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Thank you.





FOLEY
HOAG LLP

Adjudication and Arbitration of International Boundary Disputes

Yuri B. Parkhomenko

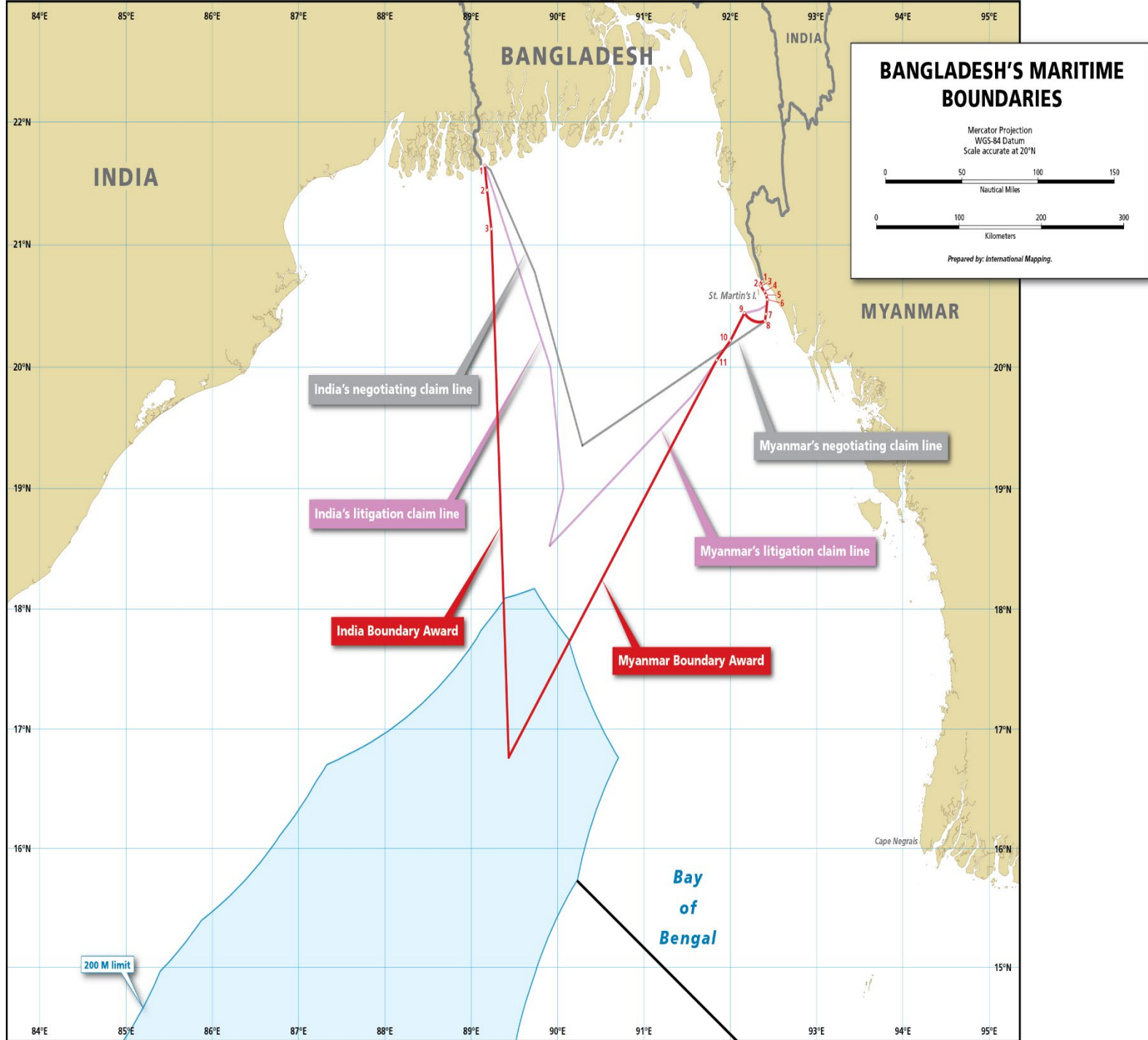
IBRU Professional Training Workshop

14-16 November 2022

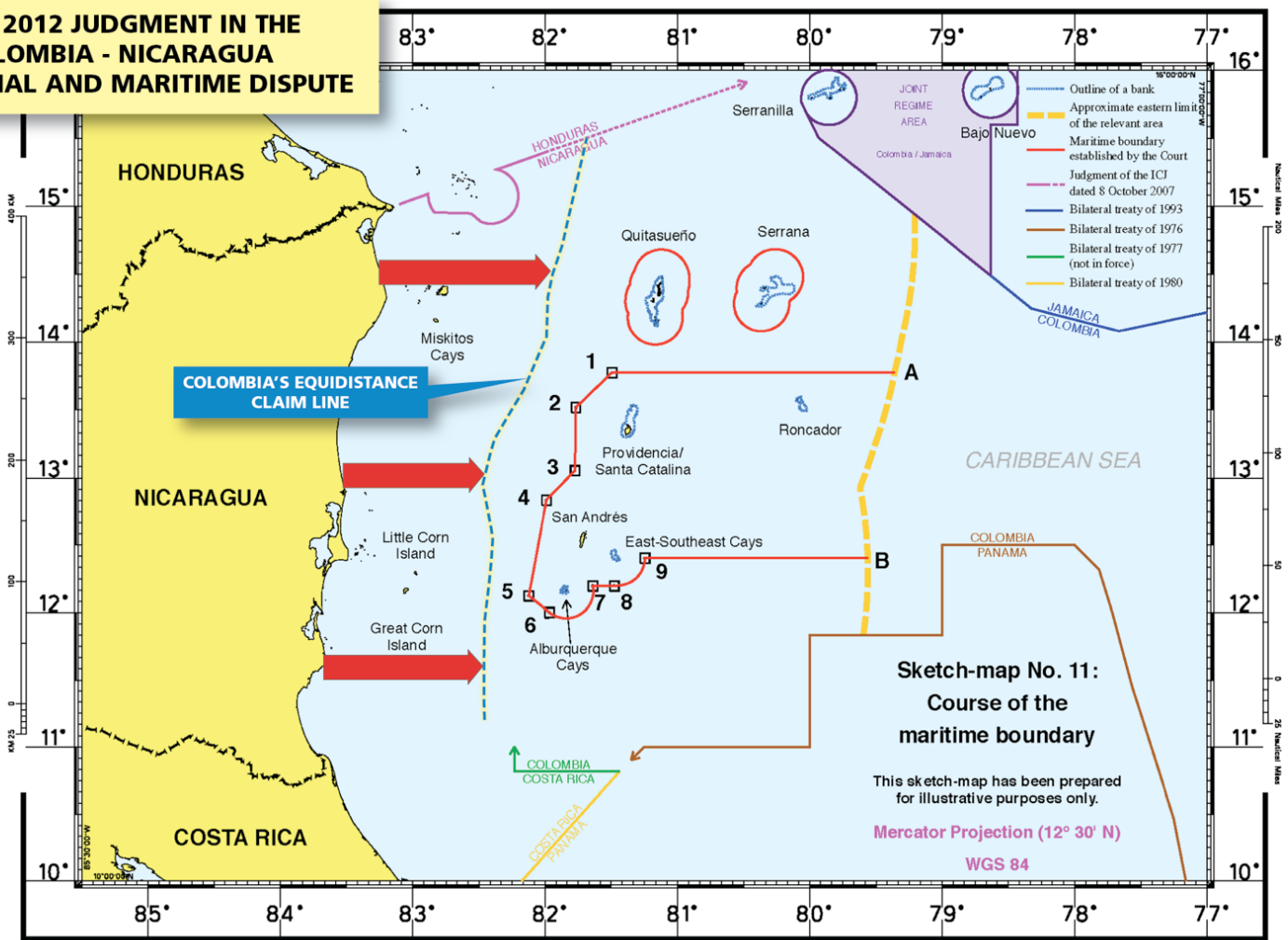
- I. Why take recourse to adjudication or arbitration?**
- II. What options are available for adjudication or arbitration?**
- III. How to submit a dispute to adjudication or arbitration?**

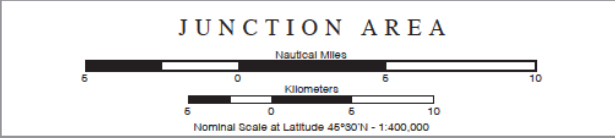
I. Why take recourse to adjudication or arbitration?

- Unequal power relationship
- Diplomatic impasse
- International / domestic pressure



**ICJ'S 2012 JUDGMENT IN THE
COLOMBIA - NICARAGUA
TERRITORIAL AND MARITIME DISPUTE**





Map VII	Projection / Datum: Mercator / ETRS89
Base map: © OpenStreetMap contributors. This map is for illustrative purposes only.	

II. What options are available for adjudication or arbitration?

1. The International Court of Justice (ICJ)
2. The International Tribunal for the Law of the Sea (ITLOS)
3. A Chamber at the ICJ or ITLOS
4. A tribunal established pursuant to Annex VII of UNCLOS
5. An *ad hoc* tribunal based on a special agreement

Comparative Advantages of Available Fora

Forum	Institutional Presence	Jurisdiction	Cost	Control	Speed	Confidentiality	Predictability
ICJ	+	Any legal dispute	+	-	-/+	-	+
ITLOS	+	Only disputes concerning interpretation and application of UNCLOS	+	-	+	-	+
Chambers at ICJ or ITLOS	+	Same as in two above	+	+	+	-	+
Annex VII Tribunals	-	Only disputes concerning interpretation and application of UNCLOS	-	+	+	+	-
<i>Ad hoc</i> Tribunals	-	Any legal dispute			+	+	-

III. How to submit a dispute to adjudication or arbitration?

- UNCLOS Article 287 gives States a choice among:
 1. The ITLOS
 2. The ICJ
 3. An Arbitral tribunal constituted in accordance with Annex VII

- **UNCLOS Article 287(4):**

If the disputing parties accepted the same procedure for the settlement of the dispute, it may be submitted only to that procedure, unless the parties otherwise agree.

