

INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA



2022

Public sitting

held on Monday, 17 October 2022, at 3 p.m.,
at the International Tribunal for the Law of the Sea, Hamburg,
President of the Special Chamber, Judge Jin-Hyun Paik, presiding

**DISPUTE CONCERNING DELIMITATION OF THE MARITIME BOUNDARY
BETWEEN MAURITIUS AND MALDIVES IN THE INDIAN OCEAN**

(Mauritius/Maldives)

Verbatim Record

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

<i>Present:</i>	President	Jin-Hyun Paik
	Judges	José Luís Jesus
		Stanislaw Pawlak
		Shunji Yanai
		Boualem Bouguetaia
		Tomas Heidar
		Neeru Chadha
		Judges <i>ad hoc</i>
		Nicolaas Schrijver
	Registrar	Ximena Hinrichs Oyarce

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1 **THE PRESIDENT OF THE SPECIAL CHAMBER:** Good afternoon. The Special
2 Chamber will now continue its hearing on the merits of the *Dispute concerning*
3 *delimitation of the maritime boundary between Mauritius and Maldives in the Indian*
4 *Ocean.*

5
6 I now give the floor to Mr Remi Reichhold to make his statement.
7

8 **MR REICHHOLD:** Mr President, Members of the Special Chamber, it is an honour to
9 appear before you on behalf of Mauritius. On the basis of the provisional
10 equidistance line constructed in full conformity with the applicable law, I will briefly
11 address the implementation of stages two and three of the three-stage delimitation
12 process. This is a straightforward matter. As Mr Parkhomenko and Professor Sands
13 have demonstrated, stage one results in the same provisional equidistance line,
14 whether Blenheim Reef is regarded as a low-tide elevation as part of Mauritius'
15 regular coast under article 13, or as a drying reef that forms part of its archipelagic
16 baselines under article 47.
17

18 At stage two, we examine whether there are any relevant circumstances that require
19 adjustment of the provisional equidistance line to avoid an inequitable result. In its
20 Rejoinder, Maldives does not properly address the issue of relevant circumstances,
21 merely relegating it to a footnote.¹ This, presumably, is because of its misplaced
22 belief that Blenheim Reef will be entirely discarded by the Special Chamber at stage
23 one.
24

25 Mr President, we proceed on the opposite assumption. Based on articles 13, 47
26 and 48, the relevant case law, and the objective application of the CARIS software in
27 the particular geographic circumstances of this case, Blenheim Reef is properly to be
28 used for the placement of basepoints in the construction of the provisional
29 equidistance line at stage one of the delimitation process. As I will now demonstrate,
30 Blenheim Reef is not a relevant circumstance for purposes of stage two of the
31 delimitation process.
32

33 In this regard, we return to the map that Mr Parkhomenko showed you earlier.
34 Mr President, this is the map that depicts the impact of the Blenheim Reef base
35 points on the provisional equidistance line, based on either articles 13 or 47. As you
36 can see on your screens, unlike the jurisprudence that was reviewed by
37 Mr Parkhomenko – *Qatar/Bahrain, Bangladesh/India* and *Somalia/Kenya* – unlike
38 those cases, there is no impact whatsoever in the territorial sea of Maldives. Rather,
39 because Mauritius and Maldives are opposite States, separated by 269 nautical
40 miles of Indian Ocean, the Blenheim Reef basepoints only come into effect – at the
41 closest point – 134.5 nautical miles out to sea, and, Mr President, they only impact
42 on a portion of the equidistance line, as you can see on your screens.
43

44 Along this segment, at the point of greatest impact, on the right-hand side of your
45 screens, the Blenheim Reef basepoints push the line by no more than 11 nautical
46 miles to the north. The total benefit to Mauritius is only about 4,690 square
47 kilometres, which represents no more than 4.9 per cent of the entire relevant area
48 within 200 nautical miles. To be sure, this is an impact, but it is an extremely modest

¹ Maldives' Rejoinder, footnote 7.

1 one by any reasonable standard, and it is certainly not an “extraordinarily
2 disproportionate effect” as claimed by Maldives.² Unless the Special Chamber is
3 prepared to rule that any impact, regardless of its size or significance, is *per se*
4 disproportionate, it cannot reasonably conclude that this impact is disproportionate.
5 There is no cut-off or other inequity to Maldives. Blenheim Reef does not even come
6 close to being a relevant circumstance in the particular geographic context of this
7 case.

8
9 Mr President, Members of the Special Chamber, we can now move on to the third
10 and final stage of the delimitation process: the test for disproportionality. We begin
11 with the relevant area, which is on your screens. As you can see, it measures
12 95,600 square kilometres. The line of delimitation proposed by Mauritius – which is
13 an unadjusted equidistance line taking into account all of the features, including
14 Blenheim Reef – attributes 48,458 square kilometres of the relevant area to
15 Mauritius and 47,142 square kilometres to Maldives. In percentage terms, this
16 unadjusted equidistance line accords 50.69 per cent of the relevant area to Mauritius
17 and 49.31 per cent to Maldives. That is a ratio of 1.03 to 1 in favour of Mauritius.

18
19 Maldives measures the relevant area differently. It arbitrarily excludes the
20 200 nautical mile entitlement generated by Blenheim Reef and comes up with a
21 smaller relevant area of 86,319 square kilometres.

22
23 As a matter of law, the exclusion of Blenheim Reef from the measurement of
24 Mauritius’ 200 nautical mile entitlement is not defensible. It also contradicts Maldives’
25 own argument that different criteria apply to the placement of base points for the
26 purpose of establishing the breadth of the territorial sea and other maritime zones,
27 and for the purpose of delimiting a maritime boundary. In its pleadings, Maldives has
28 only objected to the latter.³ There is, therefore, no basis for Maldives to exclude the
29 entitlements generated by Blenheim Reef from Mauritius’ entitlements within
30 200 nautical miles, or to exclude those entitlements from the measurement of the
31 relevant area in these proceedings.

32
33 Mr President, we can now turn to the relevant coast. There is a dispute between the
34 Parties as to the length of their relevant coasts. Mauritius calculates its own relevant
35 coast as measuring 46.8 kilometres and that of Maldives as measuring
36 27.4 kilometres. Maldives, on the other hand, argues that Mauritius’ relevant coast
37 measures 39.9 kilometres, and that its own measures 39.2 kilometres. The
38 difference in relation to the relevant coast of Mauritius is due to Maldives’ arbitrary
39 exclusion of Blenheim Reef in its entirety. The difference relating to the relevant
40 coast of Maldives is due to Maldives’ impermissible inclusion of parts of its coastline
41 that either do not generate overlapping projections with Mauritius, or do not add
42 anything to Maldives’ coastal projections.⁴

43
44 Mr President, the reality is, whichever of the Parties’ calculations the Special
45 Chamber adopts with regard to relevant coasts, the delimitation line proposed by
46 Mauritius results in no disproportionality within 200 nautical miles. I will now
47 demonstrate this by showing the results under Maldives’ approach to the case, but

² Maldives’ Counter Memorial, para. 152.

³ Maldives’ Counter Memorial, paras. 135-136; Maldives’ Rejoinder, paras. 34 and 139.

⁴ See Mauritius’ Reply, paras. 2.55-2.68; Maldives’ Rejoinder, paras. 68-76.

1 without accepting the accuracy of Maldives' measurements. If we adopt Maldives'
2 calculation of 39.2 kilometres for its own relevant coast, which you can see
3 highlighted on your screens, and 39.9 kilometres for Mauritius (which is also
4 highlighted), this results in a coastal ratio of 1.02:1 in favour of Mauritius. This is
5 almost identical to the area ratio of 1.03:1, also in favour of Mauritius. It reflects,
6 Mr President, the distribution of the area to be delimited by the unadjusted
7 equidistance line proposed by Mauritius as the maritime boundary between the two
8 States in the EEZ and the continental shelf within 200 nautical miles. This not only
9 passes the disproportionality test; it achieves almost a perfect result.

10
11 In conclusion, now on your screens is the equitable maritime boundary between
12 Mauritius and Maldives within 200 nautical miles that Mauritius invites the Special
13 Chamber to adopt.

14
15 Mr President, Members of the Special Chamber, I thank you for your kind and patient
16 attention, and I would now ask you to call Professor Klein to the podium to begin
17 Mauritius' presentation on the delimitation beyond 200 nautical miles. Thank you.

18
19 **THE PRESIDENT OF THE SPECIAL CHAMBER:** Thank you, Mr Reichhold. I now
20 give the floor to Mr Pierre Klein to make his statement. You have the floor, Sir.

21
22 **MR KLEIN** (*Interpretation from French*): Thank you, Mr President. Mr President,
23 distinguished Members of the Special Chamber, it is an honour for me to take the
24 floor today on behalf of the Republic of Mauritius. You are aware that one of the
25 main points which continue to divide the Parties at this stage of the proceedings is
26 that of the delimitation of maritime areas beyond 200 nautical miles. Substantively,
27 Maldives challenges the very existence of an entitlement of Mauritius in the area
28 concerned in the instant case.

29
30 My colleagues Rezah Badal and Andrew Loewenstein will respond to these
31 criticisms in detail shortly, but the challenge of Maldives goes even further because
32 our opponents claim that the Special Chamber, in any event, lacks jurisdiction to
33 settle this part of the dispute, and that the claim of Mauritius in this regard is not
34 admissible.

35
36 These new preliminary objections of Maldives must also be dismissed, as I shall now
37 demonstrate, by dealing first with the issue of jurisdiction and then with that of
38 admissibility.

39
40 According to the opposing Party, the Special Chamber lacks jurisdiction to rule on
41 the question of delimitation of a maritime boundary beyond 200 nautical miles
42 because Mauritius is unable to show that a dispute regarding an alleged entitlement
43 to an extended continental shelf in the Northern Chagos Archipelago Region existed
44 at the time these proceedings were instituted.¹

45

¹ Maldives' Rejoinder, pp. 36 *et seq.*

1 It claims that the basic condition – that the dispute settlement bodies provided for by
2 UNCLOS have jurisdiction only over disputes concerning the interpretation and
3 application of the Convention – has not been met.²
4

5 At the preliminary objections stage, Maldives disputed the very existence of a
6 maritime delimitation dispute between the Parties. Our opponents clearly failed to
7 win the day on this point. They are now trying to resubmit the self-same objection,
8 but this time narrowing it to the question of delimitation beyond 200 nautical miles.
9 However, this challenge is no more persuasive than that of October 2020, and
10 constitutes, to tell the truth, a rearguard action since the Special Chamber has
11 already found that it has jurisdiction over the delimitation dispute between the
12 Parties, and in the most general of terms. I shall revisit this shortly.
13

14 What the Maldives is trying to do, in reality, is to split the dispute between the Parties
15 into a number of separate disputes. One of them would relate to delimitation up to
16 200 Miles, whereas the delimitation beyond 200 Miles would be the subject-matter of
17 another dispute, in some fashion independent of the first. This is a particularly
18 formulistic and artificial approach, lacking any basis in the case file or, for that
19 matter, in your Judgment of 28 January 2021 on Preliminary Objections, contrary to
20 the assertions of our opponents.
21

22 Regarding the case file – let us start with that – Maldives confidently asserts in its
23 Rejoinder that exchanges between the Parties dating back to at least 2010 make no
24 reference to the fact that the overlap of the continental shelves beyond 200 Miles
25 might form one part of the delimitation dispute between the Parties. Thus, according
26 to the opposing Party, there has never been a specific dispute between the Parties
27 regarding the delimitation of the continental shelf beyond 200 Miles.³
28

29 Mauritius has demonstrated in its written pleadings that the wording used by the
30 Parties to refer to that question of delimitation of their maritime areas has varied over
31 time: sometimes it concerned the delimitation of their exclusive economic zones;⁴
32 sometimes a “potential overlap of the extended continental shelf”;⁵ sometimes just
33 an “area of overlap”.⁶ In some documents, reference is made more generically to the
34 process of “maritime delimitation”,⁷ without further specification.
35

36 At other times, and contrary to what our opponents assert, the Parties explicitly refer
37 to the overlap of the extended continental shelves of both States. Thus, in the joint

² *Ibid.*, para. 88.

³ Maldives’ Rejoinder, para. 93.

⁴ Letter from Dr. the Hon. Dr Arvin Boolell, Minister of Foreign Affairs, Regional Integration and International Trade, Republic of Mauritius, to H.E. Dr A. Shaheed, Minister of Foreign Affairs, Republic of Maldives, 2 March 2010, Written Pleadings of the Republic of Mauritius, Annex 11; Diplomatic Note from the Ministry of Foreign Affairs, Regional Integration and International Trade, Republic of Mauritius, to the Ministry of Foreign Affairs, Republic of Maldives, 21 September 2012, Written Observations, Annex 12.

