadings from Ghana.  
3 We will continue until 6 o'clock, with a break at 4.30 for coffee, and resume at  
4 5 o'clock this afternoon.

5  
6 I give the floor to Mr Reichler, who will begin his statement. Mr Reichler, you have  
7 the floor.

8  
9 **MR REICHLER** (*Interpretation from French*): Thank you very much, Mr President.

10  
11 (*Continued in English*) Good afternoon, Mr President, Members of the Special  
12 Chamber. I have been asked by Ghana to respond to Côte d'Ivoire on Ghana's  
13 alternative argument, that in case you find that there is no agreed boundary, the  
14 delimitation should be performed by means of the equidistance/relevant  
15 circumstances method. In particular, I will respond to Côte d'Ivoire on the relevant  
16 coasts, the relevant circumstances, adjustment of the provisional equidistance line,  
17 delimitation beyond 200 M, and the proportionality of the resulting boundary line.

18  
19 Mr President, I am afraid that there are two unfortunate consequences of my  
20 assignment. First, you will be deprived of the pleasure of hearing once again from  
21 Ms Brillembourg and Ms Singh. Second, you are being asked to listen to me for a  
22 rather long time. I apologize for both of these inconveniences. I will try to abate them  
23 by attempting as efficiently as possible to identify the principal issues that still divide  
24 the Parties, by addressing these differences in a clear and concise manner, and by  
25 proposing solutions, in some cases alternative solutions, that you might find helpful  
26 in your deliberations.

27  
28 I begin with the relevant coasts. The Parties are largely in agreement on this issue.  
29 We agree especially that the relevant coasts are those whose seaward projections  
30 overlap.<sup>1</sup> As a result, we also agree that the only part of Ghana's coast that is  
31 relevant is the segment between the land boundary terminus and Cape Three  
32 Points.<sup>2</sup> It is further agreed that the rest of Ghana's coast – the part that is east of  
33 Cape Three Points – faces away from the area to be delimited and does not  
34 generate any entitlements that overlap with Côte d'Ivoire's, and that this part of  
35 Ghana's coast can be "excluded", to quote my friend Professor Alina Miron.<sup>3</sup> And,  
36 finally, we are also agreed that Ghana's relevant coast measures 121 kilometres.<sup>4</sup>

37  
38 As you have heard, there is a disagreement over how much of Côte d'Ivoire's coast  
39 is relevant. They say their entire 510 kilometres of coast are relevant. We say that  
40 not all of it is relevant. The difference turns out to be of very little, if any,  
41 consequence, so I will address it very briefly, using Côte d'Ivoire's own map, which  
42 serves the purpose nicely. As you can see, most of Ghana's relevant coast projects

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<sup>1</sup> Public Sitting of the International Tribunal for the Law of the Sea, Verbatim Record, ITLOS/PV.17/C23/5 (10 Feb. 2017) (hereinafter "ITLOS/PV.17/C23/5"), p. 28:1-6 (Ms Miron); Audience publique du Tribunal international du droit de la mer, Compte rendu, TIDM/PV.17/A23/5 (10 février 2017) (hereinafter "TIDM/PV.17/A23/5"), p. 34:1-10 (Ms Miron) (references are to the checked, uncorrected transcripts made available to the Parties during the course of the hearing).

<sup>2</sup> ITLOS/PV.17/C23/5, p. 28:8-10 (Ms Miron); TIDM/PV.17/A23/5, p. 34:12-14 (Ms Miron).

<sup>3</sup> ITLOS/PV.17/C23/5, p. 28:10 (Ms Miron); TIDM/PV.17/A23/5, p. 34:14 (Ms Miron).

<sup>4</sup> ITLOS/PV.17/C23/5, p. 28:31-32 (Ms Miron); TIDM/PV.17/A23/5, p. 34:37-38 (Ms Miron).

1 seaward in parallel with the projection of Côte d'Ivoire's coast, as shown by the pink  
2 Ghanaian arrows. The only part of Ghana's coast that projects across Côte d'Ivoire's  
3 coastal front is the small, easternmost segment. But as you can see, that segment  
4 reaches the limit of Ghana's 200 nautical miles entitlement before it encounters the  
5 seaward projection of the westernmost portion of Côte d'Ivoire's coast. In this area,  
6 Ghana cannot claim any entitlement beyond 200 nautical miles. It is on this basis  
7 that we say there is no overlap with any Ghanaian entitlement with any projections  
8 emanating from the western segment of the Ivorian coast, and therefore that western  
9 part of Côte d'Ivoire's coast cannot be relevant to the delimitation.

10  
11 However, as I said, this difference between the Parties is not consequential. In the  
12 first round, I said that it does not matter whether the ratio of relevant coastal lengths  
13 is 4.2:1, as Côte d'Ivoire maintains, or 2.55:1, as Ghana measures it. In either case,  
14 the disparity is not significant. Côte d'Ivoire claimed only three relevant  
15 circumstances in their first round. Coastal length disparity was not one of them; and,  
16 as Maître Pitron demonstrated on Friday, even if the coastal length ratio were 4.2:1,  
17 it would not lead to a disproportionate result, in the third stage of the delimitation  
18 process,<sup>5</sup> regardless of which of the Parties' proposed boundaries you adopt.

19  
20 There is, nevertheless, an issue of some apparent significance regarding the  
21 relevant coasts. At least, it is an issue that Côte d'Ivoire has tried to make appear  
22 significant. This is Côte d'Ivoire's repeated reference to the allegedly "tiny"<sup>6</sup> segment  
23 of coast that, according to them, generates the provisional equidistance line. Their  
24 insistence on this point led to some entertainment about how fast Usain Bolt could  
25 traverse it.<sup>7</sup> But, entertainment value aside, this is a non-issue. Certainly it has no  
26 bearing on the application of equidistance methodology.

27  
28 Either our friends on the other side are unfamiliar with the way equidistance lines are  
29 constructed, or they are cleverly trying to divert your attention from it. In fact, the  
30 equidistance line here is not constructed only from the coastal segment where the  
31 base points lie. It is constructed from the relevant coasts of both Parties, in their  
32 entirety: in this case a relevant coastline of 510 plus 121, or 631 kilometres.

33  
34 I apologize for being a bit technical here, Mr President, but the subject matter  
35 requires it; and this is something that the Special Chamber can confirm with its own  
36 technical expert, should you retain one. The entire length of relevant coast, here  
37 631 kilometres, is digitized and fed into a computer with the Caris software. The  
38 software reviews the entire coast and identifies the turning points on the coast, or, as  
39 we have been calling them here, the base points, from which the equidistance line is  
40 constructed. The software always selects the closest base points, on either side of  
41 the land boundary terminus, which are needed to generate the equidistance line.

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<sup>5</sup> See Public Sitting of the International Tribunal for the Law of the Sea, Verbatim Record, ITLOS/PV.17/C23/6 (10 Feb. 2017) (hereinafter "ITLOS/PV.17/C23/6"), p. 18:11-35 (Mr Pitron); Audience publique du Tribunal international du droit de la mer, Compte rendu, TIDM/PV.17/A23/6 (10 février 2017) (hereinafter "TIDM/PV.17/A23/6"), pp. 23:34 - 24:8 (Mr Pitron).

<sup>6</sup> TIDM/PV.17/A23/5, pp. 21:26, 22:2, 24:4 (Mr Pitron); ITLOS/PV.17/C23/5, pp. 17:41, 18:10, 19:48 (Mr Pitron); Audience publique du Tribunal international du droit de la mer, Compte rendu, TIDM/PV.17/A23/4 (9 février 2017) (hereinafter "TIDM/PV.17/A23/4"), pp. 5:26, 6:17 (Mr Pitron); Public Sitting of the International Tribunal for the Law of the Sea, Verbatim Record, ITLOS/PV.17/C23/4 (9 Feb. 2017) (hereinafter "ITLOS/PV.17/C23/4"), pp. 5:4, 5:40 (Mr Pitron).

<sup>7</sup> ITLOS/PV.17/C23/5, p. 19:30-31 (Mr Pitron); TIDM/PV.17/A23/5, p. 23:28-29 (Mr Pitron).

1 Once it generates the line, to 200 nautical miles or beyond, it stops identifying base  
2 points. Both Parties have used the Caris software in this fashion.

3  
4 The Parties also agree that the coast in the vicinity of the land boundary terminus is  
5 almost perfectly straight.<sup>8</sup> But this is not just in the immediate vicinity of the land  
6 boundary terminus. I said last Tuesday that the coast is straight for over  
7 200 kilometres, at least 100 kilometres on either side of the LBT,<sup>9</sup> and Côte d'Ivoire  
8 did not dispute that. Thus, base points could be placed anywhere along this  
9 200 kilometres segment, and you would end up with the same equidistance line, or  
10 something indistinguishable from it. As I explained last week – and Côte d'Ivoire did  
11 not challenge it - a straight coastline will always generate very few base points, and  
12 they will always lie in close proximity to the LBT: the straighter the coast, the closer  
13 to it the base points will lie. That, as I said, is science.<sup>10</sup>

14  
15 It is not only myopic but misleading for Côte d'Ivoire to suggest that the equidistance  
16 line is based on only a tiny, non-representative portion of the coast. It is also  
17 self-contradictory. While Maître Pitron, with great enthusiasm, emphasized that  
18 Usain Bolt could cover the distance between base points in 17 seconds,<sup>11</sup> Professor  
19 Miron acknowledged that base points C-3 and G-7, which control the equidistance  
20 line beyond 200 nautical miles, are situated 19 and 119 kilometres from the LBT,  
21 respectively.<sup>12</sup> I do not know if Mr Bolt has ever run a 138 kilometre race, but I am  
22 confident he would agree that there is nothing tiny about that distance. But the main  
23 point, as I have described, is that the equidistance line takes into account, and  
24 therefore represents, the entire 631 kilometres of relevant coast, not just the distance  
25 between the base points. It only excludes the portion of Ghana's coast that Professor  
26 Miron agrees should be excluded.

27  
28 With that, Mr President, I turn next to relevant circumstances. Côte d'Ivoire alleges  
29 that there are three. This is down from five, so we are making progress. The first of  
30 the three, as presented by Professor Pellet, is the alleged cutoff of Côte d'Ivoire's  
31 maritime entitlement, caused, in his explanation, by the concavity of Côte d'Ivoire's  
32 coast and the convexity of Ghana's.<sup>13</sup> Let us examine this on Côte d'Ivoire's own  
33 map.

34  
35 *This*, again, is their map, except that we have superimposed the customary  
36 equidistance boundary for the purposes of examining whether it produces a cut-off  
37 effect. As we proceed out the equidistance line from the LBT, we first see a cutoff at  
38 98 nautical miles, but it is not Côte d'Ivoire that is cut off; it is Ghana! As we go  
39 further seaward, we do see a cutoff of Côte d'Ivoire's coastal projection, but not until  
40 the equidistance line is a full 160 nautical miles from the LBT. As we trace this  
41 Ivorian arrow back to its source at the coast, we find that it is at Abidjan. Professor

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<sup>8</sup> See, e.g., ITLOS/PV.17/C23/5, pp. 3:4 (Mr Pitron), 28:44-45 (Ms Miron); TIDM/PV.17/A23/5, pp. 3:5 (Mr Pitron), 35:12 (Ms Miron).

<sup>9</sup> Public Sitting of the International Tribunal for the Law of the Sea, Verbatim Record, ITLOS/PV.17/C23/2 (7 Feb. 2017) (hereinafter "ITLOS/PV.17/C23/2"), p. 30:39-42 (Mr Reichler); Audience publique du Tribunal international du droit de la mer, Compte rendu, TIDM/PV.17/A23/2 (7 février 2017) (hereinafter "TIDM/PV.17/A23/2"), pp. 37:42 - 38:1 (Mr Reichler).

<sup>10</sup> ITLOS/PV.17/C23/2, p. 32:30-33 (Mr Reichler); TIDM/PV.17/A23/2, pp. 39:42 - 40:1 (Mr Reichler).

<sup>11</sup> ITLOS/PV.17/C23/5, p. 19:30-31 (Mr Pitron); TIDM/PV.17/A23/5, p. 23:28-29 (Mr Pitron).

<sup>12</sup> ITLOS/PV.17/C23/5, p. 33:22-24 (Ms Miron); TIDM/PV.17/A23/5, p. 41:9-11 (Ms Miron).

<sup>13</sup> ITLOS/PV.17/C23/6, p. 3:15-21 (Mr Pellet); TIDM/PV.17/A23/6, p. 3:24-30 (Mr Pellet).



1 Pellet told you, correctly, that the main impact of the cutoff is on Abidjan.<sup>14</sup> However,  
2 as you can see, the seaward projection of the Abidjan coast reaches 181 nautical  
3 miles before it hits the customary equidistance line on their own chart, and that is the  
4 only part of Côte d'Ivoire's coast, according to their own map, that appears to  
5 intersect the equidistance line before the limit of national jurisdiction beyond  
6 200 nautical miles.

