IN THE MATTER OF AN ARBITRATION BEFORE A TRIBUNAL
CONSTITUTED IN ACCORDANCE WITH ARTICLE 5 OF
THE ARBITRATION AGREEMENT BETWEEN THE GOVERNMENT OF SUDAN
AND THE SUDAN PEOPLE'S LIBERATION MOVEMENT/ARMY
ON DELIMITING ABYEI AREA
-and-
THE PERMANENT COURT OF ARBITRATION OPTIONAL RULES
FOR ARBITRATING DISPUTES BETWEEN TWO PARTIES
OF WHICH ONLY ONE IS A STATE
Peace Palace, The Hague

Sunday, 19th April 2009

Before:

PROFESSOR PIERRE-MARIE DUPUY
JUDGE AWN AL-KHASAWNEH
PROFESSOR DR GERHARD HAFNER
JUDGE STEPHEN M SCHWEBEL
PROFESSOR W MICHAEL REISMAN

BETWEEN:

THE GOVERNMENT OF SUDAN
and
THE SUDAN PEOPLE'S LIBERATION MOVEMENT/ARMY

AMBASSADOR MOHAMED AHMED DIRDEIRY of Dirdeiry & Co,
PROFESSOR JAMES CRAWFORD SC of Matrix Chambers,
PROFESSOR ALAIN PELLET of University of Paris Ouest,
MR RODMAN BUNDY and MS LORETTA MALINTOPPI of Eversheds LLP
appeared on behalf of the Government of Sudan.

DR RIEK MACHAR TENY, GARY BORN, WENDY MILES, of Wilmer
Cutler Pickering Hale & Dorr LLP, PAUL R WILLIAMS and
VANESSA JIMÉNEZ of Public International Law & Policy Group
appeared on behalf of the SPLM/A.

REGISTRY: JUDITH LEVINE, Registrar and legal
counsel, ALOYSIUS LLAMZON, acting Registrar and legal
counsel, PAUL-JEAN LE CANNU, legal counsel, appeared for
the Permanent Court of Arbitration.

Transcript produced by Trevor McGowan
Tel: +33 (0)6 98 26 34 44
info@TMGreporting.com

09:38 1 Sunday, 19th April 2009
2 (9.32 am)
3 THE CHAIRMAN: I call to the floor Mr Born for the
4 presentation of the argument of the SPLM/A on excess
5 of mandate.
6 Submissions by MR BORN
7 MR BORN: Thank you, Mr Chairman. As I announced
8 yesterday, "the floor" is a broad expression. In
9 fact, I will be speaking from the table on this side.
10 I'd like to begin by thanking my colleagues at
11 Wilmer Cutler. I am the one who, for better or for
12 worse, will be doing the speaking today, but the words
13 that I say are the product of a huge effort -- I think
14 the chairman said a herculean effort -- by many people,
15 many people other than me, and most of the credit for
16 what I say, for better or for worse, goes to them and
17 not to me.
18 The credit also goes to the PILPG, our co-counsel in
19 this case, who contributed enormously, and of course the
20 credit goes to the SPLM/A as well, which was enormously
21 helpful in preparing the submissions that we've made and
22 what I will say today.
23 I'd also like to thank the Tribunal. It's
24 a distinct honour and privilege to appear before you
25 today. It's a distinguished tribunal in every respect

09:33 1 and on a personal level it's a great honour and, as
2 I say, a privilege to be able to make submissions to
3 you.
4 I also thank you for the enormous work that you have
5 done and that you will do. It's a herculean effort not
6 just by the parties and their counsel but by the members
7 of the Tribunal. There has been a lot of paper, they
8 are long submissions, but your efforts, the efforts of
9 each one of you, are enormously appreciated.
10 In particular we thank you for sitting today, on
11 Sunday, ordinarily a day of rest and also for being
12 willing to sit next Friday, another day of rest, and
13 again we thank you in advance for the enormous work that
14 lies ahead of you when we are finished with ours.
15 I'd like then to start with our presentation. It
16 will be accompanied by slides and if we could move to
17 the first slide.
18 We heard yesterday reference to a featureless plain,
19 and to some extent, sitting where I sit right now, the
20 rest of the day feels a bit like a featureless plain.
21 So to try and give you some landmarks to guide you to
22 where I and we will be going, you can see in the slide
23 the way that our remarks will be divided.
24 I will try and begin with a description of the
25 Comprehensive Peace Agreement and the Abyei agreements

09:35 1 that were an integral part of it. I will then move on
2 and discuss people who we heard a number of things about
3 but didn't really talk much about yesterday, the ABC
4 experts, as well the proceedings that they actually
5 conducted.
6 From there I'll turn to the topic of admissibility,
7 the admissibility of the supposed excess of mandate
8 claims raised by the Government in these proceedings.
9 After that I'll turn to generally applicable
10 principles of law and provide an overview of the
11 well-settled principles of finality and res judicata and
12 the standards of legal proof which those give rise to.
13 In some sense I shouldn't need to do that, but given the
14 Government's arguments both yesterday and previously,
15 I'm afraid that I need to.
16 Finally I will look to the various individual excess
17 of mandate claims, purported excess of mandate claims
18 that the Government has raised; its so-called procedural
19 substantive mandate and mandatory criteria claims. I'm
20 not sure exactly how many those are; I think
21 Professor Pellet said it's 10, 11 or 12, but it doesn't
22 really matter. It does sort of matter for me, frankly,
23 because I have to figure out what they are and address
24 them, and I will do my best. If I fail to address one
25 of them, I'm sure we will come back to it in rebuttal.

09:36 1 Finally, if time admits -- and I trust that it
2 will -- I'll turn to the questions of exclusion and
3 waiver, the final argument contained in our legal
4 section.
5 I'd like to begin now with the background to this
6 arbitration. The arbitration arises from more than
7 40 years of civil war in the Sudan. That war began in
8 the years following Sudan's independence in 1956. When
9 we sit here today in the tidy splendour of this
10 Peace Palace, I think it's almost impossible to conceive
11 what that war meant. That war has rightly been
12 described as the world's most destructive civil
13 conflict. It killed more than 2 million people, and it
14 drove more than 4.5 million people from their homes,
15 almost entirely in the south.
16 The war, the Sudanese Civil War, was ended in 2005
17 by the Comprehensive Peace Agreement by the Government
18 of Sudan and the Sudan People's Liberation
19 Movement/Army. The CPA was concluded after three years
20 of difficult negotiations, with the active involvement
21 of the international community. The United States and
22 the United Kingdom played particular roles in brokering
23 the negotiations.
24 In addition, and of some importance, the
25 Inter-Governmental Authority on Development, as you

Trevor McGowan
info@TMGreporting.com

09:38 1 know, the IGAD, played a vital role in the peace
2 negotiations. The IGAD is a regional African
3 organisation which incorporates seven countries, as you
4 know, in the Horn of Africa: Djibouti, Ethiopia, Kenya,
5 Somalia, Sudan, Uganda and Eritrea.
6 When it was drafted the Comprehensive Peace
7 Agreement encompassed six separate agreements, and they
8 ran to some 240 pages of text. The agreements set forth
9 detailed terms for resolving the civil war, and
10 providing for the democratic transformation of the
11 Sudanese Government. The agreements addressed a range
12 of subjects, including governance, wealth-sharing,
13 security, displaced persons, and the resolution of
14 various regional conflicts in Sudan, including -- most
15 importantly for our purposes -- the Abyei Area.
16 Central to the CPA was agreement that the people of
17 Southern Sudan would be entitled to vote in a democratic
18 referendum in 2011. The issue in the referendum will be
19 whether the south will remain part of Sudan or become
20 an independent state. In the words at the time of the
21 chairman of the SPLM/A, Colonel John Garang:
22 "The Sudanese people had themselves voluntarily
23 negotiated a unique peace agreement that in effect
24 prescribed a one-country/two-systems model, whereby the
25 people of Southern Sudan would decide after six years

09:39 1 whether to remain within Sudan or opt for independence."
2 The Comprehensive Peace Agreement was a striking and
3 highly constructive agreement which promised to end
4 an otherwise intractable and brutally destructive
5 conflict. The success of the CPA is of vital
6 independence to the people of Sudan and indeed all of
7 Africa.
8 The parties regarded Abyei as one of the most
9 important issues in the peace negotiations. Throughout
10 the negotiations the SPLM/A insisted on the right of the
11 Abyei Area inhabitants, the Ngok Dinka people, to
12 determine for themselves whether to join the south or
13 remain in the north.
14 Ultimately the parties agreed to an innovative and
15 carefully designed mechanism for resolving their
16 disagreements over Abyei. The agreement was set forth
17 in the Abyei Protocol and the Abyei Annex, both entered
18 into as part of the CPA at the end of 2004. The
19 provisions of the Abyei Protocol and the Abyei Annex
20 were subsequently elaborated in the Terms of Reference.
21 These three documents included both substantive
22 provisions recording the parties' agreement on the
23 definition and future administration of the Abyei Area
24 and procedural mechanisms for implementing and resolving
25 disputes over the parties' substantive agreements.

09:41 1 Substantively, Article 1 of the Abyei Protocol set
2 out the principles of agreement on Abyei. This
3 provision was the cornerstone of the parties'
4 agreements. Of fundamental importance, Article 1
5 provided an agreed definition of the Abyei Area. It
6 also guaranteed guarantees of traditional rights to use
7 that area. These principles provided the central
8 substantive terms of the parties' agreements regarding
9 Abyei.
10 You can see there on the slide in 1.1.1 it first
11 says:
12 "Abyei is a bridge between the north and the south
13 linking the people of Sudan."
14 Then of critical importance, as we will see, in
15 1.1.2:
16 "The territory [that is the Abyei Area] is defined
17 as the area of the nine Ngok Dinka chiefdoms transferred
18 to Kordofan in 1905."
19 We'll come back to that phrase multiple times.
20 Finally in section 1.1.3:
21 "The Misseriya and other nomadic peoples retain
22 their traditional rights to graze cattle and move across
23 the territory of Abyei."
24 The Abyei Protocol then went on to set forth
25 agreements regarding the administration of the Abyei

09:42 1 Area, that was in Articles 2 and 4, and the sharing of
2 wealth from the Abyei Area in Article 3.
3 Most importantly of all, Article 8 of the
4 Abyei Protocol provides for an Abyei referendum in which
5 the Ngok Dinka and other residents of Abyei will be
6 entitled to vote in a free democratic referendum
7 regarding the future of the area. In particular Abyei
8 residents were guaranteed the right to vote in free
9 elections on whether the Abyei Area would join the south
10 or the north following the 2011 referendum for Sudan.
11 The substantive definition of the Abyei Area was
12 central to the parties' agreement in the CPA.
13 Professor Crawford referred yesterday to this being
14 a crunch point, and the Government has said that the
15 definition of the Abyei Area was "key to the settlement"
16 and "the most difficult and painstaking exercise of the
17 whole peace process".
18 In particular Article 1.1.2 was important because it
19 defined the people who would be eligible to vote in the
20 Abyei referendum, the residents of Abyei. Article 1.1.2
21 also defined the territory that was subject to the
22 administrative, security and wealth-sharing regime
23 contained in the Abyei Protocol.
24 Those were the essential substantive terms of the
25 Abyei Protocol.

Trevor McGowan
info@TMGreporting.com

09:44 1 Procedurally the Abyei Protocol and Abyei Annex
2 established the framework for a remarkable dispute
3 resolution mechanism. The Government and the SPLM/A
4 designed that procedural framework to suit their
5 specific needs.
6 The parties provided for the constitution of the
7 Abyei Boundaries Commission, which was given the mandate
8 for defining and demarcating the Abyei Area as that area
9 had been defined in Article 1.1.2's substantive
10 provisions.
11 Specifically Article 5.1 of the Abyei Protocol
12 provided -- this is again language that we will be
13 coming back to:
14 "There shall be established by the presidency, the
15 Abyei Boundaries Commission ... to define and demarcate
16 the area of the nine Ngok Dinka chiefdoms transferred to
17 Kordofan in 1905."
18 The same formula that was in Article 1.1.2.
19 The Abyei Protocol and the parties' related
20 agreements also provided that the ABC report would be
21 final and binding and that it would be entitled to
22 immediate effect. These provisions were vital to the
23 parties' agreements to resolve their dispute. Both
24 parties recognised that implementation of the CPA
25 depended on a prompt and conclusive definition of the

09:45 1 Abyei Area. This was essential in order that future
2 arrangements regarding the Abyei referendum and
3 regarding interim governance, security and
4 wealth-sharing could be implemented.
5 The Abyei Annex provided that the ABC, the
6 Abyei Boundaries Commission, was to consist of
7 15 members. The members of the Commission were to be
8 selected in collaboration between the parties, divided
9 into two basic categories.
10 Under Article 2 of the Abyei Annex, each party was
11 entitled to appoint five members of the Commission,
12 including four members from the Abyei Area itself, the
13 Abyei region itself. In practice, as you've seen, the
14 party-appointed members of the Commission were partisan
15 representatives who worked on and indeed headed the
16 parties' respective legal delegations.
17 The Abyei Annex also provided for the appointment of
18 five neutral, impartial experts. The five experts were,
19 through the choice of the parties, to be specialists in
20 African and Sudanese history, geography, ethnography and
21 complementary disciplines. You can see on your slide
22 that specifically Article 2.2 of the annex provided that
23 the ABC experts were to be:
24 "... five impartial experts knowledgeable in
25 history, geography and any other relevant expertise."

09:47 1 The Abyei Annex contained a mutually agreement
2 appointment mechanism for the experts. Pursuant to
3 Article 2, the United States and the United Kingdom
4 would each appoint one expert. That recognised their
5 critical role in brokering and bringing together the
6 parties in their basic agreement to the Comprehensive
7 Peace Agreement.
8 In addition, the IGAD, the trusted African regional
9 institution which had also played a vital role in the
10 parties' negotiations, was to appoint the remaining
11 three experts. The parties also included a mechanism
12 for the IGAD to resolve disputes about the Commission's
13 composition. Like the United States and the
14 United Kingdom, the IGAD was closely familiar with the
15 parties, was trusted by both parties and had played
16 a vital role in their negotiations. It was ideally
17 suited in the parties' view to select the experts and to
18 resolve disputes about the experts' qualifications or
19 suitability.
20 The appointment of the ABC and of the experts
21 occurred smoothly and without any objection to any of
22 the members of the Commission. Pursuant to the Abyei
23 Annex, the United States appointed Ambassador
24 Donald Petterson.
25 Ambassador Petterson had a distinguished 40-year

09:48 1 diplomatic career in the United States Foreign Service.
2 He served, among other places, in Zanzibar, Nigeria,
3 Sierra Leone, South Africa, Zimbabwe, Sudan, Somalia and
4 Tanzania, as the ambassador in the last three locations.
5 He was called back to active duty after he had retired
6 to head the United States Embassy in Liberia; hardly
7 an easy task at the time.
8 It is no overstatement to describe Ambassador
9 Petterson as one of the world's most distinguished and
10 experienced authorities on contemporary African
11 diplomacy and politics. Among other things, he was for
12 three years, from 1992 to 1995, the US ambassador to the
13 Sudan.
14 The next expert was Dr [Douglas] Johnson, the United
15 Kingdom-nominated expert. Dr Johnson teaches African
16 history at Oxford University and has 40 years of
17 research experience on Sudan. Among other things,
18 Dr Johnson was the author of "The Root Causes of Sudan's
19 Civil War" and "Nuer Prophets", which was awarded the
20 Royal Anthropological Institute's Amaury Talbot Prize.
21 He sits on numerous academic boards, and is one of the
22 most distinguished African scholars -- indeed, one of
23 the one or two most distinguished African historical
24 scholars that there is today.
25 As the experts agreed, the other experts were

09:50 1 appointed by the IGAD. It selected three distinguished
2 African academics with unique and complementary
3 expertises in African history, politics, law and
4 expertise.
5 Professor Godfrey Muriuki is the Professor of
6 African History at the University of Nairobi in Kenya.
7 He is a preeminent African historian, with life
8 membership in the Historical Association in Great
9 Britain. Professor Muriuki is the author of A History
10 of the Kikuyu, The Historiography of East Africa, and
11 a wide range of other works that are too numerous to
12 mention. He ranks with Dr Johnson and Professor Daly,
13 who you will hear from later, as one of the world's
14 leading historians on East Africa.
15 Professor Kassahun Berhanu is one of Africa's most
16 distinguished political scientists. His specialties
17 include African governance and African ethnic conflict.
18 He held the prestigious chair of the Department of
19 Political Science at Addis Ababa in Ethiopia. His
20 publications include Ethnicity and Social Conflicts in
21 Ethiopia, Democratisation in Late 20th Century Africa,
22 and numerous other works.
23 Professor Shaddrack Gutto is a distinguished legal
24 scholar, with a specific focus on African law and
25 African land rights. He founded and headed the legal

Page 13

09:51 1 rights research programme at the University of
2 Witwatersrand in South Africa, and is the Director of
3 the Centre for African Renaissance Studies at the
4 University of South Africa. He has also published
5 widely on African land rights and related topics.
6 Together these five experts comprised
7 an extraordinarily impressive group of specialists in
8 a range of complementary disciplines. Those disciplines
9 included African -- and particularly Sudanese --
10 history, law, politics and ethnography. Together the
11 five men had 150 years of professional experience in
12 Sudan and, more generally, East Africa.
13 By the parties' agreement, three of the experts were
14 chosen by the IGAD, an African institution chosen and
15 trusted by the two African parties. The three experts
16 that the IGAD selected were African in ethnicity,
17 nationality and professional experience. The other two
18 experts, Ambassador Petterson and Dr Johnson, were not
19 African by heritage, but they had devoted their entire
20 professional lives to the African continent, and they
21 were pre-eminent authorities on those subjects.
22 At no point during the selection of the experts or
23 the subsequent ABC proceedings did either party question
24 or complain about any one of the experts. That is
25 because the experts were collectively an extraordinary,

Page 14

09:53 1 impressive and experienced group, whose talents were
2 exactly what the parties had wanted; and because the ABC
3 proceedings, as we will see, were conducted in exactly
4 the way that the parties expected and wanted.
5 The Government said yesterday that:
6 "... [it maintains] that, retrospectively at least,
7 the composition of the board of experts might prove not
8 to have been particularly fortunate."
9 That's Professor Pellet, transcript page 147,
10 line 23.
11 When you look back at the course of events here,
12 that is a remarkable assertion. Two African parties
13 picked three Africans and two African experts to resolve
14 their African dispute. They picked them carefully,
15 thoughtfully. They worked with them for five months.
16 The only time that there was any complaint comes now in
17 Professor Pellet's words retrospectively when he says it
18 wasn't a fortunate choice.
19 With the greatest of respect, I think when we sit
20 here in the heart of Europe as international arbitration
21 experts, some humility is called for. It's not just
22 international lawyers, international arbitration experts
23 that can resolve disputes. The essential rule of party
24 autonomy is that parties have the freedom to choose how
25 they want their disputes to be resolved, and that the

Page 15

09:54 1 parties' free and willing choice, informed by their
2 criteria and their needs, demands the greatest of
3 deference. The parties here picked African experts to
4 resolve their dispute.
5 It may not, with the benefit of hindsight, from the
6 Government's perspective, be a fortunate choice. But it
7 was a choice that they knowingly made for very, very
8 good reasons. And it was a wise choice, a choice of men
9 whose expertise we should not scoff at but instead
10 should respect, just the way the parties did until the
11 Government got a result that it didn't like.
12 Moving on. Over a four-month period, between April
13 and July, the experts conducted the ABC proceedings and
14 produced their report. In doing so, the experts
15 conscientiously applied the Abyei Protocol and the
16 parties' related agreements.
17 Despite significant logistical security and other
18 obstacles, the experts completed their work within the
19 allotted time and with no procedural objections from
20 either party. On any view the experts and the parties
21 collaborated together in a remarkable and remarkably
22 successful dispute resolution procedure that culminated
23 ultimately in exactly the kind of decision that the
24 experts had been intended to give.
25 As we know, the Government and the SPLM/A did not

Page 16

Trevor McGowan
info@TMGreporting.com

09:56 1 adopt an existing set of institutional arbitration rules
2 to govern the ABC proceedings. The Government's
3 memorial -- tellingly perhaps -- referred to the rules
4 here as "the arbitration rules". Of course that was not
5 the case: this was not an arbitration, there were no
6 institutional or other arbitration rules. And that's
7 hardly surprising: the ABC was not an arbitral tribunal
8 applying formal arbitration rules, but a boundary
9 commission.
10 Rather than adopting existing arbitration rules, the
11 parties instead designed a procedural framework for the
12 ABC proceedings. That framework granted the experts
13 broad, independent investigatory, fact-finding and
14 procedural discretion. The parties' procedural
15 framework provided for the experts themselves to draft
16 rules of procedure for the ABC proceedings. In
17 particular, Article 4 of the Abyei Annex, which was
18 never altered or amended at any point, provided that:
19 "The experts shall ... determine the Rules of
20 Procedure of the ABC."
21 And of course Article 4 did not require the parties'
22 agreement to the experts' procedural rules or to any of
23 their subsequent procedural decisions at all.
24 The parties also agreed that the experts would
25 conduct independent archival research, witness

09:57 1 interviews, and other scientific research, without the
2 involvement of the parties, and without the involvement
3 of the full Commission. This independent investigative
4 power was a vital and distinctive aspect of the parties'
5 agreements. It was reflected in multiple provisions in
6 the ABC's procedural rules.
7 The Terms of Reference provided first for an unusual
8 series of visits by the ABC to the Abyei region.
9 Article 3.2 provided that the ABC shall "travel to the
10 Sudan to listen to the representatives of the people of
11 the Abyei Area and the neighbours", conducting public
12 meetings in a number of locations. The Terms of
13 Reference also provided that the ABC was to identify and
14 visit various sites.
15 These visits to the Abyei Area were, needless to
16 say, onerous, especially given the timescale; but they
17 were designed to permit in particular the experts to
18 hear the testimony of local residents and see the region
19 firsthand for themselves.
20 The Terms of Reference also set forth something
21 called the Programme of Work, which outlined the ABC's
22 contemplated schedule. This work plan was skeletal, but
23 included presentations by the parties, visits to the
24 Abyei Area, archival work and preparation of the
25 experts' final report. The Programme of Work provided

09:59 1 that the experts were to deliver their report in late
2 May, after only eight weeks of work. The date was later
3 adjusted by some six weeks but the schedule remained, as
4 you know, extraordinarily ambitious.
5 In early April, and pursuant to Article 4 of the
6 Abyei Annex, which we just looked at, the experts
7 drafted the Rules of Procedure, to which both parties
8 then agreed. The Rules provided that one the experts,
9 Ambassador Petterson, would chair the Commission.
10 Reflecting the parties' strong and continuing desire to
11 avoid procedural formalities, Article 2 of the Rules of
12 Procedure provided that the proceedings would be
13 conducted in an informal and business-like manner --
14 an informal and business-like manner -- with a full and
15 easy exchange of observations and suggestions.
16 The Rules of Procedure also repeatedly underscored
17 the broad investigatory powers of the experts.
18 Article 7 of the rules guaranteed that the Commission
19 members, referring individually to all the Commission
20 members, should have free access to members of the
21 public other than those in the official delegations at
22 the locations to be visited.
23 Likewise -- and we'll come back to that language in
24 a moment -- Article 3.4 of the Terms of Reference
25 provided that the experts -- not the Commission but the

10:00 1 experts -- were to consult the British archives and
2 other relevant sources on the Sudan wherever they may be
3 available, with a view to arriving at a decision that
4 shall be based on research and scientific analysis.
5 The resulting fact-finding powers of the experts
6 were remarkable, particularly as compared to many
7 international tribunals. The experts were able to spend
8 a week travelling in the Abyei Area, interviewing
9 whomever they wished, as well as visiting whatever sites
10 they chose. The experts, not the Commission, were also
11 to consult whatever archives or other sources of
12 information, wherever they may be available, that they
13 considered useful. This independent investigatory
14 authority was both wide-ranging and central to the
15 parties' view of the experts' role.
16 As with the Terms of Reference, the Rules of
17 Procedure made clear that it was the five experts, not
18 the full Commission, that were to define the Abyei Area
19 and to prepare their final decision. Article 13 of the
20 Rules of Procedure provided that, after conducting their
21 investigations -- you can see this on the slide:
22 "... the experts will examine and evaluate all the
23 material they have gathered and will prepare the final
24 report."
25 Again, Article 13 explicitly affirmed the experts'

Trevor McGowan
info@TMGreporting.com

10:01 1 independent investigatory and evidence-gathering role.
2 Article 14 went on to confirm that it was the five
3 experts who were to resolve the parties' dispute. It
4 provided that:
5 "... the Commission will endeavour to reach
6 a decision by consensus. If, however, an agreed
7 position by the two sides is not achieved, the experts
8 will have the final say."
9 Once adopted, as we have seen, the experts' report
10 was to be final and binding on both parties without any
11 provision for appeal or challenge.
12 Applying these procedures, the experts undertook
13 intensive and thorough fact-finding. It's important to
14 look at what they did because it bears on what they
15 thought they were supposed to do and what the parties
16 thought they were supposed to do. Despite significant
17 time constraints and logistical challenges, the experts
18 conducted all of the contemplated site visits, meetings
19 and other research.
20 The ABC proceedings began with preliminary
21 presentations by the Government and the SPLM/A on
22 April 11th and 12th. Ambassador Dirdeiry made the GoS
23 presentation, while Deng Alor did so for the SPLM/A.
24 Both men were also members of the Commission and were
25 simultaneously acting as party representatives before

10:03 1 the ABC and members of the ABC itself, and that was
2 fully consistent with the parties' view of the character
3 of the full Commission.
4 The ABC next visited Abyei Town, the capital of the
5 Abyei region. The experts spent six days conducting
6 open, public meetings in 11 locations around the Abyei
7 Area. In total the experts heard live testimony from
8 more than 100 witnesses in the area, 47 Ngok Dinka and
9 other Dinka and 57 Messiriya.
10 The experts afforded the parties and the local
11 residents opportunities to be heard beyond what had been
12 contemplated in the Terms of Reference. The ABC
13 travelled to several sites not contemplated by the
14 parties, including Lau, Langar, Kol Yith and Chigei.
15 You can see those references in the written materials.
16 At the request of the Government, the Commission
17 also conducted an unplanned meeting in Abyei Town to
18 hear Messiriya witnesses. In addition, the experts
19 conducted, as we heard yesterday, three meetings in
20 Khartoum which were requested by local groups of Ngok
21 and Twic Dinka who had been unable to attend meetings in
22 the Abyei Area.
23 Throughout the ABC proceedings no objections were
24 raised by either party to any of the experts' actions
25 and no suggestion was made that the experts were

10:04 1 exceeded their mandate. On the contrary, the people
2 that listened to them and the parties repeatedly
3 commended the ABC's work, and examples of this are on
4 the current slide.
5 The experts also, pursuant to what the parties
6 intended, conducted extensive independent research in
7 a variety of locations without the involvement of the
8 parties or the full Commission. This allowed research
9 on their own at the Sudan National Records Office and
10 the Sudan National Survey Authority in Khartoum, the
11 Rhodes House library, the Bodleian library, the Durham
12 Sudan Archive in England, and various other locations in
13 South Africa and Ethiopia.
14 The experts also independently met with additional
15 and very important witnesses in England. On April 8th
16 Dr Johnson met with Michael Tibbs, the last commissioner
17 of the Dar Messeriya district. Mr and Mrs Tibbs were
18 interviewed again on May 21st by Ambassador Petterson,
19 Professor Muriuki and Dr Johnson.
20 Those same three experts also interviewed
21 Professor Ian Cunnison. Professor Cunnison lived for
22 two years, as you know, in the 1950s with the Messeriya
23 and is a leading expert on the Messeriya. Like the
24 experts' other independent witness interviews, those
25 interviews with the Tibbses and the Cunnisons were

10:05 1 recorded in the ABC report, and for the Tribunal to be
2 able to look at. Both Professor Cunnison and Mr Tibbs
3 were also very important sources of information. That's
4 confirmed by the fact that both parties have relied on
5 them in these proceedings.
6 You will recall a lengthy presentation yesterday,
7 more than two hours, about the work that the ABC experts
8 did and the procedural violations that they supposedly
9 made. You will also recall that there was no mention at
10 any time of the interviews of the Tibbses or the
11 Cunnisons.
12 When we come to consider the procedural complaints
13 raised by the Government, you will see why that omission
14 was deliberate, but fatal. Their treatment of
15 Professor Cunnison and the Tibbses, which was well known
16 to the parties and specifically discussed with them, and
17 which is not addressed by the Government, is fatal to
18 their allegations about the ABC experts' procedural
19 conduct.
20 Finally on June 16th and 17th the experts heard the
21 parties' final presentations. At the request of the
22 Government, the experts permitted it an additional
23 presentation beyond those agreed by the parties. As
24 previously indicated, there were no objections at any
25 time during these proceedings by the Government.

Trevor McGowan
info@TMGreporting.com

10:07 1 You can see on the current slide -- I'm not going to
2 read it out -- the Government, far from criticising the
3 experts' procedural conduct, went out of its way
4 enthusiastically to praise them as well as to committing
5 to respect their report.
6 The parties had set, as we've seen, an ambition
7 schedule, allowing the experts just four months from
8 mid-April to mid-July, as it was finally agreed, to
9 complete their deliberations and make their decision.
10 The experts finished their work on schedule.
11 The experts' definition and demarcation of the Abyei
12 Area was contained in the ABC report dated
13 July 14th 2005. The report was a substantial document
14 consisting, as we heard yesterday, of a main text
15 45 pages long, together with five appendices, another
16 200 pages or so, and several maps.
17 The report was signed, as you know, by each of the
18 experts; it was unanimous. There was no concurring or
19 dissenting opinion.
20 On any view the report was a well-reasoned and
21 impressive work. It provided an expert analysis of
22 Sudanese history and ethnography, drawing on the
23 experts' complementary skills and knowledge. The report
24 also drew on a wide range of archival materials and on
25 witness testimony, and it made clear and

10:08 1 well-articulated findings.
2 Again, we heard great criticism yesterday of the
3 report, and again some humility may be in order. You
4 can look at that report and you can compare it to the
5 sorts of arbitral awards and national court judgments
6 that you have seen in your life. It compares very well.
7 I compare it to awards that I and people that I know
8 have drafted. It compares very well. It was
9 a thoughtful, impressive, well-reasoned piece of work
10 that deserves our respect and not our contempt.
11 The experts presented their report at a meeting with
12 the president of Sudan -- the president of Sudan -- on
13 July 14th. The meeting was, of course, arranged with
14 the full cooperation and assistance of the Government.
15 The report was delivered by the experts in the presence
16 of the full Commission, with a large press corps waiting
17 outside. No objections were made by the Government or
18 any of the members of the Commission at any time prior
19 to, during or following the experts' presentation of
20 their report.
21 Despite its commitments to honour the experts'
22 decision, the Government refused to accept the ABC
23 report. Instead it embarked on what one might call
24 a strategy of resistance and delay. The Government
25 first talked about wanting to study the report, but

10:09 1 later moved to statements by President Bashir that the
2 experts should sponge their report in water and drink
3 it. Despite that, at no time did the Government inform
4 the experts, the IGAD or the SPLM/A that it believed
5 that the experts had exceeded their mandate or otherwise
6 acted improperly.
7 Notwithstanding calls by the United Nations and
8 others, the Government also refused for three years to
9 implement the report. In particular the Government
10 refused to give effect to the CPA's provisions regarding
11 the establishment of Abyei's administration,
12 demobilisation of Armed Forces and sharing of oil
13 revenues. Similarly, no preparations for the Abyei
14 referendum were undertaken.
15 The Government's refusal to implement the report
16 paralysed the peace process and eventually resulted in
17 renewed hostilities. Efforts were made by the UN and
18 others to mediate the parties' disputes, and in
19 June 2008, as you know, the Government and the SPLM/A
20 signed the Abyei road map. The road map addressed
21 issues of security, displaced persons and interim
22 administration in the Abyei Area. It also provided for
23 the parties to resolve their dispute over the ABC report
24 by a specialised arbitration Tribunal.
25 On July 7th 2008 the Government and the SPLM/A

10:11 1 signed the Abyei Arbitration Agreement. That agreement
2 provides for the present proceedings. In particular,
3 Article 2 of the Arbitration Agreement defined the
4 issues to be addressed by the Tribunal, and Article 3
5 specified the law applicable in the proceedings.
6 Article 2(a), as we've seen, provides that the
7 Tribunal is to consider:
8 "Whether or not the ABC experts ... exceeded their
9 mandate ..."
10 Under Article 2(a) the sole basis for either party
11 to challenge the ABC report is specifically and
12 exclusively defined as an excess of mandate.
13 If, and only if, the Tribunal concludes that the
14 experts exceeded their mandate, then the Arbitration
15 Agreement provides for the consideration of a further
16 question. That question is set out in Article 2(c).
17 Article 2(c) mandates this Tribunal to address the
18 exact same substantive issues that were presented to the
19 experts. As we have seen, Article 1.1.2 of the
20 Abyei Protocol provides that:
21 "The territory [that is the Abyei Area] is defined
22 as the area of the nine Ngok Dinka chiefdoms transferred
23 to Kordofan in 1905."
24 The same formulation is used in Article 2(c) of the
25 Arbitration Agreement. Again, the Tribunal is only

10:12 1 authorised to address this question if it first
2 concludes that the experts exceeded their mandate under
3 Article 2(a).
4 With that background we can turn to the Government's
5 challenges to the experts' report.
6 Despite the carefully limited terms of the
7 Arbitration Agreement, the Government has advanced
8 a lengthy and shifting list of complaints about the
9 report. The objections contained in the Government's
10 initial memorial included three violations of so-called
11 procedural conditions, four excesses of substantive
12 mandate, and three breaches of so-called mandatory
13 criteria.
14 The Government's reply memorial did not focus these,
15 but instead apparently added a 12th objection, while the
16 Government's rejoinder abandoned both that complaint and
17 one of the original 11 objections. As I said, we heard
18 yesterday that it doesn't much matter how many
19 objections there are. I will try, as I said, to go
20 through and address what we understand to be all of the
21 Government's current objections.
22 At the same time, all of these various complaints
23 have been repeatedly reformulated. The Government
24 shifted from claims of mandatory criteria and excesses
25 of substantive mandate to claims of infra petita and

Page 29

10:13 1 ultra petita, and at the same time it rewrote the
2 rationale of its claims.
3 It switched from violations of the parties'
4 procedural agreements, which it never articulated, to
5 breaches of what it now calls "general peremptory
6 principles" or "universally accepted procedural
7 principles", the contents of which likewise have
8 repeatedly shifted.
9 Indeed, we heard a new formulation yesterday
10 morning, the principle of contradiction, which had not
11 featured in the Government's written submissions and
12 that we will come back to.
13 That approach is revealing, frankly. If the
14 Government had a serious claim, it would have been
15 presented simply and consistently. Instead the
16 Government has pursued what can only be described as
17 a scattershot collection of a dozen or so, by its own
18 admission, different and continuously changing
19 complaints. That does not bespeak a serious complaint;
20 it instead bespeaks desperation and trying to find some
21 basis for trying to justify the failure to implement the
22 ABC report.
23 The Government's rejoinder pretends that it has
24 advanced so many different complaints because there is
25 simply a comprehensive failure on the part of the

Page 30

10:15 1 experts to adhere to their mandate. That is obviously
2 wrong, as we will see in the course of my presentations.
3 There was no failure at all on the part of the experts,
4 much less some comprehensive failure.
5 What the Government really thought about the
6 experts' actions was again summed up by
7 Ambassador Dirdeiry at the end of the ABC proceedings:
8 "We are very much confident in your assessment,
9 yourself and your colleagues. We are very much in fact
10 reassured by the way you have handled things since you
11 have started and we are waiting for the conclusion and
12 looking forward for the judgment."
13 The reality is that the Government's collection of
14 complaints are desperate and contrived. They are made
15 in a deliberate calculation. They are made in
16 a calculation that the sheer number and the changing
17 character of the objections will overwhelm the SPLM/A's
18 resources and your own ability to discern right from
19 wrong.
20 That calculation is a mistake. However many
21 complaints the Government may make, however many times
22 it may rewrite them, there is no substance to any of its
23 claims. In reality the experts conducted the ABC
24 proceedings exactly in the way that was intended, and
25 they addressed precisely the issues that were presented

Page 31

10:16 1 to them. The experts did so professionally, and with
2 high care and with deep integrity.
3 Given the number of different and continually
4 changing complaints by the Government, it unfortunately
5 takes some time and considerable amounts of paper to
6 address them all. Nonetheless, when you work through
7 the arguments one by one it is unmistakably clear that
8 the Government's claims are both inadmissible and
9 without any substantive basis.
10 The Government's true complaint is with the
11 substance of the ABC report, with the substantive
12 decision that the ABC experts made, and not with the
13 experts' procedural actions, their jurisdictional
14 decisions, the explanation of their reasoning, the
15 existence of an ex aequo et bono decision, nothing of
16 the sort. It is purely and simply substantive
17 dissatisfaction with the result that the experts
18 reached, and that is not something that is either
19 admissible in these proceedings or the basis for a claim
20 of substantive excess of mandate.
21 First let's turn to the question of inadmissibility.
22 The Government's objections are admissible because they
23 fall outside the parties' definition of an excess of
24 mandate in the Arbitration Agreement. The language of
25 Article 2(a) of the agreement makes clear what

Page 32

Trevor McGowan
info@TMGreporting.com

10:17 1 constitutes an excess of mandate. With the arguable
2 exception of its grazing rights claim, none of the
3 Government's complaints fall within the definition of
4 an excess of mandate. Those complaints are therefore
5 outside this Tribunal's jurisdiction and inadmissible in
6 these proceedings.
7 Article 2(a) of the Arbitration Agreement provides
8 what the issue presented to this Tribunal is. It is:
9 "Whether or not the ABC experts had, on the basis of
10 the agreement of the parties as per the CPA, exceeded
11 their mandate which is 'to define (i.e. delimit) and
12 demarcate the area of the nine Ngok Dinka chiefdoms
13 transferred to Kordofan in 1905' ..."
14 Article 2(a) needs to be read together with
15 Article 2(b). Article 2(b) confirms that the exclusive
16 basis for disregarding the report is an excess of
17 mandate. If the experts did not exceed their mandate,
18 then Article 2(b) requires that the Tribunal shall order
19 implementation of the report. It is Article 2(a)'s
20 agreed definition of an excess of mandate that defines,
21 and defines exclusively, this Tribunal's authority.
22 With the exception of the grazing rights claim which
23 we'll come back to, which has no substance on the merits
24 at all, even if the Government's claims were well
25 founded, they did not allege what would be an excess of

10:19 1 mandate within the meaning of Article 2.
2 First we'll consider the admissibility of the
3 Government's mandatory criteria and procedural
4 violations claims, and then we'll separately turn to the
5 Government's substantive mandate claims.
6 With regard to mandatory criteria, we note the
7 Government makes four basic complaints: an alleged
8 failure to give reasons; a supposed ex aequo et bono
9 decision; unspecified legal principles; and allegedly
10 allocating oil resources.
11 With regard to procedural [violations] we have seen
12 there are three or, depending on what time you look at
13 it, four complaints: the Khartoum witness interviews;
14 the Millington email; the Article 14 complaint; and
15 finally the experts' presentation of their report to the
16 Sudan legislature.
17 THE CHAIRMAN: I'm sorry, could you please speak a bit
18 slower?
19 MR BORN: I will try. I am worrying about time, but
20 I will.
21 THE CHAIRMAN: Thank you.
22 MR BORN: The fourth complaint, and it's unclear whether
23 this is still maintained, was the presentation of the
24 report to the Southern Sudan legislature. We will
25 assume that it is still advanced by the Government,

10:20 1 although it was not in the memorial or the earlier
2 pleadings.
3 The Government's mandatory complaints all rely on
4 alleged peremptory rules of mandatory law external to
5 the parties' agreements. That's what they're called
6 mandatory criteria. That's why they refer to general
7 principles of law; things that exist apart from the
8 parties' agreements.
9 The Government's rejoinder takes much the same
10 approach to most of its procedural complaints. The
11 Government now bases those complaints on what it calls
12 general principles of procedural law or fundamental
13 procedural rules that are supposedly "applicable to all
14 international arbitral tribunals or similar adjudicatory
15 bodies". Again this does not appear, aside from the
16 Article 14 complaint, to rely on the terms of the
17 parties' agreements.
18 Whatever their rationale, though, the Government's
19 claims are all inadmissible and they are baseless on the
20 substance. As we will come on to, the experts did not
21 violate procedural conditions or mandatory criteria;
22 much less did they commit anything remotely approaching
23 a serious or flagrant violation of these standards.
24 Beyond that, though, these claims are also
25 inadmissible and that is because none of them fall

10:21 1 within the definition of an excess of mandate in
2 Article 2(a).
3 The Government asserts that:
4 "The notion of an excess of mandate is simply not
5 defined at all in the Arbitration Agreement."
6 And that the Tribunal must:
7 "... rely on the general definition of an excess of
8 mandate."
9 Yesterday the Government claimed that:
10 "The Arbitration Agreement by no stretch of the
11 imagination can be seen as defining an excess of
12 mandate."
13 That's at 43/24.
14 Those statements are wrong. The parties obviously
15 had something in mind when they referred to an excess of
16 mandate in Article 2, and when we look at the language
17 the parties used, it does define an excess of mandate.
18 Article 2(a) does not simply require determining
19 whether the experts exceeded their mandate in the
20 abstract. Article 2(a) could have been drafted in that
21 manner, referring simply to excess of mandate, but it
22 was not. Instead, Article 2(a) specifically defines
23 an excess of mandate by reference to the category of
24 issues that the experts were charged with deciding; that
25 is -- and I refer you to the language:

Trevor McGowan
info@TMGreporting.com

10:23 1 "Whether or not the ABC experts ... exceeded their
2 mandate, which is 'to define' ..."
3 The parties use of the phrase "which is" is clearly
4 a definition of the term excess of mandate as it is used
5 in that sentence in Article 2(a). There is no other
6 reason that the parties would have included the words
7 "which is" or the subsequent phrase in Article 2(a)
8 except to provide a definition of the excess of mandate
9 that they were referring to.
10 The definition consists of a reference to the
11 experts' substantive mandate of defining and demarcating
12 the area of the nine Ngok Dinka chiefdoms. What
13 Article 2(a) refers to by its plain terms is the experts
14 exceeding the scope of the category of issues that were
15 referred to them; in other words, an excess of
16 substantive jurisdiction or a decision ultra petita. It
17 is for reason that the Government in its subsequent
18 submissions in this case after its first memorial tried
19 so hard to characterise every one of its claims that it
20 could manage as a ultra petita claim.
21 The Government essentially acknowledged yesterday in
22 its presentation that Article 2(a) refers to the scope
23 of the experts' substantive mandate. Discussing exactly
24 this provision, Professor Pellet said first, and
25 I quote -- this is from page 49, line 17 of the

Page 37

10:24 1 transcript:
2 "First, it recalls what was the substantial mandate
3 of the ABC experts."
4 He was referring to what Article 2(a) does. That
5 was exactly right. Article 2(a) does, by referring to
6 the experts' mandate, which is to define and demarcate
7 the Abyei Area, clearly identify what the parties meant
8 by the phrase "excess of mandate". As Professor Pellet
9 said very clearly, it does so by specific reference to
10 the substantial mandate of the ABC experts.
11 Article 2(a) did not define the Tribunal's authority
12 by incorporating any of the very well-known lists of
13 grounds of invalidity or nullity that you can find and
14 that we all are familiar with in contemporary
15 instruments, instruments like the New York Convention,
16 the ICSID Convention, the Draft ILC Convention on
17 Arbitral Procedures. In particular the parties did not
18 grant the Tribunal a general power of annulment or
19 a general jurisdiction to consider any possible basis
20 for alleging the nullity or invalidity of the report.
21 Instead Article 2(a) was specifically drafted to
22 grant the Tribunal authority only to consider claims of
23 substantial mandate acting ultra petita. Likewise,
24 Article 2(a) does not refer to the experts "exceeding
25 their mandate which is set forth in the ABC Rules of

Page 38

10:26 1 Procedure" or having made a "serious departure from
2 a fundamental rule of procedure". Again, those
3 approaches could have been adopted by the parties when
4 they drafted Article 2(a), but they did not. Instead
5 they defined an excess of mandate by specific reference
6 to the substantive mandate of the Tribunal.
7 It's also significant that the parties chose the
8 formula that referred to the experts "exceeding" their
9 mandate to define the Abyei Area. That formula refers
10 to the experts' going beyond, exceeding the scope of
11 their jurisdiction. Again that is a clear reference to
12 the substantive authority, the scope of dispute
13 submitted to the Tribunal.
14 The parties' other agreements also made clear what
15 they understood by the term mandate. Article 1.2 of the
16 Terms of Reference is entitled "Mandate", and it
17 provides -- you can see this on your slide:
18 "The ABC shall demarcate the area, specified above
19 [as the Abyei Area] on map and land."
20 In contrast, the functioning of the ABC, dealing
21 with the Commission's procedures, is separately
22 addressed under a different title in Articles 3 and 4 of
23 the Terms of Reference, while the ABC's Programme of
24 Work similarly appears under different headings. And
25 the procedural rules applied by the experts were set

Page 39

10:27 1 forth in a different instrument, not included in the
2 CPA: the Rules of Procedure.
3 Indeed, the Government made exactly the same use of
4 the phrase "which is" in its presentation yesterday.
5 Professor Pellet said that:
6 "The excess of mandate committed by the experts must
7 be defined by reference to the ABC's mandate, which is
8 to apply, and apply fully and exclusively, the formula."
9 This is at 53/7 of the transcript, and you can see
10 it on your slide.
11 Professor Pellet rightly used this phrase, exactly
12 the same phrase that is in Article 2(a) of the
13 Arbitration Agreement, for the specific purpose of
14 defining what he took to be the experts' mandate. He
15 defines that mandate in his own terms; we disagree with
16 those. But the essential point is that he defines the
17 experts' mandate with exactly the same phrase, "which
18 is", that Article 2(a) does. And that use of the phrase
19 "which is" was exactly right.
20 The Government argued yesterday that because
21 Article 2(a) refers to or mentions the Rules of
22 Procedure and Terms of Reference, an excess of mandate
23 must include a violation of the Terms of Reference or
24 the Rules of Procedure. It refers us to the final
25 clause of Article 2(a), and it says that nowhere has the

Page 40

Trevor McGowan
info@TMGreporting.com

10:28 1 SPLM/A addressed that issue of the reference to the
2 Terms of Reference and the Rules of Procedure at the end
3 of Article 2(a).
4 That's wrong. At paragraph 109 of our rejoinder we
5 specifically did address it. We didn't address it at
6 length because it's an easy point. Article 2(a) does
7 indeed mention the Terms of Reference and the Rules of
8 Procedure, but not in the way that the Government
9 suggests.
10 It's important to look at the exact language.
11 Article 2(a) only refers to the ABC Terms of Reference
12 and Rules of Procedure in so far as those agreements
13 "state and reiterate", in the words of the provision,
14 the experts' mandate, which is defined in the previous
15 sentence as the substantive mandate. That is in no way
16 an effort to change the previous definition of an excess
17 of mandate; it is simply a reference into that same
18 definition in the Terms of Reference and the Rules of
19 Procedure.
20 If we look for a moment at the Terms of Reference
21 and the Rules of Procedure, we can see that there is the
22 exact same reference in both those instruments to the
23 mandate which is referred to in the previous sentence.
24 The reference in the final sentence of Article 2(a) is
25 nothing more than a recognition of the fact that that

10:30 1 substantive mandate is referred to in those two
2 instruments, and that they state and reiterate that
3 substantive mandate.
4 This reference therefore was not intended in any way
5 to broaden the previous definition of the mandate, which
6 is the substantive mandate. In fact, if you look at the
7 language of Article 2(a), it confirms that an excess of
8 mandate does not include procedural -- much less
9 mandatory -- criteria claims. That is because, although
10 the sentence refers to the Rules of Procedure and Terms
11 of Reference, it does so only in so far as those
12 instruments stated and reiterated the substantive
13 mandate which is just referred to.
14 Thus the terms of the parties' agreements are on
15 this issue clear. The parties specified, as one would
16 think, what they understood to mean by the term "excess
17 of mandate" in Article 2(a). That definition is defined
18 to excesses of substantive mandate, or decisions
19 ultra petita. It is exactly consistent with the
20 parties' other uses of the term "mandate", and in
21 neither instance does it extend to procedural violations
22 or breaches of mandatory criteria.
23 Even if one ignored the parties' definition in
24 Article 2(a), which one cannot do, the "excess of
25 mandate" term does not extend to the Government's

10:31 1 procedural and mandatory criteria complaints. The
2 Government argues that the term "excess of mandate" is
3 a "less common notion" that an excess of powers, and it
4 says that, as a general matter, an excess of mandate is
5 wider than an excess of powers, in that it relates to
6 the substance of the issues, the powers of the body
7 concerned, and the essentials of the procedure.
8 It's correct that an excess of mandate is
9 a different concept from an excess of powers. But the
10 Government's argument is otherwise wrong. In fact, the
11 contemporary notion of an excess of mandate is narrower
12 than the Government's conception of an excess of powers.
13 I won't spend much time on this. The Government
14 relies entirely on selective quotations from early
15 20th Century commentary about a tribunal's excess of
16 powers. In doing so it ignores the last 70 years of
17 developments in international arbitration law. Each of
18 the New York Convention, the ICSID Convention, the ILC
19 Draft Convention, the UNCITRAL Model Law, and all other
20 modern arbitration legislation contains a regime for
21 when you can challenge arbitral awards. All of those
22 instruments that I've referred to define an excess of
23 mandate in a different way from procedural violations
24 and public policy violations.
25 You can see that on the current slide; this is

10:33 1 Article 52 of the ICSID Convention: there is
2 a difference between an excess of substantive mandate in
3 Article 52(1)(b), as compared to 52(1)(d). And exactly
4 the same pattern is repeated in the New York Convention:
5 Article 5(1)(b), as we know, is compared to
6 Article 5(1)(c).
7 There's no to reason to think that when the parties
8 referred to "excess of mandate" in Article 2(a) they
9 meant to refer back to the Government's unrepresentative
10 selections from early 20th century sources about
11 an excess of powers. The more highly, the obvious thing
12 that they meant to refer to was contemporary instruments
13 which referred to an excess of mandate -- an excess of
14 substantive mandate -- in a very different way from
15 procedures or public policy or mandatory criteria
16 violations.
17 Not surprisingly, this is confirmed by settled
18 international authority. You can see on your slide the
19 Permanent Court of International Justice held in the
20 Peter Pazmany University case that a jurisdictional
21 authority did not extend to controlling the procedures.
22 I won't go through the slide because I'm sure you're
23 familiar with it.
24 Judge Dillard remarked in the ICAO Council case
25 exactly the same thing. He said a claim of procedural

Trevor McGowan
info@TMGreporting.com

10:34 1 irregularities:
2 "... does not go to the jurisdictional issue itself,
3 since this issue is clearly focused on the reach of the
4 council's competence to deal with the subject-matter of
5 the disagreement."
6 Other authorities in our reply memorial are to the
7 same effect. Even if the parties had not defined it
8 here as they did, an excess of mandate does not
9 encompass a procedural complaint, much less a complaint
10 based on mandatory law or public policy.
11 The Government's mandatory criteria claims, as we've
12 seen, have also been a bit of a moving target. The
13 continuous rewriting of those claims does not strengthen
14 the Government's case in the slightest, but instead
15 suggests its hopelessness. The Government spent
16 40 paragraphs constructing purported mandatory criteria
17 in its memorial, but then never mentioned the term in
18 its reply memorial, instead raising the claim of
19 ultra petita for the first time.
20 That effort to recharacterise a mandatory criteria
21 claim as an ultra petita claim was untenable. There was
22 nothing in the parties' agreements that suggested
23 a prohibition on ex aequo et bono decisions,
24 a requirement for reasoning, or forbidding the
25 consideration of unspecified legal principles.

10:35 1 Professor Pellet admitted as much, said as much
2 yesterday.
3 Instead, the Government's claims relied explicitly
4 on external mandatory legal principles. That does not
5 constitute the basis for an ultra petita claim.
6 As a result, not surprisingly, the Government's
7 rejoinder abandoned any reference to ultra petita
8 arguments, and returned to the notion of "general
9 peremptory principles in modern systems of law." That
10 did nothing but take the Government back to where it had
11 begun.
12 In any case it's impossible to see how either the
13 Government's mandatory criteria claims or its procedural
14 violations can be regarded as decisions ultra petita,
15 a concept that refers to excesses of substantive
16 mandate. However they are characterised, all the
17 Government's purported procedural and mandatory criteria
18 claims do not involve excesses of mandate within the
19 meaning of Article 2(a). They are therefore outside the
20 Tribunal's jurisdiction and inadmissible.
21 The Government also claims that the experts
22 "exceeded their substantive mandate", or their
23 substantial mandate. This involves the alleged claims
24 that the experts refused to decide the question asked,
25 answered a different question than that asked, ignored

10:37 1 the stipulated 1905 date, and allocated grazing rights.
2 The first three of those alleged complaints of excesses
3 of mandate are nothing of the sort, in fact. Instead
4 they are disagreements with the experts' decision on the
5 merits of the parties' dispute, and as such they are
6 inadmissible in these proceedings.
7 The first three claims that the experts exceeded
8 their substantive mandate all rest on the Government's
9 interpretation of the definition of the Abyei Area in
10 Article 1.1.2 of the Abyei Protocol. We saw how that
11 began yesterday with Professor Crawford's interpretation
12 of the definition of the Abyei Area. The essential
13 basis for the Government's criticism of the experts'
14 report is that the Abyei Area could only consist of that
15 part of the territory of the Ngok Dinka chiefdoms which
16 lay south of the Kiir/Bahr el Arab in 1905, and which
17 was then transferred to Kordofan.
18 In the Government's words, the Abyei Area was "the
19 area of the nine Ngok Dinka chiefdoms which was
20 transferred to Kordofan in 1905" and "areas which were
21 already part of Kordofan in 1905 could not have been
22 transferred to it".
23 Applying this interpretation of Article 1.1.2's
24 definition of the Abyei Area, the Government claims that
25 the experts were not entitled to consider the areas that

10:38 1 the Ngok Dinka annually used and lived in. Rather, the
2 Government contends that:
3 "... only the 1905 border [between Kordofan and
4 Bahr el Ghazal] should ... have served as the basis for
5 international delimitation."
6 Again, the cites to these are on the slide.
7 As we will discuss not today but in due course, the
8 Government's interpretation of the definition of
9 Article 1.1.2 is wrong. In fact, Article 1.1.2 is
10 properly interpreted as referring to the entire area of
11 the Ngok Dinka chiefdoms, which chiefdoms were
12 collectively transferred to Kordofan in 1905. The
13 parties did not, as we will see, intend to divide the
14 historic and ancestral territory of the Ngok Dinka,
15 either by reference to some purported
16 Kordofan/Bahr el Ghazal boundary or otherwise.
17 The critical point for present purposes today is
18 that the substantive correctness of the experts'
19 interpretation of the definition of the Abyei Area is
20 irrelevant to the question of an excess of mandate. Put
21 simply, the experts' interpretation of Article 1.1.2 is
22 a matter of the substance of their decision, which
23 cannot be reviewed by this Tribunal. Even if that
24 interpretation were wrong -- and it is not -- it is not
25 ground for finding an excess of mandate.

Trevor McGowan
info@TMGreporting.com

10:40 It is well -- and the Government, when you read carefully its papers, admits this -- settled that neither an erroneous interpretation of applicable treaty or contract provisions nor mistaken factual findings constitutes the basis for claiming an excess of mandate. Rather these are substantive or evidentiary errors which do not qualify as an excess of mandate.

Our memorial set out in detail the authorities that demonstrate this, and they are non-controversial. As I say, the Government doesn't seem to contest them and I'm not going to repeat them.

You can see the ILC commentary on the current slide:

"The decision of arbitrators cannot be attacked on ground that it is wrong or unjust."

And according to the Government, and this is from one of its papers:

"... this does not mean that an award can be annulled simply because a party disagrees with the reasoning of a tribunal on a point of fact or law. Even if the Tribunal was in error in its reasoning on a point of fact or law, annulment is to be distinguished from appeal."

Applied in the present case, the rule that an error of law or treaty interpretation is not an excess of mandate is fatal to the Government's purported

10:41 substantive mandate claims.

As we've seen, the Government's three excess of mandate claims all rest on the premise that the experts misinterpreted the definition of the Abyei Area in Article 1.1.2 of the Abyei Protocol. Even if that were proved, a misinterpretation of Article 1.1.2 would not be an excess of mandate. Instead, it would be what the Government calls an error in the experts' reasoning on a point of law, or what the authorities term a decision that is wrong or unjust.

That provides a complete answer to three of the alleged excesses of substantive mandate asserted by the Government. The Government's claims that the experts' did not answer the right question or answered the wrong question or ignored the stipulated date are, at bottom, substantive disagreements with the experts' interpretation of the definition of the Abyei Area and are inadmissible in these proceedings.

The Government's reply memorial advanced the notion of infra petita claims, and it argued that -- and you can see this on the slide:

"The ABC experts grossly erred in the interpretation of their mandate, which they apparently stopped reading after the expression "to define and demarcate the area of the nine Ngok Dinka chiefdoms ...", [supposedly]

10:43 without paying attention to the end of the definition of their mandate, "... transferred to Kordofan in 1905".

Like the Government's attempted recharacterisation of its mandatory criteria complaints, this effort to restate the substantive mandate claims just doesn't work. It does not matter how the Government labels its claims. The fact remains -- and you can see this from the Government's own language -- the Government's complaint rests on its view that the experts grossly erred or made material mistakes in interpreting the definition of the Abyei Area in Article 1.1.2. The fundamental point is: that is a substantive disagreement with the experts' implementation of their mandate, not an excess of mandate.

The Government argues, as we've seen from the quote, that the experts decided infra petita by supposedly ignoring that part of the definition of the Abyei Area where they supposedly stopped reading after the reference to the nine Ngok Dinka chiefdoms.

That suggestion is wrong -- we'll see why it's wrong tomorrow -- but it also remains and underscores the fact that it is a substantive disagreement with how the experts interpreted the phrase "the area of the nine Ngok Dinka chiefdoms transferred to Kordofan in 1905".

The Government's logic that the decision-makers

10:44 stopped reading at the relevant part of the text that is in question would apply to any substantive decision, any substantive interpretation of a document. One would simply say that the decision-maker stopped reading the part of the phrase that you relied on. That again is not a basis for an excess of mandate claim; it is a substantive disagreement.

Importantly -- and I do think this has considerable importance -- we can test the admissibility of the Government's substantive mandate claims by looking at how the same claims would apply to a decision by this Tribunal, by the five of you.

As we saw, the Tribunal's mandate under Article 2(c) of the Arbitration Agreement parallels the mandate of the experts. That mandate is:

"... to define (i.e. delimit) on map the boundaries of the area of the nine Ngok Dinka chiefdoms transferred to Kordofan in 1905."

Critically, if the experts' alleged misinterpretation of the definition of the Abyei Area was an excess of mandate, as the Government claims, then the same would be true of an alleged misinterpretation of the definition of the Abyei Area by this Tribunal under Article 2(c); that is, if the experts exceeded their mandate by adopting the wrong definition of the

10:46 1 Abyei Area, then this Tribunal would be subject to
2 exactly the same attack on the Government's logic.
3 That result is not possible. It makes no sense. It
4 would mean that disputes about the definition of the
5 Abyei Area could never be finally resolved by this
6 Tribunal or another adjudicatory body with that mandate.
7 Any decision would always be an excess of mandate, not
8 just in the Government's direction but also the SPLM/A's
9 direction.
10 That is untenable. It makes no sense as a matter of
11 common sense and it is contrary to the rule that errors
12 of substance do not constitute an excess of mandate.
13 Indeed, it is precisely to avoid that absurd result that
14 that rule exists in the first place.
15 The Government's reply memorial, and indeed their
16 comments yesterday, do not deny this point,
17 extraordinarily. Instead they embrace it with open
18 arms. According to the Government's logic, any
19 misinterpretation of the definition of the Abyei Area by
20 this Tribunal would also constitute an excess of
21 its/your mandate under the Arbitration Agreement, and
22 you can look at the current slide:
23 "The ABC experts failed to adhere to this
24 mandate ..."
25 Referring to the Abyei Protocol:

10:47 1 "For present purposes it is necessary to underline
2 the importance of complying with the precise mandate
3 agreed by the parties in order not to jeopardise the ...
4 2005 Comprehensive Peace Agreement, its related
5 instruments ..."
6 And then the telling part:
7 "... and the Arbitration Agreement in this case."
8 Likewise the Government says -- and it's important
9 to look at this on the slide as well:
10 "The mandate of the experts as of this Tribunal is
11 not to consider areas according to their demographics,
12 but rather to delimit an area that was transferred from
13 the Bahr el Ghazal to Kordofan in 1905."
14 Putting it differently, just so that you don't miss
15 the point:
16 "... drawing another new boundary is not within the
17 purview of this Tribunal either."
18 Put simply, and inescapably consistent with the
19 logic of the Government's position: if this Tribunal
20 misinterpreted the definition of the Abyei Area under
21 Article 2(c), then the Government's claims necessarily
22 mean that that would also be an excess of mandate.
23 The government's position is -- and this time I will
24 use the word, no matter whether I've been criticised for
25 it or not -- absurd. It would produce an inescapable

10:48 1 and unending cycle of excesses of mandates. No matter
2 what the Tribunal decided in either direction, the
3 disappointed party could claim that its
4 misinterpretation, as that party would claim it, would
5 be an excess of mandate. That is implausible, it is
6 absurd, and it is not what is required by either the
7 Arbitration Agreement or general principles of law.
8 As we saw yesterday, the Government walked right up
9 to this issue and did not retreat from its position in
10 the slightest. Its counsel noted our argument, and then
11 he went on to say only:
12 "As for this Tribunal, we have no doubt that it will
13 comply with its mandate and will answer completely the
14 question put before it by Article 2(c) of the
15 Arbitration Agreement."
16 The essential point, which the Government does not
17 deny, remains that if you were to interpret
18 Article 1.1.2's definition of the Abyei Area in the same
19 manner as the ABC experts, the logic of the Government's
20 position -- not retreated from but instead underscored
21 for you in writing and orally -- is that that decision
22 would be an excess of mandate. Again, that defies
23 logic, common sense and the law. It is, in a word,
24 absurd.
25 In sum, virtually all of the Government's laundry

10:50 1 list of complaints about the experts' report are
2 inadmissible under Article 2(a) of the Arbitration
3 Agreement. With the arguable exception of the
4 completely unfounded complaint about grazing rights,
5 which we will come on to, none of the claims can be
6 treated as an excess of mandate. And that is a complete
7 answer to those claims.
8 With that I'm going to move on, hopefully not going
9 too quickly, to the subjects of finality and
10 res judicata.
11 Even if the Government's laundry list of complaints
12 about the experts were admissible in these proceedings,
13 those complaints are unsustainable. The Government's
14 objections are contradicted by the terms of the parties'
15 agreements and the parties' conduct during the ABC
16 proceedings, as well as the general principles of law on
17 with the Government purports to rely.
18 Preliminarily, the Government ignores or distorts
19 fundamental and vitally important legal principles that
20 apply to adjudicative decisions in all developed legal
21 systems. The Government's case begins from the premise
22 that we heard again yesterday that the experts' decision
23 had the main characteristics of an arbitral award.
24 Despite basing its case on that analogy, the Government
25 then goes on to disregard what are the most important

Trevor McGowan
info@TMGreporting.com

10:51 1 legal rules relating to awards and other adjudicative
2 decisions.
3 Those rules, which we heard referred to yesterday as
4 "legal niceties", mandate the presumptive finality and
5 res judicata effect of both arbitral awards and other
6 adjudicative decisions. At the same time, and vitally,
7 those rules also dictate extremely narrow limits on the
8 ability of parties to challenge such decisions.
9 These principles of finality and res judicata are at
10 the foundation of any developed legal regime, and they
11 are essential to the integrity of the legal process and
12 to the legal rights of parties. I should not need to
13 repeat that here today for you but, given the
14 Government's position, regrettably I have to.
15 These rules have special weight in the context of
16 boundary determinations, where interests of stability
17 and security have particular force. The presumptive
18 finality of adjudicative determinations is uniformly
19 recognised in international conventions across a range
20 of contexts. You can see those on the current slide.
21 It includes Articles 54 and 81 of The Hague Conventions;
22 Article 26 of the Draft ILC Convention, Articles 3 and 5
23 of the New York Convention, Articles 51 and 52 of the
24 ICSID Convention. In each one of those instruments it's
25 provided that an award can be invalidated only in a very

10:53 1 limited number of circumstances, in very rare and
2 exceptional cases.
3 International judicial and arbitral authorities are
4 emphatic in requiring that the presumptive finality and
5 res judicata effects of adjudicative decisions be
6 respected. The decision in Orinoco Steamship Company is
7 representative. We saw a brief reference to that
8 yesterday, we'll come back to it, and I'm not going to
9 repeat the quotation that's on the slide for you.
10 The NAFTA Tribunal in the Waste Management v Mexico
11 case held that:
12 "There is no doubt that res judicata is a principle
13 of international law, and even a general principle of
14 law."
15 Other arbitral awards, judgments and commentary are
16 to the same effect. They're extensively reviewed in our
17 submissions; I'm not going to do it again here. You can
18 see what Cheng says, what the PCIJ has held and other
19 commentary has said.
20 It's important to emphasise that these principles of
21 finality and res judicata are vitally important to the
22 international legal system, and indeed to any legal
23 system. Yesterday Professor Pellet dismissed the
24 importance of these principles; he called them "legal
25 niceties". You can see that at the transcript at 38/7.