- **UNCLOS, Article 287(3) & (5):**

3. A State Party, which is a party to a dispute not covered by a declaration in force, shall be deemed to have accepted arbitration in accordance with Annex VII.
5. If the parties to a dispute have not accepted the same procedure for the settlement of the dispute, it may be submitted only to arbitration in accordance with Annex VII, unless the parties otherwise agree.”

Only approximately **53** States, out of **167** States parties, have exercised their right under Article 287 to declare their preferred means of settling maritime boundary disputes under UNCLOS.

- **UNCLOS, Article 298(1)(a)(i)** allows States to exempt from compulsory dispute settlement:
 - disputes concerning the interpretation or application of
 - Article 15 relating to delimitation of the territorial sea
 - Article 74 relating to delimitation of EEZ
 - Article 83 relating to delimitation of the continental shelf
 - disputes involving historic bays or titles
- Approximately **32** States have exercised their right to exempt maritime delimitation disputes from compulsory dispute settlement.
- A State excluding these disputes is still subject to conciliation under Annex V, section 2 of UNCLOS.

- Three options:
 1. Declarations under Article 36(2) of the ICJ Statute
 2. International treaties conferring the jurisdiction of the Court over a legal dispute between the parties
 3. A special agreement

- Declarations under Article 36(2) of the ICJ Statute:
 - 73 States deposited their declarations
 - Declarations are made on condition of reciprocity
 - A dispute can be submitted by a unilateral written application

- International treaties conferring the jurisdiction of the Court over a legal dispute between the parties:
 - The American Treaty on Pacific Settlement (Pact of Bogotá) (1948)
 - The European Convention for the Peaceful Settlement of Disputes (1957)

Submitting Disputes by Special Agreements

- A special agreement (*compromis*) is a treaty referring a specific dispute to adjudication or arbitration.
- Benefits:
 - Predictability
 - Less complicated proceedings
 - Party control
 - Compliance

A special agreement usually consists of the following elements:

1. Title
2. Preamble
3. Conferral of jurisdiction
4. Definition of the dispute or formulation of the question
5. Procedural issues
6. Special undertakings
7. Final clauses

- The title of the special agreement:
 - expresses the purpose of submitting a particular dispute to adjudication or arbitration; and
 - designates the disputing parties.

- Model language:

Special agreement for the submission to the ICJ/ITLOS/Arbitral Tribunal of the dispute between *STATE_A* and *STATE_B* concerning *DISPUTE_OBJECT*

INTERNATIONAL COURT OF JUSTICE

PLEADINGS, ORAL ARGUMENTS, DOCUMENTS

NORTH SEA CONTINENTAL
SHELF CASES

(FEDERAL REPUBLIC OF GERMANY/DENMARK;
FEDERAL REPUBLIC OF GERMANY/NETHERLANDS)
VOLUME I

1968

COUR INTERNATIONALE DE JUSTICE

MÉMOIRES, PLAIDOIRIES ET DOCUMENTS

AFFAIRES DU PLATEAU
CONTINENTAL DE LA MER
DU NORD

(RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE/DANEMARK;
RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE/PAYS-BAS)
VOLUME I



SPECIAL AGREEMENT

FOR THE SUBMISSION TO THE INTERNATIONAL COURT OF JUSTICE OF A DIFFERENCE BETWEEN THE KINGDOM OF DENMARK AND THE FEDERAL REPUBLIC OF GERMANY CONCERNING THE DELIMITATION, AS BETWEEN THE KINGDOM OF DENMARK AND THE FEDERAL REPUBLIC OF GERMANY, OF THE CONTINENTAL SHELF IN THE NORTH SEA.

The Government of the Kingdom of Denmark and the Government of the Federal Republic of Germany,

Considering that the delimitation of the coastal continental shelf in the North Sea between the Kingdom of Denmark and the Federal Republic of Germany has been laid down by a Convention concluded on 9 June 1965,

Considering that in regard to the further course of the boundary disagreement exists between the Danish and German Governments, which could not be settled by detailed negotiations,

Intending to settle the open questions in the spirit of the friendly and good-neighbourly relations existing between them,

Recalling the obligation laid down in Article 1 of the Danish-German Treaty of Conciliation and Arbitration of 2 June 1926 to submit to a procedure of conciliation or to judicial settlement all controversies which cannot be settled by diplomacy,

Bearing in mind the obligation assumed by them under Articles 1 and 28 of the European Convention for the Peaceful Settlement of Disputes of 29 April 1957 to submit to the judgment of the International Court of Justice all international legal controversies to the extent that no special arrangement has been or will be made,

By virtue of the fact that the Kingdom of Denmark is a party to the Statute of the International Court of Justice, and of the Declaration of acceptance of the jurisdiction of the International Court of Justice made by the Federal Republic of Germany on 29 April 1961 in conformity with Article 3 of the Convention of 29 April 1957 and with the Resolution adopted by the Security Council of the United Nations on 15 October 1946 concerning the "Condition under which the International Court of Justice shall be open to States not Parties to the Statute of the International Court of Justice",

Have agreed as follows:

- The preamble usually:
 - recognizes the existence of a dispute between the parties; and
 - expresses the parties' intention to settle it through adjudication or arbitration.

