

INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA
TRIBUNAL INTERNATIONAL DU DROIT DE LA MER

**Pleadings, Minutes of Public
Sittings and Documents**
**Mémoires, Procès-verbaux des
Audiences Publiques et Documents**
2012



TOME I

International Tribunal for the Law of the Sea
Tribunal international du droit de la mer
Am Internationalen Seegerichtshof 1, 22609 Hamburg, Germany

Published by
Brill Nijhoff Publishers

This book is printed on acid-free paper.

ISBN 978-90-04-24584-6 (hardback, set)
ISBN 978-90-04-24582-2 (hardback, vol. 1)
ISBN 978-90-04-24583-9 (hardback, vol. 2)
ISBN 978-90-04-27246-0 (e-book)
© 2014 International Tribunal for the Law of the Sea

All rights reserved. No part of this publication may be reproduced, translated, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording or otherwise, without prior written permission from the publisher.

Authorization to photocopy items for internal or personal use is granted by Koninklijke Brill NV provided that the appropriate fees are paid directly to The Copyright Clearance Center, 222 Rosewood Drive, Suite 910, Danvers, MA 01923, USA. Fees are subject to change.



Abbreviated reference:

*ITLOS Pleadings, Minutes and Documents 2012, Vol. 17/I,
Delimitation of the maritime boundary in the Bay of Bengal
(Bangladesh/Myanmar)*

Référence abrégé :

*TIDM mémoires, procès-verbaux et documents 2012, vol. 17/I,
Délimitation de la frontière maritime dans le golfe du Bengale
(Bangladesh/Myanmar)*

INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA
PLEADINGS, MINUTES OF PUBLIC SITTINGS AND DOCUMENTS

**DISPUTE CONCERNING DELIMITATION OF
THE MARITIME BOUNDARY BETWEEN BANGLADESH
AND MYANMAR IN THE BAY OF BENGAL
(Bangladesh/Myanmar)
Tome I**

TRIBUNAL INTERNATIONAL DU DROIT DE LA MER

MÉMOIRES, PROCÈS-VERBAUX DES AUDIENCES
PUBLIQUES ET DOCUMENTS

**DIFFÉREND RELATIF À LA DÉLIMITATION DE
LA FRONTIÈRE MARITIME ENTRE LE BANGLADESH
ET LE MYANMAR DANS LE GOLFE DU BENGALE
(Bangladesh/Myanmar)
Tome I**



BRILL NIJHOFF
LEIDEN/BOSTON
2014

DISPUTE CONCERNING DELIMITATION OF
THE MARITIME BOUNDARY BETWEEN BANGLADESH
AND MYANMAR IN THE BAY OF BENGAL
(BANGLADESH/MYANMAR)

DIFFÉREND RELATIF À LA DÉLIMITATION DE
LA FRONTIÈRE MARITIME ENTRE LE BANGLADESH
ET LE MYANMAR DANS LE GOLFE DU BENGALE
(BANGLADESH/MYANMAR)

The proceedings relating to the *Dispute concerning delimitation of the maritime boundary between Bangladesh and Myanmar in the Bay of Bengal* were instituted on 14 December 2009.

On 14 March 2012, the Tribunal delivered its Judgment in the case.

The pleadings, oral arguments and documents in the case are published in two tomes:

Tome I	Pleadings (including a CD-ROM)
Tome II	Minutes of public sittings and documents

L'instance relative au *Différend relatif à la délimitation de la frontière maritime entre le Bangladesh et le Myanmar dans le golfe du Bengale* fut introduite le 14 décembre 2009.

Le 14 mars 2012, le Tribunal a rendu son arrêt dans l'affaire.