⁵ First Meeting on Maritime Boundary Delimitation and Submission Regarding the Extended Continental Shelf between the Republic of Maldives and Republic of Mauritius, 21 October 2010, Written Observations, Annex 13.

⁶ Mauritius’ Written Observations, Annex 13.

⁷ Diplomatic Note No. 08/19 from the Permanent Mission of the Republic of Mauritius to the United Nations to the Permanent Mission of the Republic of Maldives to the United Nations, 7 March 2019, Preliminary Objections, Annex 16.

1 communiqué published in March 2011, subsequent to the visit to Mauritius by the
2 President of Maldives, we read that, “[b]oth leaders agreed to make bilateral
3 arrangements on the overlapping area of the extended continental shelf of the two
4 States around the Chagos Archipelago.”⁸ Incidentally, you will note that this
5 constitutes clear recognition by Maldives of the existence of a dispute between the
6 Parties: overlapping claims in the same area.

7
8 What the case file shows is an evident variation in the terminology used by the
9 Parties in their exchanges. This lack of precision is easy to explain in a context
10 where the claims of the Parties or, in any event, those of Mauritius, were not
11 precisely defined; a context in which the uncertainties which then weighed on the
12 recognition of Mauritius’ rights over the Chagos Archipelago – and thus, over the
13 adjacent maritime areas – clearly played a major role in this respect.

14
15 But these uncertainties and lack of precision as to the exact extent of the claims are
16 in no way dispositive. What is clear in the case file is that there is an overall
17 delimitation dispute even if the exact contours of said dispute are not precisely
18 determined. Our opponents have already tried at the preliminary objections stage to
19 construe similar imprecisions as an impediment to the recognition of the existence of
20 a dispute. They claimed at the time that the diplomatic note addressed by the
21 Republic of Mauritius to the UN Secretary-General, dated 24 March 2011, in
22 response to the extended continental shelf submission presented by Maldives could
23 in no way attest to the existence of a dispute because it was “without any clarification
24 as to an area of overlapping claims.”⁹

25
26 This argument was clearly dismissed by the Special Chamber¹⁰ and there is no
27 reason for a different decision now, *a fortiori*, since the case file reveals that
28 Maldives itself refers on at least one occasion to the overlap of the extended
29 continental shelves of the two States in the the Chagos Archipelago region.

30
31 So let us now turn to the judgment of January 2021 and its scope. Maldives asserted
32 on this point insistently, I have to say, that the Chamber’s ruling on the preliminary
33 objections precisely and restrictively defines the subject-matter of the dispute
34 between the Parties. In so doing, the opposing Party underscores the Chamber’s
35 conclusion that there was “an overlap between the claim of Maldives to a continental
36 shelf beyond 200 nautical miles and the claim of Mauritius to an Exclusive Economic
37 Zone in the relevant area.”¹¹

38
39 In both its Counter-Memorial and Rejoinder, Maldives infers from this passage –
40 paragraph 332 of the judgment – that it is solely in regard to this specific dispute that
41 the Special Chamber found, in 2021, that it had jurisdiction.¹²

42
43 Mr President, distinguished Members of the Tribunal, this reading of the 2021
44 judgment is untenable, on the one hand because this approach, which one can

⁸ Joint communiqué of 12 March 2011, Written Observations of Mauritius, Annex 14.

⁹ Written Observations of the Republic of Maldives, para. 135(c).

¹⁰ ITLOS, *Delimitation of the maritime boundary between Mauritius and Maldives in the Indian Ocean (Mauritius/Maldives)*, Preliminary Objections, Judgment, 28 January 2021, para. 333.

¹¹ *Ibid.*, para. 332.

¹² Maldives’ Counter-Memorial, paras. 57 *et seq.*; Maldives’ Rejoinder, para. 96.

1 characterize as nominalistic, minimalistic and formalistic, would lead to an absurd
2 result.

3
4 Were we to stick to the terms alone of this sentence in paragraph 332, we would be
5 forced to conclude that the delimitation could concern only the EEZ because this
6 sentence mentions only an overlap with “the claim of Mauritius to an Exclusive
7 Economic Zone in the relevant area”. The literal approach argued by our opponents
8 would, in fact, imply that there is no other dispute between the Parties since, in the
9 extract I have quoted, no reference is made to a claim by Mauritius over the
10 continental shelf, be it within or beyond 200 Miles.

11
12 Were we to follow this logic, the Special Chamber would quite simply lack jurisdiction
13 to rule on the delimitation of continental shelves between the Parties. It is easy to
14 see, is it not, how such a conclusion would be unreasonable? Moreover, it is telling
15 that Maldives itself does not argue this, since it requests the Special Chamber to
16 draw a single maritime boundary which would apply – at least, that is what we
17 suppose – to both the EEZ and the continental shelf.¹³

18
19 Accordingly, one may query the consistency of its position given that this claim does
20 not square with the very terms of the sentence in paragraph 332 which our
21 opponents attach such importance to.

22
23 On the other hand, and above all, by focusing on this limb of the sentence in
24 paragraph 332, the opposing Party wholly overlooks the much broader terms in
25 which the Special Chamber defined the scope of its jurisdiction in its findings, first of
26 all in the finding of its examination of Maldives’ fourth preliminary objection with
27 respect to the alleged lack of a dispute. The Chamber dismisses this objection
28 concluding that, “in the present case a dispute existed between the Parties
29 concerning the delimitation of their maritime boundary at the time of the filing of the
30 notification.”¹⁴

31
32 Then, in the operative provisions of the judgment where the terms used are even
33 clearer, that the Chamber

34
35 has jurisdiction to adjudicate upon the dispute submitted to it by the Parties
36 concerning the delimitation of the maritime boundary between them in the
37 Indian Ocean.¹⁵

38
39 This wording in no way echoes the terms used in paragraph 332, be they more
40 specific or more restricted. One can find no restriction to the jurisdiction of the
41 Chamber which would limit it, as the opposing Party asserts, to rule exclusively on
42 the dispute engendered by the overlap between Maldives’ claim of a continental
43 shelf beyond 200 Miles and Mauritius’ claim to an exclusive economic zone.

44
45 So, realistically, what are the contours of this dispute which the Parties have brought
46 before the Chamber? To ascertain this, one merely has to turn to the notification

¹³ Maldives’ Rejoinder, pp. 69-70.

¹⁴ ITLOS, *Delimitation of the maritime boundary between Mauritius and Maldives in the Indian Ocean (Mauritius/Maldives)*, Preliminary Objections, Judgment, 28 January 2021, para. 335.

¹⁵ Judgment, p. 99, operative provisions, para. 6.

1 Mauritius initially submitted to the arbitration proceedings based on Annex VII of the
2 Convention covering the maritime delimitation dispute as a whole, that is to say –
3 and here I quote the notification – “over the portion of the continental shelf
4 pertaining to Mauritius that lies more than 200 nautical miles from the baselines from
5 which the territorial sea is measured.”¹⁶
6

7 So really there can be no doubt on this point, can there? The delimitation of
8 continental shelves beyond 200 Miles was indeed included, as of the introduction of
9 dispute settlement proceedings which led to the instant case, as being an integral
10 part of the delimitation dispute between the Parties. And this is indeed the dispute
11 that was, with the agreement of Maldives, brought before the Tribunal.¹⁷ It is clearly
12 not a “new dispute” which arose subsequent to this date and independently of the
13 dispute already dividing the Parties, as our opponents would have it.
14

15 Mauritius has analysed the findings of the Special Chamber in detail in its Reply and
16 demonstrated to what extent they were incompatible with Maldives’ line of
17 argument.¹⁸ In its Rejoinder, the opposing Party said nothing, was silent on this
18 point. Perhaps it will be able to illuminate us in the coming days on how it proposes
19 understanding the key passages of the Chamber’s findings and, in particular,
20 paragraph 6 of the operative provisions of the judgment of January 2021.
21

22 In any event, what Mauritius for its part retains from the findings of the judgment is
23 that you have defined the Special Chamber’s jurisdiction in broad terms by referring
24 to a dispute “between the Parties concerning the delimitation of their maritime
25 boundary”, without suggesting any distinction between delimitation within or beyond
26 200 nautical miles. So, contrary to the assertions of our opponents, Mauritius is in no
27 way “re-interpreting” this judgment.¹⁹ On the contrary, its reading is wholly consistent
28 with those terms.
29

30 It is for these reasons, Mr President, distinguished Members of the Tribunal, that the
31 Republic of Mauritius respectfully requests that you dismiss the new jurisdiction
32 challenge raised by Maldives with a view to restricting the Special Chamber’s
33 jurisdiction to delimitation of the Parties’ maritime areas under 200 Miles.
34

35 Mauritius invites you, moreover, to do likewise with the opposing Party’s admissibility
36 challenge, to which I shall now turn. Mr President, distinguished Judges, the Parties
37 agree on the recognition of the legal principles which must be applied in order to
38 assess the admissibility of a claim which, like that of Mauritius, concerns the
39 delimitation of an extended continental shelf. The International Court of Justice has
40 very clearly established that they could only effect such a delimitation if an
41 indispensable precondition had been met, namely the formulation of a submission, or
42 at the very least a communication, of preliminary information to the Commission on

¹⁶ Notification, para. 27 (Maldives’ Preliminary Objections, Annex 1).

¹⁷ Special Agreement and Notification of 24 September 2019 and the Minutes of Consultations, annexed thereto (https://www.itlos.org/fileadmin/itlos/documents/cases/28/A28_Compromis_cr_TR.pdf).

¹⁸ Mauritius’ Reply, paras. 3.12 *et seq.*

¹⁹ Maldives’ Rejoinder, para. 96.

1 the Limits of the Continental Shelf, the CLCS, by the State seeking such
2 delimitation.²⁰

3
4 Where the Parties disagree, however, is in their analysis to ascertain whether this
5 requirement has been met in the instant case. According to Maldives, Mauritius'
6 submission concerning the delimitation of the continental shelf beyond 200 nautical
7 miles in the Northern Chagos Archipelago Region is inadmissible because Mauritius'
8 claim over this area has not been subject to a submission to the CLCS within the
9 required time frame.²¹ Our opponents assert in this regard that the submission to the
10 Commission by Mauritius in April 2022 constitutes a new submission presented well
11 after 13 May 2009, the date fixed by the States Parties to the Montego Bay
12 Convention as the final deadline for making such submissions, or at the very least, of
13 preliminary information.²²

14
15 Allow me, before coming to Mauritius' response on this point, to briefly recall the
16 chronology of the relevant events. In May 2009, within the time frame required by the
17 decision of States Parties, Mauritius communicated to the CLCS preliminary
18 information concerning the extended continental shelf in the Chagos Archipelago
19 region.²³ On that occasion, Mauritius stated its intention to make a full submission in
20 2012. However, this objective was not realized and it was only in 2019 that a
21 submission was presented concerning the southern region of the archipelago²⁴ and
22 only in 2021 concerning amended preliminary information for the northern region.²⁵
23 As you are well aware, it was in April of this year that Mauritius filed a complete
24 submission for the latter area.

25
26 Now, the central argument of our opponents in support of their preliminary
27 admissibility challenge consists in denying the existence of any link between the
28 preliminary information of 2009 and the amended information transmitted by
29 Mauritius in 2021.²⁶ According to the opposing Party, the 2021 document cannot be
30 seen as an amendment of the 2009 document, since they relate to different maritime
31 areas: south of the Chagos Archipelago in 2009, north of the same area in 2021.

32
33 Now, Mr President, distinguished Members of the Tribunal, it cannot be denied that
34 the preliminary information submitted by Mauritius in 2009 related principally to the
35 southern Chagos Archipelago region. Mauritius clearly acknowledged this and does
36 not intend to call that into question. But what also cannot be denied is precisely the
37 very preliminary and partial nature of the information communicated. The document

²⁰ *Question of the Delimitation of the Continental Shelf between Nicaragua and Colombia beyond 200 Nautical Miles from the Nicaraguan Coast (Nicaragua v. Colombia)*, *Preliminary Objections, Judgment*, I.C.J. Reports 2016, p. 132, para. 85, and p. 136, para. 105; see also, implicitly, *Delimitation of the maritime boundary between Ghana and Côte d'Ivoire in the Atlantic Ocean (Ghana/Côte d'Ivoire)*, *Judgment*, ITLOS Reports 2017, paras. 493-495.

²¹ Maldives' Rejoinder, pp. 43 *et seq.*

²² *Ibid.*, para. 113.

²³ Amended Preliminary Information Submitted by the Republic of Mauritius Concerning the Extended Continental Shelf in the Northern Chagos Archipelago Region Pursuant to the Decision Contained in SPLOS/183, May 2009.