- The preamble may also:
 - stress the useful role that a third party has played to facilitate a peaceful settlement; or
 - mention positive steps taken towards the resolution of the dispute.

- Model Language:

The Government of *STATE_A* and the Government of *STATE_B*, hereinafter referred to as the “Parties”;

Considering that a dispute has arisen between them regarding *DISPUTE_OBJECT*;

Desiring that this dispute be settled by the ICJ/ITLOS/Arbitral Tribunal, hereinafter referred to as the “Court/Tribunal”;

Have agreed as follows:

COUR INTERNATIONALE DE JUSTICE

COMPROMIS

ACCORD-CADRE SUR LE RÈGLEMENT PACIFIQUE
DU DIFFÉREND TERRITORIAL ENTRE LA GRANDE JAMAHIRIYA
ARABE LIBYENNE POPULAIRE ET SOCIALISTE
ET LA RÉPUBLIQUE DU TCHAD

notifié à la Cour internationale de Justice
les 31 août 1990/3 septembre 1990

DIFFÉREND TERRITORIAL

(JAMAHIRIYA ARABE LIBYENNE/TCHAD)

INTERNATIONAL COURT OF JUSTICE

SPECIAL AGREEMENT

FRAMEWORK AGREEMENT ON THE PEACEFUL SETTLEMENT
OF THE TERRITORIAL DISPUTE BETWEEN THE GREAT
SOCIALIST PEOPLE'S LIBYAN ARAB JAMAHIRIYA
AND THE REPUBLIC OF CHAD

notified to the International Court of Justice
on 31 August 1990/3 September 1990

TERRITORIAL DISPUTE

(LIBYAN ARAB JAMAHIRIYA/CHAD)

FRAMEWORK AGREEMENT ON THE PEACEFUL SETTLEMENT OF THE TERRITORIAL DISPUTE BETWEEN THE GREAT SOCIALIST PEOPLE'S LIBYAN ARAB JAMAHIRIYA AND THE REPUBLIC OF CHAD

The great Socialist People's Libyan Arab Jamahiriya and the Republic of Chad,

On the basis, on the one hand, of the resolutions of the Organization of African Unity (OAU), in particular resolution AHG/Res. 6 (XXV) on the Libya/Chad territorial dispute and, on the other hand, of the fundamental principles of the United Nations, namely:

- the peaceful settlement of international disputes;
- the sovereign equality of all States;
- non-use of force or threat of force in relations between States;
- respect for the national sovereignty and territorial integrity of each State;
- non-interference in internal affairs;

Resolved to settle their territorial dispute peacefully,

HEREBY DECIDE TO CONCLUDE THIS AGREEMENT: ...

- The conferral of jurisdiction on a court or tribunal is implied in a special agreement.

- But it is recommended to have a specific provision expressly conferring jurisdiction.

- Model language:
 - The Parties submit the dispute referred to in the present special agreement to the ICJ, under the terms of Article 36(1) of its Statute.

No. 47966

Burkina Faso
and
Niger

Special Agreement seising the International Court of Justice of the boundary dispute between Burkina Faso and the Republic of Niger. Niamey, 24 February 2009

Entry into force: 20 November 2009 by notification, in accordance with article 8. In accordance with article 8, article 10 is applied as of 24 February 2009.

Authentic text: French

Registration with the Secretariat of the United Nations: Burkina Faso, 7 October 2010

Burkina Faso
et
Niger

Compromis de saisine de la Cour internationale de Justice au sujet du différend frontalier entre le Burkina Faso et la République du Niger. Niamey, 24 février 2009

Entrée en vigueur : 20 novembre 2009 par notification, conformément à l'article 8. Conformément à l'article 8, l'article 10 est appliqué à compter du 24 février 2009.

Texte authentique : français

Enregistrement auprès du Secrétariat des Nations Unies : Burkina Faso, 7 octobre 2010

1. SPECIAL AGREEMENT

The Government of Burkina Faso and the Government of the Republic of Niger, hereinafter referred to as the "Parties";

Whereas, by agreements signed at Niamey on 23 June 1964 and at Ouagadougou on 28 March 1987, the two Governments agreed to mark out their common boundary and to that end created a Joint Technical Commission on Demarcation;

Whereas Articles 1 and 2 of the Agreement of 28 March 1987 provide as follows:

Article 1

The frontier between the two States shall run from the heights of N'Gouma, situated to the north of the Kabia ford, to the intersection of the former boundary of the cercles of Fada and Say with the course of the Mekrou, as described in the arrêté [order] of 31 August 1927, as clarified by the erratum of 5 October 1927.