Les pièces de la procédure écrite, les plaidoiries et les documents relatifs à l'affaire sont publiés dans deux tomes :

Tome I	Pièces de la procédure écrite (comprenant un CD-ROM)
Tome II	Procès-verbal des audiences publiques et documents

TABLE OF CONTENTS – TABLE DES MATIÈRES

DISPUTE CONCERNING DELIMITATION OF THE MARITIME BOUNDARY BETWEEN BANGLADESH AND MYANMAR IN THE BAY OF BENGAL (Bangladesh/Myanmar)

DIFFÉREND RELATIF À LA DÉLIMITATION DE LA FRONTIÈRE MARITIME ENTRE LE BANGLADESH ET LE MYANMAR DANS LE GOLFE DU BENGALE (Bangladesh/Myanmar)

TOME I

INSTITUTION OF PROCEEDINGS – INTRODUCTION DE L'INSTANCE

NOTIFICATION OF SPECIAL AGREEMENT

3

Letter dated 13 December 2009 from the Minister of Foreign Affairs of Bangladesh to the President of the Tribunal, inviting the Tribunal to exercise jurisdiction over the maritime boundary dispute between Bangladesh and Myanmar¹, with Attachments A to G:

5

Attachment A: Note verbale No. MOFA/UNCLOS/320/2 dated 8 October 2009 from the Ministry of Foreign Affairs of Bangladesh to the Embassy of Myanmar in Dhaka, attached:

7

- Notification under Article 287 and Annex VII, Article I of UNCLOS and the Statement of the Claim and Grounds on which it is based dated 8 October 2009

8

Attachment B: omitted²

Attachment C: Declaration of the Minister for Foreign Affairs of

¹ *Note by the Registry:* Some passages of this letter are omitted as they do not relate to the present dispute.

² *Note by the Registry:* This document does not relate to the present dispute.

	Myanmar dated 4 November 2009	15
Attachment D:	Declaration of the Minister for Foreign Affairs of Bangladesh dated 12 December 2009	16
Attachment E:	Curriculum vitae of Mr Alan Vaughan Lowe QC (not reproduced)	
Attachment F:	omitted ³	
Attachment G:	omitted ³	

PLEADINGS - MÉMOIRES

MEMORIAL OF BANGLADESH ⁴	21
-------------------------------------	----

Figures 1-7	CD
--------------------	----

Figure 1.1	Equidistance Cutoff in the Bay of Bengal
Figure 1.2	Figure No. 9 from the Memorial Submitted by the Federal Republic of Germany: 21 August 1967
Figure 2.1	The Bay of Bengal
Figure 2.2	Satellite Imagery of South Talpatty
Figure 2.3	The Boundary between the Indian and Burma Tectonic Plates
Figure 2.4	Geological History
Figure 2.5	Geological Provinces
Figure 2.6	The Bengal Depositional System
Figure 2.7	Bathymetry of the Bay of Bengal
Figure 3.1	Myanmar's Straight Baseline Claim
Figure 3.2	Special Chart 114
Figure 3.3	The 1974 Agreed Boundary Line as Replotted in 2008
Figure 3.4	Myanmar's Outer Continental Shelf Claim
Figure 3.5	Bangladesh's Outer Continental Shelf Claim
Figure 5.1	The Territorial Sea Boundary Agreed by the Parties
Figure 6.1	Bangladesh's Boundary Claim Out to 200 M
Figure 6.2	The Distorting Effects of Equidistance
Figure 6.3	The Cutoff Effect on Germany
Figure 6.4	Consequences of the Cutoff Effect
Figure 6.5	Comparison of Cutoff Effects

³ *Note by the Registry:* This document does not relate to the present dispute.

⁴ *Note by the Registry:* The text reproduced here contains the corrections made by Bangladesh subsequent to the initial submission.

Figure 6.6	Oyster Island & Serpents' Island	
Figure 6.7	Canada-United States ICJ Chamber Judgment: 1984	
Figure 6.8	Sketch Map No. 3 from the Nicaragua / Honduras ICJ Chamber Judgment: 2007	
Figure 6.9	Guinea / Guinea-Bissau Arbitral Award: 1985	
Figure 6.10	Bangladesh-Myanmar Coastal Façades	
Figure 6.11	Bangladesh-Myanmar Bisector Line	
Figure 6.12	Proportionality of the N215°E Line (1)	
Figure 6.13	Proportionality of the N215° Line (2)	
Figure 7.1	Overlapping Claims beyond 200 M	
Figure 7.2	Bangladesh's Boundary Claim beyond 200 M in Regard to Myanmar	
Figure 7.3	Application of Hedberg and Gardiner Formulae to Bangladesh	
Figure 7.4	Bangladesh's Outer Continental Shelf Claim	
Figure 7.5	Bangladesh's Proposed Delimitation with Myanmar	