²⁴ Submission by Mauritius to CLSC concerning the Southern Chagos Archipelago Region, Mauritius' Memorial, Annex 4.

²⁵ Amended Preliminary Information from Mauritius, Mauritius' Memorial, Annex 3.

²⁶ Rejoinder, para. 116.

1 is brief and offers but a summary presentation of both Mauritius' claims in this area
2 and the scientific foundations on which these claims are based. Quite clearly, it is
3 intended to preserve the rights of Mauritius within the required deadline and to be
4 substantively completed when the submission itself is presented to the Commission.
5

6 The extremely summary character of this document is easily explained. Mauritius is
7 one of those Small Island Developing States whose difficult situation was very
8 particularly noted by the States Parties to the Montego Bay Convention when they
9 decided to extend the deadlines initially established for making submissions to the
10 CLCS.²⁷
11

12 This reference to the generic category of Small Island Developing States is anything
13 but theoretical here. The difficulties met by Mauritius in the process were very real
14 and there were many of them. On the one hand, it was not only in respect of the
15 Chagos Archipelago that Mauritius had to prepare a submission for an extended
16 continental shelf or a communication of preliminary information. As one can see from
17 the 2009 document itself, in the months preceding the drafting of that preliminary
18 information relating to the Chagos Archipelago region, the Mauritian authorities had
19 to prepare no fewer than two extended continental shelf submissions relating to
20 other maritime areas. One, presented jointly with the Seychelles regarding the
21 Mascareignes Plateau, was filed on 1 December 2008.²⁸ The other related to the
22 Rodrigues Island region and was filed on 6 May 2009 – that is to say, exactly in the
23 same period as the preliminary information relating to the Chagos Archipelago
24 region.²⁹
25

26 So it is easy to conceive the considerable workload weighing at that time on the
27 competent services of Mauritius and the reasons which resulted in this preliminary
28 information communicated in May 2009 being summary and in the main being limited
29 to the southern region of the Chagos Archipelago.
30

31 The purpose of filing this document was evidently to simply stop the clock in order to
32 preserve Mauritius' future rights while complying with a new deadline established by
33 the States Parties to the Convention, but without limiting these rights in any fashion.
34

35 On the other hand, at that time Mauritius was faced with evident difficulties resulting
36 from the very situation of the Chagos Archipelago and the challenges regarding its
37 legal status, which were far from being resolved at that time. There was also the
38 physical impossibility of having any access to the Chagos Archipelago region and
39 that, without a doubt, constitutes another factor to help explain the limited character
40 of the preliminary information which Mauritius communicated in 2009 regarding this
41 area. After all, it would be rather extraordinary, Mr President, distinguished Members

²⁷ United Nations Convention on the Law of the Sea, Meeting of States Parties, "Decision regarding the date of commencement of the ten-year period for making submissions to the Commission on the Limits of the Continental Shelf set out in article 4 of Annex II to the United Nations Convention on the Law of the Sea", Doc. SPLOS/72, 29 May 2001, fifth preambular paragraph, and "Decision regarding the workload of the Commission on the Limits of the Continental Shelf and the ability of States, particularly developing States, to fulfil the requirements of article 4 of Annex II to the United Nations Convention on the Law of the Sea, as well as the decision contained in SPLOS/72, para. (a), Doc. SPLOS/183, 28 June 2008, eighth preambular paragraph.

²⁸ Preliminary Information, May 2009, para. 2.1.

²⁹ *Ibid.*

1 of the Tribunal, that on account of manifest difficulties created by the wrongful
2 occupation of a part of its territory by a former colonial power, that the Republic of
3 Mauritius should now be deprived of the rights that the International Court of Justice
4 defined as inherent rights that every State possesses, *ipso facto* and *ab initio*, over
5 its continental shelf.³⁰

6
7 Despite its limitations, it is in any event clear in the preliminary information of 2009
8 that the intention expressed by Mauritius to present a submission regarding the
9 Chagos Archipelago is formulated in the broadest terms and with no geographical
10 restriction.

11
12 Allow me to rehearse them: “The Republic of Mauritius intends to make a submission
13 for an extended continental shelf in respect of the Chagos Archipelago Region.”³¹
14 Now, this demonstrates a clear expression of will by Mauritius to preserve its rights
15 for the future and the possibility to file a submission for an extended continental shelf
16 covering the entire region of the Chagos Archipelago. And this is precisely what
17 allows us to assert that there is a clear and direct continuity between the preliminary
18 information communicated by Mauritius in 2009 on the one hand, and the
19 amendments made to it in 2021 as well as the final submissions filed in April this
20 year on the other.

21
22 This is moreover how the complementary information of 2021 was dealt with by the
23 services of the UN Division of the Law of the Sea. As Mauritius has indicated in its
24 written pleadings, the site of the Division of the Law of the Sea classifies this
25 amended preliminary information as a follow-up to that of 2009 and not as a new
26 communication. Our opponents seek to persuade you that this is without
27 consequence for the question at hand. In their view, this should be so because the
28 site states that the listing of preliminary information on the site does “not imply the
29 expression of any opinion whatsoever on the part of the Secretariat of the United
30 Nations” – this is what the site says – and then the Maldives add, “concerning their
31 contents”.³²

32
33 But that is absolutely not what the footnote in question says; in reality it can be read
34 as saying that the listing of preliminary information on the site does

35
36 not imply the expression of any opinion whatsoever on the part of the
37 Secretariat of the United Nations concerning the legal status of any country,
38 territory, city or area of its authorities or concerning the delimitation of its
39 frontiers or boundaries.³³

40
41 In other words, it is solely on the status of the areas concerned that the UN
42 Secretariat does not intend to express any opinion, and not, as Maldives claim, on
43 the documents submitted by States Parties. So it is very difficult to see how the
44 opposing Party’s argument on this point might call into question the relevance of

³⁰ *North Sea Continental Shelf, Judgment, I.C.J. Reports 1969*, p. 23, para. 19.

³¹ Amended Preliminary Information Submitted by the Republic of Mauritius Concerning the Extended Continental Shelf in the Northern Chagos Archipelago Region Pursuant to the Decision Contained in SPLOS/183, May 2009, para. 2.2.

³² Rejoinder, para. 119.

³³ https://www.un.org/Depts/los/clcs_new/commission_preliminary.htm

1 Mauritius' observation on the treatment of the 2021 preliminary information on the
2 site of the UN's Division of the Law of the Sea.

3
4 This treatment clearly shows that, for the competent services of the UN, this
5 amended preliminary information is manifestly appended to the preliminary
6 information initially communicated by Mauritius back in 2009.

7
8 Maldives advances a final argument in support of their admissibility objection: that of
9 procedural fairness. According to the opposing Party, the fact that preliminary
10 information concerning the Northern Chagos Archipelago Region was submitted by
11 Mauritius only after the start of proceedings before the Special Chamber placed the
12 Maldives in an unfavourable position because, as it claims, it was deprived of the
13 benefit of an examination and detailed discussion of the elements provided by
14 Mauritius in support of its submission.³⁴

15
16 Mr President, distinguished Members of the Special Chamber, the proceedings
17 themselves show that this criticism by the opposing Party is without merit.

18
19 In their Counter-Memorial, Maldives mounted a detailed challenge to the validity of
20 the claim to an extended continental shelf in the Northern Chagos Archipelago
21 Region³⁵ in response to Mauritius' Memorial and the May 2021 preliminary
22 information.

23
24 In its Rejoinder, the opposing Party, once again, had ample opportunity to question
25 the claims of Mauritius as spelled out in the Reply and in the submission to the
26 CLCS in April of this year. Our opponents will have the possibility, again, to express
27 their views twice during the course of these oral proceedings, just as they will also
28 have the opportunity to state their opinion on a possible expert's report on the
29 question, were the Special Chamber to take this route.

30
31 So it is difficult to see in these circumstances how the procedural rights of Maldives
32 would be ignored, were the Chamber to exercise its jurisdiction to proceed with the
33 delimitation of the maritime zones between the Parties beyond 200 nautical miles.

34
35 It is for all these reasons that I respectfully request you, Mr President and
36 distinguished Members of the Special Chamber, to dismiss the Maldives' expression
37 of inadmissibility regarding this part of Mauritius' claims.

38
39 This brings to an end my statement today, and I would like to thank you for your kind
40 attention. I would request you, Mr President, to please give the floor now to
41 Mr Rezah Badal so that he can present to the Chamber the scientific basis relied on
42 by Mauritius in support of its claim for an extended continental shelf in the Northern
43 Chagos Archipelago Region.

44
45 **THE PRESIDENT OF THE SPECIAL CHAMBER:** Thank you, Mr Klein. I now give
46 the floor to Mr Rezah Badal to make his statement. You have the floor, Sir.

47

³⁴ Rejoinder, paras. 107 *et seq.*

³⁵ Counter-Memorial, paras. 79 *et seq.*

1 **MR BADAL:** Mr President, Members of the Special Chamber, good afternoon. It is
2 an honour to appear before you and to address you on the scientific and technical
3 aspects concerning the entitlement of the Republic of Mauritius to an extended
4 continental shelf in the northern region of the Chagos Archipelago. My presentation
5 consists of two parts, drawing on the written pleadings of Mauritius, and responding
6 to the arguments of Maldives in its Rejoinder.

7
8 In the first part, I will make submissions on the geomorphological and geophysical
9 evidence in the record. This confirms the existence of the natural prolongation
10 extending from the northern Chagos Archipelago Region, which constitutes the
11 continental margin of the Republic of Mauritius for the purposes of article 76,
12 paragraph 3, of the Convention. In the second part of my presentation, on the test of
13 appurtenance, I will proceed in three steps: first, I will address the location of the
14 base of the continental slope. Second, I will identify the foot of the continental slope,
15 and third, focus on the computation and delineation of the extended continental shelf
16 resulting from the natural prolongation of the Republic of Mauritius.

17
18 Mr President, Members of the Special Chamber, I shall begin with the general setting
19 of the area of the Chagos Archipelago Region, depicted on your screen here, which
20 is Figure 4.2 from our Reply.

21
22 The Chagos Archipelago is located south of the Maldives between 4°S and 9°S. It is
23 the surface expression of the southern portion of a prominent bathymetric feature in
24 the western Indian Ocean known as the Chagos-Laccadive Ridge, which I will refer
25 to as “CLR”. The CLR was formed between 60 million years and 48 million years as
26 a result of the interaction of the Reunion Hotspot with the oceanic lithosphere when
27 the Indian plate moved northward.¹

28
29 As you can see on your screen, the CLR is a slightly curved, continuous submarine
30 ridge that extends for about 2,500 km from north to south along the 73°E meridian,
31 between 14°N and 9°S. The ridge crest is comprised of islands, atolls, shoals, banks
32 and coral reefs at depths of less than 1,500 metres.²

33
34 This map shows that the CLR consists of three major platforms: the Laccadive
35 Plateau in the north, the Maldivian Ridge in the middle portion and Chagos Ridge in
36 the south.³ The Laccadive Islands, the Maldives Islands and the Chagos Archipelago
37 are the surface expression of these three platforms, which indeed share a common

¹ Partial Submission by the Republic of Mauritius to the Commission on the Limits of the Continental Shelf concerning the Northern Chagos Archipelago Region (April 2022) (hereinafter “Mauritius’ Partial CLCS submission concerning the Northern Chagos Archipelago Region”), Mauritius Reply, Vol. III, Annex 3, para. 2.3.1 (referring to Duncan, R.A., “The volcanic record of the Réunion hotspot”, in Duncan, R.A., Backman, J., Peterson, L.C., *et al.*, Proc. ODP, Sci. Results, 115: College Station, TX (Ocean Drilling Program) (1990), 3-10).

² Mauritius Partial CLCS submission concerning the Northern Chagos Archipelago Region, Mauritius Reply, Vol. III, Annex 3, para. 2.2.1.2.

³ Mauritius Partial CLCS submission concerning the Northern Chagos Archipelago Region, Mauritius Reply, Vol. III, Annex 3, para. 2.2.1.2 (referring to Bhattacharya, G.C. and Chaubey, A.K., “Western Indian Ocean – a glimpse of the tectonic scenario” in Sen Gupta, R., and Desa, E. (eds.), *The Indian Ocean – a Perspective*, Oxford-IBH (2001), New Delhi, 691-729).