7  
8 We say that this is not a true cutoff. It is certainly not a cutoff that requires  
9 abatement. Let me rely on science again, as well as the case law. In regard to  
10 adjacent States, the equidistance line will almost always produce a cutoff. That is  
11 inevitable. The question is thus not whether there is a cutoff but whether the cutoff  
12 produces its effects in a shared and mutually balanced way. For this proposition,  
13 I cite my friend Professor Pellet himself,<sup>15</sup> as well as the ICJ in the *Black Sea* and  
14 *Nicaragua v. Colombia* cases,<sup>16</sup> and, of course, ITLOS in *Bangladesh v. Myanmar*.<sup>17</sup>

15  
16 Applying that principle here, we see on this Ivorian map that while the cutoff is  
17 mutual, it is not shared equally. It falls harder on Ghana, because it cuts off Ghana's  
18 coastal projection closer to the coast. However, for the moment let us ignore this and  
19 assume that only Côte d'Ivoire is cut off. Is the cutoff significant enough to warrant  
20 abatement? We say: no, not when it does not occur until a point that is over or is  
21 180 nautical miles from the Ivorian coast. But, suppose we were inclined to bend  
22 over backwards to accommodate our Ivorian friends. The cutoff, so to speak, could  
23 be completely eliminated by deflecting the customary equidistance boundary at that  
24 point, that is 160 nautical miles seaward from the LBT, so that seaward from there, it  
25 follows the same azimuth as the seaward projection of the coast from Abidjan.  
26 Based on this map, that is approximately 172 degrees.

27  
28 However, although that would entirely eliminate the cutoff for Côte d'Ivoire, it would  
29 create a new cutoff for Ghana at almost precisely the same 160 nautical miles point.  
30 That cannot be regarded as an equitable solution, but here is one that might be: if,  
31 contrary to Ghana's position, the Special Chamber were inclined to alleviate Côte  
32 d'Ivoire's alleged cutoff. *This* line divides the impact of that cutoff equally between  
33 the two Parties. It distributes some, but not all, of the cutoff to Ghana. It shares the  
34 impact in a balanced manner. As our friends on the other side have shown, the case  
35 law does not mandate the complete elimination of the effects of a cutoff, which in any  
36 event is impossible here, because if you eliminate it for one, you exacerbate it for the  
37 other. Thus, when islands are the cause of a cutoff, they are frequently given half  
38 effect, thus ameliorating but not entirely eliminating the cutoff. After Bangladesh's  
39 cases against Myanmar and India, in both of which its cutoff was partially abated,  
40 Bangladesh could still feel the effects of the cutoff, as you can see *here*.<sup>18</sup> We say

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<sup>14</sup> ITLOS/PV.17/C23/6, p. 2:40-49 (Mr Pellet). TIDM/PV.17/A23/6, pp. 2:46-50, 3:1-8 (Mr Pellet).

<sup>15</sup> ITLOS/PV.17/C23/6, 10:46-47 (Mr Pellet); TIDM/PV.17/A23/6, p. 14:35-36 (Mr Pellet).

<sup>16</sup> *Maritime Delimitation in the Black Sea (Romania v. Ukraine)*, Judgment, I.C.J. Reports 2009, p. 61, para. 201; *Territorial and Maritime Dispute (Nicaragua v. Colombia)*, Judgment, I.C.J. Reports 2012, p. 624 (hereinafter "*Nicaragua v. Colombia*, Judgment"), para. 215.

<sup>17</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, (hereinafter "*Bangladesh v. Myanmar*, Judgment"), paras. 325-326, 335-336.

<sup>18</sup> See *Bay of Bengal Maritime Boundary Arbitration (Bangladesh v. India)*, UNCLOS Annex VII Tribunal, Award of 7 July 2014, p. 163, Map 12.

1 that there is no justification for doing this, even the half effect line, but if anything is to  
2 be done, this would be the absolute maximum without inequitably prejudicing Ghana.

3  
4 Before concluding on this point, I offer these comments on concavity and convexity.  
5 Ghana has always acknowledged that Côte d'Ivoire's coast is mildly concave. That is  
6 not the issue. It is whether that mild concavity causes the equidistance line to cut  
7 across Côte d'Ivoire's coast in an unbalanced and prejudicial way.<sup>19</sup> Côte d'Ivoire's  
8 own chart proves that it does not. The equidistance line imposes more of a cutoff on  
9 Ghana than on Côte d'Ivoire, since Ghana is cut off 98 nautical miles from the LBT,  
10 long before Côte d'Ivoire is cut off at 160 nautical miles. What these maps show is  
11 that Côte d'Ivoire's mild concavity does not produce effects that are sufficient to  
12 warrant any adjustment to the equidistance line.

13  
14 Nor is there any reason to adjust the line due to convexity. Yes, Ghana's coast is  
15 convex at Cape Three Points; but convexity is a problem only when there are base  
16 points along it that influence, that push, the equidistance line. If there are no base  
17 points on it, the convexity is irrelevant to the delimitation. Here, there are no base  
18 points on the convexity that influence the line out to 200 M. The single Ghanaian  
19 base point at Cape Three Points does not begin to influence the equidistance line  
20 until it reaches 220 M. At that point, its influence is offset by Côte d'Ivoire's base  
21 point at the mouth of Aby Lagoon. There is no cut-off of Côte d'Ivoire. Even if, *quod*  
22 *non*, we were to assume there were, at the very most a slight adjustment beyond  
23 200 nautical miles would eliminate it entirely. We say: this is all theoretical. There is  
24 no significant or unbalanced cut-off. This is not a relevant circumstance. There is no  
25 need for an adjustment of the equidistance line.

26  
27 Before leaving this subject, I want to say a word about another Ivorian map, which  
28 was displayed several times last week.<sup>20</sup> The word is "disappointing." This is a  
29 blatant cartographic manipulation. First, as you can see, the green arrows are drawn  
30 perpendicular not to the actual coastline, but to Côte d'Ivoire's subjectively and  
31 self-servingly drawn coastal façade, which they use to construct their angle bisector.  
32 Second, the arrows are extended to the north so that they touch the coastline,  
33 apparently to give the misleading impression that they are perpendicular to that  
34 coastline, which they are not, and that they reflect its seaward projection, which they  
35 do not. Beyond this, the chart is contradictory with itself. It draws its façade and  
36 green arrows based on an angle bisector, and then superimposes an equidistance  
37 line. This mixing of methods reveals that the chart is intended to mislead more than  
38 enlighten. In any event, as you can see here, it is entirely inconsistent with Côte  
39 d'Ivoire's other chart,<sup>21</sup> the one we have been using today, which represents a more  
40 accurate depiction of the relevant coastal façades and their true seaward projections.

41  
42 Mr President, I can now move to Côte d'Ivoire's second alleged relevant  
43 circumstance, the Ghanaian land territory that they still insist on calling the "Jomoro  
44 Peninsula". I addressed this last week, and will avoid repeating myself. I just have a  
45 few points to make in response to Maître Pitron and Professor Pellet. First, I am  
46 grateful to Maître Pitron for clarifying that they regard this territory as a "strip of

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<sup>19</sup> See Reply of Ghana (25 July 2016) (hereinafter "RG"), para. 3.22.

<sup>20</sup> See Rejoinder of Côte d'Ivoire (14 Nov. 2016), Croquis D 7.6.

<sup>21</sup> See *id.*, Croquis D 7.5.

1 land”,<sup>22</sup> and a “land barrier”<sup>23</sup> between 5.5 and 14 kilometres wide, and thereby  
2 acknowledge that it is in fact Ghana’s sovereign land territory rather than just a  
3 beach.

4  
5 Where they go wrong is when they argue that it is a “protuberance”<sup>24</sup> that “block[s]  
6 the projections” of Côte d’Ivoire’s “entitlement” seaward.<sup>25</sup> What protuberance? This  
7 land does not protrude into the sea. Our friends would have you believe that this was  
8 truly a peninsula or protrusion, as shown on the sketch map in front of you. If it were,  
9 they might have a point; but that is a complete re-fashioning of geography. This  
10 territory is the unbroken continuation of Ghana’s coastline that is perfectly aligned  
11 with that coastline, and perfectly aligned with Côte d’Ivoire’s coastline on the other  
12 side of the LBT. What Ivorian “entitlement” are they talking about here? There is no  
13 Ivorian coast, so they have no entitlement seaward from Ghana’s side of the LBT.

14  
15 Professor Pellet struggles mightily to reconcile this geographic reality with the case  
16 law. He said, and I quote the English translation: “It may be that islands – that is  
17 often the case – or *strips of land* ... that ha[ve] a cut-off effect on the projections of  
18 the coast of a State”<sup>26</sup> would be a relevant circumstance requiring adjustment of the  
19 equidistance line. Islands, yes, of course, but strips of land? Where is the support for  
20 that? We say there is none.

21  
22 Professor Pellet purports to find it in the Anglo/French case.<sup>27</sup> He tries in vain. We  
23 are very good friends, and I know he would never, ever mislead you, or any court or  
24 tribunal – or for that matter anyone else – but it is possible that he inadvertently gave  
25 you the wrong impression about that Award. Quoting from the English translation, he  
26 read: “... the further projection westwards of the Scilly Isles when super-added to the  
27 greater projection of the Cornish mainland”<sup>28</sup> and here my friend interjected his own  
28 words “not a small peninsula,”<sup>29</sup> before he continued to read: “has much the same  
29 tendency to distortion of the equidistance line, as the projection of an extremely long  
30 promontory, which is generally recognized to be one of the potential forms of ‘special  
31 circumstance’.”<sup>30</sup>

32  
33 Maybe it is my fault and I misunderstood, but if there was a suggestion that the Court  
34 of Arbitration considered any part of the Cornish mainland, including the Cornish  
35 peninsula, to be a special circumstance, that suggestion would be mistaken. The  
36 only special circumstance in that part of the delimitation area was the Scilly Isles  
37 themselves. This was made abundantly clear in the sentence immediately following  
38 the one read to you by Professor Pellet:

22 ITLOS/PV.17/C23/5, p. 3:11 (Mr Pitron); TIDM/PV.17/A23/5, p. 3:11-12 (Mr Pitron).

23 ITLOS/PV.17/C23/5, p. 4:46 (Mr Pitron); TIDM/PV.17/A23/5, p. 5:4-5 (Mr Pitron).

24 ITLOS/PV.17/C23/4, p. 5:9 (Mr Pitron); TIDM/PV.17/A23/4, p. 5:31 (Mr Pitron).

25 ITLOS/PV.17/C23/6, p. 4:22 (Mr Pellet); TIDM/PV.17/A23/6, p. 5:6 (Mr Pellet).

26 ITLOS/PV.17/C23/6, p. 4:23-26 (Mr Pellet); ITLOS/PV.17/C23/6, p. 5:7-11 (Mr Pellet) (emphasis added).

27 ITLOS/PV.17/C23/6, p. 4:39-5:14 (Mr Pellet); TIDM/PV.17/A23/6, pp. 5:26, 6:11 (Mr Pellet).

28 *Delimitation of the Continental Shelf between the United Kingdom of Great Britain and Northern Ireland, and the French Republic (United Kingdom v. France)*, Decision of 30 June 1977, 18 UNRIAA 3 (1978) (hereinafter “*Anglo/French Continental Shelf*”), para. 244.

29 ITLOS/PV.17/C23/6, p. 4:46-47 (Mr Pellet); TIDM/PV.17/A23/6, p. 5:31-34 (Mr Pellet).

30 *Anglo/French Continental Shelf*, para. 244.

1 In the present instance the Court considers that the additional projection of  
2 the Scilly Isles into the Atlantic region does constitute an element of  
3 distortion which is material enough to justify the delimitation of a boundary  
4 other than the strict median line.<sup>31</sup>

5  
6 The Scilly Isles, not the Cornish Peninsula – and this is clear from the map Professor  
7 Pellet displayed. The Scilly Isles were given half effect. The Cornish Peninsula was  
8 given full effect.