Annexes 1-61

Treaties and agreements

Annex 1	Agreement between the Government of the Islamic Republic of Pakistan and the Government of the Union of Burma on the Demarcation of a Fixed Boundary between the Two Countries in the Naaf River, 9 May 1966	158
Annex 2	Protocol between the Government of the Islamic Republic of Pakistan and the Government of the Union of Burma on the Demarcation of a Fixed Boundary between the Two Countries in the Naaf River, 28 April 1966 (reproduced as part of Annex 1 of the Counter-Memorial)	425
Annex 3	Draft Agreement between the Government of the People's Republic of Bangladesh and the Government of the Socialist Republic of Burma Relating to the Delimitation of the Boundaries of the Territorial Waters between the Two Countries, 1974	167
Annex 4	Agreed Minutes Between the Bangladesh Delegation and the Burmese Delegation Regarding the Delimitation of the Maritime Boundary between the Two Countries, 23 November 1974 (reproduced as part	

	of Annex 3 of the Counter-Memorial)	496
Annex 5	Treaty between Australia and the Independent State of Papua New Guinea concerning sovereignty and maritime boundaries in the area between the two countries, including the area known as Torres Strait, and related matters, 18 December 1978, entered into force 15 February 1985 (not reproduced)	
Annex 6	Supplementary Protocol between the Government of the People's Republic of Bangladesh and the Government of the Socialist Republic of the Union of Burma to the Protocol between the Government of the Union of Burma and the Government of the Islamic Republic of Pakistan on the Demarcation of a Fixed Boundary between the Two Countries in the Naaf River signed in Rangoon on April 28, 1966 (1980) (reproduced as Annex 7 of the Counter-Memorial)	605
Annex 7	Agreed Minutes of the meeting held between the Bangladesh Delegation and Myanmar Delegation regarding the delimitation of the Maritime Boundary between the two countries, 1 April 2008	172
Legislation and regulations		
Annex 8	Presidential Proclamation 2667, "Policy of the United States With Respect to the Natural Resources of the Subsoil and Sea Bed of the Continental Shelf" (28 September 1945), reprinted in U.S. Federal Register, Vol. 10, No. 193, p. 12,203 (2 October 1945)	174
Annex 9	Ministry of Foreign Affairs [Myanmar], Declaration of Baselines, 15 November 1968	176
Annex 10	Bangladesh Territorial Waters and Maritime Zones Act 1974, Act No. XXVI of 1974	179
Annex 11	Notification No. LT-1/3/74 of the Ministry of Foreign Affairs [Bangladesh], Dacca, of 13 April 1974	183
Annex 12	Myanmar Territorial Sea and Maritime Zones Law, 1977, Pyithu Hluttaw Law No. 3 of 9 April 1977	184
Annex 13	The [Myanmar] Law Amending the Territorial Sea and Maritime Zones Law (State Peace and Development Council Law No.8/2008), 5 December 2008	190