1 geological origin and are connected by saddle-like features, thus forming a major
2 geomorphological and topographical continuity of the CLR.⁴

3
4 Now on your screens is the seismic refraction data, taken from Mauritius' submission
5 to the CLCS, which confirms the continuity of the CLR.⁵ The data show that the area
6 between the Maldive Ridge and the Chagos Ridge consists of a top layer and two
7 thick underlayers: a top layer which is 1 km thick and consists of 2.15 km/sec
8 velocity material; a lower layer is about 4 to 5 km thick with a velocity of 6.13 km/sec
9 overlying a 7.1km/s crustal layer.⁶

10
11 The refraction data also show that from north to south, along the Maldive Ridge and
12 Chagos Ridge, the thickness of the underlying crust reduces from approximately
13 27 km below the Maldive Ridge to approximately 9 km at the channel area. However,
14 as one moves further south towards the Chagos Ridge, the crust thickens to about
15 20 km.⁷ As described in Mauritius' Partial Submission to the CLCS concerning the
16 Northern Chagos Archipelago Region, the presence of these thickened layers clearly
17 demonstrates that the CLR is underlain with a continuous crustal layer and is thus
18 geomorphologically continuous.⁸

19
20 Moreover, as shown on your screen, the flat topography of the top of the crust along
21 the North-South axis of the Maldive Ridge and the deep-sea channel further confirms
22 that the Maldive Ridge and Chagos Ridge are a continuous topographical and
23 geomorphological structure of the same origin.⁹

24
25 As elaborated in Mauritius' Reply, the Laccadive Plateau, Maldive Ridge and Chagos
26 Ridge are all connected, forming a single topographical and geomorphological
27 continuity manifested in the CLR. This means that both the Maldives and the Chagos
28 Archipelago are undeniably located on a single continental shelf along the CLR. The
29 Maldives offered no response to the geomorphological evidence based on the
30 bathymetry and gradient variations of the sea floor, on which Mauritius has relied in
31 its written pleadings. This convincingly supports the conclusion that Mauritius has a
32 natural prolongation from the landmasses of the Northern Chagos Archipelago
33 Region, which include Peros Banhos, Salomon Islands and Blenheim Reef, to the
34 edge of the continental margin.¹⁰

35
36 Mr President, Members of the Special Chamber, I shall now turn to the second part
37 of my presentation relating to the test of appurtenance, in which I shall make

⁴ *Ibid.*, para. 2.2.1.2.

⁵ *Ibid.*, Figure 2.3.

⁶ *Ibid.*, para. 2.3.2.6 (referring to Francis, T.J.G. & Shor, G.G., "Seismic refraction measurements in the northwestern Indian Ocean", *J. Geophys. Res.*, vol. 72 (1966), 427-424).

⁷ *Ibid.*, paras. 2.3.2.9-10 (referring to Kunnummal, P., Anand, S.P., Haritha, C., Rao, P.R., "Moho depth variations over the Maldive Ridge and adjoining Arabian & Central Indian basin, Western Indian Ocean, from three dimensional Inversion of Gravity anomalies", *Journal of Asian Earth Sciences* (2018)).

⁸ *Ibid.*, para. 2.3.2.10.

⁹ *Ibid.*, (referring to Kunnummal, P., & Anand, S.P., "Qualitative appraisal of high resolution satellite derived free air gravity anomalies over the Maldive Ridge and adjoining ocean basins, western Indian Ocean", *Journal of Asian Earth Sciences* (2019)) and Fontaine, F.R., Barruol, G., Tkalčić, H., Wölbern, I., Rümper, G., Bodin, T., Haugmard, M., "Crustal and uppermost mantle structure variation beneath La Réunion hotspot track", *Geophys. J. Int.* 203 (2015), 107-126.

¹⁰ Mauritius Memorial, para. 2.32-2.36; Mauritius Reply, paras. 4.3-4.16.

1 submissions on the location of the base of the continental slope, identify the foot of
2 the continental slope, and finally compute and delineate the Extended Continental
3 Shelf.

4
5 In order to locate the base of continental slope regions, in its Partial Submission to
6 the CLCS, Mauritius has applied the Scientific and Technical Guidelines of the
7 CLCS.¹¹ Paragraphs 5.4.4 and 5.4.5 of those guidelines define the base of
8 continental slope as the regions where the lower part of the continental slope merges
9 into the top of the continental rise, or into the top of the deep ocean floor where a
10 continental rise does not exist. As shown on this slide, which is taken from Mauritius'
11 Partial Submission to the CLCS, the delineation of the base of slope region is carried
12 out by maintaining the contiguity of the local seafloor form that links regions of similar
13 gradient values.

14
15 As you can see on your screens, Mauritius has delineated the base of the slope in
16 the Northern Chagos Archipelago Region by following the change in the regional
17 gradient at the eastern side of the CLR. In determining the base of the slope region,
18 Mauritius also relied, in chapters 2 and 3 of its CLCS Partial Submission, on
19 morphological and bathymetric data in accordance with paragraph 5.4.6 of the CLCS
20 Scientific and Technical Guidelines.

21
22 You can now see on your screen that the base of the slope region coincides with the
23 zone where the eastern extension of the CLR merges with the more even seafloor of
24 the Central Indian Ocean Basin. The base of slope region does indeed abut the
25 elevated region north of the Gardiner seamounts in the northward direction along an
26 overall elevated region.

27
28 Mr President, Maldives incorrectly asserts that this base of slope region is a new
29 claim.¹² It overlooks that Mauritius had already presented this base of slope region in
30 its Partial Submission to the CLCS and in the Reply.¹³

31
32 Maldives is not aided by its assertion that this Base of Slope region is located within
33 the deep ocean floor of the Indian Ocean Basin along a “more seaward fracture zone
34 (termed Northern Boussole Fracture Zone)” (NBFZ for short).¹⁴ Maldives’ reference
35 to the NBFZ is irrelevant. The NBFZ is itself a break between the deep-sea floor and
36 the overall elevated region on its west. This is evident when comparing the
37 geological ages of the adjoining seafloor on both sides of this fracture zone which is
38 calculated by using magnetic anomaly data, as depicted in this authoritative study of
39 Muhammad Suhail and others in 2018.¹⁵ This data, Mr President, is indeed found at
40 Annex 19 of Maldives’ Rejoinder. Maldives, therefore, plainly cannot dispute this
41 study and its findings.

42

¹¹ Mauritius Partial CLCS submission concerning the Northern Chagos Archipelago Region, Mauritius Reply, Vol III, Annex 3, paras. 3.2.1-7.

¹² Maldives’ Rejoinder, para.134.

¹³ Mauritius’ Partial CLCS submission concerning the Northern Chagos Archipelago Region, Mauritius Reply, Vol. III, Annex 3, paras. 3.2.1-7; Mauritius Reply, paras. 4.3-4.16.

¹⁴ Maldives’ Rejoinder, para. 134.

¹⁵ Maldives’ Rejoinder, Vol. III, Annex 19, Muhammad Shuhail and others, “Formation and evolution of the Chain-Kairali Escarpment and the Vishnu Fracture Zone in the Western Indian Ocean” (2018) 164 *Journal of Asian Earth Sciences*, p. 307.

1 As shown in the yellow box on your screens, magnetic anomaly data are used to
2 determine the geological ages of the sea floor, which are classified into age
3 segments known as chronozones or, for short, chrons. Here, the chrons on either
4 side of NBFZ are of different ages and are not aligned, as you can see from the
5 unaligned blue and green lines on your screens. The evidence that Maldives has
6 submitted in its Rejoinder thus shows that the NBFZ breaks the seafloor into a
7 younger seafloor on its west and an older deeper seafloor on its east.

8
9 In other words, the data shows that the elevated region to the west of the NBFZ is
10 younger than the adjacent deep ocean seafloor of the Indian Basin. The fracture
11 zone thus marks the boundary of the deep ocean floor in this particular region. The
12 evidence relied upon by Maldives therefore further confirms that the elevated region
13 is not part of the deep ocean floor and demonstrates that Mauritius has a natural
14 prolongation northwards along this topographic high.

15
16 Mr President, Members of the Special Chamber, I now turn to the identification of the
17 foot of slope points. To establish the foot of slope points, Mauritius followed
18 paragraph 4(b) of article 76 of the Convention. This states that, “[i]n the absence of
19 evidence to the contrary, the foot of the continental slope shall be determined as the
20 point of maximum change in the gradient at its base.” In its Partial Submission to the
21 CLCS, Mauritius identified the foot of slope points at the point of maximum change in
22 gradient at their respective base of slope region based on geomorphological and
23 bathymetric evidence in accordance with paragraph 5.4.6 of the CLCS Scientific and
24 Technical Guidelines.¹⁶

25
26 As regards bathymetric information, in its Partial Submission to the CLCS, Mauritius
27 used the National Geophysical Data Centre (NGDC) single beam bathymetric
28 dataset, as shown here on your screens.¹⁷ These bathymetric data are now
29 compiled and maintained by the National Centre for Environmental Information
30 (NCEI) in Boulder, Colorado. The NCEI is an authoritative data archiving Centre of
31 the National Oceanic Atmospheric Administration (NOAA), and its data products are
32 recognized worldwide, including by the CLCS.

33
34 Based on the bathymetric data relied upon by Mauritius in its Partial Submission to
35 the CLCS, Mauritius identified the following FOS points, shown on this graphic. The
36 three red dots are non-critical foot of slope points, and the yellow dot is the critical
37 foot of slope point. All of these points are located within the overall elevated region in
38 the base of slope region.

39
40 The location of these points is consistent with the recommendation of the CLCS in
41 response to the submission of the Seychelles in the Northern Plateau Region, where
42 the CLCS determined that the overall morphology which characterizes a region
43 should not be considered in isolation. More specifically, the Commission stated that

44
45 all the three FOS points locations lie within an overall elevated region,
46 which may be traced from the eastern to the western side of the Northern

¹⁶ Mauritius’ Partial CLCS submission concerning the Northern Chagos Archipelago Region, Mauritius Reply, Vol. III, Annex 3, paras. 3.2.1-7.

¹⁷ *Ibid.*

1 Plateau Region. Consequently, the ridges, peaks and the intervening
2 saddles are considered parts of the continental slope.¹⁸
3

4 In accordance with that recommendation, Mauritius identified the four foot of the
5 slope points. Of these, point FOS-VIT31B, circled in yellow on your screens, is
6 deemed critical for delineating the extended continental shelf. Mauritius' evidence
7 demonstrates the natural prolongation along the overall elevated region to FOS-
8 VIT31B at the point of its maximum change in gradient and within the base of slope
9 region. As explained in its Partial Submission to the CLCS, Mauritius has located this
10 critical foot of slope point within the base of slope region using none other than the
11 recognized GEOCAP software, a tool accepted and used by the CLCS.¹⁹
12

13 Mr President, Members of the Special Chamber, now on your screens is Figure 3.6
14 from Mauritius' Partial Submission to the CLCS. This shows the composite single
15 beam bathymetric profiles, which are depicted as black lines. These are used to
16 locate the critical foot of slope point, which runs north along the Chagos-Laccadive
17 Ridge,²⁰ then east,²¹ and then south in parallel to the CLR in the Central Indian
18 Basin.²² As can be seen, the overall depth along the profile gradually increases from
19 the elevated ridge at around 3,000 m to the deep ocean floor at around 5,000 m,
20 except for the abrupt increase when crossing the trough from around 3,000 m to
21 around 4,000 m, which you can see at the centre of the profile on your screens.
22 Morphologically, this elevation merges with the Central Indian Basin seafloor east of
23 the CLR. In the absence of a distinct rise, Mauritius has defined the base of the
24 slope to be the area where the slope merges with the deep-ocean floor of the Central
25 Indian Basin, in accordance with paragraphs 5.4.4, 5.4.5 and 6.2.1 of the CLCS
26 Scientific and Technical Guidelines. Consequently, the search for the maximum
27 change in gradient was confined to that area to locate the critical foot of slope point.
28 This is highlighted in yellow on your screens.
29

30 Similarly, the critical foot of slope point can also be located from further south, as
31 illustrated here using Figure 2.12 in Mauritius' Memorial. This composite of single
32 beam bathymetric profiles of the NGDC dataset starts south-east of the Chagos
33 Ridge along the Gardiner Seamounts and runs north over an overall elevated region,
34 then eastward, and continues northward parallel to the CLR to the critical foot of
35 slope point FOS-VIT31B.
36

37 As you can see on your screens, this area is clearly not part of the deep ocean floor.
38 Rather, it is a topographic high forming part of an overall elevated region culminating
39 in several peaks and lower saddles northwards. This feature is an integral part of the
40 Chagos Ridge that allows Mauritius to have a natural prolongation from the south-
41 east of the Chagos Ridge to northward of the CLR. The depths over this region, as
42 you can see from the scale on the left, range from less than 4,500 m to less than

¹⁸ Maldives' Rejoinder, Vol. III, Annex 20. Commission on the Limits of the Continental Shelf, Summary of Recommendations of the Commission on the Limits of the Continental Shelf in regard of the Submission made by the Republic of Seychelles in respect of the Northern Plateau Region on 7 May 2009 (2018), para. 45.