9  
10 None of the other cases cited by Professor Pellet supports his proposition. All involve  
11 islands – every one of them.<sup>32</sup> None involves a strip of land. There is no case –  
12 none – in which a court or tribunal has disregarded, or given less than full effect, to  
13 continental land territory that constitutes an integral part of a State's coast; and it  
14 makes no difference what is in the interior behind that coastal land territory. This was  
15 made clear by the ICJ in the *Libya v. Malta* case:

16  
17 Land mass has never been regarded as a basis of entitlement to  
18 continental shelf rights, and such a proposition finds no support in the  
19 practice of States, in the jurisprudence, in doctrine, or indeed in the Third  
20 United Nations Conference on the Law of the Sea. It would radically change  
21 the part played by the relationship between coast and continental shelf.  
22 What distinguishes a coastal State with continental shelf rights from a  
23 landlocked State which has none, is certainly not the land mass, which both  
24 possess, but the existence of a maritime front in one State and its absence  
25 in the other.<sup>33</sup>

26  
27 From the case law, let us move back to the geography for two quick points. First, as  
28 you can see, Ghana's land territory is not promontory, and it is not a peninsula. The  
29 fact that our friends insist on calling it that is just a further indication of how fantastical  
30 their argument is. They have to re-fashion it into a peninsula in order to make their  
31 claim. But there is a peninsula along this coast – and it is on the other side of the  
32 LBT. This is a peninsula, but it is Côte d'Ivoire's peninsula, not Ghana's. We have  
33 heard a lot about Ghana's base points being located along the so-called Jomoro  
34 Peninsula. What you did not hear from the other side is that Côte d'Ivoire's base  
35 points are located on this same stretch of coast. Thus, the coastline in this area treats  
36 both States equally, and allows them both to enjoy their respective seaward  
37 projections, on either side of the equidistance line, without any cut-off out to 200 M  
38 and beyond.

39  
40 Second, and finally, there is nothing anomalous about this geographic configuration  
41 that would justify disregarding a significant part of Ghana's coast, and effectively  
42 moving the LBT 42 km to the east, as Professor Pellet has proposed. In fact, a  
43 significant stretch of the Ghana/Côte d'Ivoire land border lies even farther west than

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<sup>31</sup> *Ibid.*

<sup>32</sup> See *Arbitration between Newfoundland and Labrador and Nova Scotia concerning Portions of the Limits of Their Offshore Areas (Newfoundland and Labrador/Nova Scotia)*, Award of the Tribunal in the Second Phase (26 Mar. 2002), paras 5.13, 5.15; *Maritime Delimitation in the Black Sea (Romania v. Ukraine) Judgment*, *I.C.J. Reports 2009*, p. 61, para. 187; *Bangladesh v. Myanmar*, Judgment, para. 318; *Nicaragua v. Colombia*, Judgment, para. 215.

<sup>33</sup> *Continental Shelf (Libyan Arab Jamahiriya v. Malta)*, Judgment, *I.C.J. Reports 1985*, p. 13, para. 49.

1 the LBT. I did find my good friend's reference to Cyrano enlightening, although  
2 perhaps not in the way he intended. Instead of a Ghanaian tongue extending beneath  
3 Côte d'Ivoire's territory, it is just as easy to envision an Ivorian nose protruding into  
4 Ghanaian territory.

5  
6 This brings me to Côte d'Ivoire's third and final alleged relevant circumstance: what  
7 they call the "exceptional" presence of hydrocarbons.<sup>34</sup> Last week, we told you that  
8 Côte d'Ivoire's entire case boils down to this: there is oil out there, plenty of it, on  
9 Ghana's side of the customary equidistance boundary, and they want access to it.<sup>35</sup>  
10 This is no longer in dispute. Professor Pellet himself confirmed it (quoting from the  
11 English transcript): "Côte d'Ivoire's goal is to obtain a fair share."<sup>36</sup>

12  
13 And again: "Côte d'Ivoire would only welcome this situation if Ghana had not  
14 deprived Côte d'Ivoire of her fair share in oil prosperity, which it has a right to aspire  
15 towards."<sup>37</sup>

16  
17 And again: Côte d'Ivoire wants: "access to these resources in a somewhat less unfair  
18 way."<sup>38</sup>

19  
20 My question is this: How does my friend reconcile this with his statement, with which  
21 we entirely agree, that,

22  
23 It is precisely a rule of law that calls for the application of equitable  
24 principles. There is consequently no question in this case of any decision  
25 *ex aequo et bono*, such as would only be the case under the conditions  
26 prescribed by article 38, paragraph 2 of the ICJ's Statute?<sup>39</sup>

27  
28 The case law runs completely counter to the concept of delimitation by means of  
29 sharing the natural resources of the seabed. A case directly on point is *Guinea v.*  
30 *Guinea-Bissau*. Now my good friend has already told us that this case is not his "cup  
31 of tea".<sup>40</sup> That is an understatement. For our favourite master of the Socratic method,  
32 the award in that case is more like a cup of hemlock - and we truly, truly love him too  
33 much to serve him anything more than a tiny spoonful:

34  
35 Some States may have been treated by nature in a way that favours their  
36 boundaries or their economic development, others may be  
37 disadvantaged.... The fact is that the Tribunal does not have the power to

---

<sup>34</sup> ITLOS/PV.17/C23/6, p. 7:1 (Mr Pellet); TIDM/PV.17/A23/6, p. 8:24 (Mr Pellet).

<sup>35</sup> Public Sitting of the International Tribunal for the Law of the Sea, Verbatim Record, ITLOS/PV.17/C23/3 (7 Feb. 2017) (hereinafter "ITLOS/PV.17/C23/3"), p. 1:13-18 (Mr Reichler); Audience publique du Tribunal international du droit de la mer, Compte rendu, TIDM/PV.17/A23/3 (7 février 2017) (hereinafter "TIDM/PV.17/A23/3"), p. 1:18-26 (Mr Reichler).

<sup>36</sup> ITLOS/PV.17/C23/6, p. 8: 19-20 (Mr Pellet); TIDM/PV.17/A23/6, p. 10: 23-25 (Mr Pellet).

<sup>37</sup> ITLOS/PV.17/C23/6, p. 8: 35-37 (Mr Pellet) "Côte d'Ivoire would only welcome this situation if the actions of Ghana had not deprived Côte d'Ivoire of her fair share in oil prosperity, which it has a right to aspire towards"; TIDM/PV.17/A23/6, p. 11: 11-13 "La Côte d'Ivoire ne pourrait que s'en réjouir si les agissements de la "part de prospérité" pétrolière à laquelle est, de son côté, en droit d'aspérer."

<sup>38</sup> ITLOS/PV.17/C23/6, p. 9:17-18 (Mr Pellet); TIDM/PV.17/A23/6, p. 9:16-17 (Mr Pellet).

<sup>39</sup> TIDM/PV.17/A23/5, p. 11:9-13 (Mr Pellet); ITLOS/PV.17/C23/5, p. 10:21-26 (Mr Pellet) (citing *North Sea Continental Shelf (Federal Republic of Germany/Netherlands), Judgment, I.C.J. Reports 1969*, p. 3, para. 88).

<sup>40</sup> ITLOS/PV.17/C23/5, p. 12:27 (Mr Pellet); TIDM/PV.17/A23/5, p. 14:13 (Mr Pellet).

1 compensate for the economic inequalities of the States concerned, by  
2 modifying the delimitation which it considers called for by objective and  
3 certain conditions.<sup>41</sup>  
4

5 In any event, as Professor Sands has shown you, Côte d'Ivoire already has plenty of  
6 its own oil, which it has been regularly extracting on its side of the customary  
7 equidistance boundary, including from the same basin from which Ghana's oil is  
8 derived. They have produced more oil than Ghana has, and they have access to a  
9 vastly larger share of that basin. In other words, they already have their fair share, if  
10 not more.

11  
12 No court or arbitral tribunal – not a single one – has ever adjusted an equidistance  
13 line, or any other provisional delimitation line, based on the presence of  
14 hydrocarbons. Côte d'Ivoire invokes the *Jan Mayen* case, where the median line was  
15 adjusted to assure that Denmark's fishermen would not be deprived of access to fish  
16 on which they were historically dependent.<sup>42</sup> But the Court in that case found that  
17 Denmark had met the standard set in the *Gulf of Maine* case, that access to natural  
18 resources should be taken into account only in situations where shifting the boundary  
19 is required to avoid "catastrophic repercussions for the livelihood and economic  
20 wellbeing of the population of the countries concerned."<sup>43</sup>  
21

22 The ICJ affirmed that standard in the *Nicaragua v. Colombia* Judgment of 2012.<sup>44</sup>  
23

24 Last week, Côte d'Ivoire said nothing about catastrophic repercussions. They  
25 conspicuously avoided any mention of the *Gulf of Maine* case on this point, or the  
26 standard set in that case that the ICJ has repeatedly reaffirmed. Plainly, there is  
27 nothing remotely resembling a catastrophic repercussion for Côte d'Ivoire or its  
28 population. In *Jan Mayen* the boundary was adjusted to avoid depriving a party of  
29 resources that its nationals had previously enjoyed in the past.<sup>45</sup> There is no  
30 authority, and no basis, for adjusting a boundary to allow a State access to resources  
31 that it never previously enjoyed.  
32

33 Professor Pellet erroneously conflates Côte d'Ivoire's claim of relevant circumstances  
34 with Ghana's. Quoting from the English transcript:

35  
36 There is no doubt that our Ghanaian friends consider the concentration of  
37 wealth in terms of hydrocarbons in the disputed area as being a relevant  
38 circumstance to shift the equidistance line in their favour so as to leave  
39 them all of the discovered or probable deposits.<sup>46</sup>

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<sup>41</sup> *Délimitation de la frontière maritime entre la Guinée et la Guinée-Bissau* [Delimitation of the maritime boundary between Guinea and Guinea-Bissau], Decision of 14 February 1985, reprinted in 19 UNRIAA 149 (1985), para. 123.

<sup>42</sup> ITLOS/PV.17/C23/6, p. 8:1-18 (Mr Pellet); TIDM/PV.17/A23/6 10:2-19 (Mr Pellet).

<sup>43</sup> *Maritime Delimitation in the Area between Greenland and Jan Mayen (Denmark v. Norway)*, Judgment, I.C.J. Reports 1993, p. 38 (hereinafter "*Denmark v. Norway (Jan Mayen)*, Judgment"), para. 75.

<sup>44</sup> See *Nicaragua v. Colombia*, Judgment, para. 220.

<sup>45</sup> *Denmark v. Norway (Jan Mayen)*, Judgment, para. 76.

<sup>46</sup> ITLOS/PV.17/C23/6, p. 8:26-29 (Mr Pellet); TIDM/PV.17/A23/6, p. 9:10-14 (Mr Pellet) "Pas de doute, nos ami ghanéens considèrent...la concentration des richesses en hydrocarbures situées dans la zone litigieuse comme étant une circonstance pertinente pour déplacer la ligne d'équidistance en leur faveur de telle manière qu'elle leur laisse l'intégralité des gisement découverts ou probable."

1  
2 This is incorrect: Ghana does not claim that the concentration or presence of  
3 hydrocarbons is a relevant circumstance. In fact, Ghana rejects that assertion.  
4 Ghana's position is that the Parties' longstanding and mutual recognition of the  
5 customary equidistance line as the international border between the two States,  
6 supported by 50 years of consistent practice by both States, constitutes a tacit  
7 agreement on the location of the boundary, or, in the alternative, a relevant  
8 circumstance requiring adjustment of the provisional equidistance line.  
9

10 Mr President, Côte d'Ivoire spent its first round avoiding this issue, as if they were  
11 dodging an incoming missile. They said remarkably little about it. To the limited  
12 extent that they did engage with us, they mischaracterized our claim as one based  
13 merely on "oil practice". Sir Michael Wood, who is another very good friend, told you  
14 our claim of relevant circumstances was based on "the shaky foundation of limited  
15 petroleum conduct".<sup>47</sup>  
16

17 Given what Mr Tsikata and Professor Sands have shown, the use of the word  
18 "limited" seems hardly appropriate. Professor Pellet also said that "oil practice cannot  
19 be taken into consideration unless in exceptional circumstances".<sup>48</sup>  
20

21 Their aim, of course, is to diminish our claim and fit it within the confines of  
22 *Cameroon/Nigeria*, but it doesn't fit there; the facts were very different. In that case,  
23 unlike this one, there was only coincidental use of the same line as to the limit of  
24 each State's oil concessions and, for only seven years;<sup>49</sup> at other times the Parties'  
25 concessions overlapped.<sup>50</sup> In that case, unlike ours, there was no repeated reference  
26 in the concession agreements of either party to the limit as an international boundary.  
27 There were no official maps issued by State entities showing the line as an  
28 international boundary. There were no presidential decrees, or national legislation, or  
29 official correspondence from Ministers of State, referring to the line as an  
30 international border. There were no seismic surveys in which one State approved the  
31 requests of the other with explicit reference to the crossing of their international  
32 maritime boundary. There was no consistent, unbroken conduct, over a 50-year  
33 period, evidencing that each of the Parties recognized the line as an international  
34 border and consistently respected it as such.<sup>51</sup>  
35

36 In Ghana's view, that half-century of law – Ivorian law – and mutual practice is proof  
37 of an agreement that a boundary exists. In the alternative, we argue that, if a  
38 boundary is to be newly delimited, the Parties' longstanding and mutual practice must  
39 be, at the very least, a relevant circumstance justifying an adjustment to the  
40 provisional equidistance line, so that the final boundary is the customary equidistance  
41 line that has been long respected by both of them. We say again, as we said in the

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["There is no doubt, our Ghanaian friends [consider ... the concentration of wealth in terms of hydrocarbons in the disputed area as being a relevant circumstance for shifting the equidistance line in their favour so as to leave them all of the discovered or probable deposits."