10:54 1 That's wrong. When we look at the reasons that these
2 principles exist, they're not niceties, they're not
3 formalities; they are at the heart of any legal system
4 and the rule of law.
5 In the Trail Smelter case, which we'll come back to,
6 the Tribunal declared:
7 "That the sanctity of res judicata attaches to
8 a final decision of an international tribunal is
9 an essential and settled rule of international law. If
10 it is true that international relations based on law and
11 justice require arbitral or judicial adjudication of
12 international disputes, it is equally true that such
13 adjudication must in principle remain unchallenged if it
14 is to be effective to that end."
15 A leading commentator, Kaikobad, who we also heard
16 reference to, says:
17 "The importance of the res judicata rule to domestic
18 legal systems and to the international community cannot
19 be exaggerated. Suffice it to say that legal systems,
20 municipal and international, would be in considerable
21 chaos of this rule did not exist."
22 Of course this makes sense: how can the rule of law
23 have effect if dispute resolution mechanisms produced
24 decisions that are not respected? The essence of the
25 rule of law is that adjudicative decisions will be

10:55 1 presumptively final and binding, subject to only rare
2 and exceptional exceptions.
3 These rules apply with particular force to boundary
4 determinations. The Tribunal's award in Dubai v Sharjah
5 emphasised, among other things, the principle of the
6 stability of boundaries, observing:
7 "The reopening of the legal status of boundaries of
8 a state may give rise to very grave consequences which
9 may endanger the life of the state itself."
10 Other authors, which you can see on the current
11 slide, reach the same determination.
12 The Government's reply memorial -- and we heard
13 yesterday also -- acknowledges that border settlements
14 do enjoy a particular regime of stability and
15 permanence. That's an understatement, of course, but
16 it's still true. Nonetheless, recognising perhaps that
17 these rules are fatal to its case, the Government goes
18 on to argue that principles of finality and res judicata
19 do not really apply to the ABC report's boundary
20 determination.
21 The Government's arguments in this respect are both
22 wrong and they are dangerous. They amount to
23 a rejection of bedrock rules, fundamental rules of
24 international and national law. And it's essential,
25 both to the parties in this case and to the rule of law

Trevor McGowan
info@TMGreporting.com

10:57 1 more generally, that the Government's arguments on this
2 point be rejected.
3 The Government argues variously that principles of
4 finality do not apply to the ABC report because the
5 experts' decision is disputed between the parties. That
6 does not take much time to respond to. Any time that
7 you are asked to apply principles of res judicata or
8 finality it would be because the parties dispute a prior
9 decision. The fact that there is a dispute does not
10 mean you don't apply rules of res judicata; it means
11 that you do. There would be no reason to if there
12 weren't a dispute.
13 The Government also says that the experts' report
14 determined the location of the boundary in 1905, and
15 that that is a reason not to apply principles of
16 res judicata. Again, that makes no sense. Almost all
17 boundary decisions involve critical dates in the past,
18 and the fact that there was a past determination is
19 irrelevant.
20 Finally the Government argues that, because the
21 parties have agreed to this arbitration, because the
22 parties entered into the Arbitration Agreement,
23 principles of res judicata and finality do not apply.
24 They said yesterday -- and I quote -- principles of
25 presumptive validity and finality do not apply to the

Page 61

10:58 1 ABC report because:
2 "... the parties have agreed to ask this Tribunal to
3 determine whether this condition is fulfilled."
4 That's also wrong. The fact that the parties here
5 referred their dispute to arbitration in no way changes
6 or nullifies long-standing and fundamental rules
7 regarding the finality of adjudicative decisions. Nor
8 does it change in the slightest the vitally important
9 public policies that gave rise to and that underlie
10 those principles. Instead, the parties' agreement to
11 arbitrate here specifies the forum and the procedure in
12 which those principles will be applied; it does not
13 alter the substantive rules applicable to the parties'
14 dispute.
15 Instead, the substantive rules applicable to the
16 parties' dispute were specifically addressed in
17 Article 3 of the Arbitration Agreement. It's headed
18 "Applicable Law", and it provides that the Tribunal
19 shall apply and resolve the disputes before it in
20 accordance with the CPA and general principles of law
21 and practice.
22 Article 3's selection of general principles of law
23 provides directly for application of the long-standing
24 legal principles that we've just been through,
25 prescribing the presumptive finality and validity of

Page 62

11:00 1 arbitral awards. The suggestion that by consensually
2 agreeing to arbitrate their disputes the parties waived
3 their rights under these rules, or waived the doctrine
4 of res judicata, is simply baseless. There's no way
5 that an Arbitration Agreement can be interpreted in that
6 way, and indeed it would be a substantial disincentive
7 for parties ever to agree to arbitration agreements.
8 I think that I've gone to some extent over time.
9 I've not quite finished with the material ... Oh,
10 I misread the note that was passed to me, and I feel
11 substantially more relieved. I was told that I had gone
12 over by half an hour, and instead I gather I still have
13 20 minutes to go.
14 THE CHAIRMAN: Mr Born, I think it's the right time for
15 breaking for half an hour.
16 MR BORN: Okay, I'm happy to do that.
17 (11.01 am)
18 (A short break)
19 (11.30 am)
20 MR BORN: Thank you, Mr President. I will pick up where
21 I left off.
22 The Government told you yesterday that the decisions
23 in Orinoco Steamship, Trail Smelter and
24 Laguna del Desierto did not apply, did not stand for the
25 principles of presumptive finality and validity of

Page 63

11:31 1 arbitral awards that we have referred to where parties
2 had subsequently agreed to arbitrate the status of the
3 award. That is wrong as a matter of principle, for
4 reasons I just mentioned, and as a matter of authority
5 when you look at those cases.
6 As a matter of principle, nothing in an agreement to
7 arbitrate undercuts or nullifies basic principles of
8 law. It does the opposite: it provides a forum in which
9 legal principles are to be applied. Those legal
10 principles, those generally applicable rules of law,
11 include principles of res judicata and the presumptive
12 validity of arbitral awards. Not surprisingly, that's
13 just what the decisions in Orinoco, Trail Smelter and
14 Laguna del Desierto say, if you take the time to look at
15 them.
16 We can look at Orinoco. The decision first
17 articulates the principle of res judicata in very clear
18 terms. It then goes on to recite the consequences, at
19 the end of its decision, of the rule of presumptive
20 finality, namely that an award will only be set aside in
21 rare and exceptional cases.
22 The principle of res judicata does not say that you
23 cannot challenge an award. There are, of course,
24 circumstances where you can challenge awards; there are
25 under every legal system. The critical point that the

Page 64

Trevor McGowan
info@TMGreporting.com

11:32 1 Government misses, but which its own decision, Orinoco,
2 as discussed yesterday, says, is that those
3 circumstances are extraordinarily limited.
4 You can see the language on the slide, which goes
5 out of its way to say in particular that if you
6 permitted a general review authority it would avert the
7 general rule, namely the limited role for reviewing
8 awards that was contemplated by The Hague Conventions,
9 and that the issue is not whether the case has been
10 well-judged or ill-judged, but whether the award is to
11 be annulled.
12 The same is true when we look at the Trail Smelter
13 decision. The Tribunal there -- and it's shown on your
14 slide -- expressly recited the presumptive rule of
15 finality. Then, based on that principle, the Tribunal
16 again held that it was only in rare and exceptional
17 cases that an award could be set aside. You can see
18 that language on the slide in front of you, and the
19 Tribunal went you out of its way to emphasise the narrow
20 circumstances in which the presumptive validity of
21 an award could be set aside.
22 The government's only reference to this decision was
23 oddly, when you look at the decision, to quote from
24 a decision that was referred to in passing, literally
25 a paragraph, by the United States Supreme Court in

11:33 1 a decision called Frelinghuysen v Key. As I say, when
2 you read the Trail Smelter decision it is literally
3 referred to in passing, and I'm not entirely sure why
4 the Government referred to that decision.
5 When you look at it, all that the quotation says is
6 that an adjudicative decision, an award, is binding upon
7 the parties unless it is set aside by the parties'
8 agreement. That's no surprise, it's not unusual. Of
9 course the parties can agree to set aside a decision.
10 That is not what has happened here. The Abyei
11 Arbitration Agreement does not set aside the ABC report.
12 It rather leaves for you to apply under Article 3 the
13 general principles of law, including the presumptive
14 finality and validity of decisions such as the ABC
15 report, in accordance with the rules of proof that we
16 are going to look at in a few moments.
17 Finally the Government relied briefly on
18 Laguna del Desierto, the award in that case. Nothing
19 there stands at all for the proposition that
20 an agreement to arbitrate undoes or nullifies principles
21 of presumptive finality. On the contrary, although the
22 Tribunal did not need to do this, it said this in dicta,
23 on the contrary the Tribunal said:
24 "A judgment having the authority of res judicata is
25 judicially binding on the parties to the dispute. It is

11:35 1 a fundamental principle of the law of nations ..."
2 Not, I should say, a legal nicety:
3 "... repeatedly invoked in the jurisprudence which
4 regards the authority of res judicata as a universal and
5 absolute principle of international law."
6 An agreement to arbitrate does not undo that
7 universal and absolute principle of international law,
8 nor does the Government cite any authority that would
9 support its peculiar assertion that the agreement to
10 arbitrate undoes those rules, precisely because there is
11 no authority that says that.
12 Next the Government argues that the general
13 principles of finality which we've just looked at do not
14 apply to the ABC report because allegedly "the
15 international community did not endorse the ABC experts'
16 report". You can see that on your slide. Yesterday
17 that argument was replaced by a supposed claim of
18 weakness of the reactions of the international
19 community. You can see that at 37/15.
20 However the Government wants to characterise that
21 claim, it's wrong both legally and factually. Rules of
22 finality and res judicata don't depend on the
23 vociferousness of political approval. They are
24 principles of law, they depend on objective legal
25 criteria, and their fundamental purpose is exactly to

11:36 1 resolve disputes without resort to politics or self-help
2 or further political action.
3 At bottom, the suggestion that the res judicata
4 effect of an adjudicative decision depends on the
5 strength or weakness of the endorsement of the
6 international community undermines the rule of law.
7 The rule of law is that you don't have to look at
8 political reactions anymore. When you look at the
9 current slide, the ICJ has said in substance exactly
10 that.
11 That point in a sense is too obvious to require
12 further discussion and I won't go into it.
13 In any event, though, if we looked at the facts,
14 indeed the Government's claim that the international
15 community has not endorsed the ABC report is wrong. The
16 international community has called repeatedly for
17 exactly that.
18 I began by explaining how the CPA was the productive
19 intensive negotiations by and through the assistance of
20 the international community: the United Nations, the
21 IGAD, the United States, the United Kingdom. They
22 obviously care about the implementation of the
23 Comprehensive Peace Agreement; that's why they were
24 involved in negotiating it.
25 If you look at the most relevant spokesperson of the

Trevor McGowan
info@TMGreporting.com

11:38 1 international community, the US special representative
2 for Sudan, immediately after the ABC report was issued,
3 he issued a statement that:
4 "... [welcomed] the Abyei Boundaries Commission's
5 presentation of its final report to the presidency ...
6 [lauded] the members of the Commission for their work in
7 preparing the report ..."
8 Did not, incidentally, say that they were
9 an unfortunate choice and they had made procedural
10 errors:
11 "... [commended] the parties for their wisdom in
12 establishing the ABC and confirming that the report of
13 the experts is final and binding."
14 Those are all quotes from what the UN representative
15 said.
16 Then finally, in answer directly to the Government's
17 statement that the international community has not
18 called for implementation of the award, he said:
19 "The special representative calls on all parties to
20 abide by the decision."
21 That could not have been clearer or more specific.
22 It disproves the Government's suggestion that the
23 international community does not care about this issue
24 entirely.
25 In any event, the UN Security Council, the

11:39 1 Secretary-General and others have expressed the same
2 point, albeit in more diplomatic language. You can see
3 that language on the current slide. All of these
4 statements contradict the Government's claims that the
5 international community takes no interest in Abyei. We
6 wouldn't be here if that weren't the case.
7 More fundamentally, the rule of law, the principles
8 of validity of arbitral awards, of adjudicative
9 decisions, don't depend on how loud people cry or what
10 kind of political manoeuvring they do. They depend --
11 and that's why there was an applicable law clause and
12 that's why an arbitration tribunal was picked to resolve
13 this dispute -- on rules of law. It doesn't depend on
14 political manoeuvring anymore; it depends on your
15 assessment of legal rules.
16 We turn next to the consequences of these principles
17 of finality and res judicata for Government's specific
18 claims.
19 I should emphasise that these standards of proof
20 which we're going to look at derive directly from the
21 underlying starting point, the presumptive finality and
22 validity of arbitral awards. Because of that principle,
23 there are particular rules about when an award can be
24 set aside or disregarded.
25 I should also emphasise that these rules, although

11:40 1 I'm going to spend time on them, aren't really necessary
2 in this case. This is a clear case; you wouldn't need
3 these standards of proof. It is clear that the ABC
4 experts did what they were supposed to in every respect.
5 But I'm still going to talk to you about these
6 standards of proof because they underscore the
7 importance of your mission and the importance of the ABC
8 report; they underscore the importance to the rule of
9 law of the presumptive validity and finality of arbitral
10 awards and similar adjudicative decisions. We don't
11 need them to prevail, but you need them in order to
12 safeguard the integrity of the rule of law.
13 First, it's clear that the burden of establishing
14 one of the limited grounds for the nullity of
15 an adjudicative decision is on the party seeking to set
16 the decision aside. This allocation of the legal burden
17 of proof is universally affirmed in both international
18 and national authority. It results from the general
19 principle that each party bears the legal burden of
20 establishing its claims and from the presumptive
21 finality of arbitral awards and other adjudicative
22 decisions.
23 It's also beyond question that the party challenging
24 the validity of an adjudicative decision bears the
25 burden, and a very heavy burden, of establishing one of

11:42 1 the specifically defined exceptions to the presumptive
2 validity of such decisions.
3 Judge Weeramantry stated this rule emphatically:
4 "The party impugning the award is at all times under
5 the burden of proving that sufficiently weighty
6 circumstances exist to support its contention that the
7 award is invalid."
8 The same allocation of the burden of proof of the
9 invalidity of a decision applies, as we all know, under
10 Article 5 of the New York Convention and Article 5 of
11 the Inter-American Convention. It's well settled under
12 both conventions that the burden of establishing the
13 non-recognition of an award is on the party seeking to
14 have the award set aside. I won't repeat the commentary
15 that's on the current slide because I'm sure it's well
16 known to all of you.
17 The same approach applies under the UNCITRAL Model
18 Law, Articles 34 and 36. The language there expressly
19 places the burden of setting aside or denying
20 recognition to an award on the party seeking to do so.
21 Second, general principles of law also provide that
22 an excess of mandate is an exceptional conclusion which
23 will be found only where the decision-maker's excess was
24 manifest, flagrant and glaring. A wide range of
25 authorities discussed in the SPLM/A's memorial confirm

11:43 1 this view. This is part of the mountain of paper that
2 Professor Pellet found so discouraging that he talked
3 about yesterday. We've amply demonstrated the existence
4 of this rule.
5 Carlston put it best:
6 "Most writers have agreed that an arbitral award is
7 null in the measure that the Tribunal has manifestly and
8 in a substantial manner passed beyond the terms of the
9 submission."
10 Elsewhere Carlston goes on to say:
11 "Writers who have given special study to the subject
12 have agreed that the violation of the compromis should
13 be so manifest as to be readily established. It must,
14 in general, be arbitrary, not merely arguable or
15 doubtful."
16 Others have held that such errors must be enormous,
17 glaring, a manifest extravagance on the merits, flagrant
18 or manifestly unjust. These rules, which at least as
19 the starting point are not seriously disputed by the
20 Government, serve the fundamentally important purpose
21 which we have already talked about of safeguarding the
22 presumptive finality and validity of arbitral awards.
23 Despite recognising these principles as the starting
24 point -- and the Government does so explicitly; you can
25 see the quotes on the slide. It says that it is rather

11:44 1 exceptional for an arbitrator to be found to have
2 exceeded its mandate, and that it is "certainly true
3 that an allegation of excess of power cannot be accepted
4 lightly", and elsewhere -- you can see the quotes
5 again -- that finding that an excess of mandate is
6 either "astonishing" or "exceptional", depending on
7 which one of their papers you read.
8 Despite these concessions, the Government goes on
9 and argues -- and it's a little bit difficult to figure
10 out how this relate to its previous concessions -- that
11 the Government is under the same or no more onerous
12 a burden of proof with regard to an excess of mandate
13 than the SPLM/A. It cites to article 24(1) of the PCA
14 Rules, as well as again to the parties' Arbitration
15 Agreement here, to suggest that rather than itself
16 bearing the very onerous burden of setting aside
17 an adjudicative decision, both parties are under some
18 sort of equal burden of proof.
19 We have detailed the reasons why that's wrong in our
20 rejoinder at paragraphs 220-259, but I will summarise
21 them again briefly. The Government's position is, in
22 a nutshell, both wrong and confused.
23 Article 24(1) of the PCA Rules states the general
24 principle that the evidentiary burden of proving facts
25 lies with the party alleging those facts. That's what

11:46 1 the plain language of Article 24(1) says. It refers to
2 the burden of proving the facts relied on to support its
3 claim or defence.
4 Article 24(1) of the PCA rules distinguishes between
5 an evidentiary burden of proving facts, which is what
6 article 24(1) deals with, and the legal burden of
7 proving claims and defences, which are referred to in
8 Article 24(1) but which is not addressed by
9 Article 24(1) and is instead addressed by underlying
10 rules of substantive law.
11 Simply put, Article 24(1) does not address the legal
12 burden of proving an excess of mandate. Instead the
13 allocation of that burden and the nature of that burden
14 is explicitly and in detail addressed by general
15 principles of law. As we've just seen for the last
16 30 minutes or so, those general principles of law
17 dictate that arbitral awards and adjudicative decisions
18 are presumptively final, save in the rarest and
19 exceptional circumstances.
20 Judge Weeramantry stated this rule, and it's worth
21 looking at this quote in a little bit more detail.
22 I referred to him previously, but he makes the point so
23 powerfully that it's worth all of us looking again. The
24 arbitral award in the King of Spain case:
25 "... this court acted on the principle that the

11:47 1 burden lay upon the party contending that the award is
2 invalid. The ensuing enquiry is undertaken on this
3 basis and with due deference to the presumption of
4 validity. The burden of displacing that presumption
5 lies on the party challenging the award, and that
6 burden, having regard to the importance of the finality
7 of arbitral awards, is a heavy one.
8 "Moreover, the contention ..."
9 The contention is almost identical to what the
10 Government makes here:
11 "... that the burden of proof of validity lies upon
12 the party seeking to uphold the award is not entitled to
13 succeed. The party impugning the award is at all times
14 under the burden."
15 This is a general principle of law. It is this
16 general principle of law, and not Article 24(1)'s
17 evidentiary provision, that governs the presumptive
18 validity of the experts' report here.
19 Even less seriously, the Government repeats its
20 argument that the Abyei Arbitration Agreement means
21 that:
22 "Each party bears the same burden of proof with
23 respect to its contentions on the issues in dispute."
24 That again is wrong. The Government cites no
25 authority and provides no rationale to support its

Trevor McGowan
info@TMGreporting.com

11:49 1 argument that an agreement to arbitrate reverses the
2 allocation of the burden of proof, or changes the
3 allocation of the burden of proof for challenging
4 an adjudicative decision. No such authority exists.
5 The reason that there's no authority for that
6 principle, and that the Government has cited you to
7 none, is that the argument has virtually never been made
8 and is untenable. An agreement to arbitrate, as
9 I previously said, selects the forum and the procedures.
10 The burden of proof regarding the underlying claims
11 derives from the substantive legal rules, in this case
12 the generally applicable principles of law which are
13 precisely specified in Article 3 of the Abyei
14 Arbitration Agreement. That, as we have seen, is headed
15 "Applicable Law", and provides that the Tribunal will
16 decide the dispute in accordance with those provisions
17 of those generally applicable principles of law. It's
18 that provision of Article 3 that governs the legal
19 burden of setting aside the ABC report.
20 As we've also discussed, these principles of
21 finality and the burdens of proof, the nature of the
22 burden of proof that arise from them serve vitally
23 important purposes. I've already mentioned them. They
24 include ensuring repose, stability and fairness to
25 parties.

Page 77

11:50 1 The parties' agreement to arbitrate a dispute
2 doesn't in any way change or undo those policies; it
3 simply provides a place for those policies to be given
4 their full effect.
5 So finally there can be no doubt that the Government
6 bears the legal burden of proving its excess of mandate
7 claims in this case, and that that is a very onerous
8 burden. Only in rare cases, involving flagrant and
9 glaring excesses of mandate, can the experts' report be
10 disregarded.
11 As we will see when we now turn, with the benefit of
12 a new slide presentation, to each of the Government's
13 individual claims, it's quite clear that the Government
14 doesn't remotely approach satisfying that standard of
15 proof for any of its claims. This should take, I'm
16 told, 45 seconds or so. I think I can even begin before
17 we have slides.
18 We'll turn first to the substance of the
19 Government's various procedural complaints about the
20 experts' actions. In its memorial the Government
21 alleged three violations of procedural conditions by the
22 experts, which supposedly constituted excesses of
23 mandate. These violations were: (1) the Khartoum
24 witness interviews; (2) the Millington email; and (3)
25 the experts' purported failure to promote a consensus on

Page 78

11:51 1 the Commission. And as we saw in the reply memorial,
2 there's a fourth complaint about the presentation to the
3 Southern Sudan legislature.
4 The Government's memorial rested its procedural
5 complaints on the argument that:
6 "... a departure from a fundamental rule of
7 procedure expressly agreed to by the parties constitutes
8 an excess of mandate ..."
9 And that the experts exceeded their mandate by
10 circumventing the agreed work programme and breaching
11 the procedural rules.
12 The Government's rejoinder, as we have seen, rewrote
13 that rationale, at least in substantial part. Instead
14 of relying on the parties' agreed procedural rules, the
15 rejoinder cited "universally accepted procedural
16 principles" and "very general and fundamental principles
17 of law recognised in all legal systems".
18 The Government's inability to state a single
19 coherent rationale for its complaints is not surprising,
20 as we will see. Whatever their basis, whatever their
21 rationale, those procedural claims are hopeless.
22 As we have already seen, the Government's procedural
23 complaints don't constitute potential excesses of
24 mandate under the Arbitration Agreement; they are
25 therefore inadmissible. But even if they were

Page 79

11:53 1 admissible, they are "frivolous", to use
2 Professor Pellet's favourite word. They are
3 after-the-fact complaints never voiced prior to this
4 arbitration. They proceed with cavalier disregard for
5 the terms of the parties' agreements, for the conduct of
6 the ABC proceedings, and for the applicable general
7 principles of law. They provide no basis at all for
8 criticising the experts or disturbing the ABC report.
9 Preliminarily, the Government's procedural
10 complaints are subject to a number of specific rules
11 that impose very substantial obstacles to claims of
12 procedural irregularity, even assuming they would be
13 admissible. These include: (1) the very broad
14 procedural discretion of international arbitral
15 tribunals and similar adjudicative bodies, especially
16 the ABC experts; (2) the presumptive adequacy of
17 procedural decisions by arbitral tribunals; and (3) the
18 elevated standard of proof applicable to claims of
19 procedural irregularity.
20 First, it's well established under all contemporary
21 dispute resolution regimes that tribunals possess very
22 broad procedural discretion. This is a fundamental
23 aspect of international arbitral and judicial processes,
24 recognised in a wide range of cases. This principle
25 applies with particular, with peculiar force to the

Page 80

Trevor McGowan
info@TMGreporting.com

11:54 1 informal and sui generis investigatory procedures
2 adopted by the parties for the ABC proceedings.
3 The authorities that detail the broad procedural
4 discretion of arbitral tribunals and similar bodies are
5 set forth in our reply memorial, and I won't repeat
6 them. There are a couple of references to the
7 authorities that are on the current slide, just to
8 remind ourselves, to orient ourselves. They refer to
9 the wide latitude of arbitrators; to the fact that
10 procedural questions should be left to the arbitrator;
11 one decision holds; arbitration resolves disputes
12 without confinement to many of the procedural and
13 evidentiary strictures that protect formal trials; the
14 same rule is adopted in civil law jurisdictions.
15 To look at the quote on the current slide:
16 "The arbitrator is free to adopt the necessary
17 regulations, either in advance, or in the course and in
18 view of the ongoing proceedings."
19 It's important that these principles are not just
20 words; they are again at the foundation of contemporary
21 international dispute resolution. That's because there
22 is a vast disparity/diversity of procedural approaches
23 in different jurisdictions, whether common law, civil
24 law, Islamic, African, Asian or otherwise. Equally
25 there is a wide variety of disputes that are presented

Page 81

11:56 1 to tribunals. Different types of procedures are wanted
2 by different parties.
3 Given that diversity, and necessarily, the guiding
4 principle for the last half century has been that in
5 assessing procedural decisions and actions by tribunals,
6 the procedural discretion of those tribunals is highly
7 respected, and granted the greatest of deference.
8 That principle has special force in this case here.
9 As we saw, the parties deliberately chose not to adopt
10 any pre-existing set of formal arbitration rules.
11 Rather the experts specifically granted the experts
12 themselves, in the broadest terms, the power to
13 determine the ABC procedures in the manner they
14 considered most appropriate.
15 We can see that in Article 4 of the Abyei Annex,
16 an article that was not mentioned much yesterday. It
17 provided that:
18 "The experts shall ... determine the Rules of
19 Procedure of the ABC."
20 Article 4 did not require that the parties agree to
21 or otherwise approve the procedural rules; the experts
22 alone were granted the authority to draft and to
23 determine the rules.
24 The Rules of Procedure, as we saw, also emphasised
25 that the ABC procedure would be conducted in an informal

Page 82

11:57 1 yet business-like manner, with a full and easy exchange
2 of ideas, observations and suggestions. As we'll see
3 shortly, the experts were expected to exercise
4 a wide-ranging and independent investigatory authority.
5 These characteristics of the ABC proceedings
6 necessarily, deliberately and peculiarly involved
7 a particularly high degree of procedural discretion on
8 the part of the experts.
9 It's also important -- and I will come back to
10 this -- to underscore the experts' authority in
11 interpreting the Rules of Procedure. Bear in mind, it
12 was the experts who drafted those rules, and who were
13 responsible for implementing them. It hardly need be
14 said that the experts' authority to interpret their own
15 rules, the words which they wrote and implemented, is
16 entitled to the greatest deference. Again, humility in
17 the face of how others conducted their proceedings is
18 something that needs to be borne in mind.
19 Second, it is equally well settled that the
20 procedural decisions of an arbitral tribunal or
21 a judicatory body are presumptively valid. This
22 reflects the importance of the finality of arbitral
23 awards and decisions, and the extreme reluctance, the
24 humility with which procedural and evidentiary decisions
25 are second-guessed in after-the-fact enquiries.

Page 83

11:58 1 Again, there's no reason to repeat all the
2 authorities that we've detailed in our reply memorial.
3 The ICJ expressed the point very well though, in the
4 ICAO Council case. It said:
5 "... the interpretation given by [the ICAO Council]
6 of those rules [its rules] in the exercise of its
7 functions ... ranks as an authoritative interpretation.
8 There is thus a strong presumption that the decision
9 taken by the [adjudicative body] is in conformity with
10 the true meaning of the rules."
11 The ICJ put it well, it put it humbly, it put it in
12 terms that: if a procedural decision is made by
13 an adjudicative body using its own rules, we will defer
14 to that, we will respect it.
15 The same is true under Article V(1)(b) of the
16 New York Convention. It permits non-recognition of
17 an award where a procedural irregularity resulted in
18 a party being unable to present its case. We all know
19 that provision. Under it, courts around the world have
20 uniformly held:
21 "An award can only be set aside in exceptional
22 cases. It requires a violation of fundamental
23 principles ... which hurts in an intolerable manner the
24 notion of justice."
25 The same result applies under national arbitration

Page 84

Trevor McGowan
info@TMGreporting.com

12:00 1 legislation in jurisdictions around the world. The
2 Swiss Federal Tribunal put it emphatically, under
3 language that you can see on the current slide. I won't
4 read it. The Austrian Supreme Court, whose views are of
5 special interest to some of us, held in precisely the
6 same terms, emphatically, that challenges are only
7 possible in cases of absolutely gross violations of
8 fundamental principles of due process.
9 It's equally well established that a party
10 challenging an arbitral award on procedural grounds
11 bears a heavy burden of proof. One representative
12 decision declares that:
13 "The burden of discharging the presumption of
14 procedural regularity is a heavy one."
15 Another court put it in terms of the burden being
16 very great. Again, these principles apply with special
17 force to the sui generis and informal investigatory
18 context of the ABC proceedings.
19 As we have seen, the Government and the SPLM/A did
20 not agree to resolve their disputes pursuant to detailed
21 Arbitration Rules, to formal Arbitration Rules, but
22 instead pursuant to a deliberately informal process in
23 which the experts drafted their own procedural rules and
24 were granted broad investigatory and fact-finding
25 powers. In those circumstances the presumptive validity

Page 85

12:01 1 of their procedural decisions has special force.
2 Third, a party seeking to invalidate an arbitral
3 award or other adjudicative decision on procedural
4 grounds must also show special prejudice, serious
5 prejudice, from the purported irregularities. A leading
6 commentary says:
7 "The prevailing view is that a procedural
8 irregularity or defect alone will not invalidate
9 an award. The test is that of significant injustice, so
10 that the Tribunal would have decided otherwise had the
11 Tribunal not made a mistake."
12 Carlston makes the same point in the context of
13 state-to-state arbitrations. He says:
14 "Not all failures to observe procedural stipulations
15 contained in the compromis will lead to nullity of the
16 award. The question is rather: does the departure
17 constitute a deprivation of a fundamental right so as to
18 cause the arbitration and the resulting award to lose
19 its judicial character? Unless its effect is to
20 prejudice materially the interests of a party, the
21 charge of nullity should not be open to a party."
22 Indeed, the Government admitted as much, before it
23 tried to pull it back, in its first memorial. It said:
24 "The breach of a procedural condition must be
25 material; that is to say, significant both in itself and

Page 86

12:02 1 as to the result reached."
2 Again, this rule is not just words; it reflects the
3 presumptive validity of arbitral awards and other
4 adjudicative decisions, as well as the high degree of
5 deference, the humility in the face of
6 a decision-maker's procedural judgments, and it also
7 reflects the common sense principle that a party should
8 not be able after the fact, by nitpicking procedural
9 decisions of a decision-maker, to have that decision set
10 aside which it doesn't like on the substance, when it
11 hasn't been be injured by the procedural decision.
12 All three of these rules apply fully and
13 emphatically to the ABC experts' actions in this case.
14 Despite that, the Government's submissions yesterday did
15 not mention and effectively ignore these rules. They
16 never seriously addressed the very rigorous standards
17 that those rules impose, and that is for the simple
18 reason that these legal rules are fatal to the
19 Government's complaints.
20 The Government's procedural complaints also ignore
21 the parties' agreements, virtually never addressing what
22 the ABC procedures actually said. The Government picks
23 and chooses, cherry-picks particular provisions without
24 attempting to look at how those provisions fit together
25 into the procedural framework that was adopted.

Page 87

12:04 1 The Government, not finding in even its selective
2 cherry-picked quotations what it needs, also returns to
3 rules imported from patchwork of international,
4 institutional Arbitration Rules. We saw that yesterday,
5 we heard it again, and we saw it in the Government's
6 submissions.
7 It claims that the ABC process "closely resembled
8 that found in international arbitration practice". More
9 recently, the Government's rejoinder relied on
10 fundamental procedural rules and claimed that the ABC
11 experts were subject to "the same basic procedural
12 rules" as ICSID tribunals.
13 The Government's procedural analogies ignore the
14 fact that the Abyei Boundaries Commission was not
15 an arbitral tribunal, it was not an ICSID Arbitral
16 Tribunal or an international court; it was a boundaries
17 commission. That's why it was named the
18 Abyei Boundaries Commission.
19 More fundamentally, putting aside names, the
20 Government's analogies ignore vital aspects of the ABC
21 procedures and proceedings. These characteristics of
22 the ABC proceedings made them fundamentally different in
23 important ways from the Government's favourite model of
24 an ICSID arbitration or an ICC arbitration.
25 You can see these various differences reviewed

Page 88

Trevor McGowan
info@TMGreporting.com

12:05 1 briefly on the slides before you, and they are obvious.
2 In a sense I shouldn't have to go through this, but
3 given the Government's argument, I do.
4 First the ABC had 15 members, 10 party-appointed,
5 overtly partisan representatives who took part as part
6 of the legal teams. That differs markedly from ICSID
7 arbitrations and from most other arbitrations that we
8 know of, which have three or five members, all of whom
9 are impartial and independent.
10 Second, the five experts were authorities in
11 Sudanese and regional history, politics, public affairs
12 and ethnography, not arbitration or investment
13 arbitration. That is not a reason to criticise them as
14 being an unfortunate choice; it was a choice that the
15 parties made.
16 Third, the experts were selected by the IGAD,
17 a regional African institution which the parties knew
18 and trusted, not by ICSID, the PCA or the ICC. As the
19 Government acknowledged yesterday, the ABC was "composed
20 in an unusual manner"; by that it meant not the manner
21 of an ICSID arbitration, which the Government is more
22 comfortable with.
23 Fourth, the parties did not incorporate, as I have
24 already mentioned, any of the detailed procedural
25 regimes contained in the numerous institutional

12:06 1 arbitration rules, which they might have done. Instead
2 they provided for the experts to draft their own rules,
3 which were then informal and which left vast procedural
4 discretion to the experts. Again, as the Government
5 acknowledged in terms yesterday, the ABC was "governed
6 by special rules of procedure".
7 Fifth, importantly, the experts were granted the
8 authority independently to conduct whatever scientific
9 and other research they considered relevant. This
10 differed markedly from arbitral practice, where
11 independent investigations by arbitrators would be
12 unusual.
13 Sixth, the experts met with the residents of the
14 Abyei region at a number of locations and gave layman's
15 explanations of the Commission's purpose. That public
16 role, that public function which the Government
17 acknowledged yesterday, contrasts with the confidential
18 and structured procedural character of most arbitral and
19 many judicial proceedings.
20 In fact, when you actually look at the procedural
21 rules that applied to the ABC, there were very, very few
22 procedural requirements of any sort imposed on the
23 experts. The current slide shows what those were. They
24 were skeletal. They included provisions for the
25 constitution of a commission of experts, a time limit

12:08 1 for the submission of the experts' final report,
2 a provision for the parties to make presentations of
3 their positions, the hearing of representatives of the
4 people of the Abyei Area, and consultation by the
5 experts of the British archives and any other sources of
6 information that they considered relevant. No other
7 mandatory requirements or prohibitions of any sort were
8 contained in the ABC arrangements themselves.
9 The experts' procedural discretion went well beyond
10 that recognised by generally applicable principles of
11 law and in institutional arbitration regimes. Rather
12 than adopting the detail procedural regime of
13 an arbitral institution, the parties agreed to
14 a deliberately informal process in which the experts
15 were responsible for determining the procedures and
16 drafting procedural rules.
17 The Government argued yesterday that:
18 "The so-called broad procedural discretion that the
19 experts allegedly enjoyed ... is nowhere to be found in
20 the relevant agreement, and our opponents are unable to
21 point to a single provision to that effect."
22 That is wrong. All you have to do is look at the
23 agreements and at our submissions.
24 As summarised on the current slides, the experts'
25 unusually broad procedural discretion, which I am going

12:09 1 to come back to in a moment, was recognised expressly
2 and repeatedly in the parties' agreements and in the
3 Rules of Procedure that the experts drafted. These
4 provisions included Article 2 of the Abyei Annex,
5 Article 3 of the Terms of Reference, and Articles 2, 7,
6 10, 11 and 13 of the Rules of Procedure.
7 The parties' -- and this is an important point --
8 agreements also recognised the experts' broad power to
9 undertake their own independent investigation and
10 scientific research. Article 3.4 of the Terms of
11 Reference provided for the experts independently to
12 conduct research into the British archives and "any
13 other relevant sources on the Sudan, wherever they may
14 be available".
15 Article 3.4 was broad and unqualified. It applied
16 to the experts, not to the full Commission. It ensured
17 that the experts had access to whatever factual
18 information, regardless of its source, the type of
19 information or the location, that they considered
20 relevant.
21 The same approach was prescribed in the Rules of
22 Procedure. Article 7 provided that the Commission
23 members, the members individually:
24 "... should have free access to members of the
25 public, other than those in the official delegations at

12:10 1 the locations to be visited."
2 Article 7 again confirmed the individual experts'
3 freedom to meet with and consult with anyone who they
4 chose, whether identified by the parties, and at any
5 location the experts wished.
6 Likewise, Article 10 of the Rules of Procedure
7 provided that:
8 "The Commission shall visit sites in the field based
9 on the recommendation of the two sides and any other
10 information that becomes available to the Commission."
11 This grant of authority again proceeds expressly on
12 the premise that the experts, as well as the other
13 members of the Commission, would be receiving and using
14 information that did not come from the parties, but
15 instead from their own enquiries and their own
16 investigations.
17 At the same time, Article 10 made clear that the
18 parties' views about the experts' visits were
19 recommendations and no more.
20 Equally Articles 11 and 13 of the Rules of Procedure
21 provide that, "The experts will determine what
22 additional documentation and/or archival materials will
23 need to be consulted", and that, "The experts will
24 examine and evaluate all the material they have gathered
25 and will prepare the final report".

Page 93

12:12 1 Again, these provisions proceed expressly on the
2 basis that the experts would be independently gathering
3 documentation and other information on their own; that
4 is, evaluating the material they have gathered. These
5 sorts of independent investigations by the experts were
6 not disfavoured or restricted, but affirmatively
7 contemplated and encouraged.
8 Further, none of the parties' arrangements imposed
9 limitations on the experts' investigatory or
10 fact-finding efforts. The parties' agreements set forth
11 a variety of provisions to ensure that the experts had
12 access to different sources and kinds of information,
13 people, sites, documents, archives, and any other
14 sources.
15 In contrast -- and this is vitally important --
16 nothing in the parties' agreements or procedural rules
17 forbade the experts from taking additional actions or
18 consulting additional sources or conducting
19 investigations or scientific research. There was no
20 provision in the ABC arrangements that imposed any
21 mandatory prohibition or restriction on the experts in
22 this regard.
23 It's clear why the parties adopted this approach to
24 the experts' authority. The parties agreed that they
25 wanted a decision based on the experts' own "scientific

Page 94

12:13 1 analysis and research", and they selected five
2 distinguished scientific experts, whom we looked at at
3 the beginning of my presentation, to reach that
4 decision.
5 Given that, given that they had put this decision in
6 the hands of scientific experts, it would have made no
7 sense for the parties, who weren't scientists, to
8 prescribe what scientific methods the experts should
9 adopt, much less to require the experts to behave like
10 ICSID arbitrators instead of scientists and
11 investigators, which is what they were and what the
12 parties wanted.
13 Rather the parties sensibly left it to the experts,
14 the scientific experts, to decide for themselves how
15 they would conduct their scientific analysis and
16 research and how to conduct whatever independent
17 investigations they considered appropriate.
18 Taken together, the procedures that the parties
19 adopted deliberately, explicitly and repeatedly for the
20 ABC proceedings were vitally different from the
21 procedures used in many international arbitrations,
22 ICSID or otherwise.
23 Given those differences, it is astonishing that the
24 Government's rejoinder continues to argue that the ABC
25 procedures were "subject to the same basic procedural

Page 95

12:14 1 rules" as an ICSID arbitration. That grossly distorts
2 both the ABC proceedings and ICSID arbitral proceedings.
3 The Government's refusal to acknowledge that fundamental
4 point and to pay attention to the language in the
5 parties' agreements taints all of its procedural
6 objections.
7 The Government takes the SPLM/A to task -- and
8 I will cover this point briefly -- for arguing that it's
9 ironic that we rely on ICSID and other arbitration
10 authorities in support of topics such as the doctrine of
11 res judicata or the procedural discretion of arbitral
12 tribunals. It suggests that we pick and choose and are
13 happy to use international generally accepted rules of
14 international law when it suits us but not when it
15 doesn't.
16 That fundamentally misconceives how the two parties
17 have sought to use international authorities. On our
18 side we have used a range of authorities: ICC, ICJ,
19 European Court of Justice, national court decisions,
20 ICSID decisions, New York Convention decisions, other
21 decisions. We've referred to a wide range of
22 instruments precisely in order to derive general
23 principles of law such as res judicata, such as the
24 recognised procedural discretion of decision-makers.
25 The Government, on the other hand, has sought to

Page 96

12:16 1 identify specific requirements unique to particular
2 regimes, and from those particular specific requirements
3 purport to derive generally applicable rules of law.
4 One of the reasons that we have a mountain of paper
5 on our side is that we have taken seriously the
6 obligation to establish a generally applicable principle
7 of law. We have not just raised our voice and said: it
8 is frivolous to suggest that there is no requirement for
9 a reasoned award; we have rather gone and looked at the
10 authorities.
11 That is what the Government should have done, had it
12 wanted to establish the existence of universal
13 principles of law, much less peremptory principles of
14 law, but it didn't do that. It did not provide you with
15 a wide selection of authorities. When we come to look
16 at the purported peremptory rules of law that the
17 Government cites, we will see that they don't even stand
18 on foundations of sand; they stand on nothing but
19 rhetoric.
20 In contrast, when you look at the particular
21 rules -- and that is why we have wide range of
22 authorities -- that the SPLM/A relies on, they are
23 solidly based on authority that the Tribunal can rely
24 on.
25 The Government also mischaracterises the programme

Page 97

12:17 1 of work which was attached to the terms of reference.
2 As that format indicates, the Programme of Work was not
3 a detailed, comprehensive or fixed procedural regime.
4 You can see from the current slide that it was instead
5 something that set out in very summary and skeletal
6 terms a tentative working schedule for major activities
7 of the Commission. It also contained such practical
8 details as funding, travel schedules and logistics and
9 similar kinds of issues.
10 The Programme of Work reflected the parties' very
11 early efforts to plan major events in the Commission's
12 schedule so that they could be completed smoothly and on
13 time. The parties provided for this schedule because
14 the parties were asking the experts to undertake
15 a particularly ambitious and demanding schedule.
16 In order for the Commission to be able to complete
17 its work as a practical and logistical matter, planning
18 and funding needed to occur earlier rather than later.
19 That was especially true given the logistical
20 difficulties of transferring the experts and the other
21 Commission members to a remote area with rudimentary
22 transportation and communications.
23 In practice, virtually every single aspect of the
24 Programme of Work was altered during the course of the
25 ABC proceedings. Following execution of the Terms of

Page 98

12:18 1 Reference, subsequent programmes of work were circulated
2 between the IGAD and the parties, which superseded large
3 portions of the original Programme of Work.
4 That's illustrated in the current slide, whose
5 detail I apologise for, but which shows actually in
6 a painstaking way how the various things that were
7 contemplated in the Programme of Work naturally evolved
8 from one plan into another and then yet another.
9 The point is not, as the Government suggests, either
10 that the parties consented to each of the changes in the
11 Programme of Work and impliedly that the parties'
12 consent was required to every alteration. The decisive
13 point instead is that when you look at the Programme of
14 Work, it was always envisaged as a tentative, incomplete
15 and summary plan, not a final and exhaustive set of
16 requirements.
17 Hence, when the Government suggests that the experts
18 "circumvented" the Programme of Work, that's nothing but
19 empty rhetoric. The experts would have only
20 circumvented the Programme of Work if the programme had
21 mandatorily limited the experts' activities to
22 a specific set of defined things. The Programme of Work
23 did not do that. The summary of events in the Programme
24 of Work did not purport to be an exclusive or mandatory
25 catalogue of all the Commission's and experts'

Page 99

12:20 1 activities.
2 On the contrary, the Programme of Work was
3 a tentative, partial planning document. That is obvious
4 from the Terms of Reference and format of the document,
5 and was exactly how the experts, whose interpretation is
6 entitled to the most substantial deference, treated the
7 schedule. It's also consistent with the extensive
8 revisions that the parties made to the programme in
9 practice. In these circumstances it is impossible
10 seriously to impute exclusivity to the Programme of
11 Work.
12 In sum, it is essential in considering the
13 Government's procedural complaints to recall both the
14 general principles of law that apply to such
15 complaints -- we went through them -- and the specific
16 terms of the parties' agreements regarding the ABC; we
17 went through those as well. These general principles of
18 law underscore the broad procedural discretion of the
19 experts, the deference accorded to the experts'
20 procedural actions and the very limited circumstances in
21 which a procedural challenge will be upheld. At the
22 same time, the terms of the parties' agreements
23 underscore even more emphatically the experts' broad
24 procedural discretion and wide independent investigatory
25 authority.

Page 100

12:21 1 It is no wonder that the Government ignores these
2 general principles and the specific procedural
3 agreements in presenting its objections. That is
4 because these considerations make the Government's
5 procedural objections wholly untenable, and that is
6 clear when we examine each one of these complaints, as
7 we do now.
8 The Government's first procedural complaint is that
9 the experts independently conducted interviews of
10 Ngok Dinka and Twic Dinka living in Khartoum. The
11 Government complains that these interviews were secret
12 and without procedural safeguards. They say that this:
13 "... circumvented the agreed Programme of Work, and
14 deprived the GoS of their right to a fair procedure."
15 The government's claim is -- and I use the words
16 carefully -- contrived and frivolous. That is true for
17 multiple reasons, any one of which is sufficient for
18 rejecting that complaint.
19 Preliminarily, the Tribunal will recall that all of
20 the Government's procedural complaints, including this
21 one, are inadmissible; I won't repeat that. I will
22 instead focus on the numerous other fatal defects in the
23 complaint.
24 First, the Government does not identify any
25 provision of the parties' arrangements that prohibited

12:22 1 the Khartoum meetings. That is because there's nothing
2 in the parties' agreements or the Rules of Procedure
3 that in any way prevented the experts from independently
4 conducting investigations and witness interviews.
5 As we have seen, nothing in the parties' agreements
6 or the procedural rules forbade the experts from
7 undertaking additional investigations or consulting
8 additional sources beyond those referred to in the ABC
9 arrangements.
10 Thus, nothing in the parties' agreements or the
11 procedural rules provided, as the Government would wish,
12 "The experts may not interview additional witnesses",
13 or, "The experts shall not consider documents provided
14 by third parties". The parties could have imposed such
15 restrictions, but they did not; their agreements did not
16 either prohibit or restrict the experts' investigations
17 or scientific research.
18 On the contrary, the applicable procedural rules
19 said exactly the opposite. Those rules specifically and
20 expressly ensured that the experts would be able to
21 conduct such meetings if they chose.
22 As we saw, Article 7 of the Rules of Procedure --
23 and we'll come back to this now in a little more
24 detail -- guarantees that Commission members should have
25 free access to members of the public, other than those

12:24 1 in the official delegations at the locations to be
2 visited.
3 The Government's submissions have not seriously
4 dealt with Article 7. That is because the provision is
5 fatal to the Government's argument that the experts
6 committed some circumvention of the parties' agreed
7 procedure by holding the Khartoum meetings.
8 Article 7 ensured that individual Commission
9 members, not just the full Commission -- the reference
10 was to "Commission members" plural, not the full
11 Commission -- would be guaranteed free access to all
12 members of the public. This guarantee specifically
13 included members of the public other than those
14 presented by the parties. It also specifically included
15 witnesses at any location the experts considered
16 appropriate, not just the locations picked by the
17 parties.
18 The whole point of Article 7 was to guarantee the
19 experts and the other Commission members freedom to meet
20 with whatever members of the public that they wished,
21 wherever they wished, freely, as the language says, and
22 without limitation by the parties. This provision
23 squarely authorised the experts' Khartoum meetings.
24 Other provisions do the same thing, but this provision
25 does.

12:25 1 It also bears emphasis that Article 7 of the Rules
2 of Procedure was drafted by the experts themselves. The
3 experts' interpretation and understanding of this
4 provision which they drafted is obviously entitled, as
5 we've seen, to the greatest deference.
6 Perhaps even more fundamentally, the Government also
7 ignores Article 4 of the Abyei Annex, and Article 3.4 of
8 the Terms of Reference. These sections specifically
9 provide that the experts -- not the Commission, the
10 experts -- will conduct their own independent
11 investigations, consulting "the British archives and
12 other relevant sources on the Sudan wherever they may be
13 available".
14 This provision is again sweeping. In particular,
15 the provision does not limit the experts to the
16 consultation of archival sources; it extends to "other
17 relevant sources ... wherever they may be available".
18 The provision is unqualified; it leaves to the
19 experts the scientific decision what sources about Sudan
20 are relevant, and allows them to consult those sources
21 wherever they may be located. It again confirms the
22 experts' broad powers to gather whatever information,
23 documents, witnesses or other materials that could be
24 relevant to their decision.
25 Similarly, the Rules of Procedure, in a provision

Trevor McGowan
info@TMGreporting.com

12:26 1 we've already seen, provide that:
2 "The experts will examine and evaluate all the
3 material they have gathered and prepare the final
4 report."
5 Again, that expressly recognises the experts'
6 independent authority to go out on their own and gather
7 material that they considered useful.
8 The Government suggests that the Khartoum witness
9 meetings deliberately circumvented the agreed work
10 programme. That characterisation assumes that the work
11 programme was intended to be exclusive and to prohibit
12 meetings between the experts and members of the public.
13 That position is completely untenable.
14 As we've seen, the Programme of Work was not
15 an exclusive mandatory procedural regime. On the
16 contrary, it was a skeletal, tentative and incomplete
17 logistical plan prepared in chart form, which was
18 frequently revised. The work programme identified
19 a number of things that the Commission would do, but it
20 did not purport to say what the experts could not do.
21 The Programme of Work did not attempt to list all
22 the Commission's activities, much less to prohibit
23 additional research by the experts. On the contrary, as
24 we have seen, the express provisions of the procedural
25 rules and the Abyei Annex specifically contemplated that

12:27 1 the experts would use their broad investigatory powers
2 and discretion to conduct further research beyond that
3 referred to in the work plan. Nothing in the work
4 programme was meant to prevent or restrict that
5 research.
6 As we've seen, the experts' investigatory authority
7 was not accidental; it was a vital characteristic of the
8 ABC process. The parties specifically granted the
9 experts wide power independently to conduct scientific
10 fact-finding necessary for their decision. Although
11 that's different from many international arbitral
12 proceedings, it was a fundamental feature of the ABC
13 procedure, as deliberately designed by the parties.
14 Given these terms of the ABC proceedings, and the
15 investigatory character of those proceedings, the
16 Government's complaints about the Khartoum meetings are
17 hopeless. The parties' agreements imposed no
18 prohibition on the experts' authority to meet with third
19 parties. To the contrary, the parties' agreements
20 specifically recognised the experts' freedom to meet
21 independently with any member of the public, wherever
22 they wished, and to investigate whatever other sources
23 of information they wished as part of their broader
24 investigative authority.
25 Moreover, it is clear that the experts, who drafted

12:29 1 and administered the Rules of Procedure, believed that
2 their rules fully entitled them to proceed in exactly
3 the manner they did. In these circumstances, even
4 assuming that everything else about the Government's
5 procedural complaint was true, that complaint is
6 hopeless. The experts did nothing more than what the
7 parties expected and agreed for them to do.
8 Second, the Government's complaints about the
9 Khartoum meetings in any case lack any factual basis.
10 In particular, the experts specifically discussed the
11 meetings with the parties and received no objections.
12 Even apart from the terms of the parties' agreements,
13 that is independently fatal to the Government's
14 complaint.
15 At the same time, when you look at the parties'
16 discussions about the procedures, you will see how it
17 specifically confirms the interpretation that I have
18 just given to the Rules of Procedure and to the Abyei
19 Annex. The parties knew full well what those provisions
20 meant, and wanted the experts to do what they did.
21 The Government claims that the Khartoum meetings
22 were held without informing the GoS, and that the GoS
23 was neither invited nor even informed of those meetings
24 beforehand. That factual claim is false.
25 What the evidence really shows is that the experts

12:30 1 discussed both the general subject of interviewing third
2 parties and the specific subject of the Khartoum
3 interviews with the SPLM/A and the Government
4 delegations, and there was no objection by either party.
5 That is clearly evidenced by both contemporaneous
6 transcripts and reliable witness testimony.
7 In connection with the parties' initial
8 presentations to the ABC, an issue arose with respect to
9 the nature of the experts' scientific research, which
10 we've already discussed. The SPLM/A delegation then
11 said very clearly that the experts would be free to
12 interview witnesses. Minister Deng Alor said, and
13 I quote, and this is on the verbatim transcripts:
14 "There is nowhere in the agreement or in the mandate
15 where there are conditions at all ... Of course, we all
16 agree that the whole thing should be based on scientific
17 research ... It is research whether you talk to people
18 or whether you consult references. It is all research."
19 There was no objection to that statement. That
20 statement stated the obvious truth. That's what the
21 provisions that I referred to previously say.
22 The ABC chairman, Ambassador Petterson, then said:
23 "I have always assumed that scientific research/data
24 done on a scientific basis includes oral testimony. The
25 whole gamut of coming to a scientific conclusion

Trevor McGowan
info@TMGreporting.com

12:31 1 I should think would include oral testimony, as well as
2 maps and documents. Oral testimony is part of a picture
3 of coming up with a scientifically based conclusion."
4 That too was an obvious truth. Nobody could read
5 the provisions we looked at previously and not think
6 that. And the Government thought it too.
7 Ambassador Dirdeiry then replied, confirming that
8 the experts had broad discretion to decide what sources,
9 including what witnesses, to investigate in their
10 research. Indeed -- and this is an important point --
11 he specifically referred to Article 4 of the Abyei
12 Annex, which we've previously looked at, saying:
13 "This committee shall arrive at its conclusion
14 through analysis and scientific research, and this shall
15 be by consulting the British archives and other
16 archives, wherever they are."
17 That's almost the language of Article 4 of the Abyei
18 Annex that refers to the experts' investigations. I say
19 "almost the language", because Ambassador Dirdeiry then
20 corrected what he said:
21 "... and any other sources, wherever they are. You
22 are the experts and you are the scientists. According
23 to the tradition here in Africa, and according to the
24 tradition of the collection of information through oral
25 testimony, one can find something which is very

Page 109

12:33 1 important and tangible and which can assist. I am not
2 saying that you cannot make use of that."
3 These comments clearly acknowledge the experts'
4 freedom to meet with and interview witnesses and take
5 oral testimony. Ambassador Dirdeiry referred to the
6 experts' investigatory authority under Article 4 of the
7 Abyei Annex, quoting the experts' -- not the full
8 Commission's -- freedom to consult "any other source of
9 information wherever you are".
10 He went on specifically to say that the experts'
11 power under Article 4 -- the experts' power under
12 Article 4 -- included the collection of information
13 through oral testimony. Those are his words, not mine.
14 To the same effect, Ambassador Dirdeiry acknowledged
15 that:
16 "You [the experts] are the experts, and you are the
17 scientists with the authority to find something which is
18 very important and tangible in oral testimony."
19 As Ambassador Dirdeiry concluded, the Government was
20 not saying that: you, the experts, cannot make use of
21 that. He was saying just the opposite: that the experts
22 were permitted and expected to gather and use oral
23 testimony in just the way that they were permitted to
24 gather and use archival materials.
25 The Government has suggested that the reference to

Page 110

12:34 1 "any other sources" means any other archival sources.
2 Ambassador Dirdeiry corrected that misconception. The
3 Government's lawyers should have read the transcript in
4 which he made that correction. He made it crystal-clear
5 at the time, just as the parties' agreements were
6 crystal-clear.
7 That puts to one side the Government's suggestion
8 that the experts did something that was unexpected or
9 unwanted. The opposite is true: they did just what they
10 were supposed to.
11 Consistent with this, it's also undisputed that the
12 Government was fully aware of the experts' witness
13 interviews with Mr and Mrs Tibbs and with
14 Professor Cunnison. That is clear also from the
15 verbatim transcript of the ABC's meeting on April 16th
16 in Lau, where Dr Johnson said -- and I quote, and this
17 is an important quote that's worth paying lots of
18 attention to:
19 "You mention Mr Cunnison. I knew Mr Cunnison for
20 a very long time. You mention Mr Tibbs. Just before
21 I came here I went to see Mr Tibbs ['I went to see
22 Mr Tibbs']. When we are finished here we shall go back
23 to England. I shall see those people and I shall find
24 out if they are still confused."
25 There was no statement of objection or expression of

Page 111

12:36 1 surprise from the Government on hearing Dr Johnson's
2 statements that the experts had met already with
3 Mr Tibbs, and that they were planning to meet again with
4 Mr Tibbs and Professor Cunnison. There was no
5 suggestion that the Government wanted to attend those
6 meetings. That is because, precisely consistent with
7 Article 4 of the Abyei Annex, which Ambassador Dirdeiry
8 had talked about previously, and with Article 7 of the
9 Rules of Procedure, the parties fully expected and
10 desired that the experts would independently conduct
11 additional meetings with additional witnesses in exactly
12 the way that occurred.
13 We heard two hours of submissions yesterday from the
14 Government about the experts' supposed procedural
15 violations. We heard how they violated the principle of
16 contradiction. We heard how they went off and secretly
17 met with the Ngok and the Twic Dinka. Extraordinarily,
18 not once in those two hours did we hear about the
19 meetings with Professor Cunnison, Mr Tibbs or Mary
20 Tibbs, ever. That is extraordinary because, as we have
21 seen, these were vitally important witnesses who the
22 experts independently interviewed.
23 The Government did not object in the slightest to
24 those interviews, even though it was told about them,
25 either in 2005 or yesterday. That is because the

Page 112

Trevor McGowan
info@TMGreporting.com

12:37 1 Government understood perfectly well that having those
2 meetings was what the experts should be doing. And the
3 Government's complete silence on this point was in fact
4 the loudest confirmation that one might imagine of the
5 experts' interpretation of their own rules.
6 In addition to these discussions, though, the
7 Government was also specifically informed, both in
8 advance and afterwards, of the experts' meetings in
9 Khartoum. Again, the Government raised no objections of
10 any sort. That is explained in the first witness
11 statements of Minister Deng Alor and James Lual Deng.
12 Minister Deng Alor said:
13 "Later in April and in early May 2005 the ABC
14 experts did notify the parties that they were meeting
15 with some additional individuals in Khartoum. Neither
16 party objected or sent its ABC representatives to this
17 meeting."
18 On the next slide you can see that James Lual Deng
19 said essentially the same thing.
20 It's important that these statements were made as
21 part of the witnesses' overall description of the ABC
22 proceedings attached to the SPLM/A's first memorial. At
23 that stage we did not know what complaints the
24 Government might make, we did not know that the
25 Government might raise some complaint about the Khartoum

12:38 1 interviews. We frankly didn't think that they might
2 raise such a complaint. This was simply part of the
3 background that the witnesses gave to the overall ABC
4 proceeding.
5 In contrast, it is striking, the Government in its
6 memorial submitted no witness evidence at all to support
7 its claims about the Khartoum meetings, to support its
8 claims that it didn't know about the meetings, that it
9 wasn't invited to the meetings.
10 The first time that the Government put in any
11 evidence on this point was in its reply memorial, after
12 a point at which we could reply with further responsive
13 witness testimony. You can judge for yourself the
14 credibility of unsubstantiated statements by the
15 Government then responded to in detail, as we're now
16 going to see, by the SPLM/A witnesses.
17 Minister Deng Alor's second witness statement,
18 having been informed of the Government's complaint, then
19 addressed exactly where Chairman Petterson addressed
20 this point with the parties. He described conversations
21 in both Abyei and in Muglad, he described the location
22 of those -- at a dinner -- and he goes into detail which
23 you can see in the witness statements.
24 James Lual Deng in his second witness statement was
25 to the same effect. He described conversations in Abyei

12:40 1 Town over dinner, and at least once in Muglad over
2 dinner. Again, those statements are there, and they are
3 clear.
4 The Government's own awareness of the Khartoum
5 meetings -- the Government, in contrast, puts in no
6 specific witness testimony in response to that. The
7 Government, in fact, if you look at the verbatim
8 transcript from the ABC proceeding on June 16th, says
9 things which are very difficult to interpret as anything
10 but an acknowledgment that they were perfectly well
11 aware of meetings going on in Khartoum.
12 Like some of the historical documents that we are
13 going to look at in a day or so, one has to read this
14 with care, but when one does read it with care I think
15 the meaning is clear.
16 Ambassador Dirdeiry said:
17 "During our stay in Abyei, and maybe also during
18 your stay in Khartoum ..."
19 Pausing just a moment, you will recall that we heard
20 yesterday that there was some extraordinary change of
21 plans by the experts and how they were supposed to,
22 after leaving Abyei, go to Nairobi, and oh my goodness,
23 they went to Khartoum. The Government obviously took
24 them to Khartoum, housed them in Khartoum and, as
25 Ambassador Dirdeiry's comments reflect, knew perfectly

12:41 1 well that they were in Khartoum.
2 Beyond that, though, he says:
3 "... and maybe also during your stay in Khartoum we
4 had an opportunity to know in fact what the people had
5 said about our efforts, what contribution they [the
6 people] can give to us, and we are also very much
7 grateful that you have done all of that important work
8 of trying to really record whatever was said."
9 It is important to note the terms of Ambassador
10 Dirdeiry's expression of appreciation to the experts.
11 That appreciation is for the work that the experts had
12 done in meetings with the people during both "our" --
13 the Commission's -- stay in Abyei and "your" -- the
14 experts' -- stay in Khartoum. He goes on to express
15 appreciation that the experts were doing an important
16 task of trying to record really whatever was said.
17 These references leave little doubt, I would
18 suggest, but that Ambassador Dirdeiry was referring to
19 meetings with witnesses by the experts in Khartoum, as
20 well as in the Abyei Area. There's no other reason that
21 he would have been making specific reference to the
22 experts' work in Khartoum or to his comments about the
23 contributions of the experts' work with the people in
24 Khartoum and their recording of what was said.
25 It's also noteworthy that James Lual Deng

Trevor McGowan
info@TMGreporting.com

12:42 1 specifically referred to these remarks of
2 Ambassador Dirdeiry in his first witness statement. You
3 can see that reference on the current slide.
4 Ambassador Dirdeiry is the only one of the
5 Government's delegates on the ABC who were specifically
6 referred to in the SPLM/A testimony about the Khartoum
7 meetings. Ambassador Dirdeiry is also the only one of
8 the Government's delegates on the Commission who did not
9 gave a witness statement in these proceedings on that
10 issue.
11 The obvious inference is that Ambassador Dirdeiry
12 and the Government of Sudan knew perfectly well about
13 the experts' meetings in Khartoum. That explains his
14 remarks at the time and also his lack of remarks now.
15 It's therefore not surprising that the Government's
16 rejoinder essentially concedes that the Khartoum
17 meetings were in fact discussed by the experts. It
18 claims that:
19 "These dinner-table chats or table talks were
20 clearly unofficial and probably made in private without
21 all participants listening."
22 Of course, the Government offers no evidence,
23 including no evidence from Ambassador Dirdeiry, to
24 support that speculation. The fundamental point,
25 though, is that the Government does not deny that there

12:44 1 were discussions -- it calls them table talks or dinner
2 chats -- about exactly this issue.
3 The Government's claim that discussion of the
4 Khartoum meetings was "clearly unofficial and probably
5 made in private" is again hopeless. The essential point
6 is that the parties' representatives were specifically
7 informed of the meetings. The suggestion that the
8 notice was unofficial is contrived and ignores the
9 nature of the ABC proceedings which we've already
10 discussed.
11 As we've seen -- and that's the reason I emphasised
12 it -- Article 2 of the Rules of Procedure provided that
13 the ABC proceedings would be conducted in an informal
14 yet businesslike manner. Nothing in the ABC rules
15 required formal or official modes of communication.
16 Instead what the parties wanted and agreed to was
17 informal, easy and open exchanges. That's exactly what
18 happened at dinner in Muglad and Abyei Town.
19 The essential point is: although they had no
20 obligation to do so, the experts told the Government
21 delegation about the Khartoum meetings and there was no
22 complaint. Given that, the factual premises for the
23 Government's procedural complaint are completely
24 lacking.
25 There was no unplanned visit to Khartoum to conduct

12:45 1 secret meetings with interested parties; rather the
2 experts returned to Khartoum with the knowledge and
3 assistance of the Government, where they held meetings
4 that the Government not only was informed of but later
5 thanked the experts for conducting.
6 The Government's complaint about the Khartoum
7 meetings is an afterthought that has no relation to what
8 the Government knew and did at the time. That is
9 another independent basis for rejecting that complaint.
10 Third, even if one were to assume that, contrary to
11 fact, the events alleged by the Government were some
12 sort of violation of some unidentified procedural
13 standard, they do not remotely approach the grounds that
14 would be required for disregarding the experts' report.
15 This is an academic point because it is so clear
16 that the parties' agreements permitted exactly what the
17 experts did and the parties knew and wanted the experts
18 to do that. But even if the Government were right --
19 it's not -- it's own case is that only "a serious
20 departure from a fundamental rule of procedure" would
21 constitute grounds for invalidating the report.
22 If you look on the current slide, we saw in fact
23 that the Government waters down, understates the
24 standard for the egregiousness of a procedural violation
25 that is required. But even if we apply the Government's

12:46 1 watered-down, diluted standard, its complaint does not
2 remotely approach that standard for procedural
3 injustice.
4 First, the experts plainly violated no express
5 procedural rule. Any procedural violation, even if one
6 could imagine one, was a breach of some sort of implied
7 requirement which was itself intentioned with express
8 grants of independent investigatory powers. That is
9 very far from the violation of a fundamental rule of
10 procedure.
11 Second, any procedural violation would be virtually
12 indistinguishable -- indeed, I would say
13 indistinguishable -- from the experts' independent
14 meetings with Professor Cunnison and Mr and Mrs Tibbs
15 and others. The Government did not and has not
16 protested those meetings, did not protest them yesterday
17 and has not protested them in its submissions, much less
18 tried to distinguish them from the Khartoum meetings.
19 Again, that is very far from a serious breach of
20 a fundamental rule of procedure.
21 Third, the experts were indisputably free to meet
22 independently with whomever they wanted in the Abyei
23 Area. If they met with people in Khartoum instead of
24 Abyei in error, which they did not, that would in no way
25 be a serious breach of a fundamental rule of procedure.

12:48 1 Fourth, any such procedural violation would
2 obviously have been unintentional, taken by the experts
3 pursuant to their own Rules of Procedure in good faith
4 in an effort to conduct their mandate. That again fails
5 entirely to reach the standard that even the Government
6 acknowledges.
7 The experts who conducted the Khartoum meetings were
8 obviously impartial. Whatever happened affected the
9 parties in equal measure.
10 Finally, as we have seen, the Government has failed
11 entirely to show that the Khartoum meetings produced
12 anything of any value to anybody. At worst, the
13 Khartoum meetings were an inadvertent breach of implied
14 expectations, which was no different from other meetings
15 that the experts had and could have had.
16 Turning to that final point that I made, the fourth
17 main point in this presentation, the Khartoum meetings
18 did not cause the slightest prejudice to the Government,
19 that is independently fatal to the Government's case.
20 The Government itself acknowledges that any procedural
21 breach "must be material, that is to say significant in
22 itself and as to the result reached". That standard has
23 plainly not been met. The information from the Khartoum
24 meetings was unimportant and repetitive of what had been
25 learnt elsewhere.

12:49 1 That insignificance is confirmed by the fact that
2 the meetings are recorded in the ABC reports, as has
3 what the witnesses said. Had the experts relied on what
4 those witnesses said in their report, the Government
5 would have seized on it. Had the Government objected to
6 something that was contained in that witness testimony,
7 it would have seized on it. It would have said: oh,
8 look, the Ngok Dinka secretly told the experts in
9 Khartoum A or B or not C.
10 They didn't do that. They didn't refer to a single
11 thing. They referred to the experts giving an old map
12 to the Tribunal that was never referred to. That is
13 simply not the basis for showing substantial prejudice.
14 It's contriving a complaint after the fact in the effort
15 to gin up a so-called excess of mandate claim.
16 The Government has also suggested that the Khartoum
17 meetings involved only Ngok Dinka participants, and that
18 that was somehow prejudicial to the Government. That
19 ignores the fact that it was impartial experts, without
20 either parties' representatives, who attended the
21 meetings. It also ignores the fact that there are
22 Ngok Dinka, as we see, who support the Government's
23 case, and Messiriya who support the SPLM/A case.
24 Further, contrary to Government's claim -- and this
25 raises another interesting aspect of that claim -- the

12:50 1 May 8th meeting in Khartoum was with the Twic Dinka;
2 not, as the Government says, the Ngok Dinka.
3 Also contrary to the Government's claims, the
4 meeting was arranged by a man called Bona Malwal,
5 a prominent supporter of the Government and a harsh
6 critic of the SPLM/A. That's clear from the materials
7 which describe how:
8 "The Twic Dinka came to us [the ABC experts] after
9 Bona Malwal approached Dr Johnson expressing a concern
10 that the SPLM/A was trying to annex part of Twic
11 territory to the southern boundary of the Ngok."
12 Notably, the ABC report makes clear that the
13 experts' meeting was arranged to hear members of the
14 public who were critical of the SPLM/A, not of the
15 Government. Indeed, as we are going to see now,
16 Mr Malwal, who requested the meeting, which was given,
17 is essentially a Government agent. The Government has
18 complained: oh, he wasn't a minister; oh, he doesn't
19 speak for the Government in this arbitration. Well,
20 look at the quotes on the slides:
21 "Bona Malwal and Joseph Lagu are considered by the
22 Southern Sudanese Government as objective allies who may
23 be used again John Garang."
24 Then in the next slide:
25 "The newly appointed presidential advisor,

12:52 1 Bona Malwal, was sworn in before the president ..."
2 That was only months after the ABC report was made
3 that he was sworn in as presidential advisor. He didn't
4 get anointed as presidential advisor like Athena rising
5 out of Zeus's head. He was given that position because
6 he had been a long and staunch ally of the Government.
7 The fact that he arranged this meeting doesn't show just
8 that the meetings were even-handedly held for both
9 parties' benefits, but indeed this meeting which the
10 Government now pretends to complain about was held at
11 its own request.
12 You can look at the next slide and see further
13 explanation of Mr Malwal's role with the Government.
14 The Government says: oh, Mr Malwal is not even
15 a minister of the GoS and cannot be taken to represent
16 GoS in this arbitration or for ABC purposes. Those
17 comments are formalistic and evade the essential point.
18 They ignore the fact that it was a committed Government
19 supporter who sought out and affirmatively arranged the
20 May 8th meeting.
21 It's also very interesting to think: how is it that
22 Mr Malwal knew where to contact Dr Johnson and why did
23 he do it? Did he do it just on his own? Did he know
24 about the details of the ABC proceedings? Or, given
25 that Ambassador Dirdeiry hasn't told us anything about

Trevor McGowan
info@TMGreporting.com

12:53 1 the meeting, did he do it because the Government wanted
2 him to? I suggest that the inference is clear and
3 inescapable.
4 Finally, the testimony of the Twic Dinka, as we can
5 see from the ABC report, was negative towards the
6 SPLM/A. They criticised -- not surprisingly given
7 Malwal's involvement -- the involvement of the SPLM/A in
8 the entire Abyei issue.
9 Fifth, and this is the final reason here, even if
10 one assumed that there was something wrong with the
11 Khartoum meetings, which is fanciful in the extreme, the
12 Government waived those for all the reasons that
13 I described. I'm not going to go through the
14 authorities which are on the screen because they are too
15 obvious to require repetition.
16 Given all that, the Government has entirely failed
17 to sustain its very heavy burden of overcoming the
18 experts' broad procedural discretion and proving some
19 sort of grave violation of the ABC rules that seriously
20 prejudiced the procedural rights of the parties.
21 Rather, by all appearances -- and I hesitate to be
22 too harsh -- the Government in fact has disingenuously
23 contrived a procedural complaint about the Khartoum
24 meetings from circumstances that it was perfectly well
25 aware of and by all appearances took part in arranging.