¹⁹ Mauritius' Partial CLCS submission concerning the Northern Chagos Archipelago Region, Mauritius Reply, Vol. III, Annex 3, section 3.4.

²⁰ Profile-ODP115JR. *Ibid.*, Figure 3.6.

²¹ Profile-LUSI7BAR. *Ibid.*, Figure 3.6.

²² Profile-VIT31B. *Ibid.*, Figure 3.6.

1 5,000 m. This elevation merges in the north with the Central Indian Basin seafloor.
2 Mauritius defines the base of the slope to be the area where the slope of the
3 elevated region merges with the deep ocean floor of the Central Indian Basin.
4 Consequently, the search for the maximum change in gradient is to be confined to
5 that area to locate the critical foot of slope point.
6

7 That part of the Chagos Ridge along this elevated region is, accordingly, part of the
8 continental shelf in the same manner as recognized by the CLCS when it considered
9 similar circumstances in the Submission concerning the Seychelles Northern Plateau
10 Region.²³ As I noted a moment ago, in the case of Seychelles, the CLCS accepted
11 that there is an overall elevated region that abuts the Seychelles bank, and is an
12 integral part of the Seychelles continental shelf. In so recommending, the CLCS
13 accepted the location of all foot of slope points on this elevated region which were
14 part of the continental slope shown here as the Northern Plateau outline.
15

16 The situation is similar in Mauritius' case. As illustrated on this graphic, a composite
17 of measured bathymetry on an overall elevated region confirms that Mauritius has a
18 natural prolongation throughout this area. You can see illustrated on this graphic that
19 this elevated region is characterized by a raised topographic feature along the cross-
20 sectional bathymetric profiles. The presence of such elevated area refutes Maldives'
21 assertion that the Gardiner Seamounts and the Chagos Trough region lie
22 immediately next to the deep-ocean floor.
23

24 Mr President, Members of the Special Chamber, Maldives is mistaken to suggest
25 that this presence of the Chagos Trough, located to the east of the CLR and
26 extending from south of the Chagos Archipelago Region up intermittently to the
27 Equator, or thereabouts, blocks the natural prolongation of Mauritius. The Chagos
28 Trough is interrupted by the Gardiner Seamounts, which is an integral protuberance
29 of the CLR and extends to the east of the Chagos Trough. As you can now see on
30 your screen, the Gardiner Seamounts extend further north and merge with the
31 Overall Elevated Region, which culminates in several peaks and saddles in the north
32 and does not form part of the deep-sea floor. In fact, Maldives has agreed that the
33 Gardiner Seamounts "represent a protuberance of the slope of the CLR."²⁴ In other
34 words, the Gardiner Seamounts are an integral part of the CLR. Consequently,
35 Maldives cannot escape the conclusion that Mauritius has a natural prolongation
36 from the south-east of the Chagos Ridge to the north along the Gardiner Seamounts,
37 which merges with the Overall Elevated Region of the CLR.
38

39 Furthermore, because the Chagos Trough is also interrupted in the north with a
40 similar integral protuberance, Mauritius can thus equally, I would say, have its
41 natural prolongation northwards along an elevated saddle across the Chagos
42 Trough, as you can now see here on your screens. Mauritius can thus equally
43 establish its natural prolongation all along the overall elevated regions to the critical
44 FOS point, at the point of maximum change in gradient and within the base of slope

²³ Maldives' Rejoinder, Annex 20, Commission on the Limits of the Continental Shelf, Summary of Recommendations of the Commission on the Limits of the Continental Shelf in regard of the Submission made by the Republic of Seychelles in respect of the Northern Plateau Region on 7 May 2009, 27 August 2018 (extracts), Figure 3.

²⁴ Mauritius' Rejoinder, para. 131.

1 region. Like the Gardiner Seamounts, this saddle also merges with the Overall
2 Elevated Region of the CLR.

3
4 Mr President, Members of the Special Chamber, it is noteworthy that Maldives, in its
5 submission to the CLCS, as shown on your screen here, has also used profiles from
6 the NGDC data set to generate its own southernmost foot of slope point east of the
7 Chagos Trough, and which is within Mauritius' EEZ.²⁵ This directly contradicts the
8 position Maldives adopts in this case in relation to Mauritius' claim, namely that the
9 Chagos Trough cannot be crossed in identifying FOS points.

10
11 Therefore, contrary to Maldives' assertion at paragraph 136 of the Rejoinder,
12 Mauritius has indeed demonstrated that the elevated region east of the Chagos
13 Trough is an integral part of the Chagos Ridge. This establishes a natural
14 prolongation through the Gardiner Seamounts in the south-east and also through a
15 lower saddle at around 4,800 m in the northern segment of the Chagos Trough, as
16 you have seen previously. Consequently, this confirms the location of Mauritius'
17 critical FOS point.

18
19 Mr President, Members of the Special Chamber, I shall now turn to the final part of
20 my submissions concerning the computation and delineation of the outer limit of the
21 extended continental shelf.

22
23 To determine the outer envelope of the continental margin, Mauritius has applied the
24 Hedberg formula reflected in article 76, paragraph 4(a)(ii), of the Convention. That is
25 a line delineated not more than 60 NM from the critical foot of slope point. This
26 process, Mr President, is set out in chapter 4 of Mauritius partial submission to the
27 CLCS.²⁶

28
29 The critical foot of slope point is depicted on your screens as a yellow star which is
30 located outside the EEZ of Maldives. The lines generated from this foot of slope
31 point using the Hedberg Formula are now shown as a purple envelope of an arc. A
32 bridging line can then be constructed connecting the envelope of arc to the 200 Mile.

33
34 Finally, the outer envelope thus determined commences and terminates,
35 respectively, at a point on the 200-Mile limit measured from the territorial sea
36 baseline of the Republic of Mauritius and the Republic of Maldives.

37
38 In accordance with article 76, paragraph 6, of UNCLOS, the 350-Mile constraint line
39 was constructed using the relevant archipelagic basepoints which was then applied
40 to delimit the envelope of the continental margin.

41
42 I shall now address the construction of the 350-Mile constraint line measured from
43 Mauritius' archipelagic baselines and its application to delimit the outer edge of the

²⁵ Maldives' Counter-Memorial, Vol. IV, Annex 47, Map 1 (Commission on the Limits of the Continental Shelf, Submission by the Republic of Maldives, 26 July 2010, available at https://www.un.org/depts/los/clcs_new/submissions_files/mdv53_10/MAL-ES-DOC.pdf (last accessed 3 October 2022)).

²⁶ Mauritius' Partial CLCS submission concerning the Northern Chagos Archipelago Region, Mauritius' Reply, Vol. III, Annex 3, Chapter 4.

1 continental margin. As explained in Mauritius' partial submission to the CLCS, the
2 widely recognized GEOCAP software was also used for this purpose.²⁷

3
4 Mr President, Members of the Special Chamber, on your screens you can see the
5 line delimiting Mauritius' 200-Mile EEZ and the constraint line drawn 350 Miles from
6 Mauritius' archipelagic baselines around the Chagos Archipelago.

7
8 This graphic illustrates both the outer envelope of the continental margin, as derived
9 from the Hedberg formula line, and the 350-Mile constraint line.

10
11 Where the formula line extends beyond the 350-Mile constraint line, Mauritius has
12 established the outer limits of its continental shelf in this area using the line
13 generated by the Hedberg formula and 350-Mile constraint line, as you can now see
14 on your screens. Mauritius thus passes the test of appurtenance since the formula
15 line based on the critical foot of slope point extends beyond the 200-Mile line and is
16 within the 350-Mile line in accordance with the terms of articles 76, paragraph 4, and
17 76, paragraph 6.

18
19 Mr President, Members of the Special Chamber, the outer limit of Mauritius'
20 extended continental shelf is therefore defined by 168 fixed points, as shown on your
21 screens.

22
23 The first point (ECS 1) is located where the outer limit of Mauritius' extended
24 continental shelf entitlement commences on the Mauritius 200-Mile limit from the
25 Chagos Archipelago.

26
27 One hundred eighteen points (ECS 2 to ECS 113 and ECS 163 to ECS 168) are
28 located on the arc at 60 Miles from the foot of slope point in accordance with
29 article 76, paragraph 4(a)(ii), of UNCLOS.

30
31 Finally, 49 points (ECS 114 to ECS 162) are defined by the 350-Mile constraint line
32 in accordance with article 76, paragraph 6, of UNCLOS.

33
34 Mauritius' extended continental shelf therefore covers an area of approximately
35 23,400 square km and out of which 22,272 square km overlaps with Maldives'
36 extended continental shelf claim.

37
38 In conclusion, Mauritius has a submerged natural prolongation of its landmass in the
39 Northern Chagos Archipelago Region and satisfies the test of appurtenance that
40 allows it an extended continental shelf beyond 200 Miles.

41
42 Mr President, Members of the Special Chamber, thank you for your kind attention.
43 With your permission, and I do not know if the break will come between us, but
44 I would like you to invite Mr Loewenstein to address you on the delimitation of the
45 maritime boundary beyond 200 Miles. Thank you.

46

²⁷ Mauritius' Partial CLCS submission concerning the Northern Chagos Archipelago Region, Mauritius' Reply, Vol. III, Annex 3, para. 4.6.1.3.

1 **THE PRESIDENT OF THE SPECIAL CHAMBER:** Thank you, Mr Badal, for your
2 statement.

3
4 Now, I give the floor to Mr Loewenstein. You have the floor, Sir. Mr Loewenstein, I
5 inform you in advance that this afternoon session will be adjourned at 4.30 for a
6 break of 30 minutes. Therefore, when we reach 4.30 I may have to interrupt you.
7 With this understanding, you have the floor.

8
9 **MR LOEWENSTEIN:** Of course, Mr President.

10
11 Mr President, Members of the Special Chamber, good afternoon. It is an honour to
12 appear before you, and to do so on behalf of the Republic of Mauritius. I will continue
13 the presentation on the delimitation of the continental shelf beyond 200 Miles.

14
15 You have heard from Dr Badal, who explained the scientific and technical basis for
16 the entitlement of Mauritius to an outer continental shelf in the Northern Chagos
17 Archipelago Region. As he showed, and as set out in the Parties' respective
18 submissions to the CLCS, there is an area of overlapping continental shelf
19 entitlements – approximately 22,272 square kilometers in size – that is located
20 beyond 200 Miles from each of the Parties' baselines.¹

21
22 The continental shelf in this area is the natural prolongation of the land territory of
23 both Mauritius and Maldives. On the Mauritian side, the area is the submarine
24 extension of the islands of Peros Banhos and Salomon Islands, and of Blenheim
25 Reef. Those features – and, indeed, the Chagos Archipelago as a whole – are the
26 surface expressions of the Chagos Ridge, which is itself part of the much larger
27 Chagos Laccadive Ridge, a feature whose surface expressions include the islands
28 that form Maldives as well. The continental shelf in this area of overlapping
29 entitlements located beyond 200 Miles is, thus, just as much the natural prolongation
30 of the landmass of Mauritius as it is the prolongation of the landmass of Maldives.

31
32 The Special Chamber can confirm these objectively verifiable facts through its own
33 review of the underlying scientific and technical evidence, including, should the
34 Special Chamber consider it to be helpful, by appointing an expert or experts suitably
35 qualified in the relevant disciplines.

36
37 In that connection, I would be remiss if I did not observe that Maldives' resistance to
38 the appointment of such an expert or experts is at odds with the practice of
39 international courts and tribunals when faced with scientific and technical issues that
40 bear upon maritime delimitation or related matters.

41
42 The Annex VII tribunal in *Guyana v. Suriname* appointed the expert hydrographer
43 Mr David H Gray.² The tribunal in *Barbados v. Trinidad and Tobago* appointed
44 Mr Gray as its expert hydrographer as well.³ The *South China Sea* tribunal appointed
45 the expert hydrographer Mr Grant Boyes.⁴ And, in the *Case Concerning Maritime*

¹ See Reply of the Republic of Mauritius, para. 4.5 and p. 54, Figure R4.6.

² *Guyana v. Suriname*, PCA Case No. 2004-04, Award, 17 September 2007, para. 108.

³ *Barbados v. Trinidad and Tobago*, PCA Case No. 2004-02, Award, 11 April 2006, para. 37.

⁴ *The South China Sea Arbitration (Philippines v. China)*, PCA Case No. 2013-19, Award, 12 July 2016, para. 133.