<sup>47</sup> ITLOS/PV.17/C23/4, p. 18:40 (Mr Wood); TIDM/PV.17/A23/4 p. 21:34 (Mr Wood).

<sup>48</sup> ITLOS/PV.17/C23/6, p. 10:18-19 (Mr Pellet); TIDM/PV.17/A23/6, p. 14:1-2 (Mr Pellet).

<sup>49</sup> See *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria: Equatorial Guinea intervening)*, Rejoinder of Nigeria (4 Jan. 2001), Chapter 10, Appendix (1970-76).

<sup>50</sup> See *ibid.*, Chapter 10, Appendix (1977-1999).

<sup>51</sup> See *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v Nigeria: Equatorial Guinea intervening)*, Judgment, I.C.J. Reports 2002, p.303, para. 282.

1 first round, that a half-century of express recognition of a boundary and consistent  
2 practice in respect of it by both States cannot be ignored. It cannot mean nothing.<sup>52</sup>  
3  
4 Yet that is precisely Côte d'Ivoire's position: that it all means nothing. That is the  
5 consequence of their refusal to accept it even as a relevant circumstance requiring  
6 only a very modest adjustment of the provisional equidistance line.  
7  
8 The 1957 French decree, which defines (*Interpretation from French*) "the limit of the  
9 territorial waters of Côte d'Ivoire and the Gold Coast"<sup>53</sup> (*Continued in English*) means  
10 nothing?  
11  
12 The 1970 Ivorian decree which gives the co-ordinates of (*Interpretation from French*)  
13 "the boundary line separating Côte d'Ivoire from Ghana"<sup>54</sup> (*Continued in English*)  
14 means nothing? The 1975 Ivorian decree which (*Interpretation from French*) "as an  
15 indication" (*Continued in English*) gives the co-ordinates of the "points repères ...  
16 (*Interpretation from French*) separating Côte d'Ivoire from Ghana"<sup>55</sup> (*Continued in*  
17 *English*) means nothing?  
18  
19 This 1976 map, published by the Ivorian Ministry of Economy and Finance,<sup>56</sup> very  
20 shortly after the 1975 decree, means nothing?  
21  
22 The 1977 Ivorian law, stating that Côte d'Ivoire's EEZ boundaries should be based  
23 on equidistance,<sup>57</sup> means nothing?  
24  
25 This 1990 map, published by the Ivorian Ministry of Mines,<sup>58</sup> means nothing?  
26  
27 This 1991 map, published by the Ivorian Ministry of Industry, Mines and Energy<sup>59</sup>  
28 means nothing?  
29  
30 This 1993 map, published by PETROCI,<sup>60</sup> means nothing?  
31

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<sup>52</sup> ITLOS/PV.17/C23/3, p. 3:27 (Mr Reichler); TIDM/PV.17/A23/3, p. 4:10-11 (Mr Reichler).

<sup>53</sup> Decree granting the *Société africaine des pétroles* a general type "A" licence in Côte d'Ivoire for first-grade mineral substances (29 July 1957), art. 2. CMCI, Vol. IV, Annex 57.

<sup>54</sup> Republic of Côte d'Ivoire, *Decree No. 70-618 granting an oil exploration contract to the companies ESSO, SHELL and ERAP* (14 October 1970), art. 1. CMCI, Vol. IV, Annex 59.

<sup>55</sup> Decree n°75-769 renewing oil exploration licences n°1, 29 October 1975, Art. 2. CDI, Annex 61.

<sup>56</sup> Ministry of Economy and Finance, Secretary of State of Mines, Hydrocarbon Directorate of the Republic of Côte d'Ivoire, *Permis de Recherche d'Hydrocarbures (SRG/893) [Hydrocarbons Exploration Permit]* (Côte d'Ivoire) reprinted by Ghana Geological Survey (23 March 1976, Ghana). MG, Vol. II, Annex M2.

<sup>57</sup> Law n°77-926 delimiting the maritime areas under the national jurisdiction of the Republic of Côte d'Ivoire (17 November 1977), art. 8. MCCI, Vol. III, Annex 2.

<sup>58</sup> *Blocks Delineation* in Ministry of Mines of the Republic of Côte d'Ivoire, *Côte d'Ivoire: Petroleum Evaluation* (1990, Côte d'Ivoire), p. 2. MG, Vol. II, Annex M4.

<sup>59</sup> Ministry of Industry, Mines & Energy of the Republic of Côte d'Ivoire, Société Nationale d'Opérations Pétrolières de la Côte d'Ivoire (PETROCI), *Carte du Domaine Minier, Block CI-06 [Map of the Mining Area]* (January 1991, Côte d'Ivoire). MG, Vol. II, Annex M5.

<sup>60</sup> [Evaluation Concessions Offered] in Société Nationale d'Opérations Pétrolières de la Côte d'Ivoire (PETROCI), *Côte d'Ivoire 1993 Petroleum Evaluation Concessions* (1993, Côte d'Ivoire), p. 2. MG, Vol. II, M6.



1 This 1997 letter, from Côte d'Ivoire's Minister of Petroleum Resources to Ghana's  
2 Minister of Mines and Energy, referring to (*Interpretation from French*) "the Ivorian  
3 territorial waters close to the maritime boundary between Ghana and Côte d'Ivoire,"<sup>61</sup>  
4 (*Continued in English*) means nothing?

5  
6 These maps, published by PETROCI in 2002<sup>62</sup> and 2005,<sup>63</sup> mean nothing?  
7

8 This map, sent by the Managing Director of PETROCI to Ghana's Minister of Mines  
9 and Energy in 2007, as part of an official request to turn a vessel around in Ghana's  
10 waters,<sup>64</sup> means nothing?  
11

12 Mr President, as Mr Tsikata and Professor Klein have already explained, every one  
13 of these Ivorian maps, laws and official correspondence indicates Côte d'Ivoire's  
14 express recognition of an existing maritime boundary with Ghana, and every one of  
15 them places it in the same location: the customary equidistance boundary, and not  
16 just these; other examples have been provided. We listened carefully during Côte  
17 d'Ivoire's presentations last week. They refused to engage with any of these Ivorian  
18 maps individually. Instead, Sir Michael tried to brush them all off generally, on the  
19 grounds that they were produced by "private actors not representing or engaging  
20 either State,"<sup>65</sup> or that they "stand alone, without any accompanying text or  
21 explanation,"<sup>66</sup> but as both Mr Tsikata and Professor Sands explained, these  
22 arguments are manifestly incorrect. All of these are publications by the Ivorian State,  
23 including at its highest levels, and, far from standing alone without accompanying  
24 explanation, they clearly and expressly indicate an existing maritime boundary, a  
25 *ligne frontière*, separating the maritime areas of Côte d'Ivoire and Ghana.  
26

27 Sir Michael even goes to the extreme of saying that all of these Ivorian decrees and  
28 laws are "mere legislative action."<sup>67</sup> Mere legislative action? What would the House  
29 of Commons think of that? As Mr Tsikata and Professor Sands showed, every one of  
30 Côte d'Ivoire's oil concessions and wells in the area was to the west of the  
31 equidistance boundary with Ghana identified in these decrees and laws. At no time  
32 between 1957 and 2009 did Côte d'Ivoire ever grant a concession or drill for oil east  
33 of that line. Nor has Côte d'Ivoire ever produced a map or chart, dated between 1957  
34 and 2009, showing that the boundary with Ghana is in any other place than along the  
35 customary equidistance boundary.  
36

37 Mr President, in *Tunisia/Libya*, the ICJ said that it  
38

39 could not fail to note the existence of a *de facto* line ... which was the result  
40 of the manner in which both Parties initially granted concessions for

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<sup>61</sup> Letter from M. Lamine Fadka, Minister of Petroleum Resources, Republic of Côte d'Ivoire, to F. Ohene-Kena, Minister of Mines and Energy, Republic of Ghana, No. 0907 MIRMP/CAB/dh (28 November 1997). MG, Vol. VI, Annex 68.

<sup>62</sup> MG, Figure 3.19.

<sup>63</sup> MG, Figure 3.20.

<sup>64</sup> Email from Boblai Victor Glohi, Société Nationale d'Opérations Pétrolières de la Côte d'Ivoire (PETROCI), to Thomas Manu, Ghana National Petroleum Corporation (GNPC) (13 Mar. 2007). RG, Vol. IV, Annex 138.

<sup>65</sup> ITLOS/PV.17/C23/4, p. 28:1 (Mr Wood); TIDM/PV.17/A23/4, p. 31:16-18 (Mr Wood).

<sup>66</sup> ITLOS/PV.17/C23/4, p. 28:2 (Mr Wood); TIDM/PV.17/A23/4, p. 31:17-18 (Mr Wood).

<sup>67</sup> ITLOS/PV.17/C23/4, p. 25:31-32 (Mr Wood); TIDM/PV.17/A23/4, p. 29:10-11 (Mr Wood).

1 offshore exploration and exploitation of oil and gas. This line of adjoining  
2 concessions, which was tacitly respected for a number of years [in fact, it  
3 was only for 10 years] ... does appear to the Court to constitute a  
4 circumstance of great relevance for the delimitation.<sup>68</sup>

5  
6 The Court made clear that it was “not here making a finding of tacit agreement  
7 between the Parties”.<sup>69</sup>

8  
9 Nevertheless:

10  
11 it is evident that the Court must take into account whatever indicia are  
12 available of the line or lines which the Parties themselves may have  
13 considered equitable or acted upon as such – if only as an interim solution  
14 affecting part only of the area to be delimited. ... It was drawn by each of  
15 the two States separately, Tunisia being the first to do so, for the purposes  
16 of delimiting the eastward and westward boundaries of petroleum  
17 concessions, a fact which, in view of the issues at the heart of the dispute  
18 between Tunisia and Libya, has great relevance.<sup>70</sup>

19  
20 Mr President, that is our case, except that our case for relevant circumstance is far  
21 stronger. Instead of a 10-year *modus vivendi*,<sup>71</sup> here there was a 50-year *modus*  
22 *vivendi*. Professor Pellet has helpfully described this “scholarly Latin term” as “the  
23 practice pursued by the two countries – a longstanding practice”.<sup>72</sup> Without any  
24 explanation or citation to authority, however, he tells us: “even if existence were to  
25 be established *quod non*, a *modus vivendi* cannot be held to be a relevant  
26 circumstance leading to a readjustment of the line”.<sup>73</sup> Why not? His brusque  
27 conclusory statement does not appear to be supported by the case law. To the  
28 contrary, it contradicts the fundamental holding of *Tunisia/Libya*.

29  
30 To be sure, that case preceded the blossoming of the three-step  
31 equidistance/relevant circumstances process, but *Tunisia/Libya* tells us at least two  
32 things. First, the longstanding practice of the Parties to respect a *de facto* line,  
33 separately adopted, as the common limit of their oil concessions “constitute[s] a  
34 circumstance of great relevance for the delimitation”.<sup>74</sup>

35  
36 Mr President, we respectfully submit that a “circumstance of great relevance” is a  
37 relevant circumstance.

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<sup>68</sup> *Continental Shelf (Tunisia v. Libyan Arab Jamahiriya)*, Judgment, I.C.J. Reports 1982, p. 18 (hereinafter “*Tunisia v. Libya*, Judgment”), para. 96.

<sup>69</sup> *Ibid.*, para. 118.

<sup>70</sup> *Ibid.*, para. 118.

<sup>71</sup> See *ibid.*, para. 21 (noting that Tunisia “granted its first offshore concession in 1964[,]” 10 years before Libya, in 1974, “granted a concession ... further west than the equidistance line”, resulting in “an overlapping of claims”).

<sup>72</sup> ITLOS/PV.17/C23/6, p. 9:38-39 (Mr Pellet); TIDM/PV.17/A23/6, p. 12:40 - 13:1 (Mr Pellet).

<sup>73</sup> ITLOS/PV.17/C23/6, p. 12:26-28 (Mr Pellet); TIDM/PV.17/A23/6, p. 13:37-39 (Mr Pellet): “even if existence were to be established *quod non*, a *modus vivendi* cannot be held to be a relevant circumstance leading to a readjustment of the line”.

<sup>74</sup> *Tunisia v. Libya*, Judgment, para. 96.