Government documents

Annex 14	Government of Bangladesh, Brief Report on Bangladesh-Burma Negotiations on Maritime Boundary, Dacca, 19-25 November 1974 (2 nd round)	192
Annex 15	Government of Bangladesh, Brief Report on Bangladesh-Burma Maritime [Boundary] Talks, Rangoon, 14-19 February 1975	199
Annex 16	Government of Bangladesh, Minutes of the Meeting on the Delimitation of the Bangladesh-Burma Maritime Boundary, 8-9 June 1979	203
Annex 17	Letter No. RAN/POL/14/79 dated 31 July 1986 from the Ambassador of Bangladesh to Burma to the Foreign Secretary of Bangladesh	207
Annex 18	Government of Bangladesh, Report of the visit of the Bangladesh Delegation to Myanmar regarding the delimitation of maritime boundary, Bagan, 4-5 September 2008	211
Annex 19	Government of Bangladesh, Bangladesh-Myanmar Maritime Delimitation Technical Level Talks, Dhaka, 16-17 November 2008: A Report	217
Annex 20	Note verbale No. PMBNY-UNCLOS/2009-3135 dated 6 July 2009 from the Permanent Mission of Bangladesh to the United Nations to the Secretary-General of the United Nations	242
Annex 21	Note verbale No. PMBNY-UNCLOS/2009- dated 23 July 2009 from the Permanent Mission of Bangladesh to the United Nations to the Secretary-General of the United Nations	244

Documents pertaining to proceedings before ITLOS

Annex 22	Government of Myanmar, Declaration under Article 287 of the UNCLOS Accepting the Jurisdiction of the International Tribunal for the Law of the Sea, 4 November 2009	247
Annex 23	Government of Bangladesh, Declaration under Article 287(1) of UNCLOS Accepting the Jurisdiction of the International Tribunal for the Law of the Sea, 12 December 2009	248
Annex 24	Letter dated 13 December 2009 from the Agent of Bangladesh to the President of the Tribunal	

	(reproduced under Notification of Special Agreement above)	3
Annex 25	Press Release of the Tribunal ITLOS/Press 140 of 16 December 2009, “Proceedings Instituted in the Dispute Concerning the Maritime Boundary between Bangladesh and Myanmar in the Bay of Bengal	250
Annex 26	Letter MOFA/UNCLOS/113/2/235 dated 18 January 2010 from the Deputy Agent of Bangladesh to the Registrar	252
United Nations documents (not reproduced)		
Annex 27	Renate Platzöder, <i>Third United Nations Conference on the Law of the Sea: Documents</i> , Vol. IV, 1983, pp. 179-181	
Annex 28	United Nations Convention on the Law of the Sea, Meeting of States Parties, Report of the Sixth Meeting of States Parties, U.N. Doc SPLOS/20, 20 March 1997	
Annex 29	United Nations Convention on the Law of the Sea, Commission on the Limits of the Continental Shelf, Twentyfourth session, Statement by the Chairman of the Commission on the Limits of the Continental Shelf on the progress of work in the Commission, U.N. Doc. CLCS/64, 1 October 2009	
Books and academic articles (not reproduced)		
Annex 30	International Hydrographic Organization, <i>Limits of Oceans and Seas</i> , 3 rd edition 1953, pp. 1-38 and corrections	
Annex 31	W.M.Reisman and G.S. Westerman, <i>Straight Baselines in Maritime Boundary Delimitation</i> , 1992, pp. 57-70, 168, 172 and figure 5.33	
Annex 32	M. Nordquist <i>et al.</i> , eds., <i>United Nations Convention on the Law of the Sea 1982: A Commentary</i> , Vol. II, 2002, pp. 846, 954, 957, 959, 964, 977	
Annex 33	J.A.Roach and R.W. Smith, <i>United States Responses to Excessive Maritime Claims</i> , 2 nd edition, 1996, pp. 123-124	
Annex 34	D. Freestone <i>et al.</i> , “Legal Implications of Global Climate Change for Bangladesh”, in: <i>Implications of</i>	