1 *Delimitation in the Caribbean Sea and the Pacific Ocean*, the ICJ appointed two
2 expert geomorphologists, Mr Eric Fouache and Mr Francisco Gutiérrez, to assist in
3 identifying the starting point for the maritime delimitation between Costa Rica and
4 Nicaragua.⁵

5
6 Mauritius, therefore, respectfully submits that the Special Chamber should not be
7 deterred by Maldives' opposition to subjecting the Parties' respective submissions to
8 expert scrutiny, should the Special Chamber consider the appointment of an expert
9 or experts to be helpful in reaching a scientifically and technically rigorous decision.
10 Mauritius is confident that such an independent review would confirm that Mauritius
11 and Maldives both enjoy entitlements, due to the natural prolongation of their
12 respective landmasses, to the same area of continental shelf located beyond
13 200 Miles from their baselines.

14
15 The legal consequence of this physical and geomorphological situation is that
16 Mauritius and Maldives have equal entitlements to the area of continental shelf in
17 question. This follows from the definition of the continental shelf contained in
18 article 76, paragraph 1, of the Convention, which specifies that, in addition to a
19 coastal State's entitlement to a continental shelf within 200 Miles of its baselines,
20 and subject to the constraints set out elsewhere in article 76, the

21
22 continental shelf of a coastal State comprises the seabed and subsoil of
23 the submarine areas that extend beyond its territorial sea throughout the
24 natural prolongation of its land territory to the outer edge of the continental
25 margin.⁶

26
27 Accordingly, neither Mauritius nor Maldives has a superior claim to the continental
28 shelf in the area where their entitlements beyond 200 Miles overlap. Each
29 entitlement is equal under article 76, because each is based on the natural
30 prolongation of the Parties' respective landmasses. Indeed, all of the relevant
31 features – including the insular features of Mauritius, the insular features of Maldives,
32 and the relevant submarine features, are all components of the overarching Chagos
33 Laccadive Ridge.

34
35 Now, bearing in mind the equality of the Parties' respective continental shelf
36 entitlements, let us turn to their delimitation, in view of article 83's mandate that the
37 delimitation must "achieve an equitable solution."⁷

38
39 The overlapping entitlements can be seen on your screens. The area where the
40 entitlements overlap – shaded in orange – is situated on a continuous stretch of shelf
41 that includes a large area to the north, covering more than 118,000 square
42 kilometres, which is claimed only by Maldives, and a much smaller area, some
43 1,152 square kilometres, claimed only by Mauritius. The approximately
44 22,000 square kilometres that comprise the overlapping entitlements, where both
45 Mauritius and Maldives have entitlements under article 76 due to the natural

⁵ *Maritime Delimitation in the Caribbean Sea and the Pacific Ocean (Costa Rica v. Nicaragua)* and
Land Boundary in the Northern Part of Isla Portillos (Costa Rica v. Nicaragua), Judgment, I.C.J.
Reports 2018, paras. 15-17.

⁶ United Nations Convention on the Law of the Sea 1982, article 76, para. 1.

⁷ *Ibid.*, article 83.

1 prolongation of their respective landmasses, and thus the area subject to
2 delimitation, is bracketed by the areas of shelf claimed exclusively by only one of the
3 Parties.

4
5 You can now see on your screens a close-up of the area that is subject to
6 delimitation. How does Maldives propose to delimit this area, where Mauritius and
7 Maldives each have an entitlement that is equal in law? By robotically extending the
8 equidistance line used for delimitation within 200 Miles so that the same line delimits
9 the outer continental shelf entitlements as well.

10
11 But, as you can see on your screens, extending the properly constructed
12 equidistance line would give Maldives nearly the entire area of overlapping
13 entitlements. This leaves Mauritius with just a miniscule corner that is shaded in red.
14 “Miniscule” is no exaggeration; under Maldives’ proposed delimitation methodology,
15 Mauritius would receive a mere 250 square kilometres, that is, just 1.12% of the area
16 of overlapping entitlements. Maldives, on the other hand, would get 22,022 square
17 kilometres, or close to 99% of the area.⁸

18
19 Indeed, the version of the extended equidistance line that Maldives contends should
20 delimit the outer continental shelf – that is, the one based on its meritless argument
21 that Blenheim Reef should be disregarded in constructing the line – is even more
22 inequitable.

23
24 The map that is now on your screens depicts the Parties’ proposed equidistance
25 lines within 200 Miles. Maldives’ proposed line is the one that appears as blue
26 dashes. As you can see, the line terminates at the 200-Mile limit drawn from
27 Maldives’ baselines.

28
29 Now, let’s extend Maldives’ proposed equidistance line so that it enters the area
30 beyond Maldives’ 200-Mile limit. And now, let’s also add the area of overlapping
31 outer continental shelf entitlements.

32
33 As you can see, the extension of Maldives’ proposed equidistance lines travels south
34 of the overlapping OCS entitlements. At no point does the extended line intersect the
35 area where Mauritius and Maldives both have entitlements beyond 200 Miles. The
36 line thus misses the area of overlapping OCS entitlements entirely.

37
38 In other words, the delimitation that Maldives proposes – extending its version of the
39 equidistance line within 200 Miles so that it delimits the area beyond 200 Miles as
40 well – is a non-starter, even as a theoretical matter, because it does not divide the
41 Parties’ overlapping outer continental shelf entitlements. After all, how can a line that
42 does not cross the area to be delimited serve as the boundary in that area?

43
44 And if that were not enough, there is yet another reason not to extend Maldives’
45 proposed equidistance line. As you can see on your screens, while the line travels
46 south of the Parties’ overlapping OCS entitlements, it passes through the area
47 shaded in purple where Maldives maintains a claim to an outer continental shelf that

⁸ See Reply of the Republic of Mauritius, para. 4.20.

1 overlaps with the maritime space that falls within 200 Miles of the baselines of
2 Mauritius.

3
4 This, Maldives cannot do. Indeed, Maldives expressly recognized that this is the
5 case during the Parties' 21 October 2010 maritime boundary negotiations,
6 mentioned in the Special Chamber's second question. The official minutes of the
7 meeting, signed by the Minister of Foreign Affairs of Maldives, Dr Ahmed Shaheed,
8 memorialize that the Parties discussed Maldives' submission to the CLCS, which
9 had improperly claimed an outer continental shelf entitlement within 200 Miles of the
10 baselines of Mauritius.

11
12 The minutes further record that Minister Shaheed

13
14 said that the Expert working on the submission of Maldives has
15 acknowledged that in the submission to the CLCS the [EEZ] coordinates of
16 the Republic of Mauritius in the Chagos region were not taken into
17 consideration.⁹

18
19 Having acknowledged Maldives' error, its Minister of Foreign Affairs undertook to
20 correct it. Specifically, the minutes record that Minister Shaheed

21
22 assured the Mauritius side that this would be rectified by an addendum to
23 the submission of the Republic of Maldives which would be prepared by the
24 Expert in consultation with the Government of the Republic of Mauritius.¹⁰

25
26 Regrettably, Maldives did not fulfil that promise. In light of these events, and to
27 answer the Special Chamber's question directly, the primary relevance of the
28 21 October 2010 meeting is, (1) Maldives' acceptance that it is improper to claim an
29 outer continental shelf entitlement within 200 Miles of the baselines of Mauritius; and,
30 (2) Maldives' related undertaking not to pursue an OCS claim in that area, an
31 undertaking that is inconsistent with Maldives' pursuit of such a claim before the
32 Special Chamber.

33
34 Regardless, extending the equidistance line – whether as constructed by Mauritius
35 or Maldives – plainly does not result in the equitable solution required by article 83.
36 Indeed, you will search Maldives' pleadings in vain for any explanation – let alone a
37 reasoned or compelling one – for why a line that allocates nearly the entire area of
38 overlap to Maldives achieves an equitable result.

39
40 That omission is unsurprising. There is no principle of law that requires a court or
41 tribunal to delimit the outer continental shelf by means of an equidistance line merely
42 because that method of delimitation has been found to be appropriate within
43 200 Miles. In fact, courts and tribunals are uniform in rejecting such an unthinking
44 approach.

45

⁹ First Meeting on Maritime Boundary Delimitation and Submission Regarding the Extended
Continental Shelf Between the Republic of Maldives and Republic of Mauritius (21 October 2010)
(Written Observations of the Republic of Mauritius on the Preliminary Objections raised by the
Republic of Maldives, Annex 13).

¹⁰ *Ibid.*

1 Instead, the delimitation methodology must at all times be appropriate to the
2 circumstances. What may be appropriate for the delimitation in one area may be
3 manifestly *inappropriate* for another part of the delimitation. As the ICJ observed in
4 *Tunisia/Libya*, “One solution may be a combination of an equidistance line in some
5 parts of the area with a line of some other kind in other parts.”¹¹ Whether
6 equidistance or some other delimitation line is required is, to use the Court’s words,
7 “dictated by the relevant circumstances.”¹²

8
9 This context and fact-specific approach, which courts and tribunals have repeatedly
10 emphasized, is essential when delimiting the outer continental shelf. The factors that
11 might make it appropriate within 200 Miles may not apply beyond 200 Miles. Indeed,
12 the very basis for entitlement is different. Within 200 Miles, entitlement to
13 a continental shelf is based on distance from the coast and, thus, is a function of
14 coastal configuration; beyond 200 Miles, however, entitlement is based exclusively
15 on geology and geomorphology. Moreover, while a particular delimitation line may
16 not cause an inequitable cut-off effect within 200 Miles, if extended beyond 200
17 Miles, it might result in an inequitable cut-off.

18
19 Maldives grapples with none of these issues. It simply asserts that the equidistance
20 line used within 200 Miles should delimit the outer continental shelf as well. For the
21 reasons I will explain, the Special Chamber should reject this crude approach, which
22 has no basis in this Tribunal’s jurisprudence or that of other courts or tribunals.

23
24 Instead, the appropriate approach, indeed the one that is mandated by the particular
25 circumstances of this case, is for the delimitation to give due account of the Parties’
26 equal entitlements to the shelf at issue, where, by virtue of being the natural
27 prolongations of their respective landmasses, both Parties are equally entitled to the
28 shelf in question. The equitable solution called for in these circumstances is to divide
29 the area equally by means of a line that allocates to Mauritius and Maldives equal
30 shares of the area to which they have equal entitlements. You can see on your
31 screens the course of that line, which, starting from the easternmost endpoint of the
32 delimitation within 200 Miles, consists of an azimuth bearing N 55 degrees East.

33
34 **THE PRESIDENT OF THE SPECIAL CHAMBER:** Mr Loewenstein, I am sorry to
35 interrupt you but we have reached 4.35. Therefore, at this stage, the Special
36 Chamber will withdraw for a break of 30 minutes. We will continue the hearing at
37 5.05.

38
39 (Break)

40
41 **MR LOEWENSTEIN:** Mr President, when we went to the coffee break we had just
42 seen that the appropriate approach to delimitation in this case is to give effect to the
43 Parties’ equal entitlements by dividing the area equally by means of a line that
44 allocates Mauritius and Maldives equal shares.

45
46 With this in mind, I turn to delimitation methodology, and the three-step method that
47 courts and tribunals have often used. Maldives argues that the Special Chamber is

¹¹ *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)*, Judgment, I.C.J. Reports 1982, para. 109, emphasis added.

¹² *Ibid.*

1 compelled to deploy this methodology simply because it has been found to be
2 appropriate in other delimitation scenarios. But, in so arguing, Maldives disregards
3 the words of caution that the Tribunal has repeatedly emphasized, warning that,
4 because in all instances the chosen methodology must result in an equitable
5 solution, no particular methodology is sacrosanct, and thus the methodology
6 appropriate to the delimitation at hand must be determined on a case-by-case basis
7 and in light of the particular circumstances it presents.

8
9 As the Tribunal put it in *Bangladesh/Myanmar*, “the issue of which method should be
10 followed in drawing the maritime delimitation should be considered in light of the
11 circumstances of each case.”¹³

12
13 That is because, the Tribunal explained, “[t]he goal of achieving an equitable result
14 must be the paramount consideration.”¹⁴ Accordingly, “the method to be followed
15 should be one that, under the prevailing geographical realities and the particular
16 circumstances of each case, can lead to an equitable result.”¹⁵

17
18 The Tribunal emphasized the same point in *Ghana/Côte d’Ivoire*, when it highlighted
19 the need for a case-specific determination as to what method should be used:

20
21 The appropriate delimitation methodology – if the States cannot agree – is
22 left to be determined through the dispute-settlement mechanism and
23 should achieve an equitable solution, in the light of the circumstances of
24 each case.¹⁶

25
26 And, in *Bangladesh v. India*, the Annex VII tribunal explained that in choosing “the
27 appropriate delimitation method,” international courts and tribunals are

28
29 guided by a paramount objective, namely, that the method chosen be
30 designed so as to lead to an equitable result and that, at the end of the
31 process, an equitable result be achieved.¹⁷

32
33 Similarly, in *Nicaragua v. Honduras*, a case where the ICJ declined to draw an
34 equidistance line, the Court emphasized that an alternative delimitation method
35 should be employed not only in circumstances where constructing an equidistance
36 line would not be technically feasible, for instance, due to coastal instability, but also
37 that equidistance should not be used in cases where doing so would, to use the
38 Court’s word, be “inappropriate.”¹⁸

39
40 The paramount need to evaluate whether equidistance is appropriate in light of the
41 “particular circumstances” of the case applies even when the three-step method is

¹³ *Delimitation of the maritime boundary between Bangladesh and Myanmar in the Bay of Bengal (Bangladesh/Myanmar)*, Judgment, 14 March 2012, para. 235, emphasis added.