Article 2

The frontier shall be demarcated by boundary markers following the course described by Arrêté 2336 of 31 August 1927, as clarified by Erratum 2602/APA of 5 October 1927. Should the Arrêté and Erratum not suffice, the course shall be that shown on the 1:200,000-scale map of the Institut géographique national de France, 1960 edition, and/or any other relevant document accepted by joint agreement of the Parties.;

Whereas thanks to the work of the Joint Technical Commission on Demarcation established pursuant to these provisions, the Parties have been able to reach agreement in respect of the following sectors of the frontier:

(a) from the heights of N'Gouma to the astronomic marker of Tong-Tong;
(b) from the beginning of the Botou bend to the River Mekrou;

Whereas the two Parties accept the results of the work carried out in those sectors as definitive;

Desirous of resolving this dispute once and for all in the spirit of fraternity between brotherly peoples and neighbourliness characterising their relations and in compliance with the principle of the intangibility of frontiers inherited from colonization;

Thus applying Article 8 of the Agreement of 28 March 1987 referred to above;

Have agreed as follows:

*Article 1**Referral to the International Court of Justice*

1. The Parties submit the dispute defined in Article 2 below to the International Court of Justice.

- Why the definition of the dispute, or the formulation of the legal question that a court or tribunal is asked to decide, is a key element of any special agreement?

- If impossible to define the dispute:

A “Framework Agreement”

Owing to the impossibility of reaching an agreement on the exact definition of the dispute concerning *DISPUTE_OBJECT*, the Parties agree that the Court/Tribunal may be unilaterally seized by one of the Parties [if no political settlement of the dispute has been reached before *DATE*], without such recourse being regarded as an unfriendly act by the other Party.

- If impossible to define the dispute:

The Croatia-Slovenia Arbitration Agreement

Article 3: Task of the Arbitral Tribunal

(2) The Parties shall specify the details of the subject-matter of the dispute within one month.

If they fail to do so, the Arbitral Tribunal shall use the submissions of the Parties for the determination of the exact scope of the maritime and territorial disputes and claims between the Parties.

- Applicable law to resolve the dispute/question

The Eritrea-Yemen Arbitration Agreement

Article 2:

1. The Tribunal is requested to provide rulings in accordance with international law [...]
2. [...] The Tribunal shall decide territorial sovereignty in accordance with the principles, rules and practices of international law applicable to the matter, and on the basis, in particular, of historic titles. [...]
3. The second stage shall result in an award delimiting maritime boundaries. The Tribunal shall decide taking into account [...] the United Nations Convention on the Law of the Sea, and any other pertinent factor.

- Applicable law to resolve the dispute/question:

The Croatia-Slovenia Arbitration Agreement

Article 3: Task of the Arbitral Tribunal

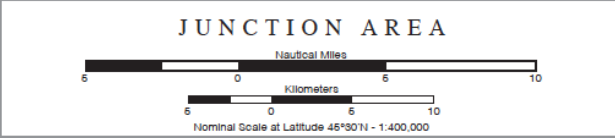
(1) The Arbitral Tribunal shall determine ...

(b) Slovenia's junction to the High Seas

Article 4: Applicable Law

The Tribunal shall apply: ...

(b) International law, equity and the principle of good neighborly relations in order to achieve a fair and just result by taking into account all relevant circumstances for the determinations referred to in Article 3(1)(b)...



Map VII	Projection / Datum: Mercator / ETRS89
Base map: © OpenStreetMap contributors. This map is for illustrative purposes only.	

- Scenario 1: Disputes concerning territorial sovereignty.

- Model Language

The Court/Tribunal is requested to determine whether the sovereignty over *NAMED_AREA* belongs to *STATE_A* or *STATE_B*.

INTERNATIONAL COURT OF JUSTICE

SPECIAL AGREEMENT

FOR SUBMISSION TO THE INTERNATIONAL COURT OF JUSTICE OF
THE DISPUTE BETWEEN MALAYSIA AND SINGAPORE CONCERNING
SOVEREIGNTY OVER PEDRA BRANCA/PULAU BATU PUTEH,
MIDDLE ROCKS AND SOUTH LEDGE

jointly notified to the Court on 24 July 2003

COUR INTERNATIONALE DE JUSTICE

COMPROMIS

VISANT À SOUMETTRE À LA COUR INTERNATIONALE DE JUSTICE
LE DIFFÉREND ENTRE LA MALAISIE ET SINGAPOUR CONCERNANT
LA SOUVERAINETÉ SUR PEDRA BRANCA/PULAU BATU PUTEH,
MIDDLE ROCKS ET SOUTH LEDGE

notifié conjointement à la Cour le 24 juillet 2003

Article 2

Subject of the Litigation

The Court is requested to determine whether sovereignty over:

- (a) Pedra Branca/Pulau Batu Puteh;
- (b) Middle Rocks;
- (c) South Ledge,

belongs to Malaysia or the Republic of Singapore.

- Scenario 2: Mixed disputes concerning territorial sovereignty and boundary delimitation.