12:54 1 The Government's second procedural complaint is even
2 less serious. This complaint is that the experts
3 "unilaterally sought and then relied on" an email from
4 Jeffrey Millington, an official of the American Embassy
5 in Nairobi, to establish their interpretation of the
6 1905 formula.
7 The email from Mr Millington violated no provision
8 of the ABC agreements or procedural rules; instead it
9 fell well within the experts' broad investigative
10 authority to consult third parties like Mr Tibbs and
11 Professor Cunnison. The email was also entirely
12 innocuous and inconsequential, causing no conceivable
13 prejudice to anyone. In those circumstances, it is not
14 even remotely serious to claim that the experts' receipt
15 of that email constituted a serious violation of
16 a fundamental procedural guarantee.
17 The Government cites no provision, again, of the ABC
18 agreements or the Rules of Procedure which prohibited
19 the experts' consideration of the email, nor is there
20 any provision in any of these instruments that comes
21 anywhere close to imposing such a prohibition. As we
22 have seen, nothing in the ABC arrangements provides
23 that, "The experts shall not consult third parties", or,
24 "The experts may only consider evidence submitted by the
25 Government and the SPLM/A".

12:56 1 The experts unanimously believed that they were free
2 to consider Mr Millington's email. They cited the email
3 in their report and manifestly did not consider that
4 there was even the most attenuated procedural
5 irregularity in doing so. Again, the experts'
6 interpretation of their own procedural rules, which they
7 had drafted only weeks before, is entitled to the most
8 substantial deference.
9 At the same time there's no indication that
10 Government thought anything different on its side. It
11 did not raise the slightest objection to this reference
12 to this email for three and a half years after receiving
13 the report.
14 When we look at the parties' arrangements, not
15 surprisingly, far from prohibiting the experts'
16 consideration of the Millington email, the ABC
17 agreements affirmatively permit it. The parties'
18 agreements and the procedural rules both affirm the
19 experts' broad authority to conduct independent
20 investigations and scientific research; an authority
21 which I have already discussed at too great a length.
22 Given that authority, the Government is simply wrong
23 it says that the experts "were not authorised to consult
24 the US Government, or indeed any other third party".
25 Instead, as we saw previously, the experts were

12:57 1 granted broad powers to conduct their own independent
2 research and scientific analysis, including from the
3 British archives and other relevant sources on the
4 Sudan, wherever they may be available. That expansive
5 authority extended explicitly and specifically to all
6 sources of information, including materials like the
7 Millington email.
8 Equally, as we have seen, it was the experts' power
9 to gather information on their own, including
10 information like the Millington email, that was
11 specifically confirmed in Article 14 of the Rules of
12 Procedure. That language not only did not prohibit, but
13 affirmatively contemplated and encouraged exactly the
14 conduct by the experts which the Government now pretends
15 to criticise.
16 The Government's claim that the experts were
17 forbidden from having contacts with any third party is
18 also impossible to reconcile with the experts' repeated
19 discussions with Mr and Mrs Tibbs and
20 Professor Cunnison, as well as the IGAD. Those
21 discussions were specifically provided for and were
22 never protested by the Government. That is for the
23 simple reason that there was no prohibition against the
24 experts meeting independently with anybody having
25 relevant information.

Trevor McGowan
info@TMGreporting.com

12:58 1 Indeed, we heard yesterday that the experts' mandate
2 was to engage in exactly that sort of investigation. No
3 doubt, had they not done that, another one of the
4 Government's -- in Professor Pellet's words -- 11 or 12
5 or 13 complaints is that the experts didn't conduct
6 enough investigation, and should have been out
7 investigating more than they did.
8 The Government also errs in complaining that:
9 "The parties were given no notice of the alleged
10 request or the response, and thus had no opportunity to
11 comment on the Millington email."
12 In its oral submissions yesterday, the Government
13 also claimed for the first time that the experts
14 violated the principle of contradiction, and general
15 principles of due process. That argument completely
16 ignores the procedures that governed the experts'
17 research, which we've seen.
18 Pursuant to their own procedural arrangements, the
19 parties were given no notice of any of the matters that
20 the experts identified in their independent
21 investigations and research. That indisputably includes
22 all of the experts' archival and cartographic research.
23 The experts did not need to come back to the parties
24 and say, "Look what we've found in the Sudan archive",
25 or in the Bodleian Library, or in Durham. That was not

Page 129

13:00 1 what the rules provided. Nor were the experts required
2 to give the parties notice of what Professor Cunnison
3 and Mr Tibbs said, or of any of their other
4 investigations.
5 This was what the parties wanted, because they
6 wanted investigation by the experts. The simple reality
7 is that the experts did not violate the parties'
8 procedural agreements by considering the Millington
9 email.
10 If I might, with the leave of the Tribunal, spend
11 another five minutes to wrap up on the Millington point,
12 I would then be in a position to end.
13 Second, and independently, the Millington email
14 could only be grounds for challenging the experts'
15 report if the Government demonstrated that the email
16 caused it substantial prejudice. Again, that's plainly
17 not the case. The Millington email was a single
18 communication involving a single sentence. That
19 sentence contained a limited and very general statement
20 about a rough historical understanding. The sentence
21 said that:
22 "The area transferred in 1905 was roughly equivalent
23 to the area of Abyei that was demarcated in later
24 [years]."
25 The Government's reply memorial says that this

Page 130

13:01 1 statement was "meaningless" -- you can see the citation
2 on the slides -- presumably because it was so general
3 and unsupported. The Government also concedes that the
4 Millington email was ignored by the experts -- again you
5 can see the citation -- and that the experts "did not
6 apply Millington's historical views", which in the
7 Government's views "bear no resemblance to the area
8 delimited by the experts".
9 All those observations are correct. Where the
10 allegedly improper action by the experts involved
11 considering a one-sentence general statement expressing
12 a rough historical view that was not even accepted by
13 the experts, it is impossible to see how there's been
14 the slightest prejudice to the Government.
15 The Government argued yesterday that the experts
16 relied on the Millington email for the interpretation of
17 Article 1.1.2's definition of the Abyei Area. That is
18 plainly wrong. The current slide shows the experts'
19 consistent and uniform interpretation of the
20 Article 1.1.2 formula on multiple occasions, all well
21 before Mr Millington's email dated April 17th 2005. We
22 will come back and look at these consistent
23 formulations.
24 It's hardly surprising: when you look at the plain
25 language of the mandate, the experts interpreted the

Page 131

13:02 1 Article 1.1.2 definition in the same way consistently in
2 their report, and in all their descriptions of the
3 proceedings throughout the course of their work.
4 Millington's email had no impact at all on that, and the
5 Government's effort to create some sort of suggestion
6 there is hopeless.
7 Third, the Millington email did not by any stretch
8 of the imagination involve what the Government calls
9 a "serious departure from a fundamental rule of
10 procedure". I've already explained how the Millington
11 email didn't involve any violation and didn't cause any
12 harm, and there's in a sense no need -- it's academic --
13 to go on to the elevated standards that are applicable
14 in these sorts of cases.
15 But again, at most, any procedural breach by the
16 experts would at most have been of some implied
17 limitation on a particular kind of contact with
18 particular third parties. As we've seen, there was
19 nothing in the ABC agreements or Rules of Procedure that
20 forbade the experts' consideration of the email. On the
21 contrary, consideration of the email was
22 indistinguishable from the consideration of archival
23 materials and other sources of information that the
24 experts were plainly permitted to consult.
25 At worst, the experts would have failed to

Page 132

Trevor McGowan
info@TMGreporting.com

13:04 1 distinguish the Millington email from numerous other
2 sources of information that they were fully entitled
3 independently to consult, without any notice to the
4 parties. And that is in no way a serious violation of
5 a fundamental procedural rule.
6 Likewise, the experts' contacts with Cunnison and
7 the Tibbs elicited no criticisms. In those
8 circumstances distinguishing the Millington email is
9 hopeless.
10 Again, all five experts obviously thought that there
11 was nothing wrong with doing what they did. Even if one
12 were to conclude -- and one cannot -- that there was
13 some sort of procedural breach, it was at worst
14 an unintentional breach of an implied obligation that
15 involved reading a single line of offending text that
16 the Government says is meaningless, and that had no
17 impact at all on the experts' report.
18 Once more, the Government was not disproportionately
19 affected here: both sides had no opportunity to comment
20 on the email. As a consequence, for that reason, as
21 well as all the other reasons that I've mentioned, the
22 complaints about the Millington email, three and a half
23 years after the fact, are contrived excuses to try and
24 find some basis for setting aside the ABC report.
25 With that, I will stop going further over my time

13:05 1 and we'll resume after lunch. Thank you.
2 THE CHAIRMAN: I thank you very much, Mr Born. The
3 hearing will resume at 3 o'clock this afternoon.
4 (1.05 pm)
5 (Adjourned until 3.00 pm)
6 (3.00 pm)
7 THE CHAIRMAN: Mr Born.
8 MR BORN: Thank you, Mr President.
9 Third, the Government claims that the experts
10 "failed to act through the Commission", supposedly in
11 violation of Article 14 of the Rules of Procedure. In
12 particular, as we heard yesterday, the Government argues
13 that "the experts never called a final meeting of the
14 ABC" and did "not endeavour to reach a decision by
15 consensus". The Government contends that the experts
16 should have presented a draft report to the Commission
17 before submitting it to the Presidency of Sudan and that
18 the failure to do so "impugned the integrity of the
19 process whole".
20 The Government's complaint is groundless. It is
21 another after-the-fact contrivance that cannot be
22 reconciled in the slightest with either the terms of the
23 ABC agreements or the experts' repeated efforts at the
24 time to promote a consensus between the parties.
25 Starting with the basic principles, it is common

15:01 1 ground that the Commission consisted of two categories
2 of different kinds of members: first five impartial
3 experts on African affairs; second, ten party-appointed
4 members who were not expected or required to be
5 impartial and who were instead part of the two parties'
6 legal teams.
7 It was the experts, as distinguished from the
8 Commission as a whole, who were responsible for the
9 overall conduct of the ABC proceedings and the
10 preparation of the ABC report. Given the composition of
11 the Commission, it was of course only common sense that
12 the impartial experts would be given those
13 responsibilities.
14 The experts' authority to decide matters submitted
15 to the Commission and prepare a report is clearly set
16 forth in the provisions of the parties' agreements, many
17 of which we've already looked at.
18 Article 4 of the Abyei Annex provides:
19 "The experts in the Commission [not the full
20 Commission] shall consult the British archives and other
21 relevant sources with a view to arriving at a decision
22 that shall be based on scientific analysis and research.
23 The experts shall also determine the Rules of Procedure
24 of the ABC."
25 There a reference to the full Commission.

15:02 1 Article 5 of the annex provides:
2 "The report of the experts [not the full Commission]
3 arrived at as prescribed in the ABC Rules of Procedure
4 [a description] shall be final and binding on the
5 parties."
6 And Article 13 of the Rules of Procedure provides:
7 "The experts [again, not the full Commission] will
8 examine and evaluate all the material they [not the full
9 Commission] have gathered and will prepare the final
10 report."
11 These provisions make it clear that it was the five
12 experts, and not the partisan party representatives on
13 the Commission also acting as legal teams for the two
14 sides, who were assigned to determine the Rules of
15 Procedure, to conduct the independent investigations, to
16 decide the parties' dispute and to prepare the ABC
17 report.
18 The Government's complaint is that the experts
19 violated Article 14 of the Rules of Procedure.
20 According to the Government, or at least to what the
21 Government says now, the experts violated Article 14 by
22 falling to submit their draft report to the full
23 Commission before presenting it to the President of
24 Sudan.
25 Let's look at Article 14. It provided:

Trevor McGowan
info@TMGreporting.com

15:03 1 "The Commission will endeavour to reach a decision
2 by consensus. If, however, an agreed position by the
3 two sides is not achieved, the experts will have the
4 final say."
5 The Government pretends to interpret Article 14 as
6 requiring the experts to first prepare a draft of the
7 ABC report; next to, in its words, "submit that draft to
8 the Commission", and then to "call a meeting ... to try
9 and reconcile the views of the two parties". The
10 Government says that only after all this happened could
11 the experts then submit a final report to the
12 presidency.
13 That interpretation flatly contradicts the text of
14 Article 14, as well as the other provisions of the ABC
15 procedures. It also ignores, very clearly ignores, the
16 efforts that were made to reach consensus between the
17 parties' representatives during the ABC proceedings.
18 Again, we'll spend some time going through the evidence
19 which the Government has ignored on this point.
20 First, Article 14 provides only that, "The
21 Commission will endeavour to reach a decision by
22 consensus", and if no agreed position is achieved by the
23 two parties, the two sides, "the experts will have the
24 final say".
25 Just starting with the language, by its plain terms

Page 137

15:05 1 Article 14 contemplates only that reasonable efforts
2 will be made by the Commission to reach a consensus.
3 That is the plain meaning of the words "will endeavour",
4 and indeed the Government concedes this in its
5 rejoinder, saying that it is certainly true that
6 Article 14 sensibly contemplates only reasonable efforts
7 by the Commission.
8 Thus, even if we just looked at Article 14 of the
9 Rules of Procedure completely in a vacuum, as the
10 Government would like us to do, the provision does not
11 require any particular or mandatory procedures by the
12 experts prior to submitting their final report.
13 Specifically, Article 14 says nothing about/imposes no
14 requirement that the experts circulate a draft report or
15 have a final meeting of the Commission. Rather,
16 Article 14 does nothing more than provide for reasonable
17 efforts by the Commission as a whole to try and reach
18 a consensus. That was a sensible common-sense way of
19 approaching the problem.
20 As we will see, the experts' efforts to promote
21 a consensus between the parties more than satisfied any
22 conceivable interpretation of that requirement. Indeed,
23 as we will see, it was the Government's representatives
24 on the Commission who blocked any possibility of
25 reaching a consensus.

Page 138

15:06 1 As we will also see, it is significant that the
2 experts, who conceived, drafted and were responsible for
3 Article 14 and for applying it, were fully satisfied
4 that it was complied with. Indeed, as the Government
5 acknowledged yesterday, the ABC report itself said as
6 much. That judgment by the experts about what their
7 rule meant is, as I have said on other occasions,
8 entitled to the most substantial deference.
9 Second, although the language of Article 14 is clear
10 and although the experts' interpretation of their own
11 language is clear, it's worth, if only to assess the
12 credibility of some of the Government's claims, looking
13 at the other provisions in the parties' agreements here.
14 Let's look at the Terms of Reference which address
15 this issue.
16 The Programme of Work attached to the Terms of
17 Reference, while only providing the skeletal outline of
18 work, did identify the main tasks that would be
19 conducted. The way that it describes those tasks in
20 relation to the final report are quite instructive.
21 Let's look at the entry for May 20th-26th. It says:
22 "The experts examine and evaluate the evidence
23 received and prepare the final report."
24 Note that it is the experts, not the entire
25 Commission, who are to prepare the final report, not

Page 139

15:08 1 a draft report. The parties expected the experts to
2 complete this task alone, without any suggestion of
3 involvement by other ABC members.
4 Let's look at the entry for May 28th:
5 "The ABC [the full Commission now] travels to
6 Khartoum for the presentation of the final report."
7 Note that the Programme of Work did not provide that
8 the ABC was to travel to Khartoum, to "discuss a draft
9 report" or "comment on the final draft report" or "try
10 and seek a consensus". Rather the Programme of Work
11 provided that the ABC members, all of them, were to
12 travel to Khartoum for the presentation of the final
13 report which, between May 20th and 26th, the experts had
14 prepared on their own.
15 Then on May 29th:
16 "The experts present, in the presence of the whole
17 membership of the ABC, their final report to the
18 presidency."
19 Thus after the entire ABC had travelled to and
20 arrived in Khartoum, the experts were to present their,
21 not the Commission's, final report, not a draft report,
22 to the presidency, in the presence of the whole
23 membership of the ABC.
24 Again -- and I hesitate to belabour the point -- the
25 Programme of Work did not provide that the whole member

Page 140

Trevor McGowan
info@TMGreporting.com

15:09 1 of the ABC would seek to reach consensus or that the
2 experts would present their draft report to the whole
3 membership of the ABC for comment. Rather, the work
4 programme provided that the experts would present their
5 final report which they had prepared to the presidency
6 in the presence of the whole Commission.
7 Given these provisions, it is impossible to accept
8 the Government's claim that the parties intended the
9 experts to circulate a copy of their draft report to the
10 full Commission before delivering it to the presidency.
11 The Government's claim is contradicted by the plain
12 language of the parties' procedural arrangements, which
13 make clear that the experts proceeded in exactly the way
14 that was intended in preparing and presenting their
15 final report.
16 Again, it bears emphasis that all five experts had
17 exactly the same understanding of how Article 14 --
18 which they themselves had drafted just weeks before --
19 was to be applied.
20 Third, the parties' conduct during the ABC
21 proceedings also flatly contradicts the Government's
22 claim that inadequate efforts were made to promote
23 a consensus.
24 In particular, the Government omits entirely to
25 mention that the experts informed the members of the

Page 141

15:11 1 full Commission that they were going to present their
2 final report to the presidency, and that the ABC members
3 should therefore travel to Khartoum for that
4 presentation and not for something else. As we have
5 seen, it's not surprising that that's what the experts
6 did; it's exactly what the Programme of Work said that
7 they were going to do.
8 When the experts informed the Commission members
9 that they were ready to deliver their final report to
10 the president, the Government members of the ABC did not
11 object. They did not say, "Oh wait, we expect you to
12 circulate a draft report". Instead they made
13 arrangements for the experts to present their final
14 report to the presidency at the presidential palace in
15 Khartoum. The Government arranged for a formal
16 occasion, not a lighthearted thing, attended by the
17 President of Sudan, President Bashir, with a large press
18 corps waiting outside the door.
19 The members of the full ABC did not object. They
20 did not say, "We don't want to attend a final
21 presentation. Something's wrong here". No, they went
22 to Khartoum, they went to the presidential palace, they
23 made arrangements to sit and listen to the final
24 presentation of the experts' report. That's not
25 surprising again. It's not surprising because that's

Page 142

15:12 1 exactly what the Programme of Work contemplated, exactly
2 what the parties expected.
3 The Government's rejoinder claims -- and this is
4 I think an instructive point about the Government's
5 factual claims with regard to the ABC process generally:
6 "Nothing in their emails, privately exchanged,
7 reveals any agenda or says that the experts intended to
8 present their final report in that meeting."
9 That language is on the slide; it's worth taking
10 a long look at. That's the Government's submission
11 signed by Ambassador Dirdeiry.
12 That claim is demonstrably false. The Government's
13 denial is contradicted, if we look at the next slide, by
14 an email from Dr Johnson to Mrs Keiru of the IGAD dated
15 July 3rd. It stated:
16 "Now that Ambassador Dirdeiry and Deng Alor have
17 both confirmed to us that the report of the ABC to the
18 presidency is still scheduled for 10th July, I have made
19 my travel arrangements. Please pass this information on
20 to the Government of Sudan's Ministry of Foreign
21 Affairs. I will also be telling Ambassador Dirdeiry
22 this."
23 Dr Johnson said in terms that he had already told
24 Ambassador Dirdeiry that the experts would present the
25 ABC report to the presidency on July 10th. Dr Johnson

Page 143

15:13 1 also said in terms that Mrs Keiru should inform the
2 Government of this, and that he would again separately
3 confirm to Ambassador Dirdeiry his travel arrangements
4 for that purpose.
5 Two days later, an email from Mrs Keiru of the IGAD
6 reported:
7 "I have spoken to Dirdeiry this afternoon on the
8 confirmation of the appointment with the president on
9 10th July for the purpose of presenting the Abyei
10 Boundaries Commission report."
11 For the purpose of presenting the Abyei Boundaries
12 Commission report she spoke to the presidency and to
13 Ambassador Dirdeiry. Mrs Keiru said in terms that, like
14 Dr Johnson, she had informed Ambassador Dirdeiry that
15 the experts would present the ABC report on 10th July,
16 and that he had confirmed the appointment with
17 President Bashir.
18 It is impossible to conceive that Dr Johnson and
19 Mrs Keiru of the IGAD would have had any reason in these
20 routine emails about travel arrangements to misstate
21 what they had both told Ambassador Dirdeiry on several
22 occasions, and what they had told them in response.
23 Both Dr Johnson and Mrs Keiru said explicitly that the
24 meeting with the presidency was being scheduled "for
25 purposes of presenting the Abyei Boundaries Commission

Page 144

Trevor McGowan
info@TMGreporting.com

15:15 1 report". Once more, and notwithstanding his central
2 role, Ambassador Dirdeiry has not offered any testimony
3 on this point.
4 Those contemporaneous communications confirm,
5 I would suggest, beyond any shadow of a doubt, that the
6 Government was perfectly well aware that the experts
7 intended to present their final report on July 10th,
8 exactly as provided for in the Terms of Reference and
9 the Programme of Work, which we've looked at. The
10 Government's pretended denial of this fact, unsupported
11 by any evidence, its denial in its written submissions
12 signed by Ambassador Dirdeiry, is demonstrably false and
13 incredible.
14 Moreover, the Government's final presentation itself
15 made clear that the Government did not expect any
16 further effort to reach consensus between the
17 party-appointed members of the Commission. You heard
18 yesterday how it was an outrage, how it was a procedural
19 miscarriage, how it was a violation of due process that
20 the experts should not have consulted the full
21 Commission.
22 Let's look at what they said at the time. On
23 June 16th Ambassador Dirdeiry said -- and this was in
24 the Government's final presentation:
25 "What you are doing is to collect information from

15:16 1 them to bring the archives to the knowledge of our
2 learned experts, and then [your decision] will be final
3 and binding and everybody shall accept it ... When
4 a decision is agreed and accepted beforehand it has to
5 be final and binding ... Because you should have the
6 confidence in those people and you should respect it
7 knowing that it will be taken on completely impartial
8 grounds ... We are very much confident in your
9 assessment, yourself [and] your colleagues. We are very
10 much in fact assured by the way you have handled things
11 since you have started and we are waiting for the
12 conclusion and [waiting] for the judgment."
13 It is clear that Ambassador Dirdeiry's remarks were
14 directed to the experts, and that it was the experts'
15 assessment and judgment that the Government was looking
16 forward to and, incidentally, committing itself to
17 respect. Ambassador Dirdeiry was not directing his
18 remarks to his colleagues or to himself but to the
19 experts. That is clear from his reference to the
20 experts' impartiality. You'll recall that the other
21 members of the Commission were not impartial,
22 a characterisation that he emphasised.
23 The same conclusion is evident from Ambassador
24 Dirdeiry's use of the second person repeatedly: he was
25 talking to the experts when he talked about "your

15:17 1 assessment", "your decision", "your view", rather than
2 "our decision" or "our view".
3 Even more explicitly, if we look at the next slide,
4 Ambassador Dirdeiry said:
5 "I leave this to the experts. If the experts are
6 feeling that there is anything that needs to be
7 clarified by us, we will to that. We have given the
8 experts the references that they need."
9 Again Ambassador Dirdeiry could not have put it more
10 clearly than saying, "I leave this to the experts", and
11 "They are entitled to the conclusions that they want to
12 draw." He neither expected nor wanted any further
13 discussions between the parties' representatives and the
14 experts, but instead said that the Government, having
15 put its case, was waiting for the experts' decision,
16 their judgment, their assessment, just the way he said.
17 Likewise, at no point did the Government suggest
18 that the experts were violating the parties' procedural
19 arrangements, or even their expectations by presenting
20 their final report; or that another effort to try and
21 reach consensus would be desirable or necessary.
22 On the contrary, as we've seen, the Government's
23 delegation not only attended the presentation of the
24 experts' final report at the presidential palace in the
25 presence of the president, but they made the

15:19 1 arrangements for that presentation themselves, knowing
2 perfectly well what was going to happen, expecting that
3 and wanting it.
4 Finally, discussions after the parties' final
5 presentation on June 17th also show that the Government
6 was fully aware that the experts would proceed directly
7 to writing their report.
8 At the end of the Government's final presentation,
9 which all ABC members attended, including Ambassador
10 Dirdeiry, Dr Johnson specifically asked the question,
11 "Can we have a discussion about when it might be
12 possible to make the final presentation to the
13 presidency? Is the presidency going to be ready to
14 receive the report soon after July 9th or is it going to
15 take some time to get itself organised?"
16 Then Ambassador Dirdeiry, speaking for the
17 Government, responded saying -- and again this is
18 Ambassador Dirdeiry:
19 "I think there's no reason for us to assume that
20 they need any more time after being established. So
21 I think if they can be there on the 10th, your people on
22 the 10th ..."
23 And then the discussion continued about what the
24 experts would be doing before presentation of their
25 final report.

Trevor McGowan
info@TMGreporting.com

15:20 1 Although Ambassador Dirdeiry has not testified about
2 this exchange in this proceeding, his language on the
3 transcript is perfectly clear. Everybody, including
4 particularly Ambassador Dirdeiry, knew perfectly well
5 that the experts were engaged in writing their final
6 report and that it was going to be presented to the
7 president shortly.
8 In sum, there is no basis at all when you look at
9 the record for the Government's post hoc claim that it,
10 much less the parties mutually, expected the experts to
11 circulate a draft report to the full Commission. The
12 Government's claim is completely contrary to the
13 language of the parties' agreements, and it's even more
14 contrary to the specific discussions the parties had and
15 the emails that were exchanged at the time about what
16 they expected to happen.
17 Again, the Government has tried to take some
18 idealised model of how an ICSID arbitration might work
19 and impose it on to this particular arrangement, and
20 that simply ignores and distorts what the parties
21 specifically agreed and what they specifically discussed
22 and what they specifically wanted.
23 Finally, the experts in any event went beyond any
24 conceivable requirement under Article 14, the terms of
25 their Article 14, in seeking to promote a consensus

Page 149

15:21 1 between the parties. At least three separate efforts
2 were made to try and reach a consensus, and each time
3 the Government rejected it. Far from the experts
4 failing to sufficiently encourage a consensus, it was
5 the Government and its appointees on the ABC that
6 refused to pursue the possibility.
7 In June 2005 a group of Ngok and Messiriya
8 representatives informed the SPLM/A that they could
9 reach agreement on the definition of the Abyei Area if
10 the parties would give them the opportunity to do so.
11 Dr Biong Deng and Minister Deng Alor, who were both
12 SPLM/A party-nominated members on the ABC, approached
13 Ambassador Dirdeiry, the head of the Government
14 delegation. They presented the proposal as a basis for
15 trying to find a consensus between the two sides. It
16 wouldn't have involved direct discussions in the
17 beginning, but it would have involved indirect
18 discussions between the communities aimed at promoting
19 a consensus. Ambassador Dirdeiry, notwithstanding the
20 terms of Article 14, rejected it out of hand.
21 This is testified to, as you can see on the current
22 slide, by Minister Deng Alor, who describes the attempt.
23 The Government's rejoinder says only:
24 "Absent any documentary evidence of such an attempt
25 to reach a consensus, this is again a mere fabrication

Page 150

15:23 1 on the part of the SPLM/A."
2 You will recall that the Government made the same
3 statements about the emails that we looked at and about
4 the statements that were recorded on the transcript.
5 You can judge for yourself whether to believe the
6 Government's unsubstantiated denial of this testimony,
7 this denial unsupported by any witness testimony
8 including by Ambassador Dirdeiry. Whether you want to
9 believe the record that's in the record or the evidence
10 that hasn't been put in the record, you can decide.
11 Next, there was an attempt to reach consensus when
12 the ABC convened in Nairobi for the parties' final
13 presentations in June. This attempt is described in the
14 witness testimony of James Lual Deng and Minister
15 Deng Alor again. The testimony is on the current slide.
16 The proposal involved both parties nominating one
17 representative to discuss the dispute with the goal of
18 reaching a joint proposal that could be submitted to
19 both sides.
20 In their discussions James Lual Deng and
21 Ahmed Assalih Sallouha agreed on a joint proposal which
22 gave the Government a share of the oil rights and
23 guaranteed the grazing rights of the Messeriya in
24 exchange for the Government accepting the SPLM/A's
25 definition of the Abyei Area. This was a balanced and

Page 151

15:24 1 reasoned proposal which reflected the Messiriya's honest
2 assessment of the facts. Notwithstanding the terms of
3 Article 14, Ambassador Dirdeiry again rejected the
4 proposal.
5 This time the Government does not deny that this
6 effort to resolve the parties' dispute took place,
7 although it's interesting that there was no reference to
8 it in the Government's memorial or reply memorial. It
9 was only when the SPLM/A identified it that the
10 Government recalled the fact.
11 The Government says, however, that there's
12 a fundamental difference between "refusing a political
13 compromise" and "reaching a consensus on reasonable
14 scientific findings". That is empty and desperate
15 semantics. It makes no sense to say that a compromise
16 resolution differs from a consensus resolution of the
17 parties' dispute.
18 The Government ignores the fundamental point that
19 Article 14 provided that the experts should issue their
20 final report "if an agreed position by the two sides is
21 not achieved". The obvious intention, the common-sense
22 intention, what any parties in this circumstance would
23 intend, was that the parties try and reach a consensual
24 resolution.
25 You can call it consensus, you can call it

Page 152

Trevor McGowan
info@TMGreporting.com

15:25 1 compromise, you can call it something else, but the
2 object was a consensual resolution and the Government
3 again engages in futile and empty semantics when it
4 tries to draw that distinction.
5 That's particularly true in circumstances when the
6 ten members of the Commission nominated by the parties
7 were also representatives of their legal teams. The
8 notion of a consensus in those circumstances being
9 fundamentally different from a compromise is, as I said
10 before, empty semantics.
11 It also bears emphasis, or perhaps re-emphasis, that
12 the experts, who themselves conceived and drafted
13 Article 14 of the Rules of Procedure, did not accept the
14 Government's far-fetched distinction between
15 a compromise and a consensus. Instead they were
16 completely satisfied that they had done everything that
17 was necessary from their perspective for an agreed
18 position between the two sides to be reached.
19 Finally, after the Government had given its final
20 presentation on June 17th, Ambassador Petterson proposed
21 one more attempt to reach consensus. He suggested that
22 Professor Berhanu meet with representatives of each
23 delegation to attempt to reach an agreement.
24 Ambassador Dirdeiry and Minister Deng Alor agreed to
25 make a final effort to achieve consensus; that's

15:27 1 described in the witness evidence. Ambassador Dirdeiry
2 again ended the discussions almost immediately, stating
3 that the Government was not willing to pursue any kind
4 of agreement on the definition of the Abyei Area.
5 As a result, Professor Berhanu informed
6 Ambassador Petterson and the other ABC members that the
7 two sides had been unable to reach agreement. That was
8 recited in the ABC report; it's also described in the
9 witness testimony of Minister Deng Alor on the current
10 slide. Again, there's no contrary evidence in the
11 record from anyone about that issue.
12 Any one of these three efforts was more than
13 sufficient to satisfy any plausible interpretation of
14 Article 14. Taken together, the three efforts again
15 confirm the exceptional diligence and commitment of the
16 experts, as well as the intransigence of the Government.
17 Recall as you assess the credibility of this
18 evidence as well that there is sworn witness testimony
19 describing facts in detail on the SPLM/A's side. There
20 is a memorial, a counter-memorial and a rejoinder signed
21 by Ambassador Dirdeiry, who was not tendered by the
22 Government to give witness evidence or to be subject to
23 cross-examination on this. It's the same written
24 submissions that said that the emails didn't address the
25 issue and said that this was never discussed. You can

15:28 1 assess the credibility.
2 Fifth, even if one assumed, contrary to fact, that
3 the experts breached Article 14 by failing adequately to
4 seek a consensus, this does not remotely approach the
5 level required to disregard the ABC report. It was in
6 no sense a "serious departure from a fundamental rule of
7 procedure".
8 First, the concept of seeking a consensus arose for
9 the first time when it was suggested by the experts. It
10 was not included in the Abyei Protocol, the Abyei Annex
11 or the Terms of Reference; instead it was something that
12 the experts suggested as a way to encourage a consensus.
13 The notion that that sort of consensual best efforts
14 provision conceived by the experts themselves could give
15 rise to a fundamental rule of procedure whose violation
16 would vitiate the entire ABC report is at best
17 far-fetched. Again, Article 14 imposed only a best
18 efforts obligation on the entire Commission. The
19 failure to have satisfied that by working quite hard
20 enough to promote a consensus on the part of the experts
21 simply does not rise to the level of a fundamental
22 violation of a basic procedural rule.
23 Finally, any supposed failure on the part of the
24 experts sufficiently to promote consensus -- and again,
25 we're truly in the realm of academic analysis here

15:30 1 because it's so clear that they complied with everything
2 they were supposed to do -- any such failure would have
3 had no impact at all on their decision. It's clear from
4 the witness evidence you can see on the current slide,
5 where Ahmed Assalih Sallouha admits that any effort at
6 compromise would have been futile.
7 The Government's rejoinder asserts in passing -- and
8 this is an unusual point -- that the SPLM/A's final
9 presentation contained a supposedly moderate position
10 and that if efforts had been made a little bit harder by
11 the experts to achieve a consensus, that might have
12 worked.
13 That's false, it's completely false. The SPLM/A's
14 final presentation was unequivocal. It did not alter
15 its previous position or adopt the allegedly more
16 moderate position, a totally implausible position,
17 claimed now by the Government.
18 On the contrary -- and you can see it on the current
19 slide -- the SPLM/A continued its prior position that
20 the Abyei area lies approximately between latitude
21 9 degrees 20 minutes to the south and latitude
22 10 degrees 35 minutes to the north. That is what it had
23 always said, and it hadn't changed that.
24 Finally, just for the sake of completeness, insofar
25 as there was a violation that might have caused some

15:31 1 injury, it had been waived; it was waived by the conduct
2 that I have previously described.
3 In sum, for any one of those reasons, the
4 Government's Article 14 complaint is completely
5 frivolous, to use our favourite word. It has no basis
6 in either the parties' agreements, the parties' conduct
7 at the time or any reasonable assessment of what the
8 parties expected.
9 The Government's reply memorial, and again to some
10 extent yesterday, advanced a new complaint that the
11 experts held "unilateral consultations with
12 representatives of the SPLM/A". According to the
13 Government, by holding these consultations the experts
14 exceeded their mandate.
15 This new claim is remarkable. It's remarkable
16 because of its lack of seriousness, advanced in a single
17 paragraph with no citation to legal authority, and
18 because of the rising note of desperation it signals,
19 with the Government belatedly scrambling to add yet more
20 complaints to, in Professor Pellet's words, its 10, 11
21 or 12 complaints. It's also true because having raised
22 the claim in its reply memorial, the Government's
23 rejoinder nowhere mentions it.
24 Whatever the status of Government's new claim, it
25 has no substance. The sole explanation of the claim is

15:32 1 set forth in the seven lines of text which you see on
2 the slide. Based on this claim that the experts went to
3 the Southern Sudan legislature and presented their
4 findings, the Government concludes that the experts:
5 "... grossly violated fundamental rules of procedure
6 binding on them, and consequently manifestly exceeded
7 their mandate."
8 That argument is hopeless for multiple reasons, any
9 one of which is sufficient to dismiss it.
10 First, the Government cites/makes no reference to
11 any procedural rule that the experts supposedly
12 violated. There's nothing at all in the ABC procedural
13 arrangements that precluded or even disfavoured what the
14 experts did.
15 On the contrary, as we have seen, the ABC
16 proceedings were unusually public affairs, with public
17 meetings in the Abyei Area, in Muglad, in Abyei Town, in
18 various places in the region, and the presentation
19 publicly of the final experts' report to the presidency.
20 Certainly there was nothing in the ABC procedural
21 arrangements that precluded the experts from publicly
22 explaining the contents of their report, as they did to
23 both the GoS and the SPLM/A supporters in the Southern
24 Sudan legislature.
25 Second, the Government fails to explain how

15:34 1 an action taken by the experts long after the close of
2 the ABC proceedings could possibly constitute a breach
3 of the Rules of Procedure of those proceedings. The
4 experts' presentation or explanation of the report
5 occurred in September 2007; that was two and a half
6 years after the experts completed their work, signed
7 their report, submitted it and presented it to the
8 president.
9 The suggestion that public discussion of the report
10 long after the conclusion of the ABC proceedings -- and
11 long after President Bashir told the experts that they
12 should sponge their report and drink the water --
13 somehow violated the rules of proceeding of the ABC
14 procedure itself is on its face laughable.
15 Third, even if a procedural rule did exist which
16 somehow prevented the experts from presenting their
17 report publicly, which it didn't, the Government has not
18 shown how that prejudiced it or affected the decision in
19 any way. Again, the experts' actions took place two
20 years after the report was signed, sealed and delivered.
21 Fourth, there's no conceivable basis to criticise
22 the experts for having made their presentation to the
23 Southern Sudan Legislative Assembly. Put aside
24 questions of procedural niceties or legal niceties, as
25 Professor Pellet might put it. Look at the realities of

15:35 1 the situation. The presentation was made at the
2 invitation of the legislative assembly, a part of the
3 Government of Sudan, not by the SPLM/A.
4 The experts' willingness to explain their report to
5 the affected parties was entirely consistent with their
6 role in resolving the parties' dispute, and with the
7 other public meetings that they held. It was in no way
8 contrary to the Rules of Procedure and they showed no
9 favouritism by making their presentation to the Southern
10 Sudan Legislative Assembly.
11 That assembly had a deputy speaker, Tor Deng Mawan,
12 who was a member of the National Congress Party. The
13 assembly included members of the National Congress
14 Party, as well as the SPLM/A. The experts also made it
15 clear that they would be happy to present the report in
16 the north or elsewhere if the Government wished so.
17 It's not surprising that the Government did not
18 complain at the time about the experts' presentation.
19 It's also not surprising that the Government did not
20 complain in its memorial about this presentation, nor
21 that it dropped the complaint in its rejoinder. The
22 complaint is completely baseless and deserves no more
23 attention than the Government gave it in September 2007,
24 in its memorial in December 2008, or in its rejoinder.
25 In sum, that brings us to the end of the

Trevor McGowan
info@TMGreporting.com

15:37 1 Government's so-called "procedural complaints", whether
2 it's three, four or whatever. Those complaints could
3 not, even if they were well founded, provide a basis for
4 finding an excess of mandate, because they're
5 inadmissible in these proceedings.
6 Equally, even if they were admissible, none of those
7 complaints involves a violation of the ABC procedures or
8 any other applicable procedural norms. Much less did
9 any of the experts' actions even remotely approach the
10 kind of gross or glaring or flagrant violation of
11 fundamental procedural guarantees required to invalidate
12 the ABC report.
13 On the contrary, when you look at it, when you step
14 back and look at what those five men did, they conducted
15 a remarkable proceeding. They used remarkably diligent,
16 efficient and cooperative procedures. They did their
17 very best. They're their procedures. The things they
18 did are things that any one of us could be proud of had
19 we done. There's no basis for the Government's
20 after-the-fact efforts to nitpick what they've done,
21 especially when what their allegations involve are so
22 contrary to what the parties actually talked about at
23 the time.
24 We're going through another slide evolution, because
25 we are moving on to substantive mandate. Our next topic

15:38 1 concerns the Government's four claims of purported
2 substantive breaches of mandate. Specifically, as we
3 have seen, these include:
4 1. Refusing to decide the questions asked.
5 2. Answering a different question from that asked.
6 3. Ignoring the stipulated date of 1905.
7 4. Allocating grazing rights within and beyond the
8 Abyei Area.
9 We'll first look at the first three of these
10 purported substantive breaches, and consider the grazing
11 rights claim separately.
12 Preliminarily, all of these first three complaints
13 are inadmissible for the reasons I've discussed.
14 They're also completely unfounded as a matter of
15 substance. It's important to consider each one of the
16 Government's complaints and compare these allegations to
17 what the experts' report really says. When that's done,
18 there is no conceivable basis for concluding that the
19 experts refused to perform the task that was put to
20 them, that they answered the wrong question, or that
21 they ignored the stipulated date.
22 First, the Government argues that the experts
23 refused to carry out the task assigned to them, and
24 thereby exceeded their mandate. According to the
25 Government the mandate of the ABC experts was clear,

15:39 1 ie to define an area transferred in 1905, but "the
2 experts declined to answer the question they were tasked
3 to answer".
4 There is no substance to that claim. In fact the
5 experts' final report carefully addressed exactly the
6 task that was submitted to them by the parties.
7 The relevant task that the experts were to address
8 under Article 5.1 of the Abyei Protocol was:
9 "... to define and demarcate the area of the nine
10 Ngok Dinka chiefdoms transferred to Kordofan in 1905,
11 referred to herein as 'the Abyei Area'."
12 When one reads the ABC report with even minimal
13 care, it is clear that the experts provided exactly the
14 type of definition and demarcation of the Abyei Area
15 that was contemplated. The Government's complaints are
16 simply substantive disagreements with the answer that
17 the experts' delimitation provided rather than claims
18 that the experts did not answer or address the right
19 question.
20 It's useful to look in detail at the terms of the
21 experts' report. We can begin with page 3. It starts
22 by restating the ABC's mandate:
23 "The presidency shall establish the Abyei Boundaries
24 Commission to define and demarcate the area of the nine
25 Ngok Dinka chiefdoms transferred to Kordofan in 1905."

15:41 1 It would be surprising for the experts to have
2 completely ignored this mandate, as the Government
3 claims, given that they began their report by referring
4 to it and quoting that very provision.
5 The report's preface then noted that the parties had
6 presented "two sharply differing versions of what
7 constitutes the Abyei Area"; that is of course the area
8 referred to in Article 5.1 of the Abyei Protocol.
9 At page 11 the experts summarised the parties'
10 positions, as shown on the current slide. In a nutshell
11 the Government claimed then, as now, that:
12 "... the only area transferred from Bahr el Ghazal
13 to Kordofan in 1905 was a strip of land south of the
14 Bahr el Arab/Kiir".
15 For its part the SPLM/A claimed then, as now, that:
16 "The Ngok Dinka have established historical claims
17 to an area extending from the existing
18 Kordofan/Bahr el Ghazal boundary north to the
19 Ragaba ez Zarga/Ngol and that the boundary should be run
20 in a straight line along latitude 10º35' north."
21 Again, there can be no doubt that the experts
22 understood from the parties' submissions their
23 respective positions on the definition and demarcation
24 of the Abyei Area, as referred to in Article 1.1.2 of
25 the Abyei Protocol. Once more, this definition and

15:42 1 demarcation of the Abyei Area was exactly the issue that
2 was presented to the experts by Article 5.1 of the
3 Abyei Protocol, which the experts had just quoted.
4 The experts then turned to the task of defining and
5 delimiting the Abyei Area in light of the parties'
6 submissions. The report explained on page 4 that the
7 experts had sought:
8 "... to determine as accurately as possible the area
9 of the nine Ngok Dinka chiefdoms as it was in 1905."
10 This sentence is important. It states concisely and
11 clearly the experts' interpretation of the definition of
12 the Abyei Area in Article 1.1.2 of the Abyei Protocol.
13 It states, again clearly and concisely, the area that
14 the experts set about to delimit and demarcate.
15 The experts' definition of the Abyei Area rejected
16 the Government's claim that the area was defined by the
17 Kordofan/Bahr el Ghazal boundary, and it instead looked
18 to the historic area of the Ngok Dinka people as that
19 territory stood in 1905, at the time when the Ngok Dinka
20 people, the Ngok Dinka tribe, were transferred to the
21 administration of Kordofan.
22 The definition of the Abyei Area in the ABC report
23 was consistent with the interpretation of the Abyei Area
24 that the experts had uniformly provided to the parties
25 during the preceding months.

15:43 1 Those explanations included, and I'll quote some of
2 them -- these are all from the written transcripts of
3 the meetings that were held in the Abyei region -- they
4 included references to "the territory which was being
5 used and claimed by those nine chiefdoms when the
6 administrative decision was made to place them in
7 Kordofan"; and "the boundaries of the nine Ngok Dinka
8 chiefdoms as they existed 100 years ago"; and "the area
9 of the nine Ngok Dinka chiefdoms which were transferred
10 to Kordofan province from Bahr el Ghazal province in
11 1905".
12 In all of these instances, and there are more which
13 are cited in our written submissions, the experts
14 defined the Abyei Area explicitly by reference to the
15 entire historic territory of the Ngok Dinka people in
16 1905, not by reference to the Kordofan/Bahr el Ghazal
17 boundary.
18 The experts defined the Abyei Area by reference to
19 the area of the nine Ngok Dinka chiefdoms which were --
20 not "that was" -- which were transferred to Kordofan in
21 1905.
22 It's clear from both the language of the ABC report
23 and the experts' statements during the ABC proceedings
24 on the record, which you've seen before you, that the
25 experts were focused on precisely the task set forth in

15:45 1 Article 5.1 of the Abyei Protocol. The experts were
2 proceeding to define and demarcate the area of the nine
3 Ngok Dinka chiefdoms transferred to Kordofan in 1905.
4 In doing so, the experts naturally and inevitably
5 set forth their interpretation of the relevant text of
6 the Abyei Protocol, and in particular their
7 interpretation of Article 1.1.2's definition of the
8 Abyei Area. Again, as the ABC report put it, concisely
9 and clearly, the experts regarded the Abyei Area as "the
10 area of the nine Ngok Dinka chiefdoms as it was in
11 1905".
12 The Government does not accept this interpretation.
13 The Government adopts a different interpretation of
14 Article 1.1.2, but as we will see, and as
15 Professor Pellet acknowledged on multiple occasions
16 yesterday, that substantive disagreement is not a basis
17 for finding an excess of mandate, and it's certainly not
18 a basis for finding that the award was unreasoned, as he
19 was also saying.
20 In delimiting the area which they had defined, both
21 in the ABC proceedings without protest from the parties
22 and in their report, the experts observed that:
23 "No map exists showing the area inhabited by the
24 Ngok Dinka in 1905."
25 They also observed that there was not:

15:46 1 "... sufficient documentation produced in that year
2 [1905] ... that adequately spell out the administrative
3 situation that existed in that area at that time."
4 As a consequence the report went on to consider nine
5 propositions that had been advanced by the parties -- by
6 both parties -- during the proceedings concerning the
7 historic territory of the Ngok Dinka.
8 The experts' responses to the nine propositions
9 rejected each party's most expansive claims about the
10 historic extent of the Abyei Area, and that's
11 propositions 2, 3, 6, 7 and 9.
12 The report then provided a detailed discussion of
13 historical evidence aimed at defining the extent of the
14 territory that was used and occupied by the Ngok Dinka
15 and by the Messiriya in 1905. The experts relied in the
16 first instance on evidence from 1905, and from the
17 immediately preceding and following years.
18 The experts also subsidiarily considered evidence
19 from subsequent periods, based on their conclusion that
20 there had been what they called a continuity of usage by
21 the Ngok Dinka. The experts explained this continuity
22 of usage, explained that it permitted inferences about
23 the extent of the Ngok Dinka territory in 1905 based on
24 their territory and the Messiriya's territory in later
25 years.

Trevor McGowan
info@TMGreporting.com

15:48 1 Relying on this historical evidence, the experts
2 then reached a number of careful and very nuanced
3 conclusions about the area of the nine Ngok Dinka
4 chiefdoms in 1905, at the time when they were
5 transferred to Kordofan.
6 In particular the experts concluded that:
7 1. The Ngok Dinka had enjoyed "dominant rights to
8 areas along the Bahr el Arab and Ragaba ez Zarga [that's
9 the Ngol] that predated 1905". That's at page 21.
10 2. The experts said, "There is as yet no clear
11 independent evidence establishing the northernmost
12 boundary of the area either settled or seasonally used
13 by the Ngok"; that is at page 43 of their report. They
14 had more detailed discussion which elaborates on their
15 conclusions earlier in their shorter report.
16 Then the experts said, "There is sufficient evidence
17 to accept Ngok claims to permanent rights southwards
18 roughly from latitude 10º10' north", which was the
19 southern boundary of the goz; that's at page 43.
20 Then the experts said, "The Messiriya have
21 established secondary rights through the goz belt to the
22 area south of it, while the Ngok have secondary rights
23 north of the latitude 10º10'", and then the experts go
24 on to say, "up to latitude 10º35' north", which was the
25 northern boundary of what the experts considered to be

15:49 1 the goz; page 44.
2 Finally, the experts concluded that based on the
3 legal principle of the equitable division of shared
4 secondary rights, the northern boundary of the Abyei
5 Area should fall within the zone between latitudes
6 10º10' north and 10º35' north, and specifically
7 "latitude 10º22'30" north". That conclusion is at
8 pages 20 and 22.
9 Relying on these very careful conclusions and their
10 historical analysis, the ABC experts identified an area
11 south of latitude 10º10' north where it concluded that
12 in 1905 the Ngok Dinka had what they called "established
13 dominant rights of occupation".
14 The report also identified a further area between
15 latitudes 10º10' north and 10º35' north as to which the
16 Ngok Dinka had shared secondary rights with the
17 Messiriya. The experts noted that the area of shared
18 rights which they had identified -- and this is their
19 own language:
20 "... closely coincides with the band of goz which
21 a number of sources identify as the border zone between
22 the Ngok and the Messiriya."
23 The report then relied on the local principles that
24 I've referred to of local land law and "the legal
25 principle of the equitable division of shared secondary

15:51 1 rights" derived from that land law which the experts
2 concluded mandated an equal division of the area of
3 shared rights in the goz between the Ngok Dinka and the
4 Messiriya.
5 As already noted, the experts then fixed the
6 northern boundary of the Abyei Area at latitude
7 10º22'30", midway through the goz. The experts also
8 reached conclusions about the eastern and the western
9 boundaries of the Abyei Area, as well as the southern
10 boundary, which was undisputed.
11 Having defined the Abyei Area, the experts then set
12 forth specific latitudinal and longitudinal lines
13 defining the Abyei Area's geographic scope in a final
14 and binding decision on pages 21 and 22 of their report.
15 Those coordinates were then drawn by a cartographer on
16 map 1, which is titled "Abyei Area Boundaries".
17 Given the terms of the report and the contents of
18 map 1, it is impossible to conclude that the experts
19 "refused to carry out the task" or "answer the question"
20 put to them. On the contrary, the experts very clearly
21 defined and demarcated the Abyei Area exactly as
22 contemplated by Article 5.1 of the Abyei Protocol.
23 They did so both with latitudinal and longitudinal
24 coordinates in their final and binding decision, and by
25 delimiting the same coordinates on map 1, showing the

15:52 1 Abyei Area boundaries. This definition and delimitation
2 of the Abyei Area was precisely the task that the
3 experts were mandated to perform under Article 5.1.
4 That is the simple and complete answer to the
5 Government's supposed substantive mandate complaint.
6 Despite the foregoing the Government contends that
7 the mandate of the ABC experts was clear, ie to define
8 an area transferred in 1905, "but the ABC experts
9 declined to answer the question they were tasked to
10 answer".
11 That claim is simply wrong. The experts did not
12 decline to answer the question presented by Article 5.1
13 of the Abyei Protocol. Instead, as we have just seen,
14 the experts did exactly what they were requested to do,
15 namely defining and delimiting, by latitudinal and
16 longitudinal coordinates, the boundaries of the Abyei
17 Area, in accordance with their interpretation of the
18 definition set forth in Article 1.1.2 of the
19 Abyei Protocol. It is impossible to read the experts'
20 report as doing anything other than that.
21 The Government's real criticism, its real criticism
22 of the experts is that they adopted a definition and
23 delimitation of the Abyei Area which differed
24 substantively from that of the Government. The experts
25 did not accept the Government's argument that

15:54 1 Professor Crawford made so diligently yesterday morning
2 that the Abyei Area was only that part of the nine
3 Ngok Dinka chiefdoms that was south of the
4 Kordofan/Bahr el Ghazal boundary in 1905.
5 Instead the experts concluded that the Abyei Area
6 was all of the territory of the nine Ngok Dinka
7 chiefdoms which were collectively transferred to
8 Kordofan in 1905. As the experts put it, and I'll
9 repeat this again, the Abyei Area was "the area of the
10 nine Ngok Dinka chiefdoms as it was in 1905", without
11 regard to the location of the Kordofan/Bahr el Ghazal
12 boundary.
13 This interpretation by the experts of the definition
14 of the Abyei Area in Article 1.1.2 of the Abyei Protocol
15 was not an excess of mandate. It was instead exactly
16 the sort of interpretation of the parties' definition of
17 the Abyei Area that the experts were inevitably,
18 naturally and through the parties' contemplation
19 required to make in the course of fulfilling their
20 mandate under Article 5.1. In interpreting
21 Article 1.1.2 the experts did exactly what the parties
22 expected that they would do.
23 Again, the Government's real complaint is with the
24 substance of the interpretation that the experts arrived
25 at. As we saw earlier today, however, the experts'

15:55 1 alleged substantive errors are simply not the grounds
2 for an excess of mandate claim.
3 As one authority put it -- and it's worth looking at
4 these again, this is the ILC Commission:
5 "The decision of the arbitrators cannot be attacked
6 on the ground that it is unjust or wrong."
7 And as the Government itself has acknowledged:
8 "This does not mean that an award can be annulled
9 simply because a party disagrees with the reasoning of
10 the Tribunal on a point of law or fact, even if the
11 Tribunal was in error in its reasoning. Annulment is to
12 be distinguished from appeal."
13 These and other well-settled authorities clearly
14 hold that the Government's criticisms of the experts'
15 substantive interpretation of the parties' agreement in
16 the Abyei Protocol are not excesses of mandate.
17 The Government's counsel admitted as much during his
18 opening comments yesterday morning. Professor Crawford
19 said:
20 "The meaning of the formula in Article 1.1.2 of the
21 Abyei Protocol now is a matter of interpretation for
22 you."
23 That's in the transcript at page 24, line 13.
24 That's of course true; it is a matter of interpretation
25 for you.

15:56 1 In order to resolve the question presented by
2 Article 2(c), this Tribunal needs to interpret the
3 meaning of the formula "the area of the nine Ngok Dinka
4 chiefdoms transferred to Kordofan in 1905".
5 Critically, however, precisely the same observation
6 applies to the ABC experts: they too were required to
7 interpret the meaning of Article 1.1.2's formula, the
8 exact same language referred to in Article 2(c) of the
9 Arbitration Agreement.
10 Equally clearly, their interpretation, like your
11 interpretation, is a matter of substance, an aspect of
12 their decision on the merits of the parties' dispute.
13 As we have seen, an error in interpretation, as the
14 Government acknowledges, is a substantive mistake which
15 is not the basis of an excess of mandate claim.
16 Finally, as we have also seen, the Government's
17 claim that the experts' supposed misinterpretation of
18 Article 1.1.2 is an excess of mandate would produce
19 absurd results. Article 2(c) of the Arbitration
20 Agreement grants this Tribunal authority to define the
21 Abyei Area in the same terms as the experts possessed
22 under Article 5.1 of the Abyei Protocol.
23 The Government's argument would mean that any
24 alleged error in defining the Abyei Area, including
25 an error by this Tribunal under Article 2(c), would be

15:58 1 an excess of mandate. That is, as I've previously said,
2 absurd.
3 Nonetheless, although the Government had a chance to
4 walk away from that argument had it wished to do so, it
5 did not. It cannot, because the inevitable, inescapable
6 logic of its interpretation is that an error in
7 interpreting Article 1.1.2 is an excess of mandate,
8 which would apply to you as well as to the experts.
9 In any event, even if one were to assume, contrary
10 to fact, that the experts' interpretation of
11 Article 1.1.2 could be grounds for an excess of mandate,
12 the Government's complaint would be hopeless. That's
13 true for additional reasons.
14 First, as we will see -- not today, you'll be glad
15 to know, but subsequently -- the experts' interpretation
16 of the definition of the Abyei Area was perfectly
17 correct. Indeed, the experts' interpretation was
18 compelled by the plain English language of
19 Article 1.1.2, as well as by basic rules of English
20 grammar.
21 Equally, the experts' interpretation was exactly
22 consistent with the parties' objectives in entering into
23 the Abyei Protocol and agreeing to the Abyei referendum.
24 Even if the experts' alleged misinterpretation of the
25 definition of the Abyei Area could be considered as

15:59 1 an excess of mandate, it was not, because the experts'
2 interpretation was right.
3 Second, as we have seen, an excess of mandate can
4 also only be found in cases involving a flagrant or
5 glaring error in the exercise of jurisdictional
6 authority. An excess of mandate only exists where:
7 "... the violation of the terms of the arbitration
8 agreement appears so clearly that it is sufficient to
9 compare the award with the provisions of the arbitration
10 agreement so that its existence can be unmistakably
11 established."
12 The only thing that can be unmistakably established
13 here is that when Professor Crawford laboured so hard
14 yesterday morning to interpret the language of
15 Article 1.1.2, he was wrong. When we read the
16 language -- and we will do this tomorrow -- of
17 Article 1.1.2, it's unmistakably clear that the experts
18 were right and that Professor Crawford is wrong.
19 But even if that were not the case, even if one were
20 to question the experts' substantive interpretation of
21 the definition of the Abyei Area, it is impossible to
22 conclude that their interpretation was flagrantly or
23 manifestly wrong.
24 At worst the experts adopted an entirely plausible
25 interpretation which it took Professor Crawford an hour

16:00 1 to try to explicate for you, and notably the experts'
2 interpretation, not Professor Crawford's interpretation,
3 was shared by all the other participants in the drafting
4 of the Abyei Protocol, including the representative of
5 IGAD, General Sumbeywo.
6 Indeed, the Government itself has conceded in these
7 proceedings that the experts adopted what it referred to
8 as a "plausible" interpretation of Article 1.1.2, and
9 that in those circumstances it is impossible to conclude
10 that the experts committed some flagrant or glaring or
11 otherwise egregious excess of mandate.
12 The Government's excess of mandate claim has relied
13 principally on a two-sentence passage from appendix 2 to
14 the ABC report. The Government claims that this passage
15 shows that the experts refused to answer the question
16 put to them. That is baseless.
17 Preliminarily it is notable that the Government's
18 principal basis for claiming that the experts refused to
19 answer their mandate is a two-sentence snippet from one
20 appendix to the 45-page ABC report. If the experts had
21 in fact refused to answer the question that was put to
22 them, one could presumably find that refusal in the body
23 of their report or on the map of the Abyei Area attached
24 to that report. One would not have to imply the refusal
25 from a sentence buried in an appendix.

16:02 1 But in fact, as we've seen, when one looks at the
2 experts' final decision and looks at map 1 of the
3 report, it is perfectly clear that they addressed
4 exactly the task that was put to them by Article 5.1 of
5 the Protocol.
6 In any case, the Government's passage from
7 appendix 2 is plainly not a refusal by the experts to
8 answer the question put to them. The passage contains
9 an unexceptional set of observations which in no way
10 evidences a refusal by the experts to define the Abyei
11 Area.
12 The passage says that, and we can see:
13 "The boundaries of the Ngok Dinka that were
14 transferred to Kordofan for administrative reasons in
15 1905 were, like most boundaries in Sudan at the time,
16 not precisely delimited and demarcated ... It is
17 therefore incumbent upon the experts to determine the
18 nature of the established land or territorial occupation
19 and/or use rights by all the nine Ngok Dinka chiefdoms."
20 There can be no grounds for criticising the
21 statement that there were no clearly demarcated
22 boundaries of the Ngok Dinka in 1905. That observation
23 is correct, as the Government's memorial acknowledges;
24 that's at paragraph 231(a). In any case, the accuracy
25 of that statement is plainly not cause for claiming

16:03 1 an excess of mandate.
2 Equally, there are no grounds for criticising the
3 experts' statement that since there was no map of Ngok
4 territory in 1905, the experts would need to ascertain
5 the extent of Ngok Dinka's occupation and use of
6 territory. That is not a refusal by the experts to
7 address the issue presented to them; instead it is
8 a forthright statement by the experts that they would
9 need to address the question of land use in the course
10 of deciding the issue that was put to them.
11 In sum, there is no basis at all for the
12 Government's first excess of substantive mandate claim,
13 alleging that the experts failed to answer the right
14 question. On the contrary, the experts meticulously
15 answered exactly the question put to them, namely "to
16 define and demarcate the area of the nine Ngok Dinka
17 chiefdoms transferred to Kordofan in 1905".
18 The Government's real complaint is not that the
19 experts failed to answer that question, which they so
20 clearly did, but that they supposedly answered the
21 question in the wrong way. That substantive
22 disagreement, as I've said before, is both wrong and,
23 more fundamentally, not grounds for claim an excess of
24 mandate.
25 The Government's second substantive mandate claim is

Trevor McGowan
info@TMGreporting.com

16:05 1 virtually identical to its first -- yes, Mr President?
2 THE CHAIRMAN: Mr Born, may I suggest that you interrupt
3 your presentation right now and we will resume in
4 35 minutes.
5 MR BORN: I'm absolutely pleased to do that, thank you.
6 THE CHAIRMAN: Thank you.
7 (4.05 pm)
8 (A short break)
9 (4.32 pm)
10 THE CHAIRMAN: Mr Born.
11 MR BORN: Thank you very much, Mr President.
12 The Government's second substantive mandate claim,
13 as I was saying before the break, is virtually identical
14 to its first claim, and we won't spend much time on it.
15 Here the Government claims that the experts refused
16 to answer the right question, and instead answered
17 a quite different question about tribal customary
18 rights. According to the Government, the experts'
19 report "made an unwarranted shift from transferred area
20 to land use, and this amounts to an excess of mandate".
21 That claim is essentially a mirror-image. It's
22 a claim that the experts answered the wrong question,
23 and it's essentially a mirror-image of the claim that
24 the experts refused to answer the "right question". And
25 the Government's second claim is wrong for all the

16:35 1 reasons that we've just discussed.
2 As we've seen, just in summary, the experts did not
3 answer the wrong question. Instead they specifically
4 addressed the meaning of Article 1.1.2 of the
5 Abyei Protocol and the definition of the Abyei Area.
6 They concluded by defining and demarcating the Abyei
7 Area's boundaries, including on map 1; they specified
8 longitudes and latitudes for those boundaries. That's
9 not the wrong question; it's exactly the right question.
10 Again, the Government's real complaint is not that
11 they answered the wrong question or that they didn't
12 answer the right question; it's that they gave the wrong
13 answer. The Government disagrees with the experts'
14 interpretation of Article 1.1.2 and, as we've seen, and
15 for all the reasons and according to all the authorities
16 we've already discussed, that is not a basis for
17 an excess of mandate claim.
18 Third, the Government alleges that the experts
19 exceeded their mandate by ignoring the stipulated date
20 of 1905. It claims that -- and we heard this again
21 yesterday:
22 "Having initially identified the agreed date for
23 determination of the [so-called] transferred area
24 (1905), the experts referred to a much more recent,
25 albeit indeterminate, date (apparently 1965)."

16:36 1 That claim is nonsensical. The text of the ABC
2 report when you look at it makes it crystal-clear that
3 the experts did not ignore the 1905 date. Instead the
4 experts explicitly based their decision on
5 a determination as to the territory of the nine
6 Ngok Dinka chiefdoms as it stood in 1905.
7 Of course the experts considered materials which
8 both parties had presented in some detail from before
9 and from after 1905. As the report clearly explained,
10 though, they did that as indirect evidence of the extent
11 of Ngok Dinka territory in 1905. And if one takes even
12 a moment to look at the report, this is crystal-clear.
13 On the most obvious level the experts referred to
14 the 1905 date, according to our count, 48 different
15 times in their report. The examples shown on the
16 current slide illustrate the point in just a few
17 instances. The examples include multiple references in
18 the experts' conclusions to the extent of Ngok Dinka
19 territory in 1905. These references are scattered
20 throughout almost every page of the report.
21 It beggars belief, quite honestly, for the
22 Government to claim that the experts ignored the
23 stipulated 1905 date. That date was at the centre of
24 their discussion, and it's on almost every single page
25 in the report.

16:37 1 The experts also emphasised the evidentiary
2 difficulties that they encountered in ascertaining the
3 extent of Ngok territory in 1905. Thus the report said
4 clearly:
5 "No map exists showing the area inhabited by the
6 Ngok Dinka in 1905."
7 The experts weren't ignoring 1905; they were talking
8 about the difficulties in ascertaining precisely what
9 the state of affairs in 1905 was. And they went on and
10 said:
11 "Nor is there sufficient documentation produced in
12 that year, 1905, by Anglo-Egyptian Condominium
13 Government authorities that adequately spell out the
14 administrative situation that existed in the area at
15 that time."
16 Given these evidentiary difficulties the experts
17 then said -- and this is a vitally important sentence
18 that the Government ignores:
19 "Therefore, it was necessary for the experts to
20 avail themselves of relevant historical material
21 produced both before and after 1905 ..."
22 They're not ignoring the 1905 date; they're talking
23 about the need to look for materials from other years
24 than 1905 precisely in order to determine what the state
25 of affairs in 1905 was, as well as during that year,

Trevor McGowan
info@TMGreporting.com

16:39 1 1905:
2 "... to determine as accurately as possible the area
3 of the nine Ngok Dinka chiefdoms as it was in 1905."
4 As that makes it perfectly clear, the experts were
5 determining the territory of the Ngok Dinka as it was in
6 1905 and the reason for considering material from other
7 dates was to assist that basic task. As the experts
8 said in the clearest conceivable terms, they considered
9 materials from both before and after 1905, as well as
10 during that year, 1905, to help in determining "as
11 accurately as possible the area of the nine Ngok Dinka
12 chiefdoms as it was in 1905".
13 It's impossible to read that language and conclude
14 that the experts somehow ignored the 1905 date. They
15 looked to evidence from other times to define what the
16 state of affairs was at that particular date, but they
17 did not in the slightest ignore the date.
18 The Government also claims -- and this is the last
19 of its so-called substantive mandate claims -- that the
20 experts exceeded their substantive mandate by
21 "allocating grazing rights beyond and limiting them
22 within the Abyei Area". The experts allegedly did this
23 in two ways: (1) in seeking to confer on the Ngok
24 grazing rights outside the Abyei Area; and (2) in
25 seeking to limit within the Abyei Area the exercise of

16:40 1 rights conferred by Article 1.1.3 of the Abyei Protocol
2 which we looked at previously.
3 Both of these claims are again hopeless. They rest
4 on implausible -- frankly, deliberately implausible --
5 and distorted readings of the report, and they have been
6 manufactured in order to create grounds for criticising
7 the report.
8 Any fair reading of the report shows that the
9 experts did neither of the things claimed by the
10 Government. At the same time, even if the experts had
11 made the decisions that the Government alleges, and in
12 particular the first of those decisions, they would not
13 have exceeded their mandate.
14 First, there is no substance at all to the
15 Government's claim that the experts attempted to "confer
16 on the Ngok grazing rights outside the Abyei Area".
17 That argument rests on a single sentence of the experts'
18 report which is excerpted on the current slide; at least
19 I should say the argument rested until recently. The
20 Government pretends to interpret this sentence to confer
21 grazing rights on the Ngok Dinka "to the north and east
22 of what the experts held to constitute the Abyei Area",
23 and thus allegedly to exceed the experts' mandate.
24 The Government's interpretation ignores both the
25 text and the context of the experts' statement. The

16:42 1 experts plainly did not purport to confer rights on the
2 Ngok outside the Abyei Area's territorial boundaries;
3 rather the experts merely set forth in summary form
4 their historical conclusions which provided the
5 rationale, the reasoning, for their subsequent boundary
6 delimitation. Indeed the experts made clear for the
7 avoidance of any doubt that their decision only defined
8 the Abyei Area territorial boundaries and did not affect
9 other pre-existing rights which either the Ngok or the
10 Messiriya possessed and retained.
11 This was not an excess of mandate, but the opposite:
12 it was an effort to ensure that the report addressed
13 only the territorial delimitation of the Abyei Area and
14 that the interested parties retained all of their other
15 rights.
16 It's important to read in its full context the
17 sentence that the Government's memorial and subsequent
18 written submissions cherry-picked out of the report.
19 The sentence comes from the final portion of the report,
20 entitled "Final and Binding Decision".
21 In this section the experts set forth both a summary
22 of their historical reasoning and their final boundary
23 demarcation and delimitation. They did two things: they
24 summarised their reasoning and they provided the
25 delimitation that they were charged with providing.

16:43 1 The section is on the current slide with the
2 allegedly offensive sentence highlighted. In the first
3 point the experts observed:
4 "1. The Ngok have a legitimate dominant claim to
5 the territory from the Kordofan-Bahr el Ghazal boundary
6 north to latitude 10º10' north ..."
7 The experts then went on, and this is the offending
8 sentence:
9 "2. North of latitude 10º10' north, through the goz
10 up to and including Tebeldiya (north of latitude 10º35'
11 north) the Ngok and Messiriya share isolated occupation
12 and use rights, dating from at least the Condominium
13 period. This gave rise [in the past sense, referring
14 back to the Condominium period] to the shared secondary
15 rights [also referring back to the experts' earlier
16 discussion] for both the Ngok and Misseriya ..."
17 Shared rights which, as we saw, were then used to
18 draw the northern boundary of the Abyei Area.
19 Thus the experts concluded in point 3:
20 "The two parties lay equal claim to the shared areas
21 [which they just referred to] and accordingly it is
22 reasonable and equitable to divide the goz between them
23 and locate the northern boundary [of the Abyei Area] in
24 a straight line at approximately latitude 10º22'30"
25 north."