¹⁴ *Ibid.*

¹⁵ *Ibid.*, emphasis added.

¹⁶ *Dispute concerning delimitation of the Maritime Boundary in the Atlantic Ocean (Ghana/Côte d’Ivoire)*, Judgment (23 September 2017), para. 281.

¹⁷ *The Bay of Bengal Maritime Boundary Arbitration (Bangladesh v. India)*, PCA Case No. 2010-16, Award (7 July 2014), para. 339.

¹⁸ *Territorial and Maritime Dispute between Nicaragua and Honduras in the Caribbean Sea (Nicaragua v. Honduras)*, Judgment, I.C.J. Reports 2007, para. 272.

1 employed. In that regard, there is nothing pre-ordained about drawing an
2 equidistance line at the first stage. In the *Black Sea* case, the ICJ chose its words
3 carefully when it explained that, at the first stage, a court or tribunal “will establish a
4 provisional delimitation line, using methods that are geometrically objective and also
5 appropriate for the geography of the area in which the delimitation is to take place.”¹⁹
6

7 That provisional delimitation line need not necessarily be an equidistance line. As the
8 Court subsequently explained in *Nicaragua v. Colombia*, in deciding whether to use
9 an equidistance line as the “provisional delimitation line,”²⁰ even if constructing that
10 line would be technically feasible, there may nonetheless be reasons for a court or
11 tribunal to determine “whether [equidistance] is appropriate as a starting-point for the
12 delimitation.”²¹
13

14 To be sure, using an equidistance line as the provisional delimitation line will often
15 be justified. Indeed, this will be the case in most delimitations – including the Parties’
16 delimitation within 200 Miles in this case – as Mauritius and Maldives themselves
17 agree. But the Tribunal has consistently emphasized, as it did in *Ghana/Côte*
18 *d’Ivoire*, that an equidistance line should not be used at the first stage of the
19 delimitation where this would be “inappropriate.”²² In making that point, the Tribunal
20 repeated what it had previously stated in *Bangladesh/Myanmar*, where it
21 underscored that “[e]ach case is unique and requires specific treatment, the ultimate
22 goal being to reach a solution that is equitable.”²³
23

24 In so holding, the Tribunal gave effect to the consistent case law of international
25 courts and tribunals. As the ICJ put it in *Tunisia/Libya*, “what is reasonable and
26 equitable in any given case must depend on its particular circumstances.”²⁴ Thus, in
27 the words of the Court, “[t]here can be no doubt that it is virtually impossible to
28 achieve an equitable solution in any delimitation without taking into account the
29 particular relevant circumstances of the area.”²⁵
30

31 Similarly, referring to the Court’s jurisprudence, the ICJ in *Nicaragua v. Honduras*
32 emphasized that
33

34 the equidistance method does not automatically have priority over other
35 methods of delimitation and, in particular circumstances, there may be
36 factors which make the application of the equidistance method
37 inappropriate.²⁶
38

¹⁹ *Maritime Delimitation in the Black Sea (Romania v. Ukraine)*, Judgment, I.C.J. Reports 2009, para. 116, emphasis added.

²⁰ *Territorial and Maritime Dispute (Nicaragua v. Colombia)*, Judgment, I.C.J. Reports 2012, para. 191.

²¹ *Ibid.*, para. 195.

²² *Delimitation of the Maritime Boundary in the Atlantic Ocean (Ghana/Côte d’Ivoire)*, Judgment, 23 September 2017, para. 289.

²³ *Ibid.*, citing *Delimitation of the maritime boundary between Bangladesh and Myanmar in the Bay of Bengal (Bangladesh/Myanmar)*, Judgment, 14 March 2012, para. 317.

²⁴ *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)*, Judgment, I.C.J. Reports 1982, para. 72.

²⁵ *Ibid.*

²⁶ *Territorial and Maritime Dispute between Nicaragua and Honduras in the Caribbean Sea (Nicaragua v. Honduras)*, Judgment, I.C.J. Reports 2007, para. 272.

1 Here, the particularities of the Parties' delimitation beyond 200 Miles make an
2 equidistance line, even as a starting point for the delimitation at the first stage,
3 manifestly inappropriate.

4
5 Why this is so concerns among many other reasons the nature of the Parties'
6 entitlement to the continental shelf beyond 200 Miles and the relationship of that
7 entitlement to the method of delimitation. Without belabouring the obvious, the two
8 are inextricably linked. The method of delimitation must give effect to the basis of
9 entitlement. The ICJ made this point in *Libya v. Malta* when it described as "self-
10 evident" the fact that "the questions of entitlement and of definition of the continental
11 shelf, on the one hand, and of delimitation of continental shelf on the other, are not
12 only distinct but are complementary."²⁷ For that reason, the Court stressed, the "legal
13 basis of that which is to be delimited, and of entitlement to it, cannot be other than
14 pertinent to that delimitation."²⁸

15
16 So, let us turn now to the nature of entitlements to the continental shelf both within
17 and beyond 200 Miles, and examine how the different bases for those entitlements
18 are given effect in delimitation.

19
20 We begin with the continental shelf within 200 Miles. The legal basis for a coastal
21 State's entitlement within 200 Miles is clear: it is founded exclusively on the distance
22 criterion set out in article 76, paragraph 1, which states that a coastal State's
23 continental shelf is comprised of the seabed and subsoil to "a distance of
24 200 nautical miles from the baselines from which the breadth of the territorial sea is
25 measured."²⁹ The term "baselines," in this case, includes archipelagic baselines
26 drawn in accordance with article 47 and Part IV of the Convention.³⁰ As a
27 consequence of this basis for entitlement, the seaward extent of a coastal State's
28 continental shelf rights is entirely dependent upon its coastal configuration.

29
30 The distance criterion for a coastal State's entitlement to a continental shelf within
31 200 Miles makes equidistance a particularly suitable means of delimitation for that
32 maritime space, at least in most cases. As courts and tribunals have repeatedly
33 confirmed, the merit of equidistance is that it is an objective method that gives effect
34 to the coastal configurations of the States whose maritime entitlements are subject to
35 delimitation. The ICJ, for example, observed in *Nicaragua v. Honduras* that the
36 "equidistance method approximates the relationship between the two Parties'
37 relevant coasts by taking account of the relationships between designated pairs of
38 basepoints."³¹

39
40 But this rationale for using equidistance as the preferred means for delimitation of
41 the EEZ and continental shelf within 200 Miles – that it gives effect to coastal
42 configurations – falls away beyond 200 Miles. In the outer continental shelf, coastal
43 configuration and distance from the coast have no relevance whatsoever. Instead, a
44 coastal State's continental shelf entitlement is based exclusively on natural

²⁷ *Continental Shelf (Libyan Arab Jamahiriya/Malta)*, Judgment, I.C.J. Reports 1985, para. 27.

²⁸ *Ibid.*

²⁹ United Nations Convention on the Law of the Sea 1982, article 76(1).

³⁰ *Ibid.*, article 47.

³¹ *Territorial and Maritime Dispute between Nicaragua and Honduras in the Caribbean Sea (Nicaragua v. Honduras)*, Judgment, I.C.J. Reports 2007, para. 289.

1 prolongation. It is thus geomorphology – not distance from the coast or coastal
2 configuration – that is relevant to entitlement beyond 200 Miles.

3
4 This has significant consequences for delimitation of the outer continental shelf. The
5 underlying logic that often makes equidistance the appropriate means of delimitation
6 within 200 Miles cannot have the same application beyond that distance. The ICJ in
7 *Libya v. Malta* explained how the basis of entitlement interacts with the means of
8 delimitation. It observed

9
10 since the development of the law enables a State to claim that the
11 continental shelf appertaining to it extends up to as far as 200 miles from
12 its coast, whatever the geological characteristics of the corresponding sea-
13 bed and subsoil, there is no need to ascribe any role to geological or
14 geophysical factors within that distance either in verifying the legal title of
15 the States concerned or in proceeding to a delimitation as between their
16 claims.³²

17
18 The Court, however, was careful to limit this observation to “those areas [that] are
19 situated at a distance of under 200 Miles from the coasts in question,” where “title
20 depends solely on the distance from the coasts of the claimant States” such that “the
21 geological or geomorphological characteristics of those areas are completely
22 immaterial.”³³

23
24 Beyond 200 Miles, the situation is reversed. To borrow the Court’s words,
25 entitlement to a continental shelf beyond 200 Miles depends “solely” on the area’s
26 “geological or geomorphological characteristics,” while “distance from the coasts of
27 the claimant States” is “completely immaterial.”³⁴ Maldives’ approach to delimitation
28 beyond 200 Miles entirely ignores this fundamental distinction.

29
30 This is not to say that equidistance can never be an appropriate starting point for
31 delimitation beyond 200 Miles. Again, everything depends on the particular factual
32 circumstances of the case. There may be circumstances in which equidistance can
33 still usefully serve as an appropriate starting point, such as where the geographical
34 context is one of adjacency. This was the situation in prior delimitation cases where
35 courts or tribunals were called upon to delimit the continental shelf beyond
36 200 Miles, such as in the *Bay of Bengal* cases and *Ghana/Côte d’Ivoire*.³⁵ In all
37 those cases, the two parties were adjacent States, and the extension of the
38 delimitation line within 200 Miles along the same azimuth made logical sense. Not so
39 here, where Mauritius and Maldives are opposite States. Indeed, this is the first case
40 in which any court or tribunal has been called upon to delimit the outer continental

³² *Continental Shelf (Libyan Arab Jamahiriya/Malta)*, Judgment, I.C.J. Reports 1985, para. 39.

³³ *Ibid.*

³⁴ *Ibid.*

³⁵ See *Delimitation of the maritime boundary between Bangladesh and Myanmar in the Bay of Bengal (Bangladesh/Myanmar)*, Judgment, 14 March 2012, paras. 424-25; *The Bay of Bengal Maritime Boundary Arbitration (Bangladesh v. India)*, PCA Case No. 2010-16, Award, 7 July 2014, paras. 229, 260; *Delimitation of the maritime boundary in the Atlantic Ocean (Ghana/Côte d’Ivoire)*, Judgment, 23 September 2017, para. 64. See also *Barbados v. Trinidad and Tobago*, PCA Case No. 2004-02, Award (11 April 2006), Map VI, following p. 114; *Maritime Delimitation in the Indian Ocean (Somalia v. Kenya)*, Judgment, 12 October 2021, para. 31.

1 shelf claimed by two opposite States. And here, the equidistance approach deprives
2 Mauritius of almost the entirety of its outer continental shelf entitlement.

3
4 In the particular geographical circumstances of this case, the extension of a properly
5 constructed equidistance line, into the area beyond 200 Miles, deprives Mauritius of
6 nearly 99 percent of its outer continental shelf entitlement, even though Mauritius
7 has an equal entitlement to the same shelf that the equidistance line would allocate
8 almost entirely to Maldives.

9
10 The faulty equidistance line proposed by Maldives is even worse: it misses the area
11 of overlapping OCS entitlements altogether, depriving Mauritius of the entirety of its
12 continental shelf entitlement beyond 200 Miles.

13
14 Thus, in the circumstances of this case, which are entirely different from any other
15 faced previously by an international court or tribunal, the appropriate means for
16 delimiting the overlapping outer continental shelf entitlements, that is, the means that
17 would achieve the equitable result necessary under article 83, is not to extend the
18 equidistance line that should serve as the Parties' maritime boundary within
19 200 Miles, but to apportion the area claimed by both States beyond 200 Miles
20 equally between Mauritius and Maldives.

21
22 There is no merit to Maldives' argument that because the CLCS has not yet issued
23 recommendations concerning the area's delineation the Special Chamber somehow
24 cannot delimit the overlapping outer continental shelf entitlements by means of a line
25 of equal apportionment.

26
27 To begin with, the absence of a delineation by the CLCS has not prevented courts or
28 tribunals from establishing the boundary beyond 200 Miles by means of a directional
29 line, as was done in *Bangladesh/Myanmar*, *Bangladesh v. India*, and *Barbados v.*
30 *Trinidad and Tobago*.³⁶ The fact that the precise dimensions of the area had not yet
31 been determined was no impediment to the delimitation in any of those cases.

