Speech 3

The Trace Parallel Method

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OUTLINE

Thank you Mr President, Members of the Court. It is an honor to appear before you on behalf of the Republic of Chile.

1. THE TECHNIQUE OF TRACE PARALLEL

1.1 On several occasions earlier this week, particularly in the presentations by Professor Lowe and Sir Michael Wood, the technical methodology for determining the outer limit of a distance-based zone, and its relationship to the lateral limit of such a zone was, to be generous, incomplete. Before Chile asks you to call upon Professor Crawford to elaborate upon the delimitation agreement of the Parties, it seems important to clarify two points about the trace parallel method: how it works and why it is important to understand it in this case. I will speak to Peru's arguments about the arcs-of-circles method tomorrow afternoon, but for now, with your indulgence, we will make a very short presentation about the trace parallel method. We do so with respect: we have no intention of lecturing the Court on this point.

1.2 Chile explored this subject in detail in an appendix to its Rejoinder.[1] Sir Michael Wood referred to that appendix as "learned",[2] but he then went on to say it was partial, apparently because the appendix did not address developments subsequent to 1952. The purpose of the appendix was simply to explore this question as it stood on the date of the Santiago Declaration.

1.3 On the screen is a drawing of a simple coastline. Imagine the coastal State claims a 200-nautical mile zone and uses the trace parallel technique to

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1 See CR, Appendix A.

2 CR2012/27, p. 66, para. 33 (Wood).

determine its outer limit. The outer limit will be the blue line; it perfectly replicates all the contours of the coastline ─ in this case 200 nautical miles seaward of the coastline.

1.4 Aside from the tracing of the coastline, there is one other thing that needs to be said about the trace parallel technique. On this diagram, one sees that the coastline runs vertically, and that the 200-nautical mile outer limit also runs perfectly parallel to it and on the same vertical plane. This seems obvious, but there is something important that has not been said. The way the outer limit is traced, so as to run parallel to the coastline, is done by lines of reference, or as Sir Michael Wood called them "geometric construction lines",[3] which are now shown. In this diagram, the lines of reference, or let's use his phrase – geometric construction lines – run as horizontal lines to the vertical, or perpendicular to the vertical coastline shown on the diagram. However, if the geometric construction lines had a different geometric basis, for instance 15° to the south of the horizontal, the outer limit would still be a perfect tracing of the coastline, i.e. trace parallel, but as the new graphic shows, the outer limit would be offset by 15° southward relative to the coastline. The point is that the orientation of the geometric construction lines relative to the coastline is the key factor in the trace parallel technique.

1.5 How would this work if State A and State B shared the coast as now shown on the diagram, and both used trace parallel to determine the outer limit of their zone and used lines running horizontal to the vertical as the geometric construction lines? The zone of State A is now shown (in purple). Now the zone of State B is shown (in green). We can see that the zones do not overlap; they abut on a line corresponding to where the land boundary meets the coast (shown in red); the outer limits of the two zones as determined by the trace parallel method meet perfectly; and if State A was to expand its claim, the zone of State A would extend seaward and not infringe on maritime areas seaward of the zone of State B.

1.6 But what if both States use trace parallel, but the geometric construction lines used are different? Imagine that State A uses geometric construction lines that

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[3] CR2012/27, p. 64, para. 27 (Wood).

are offset 15º southward relative to the vertical, but State B's geometric construction lines are horizontal lines. The zone of State A would be as shown. And there would be an obvious overlap with the zone of State B. This overlapping area would only grow with expanded claims. The Court can imagine the attendant consequences that would arise in such a situation. Thus we can conclude that, if the geometric construction lines used by two neighboring States are the same, and the breadth of their zones is the same, there isn't going to be a problem; if the geometric construction lines are different, there will be.[4]

2. THE USE OF TRACE PARALLEL BY PERU AND CHILE

2.1 Peru admits at paragraph 3.31 and following of the Reply, and Professor Lowe[5] and Sir Michael Wood[6] confirmed earlier this week, that in 1947 Peru used trace parallel to determine the outer limit of its claim and that it used the geographic parallel as the geometric construction lines. Since both Chile and Peru as neighboring States proceeded on the same basis and used the same geometric construction lines ─ that is parallels of latitude ─ to apply the trace parallel technique to determine the outer limit of their 200-nautical mile zones, this had four important consequences:

i First, it was not possible for there to be any overlap between Chile and Peru's 200-nautical mile zones as then claimed.

ii Second, the respective zones abutted along the parallel of latitude of the land boundary terminus ─ in other words the geographic limit between the 200-nautical mile zones of Chile and Peru was the latitude of the land boundary terminus.

iii Third, the outer limits of both Chile and Peru's zones were aligned and met at a point at sea, 200 nautical miles from the land boundary terminus and on its parallel.

iv Fourth, it also meant that if either Chile or Peru, or both, extended their zone for a distance greater than 200 nautical miles, as they reserved the right to do in their

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4 This demonstration may be found at **Tab 38** of the Judges' Folders.

5 See CR2012/28, p. 13, para. 6 (Lowe).

6 See CR2012/27, p. 64, para. 27 (Wood).

1947 proclamations, those extended zones would be directed seaward and would not extend onto the other side of the parallel of the land boundary terminus.

Thank you Mr President. I thank the Court for its attention. I ask that you call upon Professor Crawford.