Trevor McGowan
info@TMGreporting.com

16:45 1 Then they went on in point 3, in the language that
2 you can see there, to define and delimit the southern,
3 eastern and western boundaries of the area.
4 Finally in point 5, which made a cameo and surprise
5 cameo and surprise appearance yesterday, the experts
6 made clear that:
7 "The Ngok and Misseriya shall retain their
8 established secondary rights to the use of land north
9 and south of this boundary."
10 When one reads through this section it is clear that
11 the experts did not confer rights to the use of land
12 outside the Abyei Area on the Ngok Dinka, as the
13 Government claims.
14 The sentence that was originally cited from point 2
15 of the discussion by the Government was not a grant of
16 rights by the Government; it was part of a summary in
17 points 1 and 2 of their discussion and decision on the
18 historical findings which had been set out previously at
19 some length in propositions 8 and 9. That's very clear
20 if one works through the points in the section and tries
21 to understand them, instead of just cherry-picking them
22 with the object of criticising them.
23 The experts start in point 1 by summarising their
24 historical conclusions regarding the territory south of
25 latitude 10º10', concluding that the Ngok enjoyed

16:46 1 dominant rights in that area. That was a summary of the
2 experts' previous and very detailed historical
3 conclusion in proposition 8 about part of the Abyei
4 Area. It was not and did not purport to be a boundary
5 delimitation or an affirmative grant of rights.
6 Similarly, in point 2, the experts reasoned that the
7 Ngok and the Messiriya had both historical enjoyed equal
8 and shared secondary rights to the area north of
9 latitude 10º10' up to latitude 10º35' north, a region
10 which the experts held to constitute the so-called goz.
11 Again, this was the summary of the historical finding
12 that the experts had previously reached in their report.
13 The experts did not purport to grant any rights to
14 the Ngok or the Messiriya in points 1 and 2; rather the
15 experts set forth the rationale and historical analysis
16 for the boundary delimitation that they then declared in
17 the next section of their decision, point 3. That is
18 clear from the language of points 1 and 2, which are
19 expressed as summaries of historical findings.
20 That is particularly evident in point 2 from the
21 experts' reference to the past usage of the goz in their
22 words since "at least the Condominium period" and "gave
23 rise", in the past tense, to secondary rights. It is
24 also evident from the experts' reference in point 2 to
25 "the secondary rights" of the Ngok and the Messiriya,

16:48 1 which was a reference back to the experts' earlier
2 historical discussion of these rights in propositions 8
3 and 9.
4 Based on these historical findings in points 1 and
5 2, the experts then went on in point 3 to delimit the
6 Abyei Area by dividing the zone of historically shared
7 secondary rights equally between the Ngok and the
8 Messiriya.
9 Thus, as we've seen, the experts declared in point 3
10 that:
11 "The ... parties lay equal claims to the shared
12 areas and accordingly it is reasonable and equitable to
13 divide the goz between them and locate the northern
14 boundary in a straight line at approximately latitude
15 10º22'30" north."
16 Then the point goes on, as we've seen, to address
17 the other boundaries.
18 It is in this point, point 3, that the experts set
19 forth their operative definition and delimitation of the
20 boundaries of the Abyei Area. That is clear from the
21 experts' use of the word "accordingly", which is then
22 followed by the statement that the experts have "located
23 the northern boundary of the Abyei Area in a straight
24 line at approximately latitude 10º22'30" north".
25 As the experts' language makes clear, it is in this

16:49 1 point 3, and not in points 1 and 2, that the experts
2 made their dispositive or operative declarations as to
3 the definition of the boundaries of the Abyei Area.
4 It's also important to note the manner in which
5 point 2, which was originally singled out by the
6 Government, refers to the historical rights of the
7 Ngok Dinka and the Messiriya.
8 Point 2 does not contain specific findings about
9 particular categories of secondary rights in particular
10 places. Those are the sorts of references that there
11 would be if this was made in an award conferring rights
12 of usage on either the Ngok or the Messiriya. Point 2
13 does not refer to grazing rights or to transit rights or
14 to watering rights or to some other kind of rights; it
15 doesn't refer to specific villages, or rivers or
16 geographic locations.
17 Rather, point 2 simply states in general terms that
18 the Ngok and Messiriya share isolated occupation and use
19 rights in the goz, and further north, without
20 identifying or specifying in any way the particular
21 places where these rights were or what these rights
22 were.
23 In using that general language, the experts were
24 plainly not making determinations about the extent or
25 the terms of the rights of usage of either the Ngok or

Trevor McGowan
info@TMGreporting.com

16:50 1 the Messiriya, as they would be if this were
2 an operative grant of rights. Rather, as their language
3 very plainly says, they were simply summarising their
4 general historical conclusions which provided the basis
5 for the subsequent territorial delimitation which we've
6 looked at and which follows the language accordingly in
7 point 3.
8 The conclusion that the experts did not confer
9 rights on the Ngok outside the Abyei Area is confirmed
10 by the final point in the section. Point 5 provides
11 that, and I quote:
12 "The Ngok and Messiriya shall retain their
13 established secondary rights to the use of the land
14 north and south of this boundary."
15 This sentence makes it clear that the experts had no
16 intention to confer, to create, to grant rights outside
17 the Abyei Area, on either the Ngok or the Messiriya.
18 Rather, what the experts did was include a savings
19 provision to confirm that their territorial delimitation
20 and demarcation of the Abyei Area did not prejudice any
21 of the parties' other pre-existing rights.
22 Far from purporting to confer or create or do
23 something else with respect to any rights, the experts'
24 savings clause provided that, notwithstanding their
25 territorial delimitation of the Abyei Area, the Ngok and

16:52 1 the Messiriya would retain their established rights of
2 usage. That did not create, it did not confer, it did
3 not even confirm rights; it left undisturbed whatever
4 rights already exist. It did not disturb them. That is
5 the plain English language meaning of the word "retain",
6 which is to keep or preserve existing rights, not to
7 create or confer new ones.
8 That conclusion is exactly consistent with the
9 absence of any specification in point 2 of what
10 particular rights of usage the parties might possess or
11 where those rights of usage might have been. Again, had
12 the experts been conferring rights, they would have
13 specified what those rights were with particularity, the
14 way that one would expect in a decision of this or any
15 other similar nature.
16 It's striking that the Government's oral submissions
17 yesterday relied only on point 5's savings clause. The
18 reason that that is striking is that point 5 was not
19 even mentioned, it was not relied on in the Government's
20 initial memorial, which referred only to the language of
21 point 3, which we've already discussed.
22 The reason that the Government did not rely on
23 point 5 in its memorial is clear: point 5 did not create
24 or enhance or confer secondary rights; it merely made
25 clear that the experts' territorial delimitation does

16:53 1 not disturb any existing rights, whatever they may be.
2 Again, that is not an excess of mandate but the
3 opposite.
4 Equally striking, of course, is the Government's
5 failure yesterday to rely at all on point 3 of the
6 experts' decision. It was previously, in their
7 memorial, its only basis for its grazing rights claim.
8 And yet today -- or at least yesterday -- it was
9 completely absent.
10 It is no wonder that the Government cannot decide
11 which provision that it wants to rely on: neither of the
12 provisions that it hops back and forth from provide the
13 slightest support for its claims.
14 The experts' statement was perfectly consistent.
15 Its statement in point 5 was perfectly consistent with
16 Article 1.1.3 of the Abyei Protocol.
17 Article 1.1.3 provides that the Messiriya and other
18 nomadic peoples retain their traditional rights to graze
19 cattle and move across the territory of Abyei.
20 Consistent with this in point 5, the experts did no more
21 than make clear, for the avoidance of doubt, that their
22 territorial decision did not alter the pre-existing
23 traditional rights of the Ngok Dinka or the Messiriya.
24 The experts did not purport to create or confer
25 rights, but merely left untouched whatever rights the

16:55 1 Ngok had to the north of the Abyei Area, and whatever
2 rights the Messiriya had within or south of the Abyei
3 Area. In fact, the experts specifically avoided making
4 any decision about these rights.
5 Indeed, had the experts not included point 5, you
6 should have little doubt but that the Government would
7 be here complaining that there was an excess of mandate
8 because the experts had failed to preserve, to provide
9 that the parties' existing rights were retained. That
10 was a savings clause that did nothing but confirm that
11 the experts were leaving undisturbed, for whatever
12 status they had, the pre-existing rights of the party.
13 It was not a conferral, a grant, a creation, or anything
14 of the sort.
15 The ABC report in fact identified one of the main
16 reasons that the experts took pains to confirm that
17 their decision only affected the territorial boundaries
18 of the Abyei Area, and not other rights of the Ngok and
19 Messiriya. In their report the experts observed that
20 they:
21 "... found in [their] meetings with the people in
22 the Abyei Area that there was considerable
23 misunderstanding about the effect that setting
24 a boundary for the area will have."
25 The experts referred in particular to concerns that

Trevor McGowan
info@TMGreporting.com

16:56 1 the report could affect grazing rights and interaction
2 between the Ngok and the Messiriya. The experts
3 therefore said in their report that they:
4 "... [wanted] to stress that the boundary that is
5 defined and demarcated will not be a barrier to the
6 interaction between the Messiriya and the Ngok Dinka
7 communities."
8 And that:
9 "... [their] decision should have no practical
10 effect on the traditional grazing patterns of the two
11 communities."
12 The experts' effort to avoid popular misconception
13 was consistent with their effort at public meetings in
14 the Abyei Area to explain the Commission's mandate,
15 an explanation that was specifically contemplated by the
16 parties' agreements. Again, the experts were not
17 purporting to confer new rights, but instead noting the
18 limited scope of their territorial decision in order to
19 assuage popular misconception about traditional rights.
20 In sum, the experts' clarification of their decision
21 was not an excess of their mandate, but an expression
22 that no excess of mandate could be inferred from their
23 report. In particular, the experts made explicit the
24 fact that they had delimited the Abyei Area's
25 territorial boundaries without purporting to affect in

Page 197

16:57 1 any way the retained rights of usage of the Ngok or the
2 Messiriya. That is a simple and complete answer to the
3 Government's claim.
4 Although unnecessary to the Tribunal's decision
5 here, it is also well settled that an arbitral award or
6 adjudicative decision is to be construed with a view to
7 giving it effect, not to finding fault with it. In the
8 words of one representative authority summarising this
9 rule, and doing it well:
10 "As a matter of general approach courts strive to
11 uphold arbitration awards. They do not approach them
12 with a meticulous legal eye endeavouring to pick holes,
13 inconsistencies and faults in awards, and with the
14 objective of upsetting or frustrating the process of
15 arbitration. Far from it. The approach is to read
16 an arbitration award in a reasonable and commercial way,
17 expecting, as is usually the case, that there will be no
18 substantial fault that can be found with it."
19 Although ignored by the Government, this rule is of
20 fundamental importance; it plays a vital role in
21 securing the finality of adjudicative decisions, and it
22 safeguards against after-the-fact efforts to find fault
23 with such decisions.
24 Even if there were some ambiguity as to the meaning
25 of the experts' report -- and I would submit, based on

Page 198

16:59 1 what I've been saying for the last 15 minutes, there is
2 no ambiguity, it's clear what the experts did, and it
3 was entirely proper -- the report must be interpreted to
4 give it effect, not to invalidate it.
5 It is illegitimate to labour, as the Government
6 does, in an attempt to interpret the report as granting
7 the Ngok new rights that supposedly exceed the experts'
8 mandate. Rather, if there were some doubt -- there is
9 none, but if there were some doubt -- about the meaning
10 of the report, the appropriate interpretation would be
11 that the experts did nothing but define the territorial
12 boundaries of the Abyei Area, and did not purport to
13 create or alter any other rights of the Ngok or the
14 Messiriya.
15 Third, even if the experts had conferred rights of
16 land use on the Ngok Dinka outside the Abyei Area
17 proper, this would not constitute an excess of mandate.
18 Rather, it would have been an appropriate exercise of
19 the experts' primary jurisdiction or a permissible
20 exercise of incidental or ancillary jurisdiction which
21 was inherent in the experts' primary mandate.
22 Again, this is hypothetical and academic because the
23 experts did not do this, but had they done it, they
24 would have done nothing wrong.
25 The authorities establishing the existence of

Page 199

17:00 1 incidental jurisdiction are detailed in the SPLM/A's
2 reply memorial and I will not repeat them. Cheng is
3 representative, explaining that:
4 "Where a tribunal has jurisdiction in a particular
5 matter, it is also competent with regard to all relevant
6 incidental questions, subject to express provision to
7 the contrary."
8 This is a common-sense proposition that aims to
9 ensure that the parties' chosen dispute resolution
10 mechanism is capable of achieving its contemplated goal:
11 to resolve the parties' dispute as fully and fairly as
12 possible.
13 The Government does not deny the existence of
14 incidental jurisdiction. Its rejoinder says:
15 "The GoS does not dispute that adjudicative bodies
16 are vested with incidental competence."
17 What the Government does instead is to adopt
18 an implausible definition of the doctrine, which would
19 render it meaningless. That definition finds no support
20 on common sense or case law.
21 According to the Government, the doctrine of
22 incidental jurisdiction only applies:
23 "... to the motives of the decision, not the
24 dispositif, and an incidental issue can only be one that
25 must be answered to resolve the main dispute."

Page 200

Trevor McGowan
info@TMGreporting.com

17:01 1 Those definitions would leave incidental
2 jurisdiction adding nothing to the Tribunal's primary
3 jurisdiction and would render the concept meaningless,
4 which it is not.
5 In fact, it is plainly wrong to say that incidental
6 jurisdiction only concerns a tribunal's reasoning. That
7 is illustrated by the simple and uncontroversial
8 examples of interim relief and corrections of awards;
9 neither of those categories of incidental jurisdiction
10 is limited to a tribunal's reasoning; both involve
11 dispositive orders.
12 Equally it's wrong to say that incidental
13 jurisdiction only concerns issues that need to be
14 decided in the course of exercising the Tribunal's
15 primary jurisdiction. The resolution of those issues is
16 already subsumed within the Tribunal's primary
17 jurisdiction, and there's no need to rely on principles
18 of incidental jurisdiction in that circumstance.
19 Instead, the doctrine of incidental jurisdiction is
20 a liberal concept, aimed at ensuring that adjudicative
21 bodies may fully resolve the disputes presented to them.
22 That is evident from the ICJ's explanation of the
23 doctrine, which you can see on the current slide.
24 I won't take you through it, in the interests of time;
25 you're all familiar with it.

Page 201

17:02 1 Applied here, even if the experts were considered,
2 contrary to fact, to have conferred grazing rights on
3 the Ngok Dinka in the area between latitudes 10º22'30"
4 north and 10º35' north, this would have been an entirely
5 permissible exercise of either primary jurisdiction or
6 incidental jurisdiction.
7 As we have seen, the SPLM/A claimed that all areas
8 south of latitude 10º35' north were the historic
9 territory of the Ngok Dinka -- the SPLM/A continues to
10 claim it in these proceedings -- and that this territory
11 was included within the Abyei Area. The experts
12 acknowledged that the Ngok had historically exercised
13 shared secondary rights of usage in the area between
14 latitudes 10º22'30" and 10º35' north but refused to
15 include that area within the Abyei Area's territorial
16 boundaries.
17 This is the important part: in these circumstances
18 the experts would have been well within their primary
19 jurisdiction of defining the Abyei Area if they had
20 affirmatively granted the Ngok Dinka rights of land
21 usage between 10º22'30" and 10º35' north.
22 The experts' mandate was "to define and demarcate
23 the area of the nine Ngok Dinka chiefdoms transferred to
24 Kordofan in 1905". If the experts had concluded that
25 the area of the nine Ngok Dinka chiefdoms included

Page 202

17:04 1 rights of land usage as well as territorial rights, they
2 would have been perfectly entitled to include both
3 categories of rights in their decision.
4 This would have been perfectly permissible either as
5 an appropriate interpretation of the [experts'] primary
6 mandate to define the Abyei area or as an exercise of
7 incidental jurisdiction. There was nothing in the
8 parties' agreements that forbade the experts, in
9 defining the Abyei Area, from defining it in terms of
10 both territorial boundaries and land usage in defined
11 territories.
12 This is not what the experts did, but had they done
13 so, it would have been unobjectionable. That is another
14 complete answer and independently sufficient basis for
15 rejecting the Government's complaint. Again, this is in
16 the realm of academic discourse in the sense that this
17 is not what the experts did, but if they did do it, it
18 would have been perfectly permissible.
19 Fourth, as we have seen, an excess of mandate will
20 only be found where an adjudicative body acted beyond
21 its authority in a glaring, manifest or flagrant manner.
22 Here it would be absurd to regard decisions by the
23 experts in relation to the Ngok's grazing rights in that
24 strip of territory as flagrant or glaring excesses of
25 mandate. Even if one assumed -- wrongly -- that the

Page 203

17:05 1 experts had erred by granting land use rights outside
2 the Abyei Area's territorial boundaries, that would have
3 been a minor and entirely forgivable mistake.
4 There is nothing at all in the Abyei Protocol or the
5 parties' other agreements that expressly prohibited the
6 experts, as I have mentioned, from defining the area of
7 the nine Ngok Dinka chiefdoms in terms of both land
8 usage and territorial boundaries. Any such
9 prohibition -- if there were one, which there is not --
10 would have to be implied from ambiguous language and
11 notwithstanding the doctrine of incidental jurisdiction.
12 As we have seen, general principles of law mandate
13 the strongest of presumptions that the experts acted
14 within their mandate, not that they exceeded it. That
15 presumption would have special force in a context such
16 as this, where the experts would have made an expert
17 historical and ethnographic assessment about the
18 historic practices and rights of the Ngok and the
19 Messiriya.
20 At worst -- and again this is in a purely
21 hypothetical realm -- the experts would have
22 misinterpreted an ambiguous grant of authority which
23 contained no express or obvious prohibitions against
24 their supposedly excessive decision. Even if the
25 experts had misinterpreted the scope of their authority

Page 204

Trevor McGowan
info@TMGreporting.com

17:07 1 in this fashion, which they did not, it was in no way
2 flagrant or glaring.
3 Further, the rights which the experts supposedly
4 conferred outside of their authority would have been
5 only very specific and limited rights of usage.
6 According to the experts, the only secondary rights --
7 this is the only thing that was mentioned in the ABC
8 report -- were shared secondary rights involving
9 a collection of grazing, water and transit rights.
10 At the same time, the experts' purportedly excessive
11 grant of even these very limited rights applied only to
12 equally limited area, a thin strip of arid land between
13 latitudes 10º22'30" and 10º35' north. The significance
14 of these rights in the context of the parties' disputes
15 is truly and extraordinarily limited. As the Government
16 said yesterday, with considerable understatement, "These
17 rights are not at the core of the present dispute";
18 that's transcript page 107, line 10.
19 It is precisely to avoid the invalidation of
20 arbitral awards and other adjudicative decisions of
21 these sorts, in these sorts of circumstances, that
22 general principles of law hold firmly that an excess of
23 mandate must be glaring, flagrant or manifest.
24 The law does not treat the experts' exercise of
25 their authority as a minefield, or any false step would

Page 205

17:08 1 destroy their entire decision. Rather, for very good
2 reasons, the law treats the experts' exercise of
3 authority as presumptively final, as something to be
4 preserved, as something for you to labour to preserve if
5 that were necessary, if at all possible. That is
6 another independent reason for rejecting the
7 Government's complaint.
8 Separately, the Government also claims that the
9 experts:
10 "... limited the Misseriya's traditional rights of
11 grazing and transit to the southern part of the shared
12 area, ie the area between 10º10' north and 10º35'
13 north."
14 Again, the Government can only make this claim by
15 ignoring the text of the ABC report and by distorting
16 selective quotations from the experts' reasoning.
17 Most important, the Government again ignores the
18 experts' savings clause at point 5 of their decision.
19 As we've seen, the clause provides that:
20 "The Ngok and Misseriya shall retain their
21 established secondary rights to the use of the land
22 north and south of this boundary."
23 This sentence in no way limits the Messiriya rights
24 to the southern part of the shared area, as the
25 Government claims. On the contrary, the experts'

Page 206

17:09 1 language plainly states that the Messiriya retain their
2 rights "south of this boundary", ie south of the
3 northern boundary of the Abyei Area. This encompassed
4 all areas south of the Abyei Area's northern boundary;
5 that included the entire Abyei Area, and indeed further
6 south.
7 Again, this was a savings clause that assured both
8 parties that the experts' territorial demarcation did
9 not affect any of their other rights of land usage.
10 The Government cites a sentence from the report,
11 displayed on the current slide, which concluded that the
12 Messiriya and Ngok Dinka both shared secondary rights in
13 the goz. The sentence indeed makes that observation
14 about the goz. It does not in any way purport to define
15 the full extent of the Messiriya's rights of usage in
16 other areas outside the goz.
17 Instead, as we have seen, the sentence cited by the
18 Government was merely the rationale for the line which
19 the experts drew bisecting the goz. This sentence
20 therefore did not purport to and did not have occasion
21 to address the Messiriya's secondary rights outside the
22 goz. That is made crystal-clear by the report's
23 extensive discussion of the fact that the Messiriya had
24 historically exercised substantial rights of usage south
25 of the goz.

Page 207

17:11 1 Some of these numerous statements are excerpted on
2 the current slide. Each one of these statements made
3 clear that the experts concluded that historically the
4 Messiriya had exercised secondary rights of usage well
5 south of the goz.
6 It was in the context of these conclusions that the
7 experts observed, for the avoidance of doubt, that the
8 Messiriya shall retain their established secondary
9 rights to the use of land north and south of the
10 northern boundary of the Abyei Area. It would have been
11 difficult for the experts to have been much clearer in
12 saying that they were not purporting to affect existing
13 secondary rights of the Messiriya throughout the Abyei
14 Area.
15 The foregoing is a complete answer to the second
16 aspect of the Government's complaint about the experts'
17 purported treatment of grazing rights. No further
18 discussion is necessary.
19 For the avoidance of doubt, all of the reasons set
20 out with regard to the alleged grant of excessive
21 grazing rights to the Ngok also apply mutatis mutandis
22 to this exception.
23 In sum, there is no basis for any of the
24 Government's four purported substantive mandate
25 complaints. With the exception of its grazing rights

Page 208

Trevor McGowan
info@TMGreporting.com

17:12 1 claim, these complaints would not, even if well founded,
2 constitute an excess of mandate under Article 2(a) of
3 the Arbitration Agreement.
4 More fundamentally, none of the Government's
5 complaints involved an actual excess of substantive
6 mandate, much less the sort of flagrant or glaring
7 excess of mandate required to disregard the experts'
8 report.
9 Our next topic concerns the Government's claims that
10 the experts violated alleged mandatory criteria. The
11 Government identifies four:
12 1. Failure to state reasons.
13 2. An ex aequo et bono decision.
14 3. Applying unspecified legal principles.
15 4. Purportedly attempting to allocate oil
16 resources.
17 Again, none of these fall within the definition of
18 an excess of mandate, and they are all inadmissible in
19 these proceedings. Even putting that aside, none of the
20 mandatory rule claims asserted by the Government have
21 any basis. Even if those mandatory criteria existed,
22 the experts did not violate them.
23 The Government purports to derive its mandatory
24 criteria from an assortment of arbitration authorities,
25 including the ICSID Convention, the UNCITRAL Model Law,

17:13 1 and various institutional arbitration rules. Relying on
2 these authorities, the Government constructs a series of
3 allegedly mandatory or peremptory rules that the experts
4 were supposedly required to comply with, even though
5 they were not contained in the parties' agreements.
6 As we will see, the authorities cited by the
7 Government do not support its audacious claims regarding
8 the existence of universal peremptory or mandatory
9 rules.
10 Preliminarily, however, it's important to note two
11 general principles of law that do exist but that the
12 Government doesn't address: (1) the rule that
13 an adjudicatory decision may be invalidated for
14 a violation of mandatory law only in rare and
15 exceptional cases; and (2) violations of mandatory rules
16 or public policy will only be found where there is
17 a serious and direct violation of a fundamentally
18 important mandatory or preemptory legal rule.
19 With regard to the first, arbitral awards and
20 adjudicative decisions may be invalidated for violations
21 of mandatory law or public policy only in the rarest and
22 most exceptional cases. That is a corollary of the
23 bedrock principle affirming the presumptive finality of
24 arbitral awards and other adjudicative decisions. It
25 applies with peculiar force here, where a state freely

17:15 1 entered into an agreement to resolve a particular
2 dispute. The Government acknowledges that this
3 principle applies, but then proceeds to ignore it.
4 The New York Convention is representative.
5 Article V(2)(b) of the Convention allows non-recognition
6 of awards on public policy or mandatory law grounds. It
7 is uniformly affirmed, however, that the provision is
8 exceptional and may only rarely be invoked.
9 A leading commentator, van den Berg, explains:
10 "Courts have refused enforcement on public policy
11 and mandatory law grounds under Article V(2)(b) in very
12 exceptional cases only."
13 Additional authorities are shown on the next slides.
14 They emphasise the rare and exceptional character of
15 denial of recognition or annulment of awards on these
16 grounds.
17 Other authorities are detailed in our reply
18 memorial, and I won't take you through them. There can
19 be no serious debate about the existence of this rule.
20 Second, an arbitral award or other adjudicative
21 decision can be invalidated on mandatory law grounds
22 only if enforcement of the decision would result in
23 a serious and direct violation of a fundamentally
24 important mandatory rule. Conversely, less serious or
25 direct violations of mandatory law and violations of

17:16 1 non-mandatory legal rules are not grounds for
2 disregarding an award or adjudicative decision.
3 A representative statement of these rules was
4 a decision by the Swiss Federal Tribunal. It held:
5 "The substantive assessment of a claim only violates
6 public policy if it misinterprets fundamental principles
7 and is therefore by all means irreconcilable with the
8 commonly acknowledged moral order."
9 The German Supreme Court said the same thing in
10 another decision that's on the current slide. Other
11 authorities establishing this principle are set out in
12 detail in our reply memorial, and are noncontroversial.
13 These authorities make it clear that in order to
14 prevail on its mandatory criteria claims the Government
15 must satisfy the most onerous requirements. In
16 particular, it must (1) demonstrate the existence of
17 a universally applicable mandatory international rule
18 which would apply to the ABC proceedings; (2) show that
19 this mandatory rule expresses fundamental principles of
20 the international legal order, whose violation cannot be
21 tolerated; and (3) establish that the decision of the
22 experts directly and seriously contradicted that
23 mandatory rule. The Government, with the greatest of
24 respect, has not even begun to make those showings for
25 any of its purported mandatory criteria.

Trevor McGowan
info@TMGreporting.com

17:18 1 It's also important to note that the authorities
2 I've referred to have been focused on national legal
3 orders. The Government's claim is far more audacious.
4 It relies not on a single legislative instrument, like
5 a national arbitration statute, or a treaty with
6 a public policy or a mandatory law exception. Nor do
7 the Government's supposed criteria derive from a single
8 legal order, like the law of Switzerland or the
9 Netherlands. Instead, what the Government has put to
10 you, what the Government has said that you should apply
11 in your award are general principles of law derived from
12 mandatory norms supposedly accepted in all legal
13 systems.
14 The Government's reliance on alleged universal
15 principles of mandatory law is, as I said, audacious.
16 The Government asserts not the existence of a national
17 public policy applicable in a single jurisdiction, but
18 the existence of a universal, peremptory, mandatory
19 international public policy. On any view, that is
20 an exceptionally ambitious claim which would require
21 careful and consistent explication of a wide range of
22 authorities from national and international
23 jurisdictions.
24 Moreover, the Government's mandatory criteria claims
25 purport to be applicable in every adjudicative context,

17:19 1 not just international arbitration. Instead the
2 Government claims that its mandatory criteria are
3 universally applicable in all adjudicative settings.
4 Again, that is a strikingly, a breathtakingly audacious
5 claim that would demand serious and sustained analysis
6 and authority to support it.
7 When we examine each one of the Government's
8 purported mandatory criteria, though, we will see that
9 the Government fails utterly to establish those
10 universal rules. It offers instead nothing more than
11 shockingly casual and unsupported generalisations and
12 rhetoric which plainly do not and cannot support those
13 claims.
14 The Government's first mandatory law claim is that:
15 "The experts failed to provide reasons capable of
16 forming the basis of a valid decision."
17 According to the Government:
18 "There are crucial gaps in the argumentation of the
19 experts, both in their rejection of the GoS case and in
20 the adoption of the 10°10' north line."
21 The Government's complaints about the supposedly
22 inadequate reasoning of the experts' report are
23 baseless. Those complaints ignore the absence of any
24 requirement in either the parties' agreements or general
25 principles of law for a reasoned decision in these

17:20 1 circumstances.
2 The Government's complaints also ignore the fact
3 that the ABC report provided extensive and
4 well-considered reasoning that fully satisfies even the
5 most demanding requirement, standard or rule for
6 reasoned awards that the Government might construct.
7 At bottom, the Government's complaints again about
8 the experts' reasoning are recycled disagreements with
9 the substance of the experts' conclusions which are
10 manifestly not grounds for invalidating those decisions.
11 First, the Government's submissions do not seriously
12 argue that the parties' agreements required the experts
13 to provide a reasoned decision. That is confirmed by
14 Government's consistent treatment of this alleged
15 requirement as an externally imposed mandatory criteria
16 rather than something contained in the parties'
17 agreements.
18 In any case, the parties' agreements plainly do not
19 require the experts to provide a reasoned decision.
20 Those agreements stand in sharp contrast to the Abyei
21 Arbitration Agreement in this proceeding. Article 9(2)
22 of the Arbitration Agreement provides expressly that:
23 "This Tribunal shall comprehensively state the
24 reasons upon which the award is based."
25 When the Government and the SPLM/A intended to

17:22 1 require a reasoned decision, they knew perfectly well
2 how to do it.
3 By contrast, nothing in the parties' agreements
4 relating to the ABC required the experts to provide
5 reasons; nothing required that, "The experts' decision
6 shall be reasoned", or that, "The ABC report shall
7 contain a statement of reasons", or anything of the
8 sort.
9 Instead the parties' only requirement with regard to
10 the form and content of the experts' decision was
11 contained in Article 1.2 of the Terms of Reference.
12 Article 1.2 provided that:
13 "The ABC shall demarcate the area specified above on
14 map ..."
15 Although addressing precisely what the experts' work
16 product should contain -- that is, demarcation on
17 a map -- the parties did not require a statement of
18 reasons.
19 That was precisely consistent with the experts'
20 mandate "to define (i.e. delimit) and demarcate the area
21 of the nine Ngok Dinka chiefdoms transferred to Kordofan
22 in 1905". Delimiting and demarcating the Abyei Area did
23 not require any statement of reasons, but only
24 a cartographic delimitation of latitude and longitudinal
25 coordinates. That is again exactly consistent with what

17:23 1 was required by Article 1.2 of the Terms of Reference.
2 It is also consistent with the fact that while this
3 Tribunal has been granted the same mandate as the
4 experts in Article 2(c) of the Arbitration Agreement,
5 the requirement for the Tribunal to produce a reasoned
6 award needed to be expressed in an additional and
7 separate provision, as we have seen; Article 9(2) of the
8 Arbitration Agreement. Had the mandate of the experts
9 or this Tribunal implied a statement of reasons, there
10 would have been no reason for Article 9(2).
11 Likewise the parties' agreement that the experts
12 would produce a report does not require or imply that
13 the report would contain a reasoned decision. Rather,
14 consistent with the experts' mandate and Article 1.2 of
15 the Terms of Reference, which specifically addressed the
16 issue, the report needed only to contain the experts'
17 resolution of the issue submitted to them, being
18 delimitation and demarcation of the Abyei Area on a map
19 or in words.
20 To be sure, the experts had the procedural
21 discretion to use their report to explain the reasoning
22 that led to their definition and delimitation.
23 Nonetheless, nothing in the parties' agreements
24 mandatorily required them to provide such
25 an explanation, with the parties instead only requiring

Page 217

17:24 1 demarcation on a map.
2 It's relevant in that context to consider the
3 timetable that was contemplated for the experts' work.
4 That was contained in the Programme of Work in the Terms
5 of Reference. The experts were to begin their mandate
6 on April 1st and were to present their final report to
7 the presidency on May 29th, eight weeks later.
8 The time contemplated for the experts in the
9 Programme of Work to "prepare the final report" was
10 May 20th-26th, a total of five working days. Even
11 recognising the remarkable, the extraordinary expertise
12 and diligence of the five ABC experts, that was hardly
13 a timeframe consistent with the preparation of
14 a reasoned report. To the contrary, it was a timeframe
15 that reflected an opportunity for careful deliberation
16 about demarcating a boundary and then delimiting that
17 boundary.
18 Think about the amount of time that you have been
19 given to prepare your award. Imagine that you were to
20 do it in five days; would that be consistent with
21 producing a reasoned award? No, it would not be.
22 The experts were given time to demarcate a boundary
23 because that was what their mandate was, not to write
24 a lengthy report. But they had the discretion to do
25 that and because they took their job so seriously,

Page 218

17:26 1 because they wanted to convince the parties of why they
2 should comply with the report, why they should go
3 forward with the demarcation, they took the time and
4 effort and to explain so that the parties would go along
5 with it.
6 That exceptional exercise of their discretion does
7 not mean that the parties imposed a mandatory
8 requirement on them to provide reasoning in the sense
9 that the Government insists. On the contrary, it again
10 confirms the experts' exceptional diligence and devotion
11 to trying to have this dispute resolved once and for
12 all.
13 Simply put, there is no way to derive from the
14 parties' agreement a requirement for a reasoned
15 decision, and that is why the Government has gone and
16 characterised this as a mandatory criteria and relied on
17 general principles, peremptory principles, mandatory
18 principles of law. That is why it has turned to the ICJ
19 statute, Article 56(1), the ICSID Convention,
20 Article 48(3), the ILC model rule on arbitral procedure,
21 Article 29, and sundry arbitration rules.
22 The sources that the Government cites, though, do
23 not begin to establish the existence of a "general
24 preemptory principle". In fact, the sources that the
25 Government cites are narrow and unrepresentative,

Page 219

17:27 1 limited almost entirely to particular types of
2 international arbitration which the Government's counsel
3 are more comfortable with.
4 The Government's sources do not address the
5 overwhelming majority of adjudications which arise in
6 national courts, in administrative tribunals, in expert
7 determinations or in arbitration regimes not cited by
8 the Government.
9 The Government's handful of citations to some
10 arbitration regimes does not remotely sustain its
11 sweeping claims to a universal peremptory norm. In
12 fact, when the relevant legal authorities are considered
13 with any seriousness they flatly contradict the
14 Government's claims, even in the arbitration context.
15 While some legal systems require reasoned arbitral
16 awards, subject to contrary agreement by the parties,
17 many other very sophisticated legal systems do not
18 impose any such requirement. Moreover, most legal
19 systems refuse to permit the annulment or to deny
20 recognition of unreasoned awards, precisely because the
21 requirement for reasons is not considered mandatory.
22 Finally, when one ventures outside the Government's
23 chosen category of arbitral awards in the investment and
24 some commercial contexts, it is absurd to claim that
25 there's some general, peremptory, universal rule

Page 220

Trevor McGowan
info@TMGreporting.com

17:29 1 requiring all adjudicative decisions to be reasoned.
2 The authorities demonstrating these conclusions are
3 discussed in our reply memorial. In summary, there's no
4 requirement for a reasoned award, mandatory or
5 otherwise, in the New York or Inter-American
6 Conventions. National law on the subject is diverse.
7 Although a number of states require reasoned awards,
8 virtually none do so mandatorily.
9 Moreover, as you can see from the current slide,
10 a number of important jurisdictions do not require
11 reasoned arbitral awards. The commentary to the
12 UNCITRAL Law records/describes that practice.
13 It's also useful to consider -- because the
14 Government hasn't -- African states, including Sudan,
15 which has some relevance to this case. A leading
16 commentator concludes there:
17 "The Arbitral Tribunal is not required to provide
18 reasons for its award unless the Arbitration Agreement
19 provides otherwise."
20 That is not an unusual rule; it's the same rule in
21 the United States; it's the same rule, as I'm sure
22 Professor Pellet can tell us, in France in international
23 cases. Needless to say, this national diversity
24 contradicts the Government's claim that there is some
25 general peremptory principle that requires all awards to

Page 221

17:30 1 be reasoned.
2 Moreover, in many jurisdictions which require awards
3 to be reasoned, violation of that requirement is
4 emphatically not a basis for annulment or
5 non-recognition. That's explained by the commentary
6 from the Austrian Yearbook on the current slide.
7 In other jurisdictions the failure to provide
8 reasons is not grounds for denying recognition to
9 a foreign award. Indeed, that's the overwhelming
10 treatment of unreasoned foreign awards under the
11 New York and Inter-American Conventions. These
12 authorities are impossible to reconcile with the
13 Government's claimed peremptory general principle, even
14 when you only look at arbitral awards.
15 Moreover, the Government's claim is not just that
16 there is a peremptory rule requiring all arbitral awards
17 to be reasoned, but that the rule requires all
18 adjudicative decisions to be reasoned. The Government
19 of course provides no authority to sustain that. It
20 cites no general principle of law from Cheng or
21 somewhere else that might stand for that principle,
22 because nobody would ever say it.
23 The Government has not, despite the opportunity to
24 do so, responded to our counter-examples, the very
25 obvious counter-examples of civil jury verdicts in most

Page 222

17:31 1 common law countries, which are completely unreasoned.
2 Nor has the Government provided a single authority
3 addressing expert determinations, which is of course
4 more analogous to this case.
5 Moreover, nothing that the Government has cited,
6 aside from its rhetoric, applies to a boundary
7 commission with an investigative mandate like that of
8 the ABC.
9 It's the Government's burden to sustain the
10 existence of its universal peremptory norm. It's the
11 Government's burden to prove that, and it has not done
12 so. It has instead made fun, made light of the number
13 of authorities that we have cited when it is its burden
14 to in fact prove the existence of a rule that would
15 result in setting aside the ABC experts' report.
16 Putting all that aside, even if one were to assume,
17 contrary to fact, that there was some rule somewhere
18 that required the experts to have delivered a reasoned
19 decision, any such requirement would have been violated
20 only in the most exceptional cases. It obviously would
21 not be grounds for challenging the substance of the
22 experts' analysis. Indeed, even if such a requirement
23 could be demonstrated, there would be no basis for
24 concluding that it was grounds at all for invalidating
25 the experts' report.

Page 223

17:33 1 The Government pretends not to dispute much of this.
2 It acknowledges that:
3 "The only question to be answered at the present
4 stage is not whether the experts have given convincing
5 reasons, but whether they have given any reasons, right
6 or wrong, in support of their decision."
7 Despite this, the Government argues elsewhere that:
8 "What is lacking in the report is not number of
9 pages but number of reasons on crucial and decisive
10 points."
11 Likewise the Government says that there are
12 supposedly crucial gaps in the argumentation of the
13 experts.
14 First, the Government misconceives the standard for
15 reasoned awards, even in those relatively isolated legal
16 systems and contexts where reasoning would be required.
17 The Government would require the decision-maker to
18 produce reasons, even a substantial number of reasons,
19 addressing every decisive or crucial point in the
20 decision.
21 That standard is not the law. It's certainly not
22 the universal peremptory norm. It is nothing more than
23 an invitation by the Government to dissect the
24 decision's reasoning in the hope of finding some
25 allegedly crucial or decisive sub-point in the analysis

Page 224

Trevor McGowan
info@TMGreporting.com

17:34 1 where the reasoning was unclear or missing. That is not
2 the purpose of a requirement for a reasoned award, which
3 serves instead only to ensure that the decision-maker
4 considered the parties' arguments and the evidence.
5 The proper standard for a reasoned award in those
6 few cases where the requirement exists -- few cases in
7 the overall spectrum of adjudicative decisions
8 universally -- is described in the commentary to
9 Article 30(c) of the Draft ILC Convention on arbitral
10 procedure.
11 There is some profound irony here that I am
12 explaining the content of the Government's alleged
13 substantive mandatory peremptory rule. You heard
14 nothing yesterday about the content of that rule; you
15 heard rhetoric. But I will try and explain what, if
16 such a peremptory rule existed, it might say:
17 "An award will be null if it is totally lacking in
18 reasons, both as to fact and as to law. Numerous
19 authorities are in accord. This view has been adopted
20 in the present draft [referring to the ILC Convention]."
21 This is repeated elsewhere in the commentary, which
22 states that only an award without reasons is open to
23 challenge.
24 A leading author on international commercial
25 arbitration adopts the same view, concluding that:

17:35 1 "... only total lack of reasons should lead to
2 setting aside."
3 The same analysis is followed by Carlston in the
4 state-to-state context. He flatly rejects the notion
5 that a reasoned award must address all topics or steps
6 in a decision-maker's analysis. You can see the quote
7 on the slide, but he says:
8 "The claim that on certain aspects of the opinion
9 reasons were lacking cannot reasonably be considered to
10 result in the nullity of the entire decision."
11 Other authorities, which you can see on the current
12 slide, are to the same effect.
13 These standards leave no room for the Government's
14 complaint that the ABC report had gaps in its
15 argumentation. Even if the experts' report had
16 contained gaps, obvious errors or non sequiturs, it
17 remained a reasoned decision. As I discussed earlier,
18 the 45-page report contained a detailed analysis of nine
19 propositions, and a thorough explication of the experts'
20 reasoning and conclusions. Indeed, as I also said
21 previously, the experts' report compared very, very
22 favourably to many national court judgments,
23 international arbitral awards, and rulings by other
24 decision-makers. It is, quite frankly, impossible to
25 consider the report as exhibiting a total lack of

17:36 1 reasons, or as coming anywhere close to the standard of
2 an unreasoned award.
3 In any case, the ABC report also fully satisfied
4 even the Government's untenable standard for a reasoned
5 award. It's clear that when you work through the report
6 in a way which the Government stubbornly refuses to,
7 that the experts diligently considered all the parties'
8 submissions. These were summarised in its report and in
9 appendix 3, as well as in the nine propositions
10 discussed in the report.
11 It's also clear that the experts considered the oral
12 evidence with care, referring to that in the report, and
13 in appendix 4, as well as in the propositions. And the
14 experts carefully addressed the documentary evidence and
15 maps, again referred to throughout the report with
16 detailed citations and described in appendices 5 and 6.
17 The experts plainly devoted thorough attention to all
18 the evidence that they had gathered, that the parties
19 presented, and their report reached careful, considered
20 conclusions on the weight and meaning of that evidence.
21 It's also clear that the experts approached the
22 issues logically and with great expertise. Even if one
23 were to disagree with aspects of the report, it's
24 impossible not to acknowledge that it represents
25 a serious and scholarly effort to delimit the Abyei

17:38 1 Area.
2 In particular, as required by Article 5.1 of the
3 Protocol, the report carefully addressed the question of
4 defining the Abyei Area. And consistent with their
5 interpretation of Article 1.1.2 of the Abyei Protocol,
6 the experts analysed the facts to determine, in their
7 words, "as accurately as possible" the area of the nine
8 Ngok Dinka chiefdoms as it was in 1905. That was more
9 than enough to satisfy the Government's demand that the
10 experts provide a reasoned decision on all crucial
11 points.
12 The Government may disagree with the experts'
13 conclusions and argumentation, but the inescapable
14 reality is that the ABC report set forth reasoning to
15 support the experts' definition and delimitation of the
16 Abyei Area. Defining the Abyei Area was the experts'
17 mandate, and they provided reasoning explaining how they
18 did so.
19 The Government nonetheless pretends to identify "two
20 illustrations" of the experts' supposed failure to
21 provide reasons. And we heard various iterations of
22 this, at least so far as I could follow, yesterday.
23 The first: the rejection of the Bahr el Arab as the
24 northern boundary of the Abyei Area in proposition 7.
25 Second: the selection of 10°10' north as the southern

Trevor McGowan
info@TMGreporting.com

17:39 1 boundary of the shared secondary rights area, in
2 proposition 8. As we've seen, that's morphed, if you
3 will, transmuted into a critique about the selection of
4 10°35' north, and I'll address both of these points.
5 On their face, these criticisms are insufficient to
6 warrant disregarding the experts' report. As we have
7 seen, the fact that there are supposedly crucial gaps is
8 not a basis for challenging the report.
9 In any case, whatever standard one applies, the
10 Government's two illustrations do not advance its case.
11 First, the Government argues that the experts failed to
12 explain their rejection of proposition 7. According to
13 the Government, the experts wrongly concluded that
14 references to the Bahr el Arab prior to 1908 should be
15 understood as references to the Ngol/Ragaba ez Zarga and
16 that:
17 "... if the Ragaba ez Zarga was the southern
18 boundary of the province of Kordofan in 1905, then the
19 transferred area must have been south of the
20 Ragaba ez Zarga."
21 The Government concludes:
22 "Yet the experts provide no reason whatever for then
23 abandoning the Ngol/Ragaba ez Zarga in favour of a line
24 much further to the north."
25 Essentially the Government says: the experts

17:41 1 concluded that the Kiir/Bahr el Arab was not really the
2 Bahr el Arab and instead it was the
3 Ngol/Ragaba ez Zarga, and since the experts concluded
4 that that is what was really the Bahr el Arab, they
5 should have treated that as the boundary, and since they
6 didn't do that, they were both wrong and they failed to
7 explain their reasoning.
8 (a) The experts weren't wrong, we will see tomorrow;
9 and (b) they explained their reasoning perfectly
10 clearly, frankly much more clearly than the Government
11 has explained its objections.
12 The Government's objection is again nothing more
13 than a disagreement with the experts' substantive
14 interpretation of the definition of the Abyei Area. The
15 experts' report noted correctly that there was
16 substantial geographic confusion about the identity and
17 location of the river called the Bahr el Arab at the
18 time of the 1905 transfer of the Ngok Dinka.
19 I would note that this is an issue that the experts
20 identified, a historical point that they identified on
21 their own, without the assistance of the parties. It
22 was an important historical conclusion, now accepted by
23 both parties, and it was to the credit of the experts
24 that they identified it.
25 The report also noted that there was therefore

17:42 1 confusion, because of the misunderstanding about what
2 the Bahr el Arab was, about the location of what was
3 considered by some to be the Kordofan/Bahr el Ghazal
4 provincial boundary, which was sometimes identified as
5 the Bahr el Arab.
6 As a consequence of that geographic confusion, the
7 experts concluded that in practice Anglo-Egyptian
8 administrators generally treated what was the
9 Ngol/Ragaba ez Zarga as the boundary between the
10 Kordofan and Bahr el Ghazal. In the experts' words:
11 "The Ragaba ez Zarga/Ngol rather than the river
12 Kiir, which is now known as the Bahr el Arab, was
13 treated as the province boundary ['treated as the
14 province boundary'] in practice by some of the
15 Condominium officials."
16 We'll go into this issue, which I apologise for,
17 it's admittedly confusing, it reflects the geographic
18 confusion at the time, but it's quite clear how the
19 experts addressed this issue in their report.
20 The Government contends that having supposedly
21 decided that the Bahr el Ghazal/Kordofan boundary was
22 really the Ngol/Ragaba ez Zarga, the experts then
23 wrongly ignored that boundary in defining the Abyei
24 Area.
25 Even if that were correct, it would not be a lack of

17:43 1 reasoning. The fact that the experts wrongly ignored
2 the provincial boundary would not be an absence of
3 reasoning but an error of substance, which is not
4 grounds for invalidating the ABC report.
5 In any case, the Government's criticism on this
6 point of the experts' reasoning is wrong substantively
7 and it's wrong because the experts also explained quite
8 clearly what it is their analysis was.
9 First, the experts did not accept the Government's
10 argument that the Abyei Area must be defined as only
11 that area south of the Kordofan/Bahr el Ghazal boundary.
12 Instead, as we have seen, as I've discussed at some
13 length, the experts stated at the outset of their report
14 that they defined the Abyei Area as "the area of the
15 nine Ngok Dinka chiefdoms as it was in 1905".
16 This was the same interpretation of the Abyei Area,
17 definition of the Abyei Area, that the experts had
18 consistently used throughout the ABC proceedings. We
19 can see it on the current slide again. As we're going
20 to see tomorrow, it was exactly the right definition.
21 Applying this definition, the location of the
22 putative Kordofan/Bahr el Ghazal boundary was irrelevant
23 to defining the Abyei Area. The decisive issue which
24 the experts referred to as what they were doing was the
25 extent of the territory of the nine Ngok Dinka chiefdoms

Trevor McGowan
info@TMGreporting.com

17:45 1 as they stood in 1905, not the location of the putative
2 provincial boundary, whether it was the Kiir, the Ngol,
3 the Lol, the Nyamora or some other river. That was
4 simply irrelevant to the question of the territory of
5 the nine Ngok Dinka chiefdoms.
6 As the experts' definition made clear, it simply did
7 not matter to the definition of the Abyei Area whether
8 the provincial boundary was one river or another. As we
9 will see tomorrow, the experts' decision, its analysis,
10 was exactly right, and that provides a complete answer
11 to why the experts very properly ignored the
12 Ngol/Ragaba ez Zarga in defining the Abyei Area.
13 Second, and independently -- this is another
14 separate reason -- the ABC report also relied on the
15 geographical confusion at the time, and in particular
16 confusion as to the location of the provincial boundary
17 between Kordofan and Bahr el Ghazal. As a consequence,
18 the experts concluded -- and this is a very important
19 sentence:
20 "The Ngok people were regarded [by the Condominium
21 officials] as part of Bahr el Ghazal province until
22 their transfer in 1905."
23 It's important to look at that sentence and read it.
24 The Government doesn't. But the experts concluded that
25 the Ngok people -- it doesn't talk about a transferred

Page 233

17:46 1 area, but the Ngok people -- were regarded as part of
2 Bahr el Ghazal province until their transfer. The
3 reference is to a tribal, not a territorial transfer in
4 1905.
5 Based on this conclusion, the experts rejected the
6 Government's argument that:
7 "The only territory transferred to the
8 administration of Kordofan province in 1905 was this
9 territory lying immediately to the south of the
10 Bahr el Arab, occupied by both Ngok and Twic Dinka."
11 That was a proposition that was put to the experts;
12 they rejected it for the reasons that I have explained
13 and that they explained. Instead the experts concluded
14 that the Ngok had been treated by the Condominium
15 administrators as part of Bahr el Ghazal, and had been
16 transferred to Kordofan as a tribal people in 1905.
17 Put simply, the experts concluded that the
18 Condominium officials had transferred all the Ngok and
19 their territory to the administration of Kordofan in
20 1905. This again led the experts to the conclusion that
21 the Abyei Area was defined as the area of the nine
22 Ngok Dinka chiefdoms as it was in 1905.
23 Based on this analysis, the experts then proceeded
24 to delimit the area of the nine Ngok Dinka chiefdoms
25 which were transferred to Kordofan in 1905 to include

Page 234

17:48 1 significant territory north of both the
2 Kiir/Bahr el Arab and the Ngol/Ragaba ez Zarga.
3 That conclusion was in no way in tension with the
4 experts' conclusions regarding the treatment of the
5 Ngol/Ragaba ez Zarga as the boundary between Kordofan
6 and Bahr el Ghazal by some Condominium officials. As
7 the experts correctly explained, that is because the
8 provincial boundary was not decisive for the definition
9 of the territory of the nine Ngok Dinka chiefdoms as
10 they stood in 1905.
11 The Government may disagree with the experts' view
12 that there was a tribal transfer in 1905, but that was
13 what the experts found as a matter of historical fact.
14 The Government's substantive disagreement with that
15 factual evidentiary finding is not the basis for
16 an excess of mandate claim.
17 Although the foregoing historical and geographical
18 issues were factually complex -- they are, I get
19 confused as I go through it; I'm sure that the endless
20 references to tribal territories and transfers is
21 confusing -- that's why historical experts were picked
22 to decide this.
23 Despite that complexity, when you read it carefully,
24 the ABC report dealt coherently and logically with those
25 issues. The experts not only set forth their reasoning,

Page 235

17:49 1 but they set it forth in clear and compelling terms.
2 The suggestion that the experts' analysis of this point
3 was unreasoned is simply and completely wrong.
4 The Government also attacks the experts' reasoning
5 with regard to proposition 8, arguing that:
6 "There is simply no justification for latitude
7 10°10' north in the experts' report."
8 According to the Government there is not a single
9 reference to latitude 10°10' in the report or in the
10 relevant appendices. You can see the cites to the
11 Government's submissions on the slide.
12 That criticism is again wrong. At best it is
13 an unfounded disagreement with the substance of the
14 report. When you actually consider the report, it is
15 impossible to fault the experts' conclusions.
16 The experts' discussion of proposition 8 followed
17 from their treatment of proposition 7, which we just
18 discussed. In proposition 8 the experts addressed the
19 extent of the territory used by the nine Ngok Dinka
20 chiefdoms in 1905. In answering this question the
21 experts forthrightly acknowledged the evidentiary
22 obstacles they faced. They wrote:
23 "We do not have a detailed and systematic
24 description of Ngok settlement and land use patterns
25 throughout the Condominium period."

Page 236

Trevor McGowan
info@TMGreporting.com

17:50 1 And:
2 "There is as yet no clear independent evidence
3 establishing the northernmost boundary of the area
4 either settled or seasonally used by the Ngok."
5 In the face of those obstacles the experts observed
6 at page 43 -- and this is important reasoning:
7 "There is general agreement from other sources ...
8 that the band of goz intervening between the Homr
9 Messiriya permanent territory and the Ngok permanent
10 settlements is settled by nobody, that it is an area to
11 be traversed rather than occupied, and that there is
12 regular seasonal use of the goz by both peoples."
13 The experts also observed at page 44 that the goz
14 lay between latitudes 10°10' north and 10°35' north. In
15 the experts' words:
16 "The goz belt is roughly contained within those
17 limits."
18 The Government has not challenged those factual
19 conclusions in any of its various submissions.
20 The Government claims nonetheless that nowhere in
21 the report is there the least explanation of why the
22 experts fixed the limit of Ngok Dinka dominant rights at
23 this place, that is 10°10' north latitude. This is at
24 transcript page 151, line 9 from yesterday.
25 That is simply wrong. As we've seen, the experts'

17:52 1 report discussed the extent of Ngok Dinka territory in
2 1905 in detail. That's at pages 18 to 20 and 41 to 44
3 of their report. After these five pages of historical
4 analysis, the experts concluded that they had found:
5 "... sufficient evidence, therefore, to accept Ngok
6 claims to permanent land rights southwards from latitude
7 10°10' north."
8 That's at page 44. That statement plainly expresses
9 the rationale, the reasoning for the experts'
10 determination. The Government may disagree as a factual
11 matter, but that is reasoning, that is an explanation of
12 the rationale.
13 Moreover, when you look at the report, it also
14 carefully explained the evidence on which this reasoning
15 was based, just as you would expect from distinguished
16 scientists. The experts explained:
17 "There is general agreement from other sources that
18 the band of goz intervening between the Homr permanent
19 territory and the Ngok permanent settlement is a band of
20 territory settled by no one."
21 In the same discussion the experts clearly said that
22 the goz lay generally between 10°10' north and 10°35'
23 north. In the experts' words:
24 "The goz belt is roughly contained within these
25 limits."

17:53 1 The Government's argument simply ignores this
2 analysis by the experts. Even a minimally careful
3 reading of the report shows that the experts explained,
4 by careful reference to the evidence, precisely why they
5 adopted the 10°10' north line: because the evidence
6 showed that Ngok villages were located widely throughout
7 the Bahr river basin, extending up to the southern
8 boundary of the goz at 10°10' north, after which began
9 unoccupied area, to the north of 10°10' north. That
10 satisfies any conceivable requirement for reasons.
11 When the Government claims therefore that there is
12 not a single reference to latitude 10°10' north in the
13 report or in the relevant appendices, and that there is
14 no evidence supporting the 10°10' parallel, its
15 statements are demonstrably wrong. Those statements
16 ignore the fact that the ABC report expressly equates
17 latitude 10°10' north with the southern boundary of what
18 it calls the goz. That is a complete answer to the
19 Government's claim.
20 Perhaps recognising this, the Government's rejoinder
21 claimed for the first time -- and we heard this
22 yesterday -- that the 10°35' latitude, as the limit of
23 Messiriya rights, finds absolutely no justification in
24 the report. Having failed to demonstrate that there was
25 inadequate reasoning for latitude 10°10', they turn

17:54 1 their attention to latitude 10°35'.
2 That claim is again, with respect, complete
3 nonsense. As the experts clearly explain, they regarded
4 latitude 10°10' as the northern limit of the goz, and
5 they accepted that Messiriya territory began immediately
6 to the north.
7 Again, even if someone disagreed with these factual
8 findings, it is literally nonsense to complain, as the
9 Government does now, that the report provide inadequate
10 reasoning about these issues.
11 The Government claimed yesterday in its oral
12 submissions that the experts' only explanation for their
13 use of 10°35' north was that the SPLM/A had not claimed
14 anything more. That's at transcript page 144, line 8.
15 That's false. As we have seen, the experts specifically
16 concluded that 10°35' north was the northern extent of
17 the goz. They were scientists, and they concluded that
18 based on their assessment of the historical and
19 environmental facts. Again, it is impossible to read
20 the experts' discussion of that issue and reach any
21 other conclusion.
22 The experts' report then went on and accepted the
23 existence of both Ngok and Messiriya secondary rights to
24 area between the two sides of the goz, 10°10' north and
25 10°35' north. It also explained why the character of

Trevor McGowan
info@TMGreporting.com

17:56 1 the goz, not occupied by either tribe, made it
2 an appropriate boundary strip.
3 Having reached that conclusion, the experts then
4 reasoned that, given the parties' equal secondary rights
5 to the goz, and applying applicable legal principles, it
6 was appropriate to divide that area equally between the
7 parties with the boundary drawn at 10°22'30" north.
8 One may not agree as a factual matter that the goz
9 is actually uninhabited. One may not agree that the goz
10 starts or ends at latitudes 10°10' north or 10°35' north
11 throughout the entire Abyei Area. Indeed, you will see
12 in two days that the SPLM/A does not agree entirely with
13 that factual definition of the goz. But it is
14 impossible to assert that the ABC report does not make
15 any reference to latitude 10°10' north or 10°35' north;
16 it indisputably does.
17 Equally, it's impossible to assert that the experts'
18 statement that they were dividing the goz located
19 between 10°10' north and 10°35' north equally between
20 the parties does not provide a reasoned explanation for
21 why latitude 10°22'30" is the northern boundary of the
22 Abyei Area.
23 I'm going to move on to the Government's next
24 complaint, trying to keep within our time limits. The
25 Government also complains that the experts rendered

17:57 1 a decision ex aequo et bono, or alternatively
2 an equitable decision, and my previous discussion leads
3 nicely into that. This complaint rests on the ABC
4 report's statement that:
5 "The two parties lay equal claim to the shared
6 areas, and accordingly it is reasonable and equitable to
7 divide the goz between them."
8 The Government asserts that this finding violated
9 mandatory criteria that supposedly forbid
10 ex aequo et bono decisions absent express consent.
11 The Government's argument is again frivolous. The
12 experts manifestly did not render an ex aequo et bono
13 decision; and in any case, even if they had, there was
14 no prohibition against the experts doing that.
15 Preliminarily, the Government does not, of course,
16 suggest that the entire ABC report was
17 an ex aequo et bono decision. It instead says that the
18 division of the goz at the northern boundary of the
19 Abyei Area 50/50 between the parties was a purely
20 equitable division constituting an ex aequo et bono
21 decision. That is fundamentally wrong, and you only
22 have to read the report to see it.
23 The basis for the experts' division of the goz is
24 set forth in discussions under propositions 8 and 9, and
25 in appendix 2, an appendix which remarkably wasn't

17:59 1 mentioned in the Government's ex aequo et bono decision.
2 And when the experts' treatment of the issues in those
3 parts of its report is considered with even minimal
4 care, it is clear that the experts did not adopt
5 an ex aequo et bono decision, either generally or with
6 regard to the goz specifically.
7 In proposition 8, as we've seen, the experts
8 concluded that the area of the goz between latitudes
9 10°10' north and 10°35' north was used on a seasonal
10 basis by both the Ngok and the Messiriya, with both
11 peoples possessing what the experts called "secondary
12 rights". In the words of the ABC report:
13 "In the goz the two communities exercised equal
14 secondary rights to use of the land on a seasonal
15 basis."
16 The Government does not challenge the factual
17 accuracy of these statements.
18 In proposition 9 at page 44 the experts observed
19 that:
20 "The area between 10º10' north and 10º35' north
21 represents the area of secondary rights shared between
22 the Ngok and Messiriya."
23 The experts then reasoned that:
24 "Based on the legal principle of the equitable
25 division of shared secondary rights, the northern

18:00 1 boundary of the Abyei Area should fall within the zone
2 between 10º10' north and 10º35' north."
3 The report then went on, given the parties' equal
4 secondary rights of seasonal usage in the goz, to:
5 "... place the boundary at 10º22'30" so as to bisect
6 equally the band between 10º10' north and 10º35 north."
7 The experts summarised this as follows at page 21:
8 "The border zone between the Ngok and the Misseriya
9 falls in the middle of the goz roughly between latitudes
10 10º10' and 10º35' north."
11 The experts then addressed the subject of land
12 rights in appendix 2. That appendix distinguished
13 between land rights and land ownership, and identified
14 three categories of land rights: (1) dominant occupation
15 leading to exclusive rights; (2) dominant occupation
16 leading to common exclusive primary or secondary rights;
17 and (3) shared secondary rights in boundary areas such
18 as the goz.
19 Based on that assessment of the legal regime
20 applicable in 1905 Sudan, appendix 2 concluded that:
21 "The implication of all of this is that the
22 principles of equity, substantive justice and fairness
23 shall guide the drawing of the lines within the
24 territory of the share secondary rights."
25 The experts cited a number of legal authorities

Trevor McGowan
info@TMGreporting.com

18:01 1 establishing the existence of these legal principles to
2 which they referred.
3 The experts division of the goz between the parties
4 in this manner was plainly not a decision
5 ex aequo et bono. Let's look at why.
6 First, the experts delimited a particular region
7 between 10º10' north and 10º35' north as to which
8 a particular category of legal rights, shared secondary
9 rights as opposed to primary or exclusive rights, were
10 enjoyed in what the experts concluded was equal measure
11 by the Ngok and the Messiriya.
12 The experts made their decision with regard to the
13 goz only after they had determined that the Ngok and
14 Messiriya possessed equal secondary rights of seasonal
15 usage in that area, leading the experts to adopt a line
16 that bisected equally the goz.
17 In these circumstances, where two parties enjoy
18 equal rights to the same territory, it is not a decision
19 ex aequo et bono to divide the territory equally between
20 them; rather, that is simply a decision made on the
21 basis of the two parties' respective and equal
22 historical use and rights to the same territory.
23 Moreover, the ABC report relied expressly on legal
24 principles of land law mandating this equal division.
25 The principle was "the legal principle of the equitable

18:03 1 division of shared secondary rights". As we have seen,
2 that was the principle which the experts had referred to
3 in appendix 2 and supported by citations to legal
4 authority.
5 The correctness of the experts' understanding of the
6 law of Sudan in 1905 and how that law might have been
7 applied in Kordofan and Bahr el Ghazal is irrelevant for
8 these purposes. What is important is that the experts
9 resolved the question of the parties' rights to the goz
10 by reference to specific legal principles.
11 Even if the experts erred in their understanding of
12 these principles, they plainly did not render a decision
13 ex aequo et bono. Rather, they applied what they took
14 to be and concluded after analysis was the law in
15 carefully defined circumstances of shared and equal
16 secondary rights in a specifically delimited territory.
17 That is in no way a decision ex aequo et bono; it
18 was a wise resolution of a problem based on a careful
19 appreciation of those facts that could be ascertained
20 and analysis of that law which could be identified.
21 Indeed, it was analysis of the law by one of Africa's
22 leading land rights authorities, who said what he
23 concluded the law was, and then the experts then applied
24 that legal principle.
25 Again, this is a circumstance in which international

18:04 1 arbitration practitioners on both sides of the table can
2 show some humility. Professor Gutto understood African
3 land rights law, he explained what he understood it to
4 be, and the experts applied that. That is not
5 an ex aequo et bono ex aequo et bono decision, even if
6 in some European jurisdictions there are different
7 rules. It is a decision applying law that demands our
8 respect, and not our contempt.
9 Moving on, even if we put aside the fact that the
10 experts specifically cited and applied a defined legal
11 principle to a particular set of facts, it would be
12 impossible to regard the ABC report as making
13 an ex aequo et bono decision. Rather, even if the
14 experts had just relied on general principles of equity
15 alone, without reference to Professor Gutto's research,
16 that would not convert their decision into
17 an ex aequo et bono decision.
18 A substantial body of authorities from various
19 international sources is described in our reply
20 memorial; I don't have time to discuss it and won't.
21 Finally, although the point is academic, the experts
22 would not have exceeded their mandate even if they had
23 rendered a purely ex aequo et bono decision.
24 As we have seen, the Government concedes there's
25 nothing that forbids in the parties' agreements

18:06 1 an ex aequo et bono decision. Instead the parties
2 contemplated that the experts would base their decision
3 on research and scientific analysis, without saying
4 whether that need be to be applied to law, to
5 ex aequo et bono decisions or to something else. That
6 was not an oversight.
7 In the proceedings before this Tribunal the parties
8 did prohibit an ex aequo et bono decision. They did it
9 by adopting the PCA Rules, Article 33(2) of which says
10 in terms what the status of an ex aequo et bono decision
11 was. That did not exist in the ABC agreements.
12 Indeed, Professor Pellet said yesterday, in
13 specifically addressing the question of
14 an ex aequo et bono ex aequo et bono decision:
15 "Indeed, Mr President, nothing forbids this."
16 The cite to the transcript should be on the slide.
17 Despite this, the Government attempts to construct
18 a mandatory rule that disputes can "only be settled on
19 an ex aequo et bono basis with the express consent of
20 the parties to the dispute.
21 All of the authorities cited by the government on
22 this issue are consensual instruments; that is, the
23 parties must accept the ICJ's jurisdiction or agree to
24 the ICC Rules or similar sorts of instruments. Each of
25 those rules contains a specific requirement requiring

Trevor McGowan
info@TMGreporting.com

18:07 1 the parties' consent in individual cases to
2 ex aequo et bono decisions.
3 Obviously where parties agree to those kinds of
4 rules, just as they have in this arbitration, there is
5 a requirement for express consent to ex aequo et bono
6 decisions. That does not address the point that there
7 is a mandatory peremptory rule forbidding
8 ex aequo et bono decisions in the Government's
9 submission.
10 There, when you look at the authorities detailed in
11 our memorial and that I'm going to very briefly allude
12 to, there is simply no such mandatory peremptory rule.
13 The Government might want there to be, one can imagine
14 it might be a good idea, but it's not what mandatory
15 universally applicable law says.
16 The United States is representative. It's long been
17 settled under United States law and arbitration practice
18 that ex aequo et bono awards are permitted. You can
19 read the authorities on the slide.
20 The same practice is adopted in China, another
21 obviously important jurisdiction. There -- and the
22 Government doesn't seriously dispute this -- a leading
23 commentary remarks:
24 "... in accordance with the Chinese tradition that
25 the Tribunal may decide the case as

18:08 1 amiables compositeurs, even if the parties have not
2 authorised it to act so."
3 Other authorities are to the same effect. I'm not
4 going to go thoroughly through the next slides, but the
5 same is true in Argentina; you can see it in the slide.
6 It is confirmed in the current International Guide to
7 Arbitration in Argentina. Note on the slide that the
8 term "equidad" used in the original Argentinean text is
9 translated as "ex aequo et bono". I will come back to
10 that.
11 Next, the law of El Salvador is the same. Then the
12 law of Panama is similar. Other Latin American
13 legislation is to the same effect. In each case they
14 use the term "equidad" referring to ex aequo et bono.
15 Other national legislation is similar, and it stands
16 squarely in the path of the Government's effort to
17 create a universal peremptory rule.
18 Indeed, when you come to dispute resolution regimes
19 that are more closely analogous to the ABC,
20 ex aequo et bono decisions are even more commonly
21 permitted. That includes the 1926 General Act for the
22 Pacific Settlement of International Disputes and the
23 1957 European Convention for the Peaceful Settlement of
24 Disputes. You can look on the current slides, I don't
25 have time to go through them; they excerpt the relevant

18:10 1 provisions and I think make quite clear that there is no
2 universal peremptory rule against ex aequo et bono
3 decisions.
4 In sum, if the experts had in fact rendered
5 an ex aequo et bono decision, which they did not, there
6 was nothing in the parties' agreements or any general
7 principles of law that would have forbidding it.
8 The Government also argues that the ABC's report in
9 its reference to allegedly unspecified legal principles
10 constitutes a violation of mandatory criteria. The
11 Government's complaint focuses on appendix 2 to the ABC
12 report and on the principle of equitable division of
13 shared secondary rights which I've already referred to.
14 The Government seems to complain that the [experts]
15 should not have applied any law at all or alternatively
16 that the [experts] should have specified more clearly
17 what law [they] applied. Both of those points are
18 completely hopeless.
19 First, the Government makes no effort to reconcile
20 its claim that the experts rendered their decision
21 ex aequo et bono with its complaint that the experts'
22 decision wrongly relied on legal principles, nor does
23 the Government cite any legal authority that might
24 establish the mandatory principles that it relies on.
25 Second, there was nothing in the parties' agreements

18:11 1 that forbade the experts from considering legal
2 principles. Indeed the logical predicate for the
3 Government's ex aequo et bono argument is that the
4 experts were required to consider legal principles. In
5 any case, insofar as the experts concluded that it was
6 relevant to consider issues of land rights, the status
7 of boundaries or other legal matters, the parties'
8 agreements left them entirely free to do so.
9 There was nothing in the parties' agreements that
10 required the experts to specify the source of the legal
11 principles that they applied. Certainly many national
12 court judgments and arbitral awards apply legal
13 principles without identifying their precise source, and
14 in any event the experts did cite to authority in a way
15 that would make Law Review editors quite proud.
16 Finally, and in any event, the experts referred
17 specifically to the nature of the principles that they
18 applied, they referred to the law in "former British
19 colonies and protectorates, including Sudan
20 (a Condominium)" and "Sudan" at the "time of the
21 Condominium".
22 It's not surprising that the experts cited
23 meticulously to applicable law. One of the five
24 experts, as we have seen, Professor Gutto, knows more
25 about African land law than anybody in this room, and he

Trevor McGowan
info@TMGreporting.com

18:12 1 took care of this aspect of the appendix. The
2 Government's suggestion that the report was somehow
3 deficient because of a reference to unspecified legal
4 authorities is something that has no basis in the law
5 and no basis in the experts' report.
6 Finally, the Government argued that the ABC report
7 was really secretly motivated by the five ABC experts'
8 unarticulated desire for allocate Sudan's oil resources
9 to the Abyei Area. This is a hopeless submission that
10 I won't spend much time on.
11 First, that claim is impossible to reconcile with
12 the terms of the ABC report. As we have seen, the
13 report explained in detail exactly how the boundaries of
14 the Abyei Area were chosen.
15 The Government claims that "one could infer that the
16 north-eastern turning point of the boundary for the
17 Abyei Area in the north was chosen" for the purpose of
18 enveloping the oilfields. The Government's suggestion
19 is apparently that one may infer that the experts'
20 decision to select longitude 29º32'15" east as the
21 eastern boundary of the Abyei Area was improperly
22 motivated.
23 The Government's speculation about what one could
24 infer is not the basis for a serious legal challenge to
25 the experts' decision. Unsupported and hypothetical

18:14 1 inference about reasons for a decision does not remotely
2 constitute a ground for invalidating or disregarding
3 that decision.
4 In any case, if you look carefully at the report, or
5 even not too carefully, the Government's speculation is
6 completely wrong. In questioning the latitude selected
7 for the Abyei Area's eastern boundary, the government
8 ignores the fact that the coordinates of the eastern
9 boundary were advanced by the SPLM/A and not opposed by
10 the Government. As the ABC report explained:
11 "The SPLM/A's sketch map of the Abyei Area places
12 the northern boundary at latitude 10º35 running from the
13 current Darfur boundary in a straight line east to
14 approximately longitude 29º32'15" east."
15 In response the Government did not put forth any
16 alternative arguments but instead advanced only its
17 primary claim that the Abyei Area was located entirely
18 south of the Kiir; that is, the Government offered no
19 evidence and made no claims regarding where the eastern
20 boundary of the Abyei Area should lie if the experts
21 concluded that the northern boundary was above the Kiir.
22 Given this, it's perfectly understandable that the
23 experts would adopt the boundary line claimed by the
24 SPLM/A and not challenged by the Government. Indeed,
25 that is one of the justifications given by the experts

18:15 1 in their report:
2 "As neither the Ngok nor the SPLM/A have presented
3 claims to the east of longitude 29°32'15" it is
4 reasonable to take this line as the eastern boundary."
5 Far from the experts having some secret motivation
6 for selecting 29°32'15" east as the eastern boundary,
7 this is precisely what the parties' respective claims
8 provided for, and precisely what the experts said had
9 been one of their motivations.
10 In any case, both geography and evidence left the
11 experts with few options other than to fix the eastern
12 boundary of the Abyei Area at 29°32'15" east. That's
13 clear if one takes the time to look at a map of the
14 Abyei Area and the evidence from the ABC proceedings.
15 When the experts concluded that the northern
16 boundary of the Abyei Area was at approximately
17 10º22'30", they then faced a situation in which no
18 natural cut-off line, if you will, existed to create
19 an eastern boundary. Indeed, we can see on the slide
20 that the 10º22'30" line continues uninterrupted by other
21 internal boundaries all the way to the
22 Kordofan/Upper Nile boundary.
23 What the experts then did was to draw what you might
24 call a dogleg, extending south from the northern
25 boundary of the Abyei Area, in order to establish the

18:17 1 area's eastern boundary.
2 The dogleg which the experts adopted was drawn by
3 extending the existing line -- and you can see this on
4 the current slide -- of the Kordofan/Upper Nile
5 boundary, down at the bottom, at longitude 29°32'15"
6 east due north, to intersect with latitude 10º22'30".
7 You can see that on the current slide just at the point
8 where the Kordofan Upper Nile boundary makes a roughly
9 60-degree turn to the north-east.
10 The resulting perpendicular line, which you can now
11 see dotted on the slide, drawn north from the existing
12 Kordofan/Upper Nile boundary, provides a completely
13 neutral explanation for the eastern boundary of the
14 Abyei Area. It's not that the experts had some secret
15 desire to include oilfields or something else inside the
16 Abyei Area; it's because the existing
17 Upper Nile/Kordofan boundary provided a perfectly
18 logical way to draw the boundary.
19 Moreover, the evidence in the ABC proceedings
20 established that in 1905 the Ngok were located in areas
21 very close to the 29°32'15" east line. In particular,
22 the evidence which we're going to look at in the next
23 few days showed Ngok settlements at Miding, called
24 Heglig in Arabic, and Anyak, which lie just to the west
25 of the line fixed by the experts at the eastern

Trevor McGowan
info@TMGreporting.com

18:18 1 boundary.
2 That evidence was set forth in the SPLM/A's final
3 presentation, page 35, and I think you've been shown it
4 in the slides, and it was testified to in front of the
5 experts by Ring Makuac Dhel Yak and Ring Makwac Dhool.
6 Given that evidence, it would have been wrong for the
7 experts to have excluded these Ngok settlements from the
8 Abyei Area by drawing the eastern boundary further west.
9 The Government also refers in passing to
10 Dr Johnson's interview in the Sudan Tribune. The
11 Government has not had -- whether it's the courage or
12 the recklessness -- to challenge Dr Johnson or any of
13 the other experts. It has not challenged their
14 impartiality either in the ABC proceedings, nor has it
15 had the courage to make an impartiality challenge in
16 this proceeding. It has instead referred vaguely to
17 doubts about his impartiality.
18 I should emphasise: the experts' report on this
19 issue was unanimous. All of the experts agreed to the
20 very neutral, logical explanation that exists for the
21 eastern boundary of the Abyei Area.
22 The interview which the Government cites with regard
23 to Dr Johnson does nothing of the sort that the
24 Government claims. The Government treats this interview
25 as some sort of smoking gun admission by Dr Johnson that

18:20 1 he had some sort of partiality. That is completely
2 false when you read the interview. All Dr Johnson says
3 is that where the line of the Abyei Area was drawn,
4 where the boundaries were drawn would have an effect on
5 the oil resources.
6 That was obvious. It is as clear as day that where
7 the experts drew the line would have an effect on the
8 allocation of the oil resources. Observing that point
9 in no way suggests partiality one way or the other.
10 In fact, the only time that oil resources were
11 mentioned in the presentations to the ABC was by
12 Ambassador Dirdeiry, who said exactly what Dr Johnson
13 said in the Government's presentation to the experts.
14 He said -- and you can see this on the current slide:
15 "The experts' decision is very important because so
16 many rights, including oil rights and other rights, will
17 in fact be treated according to what we are going to
18 establish."
19 Ambassador Dirdeiry made these comments. Dr Johnson
20 made no different comments. As was previously pointed
21 out indeed in the Government's explanation, there wasn't
22 even evidence about where the oilfields were located in
23 front of the ABC experts. The suggestion that there was
24 some kind of improper hidden motive here is a complete
25 smokescreen.