32
33 Moreover, while Maldives has sought to challenge whether the outer continental
34 shelf claimed by Mauritius is, in fact, a natural prolongation of the landmass of
35 Mauritius – an argument that is mistaken, for the reasons explained by Dr Badal –
36 Maldives does not dispute that the limits of the Mauritian outer continental shelf fall
37 along the line described in Mauritius' submission to the CLCS, which you can see on
38 your screens. There is no reason to doubt its accuracy. Regardless, the Special
39 Chamber, including potentially through the work of the distinguished expert or
40 experts it might appoint, can verify for itself the scientific and technical correctness of
41 the extent of the continental shelf claimed by Mauritius.

42
43 Mr President, notwithstanding what I have just argued, Maldives insists that the
44 Special Chamber apply the traditional three-step method to the delimitation of the
45 outer continental shelf, and that it do so by extending the equidistance line that

³⁶ *Delimitation of the maritime boundary between Bangladesh and Myanmar in the Bay of Bengal (Bangladesh/Myanmar)*, Judgment, 14 March 2012, para. 379; *The Bay of Bengal Maritime Boundary Arbitration (Bangladesh v. India)*, PCA Case No. 2010-16, Award, 7 July 2014, para. 76; *Barbados v. Trinidad and Tobago*, PCA Case No. 2004-02, Award, 11 April 2006, para. 213.

1 would constitute the Parties' boundary within 200 Miles. This is not the appropriate
2 way to proceed, for the reasons I have discussed.

3
4 But even if, *quod non*, the Special Chamber were to follow Maldives' preferred
5 approach – misguided as it is – the end-result would still be the same. To achieve
6 the equitable result required by article 83, the Special Chamber inevitably would
7 have to adjust the provisional equidistance line to account for the inequitable cut-off
8 it produces, depriving Mauritius of nearly the entirety of its outer continental shelf
9 entitlement. As the Annex VII tribunal put it in *Bangladesh v. India*, the Special
10 Chamber would need to “ameliorate [the] excessive negative consequences the
11 provisional equidistance line would have” for Mauritius.³⁷

12
13 Indeed, remedying such a cut-off of a coastal State's entitlement is a quintessential
14 relevant circumstance that justifies adjustment of the equidistance line. The case law
15 is unambiguous on this score. The Tribunal made that perfectly clear in
16 *Bangladesh/Myanmar* in connection with evaluating the effect of concavity, where it
17 stated that

18
19 when an equidistance line drawn between two States produces a cut-off
20 effect on the maritime entitlement of one of those States ... then an
21 adjustment of that line may be necessary in order to reach an equitable
22 result.³⁸

23
24 It was for that reason – to remedy the cut-off produced by the equidistance line both
25 within and beyond 200 Miles – that the Tribunal extended the adjusted line that it had
26 drawn within 200 Miles to the delimitation beyond 200 Miles as well.

27
28 Here, adjusting the provisional equidistance line so that the area of overlapping
29 entitlements is allocated equally would be required. As the ICJ ruled in *Nicaragua v.*
30 *Colombia*,

31
32 the achievement of an equitable solution requires that, so far as possible,
33 the line of delimitation should allow the coasts of the Parties to produce
34 their effects in terms of maritime entitlements in a reasonable and mutually
35 balanced way.³⁹

36
37 This has long been the rule followed by courts and tribunals. As early as the *North*
38 *Sea Continental Shelf Cases*, the ICJ held that delimitation of the continental shelf
39 should be effectuated

40
41 in such a way as to leave as much as possible to each Party all those parts
42 of the continental shelf that constitute a natural prolongation of its land

³⁷ *The Bay of Bengal Maritime Boundary Arbitration (Bangladesh v. India)*, PCA Case No. 2010-16, Award (7 July 2014), para. 477.

³⁸ *Delimitation of the maritime boundary between Bangladesh and Myanmar in the Bay of Bengal (Bangladesh/Myanmar)*, Judgment, 14 March 2012, para. 292.

³⁹ *Territorial and Maritime Dispute (Nicaragua v. Colombia)*, Judgment, I.C.J. Reports 2012, para. 215.

1 territory into and under the sea, without encroachment on the natural
2 prolongation of the land territory of the other.⁴⁰

3
4 As a result, as the Court explained in *Tunisia/Libya*, “equitable considerations would
5 not justify a delimitation whereby one State was permitted to encroach on the natural
6 prolongation of the other.”⁴¹

7
8 The Tribunal confirmed this approach in *Bangladesh/Myanmar*, where, quoting the
9 *Black Sea* case, it stated that the “objective is a line that allows the relevant coasts of
10 the Parties ‘to produce their effects, in terms of maritime entitlements, in a
11 reasonable and mutually balanced way’”.⁴²

12
13 An unadjusted equidistance line would fall far short of meeting this standard. In
14 principle, Mauritius is entitled under article 76 of the Convention to every square
15 kilometer of the 22,272 that comprise the area of overlapping OCS entitlements by
16 virtue of the natural prolongation of its land mass. The equidistance line, however,
17 would deprive Mauritius of more than 22,000 of those square kilometers, nearly
18 99 percent of the area, even though Mauritius’ entitlement to the area is of equal
19 weight to that of Maldives.

20
21 For these reasons, a line that apportions the area of overlapping claims equally by
22 means of the 55 degree azimuth extending from the easternmost point of the
23 delimitation within 200 Miles is the solution that article 83 requires. Both Mauritius
24 and Maldives are given access to their respective outer continental shelf entitlements
25 in a reasonable and balanced way. Indeed, there could be no solution that would be
26 more reasonable or balanced than to allocate the area – where both Parties enjoy
27 equal entitlements – equally. Any other delimitation would necessarily deny one of
28 the Parties a share of its entitlement in an unreasonable and unbalanced manner.

29
30 Moreover, the line results in a nearly equal division of the entire area of overlapping
31 entitlements: 50.56% to Mauritius and 49.44% to Maldives. The delimitation also
32 satisfies the non-disproportionality check that the Special Chamber should employ at
33 the third stage of the delimitation process, which applies to the entire area subject to
34 delimitation, both within and beyond 200 Miles.⁴³ The ratio for portions of the entire
35 relevant area is 1.02:1 in favour of Mauritius. The ratio of the Parties’ coastal lengths
36 is 1.7:1, also in favour of Mauritius. There is no disproportionality, let alone one that
37 would justify any adjustment of the line at the third stage.

38

⁴⁰ *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)*, Judgment, I.C.J. Reports 1982, para. 37, quoting *North Sea Continental Shelf*, Judgment, I.C.J. Reports 1969, para. 101.

⁴¹ *Ibid.*, para. 39.

⁴² *Delimitation of the maritime boundary between Bangladesh and Myanmar in the Bay of Bengal (Bangladesh/Myanmar)*, Judgment, 14 March 2012, para. 326, citing *Maritime Delimitation in the Black Sea (Romania v. Ukraine)*, Judgment, I.C.J. Reports 2009, para. 201.

⁴³ *Delimitation of the maritime boundary between Bangladesh and Myanmar in the Bay of Bengal (Bangladesh/Myanmar)*, Judgment, 14 March 2012, paras. 489-499; *The Bay of Bengal Maritime Boundary Arbitration (Bangladesh v. India)*, PCA Case No. 2010-16, Award, 7 July 2014, paras. 470-497; *Delimitation of the Maritime Boundary in the Atlantic Ocean (Ghana/Côte d’Ivoire)*, Judgment, 23 September 2017, paras. 533-538.

1 Finally, Mr President, I will now answer the first question posed by the Special
2 Chamber, which asks what would be the consequences if the CLCS were to take a
3 different position on the entitlements of the Parties in its recommendations.

4
5 There is, at present, no possibility of the CLCS making such recommendations.
6 Mauritius and Maldives have each objected to the other's submission in regard to the
7 Northern Chagos Archipelago Region on the basis of their dispute concerning their
8 continental shelf boundaries.⁴⁴ Accordingly, under the CLCS' Rules of Procedure,
9 the Commission is precluded from proceeding.⁴⁵ Under the status quo, therefore, the
10 CLCS cannot make any recommendations in regard to the outer limits of either
11 Party's entitlements beyond 200 Miles, much less recommendations that differ from
12 their respective positions.

13
14 In these circumstances, only the Special Chamber can break the impasse. And,
15 there is no question that it has the jurisdiction to delimit the boundary in the outer
16 continental shelf, as ITLOS confirmed in *Bangladesh/Myanmar*, where it ruled that it
17 could – and should – exercise jurisdiction even though the CLCS had not issued
18 recommendations. In so holding, the Tribunal emphasized its “obligation to
19 adjudicate the dispute and to delimit the continental shelf between the Parties
20 beyond 200 nm.”⁴⁶ As the Annex VII tribunal subsequently stated in *Bangladesh v.*
21 *India*, it could see “no grounds why it should refrain from exercising its jurisdiction to
22 decide on the lateral delimitation of the continental shelf beyond 200 nm before its
23 outer limits have been established.”⁴⁷

24
25 Maldives' refusal to accept that Mauritius satisfies the requirements set out in
26 article 76 for an outer continental shelf is not a reason to forego exercising
27 jurisdiction. The Special Chamber is empowered under Part XV of UNCLOS to
28 interpret and apply the Convention. This includes article 76. The fact that the
29 Convention assigns to the CLCS the role of ascertaining the outer limits of the
30 continental margin, and making recommendations thereon, does not block a court or
31 tribunal constituted under Part XV from making the same assessment in the context
32 of a contentious case. Were it otherwise, the freezing of the CLCS' consideration of
33 a submission due to the filing of an objection thereto, would, in this vitally important
34 context, render the Convention's carefully crafted dispute resolution procedures
35 without effect.

36
37 Regardless, the judgment of the Special Chamber is certain to satisfy the highest
38 scientific and technical, as well as legal, standards. Thus, even were the CLCS to

⁴⁴ Note Verbale dated 13 June 2022 from the Permanent Mission of the Republic of Maldives to the United Nations in New York to the United Nations Secretary-General, available at https://www.un.org/depts/los/clcs_new/submissions_files/mus2_2022/PICLCSMauritius.pdf; Note Verbale dated 24 March 2011 from the Permanent Mission of the Republic of Mauritius to the United Nations in New York to the United Nations Secretary-General (Counter-Memorial of the Republic of Maldives, Annex 59).

⁴⁵ United Nations, Commission on the Limits of the Continental Shelf, *Rules of Procedure of the Commission on the Limits of the Continental Shelf*, U.N. Doc. CLCS/40/Rev.1 (17 Apr. 2008), Annex I, Section 5(a).

⁴⁶ *Delimitation of the maritime boundary between Bangladesh and Myanmar in the Bay of Bengal (Bangladesh/Myanmar)*, Judgment, 14 March 2012, para. 394.

⁴⁷ *The Bay of Bengal Maritime Boundary Arbitration (Bangladesh v. India)*, PCA Case No. 2010-16, Award, 7 July 2014, para. 76.

1 eventually make recommendations at some indeterminate point in the future, the
2 likelihood that those recommendations would differ from the judgment is extremely
3 unlikely. And, any such risk can be minimized by the Special Chamber obtaining
4 expert assistance, as it has indicated it may do. This is particularly so in light of the
5 fact that, as I have mentioned, while Maldives disputes whether natural prolongation
6 enables Mauritius to use its foot of slope point, Maldives does not dispute the
7 location of the outer limits of the Mauritian OCS should that foot of slope point be
8 found to be proper. Further, even if the outer limits were to be adjusted closer or
9 farther away, the 55 degree azimuth would still divide the overlapping OCS
10 entitlements equally.

11
12 Finally, in the unlikely event the CLCS were to differ in its recommendations, the
13 Parties may, under article 8 of Annex II, make revised or new submissions to the
14 Commission, including ones that formally inform the Commission of the judgment,
15 and of the Parties' obligations under article 296 of the Convention to comply with it.
16 Indeed, the judgment of the Special Chamber would be binding, and would preclude
17 the Parties from accepting recommendations from the CLCS that conflicted with it.

18
19 Mr President, Members of the Special Chamber, this concludes my presentation, as
20 well as the first-round presentation of Mauritius. Thank you for your kind attention.

21
22 **THE PRESIDENT OF THE SPECIAL CHAMBER:** Thank you, Mr Loewenstein.

23
24 This brings us to the end of this afternoon's sitting and concludes the first round of
25 oral argument of Mauritius. The hearing will be resumed on Thursday at 10 a.m. to
26 hear the first round of oral argument of the Maldives. The sitting is now closed.

27
28 *(The sitting closed at 5.40 p.m.)*