- Model Language

The Court/Tribunal is requested to determine whether the sovereignty over *NAMED_AREA* belongs to *STATE_A* or *STATE_B*.

The Court is requested to determine the course of the boundary between *STATE_A* and *STATE_B* in the disputed area of *NAMED_AREA* [or: in the disputed area extending from *LOCATION* up to *LOCATION*].

- Scenario 2: Mixed disputes concerning territorial sovereignty and boundary delimitation.

The Eritrea-Yemen Arbitration Agreement

Article 2

1. The Tribunal is requested to provide rulings in accordance with international law, in two stages.
2. The first stage shall result in an award on territorial sovereignty [...].
3. The second stage shall result in an award delimiting maritime boundaries.

- Scenario 2: Mixed disputes concerning territorial sovereignty and boundary delimitation.

The Croatia-Slovenia Arbitration Agreement

Article 3: Task of the Arbitral Tribunal

- (1) The Arbitral Tribunal shall determine
 - (a) the course of the maritime and land boundary between Slovenia and Croatia;
 - (b) Slovenia's junction to the High Sea;
 - (c) the regime for the use of the relevant maritime areas.

- Scenario 3: Disputes concerning boundary delimitation.

- Three options:
 - Determine the applicable rules and principles of international law for delimitation, leaving the actual delimitation for the parties based on the judgment or award.
 - Determine the applicable rules and principles of international law for delimitation and clarify a practical method for their application.
 - Definitively solve a dispute by establishing a boundary; or

- Scenario 3.1: Determine the applicable rules and principles of international law for such delimitation, leaving the actual delimitation to a subsequent agreement between the parties on the basis of the judgment or award.

- Model Language

The Court is requested to determine what principles and rules of international law are applicable to the delimitation as between the Parties of the areas of *NAMED_AREA* which appertain to each of them.

INTERNATIONAL COURT OF JUSTICE

REPORTS OF JUDGMENTS,
ADVISORY OPINIONS AND ORDERS

NORTH SEA CONTINENTAL SHELF CASES

(FEDERAL REPUBLIC OF GERMANY/DENMARK;
FEDERAL REPUBLIC OF GERMANY/NETHERLANDS)

JUDGMENT OF 20 FEBRUARY 1969

1969

COUR INTERNATIONALE DE JUSTICE

RECUEIL DES ARRÊTS,
AVIS CONSULTATIFS ET ORDONNANCES

AFFAIRES DU PLATEAU CONTINENTAL
DE LA MER DU NORD

(RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE/DANEMARK;
RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE/PAYS-BAS)

ARRÊT DU 20 FÉVRIER 1969

THE SPECIAL AGREEMENT

Article 1

(1) The International Court of Justice is requested to decide the following question:

What principles and rules of international law are applicable to the delimitation as between the Parties of the areas of the continental shelf in the North Sea which appertain to each of them beyond the partial boundary determined by the above-mentioned Convention of 9 June 1965?

(2) The Governments of the Kingdom of Denmark and of the Federal Republic of Germany shall delimit the continental shelf in the North Sea as between their countries by agreement in pursuance of the decision requested from the International Court of Justice.

INTERNATIONAL COURT OF JUSTICE

REPORTS OF JUDGMENTS,
ADVISORY OPINIONS AND ORDERS

NORTH SEA CONTINENTAL SHELF CASES

(FEDERAL REPUBLIC OF GERMANY/DENMARK;
FEDERAL REPUBLIC OF GERMANY/NETHERLANDS)