1 Second, the Parties' longstanding practice constitutes proof of the delimitation line  
2 that both Parties considered equitable.<sup>75</sup> We say these factors are present here, and  
3 they entirely support Ghana's case that the 50-year practice of the Parties  
4 constitutes, at the very least, a relevant circumstance requiring an adjustment of the  
5 provisional equidistance line. All this practice and all of these laws cannot mean  
6 nothing.

7  
8 Mr President, before turning to the extension of the boundary beyond 200 nautical  
9 miles, I would like to contribute a few thoughts, which, hopefully, the Special  
10 Chamber will find helpful, on which provisional equidistance line we are asking you  
11 to adjust. There are two: Ghana's and Côte d'Ivoire's. As both Parties have told you,  
12 there is very little difference between them. Ghana told you last week that the two  
13 lines were separated by less than a mile at the territorial sea limit, and by less than  
14 five nautical miles at the EEZ limit.<sup>76</sup> Professor Miron placed them even closer, at a  
15 separation of just 800 metres at 12 nautical miles, and 8.6 km at 200 nautical  
16 miles.<sup>77</sup> We will accept her measurements.

17  
18 The sources of these very minor differences are two. First, we take different routes to  
19 get from BP 55 to the low water line and the starting point for the maritime boundary.  
20 Ghana's route is shorter and more direct. It extends for 157 metres. Côte d'Ivoire  
21 extends the azimuth connecting BP 54 and BP 55, to the low water line, effectively  
22 converting BP 54 into the land boundary terminus, contrary to the Parties'  
23 agreement. Also, their route to the low water line is longer. There was some  
24 confusion generated by the fact that the Parties' calculated these distances on  
25 different charts but if the same chart is used, Ghana's route to the low water line is  
26 shorter and more direct, and is faithful to the agreement recognizing BP 55, not  
27 BP 54, as the LBT.

28  
29 The second difference is caused by the Parties' reliance on different charts to depict  
30 the low water line. Mr President, neither chart is perfect. BA 1383, which is Ghana's  
31 official chart, is based on coastal data collected in the mid-19<sup>th</sup> century.<sup>78</sup> So is  
32 SHOM chart 7786, which was the chart Côte d'Ivoire relied on until 2015. The two  
33 charts are virtually identical. They were considered authoritative by the Parties  
34 throughout their negotiations, between 2008 and 2014, and right up through the  
35 commencement of these proceedings. The newly collected satellite data confirms  
36 their reliability. There is very little difference between the satellite-derived coastlines  
37 produced by Argans and EOMAP and the coastlines shown on the BA and SHOM  
38 charts. That is why the two equidistance lines are so close together.

39  
40 Côte d'Ivoire argues that BA 1383 is "not the most appropriate for delimitation"  
41 because of its scale of 1:350,000.<sup>79</sup> But that was not ITLOS's view in

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<sup>75</sup> *Ibid.*, para. 118.

<sup>76</sup> ITLOS/PV.17/C23/2, p. 31:38-40 (Mr Reichler); TIDM/PV.17/A23/2, p. 39:2-4 (Mr Reichler).

<sup>77</sup> ITLOS/PV.17/C23/5, p. 33:1-3 9 (Ms Miron); TIDM/PV.17/A23/5, p. 40:34-35 (Ms Miron).

<sup>78</sup> See RG, para. 3.28.

<sup>79</sup> ITLOS/PV.17/C23/5, p. 31:30-32 (Ms Miron); TIDM/PV.17/A23/5, p. 38:36-37 (Ms Miron).

1 *Bangladesh/Myanmar*, where the Tribunal constructed the provisional equidistance  
2 line based on chart BA 817,<sup>80</sup> which has the same scale.<sup>81</sup>

3  
4 As regards the age of the data, Ghana can understand that there might be a  
5 preference to use charts based on more recently obtained data. All things being  
6 equal, newer is probably better than older, but we would caution the Special  
7 Chamber about doing this in this case, for the four reasons provided by  
8 Ms Brillembourg.

9  
10 First, it would be unusual for a court or tribunal to rely on a chart prepared and  
11 adopted by a State party during the course of litigation to establish the provisional  
12 equidistance line. Such a chart is inherently suspect<sup>82</sup> especially where, as here, it  
13 leads to a new provisional equidistance line that just so happens to give Côte d'Ivoire  
14 its desired "fair share" of an active oil field. What a happy coincidence for Côte  
15 d'Ivoire. Professor Miron cited three cases, but in fact this has not been done before.  
16 The closest case is *Guyana v. Suriname* in which the new chart added just a single  
17 base point, which, it was agreed, had only negligible effect on the provisional  
18 equidistance line.<sup>83</sup> It did not result in an entirely new one.

19  
20 Second, neither Côte d'Ivoire nor Argans have explained how their satellite images  
21 were used to create the coastlines depicted on the new chart. Professor Miron said  
22 she did not want to burden you with the technical details,<sup>84</sup> but you – or your  
23 technical expert – will not find this adequately explained in Argans' report either.  
24 They do not explain, for example, how they went about combining the various data  
25 elements to achieve their composite depiction of the low water lines. Ghana's  
26 technical experts have tried to replicate the results depicted by Argans, using  
27 Argans' own data and based on their report, but they have been unable to do so.

28  
29 Third, satellite-derived bathymetry data is subject to question when it is derived from  
30 coasts like the ones here. This is because, as Ms Brillembourg explained, the high  
31 degree of turbidity produced by the wave action in the vicinity of the LBT makes it  
32 difficult to know whether the image reflects the seafloor or particles floating in the  
33 water.<sup>85</sup> On the Côte d'Ivoire side, Argans supplemented this with ground surveys of  
34 the beach profile and water depth, but it never sought permission to do this on  
35 Ghana's side. This presents a related problem. Different methods were used to  
36 determine the coastline on each side of the LBT. The coastline on the Ghana side,  
37 as depicted by Argans, is therefore less reliable.<sup>86</sup>

38

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<sup>80</sup> *Bangladesh v. Myanmar*, Judgment, para. 156.

<sup>81</sup> See Maryland Nautical, British Admiralty Nautical Chart 817 Elephant Point to Manaung (Cheduba) Island, available at <https://mdnautical.com/i-bay-of-bengal/6897-british-admiralty-nautical-chart-817-elephant-point-to-manaung-cheduba-island.html>.

<sup>82</sup> ITLOS/PV.17/C23/5, p. 31:30-32 (Ms Miron); TIDM/PV.17/A23/5, p. 38:36-37 (Ms Miron).

<sup>83</sup> *Delimitation of the Maritime Boundary between Guyana and Suriname (Guyana v. Suriname)*, UNCLOS Annex VII Tribunal, Guyana's Reply of 1 April 2006, para. 1.10.

<sup>84</sup> ITLOS/PV.17/C23/5, p. 32:24-26 (Ms Miron); TIDM/PV.17/A23/5, p. 40:5-7 (Ms Miron).

<sup>85</sup> ITLOS/PV.17/C23/2, p. 18:11-34 (Brillembourg); TIDM/PV.17/A23/2, p. 23:18-37 (Brillembourg).

<sup>86</sup> See ITLOS/PV.17/C23/2, p. 18:2-9 (Brillembourg); TIDM/PV.17/A23/2 pp. 22:34 -23:8 (Brillembourg).

1 Fourth, there was an agreement between the Parties to use their then-existing  
2 official charts.<sup>87</sup> The meeting at which this agreement was reached was co-chaired  
3 by the Attorney General and former Agent of Ghana, and the current Agent of Côte  
4 d'Ivoire, Mr Toungara. It was not a mere technical meeting.<sup>88</sup> Professor Miron is  
5 correct to point out that the agreement contemplated the use of satellite imagery.<sup>89</sup>  
6 But, as was clarified at the very next meeting of the Parties, this was intended to  
7 supplement the data on the official charts, not to replace it.<sup>90</sup>

8  
9 Mr President, Ghana assumes that the Special Chamber will consult its own  
10 technical expert to evaluate these issues, and in any event trusts in your wisdom to  
11 select the appropriate chart or charts for the construction of the provisional  
12 equidistance line. What is most important to the achievement of the equitable  
13 solution required by articles 74 and 83 is that the provisional equidistance line be  
14 adjusted to take account of the relevant circumstance that Ghana has identified  
15 based on the longstanding practice of the Parties.

16  
17 With this in mind, Côte d'Ivoire tells us in its written pleadings that its provisional  
18 equidistance line has an average bearing of 191 degrees.<sup>91</sup> This is very similar to the  
19 customary equidistance boundary, whose average bearing is 192 degrees. What this  
20 means is that the adjustment required to get from Côte d'Ivoire's provisional  
21 equidistance line to the customary equidistance boundary is only one degree. Surely  
22 50 years of consistent practice is worth at least a single degree. If a 50-year *modus*  
23 *vivendi* based on the Parties' mutual recognition and respect for the customary  
24 equidistance boundary is worth nothing, then it must at least be worth an adjustment  
25 that is only a single degree, and this is especially so where, as here, such an  
26 adjustment would avoid a significant number of practical difficulties, as Mr Alexander  
27 will explain shortly.

28  
29 I turn now to the boundary beyond 200 nautical miles. Mr President, at this point in  
30 the proceedings there is very little that need be said. The Parties are agreed that the  
31 boundary beyond 200 nautical miles is to be delimited by the same method that you  
32 adopt for delimitation within 200 nautical miles, and this is consistent with the case  
33 law, including especially ITLOS' judgment in *Bangladesh v. Myanmar*.

34  
35 Accordingly, it is Ghana's submission that the adjusted provisional equidistance line,  
36 or customary equidistance boundary, be extended along the same azimuth to the  
37 outer limit of national jurisdiction, as established by the CLCS.

38  
39 On this point, I wish to call only one other matter to your attention. In Ghana's written  
40 pleadings, and in the oral presentation of Ms Singh last week, we showed you *this*  
41 Ivorian map,<sup>92</sup> which they submitted to the CLCS in May 2009, depicting the precise  
42 location of their claim beyond 200 nautical miles, including its lateral limits. As we

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<sup>87</sup> ITLOS/PV.17/C23/2, p. 14:1-15:18 (Brillembourg); TIDM/PV.17/A23/2, pp. 18:24 – 20:7 (Brillembourg).

<sup>88</sup> Government of Ghana and Government of Côte d'Ivoire, *Minutes of the Ninth Meeting of the Ghana-Côte d'Ivoire Maritime Boundary Negotiations* (23-24 April 2014), p. 1. MG, Vol. V, Annex 60.

<sup>89</sup> ITLOS/PV.17/C23/5, p. 30:35 (Ms Miron); TIDM/PV.17/A23/5 p. 37:34 (Ms Miron).

<sup>90</sup> See Government of Ghana, *Presentation of Ghana to the 10th Ghana-Côte d'Ivoire Meeting* (May 2014), p. 2. MG, Vol. V, Annex 62A.

<sup>91</sup> See CMCI, para. 7.27.

<sup>92</sup> RG, Figure 2.4.

1 showed you previously, their claim ends in the east at the customary equidistance  
2 boundary. This raises what we consider a pertinent question: why did they stop their  
3 outer limit line there? Why at that particular point?  
4

5 They have never answered this question either in two rounds of written pleadings or  
6 in three sessions of oral argument. To be sure, they extended their claim eastward in  
7 2016, seven years later, after we were well into this litigation. However, the as yet  
8 unanswered question is why, in the first place, they took the position, in 2009, that  
9 their claim beyond 200 nautical miles terminated at the customary equidistance  
10 boundary. To borrow a phrase from Professor Sands, the question answers itself.  
11

12 Mr President, I come now to my final topic, which is the equitableness of the  
13 customary equidistance boundary. This, of course, is determined at the third and last  
14 stage of the equidistance/relevant circumstances process: the test for  
15 disproportionality. This is a test that the customary equidistance boundary plainly  
16 passes. In fact, I do not think there is any disagreement from the other side on this  
17 point.  
18

19 On Friday, Maître Pitron showed you *this* chart. We do not accept it. We consider it  
20 misleading in several ways, but it will serve the present purpose nonetheless. Based  
21 on the measurement shown here, Maître Pitron calculated that their proposed  
22 boundary – a provisional equidistance line adjusted to conform to their angle bisector  
23 – distributed the relevant area in a ratio of 7.3:1 in favour of Côte d'Ivoire. He  
24 compared this with the ratio of relevant coastal lengths, as measured by Côte  
25 d'Ivoire, of 4.2:1. From these figures, he produced what he called a ratio of ratios  
26 and told us that this was 1.73:1 in favour of Côte d'Ivoire. This, he declared, was  
27 proof of non-disproportionality, citing *Nicaragua v. Colombia*.<sup>93</sup>  
28

29 Mr President, we examined the judgment in *Nicaragua v. Colombia* and could not  
30 find a reference to any ratio of ratios. In that case, the Court determined that the  
31 relevant area ratio was 3.44:1 in favour of Nicaragua and the relevant coast ratio  
32 was a more robust 8.2:1 in favour of Nicaragua.<sup>94</sup> Nevertheless, the Court found that  
33 this was not disproportional.<sup>95</sup> By that standard, the result achieved by Ghana's  
34 customary equidistance boundary, likewise, it is not even close to being  
35 disproportional. *This* slide shows Ghana's demonstration of the  
36 non-disproportionality of the customary equidistance boundary, from our Reply.<sup>96</sup> It  
37 shows that the relevant area ratio is 2.02:1 in favour of Côte d'Ivoire, as compared  
38 with a ratio of relevant coastal lengths of 2.55:1. Plainly there is no disproportionality  
39 here, and we consider these ratios to be the correct ones. However the same  
40 conclusion is reached if we use Côte d'Ivoire's measurement of its relevant coast,  
41 510 kilometres. The coastal length ratio would then be 4.2:1, as compared to a  
42 coastal length ratio of 2.55:1. That, too, would be less disproportional than the result  
43 in *Nicaragua v. Colombia*. Maître Pitron's test, if the Special Chamber were to accept  
44 it, confirms this. The customary equidistance boundary would produce a ratio of

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<sup>93</sup> ITLOS/PV.17/C23/6, p. 18:11-35 (Mr Pitron); TIDM/PV.17/A23/6, p. 41:41 - 42: 9 (Mr Pitron).