- Climate and Sea-Level Change for Bangladesh*, R.A. Warrick and Q.K. Ahmad, eds., 1996, pp. 10-16
- Annex 35 S.H.Thilsted *et al.*, “The Role of Small Indigenous Fish Species in Food and Nutrition Security in Bangladesh”, *Naga, The ICLARM Quarterly Supplement*, July-December 1997, pp. 82-84
- Annex 36 M.M. Hasan, “Tourism and Conservation of Biodiversity: A Case Study of St. Martins Island, Bangladesh”, *Law, Social Justice & Global Development*, Vol. 1, 8 April 2009
- Scientific articles and manuscripts (not reproduced)
- Annex 37 J.R. Curray, “The Bengal Depositional System: The Bengal Basin and the Bay of Bengal”, 23 June 2010
- Annex 38 J.R. Curray, “Sediment Volume and Mass beneath the Bay of Bengal”, *Earth and Planetary Science Letters*, No. 125, 1994
- Annex 39 T.-Y. Lee and L.A. Lawver, “Cenozoic Plate Reconstruction of Southeast Asia”, *Tectonophysics*, Vol. 251, 1995
- Annex 40 G. Einsele *et al.*, “The Himalaya-Bengal Fan Denudation-Accumulation System during the Past 20 Ma”, *The Journal of Geology*, Vol. 104, No. 2, 1996
- Annex 41 R. Bilham *et al.*, “GPS Measurements of Present-day Convergence Across the Nepal Himalaya”, *Nature*, Vol. 386, 6 March 1997
- Annex 42 S. Kuehl *et al.*, “Subaqueous Delta of the Ganges-Brahmaputra River System”, *Marine Geology*, Vol. 144, No. 1, 1997
- Annex 43 D. Rao *et al.*, “Crustal Evolution and Sedimentation History of the Bay of Bengal Since the Cretaceous”, *Journal of Geophysical Research*, Vol. 102, No. B8, 1997
- Annex 44 G.S. Roonwal *et al.*, “Mineralogy and Geochemistry of Surface Sediments from the Bengal Fan, Indian Ocean”, *Journal of Asian Earth Sciences*, Vol. 15, No. 1, 1997
- Annex 45 M.A. Allison, “Geologic Framework and Environmental Status of the Ganges-Brahmaputra

- Delta”, *Journal of Coastal Research*, Vol. 14, No. 3, 1998
- Annex 46 M.A. Allison, “Historical Changes in the Ganges-Brahmaputra Delta Front”, *Journal of Coastal Research*, Vol. 14, No. 4, 1998
- Annex 47 M.A. Allison and E.B. Kepple, “Modern Sediment Supply to the Lower Delta Plain of the Ganges-Brahmaputra River in Bangladesh”, *Geo-Marine Letters*, Vol. 21, 2001
- Annex 48 J.R. Curray *et al.*, “The Bengal Fan: Morphology, Geometry, Stratigraphy, History and Processes”, *Marine and Petroleum Geology*, Vol. 19, No. 10, 2002
- Annex 49 S.R. Khan *et al.*, “St. Martin’s Island and its Environmental Issues”, Geological Survey of Bangladesh, 2002
- Annex 50 M. Alam *et al.*, “An Overview of the Sedimentary Geology of the Bengal Basin in Relation to the Regional Tectonic Framework and Basin-fill History”, *Sedimentary Geology*, Vol. 155, No. 3-4, 2003
- Annex 51 A. Uddin and N. Lundberg, “Miocene Sedimentation and Subsidence During Continent–Continent Collision, Bengal Basin, Bangladesh”, *Sedimentary Geology*, Vol. 164, No. 1-2, 2004
- Annex 52 C. Nielsen *et al.*, “From Partial to Full Strain Partitioning Along the Indo-Burmese Hyper-oblique Subduction”, *Marine Geology*, Vol. 209, 2004
- Annex 53 S. Kuehl *et al.*, “The Ganges-Brahmaputra Delta”, in: *River Deltas—Concepts, Models, and Examples*, L. Giosan and J. Bhattacharya, eds., 2005
- Annex 54 K. Zahid and A. Uddin, “Influence of Overpressure on Formation Velocity Evaluation of Neogene Strata from the Eastern Bengal Basin, Bangladesh”, *Journal of Asian Earth Sciences*, Vol. 25, No. 3, 2005
- Annex 55 C. Subrahmanyam and S. Chand, “Evolution of the Passive Continental Margins of India—A Geophysical Appraisal”, *Gondwana Research*, Vol. 10, No. 1-2, 2006
- Annex 56 M.S. Steckler *et al.*, “Collision of the Ganges-Brahmaputra Delta with the Burma Arc: Implications for Earthquake Hazard”, *Earth and Planetary Science*