JUDGMENT OF 20 FEBRUARY 1969

1969

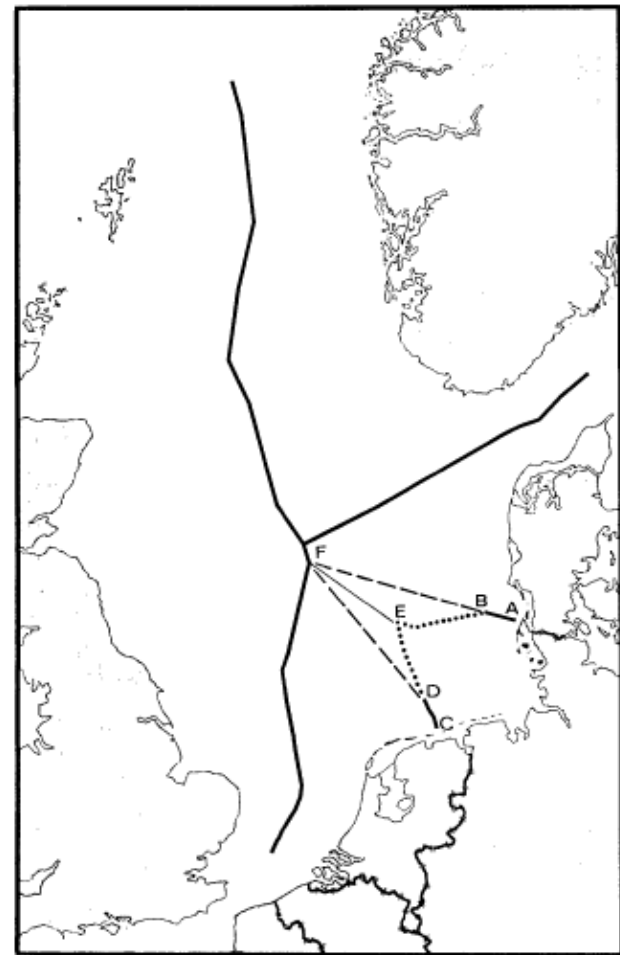
COUR INTERNATIONALE DE JUSTICE

RECUEIL DES ARRÊTS,
AVIS CONSULTATIFS ET ORDONNANCES

**AFFAIRES DU PLATEAU CONTINENTAL
DE LA MER DU NORD**

(RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE/DANEMARK;
RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE/PAYS-BAS)

ARRÊT DU 20 FÉVRIER 1969



Map 3
(See paragraphs 5-9)

The maps in the present Judgment were prepared on the basis of documents submitted to the Court by the Parties, and their sole purpose is to provide a visual illustration of the paragraphs of the Judgment which refer to them.

Carte 3
(Voir paragraphes 5-9)

Les cartes jointes au présent arrêt ont été établies d'après les documents soumis à la Cour par les Parties et ont pour seul objet d'illustrer graphiquement les paragraphes de l'arrêt qui s'y réfèrent.

GERMANY

Mercator Projection
WGS-84 Datum



Prepared by: International Mapping

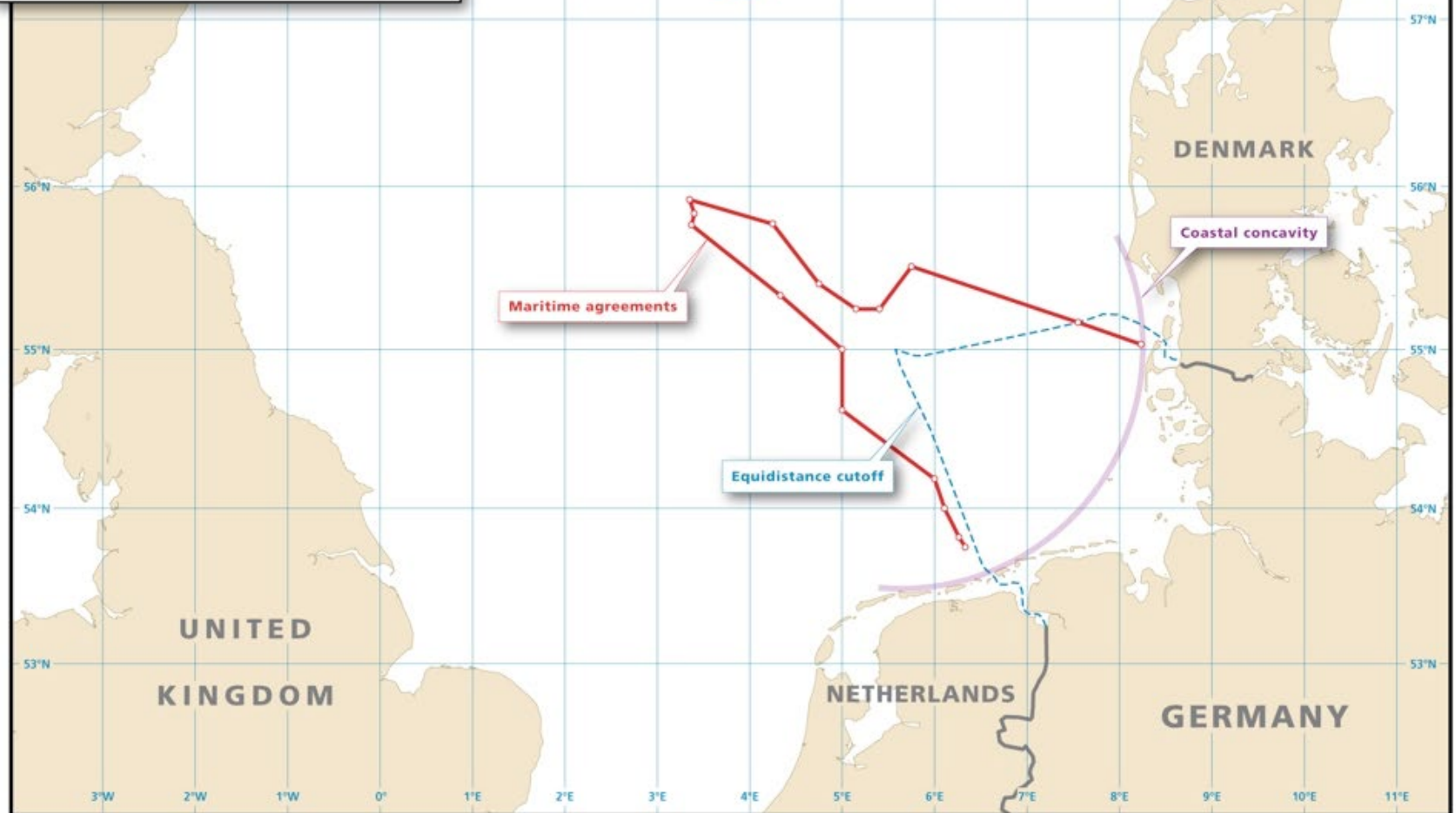


Figure R-

- Scenario 3.2: Determine the applicable rules and principles of international law for such delimitation and clarify the practical method for the application of these principles.