<sup>94</sup> *Nicaragua v. Colombia*, para. 243.

<sup>95</sup> *Id.*, para. 247.

<sup>96</sup> See RG, Figure 3.19.

1 ratios of 2.08:1, which is less than that in *Nicaragua v. Colombia*, which Maître Pitron  
2 tells us was 2.4:1 – hence no disproportionality.<sup>97</sup>

3  
4 Mr President, disproportionality appears to be somewhat like pornography. As the  
5 justices of the United States Supreme Court once said, “We cannot define it, but we  
6 know it when we see it”.<sup>98</sup> We appreciate Maître Pitron’s effort to define it,  
7 disproportionality that is. There may be other ways to test for it, but we see no  
8 reason to object to his method of reducing it to mathematics, by dividing the coastal  
9 length ratio by the relevant area ratio; and, by that standard, the inevitable  
10 conclusion that is reached is that the customary equidistance boundary is not  
11 disproportional and that it constitutes an equitable solution for both Parties. *This*  
12 chart, at tab 12, depicts Ghana’s submission on the course of that boundary, from  
13 the land boundary terminus to the outer limit of national jurisdiction. The turning  
14 points are identified on the chart.

15  
16 Mr President, I am sure you will be relieved to hear that this concludes my  
17 submission on the delimitation of the maritime boundary by the equidistance/relevant  
18 circumstances method. It is Ghana’s primary position that the boundary is already  
19 agreed and that no new delimitation is necessary. However, in the event that the  
20 Special Chamber determines that a new delimitation is required, the boundary  
21 should be in precisely the same location. Ghana’s submission on the course of that  
22 boundary is depicted on *this* chart.<sup>99</sup> This will also be reflected in the formal written  
23 submissions presented by the Agent of Ghana at the conclusion of this session.

24  
25 Mr President, distinguished Members of the Special Chamber, it remains only for me  
26 to thank you for your kind courtesy and especially your patient attention today and  
27 throughout these hearings, and to reiterate what a great honour it has been for me to  
28 appear before you.

29  
30 I respectfully request that you call my colleague Mr Alexander to the podium.

31  
32 **THE PRESIDENT OF THE SPECIAL CHAMBER** (*Interpretation from French*):

33 Thank you, Mr Reichler, for your presentation. I now give the floor to Mr Daniel  
34 Alexander.

35  
36 **MR ALEXANDER:** Mr President, Members of the Special Chamber, may I respond  
37 briefly to the points made concerning the provisional measures Order and deal with a  
38 specific consideration arising out of the various petroleum concession agreements.  
39 Given the timing, it may be convenient to deal with the first before the coffee break  
40 and the second after the break, but we will see how we go.

41  
42 On provisional measures, first, we entirely agree with Côte d’Ivoire that provisional  
43 measures have a binding character. Put simply, failure to comply with such orders  
44 amounts to a breach of international law. As I have said, Ghana believes that it did  
45 comply with the Special Chamber’s Order, to it and its contracting partners’  
46 considerable cost. Moreover, subject to a few points of clarification, which I will come

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<sup>97</sup> ITLOS/PV.17/C23/6, p. 18:27-28 (Mr Pitron); TIDM/PV.17/A23/6, p. 25:3 (Mr Pitron).

<sup>98</sup> See *Jacobellis v. Ohio*, 378 U.S. 184, 197 (Stewart, J., concurring).

<sup>99</sup> See RG, Figure 4.3.

1 on to, there is also much agreement on the facts, although there are important ones  
2 which Côte d'Ivoire does not mention.

3  
4 The real difference between the Parties surrounds interpretation of the Order. We  
5 agree with Côte d'Ivoire that it was, in the words of Mr Kamara, a compromise, which  
6 sought to protect the interests of both Parties in a balanced way. The central  
7 question for the Special Chamber is how you treat that compromise as having been  
8 struck, against the background of the realities on the ground, of which you were very  
9 obviously aware.

10  
11 Your Order did not seek to micro-manage the relationship between these mature and  
12 generally cooperative Parties. Instead, you provided measures in general terms. The  
13 issue that divides the Parties is how the general prescriptions are to be applied to  
14 particular factual situations. With respect, Côte d'Ivoire only looks at one side of this  
15 compromise in its approach to interpretation. Ghana invites you to hold that its  
16 interests, as reflected in the Order, are equally important in determining how it  
17 should apply to these circumstances.

18  
19 Let me deal first with the point on Ghana's approach to requiring compliance with the  
20 Order. On this, Mr Kamara is, with respect, not right to say that all Ghana did was to  
21 act as a messenger.<sup>1</sup> The letter sent to all operators not only enclosed the Order but  
22 specifically requested the operators to comply with it. It said: "I invite you to read the  
23 Order carefully and take appropriate steps to ensure that [your company's] activities  
24 comply with it."<sup>2</sup>

25  
26 That was a request made in a formal letter from the authorized representative of the  
27 State, the Attorney General and Minister for Justice, which you have in tab 13 of your  
28 Judges' folder. It was copied to representatives of Côte d'Ivoire. It was the best way  
29 for Ghana both to ensure that the terms of the Order were communicated and that  
30 the right undertakings were required to ensure compliance. Ghana itself would not  
31 be in a position to undertake a number of the acts proscribed by the Order. Ghana  
32 does not operate its own oil rigs. In order to optimize compliance, it had to send the  
33 Order to the operators and instruct them to comply with it, which is what Ghana did.

34  
35 As to compliance, again it is not right to say that Tullow does not confirm  
36 compliance. "Instructions" were defined as including the Order in Mr McDade's  
37 statement.<sup>3</sup> Mr McDade said specifically that Tullow and its co-venturers "*have*  
38 complied strictly with the Instructions".<sup>4</sup> The evidence before you states that there  
39 was compliance.

40  
41 I then turn to the two issues on which Côte d'Ivoire has focused – cooperation and  
42 new drilling – and I will first deal with cooperation.

---

<sup>1</sup> A "simple messenger, voire coursier", to use the words of Mr Kamara. TIDM/PV.17/A23/6, p. 38:31 (Mr Kamara); ITLOS/PV.17/C23/6, p. 31:1 (Mr Kamara).

<sup>2</sup> Second Statement of Paul McDade on Behalf of Tullow Poil plc (11 July 2016), Annex C (emphasis added). RG, Vol. IV, Annex 166.

<sup>3</sup> *Ibid.* para. 2.

<sup>4</sup> *Ibid.* para. 10.



1 As to this, may I reinforce three points to highlight that Ghana cooperated fully and  
2 reasonably within the terms of the Order?

3  
4 First, as the materials before you at the provisional measures stage showed, the  
5 Parties had already cooperated together in a number of respects. The Order  
6 provided that the Parties should “pursue cooperation” (in English) or “*poursuivront*  
7 *leur coopération*” (in French).<sup>5</sup>

8  
9 In ordering that cooperation should be pursued or continued, the Special Chamber  
10 did not require Ghana to agree to any request made by Côte d’Ivoire, no matter how  
11 onerous, and no matter what information it sought.

12  
13 In particular, the Order did not require Ghana to undertake a specific new set of  
14 activities by way of cooperation in this respect quite different to those which had  
15 taken place before. Ghana had not provided detailed records of activities in the  
16 disputed area before this claim commenced. None had previously been requested by  
17 Côte d’Ivoire. Recall also that there was no shortage of public information about the  
18 pursuit of the TEN project throughout the period. Côte d’Ivoire itself sent some of this  
19 to Ghana, so it was not in the dark as to what was happening.

20  
21 Ghana continued to cooperate, as it had previously done. In fact, it stepped up and  
22 formalized cooperation in a number of key areas such as with respect to the  
23 environment. There were more meetings in that area and a specific summary report  
24 to Côte d’Ivoire, which Côte d’Ivoire did not then follow up.

25  
26 A general summary was sufficient for Côte d’Ivoire in the context of the  
27 environmental issues. There is no reason why Côte d’Ivoire should not have similarly  
28 been content with the general information as to continuation of well activities, which  
29 was already publicly available.

30  
31 Second, Côte d’Ivoire did not make any specific requests as to how Ghana should  
32 cooperate in its request for provisional measures. To the contrary, its key request  
33 was that there should be no petroleum activities of any kind in the disputed area. The  
34 Special Chamber did not make any specific order as to how cooperation should take  
35 place.

36  
37 Third, Côte d’Ivoire first asked for daily records of well activity in July 2015,<sup>6</sup> some  
38 two to three months after the Order. Ghana considered, as I have said, that this was  
39 not necessary or reasonable. Records of that kind had never been provided before.  
40 It is important to understand that these are *prima facie* confidential. Third parties  
41 have contractual and intellectual property rights in records of that kind; they cannot  
42 simply be handed over without a specific order of a court or a tribunal.<sup>7</sup> Côte d’Ivoire

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<sup>5</sup> Order on Provisional Measures, para. 108(1)(e).

<sup>6</sup> *Letter* from Agent of Côte d’Ivoire to Agent of the Republic of Ghana, No. 068 MPE/CAB (27 July 2015). CMCI, Vol. IV, Annex 54.

<sup>7</sup> See Petroleum Agreement between the Government of the Republic of Ghana/ Ghana National Petroleum Corporation (GNPC), and Tullow Ghana Limited/Sabre Oil and Gas Limited/Kosmos Energy Ghana HC, in respect of The Deepwater Tano Contract Area (10 March 2006) (excerpts), Art. 16.4 (requiring Ghana to treat such records as confidential). MG, Vol. IV, Annex 18.

1 did not follow this up for a year. In July 2016, they requested daily records again,  
2 personnel on site and a host of other information.

3  
4 It was only after that, when it approached you for the first time with a request for an  
5 order for specific documents, a class of historical records were provided to confirm  
6 the facts concerning activity in the disputed area as soon as the Special Chamber  
7 ordered them. They confirm what was said in Mr McDade's statement, and we would  
8 respectfully submit that that indicates Ghana's cooperative approach, not a lack of  
9 cooperation.

10  
11 Can I turn to the "new" drilling point? Again here, Côte d'Ivoire seeks to diminish the  
12 effect of your Order taken as a whole. May I touch on two general points and then  
13 make a few remarks about NT07-WI, on which we have all focused?

14  
15 First, the Special Chamber was informed that there would be activity particularly on  
16 the TEN fields to make the fields ready for production. You took that into account in  
17 striking the balance. There was duly authorized development activity undertaken by  
18 drilling rigs in the period.

19  
20 Côte d'Ivoire does not dispute that such rigs undertake a wide range of activities with  
21 respect to wells, many of which do not involve drilling. You can see that in the  
22 sample records provided by Côte d'Ivoire in the Judges' folders. It would not have  
23 been possible to continue exploration and exploitation of the kind expressly  
24 permitted by the Order, or to avoid irreparable harm, without such activity. On Côte  
25 d'Ivoire's theory, instead of being free to exploit the already drilled wells, Ghana  
26 would have had to make its own irreparable damage worse.

27  
28 Second, as to the programme of work, one would naturally expect some increase in  
29 activity to prepare fields for production once a viable discovery had been made. That  
30 is what the materials show – there was no particular acceleration.

31  
32 Third, Côte d'Ivoire greatly exaggerates the impact of completing NT07-WI to its  
33 full length. Moreover, it omits to mention that, before that was done, NT07-WI had  
34 already been drilled to a depth approaching 3 kilometres. None of its slides refer to  
35 this and they take up the story only after the provisional measures Order.