18:21 1 I have gone too long. I haven't had a chance to
2 address all of the topics I would like to address.
3 I would have liked to address the important topic of
4 waiver and exclusion of the Government's rights. I will
5 figure out how to do that in my rebuttal. The
6 Government and the Tribunal has had lengthy written
7 submissions on it. The Government's presentation added
8 virtually nothing to its attempted defence to those
9 issues. And I'll happily stop talking today. Thank
10 you.
11 THE CHAIRMAN: Well, I thank you, Mr Born. I am happy
12 that you recognise the time constraint.
13 I recall that the Tribunal has as its duty to
14 maintain and safeguard perfect equality among the
15 parties in every respect, including in terms of
16 allocation and effective use of time. It is the reason
17 why the extra time which was used today by the SPLM/A
18 has to be decounted from the time which has been
19 allocated for the whole of these hearings.
20 Tomorrow the morning will be devoted for the two
21 parties to the second round of arguments with regard to
22 the issue of excess of mandate. The hearing will begin
23 as usual at 9.30. Thank you very much.
24 MR BORN: Thank you, Mr President.
25 (6.24 pm)

18:23 1 (The hearing adjourned until 9.30 am the following day)
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Trevor McGowan
info@TMGreporting.com

INDEX

PAGE
Submissions by MR BORN ....

Trevor McGowan
info@TMGreporting.com

A

Ababa 13:19
abandoned 29:16 46:7
abandoning 229:23
ABC 3:3 9:20 10:5,23 11:20 14:23 15:2 16:13 17:2,7,12,16 17:20 18:8,9,13 21:20 22:1,1,4,12 22:23 24:1,7,18 25:12 26:22 27:23 28:8,11 30:22 31:7 31:23 32:11,12 33:9 37:1 38:3,10,25 39:18,20 41:11 50:22 53:23 55:19 56:15 60:19 61:4 62:1 66:11,14 67:14 67:15 68:15 69:2,12 71:3,7 77:19 80:6,8 80:16 81:2 82:13,19 82:25 83:5 85:18 87:13,22 88:7,10,20 88:22 89:4,19 90:5 90:21 91:8 94:20 95:20,24 96:2 98:25 100:16 102:8 106:8 106:12,14 108:8,22 113:13,16,21 114:3 115:8 117:5 118:9 118:13,14 122:2 123:8,12 124:2,16 124:24 125:5,19 126:8,17,22 127:16 132:19 133:24 134:14,23 135:9,10 135:24 136:3,16 137:7,14,17 139:5 140:3,5,8,11,17,19 140:23 141:1,3,20 142:2,10,19 143:5 143:17,25 144:15 148:9 150:5,12 151:12 154:6,8 155:5,16 158:12,15 158:20 159:2,10,13 161:7,12 162:25 163:12 165:22 166:22,23 167:8,21 170:10 172:7,8 175:6 178:14,20 183:1 196:15 205:7 206:15 212:18 215:3 216:4,6,13 218:12 223:8,15 226:14 227:3 228:14 232:4,18 233:14 235:24 239:16 241:14 242:3,16 243:12 245:23 247:12 248:11 250:19 251:11 253:6,7,12 254:10 255:14 256:19 257:14 258:11,23
ABC's 18:6,21 23:3 39:23 40:7 111:15 163:22 251:8
abide 69:20
ability 31:18 57:8
able 2:2 20:7 24:2 87:8 98:16 102:20
about 3:2,3 11:12,18 14:24 24:7,18 26:25 29:8 31:5 34:19 43:15 44:10 53:4 56:1,4,12 68:22 69:23 70:23 71:5 73:3,21 78:19 79:2 93:18 104:19 106:16 107:4,8,16 112:8,14,18,24 113:25 114:7,8 116:5,22 117:6,12 118:2,21 119:6 124:10,24,25 125:23 130:20 133:22 139:6 143:4 144:20 146:25 148:11,23 149:1,15 151:3,3 154:11 160:18,20 161:22 165:14 168:9,22 169:3 171:8 181:17 184:8,23 190:3 192:8,24 196:4,23 197:19 199:9 204:17 207:14 208:16 211:19 214:21 215:7 218:16,18 225:14 229:3 230:16 231:1 231:2 233:25 240:10 252:25 253:23 254:1 257:17 258:22
about/imposes 138:13
above 39:18 216:13 254:21
absence 194:9 214:23 232:2
absent 150:24 195:9 242:10
absolute 67:5,7
absolutely 85:7 181:5 239:23
abstract 36:20
absurd 53:13 54:25 55:6,24 175:19 176:2 203:22 220:24
Abyei 1:3 2:25 5:15 6:8,11,16,17,17,19 6:19,23 7:1,2,5,9,12 7:16,23,24,25 8:2,4 8:4,5,7,9,11,15,20 8:20,23,25 9:1,1,7,8 9:11,15,19 10:1,2,5 10:6,10,12,13,17 11:1,22 16:15 17:17 18:8,11,15,24 19:6 20:8,18 22:4,5,6,17 22:22 25:11 27:13 27:20,22 28:1,20,21 38:7 39:9,19 47:9 47:10,12,14,18,24 48:19 50:4,5,17 51:11,17 52:20,23 53:1,5,19,25 54:20 55:18 66:10 69:4 70:5 76:20 77:13 82:15 88:14,18 90:14 91:4 92:4 104:7 105:25 107:18 109:11,17 110:7 112:7 114:21 114:25 115:17,22 116:13,20 118:18 120:22,24 125:8 130:23 131:17 135:18 144:9,11,25 150:9 151:25 154:4 155:10,10 156:20 158:17,17 162:8 163:8,11,14,23 164:7,8,24,25 165:1 165:3,5,12,12,15,22 165:23 166:3,14,18 167:1,6,8,9 168:10 170:4 171:6,9,11,13 171:16,21,22 172:1 172:2,13,16,19,23 173:2,5,9,14,14,17 174:16,21 175:21 175:22,24 176:16 176:23,23,25 177:21 178:4,23 179:10 182:5,5,6 185:22,24,25 186:1 186:16,22 187:2,8 187:13 188:18,23 189:12 190:3 191:6 191:20,23 192:3 193:9,17,20,25 195:16,19 196:1,2 196:18,22 197:14 197:24 199:12,16 202:11,15,19 203:6 203:9 204:2,4 207:3 207:4,5 208:10,13 215:20 216:22 217:18 227:25 228:4,5,16,16,24 230:14 231:23 232:10,14,16,17,23 233:7,12 234:21 241:11,22 242:19 244:1 253:9,14,17 253:21 254:7,11,17 254:20 255:12,14 255:16,25 256:14 256:16 257:8,21 258:3
Abyei's 27:11
academic 12:21 119:15 132:12 155:25 199:22 203:16 247:21
academics 13:2
accept 26:22 141:7 146:3 153:13 167:12 169:17 172:25 232:9 238:5 248:23
accepted 30:6 74:3 79:15 96:13 131:12 146:4 213:12 230:22 240:5,22
accepting 151:24
access 19:20 92:17,24 94:12 102:25 103:11
accidental 106:7
accompanied 2:16
accord 225:19
accordance 1:1 62:20 66:15 77:16 172:17 249:24
accorded 100:19
according 49:15 53:18 54:11 109:22,23 136:20 157:12 162:24 181:18 182:15 183:14 200:21 205:6 214:17 229:12 236:8 258:17
accordingly 188:21 191:12,21 193:6 242:6
accuracy 179:24 243:17
accurately 165:8 185:2,11 228:7
achieve 153:25 156:11
achieved 21:7 137:3 137:22 152:21
achieving 200:10
acknowledge 96:3 110:3 227:24
acknowledged 37:21 89:19 90:5,17 110:14 139:5 167:15 174:7 202:12 212:8 236:21
acknowledges 60:13 121:6,20 175:14 179:23 211:2 224:2
acknowledgment 115:10
across 7:22 57:19 195:19
act 134:10 250:2,21
acted 27:6 75:25 203:20 204:13
acting 2:9 21:25 38:23 136:13
action 68:2 131:10 159:1
actions 22:24 31:6 32:13 78:20 82:5 87:13 94:17 100:20 159:19 161:9
active 4:20 12:5
activities 98:6 99:21 100:1 105:22
actual 209:5
actually 3:4 87:22 90:20 99:5 161:22 236:14 241:9
add 157:19
added 29:15 259:7
adding 201:2
Addis 13:19
addition 4:24 11:8 22:18 113:6
additional 23:14 24:22 93:22 94:17 94:18 102:7,8,12 105:23 112:11,11 113:15 176:13 211:13 217:6
address 3:23,24 28:17 29:1,20 32:6 41:5,5 75:11 139:14 154:24 163:7,18 180:7,9 191:16 207:21 210:12 220:4 226:5 229:4 249:6 259:2,2,3
addressed 5:11 24:17 27:20 28:4 31:25 39:22 41:1 62:16 75:8,9,14 87:16 114:19,19 163:5 179:3 182:4 187:12 217:15 227:14 228:3 231:19 236:18 244:11
addressing 87:21 216:15 223:3 224:19 248:13
adequacy 80:16
adequately 155:3 168:2 184:13
adhere 31:1 53:23
adjourned 134:5 260:1
adjudication 59:11,13
adjudications 220:5
adjudicative 56:20 57:1,6,18 58:5 59:25 62:7 66:6 68:4 70:8 71:10,15 71:21,24 74:17 75:17 77:4 80:15 84:9,13 86:3 87:4 198:6,21 200:15 201:20 203:20 205:20 210:20,24 211:20 212:2 213:25 214:3 221:1 222:18 225:7
adjudicatory 35:14 53:6 210:13
adjusted 19:3
administered 107:1
administration 6:23 7:25 27:11,22 165:21 234:8,19
administrative 8:22 166:6 168:2 179:14 184:14 220:6
administrators 231:8 234:15
admissibility 3:6,7 34:2 52:9
admissible 32:19,22 56:12 80:1,13 161:6
admission 30:18 257:25
admits 4:1 49:2 156:5
admitted 46:1 86:22 174:17
admittedly 231:17
adopt 17:1 81:16 82:9 95:9 156:15 200:17 243:4 245:15 254:23
adopted 21:9 39:3 81:2,14 87:25 94:23 95:19 172:22 177:24 178:7 225:19 239:5 249:20 256:2
adopting 17:10 52:25 91:12 248:9
adoption 214:20
adopts 167:13 225:25
advance 2:13 81:17 113:8 229:10
advanced 29:7 30:24 34:25 50:19 157:10 157:16 168:5 254:9 254:16
advisor 123:25 124:3 124:4
aequo 32:15 34:8 45:23 209:13 242:1 242:10,12,17,20 243:1,5 245:5,19 246:13,17 247:5,5 247:13,17,23 248:1 248:5,8,10,14,14,19 249:2,5,8,18 250:9 250:14,20 251:2,5 251:21 252:3
affairs 89:11 135:3 143:21 158:16 184:9,25 185:16
affect 187:8 197:1,25 207:9 208:12
affected 121:8 133:19 159:18 160:5 196:17
affirm 127:18
affirmative 190:5
affirmatively 94:6 124:19 127:17 128:13 202:20
affirmed 20:25 71:17 211:7
affirming 210:23
afforded 22:10
afraid 3:15
Africa 5:4 6:7 12:3 13:10,14,21 14:2,4 14:12 23:13 109:23
African 5:2 10:20 11:8 12:10,15,22,23

Trevor McGowan
info@TMGreporting.com

13:2,3,6,7,17,17,24 13:25 14:3,5,9,14 14:15,16,19,20 15:12,13,14 16:3 81:24 89:17 135:3 221:14 247:2 252:25
Africans 15:13
Africa's 13:15 246:21
after 3:9 4:19 5:25 12:5 19:2 20:20 37:18 50:24 51:18 69:2 87:8 114:11 115:22 122:14 123:8 124:2 127:12 133:23 134:1 137:10 140:19 148:4,14,20 153:19 159:1,6,10,11,20 183:9 184:21 185:9 238:3 239:8 245:13 246:14
afternoon 134:3 144:7
afterthought 119:7
afterwards 113:8
after-the-fact 80:3 83:25 134:21 161:20 198:22
again 2:13 9:12 20:25 23:18 26:2,3 28:25 31:6 35:15 39:2,11 48:6 52:5 55:22 56:22 58:17 61:16 65:16 74:5,14,21 75:23 76:24 81:20 83:16 84:1 85:16 87:2 88:5 90:4 93:2 93:11 94:1 104:14 104:21 105:5 112:3 113:9 115:2 118:5 120:19 121:4 123:23 126:17 127:5 130:16 131:4 132:15 133:10 136:7 137:18 140:24 141:16 142:25 144:2 147:9 148:17 149:17 150:25 151:15 152:3 153:3 154:2 154:10,14 155:17 155:24 157:9 159:19 164:21 165:13 167:8 173:9 173:23 174:4 182:10,20 186:3 190:11 194:11 195:2 197:16 199:22 203:15 204:20 206:14,17 207:7 209:17 214:4 215:7 216:25 219:9 227:15 230:12 232:19 234:20 236:12 240:2,7,19 242:11 246:25
against 128:23 198:22 204:23 242:14 251:2
agenda 143:7
agent 123:17
ago 166:8
agree 63:7 66:9 82:20 85:20 108:16 241:8 241:9,12 248:23 249:3
agreed 6:14 7:5 12:25 17:24 19:8 21:6 24:23 25:8 33:20 54:3 61:21 62:2 64:2 73:6,12 79:7 79:10,14 91:13 94:24 101:13 103:6 105:9 107:7 118:16 137:2,22 146:4 149:21 151:21 152:20 153:17,24 182:22 257:19
agreeing 63:2 176:23
agreement 1:2 2:25 4:17 5:7,16,23 6:2,3 6:16,22 7:2 8:12 11:1,6,7 14:13 17:22 28:1,1,3,15 28:25 29:7 32:24,25 33:7,10 36:5,10 40:13 52:14 53:21 54:4,7 55:7,15 56:3 61:22 62:10,17 63:5 64:6 66:8,11,20 67:6,9 68:23 74:15 76:20 77:1,8,14 78:1 79:24 91:20 108:14 150:9 153:23 154:4,7 174:15 175:9,20 177:8,10 209:3 211:1 215:21,22 217:4,8,11 219:14 220:16 221:18 237:7 238:17
agreements 2:25 5:7,8 5:11 6:25 7:4,8,25 9:20,23 16:16 18:5 30:4 35:5,8,17 39:14 41:12 42:14 45:22 56:15 63:7 80:5 87:21 91:23 92:2,8 94:10,16 96:5 100:16,22 101:3 102:2,5,10,15 106:17,19 107:12 111:5 119:16 126:8 126:18 127:17,18 130:8 132:19 134:23 135:16 139:13 149:13 157:6 197:16 203:8 204:5 210:5 214:24 215:12,17,18,20 216:3 217:23 247:25 248:11 251:6,25 252:8,9
ahead 2:14
Ahmed 2:2 151:21 156:5
aimed 150:18 168:13 201:20
aims 200:8
ALAIN 2:3
albeit 70:2 182:25
allegation 74:3
allegations 24:18 161:21 162:16
allege 33:25
alleged 34:7 35:4 46:23 47:2 50:12 52:19,22 78:21 119:11 129:9 174:1 175:24 176:24 208:20 209:10 213:14 215:14 225:12
allegedly 34:9 67:14 91:19 131:10 156:15 185:22 186:23 188:2 210:3 224:25 251:9
alleges 182:18 186:11
alleging 38:20 74:25 180:13
allies 123:22
allocate 209:15 253:8
allocated 47:1 259:19
allocating 34:10 162:7 185:21
allocation 71:16 72:8 75:13 77:2,3 258:8 259:16
allotted 16:19
allowed 23:8
allowing 25:7
allows 104:20 211:5
allude 249:11
ally 124:6
almost 4:10,15 61:16 76:9 109:17,19 154:2 183:20,24 220:1
alone 82:22 86:8 140:2 247:15
along 164:20 169:8 219:4
Alor 21:23 108:12 113:11,12 143:16 150:11,22 151:15 153:24 154:9
Alor's 114:17
ALOYSIUS 2:9
already 47:21 73:21 77:23 79:22 89:24 105:1 108:10 112:2 118:9 127:21 132:10 135:17 143:23 171:5 182:16 194:4,21 201:16 251:13
alter 62:13 156:14 195:22 199:13
alteration 99:12
altered 17:18 98:24
alternative 254:16
alternatively 242:1 251:15
although 35:1 42:9 66:21 70:25 106:10 118:19 139:9,10 149:1 152:7 176:3 198:4,19 216:15 221:7 235:17 247:21
always 53:7 99:14 108:23 156:23
AL-KHASAWNEH 1:11
Amaury 12:20
ambassador 2:2 11:23 11:25 12:4,8,12 14:18 19:9 21:22 23:18 31:7 108:22 109:7,19 110:5,14 110:19 111:2 112:7 115:16,25 116:9,18 117:2,4,7,11,23 124:25 143:11,16 143:21,24 144:3,13 144:14,21 145:2,12 145:23 146:13,17 146:23 147:4,9 148:9,16,18 149:1,4 150:13,19 151:8 152:3 153:20,24 154:1,6,21 258:12 258:19
ambiguity 198:24 199:2
ambiguous 204:10,22
ambition 25:6
ambitious 19:4 98:15 213:20
amended 17:18
American 126:4 250:12
amiables 250:1
among 12:2,11,17 60:5 259:14
amount 60:22 218:18
amounts 32:5 181:20
amply 73:3
analogies 88:13,20
analogous 223:4 250:19
analogy 56:24
analysed 228:6
analysis 20:4 25:21 95:1,15 109:14 128:2 135:22 155:25 170:10 190:15 214:5 223:22 224:25 226:3,6,18 232:8 233:9 234:23 236:2 238:4 239:2 246:14 246:20,21 248:3
ancestral 48:14
ancillary 199:20
and/or 93:22 179:19
Anglo-Egyptian 184:12 231:7
annex 6:17,19 9:1 10:5,10,17,22 11:1 11:23 17:17 19:6 82:15 92:4 104:7 105:25 107:19 109:12,18 110:7 112:7 123:10 135:18 136:1 155:10
announced 1:7
annually 48:1
annulled 49:18 65:11 174:8
annulment 38:18 49:21 174:11 211:15 220:19 222:4
anointed 124:4
another 2:12 25:15 53:6 54:16 85:15 99:8,8 119:9 122:25 129:3 130:11 134:21 147:20 161:24 203:13 206:6 212:10 233:8 233:13 249:20
answer 50:11,14 55:13 56:7 69:16 163:2,3,16,18 171:19 172:4,9,10 172:12 178:15,19 178:21 179:8 180:13,19 181:16 181:24 182:3,12,13 198:2 203:14 208:15 233:10 239:18
answered 46:25 50:14 162:20 180:15,20 181:16,22 182:11 200:25 224:3
answering 162:5 236:20
Anthropological 12:20
Anyak 256:24
anybody 121:12 128:24 252:25
anymore 68:8 70:14
anyone 93:3 126:13 154:11
anything 35:22 115:9 121:12 124:25 127:10 147:6 172:20 196:13 216:7 240:14
anywhere 126:21 227:1
apart 35:7 107:12
apologise 99:5 231:16
apparently 29:15 50:23 182:25 253:19
appeal 21:11 49:22 174:12
appear 1:24 35:15
appearance 189:5
appearances 125:21 125:25
appeared 2:4,7,9
appears 39:24 177:8
appendices 25:15 227:16 236:10 239:13
appendix 178:13,20 178:25 179:7 227:9 227:13 242:25,25 244:12,12,20 246:3 251:11 253:1
applicable 3:9 28:5 35:13 49:3 62:13,15 62:18 64:10 70:11 77:12,15,17 80:6,18 91:10 97:3,6 102:18 132:13 161:8 212:17 213:17,25 214:3 241:5 244:20 249:15 252:23
application 62:23
applied 16:15 39:25 49:23 62:12 64:9 90:21 92:15 141:19 202:1 205:11 246:7 246:13,23 247:4,10 248:4 251:15,17 252:11,18
applies 72:9,17 80:25 84:25 175:6 200:22 210:25 211:3 223:6 229:9
apply 40:8,8 52:2,11 56:20 60:3,19 61:4 61:7,10,15,23,25 62:19 63:24 66:12 67:14 85:16 87:12 100:14 119:25 131:6 176:8 208:21 212:18 213:10 252:12
applying 17:8 21:12 47:23 139:3 209:14 232:21 241:5 247:7
appoint 10:11 11:4,10
appointed 11:23 13:1 123:25
appointees 150:5
appointment 10:17 11:2,20 144:8,16
appreciated 2:9
appreciation 116:10 116:11,15 246:19
approach 30:13 35:10 72:17 78:14 92:21 94:23 119:13 120:2 155:4 161:9 198:10 198:11,15
approached 123:9 150:12 227:21
approaches 39:3 81:22
approaching 35:22 138:19
appropriate 82:14

Trevor McGowan
info@TMGreporting.com

95:17 103:16 199:10,18 203:5 241:2,6
approval 67:23
approve 82:21
approximately 156:20 188:24 191:14,24 254:14 255:16
April 1:7 1:1 16:12 19:5 21:22 23:15 111:15 113:13 131:21 218:6
Arab 47:16 169:8 228:23 229:14 230:1,2,4,17 231:2 231:5,12 234:10 235:2
Arabic 256:24
Arab/Kiir 164:14
arbitral 17:7 26:5 35:14 38:17 43:21 56:23 57:5 58:3,15 59:11 63:1 64:1,12 70:8,22 71:9,21 73:6,22 75:17,24 76:7 80:14,17,23 81:4 83:20,22 85:10 86:2 87:3 88:15,15 90:10,18 91:13 96:2 96:11 106:11 198:5 205:20 210:19,24 211:20 219:20 220:15,23 221:11 221:17 222:14,16 225:9 226:23 252:12
arbitrary 73:14
arbitrate 62:11 63:2 64:2,7 66:20 67:6 67:10 77:1,8 78:1
ARBITRATING 1:4
arbitration 1:1,2,4 2:10 4:6,6 15:20,22 17:1,4,5,6,8,10 27:24 28:1,3,14,25 29:7 32:24 33:7 36:5,10 40:13 43:17 43:20 52:14 53:21 54:7 55:7,15 56:2 61:21,22 62:5,17 63:5,7 66:11 70:12 74:14 76:20 77:14 79:24 80:4 81:11 82:10 84:25 85:21 85:21 86:18 88:4,8 88:24,24 89:12,13 89:21 90:1 91:11 96:1,9 123:19 124:16 149:18 175:9,19 177:7,9 198:11,15,16 209:3 209:24 210:1 213:5 214:1 215:21,22 217:4,8 219:21 220:2,7,10,14 221:18 225:25 247:1 249:4,17 250:7
arbitrations 86:13 89:7,7 95:21
arbitrator 74:1 81:10 81:16
arbitrators 49:13 81:9 90:11 95:10 174:5
archival 17:25 18:24 25:24 93:22 104:16 110:24 111:1 129:22 132:22
archive 23:12 129:24
archives 20:1,11 91:5 92:12 94:13 104:11 109:15,16 128:3 135:20 146:1
area 1:3 5:15 6:11,23 7:5,7,16,17 8:1,2,7 8:9,11,15 9:8,8,16 10:1,12 18:11,15,24 20:8,18 22:7,8,22 25:12 27:22 28:21 28:22 33:12 37:12 38:7 39:9,18,19 47:9,12,14,18,19,24 48:10,19 50:4,17,24 51:11,17,23 52:17 52:20,23 53:1,5,19 54:12,20 55:18 91:4 98:21 116:20 120:23 130:22,23 131:7,17 150:9 151:25 154:4 156:20 158:17 162:8 163:1,9,11,14 163:24 164:7,7,12 164:17,24 165:1,5,8 165:12,13,15,16,18 165:22,23 166:8,14 166:18,19 167:2,8,9 167:10,20,23 168:3 168:10 169:3,12,22 170:5,10,14,17 171:2,6,9,11,16,21 172:1,2,8,17,23 173:2,5,9,9,14,17 175:3,21,24 176:16 176:25 177:21 178:23 179:11 180:16 181:19 182:5,23 184:5,14 185:2,11,22,24,25 186:16,22 187:8,13 188:18,23 189:3,12 190:1,4,8 191:6,20 191:23 192:3 193:9 193:17,20,25 196:1 196:3,18,22,24 197:14 199:12,16 202:3,11,13,15,19 202:23,25 203:6,9 204:6 205:12 206:12,12,24 207:3 207:5 208:10,14 216:13,20,22 217:18 228:1,4,7,16 228:16,24 229:1,19 230:14 231:24 232:10,11,14,14,16 232:17,23 233:7,12 234:1,21,21,24 237:3,10 239:9 240:24 241:6,11,22 242:19 243:8,20,21 244:1 245:15 253:9 253:14,17,21 254:11,17,20 255:12,14,16,25 256:14,16 257:8,21 258:3
areas 47:20,25 54:11 169:8 188:20 191:12 202:7 207:4 207:16 242:6 244:17 256:20
area's 171:13 182:7 187:2 197:24 202:15 204:2 207:4 254:7 256:1
Argentina 250:5,7
Argentinean 250:8
arguable 33:1 56:3 73:14
argue 60:18 95:24 215:12
argued 40:20 50:20 91:17 131:15 253:6
argues 43:2 51:15 61:3,20 67:12 74:9 134:12 162:22 224:7 229:11 251:8
arguing 96:8 236:5
argument 1:4 4:3 43:10 55:10 67:17 76:20 77:1,7 79:5 89:3 103:5 129:15 158:8 172:25 175:23 176:4 186:17,19 232:10 234:6 239:1 242:11 252:3
argumentation 214:18 224:12 226:15 228:13
arguments 3:14 32:7 46:8 60:21 61:1 225:4 254:16 259:21
arid 205:12
arise 77:22 220:5
arises 4:6
Armed 27:12
arms 53:18
arose 108:8 155:8
around 22:6 84:19 85:1
arranged 26:13 123:4 123:13 124:7,19 142:15
arrangement 149:19
arrangements 10:2 91:8 94:8,20 101:25 102:9 126:22 127:14 129:18 141:12 142:13,23 143:19 144:3,20 147:19 148:1 158:13,21
arranging 125:25
arrive 109:13
arrived 136:3 140:20 173:24
arriving 20:3 135:21
article 1:1 7:1,4 8:2,3 8:18,20 9:9,11,18 10:10,22 11:3 17:17 17:21 18:9 19:5,11 19:18,24 20:19,25 21:2 28:3,4,6,10,16 28:17,19,24 29:3 32:25 33:7,14,15,15 33:18,19 34:1,14 35:16 36:2,16,18,20 36:22 37:5,7,13,22 38:4,5,11,21,24 39:4,15 40:12,18,21 40:25 41:3,6,11,24 42:7,17,24 44:1,3,5 44:6,8 46:19 47:10 47:23 48:9,9,21 50:5,6 51:11 52:13 52:24 54:21 55:14 55:18 56:2 57:22 62:17,22 66:12 72:10,10 74:13,23 75:1,4,6,8,9,11 76:16 77:13,18 82:15,16,20 84:15 92:4,5,10,15,22 93:2,6,17 102:22 103:4,8,18 104:1,7 104:7 109:11,17 110:6,11,12 112:7,8 118:12 128:11 131:17,20 132:1 134:11 135:18 136:1,6,19,21,25 137:5,14,20 138:1,6 138:8,13,16 139:3,9 141:17 149:24,25 150:20 152:3,19 153:13 154:14 155:3,17 157:4 163:8 164:8,24 165:2,12 167:1,7,14 171:22 172:3,12,18 173:14,20,21 174:20 175:2,7,8,18 175:19,22,25 176:7 176:11,19 177:15 177:17 178:8 179:4 182:4,14 186:1 195:16,17 209:2 211:5,11 215:21 216:11,12 217:1,4,7 217:10,14 219:19 219:20,21 225:9 228:2,5 248:9
Articles 8:1 39:22 57:21,22,23 72:18 92:5 93:20
articulated 30:4
articulates 64:17
ascertain 180:4
ascertained 246:19
ascertaining 184:2,8
Asian 81:24
aside 35:15 64:20 65:17,21 66:7,9,11 70:24 71:16 72:14 72:19 74:16 77:19 84:21 87:10 88:19 133:24 159:23 209:19 223:6,15,16 226:2 247:9
asked 46:24,25 61:7 148:10 162:4,5
asking 98:14
aspect 18:4 80:23 98:23 122:25 175:11 208:16 253:1
aspects 88:20 226:8 227:23
Assalih 151:21 156:5
assembly 159:23 160:2,10,11,13
assert 241:14,17
asserted 50:12 209:20
assertion 15:12 67:9
asserts 36:3 156:7 213:16 242:8
assess 139:11 154:17 155:1
assessing 82:5
assessment 31:8 70:15 146:9,15 147:1,16 152:2 157:7 204:17 212:5 240:18 244:19
assigned 136:14 162:23
assist 110:1 185:7
assistance 26:14 68:19 119:3 230:21
Association 13:8
assortment 209:24
assuage 197:19
assume 34:25 119:10 148:19 176:9 223:16
assumed 108:23 125:10 155:2 203:25
assumes 105:10
assuming 80:12 107:4
assured 146:10 207:7
astonishing 74:6 95:23
Athena 124:4
attached 98:1 113:22 139:16 178:23
attaches 59:7
attack 53:2
attacked 49:13 174:5
attacks 236:4
attempt 105:21 150:22,24 151:11 151:13 153:21,23 199:6
attempted 51:3 186:15 259:8
attempting 87:24 209:15
attempts 248:17
attend 22:21 112:5 142:20
attended 122:20 142:16 147:23 148:9
attention 51:1 96:4 111:18 160:23 227:17 240:1
attenuated 127:4
audacious 210:7 213:3 213:15 214:4
Austrian 85:4 222:6
author 12:18 13:9 225:24
authorised 29:1 103:23 127:23 250:2
authoritative 84:7
authorities 12:10 14:21 45:6 49:8 50:9 58:3 72:25 81:3,7 84:2 89:10 96:10,17,18 97:10 97:15,22 125:14 174:13 182:15 184:13 199:25 209:24 210:2,6 211:13,17 212:11 212:13 213:1,22 220:12 221:2 222:12 223:13 225:19 226:11 244:25 246:22 247:18 248:21 249:10,19 250:3 253:4
authority 4:25 20:14 23:10 33:21 38:11 38:22 39:12 44:18 44:21 64:4 65:6 66:24 67:4,8,11 71:18 76:25 77:4,5 82:22 83:4,10,14 90:8 93:11 94:24 97:23 100:25 105:6 106:6,18,24 110:6 110:17 126:10 127:19,20,22 128:5 135:14 157:17 174:3 175:20 177:6 198:8 203:21 204:22,25 205:4,25 206:3 214:6 222:19 223:2 246:4 251:23 252:14
authors 60:10
autonomy 15:24
avail 184:20
available 20:3,12 92:14 93:10 104:13

Trevor McGowan
info@TMGreporting.com

104:17 128:4
avert 65:6
avoid 19:11 53:13 197:12 205:19
avoidance 187:7 195:21 208:7,19
avoided 196:3
award 49:17 56:23 57:25 60:4 64:3,20 64:23 65:10,17,21 66:6,18 69:18 70:23 72:4,7,13,14,20 73:6 75:24 76:1,5 76:12,13 84:17,21 85:10 86:3,9,16,18 97:9 167:18 174:8 177:9 192:11 198:5 198:16 211:20 212:2 213:11 215:24 217:6 218:19,21 221:4,18 222:9 225:2,5,17,22 226:5 227:2,5
awarded 12:19
awards 26:5,7 43:21 57:1,5 58:15 63:1 64:1,12,24 65:8 70:8,22 71:10,21 73:22 75:17 76:7 83:23 87:3 198:11 198:13 201:8 205:20 210:19,24 211:6,15 215:6 220:16,20,23 221:7 221:11,25 222:2,10 222:14,16 224:15 226:23 249:18 252:12
aware 111:12 115:11 125:25 145:6 148:6
awareness 115:4
away 176:4
AWN 1:11

B

b 122:9 230:9
back 3:25 7:19 9:13 12:5 15:11 19:23 30:12 33:23 44:9 46:10 58:8 59:5 83:9 86:23 92:1 102:23 111:22 129:23 131:22 161:14 188:14,15 191:1 195:12 250:9
background 4:5 29:4 114:3
Bahr 48:4 54:13 164:12,14 166:10 169:8 228:23 229:14 230:2,4,17 231:2,5,10,12,21 233:17,21 234:2,10 234:15 235:6 239:7 246:7
balanced 151:25
band 170:20 237:8 238:18,19 244:6
barrier 197:5
base 248:2
based 20:4 45:10 59:10 65:15 93:8 94:25 97:23 108:16 109:3 135:22 158:2 168:19,23 170:2 183:4 191:4 198:25 215:24 234:5,23 238:15 240:18 243:24 244:19 246:18
baseless 35:19 63:4 160:22 178:16 214:23
bases 35:11
Bashir 27:1 142:17 144:17 159:11
basic 10:9 11:6 34:7 64:7 88:11 95:25 134:25 155:22 176:19 185:7
basin 239:7
basing 56:24
basis 28:10 30:21 32:9 32:19 33:9,16 38:19 46:5 47:13 48:4 49:5 52:6 76:3 79:20 80:7 94:2 107:9 108:24 119:9 122:13 133:24 149:8 150:14 157:5 159:21 161:3,19 162:18 167:16,18 175:15 178:18 180:11 182:16 193:4 195:7 203:14 208:23 209:21 214:16 222:4 223:23 229:8 235:15 242:23 243:10,15 245:21 248:19 253:4,5,24
bear 83:11 131:7
bearing 74:16
bears 21:14 71:19,24 76:22 78:6 85:11 104:1 141:16 153:11
become 5:19
becomes 93:10
bedrock 60:23 210:23
before 1:1,10 1:24 21:25 55:14 62:19 78:16 86:22 89:1 111:20 124:1 127:7 131:21 134:17 136:23 141:10,18 148:24 153:10 166:24 180:22 181:13 183:8 184:21 185:9 248:7
beforehand 107:24 146:4
began 4:7 21:20 47:11 68:18 164:3 239:8 240:5
beggars 183:21
begin 1:10 2:24 4:5 78:16 163:21 218:5 219:23 259:22
beginning 95:3 150:17
begins 56:21
begun 46:11 212:24
behalf 2:4,7
behave 95:9
being 2:11 8:13 84:18 85:15 89:14 144:24 148:20 153:8 166:4 217:17
belabour 140:24
belatedly 157:19
belief 183:21
believe 151:5,9
believed 27:4 107:1 127:1
belt 169:21 237:16 238:24
benefit 16:5 78:11
benefits 124:9
Berg 211:9
Berhanu 13:15 153:22 154:5
bespeak 30:19
bespeaks 30:20
best 3:24 73:5 155:13 155:16,17 161:17 236:12
better 1:11,16
between 1:2,4,15 7:12 10:8 16:12 44:2 48:3 61:5 75:4 99:2 105:12 134:24 137:16 138:21 140:13 145:16 147:13 150:1,15,18 152:12 153:14,18 156:20 170:5,14,21 171:3 188:22 191:7 191:13 197:2,6 202:3,13,21 205:12 206:12 231:9 233:17 235:5 237:8 237:14 238:18,22 240:24 241:6,19,19 242:7,19 243:8,20 243:21 244:2,6,8,9 244:13 245:3,7,19
beyond 22:11 24:23 35:24 39:10 71:23 73:8 91:9 102:8 106:2 116:2 145:5 149:23 162:7 185:21 203:20
binding 9:21 21:10 60:1 66:6,25 69:13 136:4 146:3,5 158:6 171:14,24 187:20
Biong 150:11
bisect 244:5
bisected 245:16
bisecting 207:19
bit 2:20 34:17 45:12 74:9 75:21 156:10
blocked 138:24
board 15:7
boards 12:21
bodies 35:15 80:15 81:4 200:15 201:21
Bodleian 23:11 129:25
body 43:6 53:6 83:21 84:9,13 178:22 203:20 247:18
Bona 123:4,9,21 124:1
bono 32:15 34:8 45:23 209:13 242:1,10,12 242:17,20 243:1,5 245:5,19 246:13,17 247:5,5,13,17,23 248:1,5,8,10,14,14 248:19 249:2,5,8,18 250:9,14,20 251:2,5 251:21 252:3
border 48:3 60:13 170:21 244:8
Born 2:5 1:3,6,7 34:19 34:22 63:14,16,20 134:2,7,8 181:2,5 181:10,11 259:11 259:24 1:3
borne 83:18
both 3:14 6:17,21 9:23 11:15 19:7 20:14 21:10,24 24:2,4 29:16 32:8 41:22 57:5 60:21,25 67:21 71:17 72:12 74:17 74:22 86:25 96:2 100:13 108:1,5 113:7 114:21 116:12 124:8 127:18 133:19 143:17 144:21,23 150:11 151:16,19 158:23 166:22 167:20 168:6 171:23 180:22 183:8 184:21 185:9 186:3,24 187:21 188:16 190:7 201:10 203:2,10 204:7 207:7,12 214:19 225:18 229:4 230:6,23 234:10 235:1 237:12 240:23 243:10,10 247:1 251:17 255:10
bottom 50:15 68:3 215:7 256:5
boundaries 9:7,15 10:6 52:16 60:6,7 69:4 88:14,16,18 144:10,11,25 163:23 166:7 171:9 171:16 172:1,16 179:13,15,22 182:7 182:8 187:2,8 189:3 191:17,20 192:3 196:17 197:25 199:12 202:16 203:10 204:2,8 252:7 253:13 255:21 258:4
boundary 17:8 48:16 54:16 57:16 60:3,19 61:14,17 123:11 164:18,19 165:17 166:17 169:12,19 169:25 170:4 171:6 171:10 173:4,12 187:5,22 188:5,18 188:23 189:9 190:4 190:16 191:14,23 193:14 196:24 197:4 206:22 207:2 207:3,4 208:10 218:16,17,22 223:6 228:24 229:1,18 230:5 231:4,9,13,14 231:21,23 232:2,11 232:22 233:2,8,16 235:5,8 237:3 239:8 239:17 241:2,7,21 242:18 244:1,5,17 253:16,21 254:7,9 254:12,13,20,21,23 255:4,6,12,16,19,22 255:25 256:1,5,8,12 256:13,17,18 257:1 257:8,21
breach 86:24 120:6,19 120:25 121:13,21 132:15 133:13,14 159:2
breached 155:3
breaches 29:12 30:5 42:22 162:2,10
breaching 79:10
break 63:18 181:8,13
breaking 63:15
breathtakingly 214:4
bridge 7:12
brief 58:7
briefly 66:17 74:21 89:1 96:8 249:11
bring 146:1
bringing 11:5
brings 160:25
Britain 13:9
British 20:1 91:5 92:12 104:11 109:15 128:3 135:20 252:18
broad 1:8 17:13 19:17 80:13,22 81:3 85:24 91:18,25 92:8,15 100:18,23 104:22 106:1 109:8 125:18 126:9 127:19 128:1
broaden 42:5
broader 106:23
broadest 82:12
brokering 4:22 11:5
brutally 6:4
BUNDY 2:3
burden 71:13,16,19 71:25,25 72:5,8,12 72:19 74:12,16,18 74:24 75:2,5,6,12 75:13,13 76:1,4,6 76:11,14,22 77:2,3 77:10,19,22 78:6,8 85:11,13,15 125:17 223:9,11,13
burdens 77:21
buried 178:25
businesslike 118:14
business-like 19:13,14 83:1

C

C 122:9
calculation 31:15,16 31:20
call 1:3 26:23 137:8 152:25,25 153:1 255:24
called 12:5 15:21 18:21 35:5 58:24 66:1 68:16 69:18 123:4 134:13 168:20 170:12 230:17 243:11 256:23
calls 27:7 30:5 35:11 50:8 69:19 118:1 132:8 239:18
came 111:21 123:8
cameo 189:4,5
CANNU 2:9
capable 200:10 214:15
capital 22:4
care 32:2 68:22 69:23 115:14,14 163:13 227:12 243:4 253:1
career 12:1
careful 169:2 170:9 213:21 218:15 227:19 239:2,4 246:18
carefully 6:15 15:14 29:6 49:2 101:16 163:5 227:14 228:3 235:23 238:14 246:15 254:4,5
Carlston 73:5,10 86:12 226:3
carry 162:23 171:19
cartographer 171:15
cartographic 129:22 216:24
case 1:19 17:5 37:18 44:20,24 45:14 46:12 49:23 54:7 56:21,24 58:11 59:5 60:17,25 65:9 66:18 70:6 71:2,2 75:24 77:11 78:7 82:8 84:4,18 87:13 107:9 119:19 121:19 122:23,23 130:17 147:15 177:19 179:6,24 198:17

Trevor McGowan
info@TMGreporting.com

200:20 214:19 215:18 221:15 223:4 227:3 229:9 229:10 232:5 242:13 249:25 250:13 252:5 254:4 255:10
cases 58:2 64:5,21 65:17 78:8 80:24 84:22 85:7 132:14 177:4 210:15,22 211:12 221:23 223:20 225:6,6 249:1
casual 214:11
catalogue 99:25
categories 10:9 135:1 192:9 201:9 203:3 244:14
category 36:23 37:14 220:23 245:8
cattle 7:22 195:19
cause 86:18 121:18 132:11 179:25
caused 130:16 156:25
Causes 12:18
causing 126:12
cavalier 80:4
central 5:16 7:7 8:12 20:14 145:1
centre 14:3 183:23
century 13:21 43:15 44:10 82:4
certain 226:8
certainly 74:2 138:5 158:20 167:17 224:21 252:11
chair 13:18 19:9
chairman 1:3,7,14 5:21 34:17,21 63:14 108:22 114:19 134:2,7 181:2,6,10 259:11
challenge 21:11 28:11 43:21 57:8 64:23,24 100:21 225:23 243:16 253:24 257:12,15
challenged 237:18 254:24 257:13
challenges 21:17 29:5 85:6
challenging 71:23 76:5 77:3 85:10 130:14 223:21 229:8
Chambers 2:2
chance 176:3 259:1
change 41:16 62:8 78:2 115:20
changed 156:23
changes 62:5 77:2 99:10
changing 30:18 31:16 32:4
chaos 59:21
character 22:2 31:17 86:19 90:18 106:15 211:14 240:25
characterisation 105:10 146:22
characterise 37:19 67:20
characterised 46:16 219:16
characteristic 106:7
characteristics 56:23 83:5 88:21
charge 86:21
charged 36:24 187:25
chart 105:17
chats 117:19 118:2
Cheng 58:18 200:2 222:20
cherry-picked 88:2 187:18
cherry-picking 189:21
cherry-picks 87:23
chiefdoms 7:17 9:16 28:22 33:12 37:12 47:15,19 48:11,11 50:25 51:19,24 52:17 163:10,25 165:9 166:5,8,9,19 167:3,10 169:4 173:3,7,10 175:4 179:19 180:17 183:6 185:3,12 202:23,25 204:7 216:21 228:8 232:15,25 233:5 234:22,24 235:9 236:20
Chigei 22:14
China 249:20
Chinese 249:24
choice 10:19 15:18 16:1,6,7,8,8 69:9 89:14,14
choose 15:24 96:12
chooses 87:23
chose 20:10 39:7 82:9 93:4 102:21
chosen 14:14,14 200:9 220:23 253:14,17
circulate 138:14 141:9 142:12 149:11
circulated 99:1
circumstance 152:22 201:18 246:25
circumstances 58:1 64:24 65:3,20 72:6 75:19 85:25 100:9 100:20 107:3 125:24 126:13 133:8 153:5,8 178:9 202:17 205:21 215:1 245:17 246:15
circumvented 99:18 99:20 101:13 105:9
circumventing 79:10
circumvention 103:6
citation 131:1,5 157:17
citations 220:9 227:16 246:3
cite 67:8 248:16 251:23 252:14
cited 77:6 79:15 127:2 166:13 189:14 207:17 210:6 220:7 223:5,13 244:25 247:10 248:21 252:22
cites 48:6 74:13 76:24 97:17 126:17 207:10 219:22,25 222:20 236:10 257:22
cites/makes 158:10
civil 4:7,12,16 5:9 12:19 81:14,23 222:25
claim 30:14 32:19 33:2,22 37:20 44:25 45:18,21,21 46:5 52:6 55:3,4 67:17 67:21 68:14 75:3 101:15 107:24 118:3 122:15,24,25 126:14 128:16 141:8,11,22 143:12 149:9,12 157:15,22 157:24,25 158:2 162:11 163:4 165:16 172:11 174:2 175:15,17 178:12 180:12,23 180:25 181:12,14 181:21,22,23,25 182:17 183:1,22 186:15 188:4,20 195:7 198:3 202:10 206:14 209:1 212:5 213:3,20 214:5,14 220:24 221:24 222:15 226:8 235:16 239:19 240:2 242:5 251:20 253:11 254:17
claimed 36:9 88:10 129:13 156:17 164:11,15 166:5 186:9 202:7 222:13 239:21 240:11,13 254:23
claiming 49:5 178:18 179:25
claims 3:8,17,17,19 29:24,25 30:2 31:23 32:8 33:24 34:4,5 35:19,24 37:19 38:22 42:9 45:11,13 46:3,13,18,21,23 47:7,24 50:1,3,13 50:20 51:5,7 52:10 52:11,21 54:21 56:5 56:7 70:4,18 71:20 75:7 77:10 78:7,13 78:15 79:21 80:11 80:18 88:7 107:21 114:7,8 117:18 123:3 134:9 139:12 143:3,5 162:1 163:17 164:3,16 168:9 169:17 178:14 181:15 182:20 185:18,19 186:3 189:13 191:11 195:13 206:8,25 209:9,20 210:7 212:14 213:24 214:2,13 220:11,14 237:20 238:6 239:11 253:15 254:19 255:3,7 257:24
clarification 197:20
clarified 147:7
clause 40:25 70:11 193:24 194:17 196:10 206:18,19 207:7
clear 20:17 25:25 32:7 32:25 39:11,14 42:15 64:17 71:2,3 71:13 78:13 93:17 94:23 101:6 106:25 111:14 115:3,15 119:15 123:6,12 125:2 136:11 139:9 139:11 141:13 145:15 146:13,19 149:3 156:1,3 160:15 162:25 163:13 166:22 169:10 172:7 177:17 179:3 185:4 187:6 189:6,10,19 190:18 191:20,25 193:15 194:23,25 195:21 199:2 208:3 212:13 227:5,11,21 231:18 233:6 236:1 237:2 243:4 251:1 255:13 258:6
clearer 69:21 208:11
clearest 185:8
clearly 37:3 38:7,9 45:3 108:5,11 110:3 117:20 118:4 135:15 137:15 147:10 165:11,13 167:9 171:20 174:13 175:10 177:8 179:21 180:20 183:9 184:4 230:10,10 232:8 238:21 240:3 251:16
close 126:21 159:1 227:1 256:21
closely 11:14 88:7 170:20 250:19
Co 2:2
coherent 79:19
coherently 235:24
coincides 170:20
collaborated 16:21
collaboration 10:8
colleagues 1:10 31:9 146:9,18
collect 145:25
collection 30:17 31:13 109:24 110:12 205:9
collectively 14:25 48:12 173:7
Colonel 5:21
colonies 252:19
come 3:25 7:19 19:23 24:12 30:12 33:23 35:20 56:5 58:8 59:5 83:9 92:1 93:14 97:15 102:23 129:23 131:22 250:9,18
comes 15:16 126:20 187:19
comfortable 89:22 220:3
coming 9:13 108:25 109:3 227:1
commended 23:3 69:11
comment 129:11 133:19 140:9 141:3
commentary 43:15 49:12 58:15,19 72:14 86:6 221:11 222:5 225:8,21 249:23
commentator 59:15 211:9 221:16
comments 53:16 110:3 115:25 116:22 124:17 174:18 258:19,20
commercial 198:16 220:24 225:24
commission 9:7,15 10:6,7,11,14 11:22 17:9 18:3 19:9,18 19:19,25 20:10,18 21:5,24 22:3,16 23:8 26:16,18 69:6 79:1 88:14,17,18 90:25 92:16,22 93:8 93:10,13 98:7,16,21 102:24 103:8,9,10 103:11,19 104:9 105:19 117:8 134:10,16 135:1,8 135:11,15,19,20,25 136:2,7,9,13,23 137:1,8,21 138:2,7 138:15,17,24 139:25 140:5 141:6 141:10 142:1,8 144:10,12,25 145:17,21 146:21 149:11 153:6 155:18 163:24 174:4 223:7
commissioner 23:16
Commission's 11:12 39:21 69:4 90:15 98:11 99:25 105:22 110:8 116:13 140:21 197:14
commit 35:22
commitment 154:15
commitments 26:21
committed 40:6 103:6 124:18 178:10
committee 109:13
committing 25:4 146:16
common 43:3 53:11 55:23 81:23 87:7 134:25 135:11 200:20 223:1 244:16
commonly 212:8 250:20
common-sense 138:18 152:21 200:8
communication 118:15 130:18
communications 98:22 145:4
communities 150:18 197:7,11 243:13
community 4:21 59:18 67:15,19 68:6 68:15,16,20 69:1,17 69:23 70:5
Company 58:6
compare 26:4,7 162:16 177:9
compared 20:6 44:3,5 226:21
compares 26:6,8
compelled 176:18
compelling 236:1
competence 45:4 200:16
competent 200:5
complain 14:24 124:10 160:18,20 240:8 251:14
complained 123:18
complaining 129:8 196:7
complains 101:11 241:25
complaint 15:16 29:16 30:19 32:10 34:14 34:22 35:16 45:9,9 51:9 56:4 79:2 101:8,18,23 107:5,5 107:14 113:25 114:2,18 118:22,23 119:6,9 120:1 122:14 125:23 126:1,2 134:20 136:18 157:4,10 160:21,22 172:5 173:23 176:12 180:18 182:10 203:15 206:7

208:16 226:14 241:24 242:3 251:11,21
complaints 24:12 29:8 29:22 30:19,24 31:14,21 32:4 33:3 33:4 34:7,13 35:3 35:10,11 43:1 47:2 51:4 56:1,11,13 78:19 79:5,19,23 80:3,10 87:19,20 100:13,15 101:6,20 106:16 107:8 113:23 129:5 133:22 157:20,21 161:1,2,7 162:12,16 163:15 208:25 209:1,5 214:21,23 215:2,7
complementary 10:21 13:2 14:8 25:23
complete 25:9 50:11 56:6 98:16 113:3 140:2 172:4 198:2 203:14 208:15 233:10 239:18 240:2 258:24
completed 16:18 98:12 159:6
completely 55:13 56:4 105:13 118:23 129:15 138:9 146:7 149:12 153:16 156:13 157:4 160:22 162:14 164:2 195:9 223:1 236:3 251:18 254:6 256:12 258:1
completeness 156:24
complex 235:18
complexity 235:23
complied 139:4 156:1
comply 55:13 210:4 219:2
complying 54:2
composed 89:19
compositeurs 250:1
composition 11:13 15:7 135:10
comprehensive 2:25 4:17 5:6 6:2 11:6 30:25 31:4 54:4 68:23 98:3
comprehensively 215:23
comprised 14:6
compromis 73:12 86:15
compromise 152:13 152:15 153:1,9,15 156:6
conceded 178:6
concedes 117:16 131:3 138:4 247:24
conceivable 126:12 138:22 149:24 159:21 162:18 185:8 239:10
conceive 4:10 144:18
conceived 139:2 153:12 155:14
concept 43:9 46:15 155:8 201:3,20
conception 43:12
concern 123:9
concerned 43:7
concerning 168:6
concerns 162:1 196:25 201:6,13 209:9
concessions 74:8,10
concisely 165:10,13 167:8
conclude 133:12 171:18 177:22 178:9 185:13
concluded 4:19 110:19 169:6 170:2 170:11 171:2 173:5 182:6 188:19 202:24 207:11 208:3 229:13 230:1 230:3 231:7 233:18 233:24 234:13,17 238:4 240:16,17 243:8 244:20 245:10 246:14,23 252:5 254:21 255:15
concludes 28:13 29:2 158:4 221:16 229:21
concluding 162:18 189:25 223:24 225:25
conclusion 31:11 72:22 108:25 109:3 109:13 146:12,23 159:10 168:19 170:7 190:3 193:8 194:8 230:22 234:5 234:20 235:3 240:21 241:3
conclusions 147:11 169:3,15 170:9 171:8 183:18 187:4 189:24 193:4 208:6 215:9 221:2 226:20 227:20 228:13 235:4 236:15 237:19
conclusive 9:25
concurring 25:18
condition 62:3 86:24
conditions 29:11 35:21 78:21 108:15
Condominium 184:12 188:12,14 190:22 231:15 233:20 234:14,18 235:6 236:25 252:20,21
conduct 17:25 24:19 25:3 56:15 80:5 90:8 92:12 95:15,16 102:21 104:10 106:2,9 112:10 118:25 121:4 127:19 128:1,14 129:5 135:9 136:15 141:20 157:1,6
conducted 3:5 15:3 16:13 19:13 21:18 22:17,19 23:6 31:23 82:25 83:17 101:9 118:13 121:7 139:19 161:14
conducting 18:11 20:20 22:5 94:18 102:4 119:5
confer 185:23 186:15 186:20 187:1 189:11 193:8,16,22 194:2,7,24 195:24 197:17
conferral 196:13
conferred 186:1 199:15 202:2 205:4
conferring 192:11 194:12
confidence 146:6
confident 31:8 146:8
confidential 90:17
confinement 81:12
confirm 21:2 72:25 144:3 145:4 154:15 193:19 194:3 196:10,16
confirmation 113:4 144:8
confirmed 24:4 44:17 93:2 122:1 128:11 143:17 144:16 193:9 215:13 250:6
confirming 69:12 109:7
confirms 33:15 42:7 104:21 107:17 219:10
conflict 4:13 6:5 13:17
conflicts 5:14 13:20
conformity 84:9
confused 74:22 111:24 235:19
confusing 231:17 235:21
confusion 230:16 231:1,6,18 233:15 233:16
Congress 160:12,13
connection 108:7
conscientiously 16:15
consensual 152:23 153:2 155:13 248:22
consensually 63:1
consensus 21:6 78:25 134:15,24 137:2,16 137:22 138:2,18,21 138:25 140:10 141:1,23 145:16 147:21 149:25 150:2,4,15,19,25 151:11 152:13,16 152:25 153:8,15,21 153:25 155:4,8,12 155:20,24 156:11
consent 99:12 242:10 248:19 249:1,5
consented 99:10
consequence 133:20 168:4 231:6 233:17
consequences 60:8 64:18 70:16
consequently 158:6
consider 24:12 28:7 34:2 38:19,22 47:25 54:11 102:13 126:24 127:2,3 162:10,15 168:4 218:2 221:13 226:25 236:14 252:4,6
considerable 32:5 52:8 59:20 196:22 205:16
consideration 28:15 45:25 126:19 127:16 132:20,21 132:22
considerations 101:4
considered 20:13 82:14 90:9 91:6 92:19 95:17 103:15 105:7 123:21 168:18 169:25 176:25 183:7 185:8 202:1 220:12,21 225:4 226:9 227:7 227:11,19 231:3 243:3
considering 100:12 130:8 131:11 185:6 252:1
consist 10:6 47:14
consisted 135:1
consistent 22:2 42:19 54:18 100:7 111:11 112:6 131:19,22 160:5 165:23 176:22 194:8 195:14,15,20 197:13 213:21 215:14 216:19,25 217:2,14 218:13,20 228:4
consistently 30:15 132:1 232:18
consisting 25:14
consists 37:10
constitute 46:5 53:12 53:20 79:23 86:17 119:21 159:2 186:22 190:10 199:17 209:2 254:2
constituted 1:1 78:22 126:15
constitutes 33:1 49:5 79:7 164:7 251:10
constituting 242:20
constitution 9:6 90:25
constraint 259:12
constraints 21:17
construct 215:6 248:17
constructing 45:16
constructive 6:3
constructs 210:2
construed 198:6
consult 20:1,11 93:3 104:20 108:18 110:8 126:10,23 127:23 132:24 133:3 135:20
consultation 91:4 104:16
consultations 157:11 157:13
consulted 93:23 145:20
consulting 94:18 102:7 104:11 109:15
contact 124:22 132:17
contacts 128:17 133:6
contain 192:8 216:7 216:16 217:13,16
contained 4:3 8:23 11:1 25:12 29:9 86:15 89:25 91:8 98:7 122:6 130:19 156:9 204:23 210:5 215:16 216:11 218:4 226:16,18 237:16 238:24
contains 43:20 179:8 248:25
contemplated 18:22 21:18 22:12,13 65:8 94:7 99:7 105:25 128:13 143:1 163:15 171:22 197:15 200:10 218:3,8 248:2
contemplates 138:1,6
contemplation 173:18
contemporaneous 108:5 145:4
contemporary 12:10 38:14 43:11 44:12 80:20 81:20
contempt 26:10 247:8
contending 76:1
contends 48:2 134:15 172:6 231:20
content 216:10 225:12 225:14
contention 72:6 76:8,9
contentions 76:23
contents 30:7 158:22 171:17
contest 49:10
context 57:15 85:18 86:12 186:25 187:16 204:15 205:14 208:6 213:25 218:2 220:14 226:4
contexts 57:20 220:24 224:16
continent 14:20
continually 32:3
continued 148:23 156:19
continues 95:24 202:9 255:20
continuing 19:10
continuity 168:20,21
continuous 45:13
continuously 30:18
contract 49:4
contradict 70:4 220:13
contradicted 56:14 141:11 143:13 212:22
contradiction 30:10 112:16 129:14
contradicts 137:13 141:21 221:24
contrary 23:1 53:11 66:21,23 100:2 102:18 105:16,23 106:19 119:10 122:24 123:3 132:21 147:22 149:12,14 154:10 155:2 156:18 158:15 160:8 161:13,22 171:20 176:9 180:14 200:7 202:2 206:25 218:14 219:9 220:16 223:17
contrast 39:20 94:15 97:20 114:5 115:5 215:20 216:3
contrasts 90:17
contributed 1:19
contribution 116:5
contributions 116:23
contrivance 134:21
contrived 31:14 101:16 118:8 125:23 133:23
contriving 122:14
controlling 44:21
convened 151:12
Convention 38:15,16 38:16 43:18,18,19 44:1,4 57:22,23,24 72:10,11 84:16 96:20 209:25 211:4 211:5 219:19 225:9 225:20 250:23
conventions 57:19,21 65:8 72:12 221:6 222:11
conversations 114:20 114:25
Conversely 211:24
convert 247:16
convince 219:1
convincing 224:4

cooperation 26:14
cooperative 161:16
coordinates 171:15,24 171:25 172:16 216:25 254:8
copy 141:9
core 205:17
cornerstone 7:3
corollary 210:22
corps 26:16 142:18
correct 43:8 131:9 176:17 179:23 231:25
corrected 109:20 111:2
correction 111:4
corrections 201:8
correctly 230:15 235:7
correctness 48:18 246:5
Council 44:24 69:25 84:4,5
council's 45:4
counsel 2:9,9,9 2:6 55:10 174:17 220:2
count 183:14
counter-examples 222:24,25
counter-memorial 154:20
countries 5:3 223:1
couple 81:6
courage 257:11,15
course 1:19 15:11 17:4,21 26:13 31:2 48:7 59:22 60:15 64:23 66:9 81:17 98:24 108:15 117:22 132:3 135:11 164:7 173:19 174:24 180:9 183:7 195:4 201:14 222:19 223:3 242:15
court 1:4 2:10 26:5 44:19 65:25 75:25 85:4,15 88:16 96:19 96:19 212:9 226:22 252:12
courts 84:19 198:10 211:10 220:6
cover 96:8
co-counsel 1:18
CPA 4:19 5:16 6:5,18 8:12 9:24 33:10 40:2 62:20 68:18
CPA's 27:10
Crawford 2:2 8:13 173:1 174:18 177:13,18,25
Crawford's 47:11 178:2
create 132:5 186:6 193:16,22 194:2,7 194:23 195:24 199:13 250:17 255:18
creation 196:13
credibility 114:14 139:12 154:17 155:1
credit 1:15,18,20 230:23
criteria 3:19 16:2 29:13,24 34:3,6 35:6,21 42:9,22 43:1 44:15 45:11,16 45:20 46:13,17 51:4 67:25 209:10,21,24 212:14,25 213:7,24 214:2,8 215:15 219:16 242:9 251:10
critic 123:6
critical 7:14 11:5 48:17 61:17 64:25 123:14
Critically 52:19 175:5
criticise 89:13 128:15 159:21
criticised 54:24 125:6
criticising 25:2 80:8 179:20 180:2 186:6 189:22
criticism 26:2 47:13 172:21,21 232:5 236:12
criticisms 133:7 174:14 229:5
critique 229:3
cross-examination 154:23
crucial 214:18 224:9 224:12,19,25 228:10 229:7
crunch 8:14
cry 70:9
crystal-clear 111:4,6 183:2,12 207:22
culminated 16:22
Cunnison 23:21,21 24:2,15 111:14,19 111:19 112:4,19 120:14 126:11 128:20 130:2 133:6
Cunnisons 23:25 24:11
current 23:4 25:1 29:21 43:25 49:12 53:22 57:20 60:10 68:9 70:3 72:15 81:7,15 85:3 90:23 91:24 98:4 99:4 117:3 119:22 131:18 150:21 151:15 154:9 156:4 156:18 164:10 183:16 186:18 188:1 201:23 207:11 208:2 212:10 221:9 222:6 226:11 232:19 250:6,24 254:13 256:4,7 258:14
customary 181:17
Cutler 2:6 1:11
cut-off 255:18
cycle 55:1