- Letters*, Vol. 273, 2008
- Annex 57 R. Allen *et al.*, “Provenance of the Tertiary sedimentary rocks of the Indo-Burman Ranges, Burma (Myanmar): Burman arc or Himalayan-derived?”, *Journal of the Geological Society*, Vol. 165, 2008
- Annex 58 A. Mukherjee *et al.*, “Geologic, Geomorphic and Hydrologic Framework and Evolution of the Bengal Basin, India and Bangladesh”, *Journal of Asian Earth Sciences*, Vol. 34, No. 3, 2009
- Annex 59 Th. Maurin and C. Rangin, “Structure and Kinematics of the Indo-Burmese Wedge: Recent Fast Growth of the Outer Wedge”, *Tectonics*, Vol. 28, 2009
- Annex 60 R.E. Snead, “Bangladesh”, in: *Encyclopedia of the World’s Coastal Landforms*, E.C.F. Bird, ed., 2010
- Annex 61 S. Dasgupta *et al.*, “Vulnerability of Bangladesh to Cyclones in a Changing Climate: Potential Damages and Adaptation Cost”, World Bank Policy Research Working Paper No. 5280, April 2010

Decisions of *ad hoc* arbitral tribunals (not reproduced)

- *Delimitation of the Continental Shelf between France and the United Kingdom*, Decision, 30 June 1977, reprinted in 18 RIAA 3
- *Delimitation of Maritime Boundary between Guinea and Guinea-Bissau*, Award, 14 February 1985, reprinted in 25 ILM 252
- *Case Concerning Delimitation of Maritime Areas between Canada and France (St Pierre et Miquelon)*, Decision, 10 June 1992, reprinted in 31 ILM 1149
- *Limits of the Offshore Areas between Newfoundland and Labrador and Nova Scotia*, Award, Second Phase, 26 March 2002
- *Delimitation of Maritime Boundary between Barbados and Trinidad and Tobago*, Award, 11 April 2006, reprinted in 27 RIAA 147
- *Delimitation of Maritime Boundary between Guyana and Suriname*, Award, 17 September 2007

COUNTER-MEMORIAL OF MYANMAR 259

Annexes 1-25

Annex 1	Agreement between the Government of the Union of Burma and the Government of the Islamic Republic of Pakistan on the Demarcation of a Fixed Boundary between the Two Countries in the Naaf River, 9 May 1966	425
Annex 2	Minutes of the Burma-Bangladesh Talks on the Delimitation of Sea Boundary, 4-6 September 1974 ⁵	465
Annex 3	Minutes of the Burma-Bangladesh Talks on the Delimitation of Sea Boundary, Second Phase, Dacca, 20-25 November 1974	496
Annex 4	Minutes of Burma-Bangladesh Talks on the Delimitation of Sea Boundary, Third Phase, 14-20 February 1975	532
Annex 5	Minutes of Burma-Bangladesh Talks on the Delimitation of Sea Boundary, Fourth Phase, 29 February - 7 March 1976	551
Annex 6	Report of Myanmar delegation on Burma-Bangladesh Maritime Boundary Delimitation Talks (5 th Round) (Unofficial Translation), Dacca, 8-9 June 1979	593
Annex 7	Supplementary Protocol between the Government of the Socialist Republic of the Union of Burma and the Government of the People's Republic of Bangladesh to the Protocol between the Government of the Union of Burma and the Government of the Islamic Republic of Pakistan on the Demarcation of a Fixed Boundary between the Two Countries in the Naaf River signed in Rangoon on April 28, 1966 (1980)	596
Annex 8	Burma-Bangladesh Maritime Boundary Delimitation Talks, Sixth Round, Rangoon, 19-20 November 1985 (speeches and statements)	605
Annex 9	Report of Myanmar delegation on Myanmar-Bangladesh Maritime Boundary Delimitation Talks (7 th Round) (Unofficial Translation), Dacca, 10-	

⁵ *Note by the Registry:* The text reproduced here contains the page missing in the initial submission (see (c) under Completion of Documentation below).