36  
37 This is unfair. It is totally different from the example given by Côte d'Ivoire of drilling  
38 an entirely new well from scratch, which had only been drilled to a depth of one  
39 metre. Most of this well had already been drilled. The incremental impact of  
40 increasing its length was very limited both for that well and more generally.  
41 Remember that on both sides of the border, in Côte d'Ivoire and in Ghana, hundreds  
42 of wells have been drilled over the years. Many had been drilled in, or in close  
43 proximity to, the "disputed area". It is, we respectfully suggest, artificial to focus on  
44 the limited activity of finishing the drilling of one of them and treat that as new drilling.

45  
46 Côte d'Ivoire gives a partial account of the technical issues. They do not dispute that  
47 leaving a well half-drilled can cause problems. It is true that they can be lessened, to  
48 some extent, by temporary capping and securing of a well but it does not mean that  
49 it is best practice. There is a real difference between securing a well temporarily for a  
50 few months and leaving it in that state for up to two years or more, until final

1 judgment. Yet, that is what, on Côte d'Ivoire's case, Tullow should have done. That  
2 would have caused the kind of disproportionate and irreparable damage to Ghana  
3 that the Order sought to balance against the irreparable harm to Côte d'Ivoire and  
4 would not have been optimal for the environment.

5  
6 Côte d'Ivoire also wrongly plays down the importance of this well for production. It  
7 was, and remains, needed as a water injector well to assist production. As  
8 I explained, it has made possible the optimization of production from an important oil  
9 well, which came on stream shortly after first oil in September 2016.

10  
11 Finally, Côte d'Ivoire says nothing about the impact that Ghana's compliance with  
12 the Order had. The Order held up the drilling of all other wells, not just in the TEN  
13 fields, but in a vast maritime area.

14  
15 This is another instance of its unbalanced approach. It has, yet again, refused to  
16 offer compensation, should you decide that Côte d'Ivoire's claim to the disputed area  
17 was not justified. We would respectfully remind you of the words of Professor  
18 Lawrence Collins in his article *Provisional and Protective Measures in International*  
19 *Litigation*:

20  
21 It is inherent in the system of protective measures that the final decision  
22 may go against that party; and the party whose freedom of action is  
23 inhibited by temporary measures is normally given some recourse if it  
24 transpires that the measures were not justified by the merits of the case.<sup>8</sup>

25  
26 Members of the Special Chamber, you will, of course, all know that this is standard  
27 practice in commercial disputes in many countries of the world. Côte d'Ivoire has  
28 shown no reason why it, alone among litigants, should be exempted from that  
29 principle.

30  
31 Finally, on sanction, Ghana submits that it is reasonable to interpret your Order as it  
32 has done, and that it was right to do so, having regard to its terms. We do not  
33 understand Côte d'Ivoire to be arguing that Ghana has engaged in a deliberate  
34 breach. At worst, on Côte d'Ivoire's case, there would be a reasonable  
35 misunderstanding of what the Order required and permitted.

36  
37 There is therefore no justification for the far-reaching declaration sought by Côte  
38 d'Ivoire. Moreover, Côte d'Ivoire has not yet undertaken to compensate Ghana and  
39 third parties for losses caused by the provisional measures Order, which are real,  
40 significant and ongoing. Even assuming that Côte d'Ivoire's interpretation is the  
41 correct one, which we do not believe to be the case, it would be disproportionate and  
42 unbalanced to sanction Ghana in the manner Côte d'Ivoire seeks.

43  
44 As I said, I have one further short topic concerning the petroleum concession  
45 agreements, which I have been asked to deal with from a commercial lawyer's  
46 perspective, but since it is 27 minutes past four, I do not think I can do it justice in

---

<sup>8</sup> L Collins, *Provisional and Protective Measures in International Litigation* in *Receuil des Cours*,  
Collected Courses of the Hague Academy of International Law, Vol. 234 (1992) p. 231 (emphasis  
added). Ghana PM, Vol. IV, Annex LA-5.

1 three minutes and I would invite you to turn to the coffee break and permit me a few  
2 minutes after the coffee break before we conclude with the Agent.

3  
4 **THE PRESIDENT OF THE SPECIAL CHAMBER** (*Interpretation from French*):  
5 Thank you, Mr Alexander for your statement. Indeed, we will take the coffee break  
6 now and you will have a few minutes to finish your presentation when we return at  
7 five o'clock.

8  
9 (Break)

10  
11 **THE PRESIDENT OF THE SPECIAL CHAMBER** (*Interpretation from French*): We  
12 resume the oral pleadings for Ghana and straight away I give the floor to the speaker  
13 who was there before the break, Professor Daniel Alexander. You have the floor.

14  
15 **MR ALEXANDER:** Thank you. Mr President, Members of the Special Chamber, may  
16 I finally spend a few minutes on one other aspect of Côte d'Ivoire's approach and  
17 that is to Ghana's petroleum concession agreements? From the perspective of  
18 commercial law, Côte d'Ivoire appears regrettably relaxed about causing Ghana  
19 problems in the middle of its development programme.

20  
21 Let me give an example.

22  
23 The Tullow agreement, which covers the TEN blocks that we have been looking at  
24 intensively in this case, was made as long ago as March 2006. That was three years  
25 before Côte d'Ivoire raised any issues with Ghana, and some nine years before it  
26 first put forward its provisional equidistance line. It is, like other concession  
27 agreements, a very long-term agreement; it lasts for 30 years. It entitles the  
28 licensees to explore and produce throughout the licensed area, an area in which  
29 Ghana has been active for many years and in respect of which Côte d'Ivoire had not  
30 protested over decades.

31  
32 Yet Côte d'Ivoire is inviting you to unravel the basis of that and other important  
33 agreements which employ the customary boundary many years after they were  
34 made and implemented.

35  
36 That agreement, like others which employ the customary boundary, provides for a  
37 precise delineation of the block licensed, along the customary equidistance line. You  
38 see that in the slide that is up on the screen, which is taken from the contract  
39 between GNPC, Tullow, Sabre and Kosmos.<sup>9</sup> You have in your papers the precise  
40 delineation of that in the agreement. You also have, in the Reply, a larger-scale-  
41 version map showing the concessions more generally in this area which have  
42 respected this line.

43  
44 You have seen Côte d'Ivoire's case as to the impact their claim would have, namely  
45 to slice through all or part of these carefully marked out blocks. Côte d'Ivoire has  
46 shown itself in this issue to be somewhat aggressive and inconsistent, with limited

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<sup>9</sup> Petroleum Agreement among the Government of the Republic of Ghana/ Ghana National Petroleum Corporation (GNPC), and Tullow Ghana Limited/Sabre Oil and Gas Limited/Kosmos Energy Ghana HC, in respect of The Deepwater Tano Contract Area (10 March 2006) (excerpts), Annex I. MG, Vol. IV, Annex 18.

1 regard for the impact of its actions on Ghana or its licensees. In saying that the  
2 Special Chamber should depart from the customary equidistance boundary, they  
3 are, in effect, inviting you to unleash a set of consequential disputes with respect to  
4 these licensed blocks.

5  
6 That, Members of the Special Chamber, is a programme for mayhem, potentially  
7 affecting not just these States and their public authorities but also third parties.  
8 It is a fundamental principle of international law, as much as domestic law, that *pacta*  
9 *sunt servanda*. It is true that Côte d'Ivoire is not party to Ghana's concession  
10 agreements but there is no doubt that its actions are calculated to undermine them.

11  
12 May I add a further point? This is an area of industry in which there are huge upfront  
13 risks and huge upfront costs. Oil is not easy to find and recover, particularly in deep  
14 waters. Investments measured in hundreds of millions, or billions, may show no  
15 return at all for many years. The Tullow agreement is a good example. The  
16 agreement for that block was made in 2006, yet the first oil produced was in 2016,  
17 ten years later. It is particularly undesirable for a State to undermine its neighbour  
18 and partner's work over many years just at the point that this has started to bear fruit.  
19 That, we respectfully submit, is inequitable.

20  
21 There is no value in the Special Chamber adopting an approach which may call into  
22 question existing contractual arrangements, including arrangements relating both to  
23 physical and intellectual property, which have been effectively and productively  
24 operated for many years. This is all the more so in the context of longstanding  
25 knowledge, agreement and acquiescence. Parties come before a tribunal to bring  
26 disputes to an end, not to open the door to a set of different ones.

27  
28 The Parties here spent six years attempting unsuccessfully to formalize a boundary  
29 treaty. They made little progress. In fact, as time passed, they grew farther apart as  
30 Côte d'Ivoire repeatedly expanded its claim.

31  
32 In 2014, they both agreed to submit this matter for final and binding determination by  
33 this Special Chamber. Any departure from the customary equidistance boundary,  
34 within the 87 nautical miles that are covered by contractual obligations on both sides,  
35 would generate a specific uncertainty rather than certainty, and specific instability  
36 rather than stability. It would also, we submit, be inconsistent with the sound  
37 administration of justice, and the duty of courts and tribunals, if they can, to finally  
38 resolve the disputes that are brought before them.

39  
40 These are, we would respectfully submit, additional reasons for the principles of  
41 certainty, equity and stability, to apply, principles which the Arbitral Tribunal in  
42 *Barbados v. Trinidad and Tobago* identified as being "integral parts of the process of  
43 delimitation".<sup>10</sup> They are principles to which both sides are committed, and which  
44 should be upheld. Both Parties agree that these are the fundamental principles upon  
45 which you should act, and we would respectfully submit that they point strongly to  
46 the Special Chamber confirming the customary boundary.

47  

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<sup>10</sup> See ITLOS/PV.17/C23/5, p. 10:28 – 11:2 (Mr Pellet); TIDM PV, 5, p. 11:15 – 12:1 (Mr Pellet);  
*Barbados v. Trinidad and Tobago*, UNCLOS Annex VII Tribunal, Award (11 Apr. 2006), para. 244.

1 May I say this in conclusion: in October 1986, ten years before the foundation stone  
2 of this magnificent building was laid, I was studying the Law of the Sea Convention  
3 at university. It was taught to me as an absolutely exemplary text of international law-  
4 making. Then I was diverted into other areas of commercial law and practice but it  
5 stuck in my mind and it has been a particular pleasure and honour to have appeared  
6 before you in this case. May I thank you for your attention, offer my apologies to the  
7 interpreters and invite you to give the floor to the Agent for Ghana.

8  
9 **THE PRESIDENT OF THE SPECIAL CHAMBER** (*Interpretation from French*):

10 Thank you, Mr Alexander, for your presentation.

11  
12 We will now hear the last speaker from the delegation for Ghana. Before I give the  
13 floor to the Agent for Ghana, I would remind you that paragraph 2 of article 75 of the  
14 Rules of the Tribunal provides that at the conclusion of the last statement made by a  
15 party at the hearing, its Agent, without recapitulation of the arguments, shall read  
16 that party's final submissions. A copy of the written text of these, signed by the  
17 Agent, shall be communicated to the Special Chamber and transmitted to the other  
18 party.

19  
20 I now invite the Agent for Ghana, Ms Gloria Afua Akuffo to give her presentation and  
21 to read the final submissions of Ghana.

22  
23 **MS AFUA AKUFFO:** Mr President, Members of the Special Chamber, it is my  
24 privilege to address you again on behalf of the Republic of Ghana, this time to bring  
25 to a close our oral submissions.

26  
27 Over the past week the speeches delivered by the Parties in the matter before this  
28 Special Chamber have revealed how far apart they are on many fundamental issues.  
29 The main issues that the Special Chamber must determine are the following:  
30 (1) whether or not there already exists a maritime boundary between the two States,  
31 as recognized over the decades; (2) in the unlikely event that you answer that  
32 question in the negative, the exact location of the maritime boundary between the  
33 two States.

34  
35 We say that our two States have an existing but not-formalized maritime boundary,  
36 which we have called in these proceedings the "customary equidistance boundary".  
37 On their part, our Ivorian neighbours flatly deny the fact of a common maritime  
38 boundary and suggest that this case concerns an "undelimited area" – a *tabula rasa*,  
39 in effect, a place without a boundary. Separated by such a wide gulf, the Parties  
40 have entrusted this Special Chamber with the task of deciding these issues. It will be  
41 for you, as you deliberate over the coming months, to resolve the question where our  
42 common maritime boundary lies.

43  
44 In finding an answer to these questions, you will, of course, be guided by the need to  
45 arrive at an equitable solution that will do justice to the Parties in accordance with  
46 law. The Special Chamber may not engage in a leap into the world of *ex aequo et*  
47 *bono* simply to secure for our friends on the other side "just a fair share" of the  
48 hydrocarbon resources that, according to them, Ghana unilaterally lays exclusive  
49 claim to.