D

Daly 13:12
dangerous 60:22
Dar 23:17
Darfur 254:13
date 19:2 47:1 50:15 162:6,21 182:19,22 182:25 183:3,14,23 183:23 184:22 185:14,16,17
dated 25:12 131:21 143:14
dates 61:17 185:7
dating 188:12
day 2:11,12,20 115:13 258:6 260:1
days 22:5 144:5 218:10,20 241:12 256:23
deal 45:4
dealing 39:20
deals 75:6
dealt 103:4 235:24
debate 211:19
December 160:24
decide 5:25 46:24 77:16 95:14 109:8 135:14 136:16 151:10 162:4 195:10 235:22 249:25
decided 51:16 55:2 86:10 201:14 231:21
deciding 36:24 180:10
decision 16:23 20:3,19 21:6 25:9 26:22 32:12,15 34:9 37:16 47:4 48:22 49:13 50:9 52:2,11 53:7 55:21 56:22 58:6 59:8 61:5,9 64:16 64:19 65:1,13,22,23 65:24 66:1,2,4,6,9 68:4 69:20 71:15,16 71:24 72:9 74:17 77:4 81:11 84:8,12 85:12 86:3 87:9,11 94:25 95:4,5 104:19 104:24 106:10 134:14 135:21 137:1,21 146:2,4 147:1,2,15 156:3 159:18 166:6 171:14,24 174:5 175:12 179:2 183:4 187:7,20 189:17 190:17 194:14 195:6,22 196:4,17 197:9,18,20 198:4,6 200:23 203:3 204:24 206:1,18 209:13 210:13 211:21,22 212:2,4 212:10,21 214:16 214:25 215:13,19 216:1,5,10 217:13 219:15 223:19 224:6,20 226:10,17 228:10 233:9 242:1 242:2,13,17,21 243:1,5 245:4,12,18 245:20 246:12,17 247:5,7,13,16,17,23 248:1,2,8,10,14 251:5,20,22 253:20 253:25 254:1,3 258:15
decisions 17:23 32:14 42:18 45:23 46:14 56:20 57:2,6,8 58:5 59:24,25 61:17 62:7 63:22 64:13 66:14 70:9 71:10,22 72:2 75:17 80:17 82:5 83:20,23,24 86:1 87:4,9 96:19,20,20 96:21 186:11,12 198:21,23 203:22 205:20 210:20,24 215:10 221:1 222:18 225:7 242:10 248:5 249:2 249:6,8 250:20 251:3
decision's 224:24
decision-maker 52:4 87:9 224:17 225:3
decision-makers 51:25 96:24 226:24
decision-maker's 72:23 87:6 226:6
decisive 99:12 224:9 224:19,25 232:23 235:8
declarations 192:2
declared 59:6 190:16 191:9
declares 85:12
decline 172:12
declined 163:2 172:9
decounted 259:18
deep 32:2
defect 86:8
defects 101:22
defence 75:3 259:8
defences 75:7
defer 84:13
deference 16:3 76:3 82:7 83:16 87:5 100:6,19 104:5 127:8 139:8
deficient 253:3
defies 55:22
define 9:15 20:18 33:11 36:17 37:2 38:6,11 39:9 43:22 50:24 52:16 163:1,9 163:24 167:2 172:7 175:20 179:10 180:16 185:15 189:2 199:11 202:22 203:6 207:14 216:20
defined 7:16 8:19,21 9:9 28:3,12,21 36:5 39:5 40:7 41:14 42:17 45:7 72:1 99:22 165:16 166:14,18 167:20 171:11,21 187:7 197:5 203:10 232:10,14 234:21 246:15 247:10
defines 33:20,21 36:22 40:15,16
defining 9:8 36:11 37:11 40:14 165:4 168:13 171:13 172:15 175:24 182:6 202:19 203:9 203:9 204:6 228:4 228:16 231:23 232:23 233:12
definition 6:23 7:5 8:11,15 9:25 25:11 32:23 33:3,20 36:1 36:7 37:4,8,10 41:16,18 42:5,17,23 47:9,12,24 48:8,19 50:4,17 51:1,11,17 52:20,23,25 53:4,19 54:20 55:18 131:17 132:1 150:9 151:25 154:4 163:14 164:23,25 165:11 165:15,22 167:7 172:1,18,22 173:13 173:16 176:16,25 177:21 182:5 191:19 192:3 200:18,19 209:17 217:22 228:15 230:14 232:17,20 232:21 233:6,7 235:8 241:13
definitions 201:1
degree 83:7 87:4
degrees 156:21,22
del 63:24 64:14 66:18
delay 26:24
delegates 117:5,8
delegation 108:10 118:21 147:23 150:14 153:23
delegations 10:16 19:21 92:25 103:1 108:4
deliberate 24:14 31:15
deliberately 82:9 83:6 85:22 91:14 95:19 105:9 106:13 186:4
deliberation 218:15
deliberations 25:9
delimit 33:11 52:16 54:12 165:14 189:2 191:5 216:20 227:25 234:24
delimitation 48:5 163:17 172:1,23 187:6,13,23,25 190:5,16 191:19 193:5,19,25 194:25 216:24 217:18,22 228:15
delimited 131:8 179:16 197:24 245:6 246:16
delimiting 1:3 165:5 167:20 171:25 172:15 216:22 218:16
deliver 19:1 142:9
delivered 26:15 159:20 223:18
delivering 141:10
demand 214:5 228:9
demanding 98:15 215:5
demands 16:2 247:7
demarcate 9:15 33:12 38:6 39:18 50:24 163:9,24 165:14 167:2 180:16 202:22 216:13,20 218:22
demarcated 130:23 171:21 179:16,21 197:5
demarcating 9:8 37:11 182:6 216:22 218:16
demarcation 25:11 163:14 164:23 165:1 187:23 193:20 207:8 216:16 217:18 218:1 219:3
demobilisation 27:12
democratic 5:10,17 8:6
Democratisation 13:21
demographics 54:11
demonstrably 143:12 145:12 239:15
demonstrate 49:9 212:16 239:24
demonstrated 73:3 130:15 223:23
demonstrating 221:2
den 211:9
Deng 21:23 108:12 113:11,11,12,18 114:17,24 116:25 143:16 150:11,11 150:22 151:14,15 151:20 153:24 154:9 160:11
denial 143:13 145:10 145:11 151:6,7 211:15

deny 53:16 55:17 117:25 152:5 200:13 220:19
denying 72:19 222:8
Department 13:18
departure 39:1 79:6 86:16 119:20 132:9 155:6
depend 67:22,24 70:9 70:10,13
depended 9:25
depending 34:12 74:6
depends 68:4 70:14
deprivation 86:17
deprived 101:14
deputy 160:11
derive 70:20 96:22 97:3 209:23 213:7 219:13
derived 171:1 213:11
derives 77:11
describe 12:8 123:7
described 4:12 30:16 114:20,21,25 125:13 151:13 154:1,8 157:2 225:8 227:16 247:19
describes 139:19 150:22
describing 154:19
description 2:24 113:21 136:4 236:24
descriptions 132:2
deserves 26:10 160:22
Desierto 63:24 64:14 66:18
designed 6:15 9:4 17:11 18:17 106:13
desirable 147:21
desire 19:10 253:8 256:15
desired 112:10
desperate 31:14 152:14
desperation 30:20 157:18
despite 16:17 21:16 26:21 27:3 29:6 56:24 73:23 74:8 87:14 172:6 222:23 224:7 235:23 248:17
destroy 206:1
destructive 4:12 6:4
detail 49:8 75:14,21 81:3 91:12 99:5 102:24 114:15,22 154:19 163:20 183:8 212:12 238:2 253:13
detailed 5:9 74:19 84:2 85:20 89:24 98:3 168:12 169:14 190:2 200:1 211:17 226:18 227:16 236:23 249:10
details 98:8 124:24
determination 60:11 60:20 61:18 182:23 183:5 238:10
determinations 57:16 57:18 60:4 192:24 220:7 223:3
determine 6:12 17:19 62:3 82:13,18,23 93:21 135:23 136:14 165:8 179:17 184:24 185:2 228:6
determined 61:14 245:13
determining 36:18 91:15 185:5,10
developed 56:20 57:10
Development 4:25
developments 43:17
devoted 14:19 227:17 259:20
devotion 219:10
Dhel 257:5
Dhool 257:5
dicta 66:22
dictate 57:7 75:17
differed 90:10 172:23
difference 44:2 152:12
differences 88:25 95:23
different 30:18,24 32:3 39:22,24 40:1 43:9,23 44:14 46:25 81:23 82:1,2 88:22 94:12 95:20 106:11 121:14 127:10 135:2 153:9 162:5 167:13 181:17 183:14 247:6 258:20
differently 54:14
differing 164:6
differs 89:6 152:16
difficult 4:20 8:16 74:9 115:9 208:11
difficulties 98:20 184:2,8,16
diligence 154:15 218:12 219:10
diligent 161:15
diligently 173:1 227:7
Dillard 44:24
diluted 120:1
Dinka 6:11 7:17 8:5 9:16 22:8,9,21 28:22 33:12 37:12 47:15,19 48:1,11,14 50:25 51:19,24 52:17 101:10,10 112:17 122:8,17,22 123:1,2,8 125:4 163:10,25 164:16 165:9,18,19,20 166:7,9,15,19 167:3 167:10,24 168:7,14 168:21,23 169:3,7 170:12,16 171:3 173:3,6,10 175:3 179:13,19,22 180:16 183:6,11,18 184:6 185:3,5,11 186:21 189:12 192:7 195:23 197:6 199:16 202:3,9,20 202:23,25 204:7 207:12 216:21 228:8 230:18 232:15,25 233:5 234:10,22,24 235:9 236:19 237:22 238:1
Dinka's 180:5
dinner 114:22 115:1,2 118:1,18
dinner-table 117:19
diplomacy 12:11
diplomatic 12:1 70:2
Dirdeiry 2:2,2 21:22 31:7 109:7,19 110:5 110:14,19 111:2 112:7 115:16 116:18 117:2,4,7,11 117:23 124:25 143:11,16,21,24 144:3,7,13,14,21 145:2,12,23 146:17 147:4,9 148:10,16 148:18 149:1,4 150:13,19 151:8 152:3 153:24 154:1 154:21 258:12,19
Dirdeiry's 115:25 116:10 146:13,24
direct 150:16 210:17 211:23,25
directed 146:14
directing 146:17
direction 53:8,9 55:2
directly 62:23 69:16 70:20 148:6 212:22
Director 14:2
disagree 40:15 227:23 228:12 235:11 238:10
disagreed 240:7
disagreement 45:5 51:12,22 52:7 167:16 180:22 230:13 235:14 236:13
disagreements 6:16 47:4 50:16 163:16 215:8
disagrees 49:18 174:9 182:13
disappointed 55:3
discern 31:18
discharging 85:13
disciplines 10:21 14:8 14:8
discouraging 73:2
discourse 203:16
discretion 17:14 80:14 80:22 81:4 82:6 83:7 90:4 91:9,18 91:25 96:11,24 100:18,24 106:2 109:8 125:18 217:21 218:24 219:6
discuss 3:2 48:7 140:8 151:17 247:20
discussed 24:16 65:2 72:25 77:20 107:10 108:1,10 117:17 118:10 127:21 149:21 154:25 162:13 182:1,16 194:21 221:3 226:17 227:10 232:12 236:18 238:1
Discussing 37:23
discussion 68:12 118:3 148:11,23 159:9 168:12 169:14 183:24 188:16 189:15,17 191:2 207:23 208:18 236:16 238:21 240:20 242:2
discussions 107:16 113:6 118:1 128:19 128:21 147:13 148:4 149:14 150:16,18 151:20 154:2 242:24
disfavoured 94:6 158:13
disincentive 63:6
disingenuously 125:22
dismiss 158:9
dismissed 58:23
disparity/diversity 81:22
displaced 5:13 27:21
displacing 76:4
displayed 207:11
dispositif 200:24
dispositive 192:2 201:11
disproportionately 133:18
disproves 69:22
dispute 9:2,23 15:14 16:4,22 21:3 27:23 39:12 47:5 59:23 61:8,9,12 62:5,14 62:16 66:25 70:13 76:23 77:16 78:1 80:21 81:21 136:16 151:17 152:6,17 160:6 175:12 200:9 200:11,15,25 205:17 211:2 219:11 224:1 248:20 249:22 250:18
disputed 61:5 73:19
disputes 1:4 6:25 11:12,18 15:23,25 27:18 53:4 59:12 62:19 63:2 68:1 81:11,25 85:20 201:21 205:14 248:18 250:22,24
disregard 56:25 80:4 155:5 209:7
disregarded 70:24 78:10
disregarding 33:16 119:14 212:2 229:6 254:2
dissatisfaction 32:17
dissect 224:23
dissenting 25:19
distinct 1:24
distinction 153:4,14
distinctive 18:4
distinguish 120:18 133:1
distinguished 1:25 11:25 12:9,22,23 13:1,16,23 49:21 95:2 135:7 174:12 238:15 244:12
distinguishes 75:4
distinguishing 133:8
distorted 186:5
distorting 206:15
distorts 56:18 96:1 149:20
district 23:17
disturb 194:4 195:1
disturbing 80:8
diverse 221:6
diversity 82:3 221:23
divide 48:13 188:22 191:13 241:6 242:7 245:19
divided 2:23 10:8
dividing 191:6 241:18
division 170:3,25 171:2 242:18,20,23 243:25 245:3,24 246:1 251:12
Djibouti 5:4
doctrine 63:3 96:10 200:18,21 201:19 201:23 204:11
document 25:13 52:3 100:3,4
documentary 150:24 227:14
documentation 93:22 94:3 168:1 184:11
documents 6:21 94:13 102:13 104:23 109:2 115:12
dogleg 255:24 256:2
doing 1:12 16:14 43:16 113:2 116:15 127:5 133:11 145:25 148:24 167:4 172:20 198:9 232:24 242:14
domestic 59:17
dominant 169:7 170:13 188:4 190:1 237:22 244:14,15
Donald 11:24
done 2:5 90:1 97:11 108:24 116:7,12 129:3 153:16 161:19,20 162:17 199:23,24 203:12 223:11
door 142:18
Dorr 2:6
dotted 256:11
doubt 55:12 58:12 78:5 116:17 129:3 145:5 164:21 187:7 195:21 196:6 199:8 199:9 208:7,19
doubtful 73:15
doubts 257:17
Douglas 12:14
down 119:23 256:5
dozen 30:17
Dr 1:12 2:5 12:14,15 12:18 13:12 14:18 23:16,19 111:16 112:1 123:9 124:22 143:14,23,25 144:14,18,23 148:10 150:11 257:10,12,23,25 258:2,12,19
draft 17:15 38:16 43:19 57:22 82:22 90:2 134:16 136:22 137:6,7 138:14 140:1,8,9,21 141:2 141:9 142:12 149:11 225:9,20
drafted 5:6 19:7 26:8 36:20 38:21 39:4 83:12 85:23 92:3 104:2,4 106:25 127:7 139:2 141:18 153:12
drafting 91:16 178:3
draw 147:12 153:4 188:18 255:23 256:18
drawing 25:22 54:16 244:23 257:8
drawn 171:15 241:7 256:2,11 258:3,4
drew 25:24 207:19 258:7
drink 27:2 159:12
dropped 160:21
drove 4:14
Dubai 60:4
due 48:7 76:3 85:8 129:15 145:19 256:6
DUPUY 1:11
Durham 23:11 129:25
during 14:22 24:25

26:19 56:15 98:24 115:17,17 116:3,12 137:17 141:20 165:25 166:23 168:6 174:17 184:25 185:10
duty 12:5 259:13

E

each 2:9 10:10 11:4 25:17 43:17 57:24 71:19 76:22 78:12 99:10 101:6 150:2 153:22 162:15 168:9 208:2 214:7 248:24 250:13
earlier 35:1 98:18 169:15 173:25 188:15 191:1 226:17
early 19:5 43:14 44:10 98:11 113:13
east 13:10,14 14:12 186:21 253:20 254:13,14 255:3,6 255:12 256:6,21
eastern 171:8 189:3 253:21 254:7,8,19 255:4,6,11,19 256:1 256:13,25 257:8,21
easy 12:7 19:15 41:6 83:1 118:17
editors 252:15
effect 5:23 9:22 27:10 45:7 57:5 58:16 59:23 68:4 78:4 86:19 91:21 110:14 114:25 196:23 197:10 198:7 199:4 226:12 250:3,13 258:4,7
effective 59:14 259:16
effectively 87:15
effects 58:5
efficient 161:16
effort 1:13,14 2:5 41:16 45:20 51:4 121:4 122:14 132:5 145:16 147:20 152:6 153:25 156:5 187:12 197:12,13 219:4 227:25 250:16 251:19
efforts 2:8,8 27:17 94:10 98:11 116:5 134:23 137:16 138:1,6,17,20 141:22 150:1 154:12,14 155:13 155:18 156:10 161:20 198:22
egregious 178:11
egregiousness 119:24
eight 19:2 218:7
either 14:23 16:20 22:24 28:10 32:18 46:12 48:15 54:17 55:2,6 74:6 81:17 99:9 102:16 108:4 112:25 122:20 134:22 157:6 169:12 187:9 192:12,25 193:17 202:5 203:4 214:24 237:4 241:1 243:5 257:14
el 47:16 48:4,16 54:13 164:12,14,18 165:17 166:10,16 169:8 173:4,11 188:5 228:23 229:14 230:1,2,4,17 231:2,3,5,10,12,21 232:11,22 233:17 233:21 234:2,10,15 235:2,6 246:7 250:11
elaborated 6:20
elaborates 169:14
elections 8:9
elevated 80:18 132:13
elicited 133:7
eligible 8:19
elsewhere 73:10 74:4 121:25 160:16 224:7 225:21
email 34:14 78:24 126:3,7,11,15,19 127:2,2,12,16 128:7 128:10 129:11 130:9,13,15,17 131:4,16,21 132:4,7 132:11,20,21 133:1 133:8,20,22 143:14 144:5
emails 143:6 144:20 149:15 151:3 154:24
embarked 26:23
Embassy 12:6 126:4
embrace 53:17
emphasis 104:1 141:16 153:11
emphasise 58:20 65:19 70:19,25 211:14 257:18
emphasised 60:5 82:24 118:11 146:22 184:1
emphatic 58:4
emphatically 72:3 85:2,6 87:13 100:23 222:4
empty 99:19 152:14 153:3,10
encompass 45:9
encompassed 5:7 207:3
encountered 184:2
encourage 150:4 155:12
encouraged 94:7 128:13
end 6:3,18 31:7 41:2 51:1 59:14 64:19 130:12 148:8 160:25
endanger 60:9
endeavour 21:5 134:14 137:1,21 138:3
endeavouring 198:12
ended 4:16 154:2
endless 235:19
endorse 67:15
endorsed 68:15
endorsement 68:5
ends 241:10
enforcement 211:10 211:22
engage 129:2
engaged 149:5
engages 153:3
England 23:12,15 111:23
English 176:18,19 194:5
enhance 194:24
enjoy 60:14 245:17
enjoyed 91:19 169:7 189:25 190:7 245:10
enormous 2:4,13 73:16
enormously 1:19,20 2:9
enough 129:6 155:20 228:9
enquiries 83:25 93:15
enquiry 76:2
ensuing 76:2
ensure 94:11 187:12 200:9 225:3
ensured 92:16 102:20 103:8
ensuring 77:24 201:20
entered 6:17 61:22 211:1
entering 176:22
enthusiastically 25:4
entire 14:19 48:10 125:8 139:24 140:19 155:16,18 166:15 206:1 207:5 226:10 241:11 242:16
entirely 4:15 43:14 66:3 69:24 121:5,11 125:16 126:11 141:24 160:5 177:24 199:3 202:4 204:3 220:1 241:12 252:8 254:17
entitled 5:17 8:6 9:21 10:11 39:16 47:25 76:12 83:16 100:6 104:4 107:2 127:7 133:2 139:8 147:11 187:20 203:2
entry 139:21 140:4
enveloping 253:18
environmental 240:19
envisaged 99:14
equal 74:18 121:9 171:2 188:20 190:7 191:11 241:4 242:5 243:13 244:3 245:10,14,18,21,24 246:15
equality 259:14
equally 59:12 81:24 83:19 85:9 93:20 128:8 161:6 175:10 176:21 180:2 191:7 195:4 201:12 205:12 241:6,17,19 244:6 245:16,19
equates 239:16
equidad 250:8,14
equitable 170:3,25 188:22 191:12 242:2,6,20 243:24 245:25 251:12
equity 244:22 247:14
equivalent 130:22
Eritrea 5:5
erred 50:22 51:10 204:1 246:11
erroneous 49:3
error 49:20,23 50:8 120:24 174:11 175:13,24,25 176:6 177:5 232:3
errors 49:6 53:11 69:10 73:16 174:1 226:16
errs 129:8
especially 18:16 80:15 98:19 161:21
essence 59:24
essential 8:24 10:1 15:23 40:16 47:12 55:16 57:11 59:9 60:24 100:12 118:5 118:19 124:17
essentially 37:21 113:19 117:16 123:17 181:21,23 229:25
essentials 43:7
establish 97:6,12 126:5 163:23 212:21 214:9 219:23 251:24 255:25 258:18
established 9:2,14 73:13 80:20 85:9 148:20 164:16 169:21 170:12 177:11,12 179:18 189:8 193:13 194:1 206:21 208:8 256:20
establishing 69:12 71:13,20,25 72:12 169:11 199:25 212:11 237:3 245:1
establishment 27:11
et 32:15 34:8 45:23 209:13 242:1,10,12 242:17,20 243:1,5 245:5,19 246:13,17 247:5,5,13,17,23 248:1,5,8,10,14,14 248:19 249:2,5,8,18 250:9,14,20 251:2,5 251:21 252:3
Ethiopia 5:4 13:19,21 23:13
ethnic 13:17
ethnicity 13:20 14:16
ethnographic 204:17
ethnography 10:20 14:10 25:22 89:12
Europe 15:20
European 96:19 247:6 250:23
evade 124:17
evaluate 20:22 93:24 105:2 136:8 139:22
evaluating 94:4
even 33:24 42:23 45:7 48:23 49:19 50:5 56:11 58:13 76:19 78:16 79:25 80:12 88:1 97:17 100:23 104:6 107:3,12,23 112:24 119:10,18 119:25 120:5 121:5 124:14 125:9 126:1 126:14 127:4 131:12 133:11 138:8 147:3,19 149:13 155:2 158:13 159:15 161:3,6,9 163:12 174:10 176:9,24 177:19,19 183:11 186:10 194:3,19 198:24 199:15 202:1 203:25 204:24 205:11 209:1,19,21 210:4 212:24 215:4 218:10 220:14 222:13 223:16,22 224:15,18 226:15 227:4,22 231:25 239:2 240:7 242:13 243:3 246:11 247:5 247:9,13,22 250:1 250:20 254:5 258:22
event 68:13 69:25 149:23 176:9 252:14,16
events 15:11 98:11 99:23 119:11
eventually 27:16
even-handedly 124:8
ever 63:7 112:20 222:22
Eversheds 2:3
every 1:25 37:19 64:25 71:4 98:23 99:12 183:20,24 213:25 224:19 259:15
everybody 146:3 149:3
everything 107:4 153:16 156:1
evidence 107:25 114:6 114:11 117:22,23 126:24 137:18 139:22 145:11 150:24 151:9 154:1 154:10,18,22 156:4 168:13,16,18 169:1 169:11,16 183:10 185:15 225:4 227:12,14,18,20 237:2 238:5,14 239:4,5,14 254:19 255:10,14 256:19 256:22 257:2,6 258:22
evidenced 108:5
evidences 179:10
evidence-gathering 21:1
evident 146:23 190:20 190:24 201:22
evidentiary 49:6 74:24 75:5 76:17 81:13 83:24 184:1 184:16 235:15 236:21
evolution 161:24
evolved 99:7
ex 32:15 34:8 45:23 209:13 242:1,10,12 242:17,20 243:1,5 245:5,19 246:13,17 247:5,5,13,17,23 248:1,5,8,10,14,14 248:19 249:2,5,8,18 250:9,14,20 251:2,5 251:21 252:3
exact 28:18 41:10,22 175:8
exactly 3:20 15:2,3 16:23 31:24 37:23 38:5 40:3,11,17,19 42:19 44:3,25 53:2 67:25 68:9,17 100:5 102:19 107:2 112:11 114:19 118:2,17 119:16 128:13 129:2 141:13,17 142:6 143:1,1 145:8 163:5 163:13 165:1 171:21 172:14 173:15,21 176:21 179:4 180:15 182:9 194:8 216:25 232:20 233:10 253:13 258:12
exaggerated 59:19
examine 20:22 93:24 101:6 105:2 136:8

139:22 214:7
examples 23:3 183:15 183:17 201:8
exceed 33:17 186:23 199:7
exceeded 23:1 27:5 28:8,14 29:2 33:10 36:19 37:1 46:22 47:7 52:24 74:2 79:9 157:14 158:6 162:24 182:19 185:20 186:13 204:14 247:22
exceeding 37:14 38:24 39:8,10
except 37:8
exception 33:2,22 56:3 208:22,25 213:6
exceptional 58:2 60:2 64:21 65:16 72:22 74:1,6 75:19 84:21 154:15 210:15,22 211:8,12,14 219:6 219:10 223:20
exceptionally 213:20
exceptions 60:2 72:1
excerpt 250:25
excerpted 186:18 208:1
excess 1:4 3:7,16,17 28:12 32:20,23 33:1 33:4,16,20,25 36:1 36:4,7,11,15,17,21 36:23 37:4,8,15 38:8 39:5 40:6,22 41:16 42:7,16,24 43:2,3,4,5,8,9,11,12 43:15,22 44:2,8,11 44:13,13 45:8 48:20 48:25 49:5,7,24 50:2,7 51:14 52:6 52:21 53:7,12,20 54:22 55:5,22 56:6 72:22,23 74:3,5,12 75:12 78:6 79:8 122:15 161:4 167:17 173:15 174:2 175:15,18 176:1,7,11 177:1,3 177:6 178:11,12 180:1,12,23 181:20 182:17 187:11 195:2 196:7 197:21 197:22 199:17 203:19 205:22 209:2,5,7,18 235:16 259:22
excesses 29:11,24 42:18 46:15,18 47:2 50:12 55:1 78:9,22 79:23 174:16 203:24
excessive 204:24 205:10 208:20
exchange 19:15 83:1 149:2 151:24
exchanged 143:6 149:15
exchanges 118:17
excluded 257:7
exclusion 4:2 259:4
exclusive 33:15 99:24 105:11,15 244:15 244:16 245:9
exclusively 28:12 33:21 40:8
exclusivity 100:10
excuses 133:23
execution 98:25
exercise 8:16 83:3 84:6 177:5 185:25 199:18,20 202:5 203:6 205:24 206:2 219:6
exercised 202:12 207:24 208:4 243:13
exercising 201:14
exhaustive 99:15
exhibiting 226:25
exist 35:7 59:2,21 72:6 159:15 194:4 210:11 248:11
existed 166:8 168:3 184:14 209:21 225:16 255:18
existence 32:15 73:3 97:12 177:10 199:25 200:13 210:8 211:19 212:16 213:16,18 219:23 223:10,14 240:23 245:1
existing 17:1,10 164:17 194:6 195:1 196:9 208:12 256:3 256:11,16
exists 53:14 77:4 167:23 177:6 184:5 225:6 257:20
expansive 128:4 168:9
expect 142:11 145:15 194:14 238:15
expectations 121:14 147:19
expected 15:4 83:3 107:7 110:22 112:9 135:4 140:1 143:2 147:12 149:10,16 157:8 173:22
expecting 148:2 198:17
experience 12:17 14:11,17
experienced 12:10 15:1
expert 11:4 12:14,15 23:23 25:21 204:16 220:6 223:3
expertise 10:25 13:4 16:9 218:11 227:22
expertises 13:3
experts 3:4 10:18,18 10:23,24 11:2,11,17 11:18,20 12:25,25 14:6,13,15,18,22,24 14:25 15:7,13,21,22 16:3,13,14,18,20,24 17:12,15,19,22,24 18:17,25 19:1,6,8 19:17,25 20:1,5,7 20:10,15,17,22,25 21:3,7,9,12,17 22:5 22:7,10,18,24,25 23:5,14,20,24 24:7 24:18,20,22 25:3,7 25:10,11,18,23 26:11,15,19,21 27:2 27:4,5 28:8,14,19 29:2,5 31:1,3,6,23 32:1,12,13,17 33:9 33:17 34:15 35:20 36:19,24 37:1,11,13 37:23 38:3,6,10,24 39:8,10,25 40:6,14 40:17 41:14 46:21 46:24 47:4,7,13,25 48:18,21 50:3,8,13 50:16,22 51:9,13,16 51:23 52:15,19,24 53:23 54:10 55:19 56:1,12,22 61:5,13 67:15 69:13 71:4 76:18 78:9,20,22,25 79:9 80:8,16 82:11 82:11,18,21 83:3,8 83:10,12,14 85:23 87:13 88:11 89:10 89:16 90:2,4,7,13 90:23,25 91:1,5,9 91:14,19,24 92:3,8 92:11,16,17 93:2,5 93:12,18,21,23 94:2 94:5,9,11,17,21,24 94:25 95:2,6,8,9,13 95:14 98:14,20 99:17,19,21,25 100:5,19,19,23 101:9 102:3,6,12,13 102:16,20 103:5,15 103:19,23 104:2,3,9 104:10,15,19,22 105:2,5,12,20,23 106:1,6,9,18,20,25 107:6,10,20,25 108:9,11 109:8,18 109:22 110:3,6,7,10 110:11,16,16,20,21 111:8,12 112:2,10 112:14,22 113:2,5,8 113:14 115:21 116:10,11,14,15,19 116:22,23 117:13 117:17 118:20 119:2,5,14,17,17 120:4,13,21 121:2,7 121:15 122:3,8,11 122:19 123:8,13 125:18 126:2,9,14 126:19,23,24 127:1 127:5,15,19,23,25 128:8,14,16,18,24 129:1,5,13,16,20,22 129:23 130:1,6,7,14 131:4,5,8,10,13,15 131:18,25 132:16 132:20,24,25 133:6 133:10,17 134:9,13 134:15,23 135:3,7 135:12,14,19,23 136:2,7,12,18,21 137:3,6,11,23 138:12,14,20 139:2 139:6,10,22,24 140:1,13,16,20 141:2,4,9,13,16,25 142:5,8,13,24 143:7 143:24 144:15 145:6,20 146:2,14 146:14,19,20,25 147:5,5,8,10,14,15 147:18,24 148:6,24 149:5,10,23 150:3 152:19 153:12 154:16 155:3,9,12 155:14,20,24 156:11 157:11,13 158:2,4,11,14,19,21 159:1,4,6,11,16,19 159:22 160:4,14,18 161:9 162:17,19,22 162:25 163:2,5,7,13 163:17,18,21 164:1 164:9,21 165:2,3,4 165:7,11,14,15,24 166:13,18,23,25 167:1,4,9,22 168:8 168:15,18,21 169:1 169:6,10,16,20,23 169:25 170:2,10,17 171:1,5,7,11,18,20 172:3,7,8,11,14,19 172:22,24 173:5,8 173:13,17,21,24,25 174:14 175:6,17,21 176:8,10,15,17,21 176:24 177:1,17,20 177:24 178:1,7,10 178:15,18,20 179:2 179:7,10,17 180:3,4 180:6,8,13,14,19 181:15,18,22,24 182:2,13,18,24 183:3,4,7,13,18,22 184:1,7,16,19 185:4 185:7,14,20,22 186:9,10,15,17,22 186:23,25 187:1,3,6 187:21 188:3,7,15 188:19 189:5,11,23 190:2,6,10,12,13,15 190:21,24 191:1,5,9 191:18,21,22,25 192:1,23 193:8,15 193:18,23 194:12 194:25 195:6,14,20 195:24 196:3,5,8,11 196:16,19,25 197:2 197:12,16,20,23 198:25 199:2,7,11 199:15,19,21,23 202:1,11,18,22,24 203:5,8,12,17,23 204:1,6,13,16,21,25 205:3,6,10,24 206:2 206:9,16,18,25 207:8,19 208:3,7,11 208:16 209:7,10,22 210:3 212:22 214:15,19,22 215:8 215:9,12,19 216:4,5 216:10,15,19 217:4 217:8,11,14,16,20 218:3,5,8,12,22 219:10 223:15,18 223:22,25 224:4,13 226:15,19,21 227:7 227:11,14,17,21 228:6,10,12,15,16 228:20 229:6,11,13 229:22,25 230:3,8 230:13,15,19,23 231:7,10,19,22 232:1,6,7,9,13,17 232:24 233:6,9,11 233:18,24 234:5,11 234:13,17,20,23 235:4,7,11,13,21,25 236:2,4,7,15,16,18 236:21 237:5,13,15 237:22,25 238:4,9 238:16,21,23 239:2 239:3 240:3,12,15 240:20,22 241:3,17 241:25 242:12,14 242:23 243:2,4,7,11 243:18,23 244:7,11 244:25 245:3,6,10 245:12,15 246:2,5,8 246:11,23 247:4,10 247:14,21 248:2 251:4,14,16,20,21 252:1,4,5,10,14,16 252:22,24 253:5,7 253:19,25 254:20 254:23,25 255:5,8 255:11,15,23 256:2 256:14,25 257:5,7 257:13,18,19 258:7 258:13,15,23
explain 158:25 160:4 197:14 217:21 219:4 225:15 229:12 230:7 240:3
explained 113:10 132:10 165:6 168:21,22 183:9 222:5 230:9,11 232:7 234:12,13 235:7 238:14,16 239:3 240:25 247:3 253:13 254:10
explaining 68:18 158:22 200:3 225:12 228:17
explains 117:13 211:9
explanation 32:14 124:13 157:25 159:4 197:15 201:22 217:25 237:21 238:11 240:12 241:20 256:13 257:20 258:21
explanations 90:15 166:1
explicate 178:1
explication 213:21 226:19
explicit 197:23
explicitly 20:25 46:3 73:24 75:14 95:19 128:5 144:23 147:3 166:14 183:4
express 105:24 116:14 120:4,7 200:6 204:23 242:10 248:19 249:5
expressed 70:1 84:3 190:19 217:6
expresses 212:19 238:8
expressing 123:9 131:11
expression 1:8 50:24 111:25 116:10 197:21
expressly 65:14 72:18 79:7 92:1 93:11 94:1 102:20 105:5 204:5 215:22 239:16 245:23
extend 42:21,25 44:21
extended 128:5
extending 164:17 239:7 255:24 256:3
extends 104:16
extensive 23:6 100:7 207:23 215:3
extensively 58:16
extent 2:19 63:8 157:10 168:10,13 168:23 180:5 183:10,18 184:3 192:24 207:15 232:25 236:19 238:1 240:16
external 35:4 46:4
externally 215:15
extra 259:17
extraordinarily 14:7 19:4 53:17 65:3 112:17 205:15
extraordinary 14:25 112:20 115:20 218:11
extravagance 73:17
extreme 83:23 125:11
extremely 57:7
eye 198:12
ez 164:19 169:8 229:15,17,20,23

Trevor McGowan
info@TMGreporting.com

230:3 231:9,11,22 233:12 235:2,5

F

fabrication 150:25
face 83:17 87:5 159:14 229:5 237:5
faced 236:22 255:17
fact 1:9 24:4 31:9 41:25 42:6 43:10 47:3 48:9 49:19,21 51:7,21 61:9,18 62:4 81:9 87:8 88:14 90:20 113:3 115:7 116:4 117:17 119:11,22 122:1,14 122:19,21 124:7,18 125:22 133:23 145:10 146:10 152:10 155:2 163:4 174:10 176:10 178:21 179:1 196:3 196:15 197:24 201:5 202:2 207:23 215:2 217:2 219:24 220:12 223:14,17 225:18 229:7 232:1 235:13 239:16 247:9 251:4 254:8 258:10,17
facts 68:13 74:24,25 75:2,5 152:2 154:19 228:6 240:19 246:19 247:11
factual 49:4 92:17 107:9,24 118:22 143:5 235:15 237:18 238:10 240:7 241:8,13 243:16
factually 67:21 235:18
fact-finding 17:13 20:5 21:13 85:24 94:10 106:10
fail 3:24
failed 53:23 121:10 125:16 132:25 134:10 180:13,19 196:8 214:15 229:11 230:6 239:24
failing 150:4 155:3
fails 121:4 158:25 214:9
failure 30:21,25 31:3 31:4 34:8 78:25 134:18 155:19,23 156:2 195:5 209:12 222:7 228:20
failures 86:14
fair 101:14 186:8
fairly 200:11
fairness 77:24 244:22
faith 121:3
fall 32:23 33:3 35:25 170:5 209:17 244:1
falling 136:22
falls 244:9
false 107:24 143:12 145:12 156:13,13 205:25 240:15 258:2
familiar 11:14 38:14 44:23 201:25
fanciful 125:11
far 25:2 41:12 42:11 120:9,19 127:15 150:3 193:22 198:15 213:3 228:22 255:5
far-fetched 153:14 155:17
fashion 205:1
fatal 24:14,17 49:25 60:17 87:18 101:22 103:5 107:13 121:19
fault 198:7,18,22 236:15
faults 198:13
favour 229:23
favourably 226:22
favourite 80:2 88:23 157:5
favouritism 160:9
feature 106:12
featured 30:11
featureless 2:18,20
Federal 85:2 212:4
feel 63:10
feeling 147:6
feels 2:20
fell 126:9
few 66:16 90:21 183:16 225:6,6 255:11 256:23
field 93:8
Fifth 90:7 125:9 155:2
figure 3:23 74:9 259:5
final 4:3 9:21 18:25 20:19,23 21:8,10 24:21 40:24 41:24 59:8 60:1 69:5,13 75:18 91:1 93:25 99:15 105:3 121:16 125:9 134:13 136:4 136:9 137:4,11,24 138:12,15 139:20 139:23,25 140:6,9 140:12,17,21 141:5 141:15 142:2,9,13 142:20,23 143:8 145:7,14,24 146:2,5 147:20,24 148:4,8 148:12,25 149:5 151:12 152:20 153:19,25 156:8,14 158:19 163:5 171:13,24 179:2 187:19,20,22 193:10 206:3 218:6 218:9 257:2
finality 3:11 56:9 57:4 57:9,18 58:4,21 60:18 61:4,8,23,25 62:7,25 63:25 64:20 65:15 66:14,21 67:13,22 70:17,21 71:9,21 73:22 76:6 77:21 83:22 198:21 210:23
finally 3:16 4:1 7:20 24:20 25:8 34:15 53:5 61:20 66:17 69:16 78:5 121:10 125:4 148:4 149:23 153:19 155:23 156:24 170:2 175:16 189:4 220:22 247:21 252:16 253:6
find 30:20 38:13 109:25 110:17 111:23 133:24 150:15 178:22 198:22
finding 48:25 74:5 88:1 161:4 167:17 167:18 190:11 198:7 224:24 235:15 242:8
findings 26:1 49:4 152:14 158:4 189:18 190:19 191:4 192:8 240:8
finds 200:19 239:23
finished 2:14 25:10 63:9 111:22
firmly 205:22
first 2:17 7:10 18:7 26:25 29:1 32:21 34:2 37:18,24 38:2 45:19 47:2,7 53:14 64:16 71:13 78:18 80:20 86:23 89:4 101:8,24 113:10,22 114:10 117:2 120:4 129:13 135:2 137:6 137:20 155:8,9 158:10 162:9,9,12 162:22 168:16 176:14 180:12 181:1,14 186:12,14 188:2 210:19 214:14 215:11 224:14 228:23 229:11 232:9 239:21 245:6 251:19 253:11
firsthand 18:19
fit 87:24
five 10:11,18,18,24 14:6,11 15:15 20:17 21:2 25:15 52:12 89:8,10 95:1 130:11 133:10 135:2 136:11 141:16 161:14 218:10,12 218:20 238:3 252:23 253:7
fix 255:11
fixed 98:3 171:5 237:22 256:25
flagrant 35:23 72:24 73:17 78:8 161:10 177:4 178:10 203:21,24 205:2,23 209:6
flagrantly 177:22
flatly 137:13 141:21 220:13 226:4
floor 1:3,8
focus 13:24 29:14 101:22
focused 45:3 166:25 213:2
focuses 251:11
follow 228:22
followed 191:22 226:3 236:16
following 4:8 8:10 26:19 98:25 168:17 260:1
follows 193:6 244:7
forbade 94:17 102:6 132:20 203:8 252:1
forbid 242:9
forbidden 128:17
forbidding 45:24 249:7 251:7
forbids 247:25 248:15
force 57:17 60:3 80:25 82:8 85:17 86:1 204:15 210:25
Forces 27:12
foregoing 172:6 208:15 235:17
foreign 12:1 143:20 222:9,10
forgivable 204:3
form 105:17 187:3 216:10
formal 17:8 81:13 82:10 85:21 118:15 142:15
formalistic 124:17
formalities 19:11 59:3
format 98:2 100:4
former 252:18
forming 214:16
formula 9:18 39:8,9 40:8 126:6 131:20 174:20 175:3,7
formulation 28:24 30:9
formulations 131:23
forth 5:8 6:16 7:24 18:20 38:25 40:1 81:5 94:10 135:16 158:1 166:25 167:5 171:12 172:18 187:3,21 190:15 191:19 195:12 228:14 235:25 236:1 242:24 254:15 257:2
forthright 180:8
forthrightly 236:21
fortunate 15:8,18 16:6
forum 62:11 64:8 77:9
forward 31:12 146:16 219:3
found 72:23 73:2 74:1 88:8 91:19 129:24 177:4 196:21 198:18 203:20 210:16 235:13 238:4
foundation 57:10 81:20
foundations 97:18
founded 13:25 33:25 161:3 209:1
four 10:12 25:7 29:11 34:7,13 161:2 162:1 208:24 209:11
fourth 34:22 79:2 89:23 121:1,16 159:21 203:19
four-month 16:12
framework 9:2,4 17:11,12,15 87:25
France 221:22
frankly 3:22 30:13 114:1 186:4 226:24 230:10
free 8:6,8 16:1 19:20 81:16 92:24 102:25 103:11 108:11 120:21 127:1 252:8
freedom 15:24 93:3 103:19 106:20 110:4,8
freely 103:21 210:25
Frelinghuysen 66:1
frequently 105:18
Friday 2:12
frivolous 80:1 97:8 101:16 157:5 242:11
from 1:9 3:6 4:6,14 8:2 10:12 12:12 13:13 16:5,19 22:7 25:2,7 29:24 30:3 31:18 35:7,15 37:25 39:1 43:9,14,23 44:10,14 49:15,21 51:7,15 54:12 55:9 55:20 56:21 65:23 69:14 70:20 71:18 71:20 77:11,22 79:6 86:5 88:3,23 89:6,7 90:10 93:14,15 94:17 95:20 97:2 98:4 99:8 100:4 102:3,6 106:11 107:12 111:14 112:1,13 115:8 117:23 119:20 120:9,13,18,19 121:14,23 123:6 125:5,24 126:3,7 127:15 128:2,17 132:9,22 133:1 135:7 143:14 144:5 145:25 146:19,23 150:3 152:16 153:9 153:17 154:11 155:6 156:3 158:21 159:16 162:5 164:12,17,22 166:2 166:10,22 167:21 168:16,16,19 169:18 171:1 172:24 174:12 176:4 178:13,19,25 179:6 181:19 183:8 183:9 184:23 185:6 185:9,15 187:19 188:5,12 189:14 190:18,20,24 191:20 193:22 195:12 197:22 198:15 201:22 203:9 204:6,10 206:16 207:10 209:24 213:7,11,22 219:13 221:9 222:6 222:20 223:6 236:17 237:7,24 238:6,15,17 247:18 252:1 254:12 255:5 255:14,24 256:11 257:7 259:18
front 65:18 257:4 258:23
frustrating 198:14
fulfilled 62:3
fulfilling 173:19
full 18:3 19:14 20:18 22:3 23:8 26:14,16 78:4 83:1 92:16 103:9,10 107:19 110:7 135:19,25 136:2,7,8,22 140:5 141:10 142:1,19 145:20 149:11 187:16 207:15
fully 22:2 40:8 87:12 107:2 111:12 112:9 133:2 139:3 148:6 200:11 201:21 215:4 227:3
fun 223:12
function 90:16
functioning 39:20
functions 84:7
fundamental 7:4 35:12 39:2 51:12 56:19 60:23 62:6 67:1,25 79:6,16 80:22 84:22 85:8 86:17 88:10 96:3 106:12 117:24 119:20 120:9,20,25 126:16 132:9 133:5 152:12,18 155:6,15 155:21 158:5 161:11 198:20 212:6,19
fundamentally 70:7 73:20 88:19,22

96:16 104:6 153:9 180:23 209:4 210:17 211:23 242:21
funding 98:8,18
further 28:15 68:2,12 94:8 106:2 114:12 122:24 124:12 133:25 145:16 147:12 170:14 192:19 205:3 207:5 208:17 229:24 257:8
futile 153:3 156:6
future 6:23 8:7 10:1

G

gamut 108:25
gaps 214:18 224:12 226:14,16 229:7
Garang 5:21 123:23
GARY 2:5
gather 63:12 104:22 105:6 110:22,24 128:9
gathered 20:23 93:24 94:4 105:3 136:9 227:18
gathering 94:2
gave 62:9 90:14 114:3 117:9 151:22 160:23 182:12 188:13 190:22
general 30:5 35:6,12 36:7 38:18,19 43:4 46:8 55:7 56:16 58:13 62:20,22 65:6 65:7 66:13 67:12 71:18 72:21 73:14 74:23 75:14,16 76:15,16 79:16 80:6 96:22 100:14,17 101:2 108:1 129:14 130:19 131:2,11 178:5 192:17,23 193:4 198:10 204:12 205:22 210:11 213:11 214:24 219:17,23 220:25 221:25 222:13,20 237:7 238:17 247:14 250:21 251:6
generalisations 214:11
generally 3:9 14:12 61:1 64:10 77:12,17 91:10 96:13 97:3,6 143:5 231:8 238:22 243:5
generis 81:1 85:17
geographic 171:13 192:16 230:16 231:6,17
geographical 233:15 235:17
geography 10:20,25 255:10
GERHARD 1:12
German 212:9
Ghazal 48:4,16 54:13 164:12,18 165:17 166:10,16 173:4,11 188:5 231:3,10 232:11,22 233:17 233:21 234:2,15 235:6 246:7
Ghazal/Kordofan 231:21
gin 122:15
give 2:21 3:12 16:24 27:10 34:8 60:8 116:6 130:2 150:10 154:22 155:14 199:4
given 3:13 9:7 18:16 32:3 57:13 73:11 78:3 82:3 84:5 89:3 95:5,5,23 98:19 106:14 107:18 118:22 123:16 124:5,24 125:6,16 127:22 129:9,19 135:10,12 141:7 147:7 153:19 164:3 171:17 184:16 218:19,22 224:4,5 241:4 244:3 254:22 254:25 257:6
giving 122:11 198:7
glad 176:14
glaring 72:24 73:17 78:9 161:10 177:5 178:10 203:21,24 205:2,23 209:6
go 29:19 44:22 45:2 63:13 68:12 89:2 105:6 111:22 115:22 125:13 132:13 169:23 219:2,4 231:16 235:19 250:4,25
goal 151:17 200:10
Godfrey 13:5
goes 1:16,18,20 56:25 60:17 64:18 65:4 73:10 74:8 114:22 116:14 191:16
going 2:22 25:1 39:10 49:11 56:8,8 58:8 58:17 66:16 70:20 71:1,5 91:25 114:16 115:11,13 123:15 125:13 133:25 137:18 142:1,7 148:2,13,14 149:6 161:24 232:19 241:23 249:11 250:4 256:22 258:17
gone 63:8,11 97:9 219:15 259:1
good 16:8 121:3 206:1 249:14
goodness 115:22
GoS 21:22 101:14 107:22,22 124:15 124:16 158:23 200:15 214:19
govern 17:2
governance 5:12 10:3 13:17
governed 90:5 129:16
government 1:2,16 2:4 3:8,18 4:17 5:11 8:14 9:3 15:5 16:11 16:25 21:21 22:16 24:13,17,22,25 25:2 26:14,17,22,24 27:3 27:8,9,19,25 29:7 29:23 30:14,16 31:5 31:21 32:4 34:7,25 35:11 36:3,9 37:17 37:21 40:3,20 41:8 43:2,13 45:15 46:10 46:21 47:24 48:2 49:1,10,15 50:8,13 51:6,15 52:21 54:8 55:8,16 56:17,18,24 60:17 61:3,13,20 63:22 65:1 66:4,17 67:8,12,20 73:20,24 74:8,11 76:10,19,24 77:6 78:5,13,20 85:19 86:22 87:22 88:1 89:19,21 90:4 90:16 91:17 96:7,25 97:11,17,25 99:9,17 101:1,11,24 102:11 104:6 105:8 107:21 108:3 109:6 110:19 110:25 111:12 112:1,5,14,23 113:1 113:7,9,24,25 114:5 114:10,15 115:5,7 115:23 117:12,22 117:25 118:20 119:3,4,8,11,18,23 120:15 121:5,10,18 121:20 122:4,5,16 122:18 123:2,5,15 123:17,17,19,22 124:6,10,13,14,18 125:1,12,16,22 126:17,25 127:10 127:22,24 128:14 128:22 129:8,12 130:15 131:3,14,15 132:8 133:16,18 134:9,12,15 136:20 136:21 137:5,10,19 138:4,10 139:4 141:24 142:10,15 143:20 144:2 145:6 145:15 146:15 147:14,17 148:5,17 149:17 150:3,5,13 151:2,22,24 152:5 152:10,11,18 153:2 153:19 154:3,16,22 156:17 157:13,19 158:4,10,25 159:17 160:3,16,17,19,23 162:22,25 164:2,11 167:12,13 172:6,24 174:7 175:14 176:3 178:6,14 181:15,18 182:13,18 183:22 184:13,18 185:18 186:10,11,20 189:13,15,16 192:6 194:22 195:10 196:6 198:19 199:5 200:13,17,21 205:15 206:8,14,17 206:25 207:10,18 209:11,20,23 210:2 210:7,12 211:2 212:14,23 213:9,10 213:16 214:2,9,17 215:6,25 219:9,15 219:22,25 220:8 221:14 222:18,23 223:2,5 224:1,7,11 224:14,17,23 227:6 228:12,19 229:11 229:13,21,25 230:10 231:20 233:24 235:11 236:4,8 237:18,20 238:10 239:11 240:9,11 241:25 242:8,15 243:16 247:24 248:17,21 249:13,22 251:8,14 251:19,23 253:6,15 254:7,10,15,18,24 257:9,11,22,24,24 259:6
government's 3:14 16:6 17:2 27:15 29:4,9,14,16,21 30:11,23 31:13 32:8 32:10,22 33:3,24 34:3,5 35:3,9,18 42:25 43:10,12 44:9 45:11,14 46:3,6,13 46:17 47:8,13,18 48:8 49:25 50:2,13 50:19 51:3,8,8,25 52:10 53:2,8,15,18 54:19,21,23 55:19 55:25 56:11,13,21 57:14 60:12,21 61:1 65:22 68:14 69:16 69:22 70:4,17 74:21 78:12,19 79:4,12,18 79:22 80:9 87:14,19 87:20 88:5,9,13,20 88:23 89:3 95:24 96:3 100:13 101:4,8 101:15,20 103:3,5 106:16 107:4,8,13 111:3,7 113:3 114:18 115:4 117:5 117:8,15 118:3,23 119:6,25 121:19 122:22,24 123:3 126:1 128:16 129:4 130:25 131:7 132:5 134:20 136:18 138:23 139:12 141:8,11,21 143:3,4 143:10,12 145:10 145:14,24 147:22 148:8 149:9,12 150:23 151:6 152:8 153:14 156:7 157:4 157:9,22,24 161:1 161:19 162:1,16 163:15 165:16 172:5,21,25 173:23 174:14,17 175:16 175:23 176:12 178:12,17 179:6,23 180:12,18,25 181:12,25 182:10 186:15,24 187:17 194:16,19 195:4 198:3 203:15 206:7 208:16,24 209:4,9 213:3,7,14,24 214:7 214:14,21 215:2,7 215:11,14 220:2,4,9 220:14,22 221:24 222:13,15 223:9,11 225:12 226:13 227:4 228:9 229:10 230:12 232:5,9 234:6 235:14 236:11 239:1,19,20 241:23 242:11 243:1 249:8 250:16 251:11 252:3 253:2 253:18,23 254:5 258:13,21 259:4,7
governs 76:17 77:18
goz 169:19,21 170:1 170:20 171:3,7 188:9,22 190:10,21 191:13 192:19 207:13,14,16,19,22 207:25 208:5 237:8 237:12,13,16 238:18,22,24 239:8 239:18 240:4,17,24 241:1,5,8,9,13,18 242:7,18,23 243:6,8 243:13 244:4,9,18 245:3,13,16 246:9
grammar 176:20
grant 38:18,22 93:11 189:15 190:5,13 193:2,16 196:13 204:22 205:11 208:20
granted 17:12 82:7,11 82:22 85:24 90:7 106:8 128:1 202:20 217:3
granting 199:6 204:1
grants 120:8 175:20
grateful 116:7
grave 60:8 125:19
graze 7:22 195:18
grazing 33:2,22 47:1 56:4 151:23 162:7 162:10 185:21,24 186:16,21 192:13 195:7 197:1,10 202:2 203:23 205:9 206:11 208:17,21 208:25
great 2:1 13:8 26:2 85:16 127:21 227:22
greatest 15:19 16:2 82:7 83:16 104:5 212:23
gross 85:7 161:10
grossly 50:22 51:9 96:1 158:5
ground 48:25 49:14 135:1 174:6 254:2
groundless 134:20
grounds 38:13 71:14 85:10 86:4 119:13 119:21 130:14 146:8 174:1 176:11 179:20 180:2,23 186:6 211:6,11,16 211:21 212:1 215:10 222:8 223:21,24 232:4
group 2:6 14:7 15:1 150:7
groups 22:20
guarantee 103:12,18 126:16
guaranteed 7:6 8:8 19:18 103:11 151:23
guarantees 7:6 102:24 161:11
guide 2:21 244:23 250:6
guiding 82:3
gun 257:25
Gutto 13:23 247:2 252:24
Gutto's 247:15

H

HAFNER 1:12
Hague 1:6 57:21 65:8
Hale 2:6
half 63:12,15 82:4 127:12 133:22 159:5
hand 96:25 150:20
handful 220:9
handled 31:10 146:10
hands 95:6
happen 148:2 149:16
happened 66:10 118:18 121:8 137:10
happily 259:9
happy 63:16 96:13 160:15 259:11
hard 37:19 155:19 177:13

harder 156:10
hardly 12:6 17:7 83:13 131:24 218:12
harm 132:12
harsh 123:5 125:22
having 39:1 66:24 76:6 113:1 114:18 128:17,24 147:14 157:21 159:22 171:11 182:22 231:20 239:24 241:3 255:5
head 12:6 124:5 150:13
headed 10:15 13:25 62:17 77:14
headings 39:24
hear 13:13 18:18 22:18 112:18 123:13
heard 2:18 3:2 22:7,11 22:19 24:20 25:14 26:2 29:17 30:9 56:22 57:3 59:15 60:12 88:5 112:13 112:15,16 115:19 129:1 134:12 145:17 182:20 225:13,15 228:21 239:21
hearing 91:3 112:1 134:3 259:22 260:1
hearings 259:19
heart 15:20 59:3
heavy 71:25 76:7 85:11,14 125:17
Heglig 256:24
held 13:18 44:19 58:11,18 65:16 73:16 84:20 85:5 107:22 119:3 124:8 124:10 157:11 160:7 166:3 186:22 190:10 212:4
help 185:10
helpful 1:21
Hence 99:17
herculean 1:14 2:5
heritage 14:19
hesitate 125:21 140:24
hidden 258:24
high 32:2 83:7 87:4
highlighted 188:2
highly 6:3 44:11 82:6
him 75:22 125:2
himself 146:18
hindsight 16:5
historian 13:7
historians 13:14
historic 48:14 165:18 166:15 168:7,10 202:8 204:18
historical 12:23 13:8 115:12 130:20 131:6,12 164:16 168:13 169:1 170:10 184:20 187:4,22 189:18,24 190:2,7,11,15,19 191:2,4 192:6 193:4 204:17 230:20,22 235:13,17,21 238:3 240:18 245:22
historically 191:6 202:12 207:24 208:3
Historiography 13:10
history 10:20,25 12:16 13:3,6,9 14:10 25:22 89:11
hoc 149:9
hold 174:14 205:22
holding 103:7 157:13
holds 81:11
holes 198:12
homes 4:14
Homr 237:8 238:18
honest 152:1
honestly 183:21
honour 1:24 2:1 26:21
hope 224:24
hopefully 56:8
hopeless 79:21 106:17 107:6 118:5 132:6 133:9 158:8 176:12 186:3 251:18 253:9
hopelessness 45:15
hops 195:12
Horn 5:4
hostilities 27:17
hour 63:12,15 177:25
hours 24:7 112:13,18
House 23:11
housed 115:24
huge 1:13
humbly 84:11
humility 15:21 26:3 83:16,24 87:5 247:2
hurts 84:23
hypothetical 199:22 204:21 253:25

I

Ian 23:21
ICAO 44:24 84:4,5
ICC 88:24 89:18 96:18 248:24
ICJ 68:9 84:3,11 96:18 219:18
ICJ's 201:22 248:23
ICSID 38:16 43:18 44:1 57:24 88:12,15 88:24 89:6,18,21 95:10,22 96:1,2,9 96:20 149:18 209:25 219:19
idea 249:14
idealised 149:18
ideally 11:16
ideas 83:2
identical 76:9 181:1 181:13
identified 93:4 105:18 129:20 152:9 170:10,14,18 182:22 196:15 230:20,20,24 231:4 244:13 246:20
identifies 209:11
identify 18:13 38:7 97:1 101:24 139:18 170:21 228:19
identifying 192:20 252:13
identity 230:16
IGAD 5:1,2 11:8,12 11:14 13:1 14:14,16 27:4 68:21 89:16 99:2 128:20 143:14 144:5,19 178:5
ignore 87:15,20 88:13 88:20 124:18 183:3 185:17 211:3 214:23 215:2 239:16
ignored 42:23 46:25 50:15 131:4 137:19 162:21 164:2 183:22 185:14 198:19 231:23 232:1 233:11
ignores 43:16 56:18 101:1 104:7 118:8 122:19,21 129:16 137:15,15 149:20 152:18 184:18 186:24 206:17 239:1 254:8
ignoring 51:17 162:6 182:19 184:7,22 206:15
ILC 38:16 43:18 49:12 57:22 174:4 219:20 225:9,20
illegitimate 199:5
illustrate 183:16
illustrated 99:4 201:7
illustrations 228:20 229:10
ill-judged 65:10
imagination 36:11 132:8
imagine 113:4 120:6 218:19 249:13
immediate 9:22
immediately 69:2 154:2 168:17 234:9 240:5
impact 132:4 133:17 156:3
impartial 10:18,24 89:9 121:8 122:19 135:2,5,12 146:7,21
impartiality 146:20 257:14,15,17
implausible 55:5 156:16 186:4,4 200:18
implement 27:9,15 30:21
implementation 9:24 33:19 51:13 68:22 69:18
implemented 10:4 83:15
implementing 6:24 83:13
implication 244:21
implied 120:6 121:13 132:16 133:14 204:10 217:9
impliedly 99:11
imply 178:24 217:12
importance 4:24 7:4 7:14 52:9 54:2 58:24 59:17 71:7,7 71:8 76:6 83:22 198:20
important 6:9 8:18 21:13 23:15 24:3 41:10 54:8 56:19,25 58:20,21 62:8 73:20 77:23 81:19 83:9 88:23 92:7 94:15 109:10 110:1,18 111:17 112:21 113:20 116:7,9,15 162:15 165:10 184:17 187:16 192:4 202:17 206:17 210:10,18 211:24 213:1 221:10 230:22 233:18,23 237:6 246:8 249:21 258:15 259:3
importantly 5:15 8:3 52:8 90:7
imported 88:3
impose 80:11 87:17 149:19 220:18
imposed 90:22 94:8 94:20 102:14 106:17 155:17 215:15 219:7
imposing 126:21
impossible 4:10 46:12 100:9 128:18 131:13 141:7 144:18 171:18 172:19 177:21 178:9 185:13 222:12 226:24 227:24 236:15 240:19 241:14,17 247:12 253:11
impressive 14:7 15:1 25:21 26:9
improper 131:10 258:24
improperly 27:6 253:21
impugned 134:18
impugning 72:4 76:13
impute 100:10
inability 79:18
inadequate 141:22 214:22 239:25 240:9
inadmissibility 32:21
inadmissible 32:8 33:5 35:19,25 46:20 47:6 50:18 56:2 79:25 101:21 161:5 162:13 209:18
inadvertent 121:13
incidental 199:20 200:1,6,14,16,22,24 201:1,5,9,12,18,19 202:6 203:7 204:11
incidentally 69:8 146:16
include 13:17,20 40:23 42:8 64:11 77:24 80:13 109:1 162:3 183:17 193:18 202:15 203:2 234:25 256:15
included 6:21 11:11 14:9 18:23 29:10 37:6 40:1 90:24 92:4 103:13,14 110:12 155:10 160:13 166:1,4 196:5 202:11,25 207:5
includes 57:21 108:24 129:21 250:21
including 5:12,14 10:12 22:14 66:13 101:20 109:9 117:23 128:2,6,9 148:9 149:3 151:8 175:24 178:4 182:7 188:10 209:25 221:14 252:19 258:16 259:15
incomplete 99:14 105:16
inconsequential 126:12
inconsistencies 198:13
incorporate 89:23
incorporates 5:3
incorporating 38:12
incredible 145:13
incumbent 179:17
indeed 6:6 10:15 12:22 30:9 40:3 41:7 53:13,15 58:22 63:6 68:14 86:22 109:10 120:12 123:15 124:9 127:24 129:1 138:4 138:22 139:4 176:17 178:6 187:6 196:5 207:5,13 222:9 223:22 226:20 241:11 246:21 248:12,15 250:18 252:2 254:24 255:19 258:21
independence 4:8 6:1 6:6
independent 5:20 17:13,25 18:3 20:13 21:1 23:6,24 83:4 89:9 90:11 92:9 94:5 95:16 100:24 104:10 105:6 119:9 120:8,13 127:19 128:1 129:20 136:15 169:11 206:6 237:2
independently 23:14 90:8 92:11 94:2 101:9 102:3 106:9 106:21 107:13 112:10,22 120:22 121:19 128:24 130:13 133:3 203:14 233:13
indeterminate 182:25
INDEX 1:1
indicated 24:24
indicates 98:2
indication 127:9
indirect 150:17 183:10
indisputably 120:21 129:21 241:16
indistinguishable 120:12,13 132:22
individual 3:16 78:13 93:2 103:8 249:1
individually 19:19 92:23
individuals 113:15
inescapable 54:25 125:3 176:5 228:13
inescapably 54:18
inevitable 176:5
inevitably 167:4 173:17
infer 253:15,19,24
inference 117:11 125:2 254:1
inferences 168:22
inferred 197:22
inform 27:3 144:1
informal 19:13,14 81:1 82:25 85:17,22 90:3 91:14 118:13 118:17
information 20:12 24:3 91:6 92:18,19 93:10,14 94:3,12 104:22 106:23 109:24 110:9,12 121:23 128:6,9,10 128:25 132:23 133:2 143:19 145:25
informed 16:1 107:23 113:7 114:18 118:7 119:4 141:25 142:8 144:14 150:8 154:5
informing 107:22
info@TMGreportin...