1 Côte d'Ivoire has hinged its claim on fairness, both when arguing for its bisector  
2 approach and when arguing for an adjustment to a provisional equidistance line.  
3 Fairness or equity for it, however, means getting the Special Chamber to increase its  
4 share of the area's hydrocarbon resources – at Ghana's expense. From their  
5 presentations, it would appear that a tribunal hearing a maritime boundary case  
6 could just draw a line wherever a party asked it to, unfettered by jurisprudence,  
7 science or history, simply to give advantage to that party. "Please move the  
8 boundary", Côte d'Ivoire says, "so we can get a foothold in the newly discovered oil  
9 reserves".

10  
11 Mr President, it goes without saying that this is not how you will approach your task.  
12 The principles for achieving an equitable solution as laid down by the Convention,  
13 and which have been applied in a wealth of cases, establish that an equitable  
14 solution must be grounded in geography, in science, in a careful understanding of  
15 the history in the unique circumstances of this case, as well as the conduct of the  
16 Parties. It is my submission that only one Party has provided the needed assistance  
17 in this regard to the Special Chamber; that Party is Ghana.

18  
19 As my colleagues before me have explained, Côte d'Ivoire has, unfortunately,  
20 avoided confronting the many problems inherent in the arguments it advances in  
21 opposition to Ghana's clear, consistent and straightforward case. Instead of  
22 engaging with the maps and charts, and the laws and decrees – including those of  
23 Ivorian provenance – it conspicuously avoids them. They are brushed off as the  
24 products of private parties, even though they are produced by the Ivorian State itself.  
25 The presidential decrees and national laws recognizing an international border with  
26 Ghana are swept away as "mere legislation".<sup>1</sup> Côte d'Ivoire recasts half a century of  
27 mutual practice respecting an agreed equidistance boundary as nothing more than  
28 Ghana's unilateral attempt to impose a *fait accompli* on its neighbour.

29  
30 Côte d'Ivoire's claims of constant opposition in the face of alleged persistent  
31 unilateralism on Ghana's part are as incredible as they are untrue. They are  
32 designed to avoid engaging with the inescapable evidence, which fundamentally  
33 undermines its case. They simply cannot escape from 50 years of mutual practice,  
34 however hard they try, in implementation of and reinforced by their own official maps,  
35 laws and decrees.

36  
37 Côte d'Ivoire has failed to provide answers to its own maps, which unquestionably  
38 depict the location of the customary equidistance boundary with Ghana's waters  
39 clearly marked. Côte d'Ivoire has failed to deal with its own legislation, which  
40 demonstrates their commitment to equidistance as the technique employed in  
41 determining the maritime boundary of our countries. Little wonder that Côte d'Ivoire  
42 showed not a single contemporaneous map, presumably because they recognize  
43 that every single historical map depicts the boundary from which they now seek to  
44 depart.

45  
46 Mr President, Members of the Special Chamber, Côte d'Ivoire treated the geography  
47 as casually as they did the history. It was easy to lose count of the different ways in

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<sup>1</sup> See ITLOS/PV.17/C23/4, pp. 25:25 – 26:2 (Mr Wood); TIDM/PV.17/A23/4, p. 2/9am, p. 29:11-12 (Mr Wood).

1 which they tried to portray the coast. Arrows went one way and then the other,  
2 coastal directions twisting and turning; land was added; land was removed,  
3 depending on what point they wanted to make at any particular moment.  
4

5 Again, we ask you not to be misled by this scattershot approach. As Mr Reichler has  
6 explained, the law here is guided by geography and science, and the law has  
7 developed clear and settled rules for their application to any particular coast. There  
8 is, despite Côte d'Ivoire's protestations to the contrary, an existing boundary, and it is  
9 based on equidistance. If, contrary to our view, there is no boundary, then the law  
10 dictates that you should not resort to another method of delimitation unless it is  
11 unfeasible to construct an equidistance line. And since both parties have easily done  
12 so, that surely puts an end to this notion of bisector, an argument which should never  
13 have been made, and which appears concocted, unfortunately, only to increase the  
14 so-called "area in dispute".  
15

16 The plain fact is that Côte d'Ivoire is, quite openly, trying to move the line to the east  
17 so as to get at least a foothold in the TEN reserves, with the chaotic, complicated  
18 and confusing consequences that Mr Alexander outlined.  
19

20 Côte d'Ivoire seems to be arguing for some sort of distributive justice, presenting  
21 itself as a country deprived of hydrocarbon resources. The answer to this is that the  
22 law is clear: one does not draw international boundaries so as to share out natural  
23 resources. Côte d'Ivoire's approach is simply wrong in law.  
24

25 In any event, as Professor Sands has shown, Côte d'Ivoire already owns a vast  
26 portion of the resource-rich Tano-Ivorian basin. Contrary to the picture it paints of  
27 itself in these proceedings, Côte d'Ivoire has over many years produced far more oil  
28 than Ghana, and it is today producing oil in significant quantities from its own  
29 maritime territory, in the same basin that extends across into Ghana. It has indicated  
30 that it is proposing to ramp up production in the near future.  
31

32 It is probable that there are greater recoverable oil resources lying in Côte d'Ivoire's  
33 existing territory. If that turns out to be the case, would that constitute a legitimate  
34 and legal basis for a claim by Ghana that fairness requires that a new maritime  
35 boundary be drawn so that Ghana might enjoy a fair share of the newly discovered  
36 reserves on Côte d'Ivoire's maritime territory? Definitely not! I can assure you,  
37 Mr President, Members of the Special Chamber, that we will not try to take their oil,  
38 we will not try to move the boundary or change the shape of their coast or invoke  
39 arguments about historical accidents. We would wish them *bonne chance* in  
40 extracting it and using it wisely, as we are also doing, to better the lives of the  
41 people.  
42

43 But the resources in the eastern extension of the Ivorian-Tano basin on the  
44 Ghanaian side of the customary equidistance boundary are ours, and they are as  
45 important to our development as the resources in the greater part of the basin are  
46 important to Côte d'Ivoire. Ghana as a nation has always respected Côte d'Ivoire's  
47 entitlement on their side of the border, which accords with all of the case law as to  
48 how a boundary line should be determined. Until 2009, they respected our  
49 entitlement. Nothing justifies Côte d'Ivoire's attempts to change that.  
50



1 Mr President, from my perspective as Ghana's Agent, the most regrettable part of  
2 this case has been Côte d'Ivoire's attempts to portray Ghana, as I have said  
3 previously, as reckless and cynical in its development of the oil fields in the border  
4 region. They would have you believe that these developments took place unilaterally,  
5 over decades of protest by Côte d'Ivoire.  
6

7 Ultimately, you will have to judge whether this is an accurate view of our common  
8 history. We have the fullest confidence in you. We came to this Tribunal precisely  
9 because of your clear and principled approach in your case law, your commitment to  
10 stability, certainty and equity. The speakers before me have told you Ghana's side of  
11 the story – a very different picture from Côte d'Ivoire's, and one based on a wealth of  
12 clear and compelling evidence.  
13

14 As a law-abiding State, Ghana has developed oil operations only on territory which  
15 belongs to it, and which Côte d'Ivoire long recognized and accepted as belonging to  
16 Ghana. Mr President, we are not asking you to create new rights for Ghana out of  
17 those operations. Rather, we are asking you to look at how those operations came  
18 about, and what their existence tells you about the Parties' shared intentions as to  
19 the location of the boundary.  
20

21 In this context, we ask you to examine carefully how both Parties' concessions  
22 followed the customary boundary; to look at the many Ivorian government maps,  
23 which clearly mark that boundary; to weigh up the vast range of evidence which  
24 shows where the line was long agreed to lie. We ask you to take note of the fact that  
25 Côte d'Ivoire, which has been in the serious business of oil exploration for about as  
26 long as we have, never once attempted, in all those years, to extend its oil activity  
27 and interests eastwards past the customary equidistance boundary into territory that  
28 it acknowledged and knew belonged to Ghana. Finally, we ask you to reject Côte  
29 d'Ivoire's attempts to argue that an oil field built up and developed over decades  
30 should have been abandoned overnight in 2009 when Côte d'Ivoire decided that a  
31 different boundary would suit it better. The cynicism here is all that of Côte d'Ivoire,  
32 I am afraid to say, not of Ghana.  
33

34 Mr President, Ghana simply asks you to apply well-established legal principles to a  
35 clear and consistent body of evidence. We submit that the law and the evidence  
36 point inexorably to the maritime boundary observed by both Parties for half a century  
37 – the line that we have termed the customary equidistance boundary. We say that  
38 you must uphold that line either as a result of the Parties' tacit agreement or by way  
39 of an adjustment to the provisional equidistance line to achieve an equitable solution.  
40

41 Mr President, Members of the Special Chamber, it remains for me to thank you for  
42 the courteous attention with which you have listened to both Ghana's and Côte  
43 d'Ivoire's Advocates throughout the rounds of oral arguments. We thank the  
44 Registrar and his excellent staff. We thank the interpreters for a job well done. We  
45 express our deep appreciation also to our adversaries for their courtesy and  
46 cooperation.  
47

48 Mr President, eminent Members of this Special Chamber, your duty, in a nutshell, is  
49 to bring finality to this dispute with a most valued neighbour and establish certainty of  
50 legal rights and entitlements of the Parties' fortune in the conduct of their affairs in

1 the future. It would therefore be most unfortunate should a contrary outcome,  
2 characterized by renewed and disruptive disputation between our two States and  
3 extending to third parties, be triggered by the decision of this Special Chamber.

4  
5 Mr President, I will now conclude by reading the final submissions of Ghana:

6  
7 On the basis of the facts and law set forth in its Memorial and Reply, and its oral  
8 presentations, Ghana respectfully requests the Special Chamber to adjudge and  
9 declare that:

10  
11 1. Ghana and Côte d'Ivoire have mutually recognized, agreed, and applied an  
12 equidistance-based maritime boundary in the territorial sea, EEZ and continental  
13 shelf within 200 M.

14  
15 2. The maritime boundary in the continental shelf beyond 200 M follows an  
16 extended equidistance boundary along the same azimuth as the boundary within  
17 200 M, to the limit of national jurisdiction.

18  
19 3. In accordance with international law, by reason of its representations and  
20 upon which Ghana has placed reliance, Côte d'Ivoire is estopped from objecting to  
21 the agreed maritime boundary.

22  
23 4. The land boundary terminus and starting point for the agreed maritime  
24 boundary is at boundary pillar 55 (BP 55).

25  
26 5. As per the Parties' agreement in December 2013, the geographic coordinates  
27 of BP 55 are 05° 05' 28.4" N and 03° 06' 21.8" W (in WGS 1984 datum).

28  
29 6. Consequently, the maritime boundary between Ghana and Côte d'Ivoire in the  
30 Atlantic Ocean starts at BP 55, connects to the customary equidistance boundary  
31 mutually agreed by the Parties at the outer limit of the territorial sea, and then follows  
32 the agreed boundary to a distance of 200 M. Beyond 200 M, the boundary continues  
33 along the same azimuth to the limit of national jurisdiction. The boundary line  
34 connects the following points, using loxodromes:

35

<b>Point</b>	<b>Latitude</b>	<b>Longitude</b>
CEB-1 (LBT)	05° 05' 28.4" N	03° 06' 21.8" W
CEB-2	04° 53' 39" N	03° 09' 18" W
CEB-3	04° 47' 35" N	03° 10' 35" W
CEB-4	04° 25' 54" N	03° 14' 53" W
CEB-5	04° 04' 59" N	03° 19' 02" W
CEB-6	03° 40' 13" N	03° 23' 51" W

CEB-7 (200 M)	01° 48' 30" N	03° 47' 18" W
CEB-8 (Limit of National Jurisdiction)	01° 04' 43" N	03° 56' 29" W

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7. Côte d'Ivoire's claim alleging violation of the Special Chamber's Order of 25 April 2015 be rejected.

8. Côte d'Ivoire's claim alleging violation of article 83 of UNCLOS and Côte d'Ivoire's sovereign rights be rejected.

Mr President, Members of the Special Chamber, I understand that the Chamber will not sit tomorrow. Since tomorrow is Valentine's Day, on behalf of the entire team of Ghana and that of our friends from Côte d'Ivoire, we wish you a happy Valentine's Day. Thank you.

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

Thank you, Ms Afua Akuffo, for those kind final words. That was the last presentation from Ghana at this hearing. We will meet again at 10 o'clock on Thursday, 16 February 2017 to hear the second round of oral pleadings for Côte d'Ivoire. I wish you a pleasant evening and I would also like to wish you an enjoyable Valentine's Day. The sitting is adjourned.

*(The sitting closed at 5.35 p.m.)*