2:13
infra 29:25 50:20 51:16
inhabitants 6:11
inhabited 167:23 184:5
inherent 199:21
initial 29:10 108:7 194:20
initially 182:22
injured 87:11
injury 157:1
injustice 86:9 120:3
innocuous 126:12
innovative 6:14
inside 256:15
insignificance 122:1
insisted 6:10
insists 219:9
insofar 156:24 252:5
instance 42:21 168:16
instances 166:12 183:17
instead 16:9 17:11 26:23 29:15 30:15 30:20 36:22 38:21 39:4 45:14,18 46:3 47:3 50:7 53:17 55:20 62:10,15 63:12 75:9,12 79:13 85:22 90:1 93:15 95:10 98:4 99:13 101:22 118:16 120:23 126:8 127:25 135:5 142:12 147:14 153:15 155:11 165:17 172:13 173:5,15 180:7 181:16 182:3 183:3 189:21 197:17 200:17 201:19 207:17 213:9 214:1 214:10 216:9 217:25 223:12 225:3 230:2 232:12 234:13 242:17 248:1 254:16 257:16
Institute's 12:20
institution 11:9 14:14 89:17 91:13
institutional 17:1,6 88:4 89:25 91:11 210:1
instructive 139:20 143:4
instrument 40:1 213:4
instruments 38:15,15 41:22 42:2,12 43:22 44:12 54:5 57:24 96:22 126:20 248:22,24
insufficient 229:5
integral 3:1
integrity 32:2 57:11 71:12 134:18
intend 48:13 152:23
intended 16:24 23:6 31:24 42:4 105:11 141:8,14 143:7 145:7 215:25
intensive 21:13 68:19
intention 152:21,22 193:16
intentioned 120:7
interaction 197:1,6
interest 70:5 85:5
interested 119:1 187:14
interesting 122:25 124:21 152:7
interests 57:16 86:20 201:24
interim 10:3 27:21 201:8
internal 255:21
international 2:6 4:21 15:20,22,22 20:7 35:14 43:17 44:18 44:19 48:5 57:19 58:3,13,22 59:8,9 59:10,12,18,20 60:24 67:5,7,15,18 68:6,14,16,20 69:1 69:17,23 70:5 71:17 80:14,23 81:21 88:3 88:8,16 95:21 96:13 96:14,17 106:11 212:17,20 213:19 213:22 214:1 220:2 221:22 225:24 226:23 246:25 247:19 250:6,22
interpret 55:17 83:14 115:9 137:5 175:2,7 177:14 186:20 199:6
interpretation 47:9,11 47:23 48:8,19,21,24 49:3,24 50:17,22 52:3 84:5,7 100:5 104:3 107:17 113:5 126:5 127:6 131:16 131:19 137:13 138:22 139:10 154:13 165:11,23 167:5,7,12,13 172:17 173:13,16 173:24 174:15,21 174:24 175:10,11 175:13 176:6,10,15 176:17,21 177:2,20 177:22,25 178:2,2,8 182:14 186:24 199:10 203:5 228:5 230:14 232:16
interpreted 48:10 51:23 63:5 131:25 199:3
interpreting 51:10 83:11 173:20 176:7
interrupt 181:2
intersect 256:6
intervening 237:8 238:18
interview 102:12 108:12 110:4 257:10,22,24 258:2
interviewed 23:18,20 112:22
interviewing 20:8 108:1
interviews 18:1 23:24 23:25 24:10 34:13 78:24 101:9,11 102:4 108:3 111:13 112:24 114:1
Inter-American 72:11 221:5 222:11
Inter-Governmental 4:25
intolerable 84:23
intractable 6:4
intransigence 154:16
invalid 72:7 76:2
invalidate 86:2,8 161:11 199:4
invalidated 57:25 210:13,20 211:21
invalidating 119:21 215:10 223:24 232:4 254:2
invalidation 205:19
invalidity 38:13,20 72:9
investigate 106:22 109:9
investigating 129:7
investigation 92:9 129:2,6 130:6
investigations 20:21 90:11 93:16 94:5,19 95:17 102:4,7,16 104:11 109:18 127:20 129:21 130:4 136:15
investigative 18:3 106:24 126:9 223:7
investigators 95:11
investigatory 17:13 19:17 20:13 21:1 81:1 83:4 85:17,24 94:9 100:24 106:1,6 106:15 110:6 120:8
investment 89:12 220:23
invitation 160:2 224:23
invited 107:23 114:9
invoked 67:3 211:8
involve 46:18 61:17 132:8,11 161:21 201:10
involved 68:24 83:6 122:17 131:10 133:15 150:16,17 151:16 209:5
involvement 4:20 18:2 18:2 23:7 125:7,7 140:3
involves 46:23 161:7
involving 78:8 130:18 177:4 205:8
ironic 96:9
irony 225:11
irreconcilable 212:7
irregularities 45:1 86:5
irregularity 80:12,19 84:17 86:8 127:5
irrelevant 48:20 61:19 232:22 233:4 246:7
Islamic 81:24
isolated 188:11 192:18 224:15
issue 5:18 33:8 41:1 42:15 45:2,3 55:9 65:9 69:23 108:8 117:10 118:2 125:8 139:15 152:19 154:11,25 165:1 180:7,10 200:24 217:16,17 230:19 231:16,19 232:23 240:20 248:22 257:19 259:22
issued 69:2,3
issues 6:9 27:21 28:4 28:18 31:25 36:24 37:14 43:6 76:23 98:9 201:13,15 227:22 235:18,25 240:10 243:2 252:6 259:9
iterations 228:21
its/your 53:21
i.e 33:11 52:16 216:20

J

James 2:2 113:11,18 114:24 116:25 151:14,20
Jeffrey 126:4
jeopardise 54:3
JIMÉNEZ 2:6
job 218:25
John 5:21 123:23
Johnson 12:14,15,18 13:12 14:18 23:16 23:19 111:16 123:9 124:22 143:14,23 143:25 144:14,18 144:23 148:10 257:12,23,25 258:2 258:12,19
Johnson's 112:1 257:10
join 6:12 8:9
joint 151:18,21
Joseph 123:21
judge 1:11,12 44:24 72:3 75:20 114:13 151:5
judgment 31:12 66:24 139:6 146:12,15 147:16
judgments 26:5 58:15 87:6 226:22 252:12
judicata 3:11 56:10 57:5,9 58:5,12,21 59:7,17 60:18 61:7 61:10,16,23 63:4 64:11,17,22 66:24 67:4,22 68:3 70:17 96:11,23
judicatory 83:21
judicial 58:3 59:11 80:23 86:19 90:19
judicially 66:25
JUDITH 2:8
July 16:13 25:13 26:13 27:25 143:15 143:18,25 144:9,15 145:7 148:14
June 24:20 27:19 115:8 145:23 148:5 150:7 151:13 153:20
jurisdiction 33:5 37:16 38:19 39:11 46:20 199:19,20 200:1,4,14,22 201:2 201:3,6,9,13,15,17 201:18,19 202:5,6 202:19 203:7 204:11 213:17 248:23 249:21
jurisdictional 32:13 44:20 45:2 177:5
jurisdictions 81:14,23 85:1 213:23 221:10 222:2,7 247:6
jurisprudence 67:3
jury 222:25
just 2:6 15:21 16:10 19:6 25:7 42:13 51:5 53:8 54:14 62:24 64:4,13 67:13 75:15 81:7,19 87:2 97:7 103:9,16 107:18 110:21,23 111:5,9,20 115:19 124:7,23 137:25 138:8 141:18 147:16 156:24 165:3 172:13 182:1 182:2 183:16 188:21 189:21 214:1 222:15 236:17 238:15 247:14 249:4 256:7 256:24
justice 44:19 59:11 84:24 96:19 244:22
justification 236:6 239:23
justifications 254:25
justify 30:21

K

Kaikobad 59:15
Kassahun 13:15
keep 194:6 241:24
Keiru 143:14 144:1,5 144:13,19,23
Kenya 5:4 13:6
key 8:15 66:1
Khartoum 22:20 23:10 34:13 78:23 101:10 102:1 103:7 103:23 105:8 106:16 107:9,21 108:2 113:9,15,25 114:7 115:4,11,18 115:23,24,24 116:1 116:3,14,19,22,24 117:6,13,16 118:4 118:21,25 119:2,6 120:18,23 121:7,11 121:13,17,23 122:9 122:16 123:1 125:11,23 140:6,8 140:12,20 142:3,15 142:22
Kiir 231:12 233:2 254:18,21
Kiir/Bahr 47:16 230:1 235:2
Kikuyu 13:10
killed 4:13
kind 16:23 70:10 132:17 154:3 161:10 192:14 258:24
kinds 94:12 98:9 135:2 249:3
King 75:24
Kingdom 4:22 11:3,14 68:21
Kingdom-nominated 12:15
knew 89:17 107:19 111:19 115:25 117:12 119:8,17 124:22 149:4 216:1
know 5:1,4 16:25 19:4 23:22 25:17 26:7 27:19 44:5 72:9 84:18 89:8 113:23 113:24 114:8 116:4 124:23 176:15
knowing 146:7 148:1
knowingly 16:7
knowledge 25:23 119:2 146:1
knowledgeable 10:24
known 24:15 72:16 231:12
knows 252:24
Kol 22:14
Kordofan 7:18 9:17 28:23 33:13 47:17 47:20,21 48:3,12 51:2,24 52:18 54:13 163:10,25 164:13 165:21 166:7,10,20 167:3 169:5 173:8 175:4 179:14 180:17 202:24 216:21 229:18 231:10 233:17

235:5 246:7 256:8
Kordofan-Bahr 188:5
Kordofan/Bahr 48:16 164:18 165:17 166:16 173:4,11 231:3 232:11,22
Kordofan/Upper 255:22 256:4,12

L

labels 51:6
labour 199:5 206:4
laboured 177:13
lack 107:9 117:14 157:16 226:1,25 231:25
lacking 118:24 224:8 225:17 226:9
Lagu 123:21
Laguna 63:24 64:14 66:18
land 13:25 14:5 39:19 164:13 170:24 171:1 179:18 180:9 181:20 189:8,11 193:13 199:16 202:20 203:1,10 204:1,7 205:12 206:21 207:9 208:9 236:24 238:6 243:14 244:11,13 244:13,14 245:24 246:22 247:3 252:6 252:25
landmarks 2:21
Langar 22:14
language 9:12 19:23 32:24 36:16,25 41:10 42:7 51:8 65:4,18 70:2,3 72:18 75:1 85:3 96:4 103:21 109:17 109:19 128:12 131:25 137:25 139:9,11 141:12 143:9 149:2,13 166:22 170:19 175:8 176:18 177:14,16 185:13 189:1 190:18 191:25 192:23 193:2,6 194:5,20 204:10 207:1
large 26:16 99:2 142:17
last 12:4 23:16 43:16 75:15 82:4 185:18 199:1
late 13:21 19:1
later 13:13 19:2 27:1 98:18 113:13 119:4 130:23 144:5 168:24 218:7
Latin 250:12
latitude 81:9 156:20 156:21 164:20 169:18,23,24 170:7 170:11 171:6 188:6 188:9,10,24 189:25 190:9,9 191:14,24 202:8 216:24 236:6 236:9 237:23 238:6 239:12,17,22,25 240:1,4 241:15,21 254:6,12 256:6
latitudes 170:5,15 182:8 202:3,14 205:13 237:14 241:10 243:8 244:9
latitudinal 171:12,23 172:15
Lau 22:14 111:16
lauded 69:6
laughable 159:14
laundry 55:25 56:11
law 2:6 3:10 13:3,24 14:10 28:5 35:4,7 35:12 43:17,19 45:10 46:9 49:19,21 49:24 50:9 55:7,23 56:16 58:13,14 59:4 59:9,10,22,25 60:24 60:25 62:18,20,22 64:8,10 66:13 67:1 67:5,7,24 68:6,7 70:7,11,13 71:9,12 72:18,21 75:10,15 75:16 76:15,16 77:12,15,17 79:17 80:7 81:14,23,24 91:11 96:14,23 97:3 97:7,13,14,16 100:14,18 170:24 171:1 174:10 200:20 204:12 205:22,24 206:2 209:25 210:11,14 210:21 211:6,11,21 211:25 213:6,8,11 213:15 214:14,25 219:18 221:6,12 222:20 223:1 224:21 225:18 245:24 246:6,6,14 246:20,21,23 247:3 247:7 248:4 249:15 249:17 250:11,12 251:7,15,17 252:15 252:18,23,25 253:4
lawyers 15:22 111:3
lay 47:16 76:1 188:20 191:11 237:14 238:22 242:5
layman's 90:14
LE 2:9
lead 86:15 226:1
leading 13:14 23:23 59:15 86:5 211:9 221:15 225:24 244:15,16 245:15 246:22 249:22
leads 242:2
learned 146:2
learnt 121:25
least 15:6 73:18 79:13 115:1 136:20 150:1 186:18 188:12 190:22 195:8 228:22 237:21
leave 116:17 130:10 147:5,10 201:1 226:13
leaves 66:12 104:18
leaving 115:22 196:11
led 217:22 234:20
left 63:21 81:10 90:3 95:13 194:3 195:25 252:8 255:10
legal 2:8,9,9 3:12 4:3 10:16 13:23,25 34:9 45:25 46:4 56:19,20 57:1,4,10,11,12 58:22,22,24 59:3,18 59:19 60:7 62:24 64:9,9,25 67:2,24 70:15 71:16,19 75:6 75:11 77:11,18 78:6 79:17 87:18 89:6 135:6 136:13 153:7 157:17 159:24 170:3,24 198:12 209:14 210:18 212:1,20 213:2,8,12 220:12,15,17,18 224:15 241:5 243:24 244:19,25 245:1,8,23,25 246:3 246:10,24 247:10 251:9,22,23 252:1,4 252:7,10,12 253:3 253:24
legally 67:21
legislation 43:20 85:1 250:13,15
legislative 159:23 160:2,10 213:4
legislature 34:16,24 79:3 158:3,24
legitimate 188:4
length 41:6 127:21 189:19 232:13
lengthy 24:6 29:8 218:24 259:6
Leone 12:3
less 31:4 35:22 42:8 43:3 45:9 76:19 95:9 97:13 105:22 120:17 126:2 149:10 161:8 209:6 211:24
let's 32:21 136:25 139:14,21 140:4 145:22 245:5
level 2:1 155:5,21 183:13
LEVINE 2:8
liberal 201:20
Liberation 1:2,18 4:18
Liberia 12:6
library 23:11,11
129:25
lie 254:20 256:24
lies 2:14 74:25 76:5,11 156:20
life 13:7 26:6 60:9
light 165:5 223:12
lighthearted 142:16
lightly 74:4
like 1:10,23 2:15,20 4:5 11:13 16:11 23:23 38:15 51:3 87:10 95:9 115:12 124:4 126:10 128:6 128:10 138:10 144:13 175:10 179:15 213:4,8 223:7 259:2
liked 259:3
likewise 19:23 30:7 38:23 54:8 93:6 133:6 147:17 217:11 224:11
limit 90:25 104:15 185:25 237:22 239:22 240:4
limitation 103:22 132:17
limitations 94:9
limited 29:6 58:1 65:3 65:7 71:14 99:21 100:20 130:19 197:18 201:10 205:5,11,12,15 206:10 220:1
limiting 185:21
limits 57:7 206:23 237:17 238:25 241:24
line 15:10 37:25 133:15 164:20 174:23 188:24 191:14,24 205:18 207:18 214:20 229:23 237:24 239:5 240:14 245:15 254:13,23 255:4,18,20 256:3 256:10,21,25 258:3 258:7
lines 158:1 171:12 244:23
linking 7:13
list 29:8 56:1,11 105:21
listen 18:10 142:23
listened 23:2
listening 117:21
lists 38:12
literally 65:24 66:2 240:8
little 74:9 75:21 102:23 116:17 156:10 196:6
live 22:7
lived 23:21 48:1
lives 14:20
living 101:10
LLAMZON 2:9
LLP 2:3,6
local 18:18 22:10,20 170:23,24
locate 188:23 191:13
located 104:21 191:22 239:6 241:18 254:17 256:20 258:22
location 61:14 92:19 93:5 103:15 114:21 173:11 230:17 231:2 232:21 233:1 233:16
locations 12:4 18:12 19:22 22:6 23:7,12 90:14 93:1 103:1,16 192:16
logic 51:25 53:2,18 54:19 55:19,23 176:6
logical 252:2 256:18 257:20
logically 227:22 235:24
logistical 16:17 21:17 98:17,19 105:17
logistics 98:8
Lol 233:3
long 2:8 25:15 111:20 124:6 143:10 159:1 159:10,11 249:16 259:1
longitude 253:20 254:14 255:3 256:5
longitudes 182:8
longitudinal 171:12 171:23 172:16 216:24
long-standing 62:6,23
look 3:16 15:11 21:14 24:2 26:4 34:12 36:16 41:10,20 42:6 53:22 54:9 59:1 64:5,14,16 65:12,23 66:5,16 68:7,8,25 70:20 81:15 87:24 90:20 91:22 97:15 97:20 99:13 107:15 115:7,13 119:22 122:8 123:20 124:12 127:14 129:24 131:22,24 136:25 139:14,21 140:4 143:10,13 145:22 147:3 149:8 159:25 161:13,14 162:9 163:20 183:2 183:12 184:23 222:14 233:23 238:13 245:5 249:10 250:24 254:4 255:13 256:22
looked 19:6 67:13 68:13 95:2 97:9 109:5,12 135:17 138:8 145:9 151:3 165:17 185:15 186:2 193:6
looking 31:12 52:10 75:21,23 139:12 146:15 174:3
looks 179:1,2
LORETTA 2:3
lose 86:18
lot 2:7
lots 111:17
loud 70:9
loudest 113:4
Lual 113:11,18 114:24 116:25 151:14,20
lunch 134:1
lying 234:9

M

M 1:12
MACHAR 2:5
made 1:21 16:7 20:17 21:22 22:25 24:9 25:25 26:17 27:17 31:14,15 32:12 39:1 39:14 40:3 51:10 69:9 77:7 84:12 86:11 88:22 89:15 93:17 95:6 100:8 111:4,4 113:20 117:20 118:5 121:16 124:2 137:16 138:2 141:22 142:12,23 143:18 145:15 147:25 150:2 151:2 156:10 159:22 160:1,14 166:6 173:1 181:19 186:11 187:6 189:4 189:6 192:2,11 194:24 197:23 204:16 207:22 208:2 223:12,12 233:6 241:1 245:12 245:20 254:19 258:19,20
main 25:14 56:23 121:17 139:18 196:15 200:25
maintain 259:14
maintained 34:23
maintains 15:6
major 98:6,11
majority 220:5
make 2:2 25:9 31:21 91:2 101:4 110:2,20 113:24 136:11 141:13 148:12 153:25 173:19 195:21 206:14 212:13,24 241:14 251:1 252:15 257:15
makes 32:25 34:7 53:3 53:10 59:22 61:16 75:22 76:10 86:12

123:12 152:15 183:2 185:4 191:25 193:15 207:13 251:19 256:8
making 116:21 160:9 192:24 196:3 247:12
Makuac 257:5
Makwac 257:5
MALINTOPPI 2:3
Malwal 123:4,9,16,21 124:1,14,22
Malwal's 124:13 125:7
man 123:4
manage 37:20
Management 58:10
mandate 1:5 3:7,17,17 3:19 9:7 23:1 27:5 28:9,12,14 29:2,12 29:25 31:1 32:20,24 33:1,4,11,17,17,20 34:1,5 36:1,4,8,12 36:16,17,19,21,23 37:2,4,8,11,23 38:2 38:6,8,10,23,25 39:5,6,9,15,16 40:6 40:7,14,15,17,22 41:14,15,17,23 42:1 42:3,5,6,8,13,17,18 42:20,25 43:2,4,8 43:11,23 44:2,8,13 44:14 45:8 46:16,18 46:22,23 47:3,8 48:20,25 49:5,7,25 50:1,3,7,12,23 51:2 51:5,13,14 52:6,10 52:13,14,15,21,25 53:6,7,12,21,24 54:2,10,22 55:5,13 55:22 56:6 57:4 72:22 74:2,5,12 75:12 78:6,9,23 79:8,9,24 108:14 121:4 122:15 129:1 131:25 157:14 158:7 161:4,25 162:2,24,25 163:22 164:2 167:17 172:5 172:7 173:15,20 174:2,16 175:15,18 176:1,7,11 177:1,3 177:6 178:11,12,19 180:1,12,24,25 181:12,20 182:17 182:19 185:19,20 186:13,23 187:11 195:2 196:7 197:14 197:21,22 199:8,17 199:21 202:22 203:6,19,25 204:12 204:14 205:23 208:24 209:2,6,7,18 216:20 217:3,8,14 218:5,23 223:7 228:17 235:16 247:22 259:22
mandated 171:2 172:3
mandates 28:17 55:1
mandating 245:24
mandatorily 99:21 217:24 221:8
mandatory 3:19 29:12 29:24 34:3,6 35:3,4 35:6,21 42:9,22 43:1 44:15 45:10,11 45:16,20 46:4,13,17 51:4 91:7 94:21 99:24 105:15 138:11 209:10,20 209:21,23 210:3,8 210:14,15,18,21 211:6,11,21,24,25 212:14,17,19,23,25 213:6,12,15,18,24 214:2,8,14 215:15 219:7,16,17 220:21 221:4 225:13 242:9 248:18 249:7,12,14 251:10,24
manifest 72:24 73:13 73:17 203:21 205:23
manifestly 73:7,18 127:3 158:6 177:23 215:10 242:12
manner 19:13,14 36:21 55:19 73:8 82:13 83:1 84:23 89:20,20 107:3 118:14 192:4 203:21 245:4
manoeuvring 70:10 70:14
manufactured 186:6
many 1:14,15 3:20 20:6 29:18 30:24 31:20,21 81:12 90:19 95:21 106:11 135:16 220:17 222:2 226:22 252:11 258:16
map 27:20,20 39:19 52:16 122:11 167:23 171:16,18 171:25 178:23 179:2 180:3 182:7 184:5 216:14,17 217:18 218:1 254:11 255:13
maps 25:16 109:2 227:15
markedly 89:6 90:10
Mary 112:19
material 20:23 51:10 63:9 86:25 93:24 94:4 105:3,7 121:21 136:8 184:20 185:6
materially 86:20
materials 22:15 25:24 93:22 104:23 110:24 123:6 128:6 132:23 183:7 184:23 185:9
Matrix 2:2
matter 1:1 3:22,22 29:18 43:4 48:22 51:6 53:10 54:24 55:1 64:3,4,6 98:17 162:14 174:21,24 175:11 198:10 200:5 233:7 235:13 238:11 241:8
matters 129:19 135:14 252:7
Mawan 160:11
may 16:5 19:2 20:2,12 23:18 26:3 31:21,22 60:8,9 92:13 102:12 104:12,17,21 113:13 123:1,22 124:20 126:24 128:4 139:21 140:4 140:13,15 181:2 195:1 201:21 210:13,20 211:8 218:7,10 228:12 235:11 238:10 241:8,9 249:25 253:19
maybe 115:17 116:3
McGowan 2:12
mean 42:16 49:17 53:4 54:22 61:10 174:8 175:23 219:7
meaning 34:1 46:19 84:10 115:15 138:3 174:20 175:3,7 182:4 194:5 198:24 199:9 227:20
meaningless 131:1 133:16 200:19 201:3
means 61:10 76:20 111:1 212:7
meant 4:11 38:7 44:9 44:12 89:20 106:4 107:20 139:7
measure 73:7 121:9 245:10
mechanism 6:15 9:3 11:2,11 200:10
mechanisms 6:24 59:23
mediate 27:18
meet 93:3 103:19 106:18,20 110:4 112:3 120:21 153:22
meeting 22:17 26:11 26:13 111:15 113:14,17 123:1,4 123:13,16 124:7,9 124:20 125:1 128:24 134:13 137:8 138:15 143:8 144:24
meetings 18:12 21:18 22:6,19,21 102:1,21 103:7,23 105:9,12 106:16 107:9,11,21 107:23 112:6,11,19 113:2,8 114:7,8,9 115:5,11 116:12,19 117:7,13,17 118:4,7 118:21 119:1,3,7 120:14,16,18 121:7 121:11,13,14,17,24 122:2,17,21 124:8 125:11,24 158:17 160:7 166:3 196:21 197:13
member 106:21 140:25 160:12
members 2:6 10:7,7 10:11,12,14 11:22 19:19,20,20 21:24 22:1 26:18 69:6 89:4,8 92:23,23,24 93:13 98:21 102:24 102:25 103:9,10,12 103:13,19,20 105:12 123:13 135:2,4 140:3,11 141:25 142:2,8,10 142:19 145:17 146:21 148:9 150:12 153:6 154:6 160:13
membership 13:8 140:17,23 141:3
memorial 17:3 29:10 29:14 35:1 37:18 45:6,17,18 49:8 50:19 53:15 60:12 72:25 78:20 79:1,4 81:5 84:2 86:23 113:22 114:6,11 130:25 152:8,8 154:20 157:9,22 160:20,24 179:23 187:17 194:20,23 195:7 200:2 211:18 212:12 221:3 247:20 249:11
men 14:11 16:8 21:24 161:14
mention 13:12 24:9 41:7 87:15 111:19 111:20 141:25
mentioned 45:17 64:4 77:23 82:16 89:24 133:21 194:19 204:6 205:7 243:1 258:11
mentions 40:21 157:23
mere 150:25
merely 73:14 187:3 194:24 195:25 207:18
merits 33:23 47:5 73:17 175:12
Messeriya 23:17,22 23:23 151:23
Messiriya 22:9,18 122:23 150:7 168:15 169:20 170:17,22 171:4 187:10 188:11 190:7,14,25 191:8 192:7,12,18 193:1 193:12,17 194:1 195:17,23 196:2,19 197:2,6 198:2 199:14 204:19 206:23 207:1,12,23 208:4,8,13 237:9 239:23 240:5,23 243:10,22 245:11 245:14
Messiriya's 152:1 168:24 207:15,21
met 23:14,16 90:13 112:2,17 120:23 121:23
methods 95:8
meticulous 198:12
meticulously 180:14 252:23
Mexico 58:10
Michael 1:13 23:16
middle 244:9
Miding 256:23
midway 171:7
mid-April 25:8
mid-July 25:8
might 15:7 26:23 90:1 113:4,24,25 114:1 130:10 148:11 149:18 156:11,25 159:25 194:10,11 215:6 222:21 225:16 246:6 249:13,14 251:23 255:23
MILES 2:5
Millington 34:14 78:24 126:4,7 127:16 128:7,10 129:11 130:8,11,13 130:17 131:4,16 132:7,10 133:1,8,22
Millington's 127:2 131:6,21 132:4
million 4:13,14
mind 36:15 83:11,18
mine 110:13
minefield 205:25
minimal 163:12 243:3
minimally 239:2
minister 108:12 113:11,12 114:17 123:18 124:15 150:11,22 151:14 153:24 154:9
Ministry 143:20
minor 204:3
minutes 63:13 75:16 130:11 156:21,22 181:4 199:1
mirror-image 181:21 181:23
miscarriage 145:19
mischaracterises 97:25
misconceives 96:16 224:14
misconception 111:2 197:12,19
misinterpretation 50:6 52:20,22 53:19 55:4 175:17 176:24
misinterpreted 50:4 54:20 204:22,25
misinterprets 212:6
misread 63:10
miss 54:14
Misseriya 7:21 188:16 189:7 206:20 244:8
Misseriya's 206:10
misses 65:1
missing 225:1
mission 71:7
misstate 144:20
mistake 31:20 86:11 175:14 204:3
mistaken 49:4
mistakes 51:10
misunderstanding 196:23 231:1
model 5:24 43:19 72:17 88:23 149:18 209:25 219:20
moderate 156:9,16
modern 43:20 46:9
modes 118:15
MOHAMED 2:2
moment 19:24 41:20 92:1 115:19 183:12
moments 66:16
months 15:15 25:7 124:2 165:25
moral 212:8
more 4:6,13,14 14:12 22:8 24:7 41:25 44:11 61:1 63:11 69:21 70:2,7 74:11 75:21 88:8,19 89:21 93:19 100:23 102:23 104:6 107:6 129:7 133:18 138:16,21 145:1 147:3,9 148:20 149:13 153:21 154:12 156:15 157:19 160:22 164:25 166:12 169:14 180:23 182:24 195:20 209:4 213:3 214:10 220:3 223:4 224:22 228:8 230:10,12 240:14 250:19,20 251:16 252:24
Moreover 76:8 106:25 145:14 213:24 220:18 221:9 222:2 222:15 223:5 238:13 245:23 256:19
morning 30:10 173:1

Trevor McGowan
info@TMGreporting.com

174:18 177:14 259:20
morphed 229:2
most 1:15 4:12 5:14 6:8 8:3,16 12:9,22 12:23 13:15 35:10 56:25 68:25 73:6 82:14 89:7 90:18 100:6 127:4,7 132:15,16 139:8 168:9 179:15 183:13 206:17 210:22 212:15 215:5 220:18 222:25 223:20
motivated 253:7,22
motivation 255:5
motivations 255:9
motive 258:24
motives 200:23
mountain 73:1 97:4
move 2:16 3:1 7:22 56:8 195:19 241:23
moved 27:1
Movement/Army 1:2 1:18 4:19
moving 16:12 45:12 161:25 247:9
much 3:3 29:18 31:4,8 31:9 35:9,22 42:8 43:13 45:9 46:1,1 61:6 82:16 86:22 95:9 97:13 105:22 116:6 120:17 134:2 139:6 146:8,10 149:10 161:8 174:17 181:11,14 182:24 208:11 209:6 224:1 229:24 230:10 253:10 259:23
Muglad 114:21 115:1 118:18 158:17
multiple 7:19 18:5 101:17 131:20 158:8 167:15 183:17
municipal 59:20
Muriuki 13:5,9 23:19
must 36:6 40:6,23 59:13 73:13,16 86:4 86:24 121:21 199:3 200:25 205:23 212:15,16 226:5 229:19 232:10 248:23
mutandis 208:21
mutatis 208:21
mutually 11:1 149:10

N

NAFTA 58:10
Nairobi 13:6 115:22 126:5 151:12
named 88:17
namely 64:20 65:7 172:15 180:15
names 88:19
narrow 57:7 65:19 219:25
narrower 43:11
national 23:9,10 26:5 60:24 71:18 84:25 96:19 160:12,13 213:2,5,16,22 220:6 221:6,23 226:22 250:15 252:11
nationality 14:17
nations 27:7 67:1 68:20
natural 255:18
naturally 99:7 167:4 173:18
nature 75:13 77:21 108:9 118:9 179:18 194:15 252:17
necessarily 54:21 82:3 83:6
necessary 54:1 71:1 81:16 106:10 147:21 153:17 184:19 206:5 208:18
need 3:13,15 57:12 66:22 71:2,11,11 83:13 93:23 129:23 132:12 147:8 148:20 180:4,9 184:23 201:13,17 248:4
needed 98:18 217:6,16
needless 18:15 221:23
needs 9:5 16:2 33:14 83:18 88:2 147:6 175:2
negative 125:5
negotiated 5:23
negotiating 68:24
negotiations 4:20,23 5:2 6:9,10 11:10,16 68:19
neighbours 18:11
neither 42:21 49:3 107:23 113:15 147:12 186:9 195:11 201:9 255:2
Netherlands 213:9
neutral 10:18 256:13 257:20
never 17:18 30:4 45:17 53:5 77:7 80:3 87:16,21 122:12 128:22 134:13 154:25
new 30:9 38:15 43:18 44:4 54:16 57:23 72:10 78:12 84:16 96:20 157:10,15,24 194:7 197:17 199:7 211:4 221:5 222:11
newly 123:25
next 2:12 12:14 22:4 67:12 70:16 113:18 123:24 124:12 137:7 143:13 147:3 151:11 161:25 190:17 209:9 211:13 241:23 250:4,11 256:22
Ngok 6:11 7:17 8:5 9:16 22:8,20 28:22 33:12 37:12 47:15 47:19 48:1,11,14 50:25 51:19,24 52:17 101:10 112:17 122:8,17,22 123:2,11 150:7 163:10,25 164:16 165:9,18,19,20 166:7,9,15,19 167:3 167:10,24 168:7,14 168:21,23 169:3,7 169:13,17,22 170:12,16,22 171:3 173:3,6,10 175:3 179:13,19,22 180:3 180:5,16 183:6,11 183:18 184:3,6 185:3,5,11,23 186:16,21 187:2,9 188:4,11,16 189:7 189:12,25 190:7,14 190:25 191:7 192:7 192:12,18,25 193:9 193:12,17,25 195:23 196:1,18 197:2,6 198:1 199:7 199:13,16 202:3,9 202:12,20,23,25 204:7,18 206:20 207:12 208:21 216:21 228:8 230:18 232:15,25 233:5,20,25 234:1 234:10,14,18,22,24 235:9 236:19,24 237:4,9,22 238:1,5 238:19 239:6 240:23 243:10,22 244:8 245:11,13 255:2 256:20,23 257:7
Ngok's 203:23
Ngol 169:9 233:2
Ngol/Ragaba 229:15 229:23 230:3 231:9 231:22 233:12 235:2,5
nicely 242:3
niceties 57:4 58:25 59:2 159:24,24
nicety 67:2
Nigeria 12:2
Nile 255:22 256:4,8,12
Nile/Kordofan 256:17
nine 7:17 9:16 28:22 33:12 37:12 47:19 50:25 51:19,23 52:17 163:9,24 165:9 166:5,7,9,19 167:2,10 168:4,8 169:3 173:2,6,10 175:3 179:19 180:16 183:5 185:3 185:11 202:23,25 204:7 216:21 226:18 227:9 228:7 232:15,25 233:5 234:21,24 235:9 236:19
nitpick 161:20
nitpicking 87:8
nobody 109:4 222:22 237:10
nomadic 7:21 195:18
nominated 153:6
nominating 151:16
non 226:16
noncontroversial 212:12
none 33:2 35:25 56:5 77:7 94:8 161:6 199:9 209:4,17,19 221:8
nonetheless 32:6 60:16 176:3 217:23 228:19 237:20
nonsense 240:3,8
nonsensical 183:1
non-controversial 49:9
non-mandatory 212:1
non-recognition 72:13 84:16 211:5 222:5
norm 220:11 223:10 224:22
norms 161:8 213:12
north 6:13 7:12 8:10 156:22 160:16 164:18,20 169:18 169:23,24 170:6,6,7 170:11,15,15 186:21 188:6,6,9,9 188:10,11,25 189:8 190:8,9 191:15,24 192:19 193:14 196:1 202:4,4,8,14 202:21 205:13 206:12,13,22 208:9 214:20 228:25 229:4,24 235:1 236:7 237:14,14,23 238:7,22,23 239:5,8 239:9,9,12,17 240:6 240:13,16,24,25 241:7,10,10,15,15 241:19,19 243:9,9 243:20,20 244:2,2,6 244:6,10 245:7,7 253:17 256:6,11
northern 169:25 170:4 171:6 188:18 188:23 191:13,23 207:3,4 208:10 228:24 240:4,16 241:21 242:18 243:25 254:12,21 255:15,24
northernmost 169:11 237:3
north-east 256:9
north-eastern 253:16
notable 178:17
notably 123:12 178:1
note 34:6 63:10 116:9 139:24 140:7 157:18 192:4 210:10 213:1 230:19 250:7
noted 55:10 164:5 170:17 171:5 230:15,25
noteworthy 116:25
nothing 32:15 41:25 45:22 46:10 47:3 64:6 66:18 94:16 97:18 99:18 102:1,5 102:10 106:3 107:6 118:14 126:22 132:19 133:11 138:13,16 143:6 158:12,20 196:10 199:11,24 201:2 203:7 204:4 214:10 216:3,5 217:23 223:5 224:22 225:14 230:12 247:25 248:15 251:6,25 252:9 257:23 259:8
notice 118:8 129:9,19 130:2 133:3
notify 113:14
noting 197:17
notion 36:4 43:3,11 46:8 50:19 84:24 153:8 155:13 226:4
notwithstanding 27:7 145:1 150:19 152:2 193:24 204:11
nowhere 40:25 91:19 108:14 157:23 237:20
nuanced 169:2
Nuer 12:19
null 73:7 225:17
nullifies 62:6 64:7 66:20
nullity 38:13,20 71:14 86:15,21 226:10
number 3:2 18:12 31:16 32:3 58:1 80:10 90:14 105:19 169:2 170:21 221:7 221:10 223:12 224:8,9,18 244:25
numerous 12:21 13:11 13:22 89:25 101:22 133:1 208:1 225:18
nutshell 74:22 164:10
Nyamora 233:3

O

object 112:23 142:11 142:19 153:2 189:22
objected 113:16 122:5
objection 11:21 29:15 108:4,19 111:25 127:11 230:12
objections 16:19 22:23 24:24 26:17 29:9,17,19,21 31:17 32:22 56:14 96:6 101:3,5 107:11 113:9 230:11
objective 67:24 123:22 198:14
objectives 176:22
obligation 97:6 118:20 133:14 155:18
observation 175:5 179:22 207:13
observations 19:15 83:2 131:9 179:9
observe 86:14
observed 167:22,25 188:3 196:19 208:7 237:5,13 243:18
observing 60:6 258:8
obstacles 16:18 80:11 236:22 237:5
obvious 44:11 68:11 89:1 100:3 108:20 109:4 117:11 125:15 152:21 183:13 204:23 222:25 226:16 258:6
obviously 31:1 36:14 68:22 104:4 115:23 121:2,8 133:10 223:20 249:3,21
occasion 142:16 207:20
occasions 131:20 139:7 144:22 167:15
occupation 170:13 179:18 180:5 188:11 192:18 244:14,15
occupied 168:14 234:10 237:11 241:1
occur 98:18
occurred 11:21 112:12 159:5
oddly 65:23
off 63:21 112:16
offending 133:15 188:7
offensive 188:2
offered 145:2 254:18
offers 117:22 214:10
Office 23:9
official 19:21 92:25 103:1 118:15 126:4
officials 231:15 233:21 234:18 235:6
oh 63:9 115:22 122:7

123:18,18 124:14 142:11
oil 27:12 34:10 151:22 209:15 253:8 258:5 258:8,10,16
oilfields 253:18 256:15 258:22
Okay 63:16
old 122:11
omission 24:13
omits 141:24
once 21:9 112:18 115:1 133:18 145:1 164:25 219:11
one 1:5 1:11 2:9 3:24 6:8 11:4 12:9,21,22 12:23 13:13,15 14:24 19:8 26:23 29:17 32:7,7 37:19 42:15,23,24 49:16 52:3 57:24 71:14,25 74:7 76:7 81:11 85:11,14 97:4 99:8 101:6,17,21 109:25 111:7 113:4 115:13 115:14 117:4,7 119:10 120:5,6 125:10 129:3 133:11,12 151:16 153:21 154:12 155:2 157:3 158:9 161:18 162:15 163:12 174:3 176:9 177:19 178:19,22 178:24 179:1 183:11 189:10,20 194:14 196:15 198:8 200:24 203:25 204:9 208:2 214:7 220:22 223:16 227:22 229:9 233:8 238:20 241:8,9 246:21 249:13 252:23 253:15,19,23 254:25 255:9,13 258:9
onerous 18:16 74:11 74:16 78:7 212:15
ones 194:7
one-country/two-sy... 5:24
one-sentence 131:11
ongoing 81:18
only 1:5 15:16 19:2 28:13,25 30:16 38:22 41:11 42:11 47:14 48:3 55:11 57:25 60:1 64:20 65:16,22 72:23 78:8 84:21 85:6 99:19 117:4,7 119:4,19 122:17 124:2 126:24 127:7 128:12 130:14 135:11 137:10,20 138:1,6 139:11,17 147:23 150:23 152:9 155:17 164:12 173:2 177:4 177:6,12 187:7,13 194:17,20 195:7 196:17 200:22,24 201:6,13 203:20 205:5,6,7,11 206:14 210:14,16,21 211:8 211:12,22 212:5 216:9,23 217:16,25 222:14 223:20 224:3 225:3,22 226:1 232:10 234:7 235:25 240:12 242:21 245:13 248:18 254:16 258:10
open 22:6 53:17 86:21 118:17 225:22
opening 174:18
operative 191:19 192:2 193:2
opinion 25:19 226:8
opponents 91:20
opportunities 22:11
opportunity 116:4 129:10 133:19 150:10 218:15 222:23
opposed 245:9 254:9
opposite 64:8 102:19 110:21 111:9 187:11 195:3
opt 6:1
OPTIONAL 1:4
options 255:11
oral 108:24 109:1,2,24 110:5,13,18,22 129:12 194:16 227:11 240:11
orally 55:21
order 10:1 26:3 33:18 54:3 71:11 96:22 98:16 175:1 184:24 186:6 197:18 212:8 212:13,20 213:8 255:25
orders 201:11 213:3
ordinarily 2:11
organisation 5:3
organised 148:15
orient 81:8
original 29:17 99:3 250:8
originally 189:14 192:5
Orinoco 58:6 63:23 64:13,16 65:1
other 1:15 7:21 8:5 10:25 12:2,11,17,25 13:11,22 14:17 16:17 17:6 18:1 19:21 20:2,11 21:19 22:9 23:12,24 37:5 37:15 39:14 42:20 43:19 45:6 57:1,5 58:15,18 60:5,10 71:21 86:3 87:3 89:7 90:9 91:5,6 92:13,25 93:9,12 94:3,13 96:9,20,25 98:20 101:22 102:25 103:13,19 103:24 104:12,16 104:23 106:22 109:15,21 110:8 111:1,1 116:20 121:14 127:24 128:3 130:3 132:23 133:1,21 135:20 137:14 139:7,13 140:3 146:20 154:6 160:7 161:8 172:20 174:13 178:3 184:23 185:6,15 187:9,14 191:17 192:14 193:21 194:15 195:17 196:18 199:13 204:5 205:20 207:9 207:16 210:24 211:17,20 212:10 220:17 222:7 226:11,23 233:3 237:7 238:17 240:21 250:3,12,15 252:7 255:11,20 257:13 258:9,16
others 27:8,18 70:1 73:16 83:17 120:15
otherwise 6:4 27:5 43:10 48:16 81:24 82:21 86:10 95:22 178:11 221:5,19
Ouest 2:3
ourselves 81:8,8
out 3:23 7:2 25:2,3 28:16 49:8 65:5,19 74:10 98:5 105:6 111:24 124:5,19 129:6 150:20 162:23 168:2 171:19 184:13 187:18 189:18 192:5 208:20 212:11 258:21 259:5
outline 139:17
outlined 18:21
outrage 145:18
outset 232:13
outside 26:17 32:23 33:5 46:19 142:18 185:24 186:16 187:2 189:12 193:9 193:16 199:16 204:1 205:4 207:16 207:21 220:22
over 6:16,25 16:12 27:23 63:8,12 115:1 115:1 133:25
overall 113:21 114:3 135:9 225:7
overcoming 125:17
oversight 248:6
overstatement 12:8
overtly 89:5
overview 3:10
overwhelm 31:17
overwhelming 220:5 222:9
own 23:9 30:17 31:18 40:15 51:8 65:1 83:14 84:13 85:23 90:2 92:9 93:15,15 94:3,25 104:10 105:6 113:5 115:4 119:19 121:3 124:11,23 127:6 128:1,9 129:18 139:10 140:14 170:19 230:21
ownership 244:13
Oxford 12:16
o'clock 134:3

P

Pacific 250:22
page 15:9 37:25 163:21 164:9 165:6 169:9,13,19 170:1 174:23 183:20,24 205:18 237:6,13,24 238:8 240:14 243:18 244:7 257:3 1:2
pages 5:8 25:15,16 170:8 171:14 224:9 238:2,3
pains 196:16
painstaking 8:16 99:6
palace 1:6 4:10 142:14 142:22 147:24
Panama 250:12
paper 2:7 32:5 73:1 97:4
papers 49:2,16 74:7
paragraph 41:4 65:25 157:17 179:24
paragraphs 45:16 74:20
parallel 239:14
parallels 52:14
paralysed 27:16
Paris 2:3
part 3:1 5:19 6:18 30:25 31:3 47:15,21 51:17 52:1,5 54:6 73:1 79:13 83:8 89:5,5 106:23 109:2 113:21 114:2 123:10 125:25 135:5 151:1 155:20 155:23 160:2 164:15 173:2 189:16 190:3 202:17 206:11,24 233:21 234:1,15
partial 100:3
partiality 258:1,9
participants 117:21 122:17 178:3
particular 2:10 4:22 8:7,18 17:17 18:17 27:9 28:2 38:17 57:17 60:3,14 65:5 70:23 80:25 87:23 97:1,2,20 104:14 107:10 132:17,18 134:12 138:11 141:24 149:19 167:6 169:6 185:16 186:12 192:9,9,20 194:10 196:25 197:23 200:4 211:1 212:16 220:1 228:2 233:15 245:6,8 247:11 256:21
particularity 194:13
particularly 14:9 15:8 20:6 83:7 98:15 149:4 153:5 190:20
parties 1:4 2:6 6:8,14 6:22,25 7:3,8 8:12 9:6,19,23,24 10:8 10:16,19 11:6,10,11 11:15,15,17 14:13 14:15 15:2,4,12,24 16:1,3,10,16,20 17:11,14,21,24 18:2 18:4,23 19:7,10 20:15 21:3,10,15 22:2,10,14 23:2,5,8 24:4,16,21,23 25:6 27:18,23 30:3 32:23 33:10 35:5,8,17 36:14,17 37:3,6 38:7,17 39:3,7,14 42:14,15,20,23 44:7 45:7,22 47:5 48:13 54:3 56:14,15 57:8 57:12 60:25 61:5,8 61:21,22 62:2,4,10 62:13,16 63:2,7 64:1 66:7,7,9,25 69:11,19 74:14,17 77:25 78:1 79:7,14 80:5 81:2 82:2,9,20 87:21 89:15,17,23 91:2,13 92:2,7 93:4 93:14,18 94:8,10,16 94:23,24 95:7,12,13 95:18 96:5,16 98:10 98:13,14 99:2,10,11 100:8,16,22 101:25 102:2,5,10,14,14 103:6,14,17,22 106:8,13,17,19,19 107:7,11,12,15,19 108:2,7 111:5 112:9 113:14 114:20 118:6,16 119:1,16 119:17 121:9 122:20 124:9 125:20 126:10,23 127:14,17 129:9,19 129:23 130:2,5,7 132:18 133:4 134:24 135:5,16 136:5,16 137:9,17 137:23 138:21 139:13 140:1 141:8 141:12,20 143:2 147:13,18 148:4 149:10,13,14,20 150:1,10 151:12,16 152:6,17,22,23 153:6 157:6,6,8 160:5,6 161:22 163:6 164:5,9,22 165:5,24 167:21 168:5,6 173:16,18 173:21 174:15 175:12 176:22 183:8 187:14 188:20 191:11 193:21 194:10 196:9 197:16 200:9 200:11 203:8 204:5 205:14 207:8 210:5 214:24 215:12,16 215:18 216:3,9,17 217:11,23,25 219:1 219:4,7,14 220:16 225:4 227:7,18 230:21,23 241:4,7 241:20 242:5,19 244:3 245:3,17,21 246:9 247:25 248:1 248:7,20,23 249:1,3 250:1 251:6,25 252:7,9 255:7 259:15,21
partisan 10:14 89:5 136:12
parts 243:3
party 10:10 14:23 15:23 16:20 21:25 22:24 28:10 49:18 55:3,4 71:15,19,23 72:4,13,20 74:25 76:1,5,12,13,22 84:18 85:9 86:2,20 86:21 87:7 108:4 113:16 127:24 128:17 136:12 160:12,14 174:9 196:12
party's 168:9
party-appointed 10:14 89:4 135:3 145:17
party-nominated 150:12
pass 143:19
passage 178:13,14 179:6,8,12
passed 63:10 73:8
passing 65:24 66:3 156:7 257:9
past 61:17,18 188:13 190:21,23
patchwork 88:3
path 250:16

pattern 44:4
patterns 197:10 236:24
PAUL 2:6
PAUL-JEAN 2:9
Pausing 115:19
pay 96:4
paying 51:1 111:17
Pazmany 44:20
PCA 74:13,23 75:4 89:18 248:9
PCIJ 58:18
peace 1:6 2:25 4:10,17 5:1,6,23 6:2,9 8:17 11:7 27:16 54:4 68:23
Peaceful 250:23
peculiar 67:9 80:25 210:25
peculiarly 83:6
Pellet 2:3 3:21 15:9 37:24 38:8 40:5,11 46:1 58:23 73:2 159:25 167:15 221:22 248:12
Pellet's 15:17 80:2 129:4 157:20
people 1:14,15 3:2 4:13,14 5:16,22,25 6:6,11 7:13 8:19 18:10 23:1 26:7 70:9 91:4 94:13 108:17 111:23 116:4,6,12,23 120:23 146:6 148:21 165:18,20 166:15 196:21 233:20,25 234:1,16
peoples 7:21 195:18 237:12 243:11
People's 1:18 4:18
PEOPLE'S 1:2
per 33:10
peremptory 30:5 35:4 46:9 97:13,16 210:3 210:8 213:18 219:17 220:11,25 221:25 222:13,16 223:10 224:22 225:13,16 249:7,12 250:17 251:2
perfect 259:14
perfectly 113:1 115:10 115:25 117:12 125:24 145:6 148:2 149:3,4 176:16 179:3 185:4 195:14 195:15 203:2,4,18 216:1 230:9 254:22 256:17
perform 162:19 172:3
perhaps 17:3 60:16 104:6 153:11 239:20
period 16:12 188:13 188:14 190:22 236:25
periods 168:19
permanence 60:15
permanent 1:4 2:10 44:19 169:17 237:9 237:9 238:6,18,19
permissible 199:19 202:5 203:4,18
permit 18:17 127:17 220:19
permits 84:16
permitted 24:22 65:6 110:22,23 119:16 132:24 168:22 249:18 250:21
perpendicular 256:10
person 146:24
personal 2:1
persons 5:13 27:21
perspective 16:6 153:17
Peter 44:20
petita 29:25 30:1 37:16,20 38:23 42:19 45:19,21 46:5 46:7,14 50:20 51:16
Petterson 11:24,25 12:9 14:18 19:9 23:18 108:22 114:19 153:20 154:6
phrase 7:19 37:3,7 38:8 40:4,11,12,17 40:18 51:23 52:5
pick 63:20 96:12 198:12
picked 15:13,14 16:3 70:12 103:16 235:21
Pickering 2:6
picks 87:22
picture 109:2
piece 26:9
PIERRE-MARIE 1:11
PILPG 1:18
place 53:14 78:3 152:6 159:19 166:6 237:23 244:5
places 12:2 72:19 158:18 192:10,21 254:11
plain 2:18,20 37:13 75:1 131:24 137:25 138:3 141:11 176:18 194:5
plainly 120:4 121:23 130:16 131:18 132:24 179:7,25 187:1 192:24 193:3 201:5 207:1 214:12 215:18 227:17 238:8 245:4 246:12
plan 18:22 98:11 99:8 99:15 105:17 106:3
planning 98:17 100:3 112:3
plans 115:21
plausible 154:13 177:24 178:8
played 4:22 5:1 11:9 11:15
plays 198:20
pleadings 35:2
please 34:17 143:19
pleased 181:5
plural 103:10
pm 134:4,5,6 181:7,9 259:25
point 8:14 14:22 17:18 40:16 41:6 48:17 49:19,20 50:9 51:12 53:16 54:15 55:16 61:2 64:25 68:11 70:2,21 73:19,24 75:22 84:3 86:12 91:21 92:7 96:4,8 99:9,13 103:18 109:10 113:3 114:11,12,20 117:24 118:5,19 119:15 121:16,17 124:17 130:11 137:19 140:24 143:4 145:3 147:17 152:18 156:8 174:10 183:16 188:3,19 189:1,4,14 189:23 190:6,17,20 190:24 191:5,9,16 191:18,18 192:1,5,8 192:12,17 193:7,10 193:10 194:9,17,18 194:21,23,23 195:5 195:15,20 196:5 206:18 224:19 230:20 232:6 236:2 247:21 249:6 253:16 256:7 258:8
pointed 258:20
points 189:17,20 190:14,18 191:4 192:1 224:10 228:11 229:4 251:17
policies 62:9 78:2,3
policy 2:6 43:24 44:15 45:10 210:16,21 211:6,10 212:6 213:6,17,19
political 13:16,19 67:23 68:2,8 70:10 70:14 152:12
politics 12:11 13:3 14:10 68:1 89:11
popular 197:12,19
portion 187:19
portions 99:3
position 21:7 54:19,23 55:9,20 57:14 74:21 105:13 124:5 130:12 137:2,22 152:20 153:18 156:9,15,16,16,19
positions 91:3 164:10 164:23
possess 80:21 194:10
possessed 175:21 187:10 245:14
possessing 243:11
possibility 138:24 150:6
possible 38:19 53:3 85:7 148:12 165:8 185:2,11 200:12 206:5 228:7
possibly 159:2
post 149:9
potential 79:23
power 18:4 38:18 74:3 82:12 92:8 106:9 110:11,11 128:8
powerfully 75:23
powers 19:17 20:5 43:3,5,6,9,12,16 44:11 85:25 104:22 106:1 120:8 128:1
practical 98:7,17 197:9
practice 10:13 62:21 88:8 90:10 98:23 100:9 221:12 231:7 231:14 249:17,20
practices 204:18
practitioners 247:1
praise 25:4
preceding 165:25 168:17
precise 54:2 252:13
precisely 31:25 53:13 67:10 77:13 85:5 96:22 112:6 166:25 172:2 175:5 179:16 184:8,24 205:19 216:15,19 220:20 239:4 255:7,8
precluded 158:13,21
predated 169:9
predicate 252:2
preeminent 13:7
preemptory 210:18 219:24
preface 164:5
prejudice 86:4,5,20 121:18 122:13 126:13 130:16 131:14 193:20
prejudiced 125:20 159:18
prejudicial 122:18
Preliminarily 56:18 80:9 101:19 162:12 178:17 210:10 242:15
preliminary 21:20
premise 50:3 56:21 93:12
premises 118:22
preparation 18:24 135:10 218:13
preparations 27:13
prepare 20:19,23 93:25 105:3 135:15 136:9,16 137:6 139:23,25 218:9,19
prepared 105:17 140:14 141:5
preparing 1:21 69:7 141:14
prescribe 95:8
prescribed 5:24 92:21 136:3
prescribing 62:25
presence 26:15 140:16 140:22 141:6 147:25
present 28:2 48:17 49:23 54:1 84:18 140:16,20 141:2,4 142:1,13 143:8,24 144:15 145:7 160:15 205:17 218:6 224:3 225:20
presentation 1:4 2:15 21:23 24:6,23 26:19 34:15,23 37:22 40:4 69:5 78:12 79:2 95:3 121:17 140:6 140:12 142:4,21,24 145:14,24 147:23 148:1,5,8,12,24 153:20 156:9,14 158:18 159:4,22 160:1,9,18,20 181:3 257:3 258:13 259:7
presentations 18:23 21:21 24:21 31:2 91:2 108:8 151:13 258:11
presented 26:11 28:18 30:15 31:25 33:8 81:25 103:14 134:16 149:6 150:14 158:3 159:7 164:6 165:2 172:12 175:1 180:7 183:8 201:21 227:19 255:2
presenting 101:3 136:23 141:14 144:9,11,25 147:19 159:16
preserve 194:6 196:8 206:4
preserved 206:4
presidency 9:14 69:5 134:17 137:12 140:18,22 141:5,10 142:2,14 143:18,25 144:12,24 148:13 148:13 158:19 163:23 218:7
president 26:12,12 27:1 63:20 124:1 134:8 136:23 142:10,17,17 144:8 144:17 147:25 149:7 159:8,11 181:1,11 248:15 259:24
presidential 123:25 124:3,4 142:14,22 147:24
press 26:16 142:17
prestigious 13:18
presumably 131:2 178:22
presumption 76:3,4 84:8 85:13 204:15
presumptions 204:13
presumptive 57:4,17 58:4 61:25 62:25 63:25 64:11,19 65:14,20 66:13,21 70:21 71:9,20 72:1 73:22 76:17 80:16 85:25 87:3 210:23
presumptively 60:1 75:18 83:21 206:3
pretended 145:10
pretends 30:23 124:10 128:14 137:5 186:20 224:1 228:19
prevail 71:11 212:14
prevailing 86:7
prevent 106:4
prevented 102:3 159:16
previous 41:14,16,23 42:5 74:10 156:15 190:2 242:2
previously 3:14 24:24 75:22 77:9 108:21 109:5,12 112:8 127:25 157:2 176:1 186:2 189:18 190:12 195:6 226:21 258:20
pre-eminent 14:21
pre-existing 82:10 187:9 193:21 195:22 196:12
primary 199:19,21 201:2,15,16 202:5 202:18 203:5 244:16 245:9 254:17
principal 178:18
principally 178:13
principle 30:10 58:12 58:13 59:13 60:5 64:3,6,17,22 65:15 67:1,5,7 70:22 71:19 74:24 75:25 76:15,16 77:6 80:24 82:4,8 87:7 97:6 112:15 129:14 170:3,25 210:23 211:3 212:11 219:24 221:25 222:13,20,21 243:24 245:25,25 246:2,24 247:11 251:12
principles 3:10,11 7:2

7:7 30:6,7 34:9 35:7 35:12 45:25 46:4,9 55:7 56:16,19 57:9 58:20,24 59:2 60:18 61:3,7,15,23,24 62:10,12,20,22,24 63:25 64:7,9,10,11 66:13,20 67:13,24 70:7,16 72:21 73:23 75:15,16 77:12,17 77:20 79:16,16 80:7 81:19 84:23 85:8,16 91:10 96:23 97:13 97:13 100:14,17 101:2 129:15 134:25 170:23 201:17 204:12 205:22 209:14 210:11 212:6,19 213:11,15 214:25 219:17,17,18 241:5 244:22 245:1,24 246:10,12 247:14 251:7,9,22,24 252:2 252:4,11,13,17
prior 26:18 61:8 80:3 138:12 156:19 229:14
private 117:20 118:5
privately 143:6
privilege 1:24 2:2
Prize 12:20
probably 117:20 118:4
problem 138:19 246:18
procedural 3:18 6:24 9:4 16:19 17:11,14 17:14,22,23 18:6 19:11 24:8,12,18 25:3 29:11 30:4,6 32:13 34:3,11 35:10 35:12,13,21 39:25 42:8,21 43:1,23 44:25 45:9 46:13,17 69:9 78:19,21 79:4 79:11,14,15,21,22 80:9,12,14,17,19,22 81:3,10,12,22 82:5 82:6,21 83:7,20,24 84:12,17 85:10,14 85:23 86:1,3,7,14 86:24 87:6,8,11,20 87:25 88:10,11,13 89:24 90:3,18,20,22 91:9,12,16,18,25 94:16 95:25 96:5,11 96:24 98:3 100:13 100:18,20,21,24 101:2,5,8,12,20 102:6,11,18 105:15 105:24 107:5 112:14 118:23 119:12,24 120:2,5,5 120:11 121:1,20 125:18,20,23 126:1 126:8,16 127:4,6,18 129:18 130:8 132:15 133:5,13 141:12 145:18 147:18 155:22 158:11,12,20 159:15,24 161:1,8 161:11 217:20
Procedurally 9:1
procedure 16:22 17:16,20 19:7,12,16 20:17,20 39:1,2 40:2,22,24 41:2,8 41:12,19,21 42:10 43:7 62:11 79:7 82:19,24,25 83:11 90:6 92:3,6,22 93:6 93:20 101:14 102:2 102:22 103:7 104:2 104:25 106:13 107:1,18 112:9 118:12 119:20 120:10,20,25 121:3 126:18 128:12 132:10,19 134:11 135:23 136:3,6,15 136:19 138:9 153:13 155:7,15 158:5 159:3,14 160:8 219:20 225:10
procedures 21:12 38:17 39:21 44:15 44:21 77:9 81:1 82:1,13 87:22 88:21 91:15 95:18,21,25 107:16 129:16 137:15 138:11 161:7,16,17
proceed 80:4 94:1 107:2 148:6
proceeded 141:13 234:23
proceeding 114:4 115:8 149:2 159:13 161:15 167:2 215:21 257:16
proceedings 3:4,8 14:23 15:3 16:13 17:2,12,16 19:12 21:20 22:23 24:5,25 28:2,5 31:7,24 32:19 33:6 47:6 50:18 56:12,16 80:6 81:2,18 83:5,17 85:18 88:21,22 90:19 95:20 96:2,2 98:25 106:12,14,15 113:22 117:9 118:9 118:13 124:24 132:3 135:9 137:17 141:21 158:16 159:2,3,10 161:5 166:23 167:21 168:6 178:7 202:10 209:19 212:18 232:18 248:7 255:14 256:19 257:14
proceeds 93:11 211:3
process 8:17 27:16 57:11 85:8,22 88:7 91:14 106:8 129:15 134:19 143:5 145:19 198:14
processes 80:23
produce 54:25 175:18 217:5,12 224:18
produced 2:12 16:14 59:23 121:11 168:1 184:11,21
producing 218:21
product 1:13 216:16
productive 68:18
professional 14:11,17 14:20
professionally 32:1
Professor 1:11,12,13 2:2,3 3:21 8:13 13:5 13:5,9,12,15,23 15:9,17 23:19,21,21 24:2,15 37:24 38:8 40:5,11 46:1 47:11 58:23 73:2 80:2 111:14 112:4,19 120:14 126:11 128:20 129:4 130:2 153:22 154:5 157:20 159:25 167:15 173:1 174:18 177:13,18 177:25 178:2 221:22 247:2,15 248:12 252:24
profound 225:11
programme 14:1 18:21,25 39:23 79:10 97:25 98:2,10 98:24 99:3,7,11,13 99:18,20,20,22,23 100:2,8,10 101:13 105:10,11,14,18,21 106:4 139:16 140:7 140:10,25 141:4 142:6 143:1 145:9 218:4,9
programmes 99:1
prohibit 102:16 105:11,22 128:12 248:8
prohibited 101:25 126:18 204:5
prohibiting 127:15
prohibition 45:23 94:21 106:18 126:21 128:23 204:9 242:14
prohibitions 91:7 204:23
prominent 123:5
promised 6:3
promote 78:25 134:24 138:20 141:22 149:25 155:20,24
promoting 150:18
prompt 9:25
proof 3:12 66:15 70:19 71:3,6,17 72:8 74:12,18 76:11 76:22 77:2,3,10,21 77:22 78:15 80:18 85:11
proper 199:3,17 225:5
properly 48:10 233:11
Prophets 12:19
proposal 150:14 151:16,18,21 152:1 152:4
proposed 153:20
proposition 66:19 190:3 200:8 228:24 229:2,12 234:11 236:5,16,17,18 243:7,18
propositions 168:5,8 168:11 189:19 191:2 226:19 227:9 227:13 242:24
protect 81:13
protectorates 252:19
protest 120:16 167:21
protested 120:16,17 128:22
Protocol 6:17,19 7:1 7:24 8:4,23,25 9:1 9:11,19 16:15 28:20 47:10 50:5 53:25 155:10 163:8 164:8 164:25 165:3,12 167:1,6 171:22 172:13,19 173:14 174:16,21 175:22 176:23 178:4 179:5 182:5 186:1 195:16 204:4 228:3,5
proud 161:18 252:15
prove 15:7 223:11,14
proved 50:6
provide 3:10 37:8 72:21 80:7 93:21 97:14 104:9 105:1 138:16 140:7,25 161:3 195:12 196:8 214:15 215:13,19 216:4 217:24 219:8 221:17 222:7 228:10,21 229:22 240:9 241:20
provided 7:5,7 9:6,12 9:20 10:5,17,22 17:15,18 18:7,9,13 18:25 19:8,12,25 20:20 21:4 25:21 27:22 57:25 82:17 90:2 92:11,22 93:7 98:13 102:11,13 118:12 128:21 130:1 136:25 140:11 141:4 145:8 152:19 163:13,17 165:24 168:12 187:4,24 193:4,24 215:3 216:12 223:2 228:17 255:8 256:17
provides 8:4 28:2,6,15 28:20 33:7 39:17 50:11 62:18,23 64:8 76:25 77:15 78:3 126:22 135:18 136:1,6 137:20 193:10 195:17 206:19 215:22 221:19 222:19 233:10 256:12
providing 5:10 139:17 187:25
province 166:10,10 229:18 231:13,14 233:21 234:2,8
provincial 231:4 232:2 233:2,8,16 235:8
proving 72:5 74:24 75:2,5,7,12 78:6 125:18
provision 7:3 21:11 37:24 41:13 76:17 77:18 84:19 91:2,21 94:20 101:25 103:4 103:22,24 104:4,14 104:15,18,25 126:7 126:17,20 138:10 155:14 164:4 193:19 195:11 200:6 211:7 217:7
provisions 6:19,22 9:10,22 18:5 27:10 49:4 77:16 87:23,24 90:24 92:4 94:1,11 103:24 105:24 107:19 108:21 109:5 135:16 136:11 137:14 139:13 141:7 177:9 195:12 251:1
public 2:6 18:11 19:21 22:6 43:24 44:15 45:10 62:9 89:11 90:15,16 92:25 102:25 103:12,13 103:20 105:12 106:21 123:14 158:16,16 159:9 160:7 197:13 210:16,21 211:6,10 212:6 213:6,17,19
publications 13:20
publicly 158:19,21 159:17
published 14:4
pull 86:23
purely 32:16 204:20 242:19 247:23
purport 97:3 99:24 105:20 187:1 190:4 190:13 195:24 199:12 207:14,20 213:25
purported 3:17 45:16 46:17 48:15 49:25 78:25 86:5 97:16 162:1,10 208:17,24 212:25 214:8
purportedly 205:10 209:15
purporting 193:22 197:17,25 208:12
purports 56:17 209:23
purpose 40:13 67:25 73:20 90:15 144:4,9 144:11 225:2 253:17
purposes 5:15 48:17 54:1 77:23 124:16 144:25 246:8
pursuant 11:2,22 19:5 23:5 85:20,22 121:3 129:18
pursue 150:6 154:3
pursued 30:16
purview 54:17
put 48:20 54:18 55:14 73:5 75:11 84:11,11 84:11 85:2,15 95:5 114:10 147:9,15 151:10 159:23,25 162:19 167:8 171:20 173:8 174:3 178:16,21 179:4,8 180:10,15 213:9 219:13 234:11,17 247:9 254:15
putative 232:22 233:1
puts 111:7 115:5
putting 54:14 88:19 209:19 223:16

Q

qualifications 11:18
qualify 49:7
question 14:23 28:16 28:16 29:1 32:21 46:24,25 48:20 50:14,15 52:2 55:14 71:23 86:16 148:10 162:5,20 163:2,19 171:19 172:9,12 175:1 177:20 178:15,21 179:8 180:9,14,15,19,21 181:16,17,22,24 182:3,9,9,11,12 224:3 228:3 233:4 236:20 246:9 248:13
questioning 254:6
questions 4:2 81:10 159:24 162:4 200:6
quickly 56:9
quite 63:9 78:13 139:20 155:19 181:17 183:21 226:24 231:18 232:7 251:1 252:15
quotation 58:9 66:5

quotations 43:14 88:2 206:16
quote 37:25 51:15 61:24 65:23 75:21 81:15 108:13 111:16,17 166:1 193:11 226:6
quoted 165:3
quotes 69:14 73:25 74:4 123:20
quoting 110:7 164:4

R

R 2:6
Ragaba 164:19 169:8 229:17,20 231:11
raise 113:25 114:2 127:11
raised 3:8,18 22:24 24:13 97:7 113:9 157:21
raises 122:25
raising 45:18
ran 5:8
range 5:11 13:11 14:8 25:24 57:19 72:24 80:24 96:18,21 97:21 213:21
ranks 13:12 84:7
rare 58:1 60:1 64:21 65:16 78:8 210:14 211:14
rarely 211:8
rarest 75:18 210:21
rather 17:10 48:1 49:6 54:12 66:12 73:25 74:15 82:11 86:16 91:11 95:13 97:9 98:18 119:1 125:21 138:15 140:10 141:3 147:1 163:17 187:3 190:14 192:17 193:2,18 199:8,18 206:1 215:16 217:13 231:11 237:11 245:20 246:13 247:13
rationale 30:2 35:18 76:25 79:13,19,21 187:5 190:15 207:18 238:9,12
reach 21:5 45:3 60:11 95:3 121:5 134:14 137:1,16,21 138:2 138:17 141:1 145:16 147:21 150:2,9,25 151:11 152:23 153:21,23 154:7 240:20
reached 32:18 87:1 121:22 153:18 169:2 171:8 190:12 227:19 241:3
reaching 138:25 151:18 152:13
reactions 67:18 68:8
read 25:2 33:14 49:1 66:2 74:7 85:4 109:4 111:3 115:13 115:14 172:19 177:15 185:13 187:16 198:15 233:23 235:23 240:19 242:22 249:19 258:2
readily 73:13
reading 50:23 51:18 52:1,4 133:15 186:8 239:3
readings 186:5
reads 163:12 189:10
ready 142:9 148:13
real 172:21,21 173:23 180:18 182:10
realities 159:25
reality 31:13,23 130:6 228:14
really 3:3,22 31:5 60:19 71:1 107:25 116:8,16 162:17 230:1,4 231:22 253:7
realm 155:25 203:16 204:21
reason 37:6,17 44:7 61:11,15 77:5 84:1 87:18 89:13 116:20 118:11 125:9 128:23 133:20 144:19 148:19 185:6 194:18,22 206:6 217:10 229:22 233:14 259:16
reasonable 138:1,6,16 152:13 157:7 188:22 191:12 198:16 242:6 255:4
reasonably 226:9
reasoned 97:9 152:1 190:6 214:25 215:6 215:13,19 216:1,6 217:5,13 218:14,21 219:14 220:15 221:1,4,7,11 222:1 222:3,17,18 223:18 224:15 225:2,5 226:5,17 227:4 228:10 241:4,20 243:23
reasoning 32:14 45:24 49:19,20 50:8 174:9 174:11 187:5,22,24 201:6,10 206:16 214:22 215:4,8 217:21 219:8 224:16,24 225:1 226:20 228:14,17 230:7,9 232:1,3,6 235:25 236:4 237:6 238:9,11,14 239:25 240:10
reasons 16:8 34:8 59:1 64:4 74:19 97:4 101:17 125:12 133:21 157:3 158:8 162:13 176:13 179:14 182:1,15 196:16 206:2 208:19 209:12 214:15 215:24 216:5,7,18,23 217:9 220:21 221:18 222:8 224:5,5,9,18 224:18 225:18,22 226:1,9 227:1 228:21 234:12 239:10 254:1
reassured 31:10
rebuttal 3:25 259:5
recall 24:6,9 100:13 101:19 115:19 146:20 151:2 154:17 259:13
recalled 152:10
recalls 38:2
receipt 126:14
receive 148:14
received 107:11 139:23
receiving 93:13 127:12
recent 182:24
recently 88:9 186:19
recharacterisation 51:3
recharacterise 45:20
recite 64:18
recited 65:14 154:8
recklessness 257:12
recognise 259:12
recognised 9:24 11:4 57:19 79:17 80:24 91:10 92:1,8 96:24 106:20
recognises 105:5
recognising 60:16 73:23 218:11 239:20
recognition 41:25 72:20 211:15 220:20 222:8
recommendation 93:9
recommendations 93:19
reconcile 128:18 137:9 222:12 251:19 253:11
reconciled 134:22
record 116:8,16 149:9 151:9,9,10 154:11 166:24
recorded 24:1 122:2 151:4
recording 6:22 116:24
Records 23:9
records/describes 221:12
recycled 215:8
refer 35:6 36:25 38:24 44:9,12 81:8 122:10 192:13,15
reference 2:18 6:20 18:7,13,20 19:24 20:16 22:12 36:23 37:10 38:9 39:5,11 39:16,23 40:7,22,23 41:1,2,7,11,17,18 41:20,22,24 42:4,11 46:7 48:15 51:19 58:7 59:16 65:22 92:5,11 98:1 99:1 100:4 103:9 104:8 110:25 116:21 117:3 127:11 135:25 139:14,17 145:8 146:19 152:7 155:11 158:10 166:14,16,18 190:21,24 191:1 216:11 217:1,15 218:5 234:3 236:9 239:4,12 241:15 246:10 247:15 251:9 253:3
references 22:15 81:6 108:18 116:17 147:8 166:4 183:17 183:19 192:10 229:14,15 235:20
referendum 5:18,18 8:4,6,10,20 10:2 27:14 176:23
referred 8:13 17:3 36:15 37:15 39:8 41:23 42:1,13 43:22 44:8,13 57:3 62:5 64:1 65:24 66:3,4 75:7,22 96:21 102:8 106:3 108:21 109:11 110:5 117:1 117:6 122:11,12 163:11 164:8,24 170:24 175:8 178:7 182:24 183:13 188:21 194:20 196:25 213:2 227:15 232:24 245:2 246:2 251:13 252:16,18 257:16
referring 19:19 36:21 37:9 38:4,5 48:10 53:25 116:18 164:3 188:13,15 225:20 227:12 250:14
refers 37:13,22 39:9 40:21,24 41:11 42:10 46:15 75:1 109:18 192:6 257:9
reflect 115:25
reflected 18:5 98:10 152:1 218:15
Reflecting 19:10
reflects 83:22 87:2,7 231:17
reformulated 29:23
refusal 27:15 96:3 178:22,24 179:7,10 180:6
refuse 220:19
refused 26:22 27:8,10 46:24 150:6 162:19 162:23 171:19 178:15,18,21 181:15,24 202:14 211:10
refuses 227:6
refusing 152:12 162:4
regard 34:6,11 74:12 76:6 94:22 143:5 173:11 200:5 203:22 208:20 210:19 216:9 236:5 243:6 245:12 247:12 257:22 259:21
regarded 6:8 46:14 167:9 233:20 234:1 240:3
regarding 7:8,25 8:7 10:2,3 27:10 62:7 77:10 100:16 189:24 210:7 235:4 254:19
regardless 92:18
regards 67:4
regime 8:22 43:20 57:10 60:14 91:12 98:3 105:15 244:19
regimes 80:21 89:25 91:11 97:2 220:7,10 250:18
region 10:13 18:8,18 22:5 90:14 158:18 166:3 190:9 245:6
regional 5:2,14 11:8 89:11,17
Registrar 2:8,9
REGISTRY 2:8
regrettably 57:14
regular 237:12
regularity 85:14
regulations 81:17
REISMAN 1:13
reiterate 41:13 42:2
reiterated 42:12
rejected 61:2 150:3,20 152:3 165:15 168:9 234:5,12
rejecting 101:18 119:9 203:15 206:6
rejection 60:23 214:19 228:23 229:12
rejects 226:4
rejoinder 29:16 30:23 35:9 41:4 46:7 74:20 79:12,15 88:9 95:24 117:16 138:5 143:3 150:23 154:20 156:7 157:23 160:21,24 200:14 239:20
relate 74:10
related 9:19 14:5 16:16 54:4
relates 43:5
relating 57:1 216:4
relation 119:7 139:20 203:23
relations 59:10
relatively 224:15
relevance 221:15
relevant 10:25 20:2 52:1 68:25 90:9 91:6,20 92:13,20 104:12,17,20,24 128:3,25 135:21 163:7 167:5 184:20 200:5 218:2 220:12 236:10 239:13 250:25 252:6
reliable 108:6
reliance 213:14
relied 24:4 46:3 52:5 66:17 75:2 88:9 122:3 126:3 131:16 168:15 170:23 178:12 194:17,19 219:16 233:14 245:23 247:14 251:22
relief 201:8
relies 43:14 97:22 213:4 251:24
relieved 63:11
reluctance 83:23
rely 35:3,16 36:7 56:17 96:9 97:23 194:22 195:5,11 201:17
relying 79:14 169:1 170:9 210:1
remain 5:19 6:1,13 59:13
remained 19:3 226:17
remaining 11:10
remains 51:7,21 55:17
remarkable 9:2 15:12 16:21 20:6 157:15 157:15 161:15 218:11
remarkably 16:21 161:15 242:25
remarked 44:24
remarks 2:23 117:1 117:14,14 146:13 146:18 249:23
remind 81:8
remote 98:21
remotely 35:22 78:14 119:13 120:2 126:14 155:4 161:9 220:10 254:1
Renaissance 14:3
render 200:19 201:3 242:12 246:12
rendered 241:25 247:23 251:4,20
renewed 27:17
reopening 60:7
repeat 49:11 57:13

58:9 72:14 81:5 84:1 101:21 173:9 200:2
repeated 44:4 128:18 134:23 225:21
repeatedly 19:16 23:2 29:23 30:8 67:3 68:16 92:2 95:19 146:24
repeats 76:19
repetition 125:15
repetitive 121:24
replaced 67:17
replied 109:7
reply 29:14 45:6,18 50:19 53:15 60:12 79:1 81:5 84:2 114:11,12 130:25 152:8 157:9,22 200:2 211:17 212:12 221:3 247:19
report 9:20 16:14 18:25 19:1 20:24 21:9 24:1 25:5,12 25:13,17,20,23 26:3 26:4,11,15,20,23,25 27:2,9,15,23 28:11 29:5,9 30:22 32:11 33:16,19 34:15,24 38:20 47:14 56:1 61:4,13 62:1 66:11 66:15 67:14,16 68:15 69:2,5,7,12 71:8 76:18 77:19 78:9 80:8 91:1 93:25 105:4 119:14 119:21 122:4 123:12 124:2 125:5 127:3,13 130:15 132:2 133:17,24 134:16 135:10,15 136:2,10,17,22 137:7,11 138:12,14 139:5,20,23,25 140:1,6,9,9,13,17 140:21,21 141:2,5,9 141:15 142:2,9,12 142:14,24 143:8,17 143:25 144:10,12 144:15 145:1,7 147:20,24 148:7,14 148:25 149:6,11 152:20 154:8 155:5 155:16 158:19,22 159:4,7,9,12,17,20 160:4,15 161:12 162:17 163:5,12,21 164:3 165:6,22 166:22 167:8,22 168:4,12 169:13,15 170:14,23 171:14 171:17 172:20 178:14,20,23,24 179:3 181:19 183:2 183:9,12,15,20,25 184:3 186:5,7,8,18 187:12,18,19 190:12 196:15,19 197:1,3,23 198:25 199:3,6,10 205:8 206:15 207:10 209:8 214:22 215:3 216:6 217:12,13,16 217:21 218:6,9,14 218:24 219:2 223:15,25 224:8 226:14,15,18,21,25 227:3,5,8,10,12,15 227:19,23 228:3,14 229:6,8 230:15,25 231:19 232:4,13 233:14 235:24 236:7,9,14,14 237:21 238:1,3,13 239:3,13,16,24 240:9,22 241:14 242:16,22 243:3,12 244:3 245:23 247:12 251:8,12 253:2,5,6,12,13 254:4,10 255:1 257:18
reported 144:6
reports 122:2
report's 60:19 164:5 207:22 242:4
repose 77:24
represent 124:15
representative 58:7 69:1,14,19 85:11 151:17 178:4 198:8 200:3 211:4 212:3 249:16
representatives 10:15 18:10 21:25 89:5 91:3 113:16 118:6 122:20 136:12 137:17 138:23 147:13 150:8 153:7 153:22 157:12
represents 227:24 243:21
request 22:16 24:21 124:11 129:10
requested 22:20 123:16 172:14
require 17:21 36:18 59:11 68:11 82:20 95:9 125:15 138:11 213:20 215:19 216:1,17,23 217:12 220:15 221:7,10 222:2 224:17
required 55:6 99:12 118:15 119:14,25 130:1 135:4 155:5 161:11 173:19 175:6 209:7 210:4 215:12 216:4,5 217:1,24 221:17 223:18 224:16 228:2 252:4,10
requirement 45:24 97:8 120:7 138:14 138:22 149:24 214:24 215:5,15 216:9 217:5 219:8 219:14 220:18,21 221:4 222:3 223:19 223:22 225:2,6 239:10 248:25 249:5
requirements 90:22 91:7 97:1,2 99:16 212:15
requires 33:18 84:22 221:25 222:17
requiring 58:4 137:6 217:25 221:1 222:16 248:25
res 3:11 56:10 57:5,9 58:5,12,21 59:7,17 60:18 61:7,10,16,23 63:4 64:11,17,22 66:24 67:4,22 68:3 70:17 96:11,23
research 12:17 14:1 17:25 18:1 20:4 21:19 23:6,8 90:9 92:10,12 94:19 95:1 95:16 102:17 105:23 106:2,5 108:9,17,17,18 109:10,14 127:20 128:2 129:17,21,22 135:22 247:15 248:3
research/data 108:23
resemblance 131:7
resembled 88:7
residents 8:5,8,20 18:18 22:11 90:13
resistance 26:24
resolution 5:13 9:3 16:22 59:23 80:21 81:21 152:16,16,24 153:2 200:9 201:15 217:17 246:18 250:18
resolve 9:23 11:12,18 15:13,23 16:4 21:3 27:23 62:19 68:1 70:12 85:20 152:6 175:1 200:11,25 201:21 211:1
resolved 15:25 53:5 219:11 246:9
resolves 81:11
resolving 5:9 6:15,24 160:6
resort 68:1
resources 31:18 34:10 209:16 253:8 258:5 258:8,10
respect 1:25 15:19 16:10 25:5 26:10 60:21 71:4 76:23 84:14 108:8 146:6 146:17 193:23 212:24 240:2 247:8 259:15
respected 58:6 59:24 82:7
respective 10:16 164:23 245:21 255:7
respond 61:6
responded 114:15 148:17 222:24
response 115:6 129:10 144:22 254:15
responses 168:8
responsibilities 135:13
responsible 83:13 91:15 135:8 139:2
responsive 114:12
rest 2:11,12,20 47:8 50:3 186:3
restate 51:5
restating 163:22
rested 79:4 186:19
restrict 102:16 106:4
restricted 94:6
restriction 94:21
restrictions 102:15
rests 51:9 186:17 242:3
result 16:11 32:17 46:6 53:3,13 84:25 87:1 121:22 154:5 211:22 223:15 226:10
resulted 27:16 84:17
resulting 20:5 86:18 256:10
results 71:18 175:19
resume 134:1,3 181:3
retain 7:21 189:7 193:12 194:1,5 195:18 206:20 207:1 208:8
retained 187:10,14 196:9 198:1
retired 12:5
retreat 55:9
retreated 55:20
retrospectively 15:6 15:17
returned 46:8 119:2
returns 88:2
revealing 30:13
reveals 143:7
revenues 27:13
reverses 77:1
review 65:6 252:15
reviewed 48:23 58:16 88:25
reviewing 65:7
revised 105:18
revisions 100:8
rewrite 31:22
rewriting 45:13
rewrote 30:1 79:12
re-emphasis 153:11
rhetoric 97:19 99:19 214:12 223:6 225:15
Rhodes 23:11
RIEK 2:5
right 2:19 6:10 8:8 31:18 38:5 40:19 50:14 55:8 63:14 86:17 101:14 119:18 163:18 177:2,18 180:13 181:3,16,24 182:9 182:12 224:5 232:20 233:10
rightly 4:11 40:11
rights 7:6,22 13:25 14:1,5 33:2,22 47:1 56:4 57:12 63:3 125:20 151:22,23 162:7,11 169:7,17 169:21,22 170:4,13 170:16,18 171:1,3 179:19 181:18 185:21,24 186:1,16 186:21 187:1,9,15 188:12,15,17 189:8 189:11,16 190:1,5,8 190:13,23,25 191:2 191:7 192:6,9,11,13 192:13,14,14,19,21 192:21,25 193:2,9 193:13,16,21,23 194:1,3,4,6,10,11 194:12,13,24 195:1 195:7,18,23,25,25 196:2,4,9,12,18 197:1,17,19 198:1 199:7,13,15 202:2 202:13,20 203:1,1,3 203:23 204:1,18 205:3,5,6,8,9,11,14 205:17 206:10,21 206:23 207:2,9,12 207:15,21,24 208:4 208:9,13,17,21,25 229:1 237:22 238:6 239:23 240:23 241:4 243:12,14,21 243:25 244:4,12,13 244:14,15,16,17,24 245:8,9,9,14,18,22 246:1,9,16,22 247:3 251:13 252:6 258:16,16,16 259:4
rigorous 87:16
Ring 257:5,5
rise 3:12 60:8 62:9 155:15,21 188:13 190:23
rising 124:4 157:18
river 230:17 231:11 233:3,8 239:7
rivers 192:15
road 27:20,20
RODMAN 2:3
role 5:1 11:5,9,16 20:15 21:1 65:7 90:16 124:13 145:2 160:6 198:20
roles 4:22
room 226:13 252:25
Root 12:18
rough 130:20 131:12
roughly 130:22 169:18 237:16 238:24 244:9 256:8
round 259:21
routine 144:20
Royal 12:20
rudimentary 98:21
rule 15:23 39:2 49:23 53:11,14 59:4,9,17 59:21,22,25 60:25 64:19 65:7,14 68:6 68:7 70:7 71:8,12 72:3 73:4 75:20 79:6 81:14 87:2 119:20 120:5,9,20 120:25 132:9 133:5 139:7 155:6,15,22 158:11 159:15 198:9,19 209:20 210:12,18 211:19 211:24 212:17,19 212:23 215:5 219:20 220:25 221:20,20,21 222:16,17 223:14 223:17 225:13,14 225:16 248:18 249:7,12 250:17 251:2
rules 1:4 17:1,3,4,6,8 17:10,16,19,22 18:6 19:7,8,11,16,18 20:16,20 35:4,13 38:25 39:25 40:2,21 40:24 41:2,7,12,18 41:21 42:10 57:1,3 57:7,15 60:3,17,23 60:23 61:10 62:6,13 62:15 63:3 64:10 66:15 67:10,21 70:13,15,23,25 73:18 74:14,23 75:4 75:10 77:11 79:11 79:14 80:10 82:10 82:18,21,23,24 83:11,12,15 84:6,6 84:10,13 85:21,21 85:23 87:12,15,17 87:18 88:3,4,10,12 90:1,2,6,21 91:16 92:3,6,21 93:6,20 94:16 96:1,13 97:3 97:16,21 102:2,6,11 102:18,19,22 104:1 104:25 105:25 107:1,2,18 112:9 113:5 118:12,14 121:3 125:19 126:8 126:18 127:6,18 128:11 130:1 132:19 134:11 135:23 136:3,6,14 136:19 138:9

153:13 158:5 159:3 159:13 160:8 176:19 210:1,3,9,15 212:1,3 214:10 219:21 247:7 248:9 248:24,25 249:4
rulings 226:23
run 164:19
running 254:12

S

safeguard 71:12 259:14
safeguarding 73:21
safeguards 101:12 198:22
sake 156:24
Sallouha 151:21 156:5
Salvador 250:11
same 9:18 23:20 28:18 28:24 29:22 30:1 35:9 40:3,12,17 41:17,22 44:4,25 45:7 52:11,22 53:2 55:18 57:6 58:16 60:11 65:12 70:1 72:8,17 74:11 76:22 81:14 84:15,25 85:6 86:12 88:11 92:21 93:17 95:25 100:22 103:24 107:15 110:14 113:19 114:25 127:9 132:1 141:17 146:23 151:2 154:23 171:25 175:5,8,21 186:10 205:10 212:9 217:3 221:20 221:21 225:25 226:3,12 232:16 238:21 245:18,22 249:20 250:3,5,11 250:13
sanctity 59:7
sand 97:18
satisfied 138:21 139:3 153:16 155:19 227:3
satisfies 215:4 239:10
satisfy 154:13 212:15 228:9
satisfying 78:14
save 75:18
savings 193:18,24 194:17 196:10 206:18 207:7
saw 47:10 52:13 55:8 58:7 79:1 82:9,24 88:4,5 102:22 119:22 127:25 173:25 188:17
saying 109:12 110:2 110:20,21 138:5 147:10 148:17 167:19 181:13 199:1 208:12 248:3
says 7:11 15:17 40:25 43:4 54:8 58:18 59:16 61:13 65:2 66:5 67:11 73:25 75:1 86:6,13 103:21 115:8 116:2 123:2 124:14 127:23 130:25 133:16 136:21 137:10 138:13 139:21 143:7 150:23 152:11 162:17 179:12 193:3 200:14 224:11 226:7 229:25 242:17 248:9 249:15 258:2
SC 2:2
scattered 183:19
scattershot 30:17
schedule 18:22 19:3 25:7,10 98:6,12,13 98:15 100:7
scheduled 143:18 144:24
schedules 98:8
scholar 13:24
scholarly 227:25
scholars 12:22,24
SCHWEBEL 1:12
Science 13:19
scientific 18:1 20:4 90:8 92:10 94:19,25 95:2,6,8,14,15 102:17 104:19 106:9 108:9,16,23 108:24,25 109:14 127:20 128:2 135:22 152:14 248:3
scientifically 109:3
scientists 13:16 95:7 95:10 109:22 110:17 238:16 240:17
scoff 16:9
scope 37:14,22 39:10 39:12 171:13 197:18 204:25
scrambling 157:19
screen 125:14
sealed 159:20
seasonal 237:12 243:9 243:14 244:4 245:14
seasonally 169:12 237:4
second 72:21 83:19 89:10 107:8 114:17 114:24 120:11 126:1 130:13 135:3 139:9 146:24 158:25 177:3 180:25 181:12,25 208:15 211:20 228:25 233:13 251:25 259:21
secondary 169:21,22 170:4,16,25 188:14 189:8 190:8,23,25 191:7 192:9 193:13 194:24 202:13 205:6,8 206:21 207:12,21 208:4,8 208:13 229:1 240:23 241:4 243:11,14,21,25 244:4,16,17,24 245:8,14 246:1,16 251:13
seconds 78:16
second-guessed 83:25
secret 101:11 119:1 255:5 256:14
Secretary-General 70:1
secretly 112:16 122:8 253:7
section 4:4 7:20 187:21 188:1 189:10,20 190:17 193:10
sections 104:8
securing 198:21
security 5:13 8:22 10:3 16:17 27:21 57:17 69:25
see 2:22 7:10,14 10:21 15:3 18:18 20:21 22:15 24:13 25:1 31:2 39:17 40:9 41:21 43:25 44:18 46:12 48:13 49:12 50:21 51:7,20 57:20 58:18,25 60:10 65:4 65:17 67:16,19 70:2 73:25 74:4 78:11 79:20 82:15 83:2 85:3 88:25 97:17 98:4 107:16 111:21 111:21,23 113:18 114:16,23 117:3 122:22 123:15 124:12 125:5 131:1 131:5,13 138:20,23 139:1 150:21 156:4 156:18 158:1 167:14 176:14 179:12 189:2 201:23 210:6 214:8 221:9 226:6,11 230:8 232:19,20 233:9 236:10 241:11 242:22 250:5 255:19 256:3 256:7,11 258:14
seek 140:10 141:1 155:4
seeking 71:15 72:13 72:20 76:12 86:2 149:25 155:8 185:23,25
seem 49:10
seems 251:14
seen 10:13 21:9 25:6 26:6 28:6,19 34:11 36:11 45:12 50:2 51:15 75:15 77:14 79:12,22 85:19 102:5 104:5 105:1 105:14,24 106:6 112:21 118:11 121:10 126:22 128:8 129:17 132:18 142:5 147:22 158:15 162:3 166:24 172:13 175:13,16 177:3 179:1 182:2 182:14 191:9,16 202:7 203:19 204:12 206:19 207:17 217:7 229:2 229:7 232:12 237:25 240:15 243:7 246:1 247:24 252:24 253:12
seized 122:5,7
select 11:17 253:20
selected 10:8 13:1 14:16 89:16 95:1 254:6
selecting 255:6
selection 14:22 62:22 97:15 228:25 229:3
selections 44:10
selective 43:14 88:1 206:16
selects 77:9
self-help 68:1
semantics 152:15 153:3,10
sense 3:13 53:3,10,11 55:23 59:22 61:16 68:11 87:7 89:2 95:7 132:12 135:11 152:15 155:6 188:13 200:20 203:16 219:8
sensible 138:18
sensibly 95:13 138:6
sent 113:16
sentence 37:5 41:15 41:23,24 42:10 130:18,19,20 165:10 178:25 184:17 186:17,20 187:17,19 188:2,8 189:14 193:15 206:23 207:10,13 207:17,19 233:19 233:23
separate 5:7 150:1 217:7 233:14
separately 34:4 39:21 144:2 162:11 206:8
September 159:5 160:23
sequiturs 226:16
series 18:8 210:2
serious 30:14,19 35:23 39:1 86:4 119:19 120:19,25 126:2,14 126:15 132:9 133:4 155:6 210:17 211:19,23,24 214:5 227:25 253:24
seriously 73:19 76:19 87:16 97:5 100:10 103:3 125:19 212:22 215:11 218:25 249:22
seriousness 157:16 220:13
serve 73:20 77:22
served 12:2 48:4
serves 225:3
Service 12:1
set 5:8 6:16 7:1,24 17:1 18:20 25:6 28:16 38:25 39:25 49:8 64:20 65:17,21 66:7,9,11 70:24 71:15 72:14 81:5 82:10 84:21 87:9 94:10 98:5 99:15,22 135:15 158:1 165:14 166:25 167:5 171:11 172:18 179:9 187:3 187:21 189:18 190:15 191:18 208:19 212:11 228:14 235:25 236:1 242:24 247:11 257:2
setting 72:19 74:16 77:19 133:24 196:23 223:15 226:2
settings 214:3
settled 44:17 49:2 59:9 72:11 83:19 169:12 198:5 237:4 237:10 238:20 248:18 249:17
settlement 8:15 236:24 238:19 250:22,23
settlements 60:13 237:10 256:23 257:7
seven 5:3 158:1
several 22:13 25:16 144:21
Shaddrack 13:23
shadow 145:5
share 151:22 188:11 192:18 244:24
shared 170:3,16,17,25 171:3 178:3 188:14 188:17,20 190:8 191:6,11 202:13 205:8 206:11,24 207:12 229:1 242:5 243:21,25 244:17 245:8 246:1,15 251:13
sharing 8:1 27:12
Sharjah 60:4
sharp 215:20
sharply 164:6
sheer 31:16
shift 181:19
shifted 29:24 30:8
shifting 29:8
shockingly 214:11
short 63:18 181:8
shorter 169:15
shortly 83:3 149:7
show 86:4 121:11 124:7 148:5 212:18 247:2
showed 160:8 239:6 256:23
showing 122:13 167:23 171:25 184:5
showings 212:24
shown 65:13 159:18 164:10 183:15 211:13 257:3
shows 90:23 99:5 107:25 131:18 178:15 186:8 239:3
side 1:9 96:18 97:5 111:7 127:10 154:19
sides 21:7 93:9 133:19 136:14 137:3,23 150:15 151:19 152:20 153:18 154:7 240:24 247:1
Sierra 12:3
signals 157:18
signed 25:17 27:20 28:1 143:11 145:12 154:20 159:6,20
significance 205:13
significant 16:17 21:16 39:7 86:9,25 121:21 139:1 235:1
silence 113:3
similar 35:14 71:10 80:15 81:4 98:9 194:15 248:24 250:12,15
similarly 27:13 39:24 104:25 190:6
simple 87:17 128:23 130:6 172:4 198:2 201:7
simply 30:15,25 32:16 36:4,18,21 41:17 48:21 49:18 52:4 54:18 63:4 75:11 78:3 114:2 122:13 127:22 149:20 155:21 163:16 172:11 174:1,9 192:17 193:3 219:13 233:4,6 234:17 236:3,6 237:25 239:1 245:20 249:12
simultaneously 21:25

Trevor McGowan
info@TMGreporting.com

since 31:10 45:3 146:11 180:3 190:22 230:3,5
single 79:18 91:21 98:23 122:10 130:17,18 133:15 157:16 183:24 186:17 213:4,7,17 223:2 236:8 239:12
singled 192:5
sit 2:12,19 4:9 15:19 142:23
site 21:18
sites 18:14 20:9 22:13 93:8 94:13
sits 12:21
sitting 2:10,19
situation 160:1 168:3 184:14 255:17
six 5:7,25 19:3 22:5
Sixth 90:13
skeletal 18:22 90:24 98:5 105:16 139:17
sketch 254:11
skills 25:23
slide 2:17,22 7:10 10:21 20:21 23:4 25:1 39:17 40:10 43:25 44:18,22 48:6 49:12 50:21 53:22 54:9 57:20 58:9 60:11 65:4,14,18 67:16 68:9 70:3 72:15 73:25 78:12 81:7,15 85:3 90:23 98:4 99:4 113:18 117:3 119:22 123:24 124:12 131:18 143:9,13 147:3 150:22 151:15 154:10 156:4,19 158:2 161:24 164:10 183:16 186:18 188:1 201:23 207:11 208:2 212:10 221:9 222:6 226:7,12 232:19 236:11 248:16 249:19 250:5,7 255:19 256:4,7,11 258:14
slides 2:16 78:17 89:1 91:24 123:20 131:2 211:13 250:4,24 257:4
slightest 45:14 55:10 62:8 112:23 121:18 127:11 131:14 134:22 185:17 195:13
slower 34:18
Smelter 59:5 63:23 64:13 65:12 66:2
smokescreen 258:25
smoking 257:25
smoothly 11:21 98:12
snippet 178:19
Social 13:20
sole 28:10 157:25
solidly 97:23
Somalia 5:5 12:3
some 2:19,21 3:13 4:24 5:8 15:21 19:3 26:3 30:20 31:4 32:5 48:15 63:8 74:17 85:5 103:6 113:15,25 115:12 115:20 119:11,12 120:6 125:18 132:5 132:16 133:13,24 137:18 139:12 148:15 149:17 156:25 157:9 166:1 178:10 183:8 189:19 192:14 198:24 199:8,9 208:1 220:9,15,24 220:25 221:15,24 223:17 224:24 225:11 231:3,14 232:12 233:3 235:6 247:2,6 255:5 256:14 257:25 258:1,24
somehow 122:18 159:13,16 185:14 253:2
someone 240:7
something 18:20 32:18 36:15 83:18 98:5 109:25 110:17 111:8 122:6 125:10 142:4 153:1 155:11 193:23 206:3,4 215:16 248:5 253:4 256:15
Something's 142:21
sometimes 231:4
somewhere 222:21 223:17
soon 148:14
sophisticated 220:17
sorry 34:17
sort 3:22 32:16 47:3 74:18 90:22 91:7 113:10 119:12 120:6 125:19 129:2 132:5 133:13 155:13 173:16 196:14 209:6 216:8 257:23,25 258:1
sorts 26:5 94:5 132:14 192:10 205:21,21 248:24
sought 96:17,25 124:19 126:3 165:7
source 92:18 110:8 252:10,13
sources 20:2,11 24:3 44:10 91:5 92:13 94:12,14,18 102:8 104:12,16,17,19,20 106:22 109:8,21 111:1,1 128:3,6 132:23 133:2 135:21 170:21 219:22,24 220:4 237:7 238:17 247:19
south 4:15 5:19 6:12 7:12 8:9 12:3 14:2,4 23:13 47:16 156:21 164:13 169:22 170:11 173:3 189:9 189:24 193:14 196:2 202:8 206:22 207:2,2,4,6,24 208:5,9 229:19 232:11 234:9 254:18 255:24
southern 5:17,25 34:24 79:3 123:11 123:22 158:3,23 159:23 160:9 169:19 171:9 189:2 206:11,24 228:25 229:17 239:7,17
southwards 169:17 238:6
so-called 3:18 29:10 29:12 91:18 122:15 161:1 182:23 185:19 190:10
Spain 75:24
speak 34:17 123:19
speaker 160:11
speaking 1:9,12 148:16
special 57:15 69:1,19 73:11 82:8 85:5,16 86:1,4 90:6 204:15
specialised 27:24
specialists 10:19 14:7
specialties 13:16
specific 9:5 13:24 38:9 39:5 40:13 69:21 70:17 80:10 97:1,2 99:22 100:15 101:2 108:2 115:6 116:21 149:14 171:12 192:8,15 205:5 246:10 248:25
specifically 9:11 10:22 24:16 28:11 36:22 38:21 41:5 62:16 72:1 82:11 102:19 103:12,14 104:8 105:25 106:8,20 107:10,17 109:11 110:10 113:7 117:1 117:5 118:6 128:5 128:11,21 138:13 148:10 149:21,21 149:22 162:2 170:6 182:3 196:3 197:15 217:15 240:15 243:6 246:16 247:10 248:13 252:17
specification 194:9
specified 28:5 39:18 42:15 77:13 182:7 194:13 216:13 251:16
specifies 62:11
specify 252:10
specifying 192:20
spectrum 225:7
speculation 117:24 253:23 254:5
spell 168:2 184:13
spend 20:7 43:13 71:1 130:10 137:18 181:14 253:10
spent 22:5 45:15
splendour 4:9
SPLM/A 2:7 1:4,20 5:21 6:10 9:3 16:25 21:21,23 27:4,19,25 41:1 74:13 85:19 96:7 97:22 108:3,10 114:16 117:6 122:23 123:6,10,14 125:6,7 126:25 150:8,12 151:1 152:9 156:19 157:12 158:23 160:3,14 164:15 202:7,9 215:25 240:13 241:12 254:9,24 255:2 259:17
SPLM/A's 31:17 53:8 72:25 113:22 151:24 154:19 156:8,13 200:1 254:11 257:2
spoke 144:12
spoken 144:7
spokesperson 68:25
sponge 27:2 159:12
squarely 103:23 250:16
stability 57:16 60:6,14 77:24
stage 113:23 224:4
stand 63:24 97:17,18 215:20 222:21
standard 78:14 80:18 119:13,24 120:1,2 121:5,22 215:5 224:14,21 225:5 227:1,4 229:9
standards 3:12 35:23 70:19 71:3,6 87:16 132:13 226:13
stands 66:19 250:15
start 2:15 189:23
started 31:11 146:11
starting 70:21 73:19 73:23 134:25 137:25
starts 163:21 241:10
state 1:5 5:20 41:13 42:2 60:8,9 79:18 184:9,24 185:16 209:12 210:25 215:23
stated 42:12 72:3 75:20 108:20 143:15 232:13
statement 69:3,17 108:19,20 111:25 114:17,24 117:2,9 130:19 131:1,11 179:21,25 180:3,8 186:25 191:22 195:14,15 212:3 216:7,17,23 217:9 238:8 241:18 242:4
statements 27:1 36:14 70:4 112:2 113:11 113:20 114:14,23 115:2 151:3,4 166:23 208:1,2 239:15,15 243:17
states 4:21 11:3,13,23 12:1,6 65:25 68:21 74:23 165:10,13 192:17 207:1 221:7 221:14,21 225:22 249:16,17
state-to-state 86:13 226:4
stating 154:2
status 60:7 64:2 157:24 196:12 248:10 252:6
statute 213:5 219:19
staunch 124:6
stay 115:17,18 116:3 116:13,14
Steamship 58:6 63:23
step 161:13 205:25
STEPHEN 1:12
steps 226:5
still 34:23,25 60:16 63:12 71:5 111:24 143:18
stipulated 47:1 50:15 162:6,21 182:19 183:23
stipulations 86:14
stood 165:19 183:6 233:1 235:10
stop 133:25 259:9
stopped 50:23 51:18 52:1,4
straight 164:20 188:24 191:14,23 254:13
strategy 26:24
strength 68:5
strengthen 45:13
stress 197:4
stretch 36:10 132:7
strictures 81:13
striking 6:2 114:5 194:16,18 195:4
strikingly 214:4
strip 164:13 203:24 205:12 241:2
strive 198:10
strong 19:10 84:8
strongest 204:13
structured 90:18
stubbornly 227:6
Studies 14:3
study 26:25 73:11
subject 8:21 53:1 60:1 73:11 80:10 88:11 95:25 108:1,2 154:22 200:6 220:16 221:6 244:11
subjects 5:12 14:21 56:9
subject-matter 45:4
submission 73:9 91:1 143:10 249:9 253:9
submissions 1:6,21 2:2,8 30:11 37:18 58:17 87:14 88:6 91:23 103:3 112:13 120:17 129:12 145:11 154:24 164:22 165:6 166:13 187:18 194:16 215:11 227:8 236:11 237:19 240:12 259:7 1:3
submit 136:22 137:7 137:11 198:25
submitted 39:13 114:6 126:24 135:14 151:18 159:7 163:6 217:17
submitting 134:17 138:12
subsequent 14:23 17:23 37:7,17 99:1 168:19 187:5,17 193:5
subsequently 6:20 64:2 176:15
subsidiarily 168:18
substance 31:22 32:11 33:23 35:20 43:6 48:22 53:12 68:9 78:18 87:10 157:25 162:15 163:4 173:24 175:11 186:14 215:9 223:21 232:3 236:13
substantial 25:13 38:2 38:10,23 46:23 63:6 73:8 79:13 80:11 100:6 122:13 127:8 130:16 139:8 198:18 207:24 224:18 230:16 247:18
substantially 63:11
substantive 3:19 6:21 6:25 7:8 8:11,24 9:9 28:18 29:11,25 32:9 32:11,16,20 34:5 37:11,16,23 39:6,12 41:15 42:1,3,6,12

Trevor McGowan
info@TMGreporting.com

42:18 44:2,14 46:15 46:22 47:8 48:18 49:6 50:1,12,16 51:5,12,22 52:2,3,7 52:10 62:13,15 75:10 77:11 161:25 162:2,10 163:16 167:16 172:5 174:1 174:15 175:14 177:20 180:12,21 180:25 181:12 185:19,20 208:24 209:5 212:5 225:13 230:13 235:14 244:22
substantively 7:1 172:24 232:6
subsumed 201:16
sub-point 224:25
succeed 76:13
success 6:5
successful 16:22
Sudan 1:2,2,16,18 2:4 4:7,18,18 5:5,14,17 5:19,25 6:1,6 7:13 8:10 12:3,13,17 14:12 18:10 20:2 23:9,10,12 26:12,12 34:16,24 69:2 79:3 92:13 104:12,19 117:12 128:4 129:24 134:17 136:24 142:17 158:3,24 159:23 160:3,10 179:15 221:14 244:20 246:6 252:19,20 257:10
Sudanese 4:16 5:11,22 10:20 14:9 25:22 89:11 123:22
Sudan's 4:8 12:18 143:20 253:8
Suffice 59:19
sufficient 101:17 154:13 158:9 168:1 169:16 177:8 184:11 203:14 238:5
sufficiently 72:5 150:4 155:24
suggest 74:15 97:8 116:18 125:2 145:5 147:17 181:2 242:16
suggested 45:22 110:25 122:16 153:21 155:9,12
suggestion 22:25 51:20 63:1 68:3 69:22 111:7 112:5 118:7 132:5 140:2 159:9 236:2 253:2 253:18 258:23
suggestions 19:15 83:2
suggests 41:9 45:15
96:12 99:9,17 105:8 258:9
sui 81:1 85:17
suit 9:4
suitability 11:19
suited 11:17
suits 96:14
sum 55:25 100:12 149:8 157:3 160:25 180:11 197:20 208:23 251:4
Sumbeywo 178:5
summaries 190:19
summarise 74:20
summarised 91:24 164:9 187:24 227:8 244:7
summarising 189:23 193:3 198:8
summary 98:5 99:15 99:23 182:2 187:3 187:21 189:16 190:1,11 221:3
summed 31:6
Sunday 1:7 1:1 2:11
sundry 219:21
superseded 99:2
support 67:9 72:6 75:2 76:25 96:10 114:6,7 117:24 122:22,23 195:13 200:19 210:7 214:6 214:12 224:6 228:15
supported 246:3
supporter 123:5 124:19
supporters 158:23
supporting 239:14
supposed 3:7 21:15,16 34:8 67:17 71:4 111:10 112:14 115:21 155:23 156:2 172:5 175:17 213:7 228:20
supposedly 24:8 35:13 50:25 51:16,18 78:22 134:10 156:9 158:11 180:20 199:7 204:24 205:3 210:4 213:12 214:21 224:12 229:7 231:20 242:9
Supreme 65:25 85:4 212:9
sure 3:20,25 44:22 66:3 72:15 217:20 221:21 235:19
surprise 66:8 112:1 189:4,5
surprising 17:7 79:19 117:15 131:24 142:5,25,25 160:17 160:19 164:1 252:22
surprisingly 44:17 46:6 64:12 125:6
127:15
Survey 23:10
sustain 125:17 220:10 222:19 223:9
sustained 214:5
sweeping 104:14 220:11
Swiss 85:2 212:4
switched 30:3
Switzerland 213:8
sworn 124:1,3 154:18
system 58:22,23 59:3 64:25
systematic 236:23
systems 46:9 56:21 59:18,19 79:17 213:13 220:15,17 220:19 224:16

T

table 1:9 117:19 118:1 247:1
taints 96:5
take 46:10 61:6 64:14 78:15 110:4 148:15 149:17 201:24 211:18 255:4
taken 84:9 95:18 97:5 121:2 124:15 146:7 154:14 159:1
takes 32:5 35:9 70:5 96:7 183:11 255:13
taking 94:17 143:9
Talbot 12:20
talents 15:1
talk 3:3 71:5 108:17 233:25
talked 26:25 73:2,21 112:8 146:25 161:22
talking 146:25 184:7 184:22 259:9
talks 117:19 118:1
tangible 110:1,18
Tanzania 12:4
target 45:12
task 12:7 96:7 116:16 140:2 162:19,23 163:6,7 165:4 166:25 171:19 172:2 179:4 185:7
tasked 163:2 172:9
tasks 139:18,19
teaches 12:15
teams 89:6 135:6 136:13 153:7
Tebeldiya 188:10
Tel 2:13
tell 221:22
telling 54:6 143:21
tellingly 17:3
ten 135:3 153:6
tendered 154:21
tense 190:23
tension 235:3
tentative 98:6 99:14 100:3 105:16
TENY 2:5
term 37:4 39:15 42:16 42:20,25 43:2 45:17 50:9 250:8,14
terms 5:9 6:20 7:8 8:24 18:7,12,20 19:24 20:16 22:12 29:6 35:16 37:13 39:16,23 40:15,22 40:23 41:2,7,11,18 41:20 42:10,14 56:14 64:18 73:8 80:5 82:12 84:12 85:6,15 90:5 92:5 92:10 98:1,6,25 100:4,16,22 104:8 106:14 107:12 116:9 134:22 137:25 139:14,16 143:23 144:1,13 145:8 149:24 150:20 152:2 155:11 163:20 171:17 175:21 177:7 185:8 192:17 192:25 203:9 204:7 216:11 217:1,15 218:4 236:1 248:10 253:12 259:15
territorial 179:18 187:2,8,13 193:5,19 193:25 194:25 195:22 196:17 197:18,25 199:11 202:15 203:1,10 204:2,8 207:8 234:3
territories 203:11 235:20
territory 7:16,23 8:21 28:21 47:15 48:14 123:11 165:19 166:4,15 168:7,14 168:23,24,24 173:6 180:4,6 183:5,11,19 184:3 185:5 188:5 189:24 195:19 202:9,10 203:24 232:25 233:4 234:7 234:9,19 235:1,9 236:19 237:9 238:1 238:19,20 240:5 244:24 245:18,19 245:22 246:16
test 52:9 86:9
testified 149:1 150:21 257:4
testimony 18:18 22:7 25:25 108:6,24 109:1,2,25 110:5,13 110:18,23 114:13 115:6 117:6 122:6 125:4 145:2 151:6,7 151:14,15 154:9,18
text 5:8 25:14 52:1 133:15 137:13 158:1 167:5 183:1 186:25 206:15
250:8
thank 1:7,23 2:4,10,13 34:21 63:20 134:1,2 134:8 181:5,6,11 259:9,11,23,24
thanked 119:5
thanking 1:10
their 2:6 4:14 6:15 7:22 9:4,23 11:4,6 11:16 14:19 15:14 15:25 16:1,2,4,14 16:18 17:23 19:1 20:19,20 23:1,9 24:14,18 25:5,9,9 25:10 26:11,20 27:2 27:5,23 28:8,14 29:2 31:1 32:13,14 33:11,17 34:15 35:18 36:19 37:1 38:25 39:8,11 46:22 46:22 47:8 48:22 50:23 51:2,13 52:25 53:15 54:11 62:5 63:2,3 67:25 69:6 69:11 74:7 78:4 79:9,20,20 83:14,17 85:20,23 86:1 90:2 91:3 92:9 93:15,15 94:3 95:15 101:14 102:15 104:10,24 105:6 106:1,10,23 107:2 109:9 113:5 116:24 121:3,4 122:4 126:5 127:3,6 128:1,9 129:18,20 130:3 132:2,2,3 136:22 138:12 139:6,10 140:14,17 140:20 141:2,4,9,14 142:1,9,13 143:6,8 145:7 147:16,16,19 147:20 148:7,24 149:5,25 151:20 152:19 153:7,17 156:3 157:14 158:3 158:7,22 159:6,7,12 159:16,22 160:4,5,9 161:16,17,21 162:24 164:3,22 167:5,6,22 168:19 168:24 169:13,14 169:15 170:9,18 171:14,24 172:17 173:19 175:10,12 177:22 178:19,23 182:19 183:4,15,24 185:20 186:13 187:4,5,7,14,22,22 187:24 189:7,17,23 190:12,17,21 191:19 192:2 193:2 193:3,12,19,24 194:1 195:6,18,21 196:17,19,21 197:3 197:9,13,18,20,21 197:22 202:18 203:3 204:14,24,25
205:4,25 206:1,18 206:20 207:1,9 208:8 214:19 217:21,22 218:5,6 218:23,25 219:6 224:6 227:19 228:4 228:6 229:5,12 230:7,9,21 231:19 232:8,13 233:22 234:2,19 235:25 236:17 238:3 240:1 240:12,18 245:12 246:11 247:16,22 248:2 251:20 252:13 255:1,9 257:13
themselves 5:22 6:12 17:15 18:19 82:12 91:8 95:14 104:2 141:18 148:1 153:12 155:14 184:20
thin 205:12
thing 44:11,25 103:24 108:16 113:19 122:11 142:16 177:12 205:7 212:9
things 3:2 12:11,17 31:10 35:7 60:5 99:6,22 105:19 115:9 146:10 161:17,18 186:9 187:23
think 1:13 3:20 4:10 15:19 42:16 44:7 52:8 63:8,14 78:16 109:1,5 114:1 115:14 124:21 143:4 148:19,21 218:18 251:1 257:3
third 86:2 89:16 102:14 106:18 108:1 119:10 120:21 126:10,23 127:24 128:17 132:7,18 134:9 141:20 159:15 182:18 199:15
thorough 21:13 226:19 227:17
thoroughly 250:4
though 35:18,24 68:13 84:3 112:24 113:6 116:2 117:25 183:10 210:4 214:8 219:22
thought 21:15,16 31:5 109:6 127:10 133:10
thoughtful 26:9
thoughtfully 15:15
three 4:19 6:21 11:11 12:4,12 13:1 14:13 14:15 15:13 22:19 23:20 27:8 29:10,12 34:12 47:2,7 50:2 50:11 78:21 87:12

89:8 127:12 133:22 150:1 154:12,14 161:2 162:9,12 244:14
through 10:19 29:20 32:6 44:22 62:24 68:19 89:2 100:15 100:17 109:14,24 110:13 125:13 134:10 137:18 161:24 169:21 171:7 173:18 188:9 189:10,20 201:24 211:18 227:5 235:19 250:4,25
throughout 6:9 22:23 132:3 183:20 208:13 227:15 232:18 236:25 239:6 241:11
Tibbs 23:16,17 24:2 111:13,20,21,22 112:3,4,19,20 120:14 126:10 128:19 130:3 133:7
Tibbses 23:25 24:10 24:15
tidy 4:9
time 4:1 5:20 12:7 15:16 16:19 21:17 24:10,25 26:18 27:3 29:22 30:1 32:5 34:12,19 43:13 45:19 54:23 57:6 61:6,6 63:8,14 64:14 71:1 90:25 93:17 98:13 100:22 107:15 111:5,20 114:10 117:14 119:8 127:9 129:13 133:25 134:24 137:18 145:22 148:15,20 149:15 150:2 152:5 155:9 157:7 160:18 161:23 165:19 168:3 169:4 179:15 181:14 184:15 186:10 201:24 205:10 218:8,18,22 219:3 230:18 231:18 233:15 239:21 241:24 247:20 250:25 252:20 253:10 255:13 258:10 259:12,16,17,18
timeframe 218:13,14
times 7:19 31:21 72:4 76:13 183:15 185:15
timescale 18:16
timetable 218:3
title 39:22
titled 171:16
today 1:12,22,25 2:10 4:9 12:24 48:7,17 57:13 173:25 176:14 195:8 259:9 259:17
together 11:5 14:6,10 16:21 25:15 33:14 87:24 95:18 154:14
told 63:11,22 78:16 112:24 118:20 122:8 124:25 143:23 144:21,22 159:11
tolerated 212:21
tomorrow 51:21 177:16 230:8 232:20 233:9 259:20
topic 3:6 161:25 209:9 259:3
topics 14:5 96:10 226:5 259:2
Tor 160:11
total 22:7 218:10 226:1,25
totally 156:16 225:17
towards 125:5
Town 22:4,17 115:1 118:18 158:17
tradition 109:23,24 249:24
traditional 7:6,22 195:18,23 197:10 197:19 206:10
Trail 59:5 63:23 64:13 65:12 66:2
transcript 2:12 15:9 38:1 40:9 58:25 111:3,15 115:8 149:3 151:4 174:23 205:18 237:24 240:14 248:16
transcripts 108:6,13 166:2
transfer 230:18 233:22 234:2,3 235:12
transferred 7:17 9:16 28:22 33:13 47:17 47:20,22 48:12 51:2 51:24 52:17 54:12 130:22 163:1,10,25 164:12 165:20 166:9,20 167:3 169:5 172:8 173:7 175:4 179:14 180:17 181:19 182:23 202:23 216:21 229:19 233:25 234:7,16,18 234:25
transferring 98:20
transfers 235:20
transformation 5:10
transit 192:13 205:9 206:11
translated 250:9
transmuted 229:3
transportation 98:22
travel 18:9 98:8 140:8 140:12 142:3 143:19 144:3,20
travelled 22:13 140:19
travelling 20:8
travels 140:5
traversed 237:11
treat 205:24
treated 56:6 100:6 230:5 231:8,13,13 234:14 258:17
treatment 24:14 208:17 215:14 222:10 235:4 236:17 243:2
treats 206:2 257:24
treaty 49:3,24 213:5
Trevor 2:12
trials 81:13
tribal 181:17 234:3,16 235:12,20
tribe 165:20 241:1
tribunal 1:1 1:23,25 2:7 17:7 24:1 27:24 28:4,7,13,17,25 33:8,18 36:6 38:18 38:22 39:6,13 48:23 49:19,20 52:12,23 53:1,6,20 54:10,17 54:19 55:2,12 58:10 59:6,8 62:2,18 65:13,15,19 66:22 66:23 70:12 73:7 77:15 83:20 85:2 86:10,11 88:15,16 97:23 101:19 122:12 130:10 174:10,11 175:2,20 175:25 200:4 212:4 215:23 217:3,5,9 221:17 248:7 249:25 259:6,13
tribunals 20:7 35:14 80:15,17,21 81:4 82:1,5,6 88:12 96:12 220:6
tribunal's 33:5,21 38:11 43:15 46:20 52:13 60:4 198:4 201:2,6,10,14,16
Tribune 257:10
tried 37:18 86:23 120:18 149:17
tries 153:4 189:20
true 32:10 52:22 59:10,12 60:16 65:12 74:2 84:10,15 98:19 101:16 107:5 111:9 138:5 153:5 157:21 174:24 176:13 250:5
truly 155:25 205:15
trust 4:1
trusted 11:8,15 14:15 89:18
truth 108:20 109:4
try 2:21,24 29:19 34:19 133:23 137:8 138:17 140:9 147:20 150:2 152:23 178:1 225:15
trying 30:20,21 116:8 116:16 123:10 150:15 219:11 241:24
turn 3:6,9 4:2 29:4 32:21 34:4 70:16 78:11,18 239:25 256:9
turned 165:4 219:18
turning 121:16 253:16
Twic 22:21 101:10 112:17 123:1,8,10 125:4 234:10
two 1:4 10:9 12:23 14:15,17 15:12,13 21:7 23:22 24:7 42:1 93:9 96:16 112:13,18 135:1,5 136:13 137:3,9,23 137:23 144:5 150:15 152:20 153:18 154:7 159:5 159:19 164:6 185:23 187:23 188:20 197:10 210:10 228:19 229:10 240:24 241:12 242:5 243:13 245:17,21 259:20
two-sentence 178:13 178:19
type 92:18 163:14
types 82:1 220:1

U

Uganda 5:5
ultimately 6:14 16:23
ultra 30:1 37:16,20 38:23 42:19 45:19 45:21 46:5,7,14
UN 27:17 69:14,25
unable 22:21 84:18 91:20 154:7
unanimous 25:18 257:19
unanimously 127:1
unarticulated 253:8
unchallenged 59:13
UNCITRAL 43:19 72:17 209:25 221:12
unclear 34:22 225:1
uncontroversial 201:7
under 10:10 28:10 29:2 39:22,24 52:13 52:24 53:21 54:20 56:2 63:3 64:25 66:12 72:4,9,11,17 74:11,17 76:14 79:24 80:20 84:15 84:19,25 85:2 110:6 110:11,11 149:24 163:8 172:3 173:20 175:22,25 209:2 211:11 222:10 242:24 249:17
undercuts 64:7
underlie 62:9
underline 54:1
underlying 70:21 75:9 77:10
undermines 68:6
underscore 71:6,8 83:10 100:18,23
underscored 19:16 55:20
underscores 51:21
understand 29:20 189:21
understandable 254:22
understanding 104:3 130:20 141:17 246:5,11
understatement 60:15 205:16
understates 119:23
understood 39:15 42:16 113:1 164:22 229:15 247:2,3
undertake 92:9 98:14
undertaken 27:14 76:2
undertaking 102:7
undertook 21:12
undisputed 111:11 171:10
undisturbed 194:3 196:11
undo 67:6 78:2
undoes 66:20 67:10
unending 55:1
unequivocal 156:14
unexceptional 179:9
unexpected 111:8
unfortunate 69:9 89:14
unfortunately 32:4
unfounded 56:4 162:14 236:13
unidentified 119:12
uniform 131:19
uniformly 57:18 84:20 165:24 211:7
unilateral 157:11
unilaterally 126:3
unimportant 121:24
uninhabited 241:9
unintentional 121:2 133:14
uninterrupted 255:20
unique 5:23 13:2 97:1
United 4:21,22 11:3,3 11:13,14,23 12:1,6 12:14 27:7 65:25 68:20,21,21 221:21 249:16,17
universal 67:4,7 97:12 210:8 213:14,18 214:10 220:11,25 223:10 224:22 250:17 251:2
universally 30:6 71:17 79:15 212:17 214:3 225:8 249:15
University 2:3 12:16 13:6 14:1,4 44:20
unjust 49:14 50:10 73:18 174:6
unless 66:7 86:19 221:18
unmistakably 32:7 177:10,12,17
unnecessary 198:4
unobjectionable 203:13
unoccupied 239:9
unofficial 117:20 118:4,8
unplanned 22:17 118:25
unqualified 92:15 104:18
unreasoned 167:18 220:20 222:10 223:1 227:2 236:3
unrepresentative 44:9 219:25
unspecified 34:9 45:25 209:14 251:9 253:3
unsubstantiated 114:14 151:6
unsupported 131:3 145:10 151:7 214:11 253:25
unsustainable 56:13
untenable 45:21 53:10 77:8 101:5 105:13 227:4
until 16:10 134:5 186:19 233:21 234:2 260:1
untouched 195:25
unusual 18:7 66:8 89:20 90:12 156:8 221:20
unusually 91:25 158:16
unwanted 111:9
unwarranted 181:19
upheld 100:21
uphold 76:12 198:11
Upper 256:8,17
upsetting 198:14
usage 168:20,22 190:21 192:12,25 194:2,10,11 198:1 202:13,21 203:1,10 204:8 205:5 207:9 207:15,24 208:4 244:4 245:15
use 7:6 37:3 40:3,18 54:24 80:1 96:13,17 101:15 106:1 110:2

110:20,22,24 146:24 157:5 179:19 180:5,9 181:20 188:12 189:8,11 191:21 192:18 193:13 199:16 204:1 206:21 208:9 217:21 236:24 237:12 240:13 243:14 245:22 250:14 259:16
used 28:24 36:17 37:4 40:11 48:1 95:21 96:18 123:23 161:15 166:5 168:14 169:12 188:17 232:18 236:19 237:4 243:9 250:8 259:17
useful 20:13 105:7 163:20 221:13
uses 42:20
using 84:13 93:13 192:23
usual 259:23
usually 198:17
utterly 214:9

V

v 58:10 60:4 66:1
vacuum 138:9
vaguely 257:16
valid 83:21 214:16
validity 61:25 62:25 63:25 64:12 65:20 66:14 70:8,22 71:9 71:24 72:2 73:22 76:4,11,18 85:25 87:3
value 121:12
van 211:9
VANESSA 2:6
variety 23:7 81:25 94:11
various 3:16 5:14 18:14 23:12 29:22 78:19 88:25 99:6 158:18 210:1 228:21 237:19 247:18
variously 61:3
vast 81:22 90:3
ventures 220:22
verbatim 108:13 111:15 115:7
verdicts 222:25
versions 164:6
very 16:7,7 23:15 24:3 26:6,8 31:8,9 38:9 38:12 44:14 57:25 58:1 60:8 64:17 71:25 74:16 78:7 79:16 80:11,13,21 84:3 85:16 87:16 90:21,21 98:5,10 100:20 108:11 109:25 110:18 111:20 115:9 116:6 120:9,19 124:21 125:17 130:19 134:2 137:15 146:8 146:9 161:17 164:4 169:2 170:9 171:20 181:11 189:19 190:2 193:3 205:5 205:11 206:1 211:11 220:17 222:24 226:21,21 233:11,18 249:11 256:21 257:20 258:15 259:23
vested 200:16
view 11:17 16:20 20:3 20:15 22:2 25:20 51:9 73:1 81:18 86:7 131:12 135:21 147:1,2 198:6 213:19 225:19,25 235:11
views 85:4 93:18 131:6,7 137:9
villages 192:15 239:6
violate 35:21 130:7 209:22
violated 112:15 120:4 126:7 129:14 136:19,21 158:5,12 159:13 209:10 223:19 242:8
violates 212:5
violating 147:18
violation 35:23 40:23 73:12 84:22 119:12 119:24 120:5,9,11 121:1 125:19 126:15 132:11 133:4 134:11 145:19 155:15,22 156:25 161:7,10 177:7 210:14,17 211:23 212:20 222:3 251:10
violations 24:8 29:10 30:3 34:4,11 42:21 43:23,24 44:16 46:14 78:21,23 85:7 112:15 210:15,20 211:25,25
virtually 55:25 77:7 87:21 98:23 120:11 181:1,13 221:8 259:8
visit 18:14 93:8 118:25
visited 19:22 22:4 93:1 103:2
visiting 20:9
visits 18:8,15,23 21:18 93:18
vital 5:1 6:5 9:22 11:9 11:16 18:4 88:20 106:7 198:20
vitally 56:19 57:6 58:21 62:8 77:22 94:15 95:20 112:21 184:17
vitiate 155:16
vociferousness 67:23
voice 97:7
voiced 80:3
voluntarily 5:22
vote 5:17 8:6,8,19
V(1)(b) 84:15
V(2)(b) 211:5,11

W

W 1:13
wait 142:11
waiting 26:16 31:11 142:18 146:11,12 147:15
waived 63:2,3 125:12 157:1,1
waiver 4:3 259:4
walk 176:4
walked 55:8
want 15:25 142:20 147:11 151:8 249:13
wanted 15:2,4 82:1 94:25 95:12 97:12 107:20 112:5 118:16 119:17 120:22 125:1 130:5 130:6 147:12 149:22 197:4 219:1
wanting 26:25 148:3
wants 67:20 195:11
war 4:7,7,11,11,16,16 5:9 12:19
warrant 229:6
wasn't 15:18 114:9 123:18 242:25 258:21
Waste 58:10
water 27:2 159:12 205:9
watered-down 120:1
watering 192:14
waters 119:23
way 2:23 15:4 16:10 25:3 31:10,24 41:8 41:15 42:4 43:23 44:14 62:5 63:4,6 65:5,19 78:2 99:6 102:3 110:23 112:12 120:24 132:1 133:4 138:18 139:19 141:13 146:10 147:16 155:12 159:19 160:7 179:9 180:21 192:20 194:14 198:1,16 205:1 206:23 207:14 219:13 227:6 235:3 246:17 252:14 255:21 256:18 258:9,9
ways 88:23 185:23
weakness 67:18 68:5
wealth 8:2
wealth-sharing 5:12 8:22 10:4
week 20:8
weeks 19:2,3 127:7 141:18 218:7
Weeramantry 72:3 75:20
weight 57:15 227:20
weighty 72:5
welcomed 69:4
well 1:20 3:4 20:9 24:15 25:4 26:6,8 33:24 49:1 54:9 56:16 72:11,15 74:14 80:20 83:19 84:3,11 85:9 87:4 91:9 93:12 100:17 107:19 109:1 113:1 115:10 116:1,20 117:12 123:19 125:24 126:9 128:20 131:20 133:21 137:14 145:6 148:2 149:4 154:16,18 160:14 161:3 171:9 176:8 176:19 184:25 185:9 198:5,9 202:18 203:1 208:4 209:1 216:1 227:9 227:13 259:11
well-articulated 26:1
well-considered 215:4
well-judged 65:10
well-known 38:12
well-reasoned 25:20 26:9
well-settled 3:11 174:13
WENDY 2:5
went 7:24 21:2 25:3 55:11 65:19 91:9 100:15,17 110:10 111:21,21 112:16 115:23 142:21,22 149:23 158:2 168:4 184:9 188:7 189:1 191:5 240:22 244:3
were 3:1 6:20 8:8,24 9:22 10:7,14,18,23 12:25 14:13,16,18 14:21,25 15:1,3 17:5 18:15,17 19:1 20:1,6,7,10,18 21:3 21:15,16,24,24 22:20,23,25 23:17 23:25 24:3,24 26:17 27:14,17 28:18 31:25 33:24 36:24 37:9,14 39:25 47:20 47:25 48:11,24 50:5 55:17 56:12 62:16 68:23 69:8 71:4 78:23 79:25 82:22 83:3,12 85:24 88:11 89:10,16 90:3,7,21 90:23,24 91:7,15 93:18 94:5 95:11,20 95:25 98:14 99:1,6 101:11 107:22 110:22,23 111:5,10 112:3,21 113:14,20 115:10,21 116:1,15 117:5,17,19 118:1,6 119:10,11,18 120:21 121:7,13 123:14 124:8 127:1 127:23,25 128:16 128:21,21 129:9,19 130:1 132:24 133:2 133:12 135:4,5,8 136:14 137:16 139:2,3 140:11,20 141:22 142:1,7,9 146:13,21 147:18 149:5,15 150:2,11 151:4 153:7,15 156:2 158:16 161:3 161:6 163:2,7 165:20 166:3,9,19 166:20,25 167:1 169:4 171:15 172:3 172:9,14 173:7,17 175:6 176:9 177:18 177:19,19 179:13 179:15,21 184:7 185:4 187:25 188:17 192:21,22 192:23 193:1,3 194:13 196:9,11 197:16 198:24 199:8,9 202:1,8 204:9 205:8 206:5 208:12 210:4,5 218:5,6,19,22 223:16 226:9 227:8 227:23 230:6 231:25 232:24 233:20 234:1,25 235:18,21 239:6 240:17 241:18 245:9 252:4 253:14 254:9 256:20 258:4 258:10,22
weren't 61:12 70:6 95:7 184:7 230:8
west 256:24 257:8
western 171:8 189:3
we'll 7:19 19:23 33:23 34:2,4 51:20 58:8 59:5 78:18 83:2 102:23 134:1 137:18 162:9 231:16
we're 70:20 114:15 155:25 161:24 232:19 256:22
we've 1:21 25:6 28:6 45:11 50:2 51:15 62:24 67:13 73:3 75:15 77:20 84:2 96:21 104:5 105:1 105:14 106:6 108:10 109:12 118:9,11 129:17,24 132:18 135:17 145:9 147:22 179:1 182:1,2,14,16 191:9 191:16 193:5 194:21 206:19 229:2 237:25 243:7
while 21:23 29:15 39:23 139:17 169:22 217:2 220:15
whole 8:17 103:18 108:16,25 134:19 135:8 138:17 140:16,22,25 141:2 141:6 259:19
wholly 101:5
wide 13:11 25:24 72:24 80:24 81:9,25 96:21 97:15,21 100:24 106:9 213:21
widely 14:5 239:6
wider 43:5
wide-ranging 20:14 83:4
WILLIAMS 2:6
willing 2:12 16:1 154:3
willingness 160:4
Wilmer 2:5 1:11
wisdom 69:11
wise 16:8 246:18
wish 102:11
wished 20:9 93:5 103:20,21 106:22 106:23 160:16 176:4
witness 17:25 23:24 25:25 34:13 78:24 102:4 105:8 108:6 111:12 113:10 114:6,13,17,23,24 115:6 117:2,9 122:6 151:7,14 154:1,9,18 154:22 156:4
witnesses 22:8,18 23:15 102:12 103:15 104:23 108:12 109:9 110:4 112:11,21 113:21 114:3,16 116:19 122:3,4
Witwatersrand 14:2
wonder 101:1 195:10
word 54:24 55:23 80:2 157:5 191:21 194:5
words 1:12 5:20 15:17 37:6,15 41:13 47:18 81:20 83:15 87:2 101:15 110:13 129:4 137:7 138:3 157:20 190:22 198:8 217:19 228:7 231:10 237:15

238:23 243:12
work 2:4,13 16:18 18:21,22,24,25 19:2 23:3 24:7 25:10,21 26:9 32:6 39:24 51:6 69:6 79:10 98:1,2,10,17,24 99:1,3,7,11,14,18 99:20,22,24 100:2 100:11 101:13 105:9,10,14,18,21 106:3,3 116:7,11,22 116:23 132:3 139:16,18 140:7,10 140:25 141:3 142:6 143:1 145:9 149:18 159:6 216:15 218:3 218:4,9 227:5
worked 10:15 15:15 156:12
working 98:6 155:19 218:10
works 13:11,22 189:20
world 84:19 85:1
world's 4:12 12:9 13:13
worrying 34:19
worse 1:12,16
worst 121:12 132:25 133:13 177:24 204:20
worth 75:20,23 111:17 139:11 143:9 174:3
wouldn't 70:6 71:2 150:16
wrap 130:11
write 218:23
writers 73:6,11
writing 55:21 148:7 149:5
written 22:15 30:11 145:11 154:23 166:2,13 187:18 259:6
wrong 31:2,19 36:14 41:4 43:10 48:9,24 49:14 50:10,14 51:20,20 52:25 59:1 60:22 62:4 64:3 67:21 68:15 74:19 74:22 76:24 91:22 125:10 127:22 131:18 133:11 142:21 162:20 172:11 174:6 177:15,18,23 180:21,22 181:22 181:25 182:3,9,11 182:12 199:24 201:5,12 224:6 230:6,8 232:6,7 236:3,12 237:25 239:15 242:21 254:6 257:6
wrongly 203:25
229:13 231:23 232:1 251:22
wrote 83:15 236:22

Y

Yak 257:5
year 168:1 184:12,25 185:10
Yearbook 222:6
years 4:7,8,19 5:25 12:12,16 14:11 23:22 27:8 43:16 127:12 130:24 133:23 159:6,20 166:8 168:17,25 184:23
yesterday 1:8 2:18 3:3 3:14 8:13 15:5 22:19 24:6 25:14 26:2 29:18 30:9 36:9 37:21 40:4,20 46:2 47:11 53:16 55:8 56:22 57:3 58:8,23 60:13 61:24 63:22 65:2 67:16 73:3 82:16 87:14 88:4 89:19 90:5,17 91:17 112:13,25 115:20 120:16 129:1,12 131:15 134:12 139:5 145:18 157:10 167:16 173:1 174:18 177:14 182:21 189:5 194:17 195:5,8 205:16 225:14 228:22 237:24 239:22 240:11 248:12
Yith 22:14
York 38:15 43:18 44:4 57:23 72:10 84:16 96:20 211:4 221:5 222:11

Z

Zanzibar 12:2
Zarga 169:8 229:15 229:17,20,23 230:3 231:9,22 233:12 235:2,5
Zarga/Ngol 164:19 231:11
Zeus's 124:5
Zimbabwe 12:3
zone 170:5,21 191:6 244:1,8

0

0)6 2:13

1

1 7:1,4 78:23 80:13 162:4 169:7 171:16 171:18,25 179:2 182:7 185:23 188:4 189:17,23 190:14 190:18 191:4 192:1 209:12 210:12 212:16 244:14
1st 218:6
1.05 134:4
1.1.1 7:10
1.1.2 7:15 8:18,20 9:18 28:19 47:10 48:9,9,21 50:5,6 51:11 131:20 132:1 164:24 165:12 167:14 172:18 173:14,21 174:20 175:18 176:7,11,19 177:15,17 178:8 182:4,14 228:5
1.1.2's 9:9 47:23 55:18 131:17 167:7 175:7
1.1.3 7:20 186:1 195:16,17
1.2 39:15 216:11,12 217:1,14
10 3:21 89:4 92:6 93:6 93:17 156:22 157:20 205:18
10th 143:18,25 144:9 144:15 145:7 148:21,22
10°10 228:25 237:14 237:23 238:7,22 239:5,8,9,12,14,17 239:25 240:4,24 241:10,15,19 243:9
10°22'30 241:7,21
10°35 229:4 237:14 238:22 239:22 240:1,13,16,25 241:10,15,19 243:9
100 22:8 166:8
107 205:18
109 41:4
10º10 169:18,23 170:6 170:11,15 188:6,9 189:25 190:9 206:12 214:20 236:7,9 243:20 244:2,6,10 245:7
10º22'30 170:7 171:7 188:24 191:15,24 202:3,14,21 205:13 244:5 255:17,20 256:6
10º35 164:20 169:24 170:6,15 188:10 190:9 202:4,8,14,21 205:13 206:12 243:20 244:2,6,10 245:7 254:12
11 3:21 22:6 29:17 92:6 93:20 129:4 157:20 164:9
11th 21:22
11.01 63:17
11.30 63:19
12 3:21 129:4 157:21
12th 21:22 29:15
13 20:19,25 92:6 93:20 129:5 136:6 174:23
14 21:2 34:14 35:16 128:11 134:11 136:19,21,25 137:5 137:14,20 138:1,6,8 138:13,16 139:3,9 141:17 149:24,25 150:20 152:3,19 153:13 154:14 155:3,17 157:4
14th 25:13 26:13
144 240:14
147 15:9
15 10:7 89:4 199:1
150 14:11
151 237:24
16th 24:20 111:15 115:8 145:23
17 37:25
17th 24:20 131:21 148:5 153:20
18 238:2
19th 1:7 1:1
1905 7:18 9:17 28:23 33:13 47:1,16,20,21 48:3,12 51:2,24 52:18 54:13 61:14 126:6 130:22 162:6 163:1,10,25 164:13 165:9,19 166:11,16 166:21 167:3,11,24 168:2,15,16,23 169:4,9 170:12 172:8 173:4,8,10 175:4 179:15,22 180:4,17 182:20,24 183:3,6,9,11,14,19 183:23 184:3,6,7,9 184:12,21,22,24,25 185:1,3,6,9,10,12 185:14 202:24 216:22 228:8 229:18 230:18 232:15 233:1,22 234:4,8,16,20,22,25 235:10,12 236:20 238:2 244:20 246:6 256:20
1908 229:14
1926 250:21
1950s 23:22
1956 4:8
1957 250:23
1965 182:25
1992 12:12
1995 12:12

2

2 4:13 8:1 10:10 11:3 19:11 28:3 34:1 36:16 78:24 80:16 92:4,5 118:12 162:5 168:11 169:10 178:13 179:7 185:24 188:9 189:14,17 190:6,14 190:18,20,24 191:5 192:1,5,8,12,17 194:9 209:13 210:15 212:18 242:25 244:12,15 244:20 246:3 251:11
2(a) 28:6,10 29:3 32:25 33:7,14 36:2 36:18,20,22 37:5,7 37:13,22 38:4,5,11 38:21,24 39:4 40:12 40:18,21,25 41:3,6 41:11,24 42:7,17,24 44:8 46:19 56:2 209:2
2(a)'s 33:19
2(b) 33:15,15,18
2(c) 28:16,17,24 52:13 52:24 54:21 55:14 175:2,8,19,25 217:4
2.2 10:22
20 63:13 156:21 170:8 238:2
20th 13:21 43:15 44:10 140:13
20th-26th 139:21 218:10
200 25:16
2004 6:18
2005 4:16 25:13 54:4 112:25 113:13 131:21 150:7
2007 159:5 160:23
2008 27:19,25 160:24
2009 1:7 1:1
2011 5:18 8:10
21 169:9 171:14 244:7
21st 23:18
22 170:8 171:14
220-259 74:20
23 15:10
231(a) 179:24
24 174:23
24(1) 74:13,23 75:1,4 75:6,8,9,11
24(1)'s 76:16
240 5:8
26 2:13 57:22
26th 140:13
28th 140:4
29 219:21
29th 140:15 218:7
29°32'15 255:3,6,12 256:5,21
29º32'15 253:20 254:14

3

3 8:2 28:4 39:22 57:22 62:17 66:12 77:13 77:18 78:24 80:17 92:5 134:3 162:6 163:21 168:11 188:19 189:1 190:17 191:5,9,18 192:1 193:7 194:21 195:5 209:14 212:21 227:9 244:17
3rd 143:15
3's 62:22
3.00 134:5,6
3.2 18:9
3.4 19:24 92:10,15 104:7
30 75:16
30(c) 225:9
33 2:13
33(2) 248:9
34 2:13 72:18
35 156:22 181:4 257:3
36 72:18
37/15 67:19
38/7 58:25

4

4 8:1 17:17,21 19:5 39:22 82:15,20 104:7 109:11,17 110:6,11,12 112:7 135:18 162:7 165:6 209:15 227:13
4.05 181:7
4.32 181:9
4.5 4:14
40 4:7 12:16 45:16
40-year 11:25
41 238:2
43 169:13,19 237:6
43/24 36:13
44 2:13 170:1 237:13 238:2,8 243:18
45 25:15 78:16
45-page 178:20 226:18
47 22:8
48 183:14
48(3) 219:20
49 37:25

5

5 1:1 57:22 72:10,10 136:1 189:4 193:10 194:18,23,23 195:15,20 196:5 206:18 227:16
5's 194:17
5(1)(b) 44:5
5(1)(c) 44:6
5.1 9:11 163:8 164:8 165:2 167:1 171:22 172:3,12 173:20 175:22 179:4 228:2
50/50 242:19
51 57:23
52 44:1 57:23
52(1)(b) 44:3
52(1)(d) 44:3
53/7 40:9
54 57:21
56(1) 219:19
57 22:9

Trevor McGowan
info@TMGreporting.com

6

6 168:11 227:16
6.24 259:25
60-degree 256:9

7

7 19:18 92:5,22 93:2 102:22 103:4,8,18 104:1 112:8 168:11 228:24 229:12 236:17
7th 27:25
70 43:16

8

8 8:3 189:19 190:3 191:2 229:2 236:5 236:16,18 240:14 242:24 243:7
8th 23:15 123:1 124:20
81 57:21

9

9 156:21 168:11 189:19 191:3 237:24 242:24 243:18
9th 148:14
9(2) 215:21 217:7,10
9.30 259:23 260:1
9.32 1:2
98 2:13

Trevor McGowan
info@TMGreporting.com