- Model Language

The Court is requested to determine what principles and rules of international law are applicable to the delimitation as between the Parties of the areas of *NAMED_AREA* which appertain to each of them.

The Court is further requested to clarify the practical method for the application of these principles and rules of international law in the specific situation, so as to enable the Parties to delimit the respective areas of *NAMED_AREA* without any difficulty.

INTERNATIONAL COURT OF JUSTICE

REPORTS OF JUDGMENTS,
ADVISORY OPINIONS AND ORDERS

CASE CONCERNING THE
CONTINENTAL SHELF

(TUNISIA/LIBYAN ARAB JAMAHIRIYA)

JUDGMENT OF 24 FEBRUARY 1982

1982

COUR INTERNATIONALE DE JUSTICE

RECUEIL DES ARRÊTS,
AVIS CONSULTATIFS ET ORDONNANCES

AFFAIRE DU PLATEAU CONTINENTAL

(TUNISIE/JAMAHIRIYA ARABE LIBYENNE)

ARRÊT DU 24 FÉVRIER 1982

SPECIAL AGREEMENT

Article 1

The Court is requested to render its Judgment in the following matter:

What principles and rules of international law may be applied for the delimitation of the area of the continental shelf appertaining to the Socialist People's Libyan Arab Jamahiriya and to the area of the continental shelf appertaining to the Republic of Tunisia, and the Court shall take its decision according to equitable principles, and the relevant circumstances which characterize the area, as well as the new accepted trends in the Third Conference on the Law of the Sea.

Also, the Court is further requested to clarify the practical method for the application of these principles and rules in this specific situation, so as to enable the experts of the two countries to delimit those areas without any difficulties.

**SPECIAL AGREEMENT BETWEEN LIBYA AND TUNISIA
(1977)**

Article 1

The Court is requested to render its Judgment in the following matter:

What principles and rules of international law may be applied for the delimitation of the area of the continental shelf appertaining to the Socialist People's Libyan Arab Jamahiriya and to the area of the continental shelf appertaining to the Republic of Tunisia, and the Court shall take its decision according to equitable principles, and the relevant circumstances which characterize the area, as well as the new accepted trends in the Third Conference on the Law of the Sea.

Also, the Court is further requested to clarify the practical method for the application of these principles and rules in this specific situation, so as to enable the experts of the two countries to delimit those areas without any difficulties.

**SPECIAL AGREEMENT BETWEEN LIBYA AND
MALTA (1976)**

Article I

The Court is requested to decide the following question:

What principles and rules of international law are applicable to the delimitation of the area of the continental shelf which appertains to the Republic of Malta and the area of continental shelf which appertains to the Libyan Arab Republic, and how in practice such principles and rules can be applied by the two Parties in this particular case in order that they may without difficulty delimit such areas by an agreement as provided in Article III.

- Scenario 3.3: Definitively solve a dispute by establishing a boundary

- Model Language

The Court is requested to determine the course of the boundary between *STATE_A* and *STATE_B* in the disputed area of *NAMED_AREA* [or: in the disputed area extending from *LOCATION* up to *LOCATION*].

COUR INTERNATIONALE DE JUSTICE

COMPROMIS

DE SAISINE DE LA COUR INTERNATIONALE DE JUSTICE, AU
SUJET DU DIFFÉREND FRONTALIER ENTRE LE BURKINA FASO
ET LA RÉPUBLIQUE DU NIGER

notifié conjointement à la Cour le 20 juillet 2010

INTERNATIONAL COURT OF JUSTICE

SPECIAL AGREEMENT

SEISING THE INTERNATIONAL COURT OF JUSTICE OF THE
BOUNDARY DISPUTE BETWEEN BURKINA FASO AND THE
REPUBLIC OF NIGER

jointly notified to the Court on 20 July 2010

Article 2

Subject of the Dispute

The Court is requested to :

1. determine the course of the boundary between the two countries in the sector from the astronomic marker of Tong-Tong...to the beginning of the Botou bend...;

COUR INTERNATIONALE DE JUSTICE

RECUEIL DES ARRÊTS,
AVIS CONSULTATIFS ET ORDONNANCES

AFFAIRE DE LA DÉLIMITATION
DE LA FRONTIÈRE MARITIME
DANS LA RÉGION DU GOLFE DU MAINE

(CANADA/ÉTATS-UNIS D'AMÉRIQUE)

ARRÊT DU 12 OCTOBRE 1984 RENDU PAR LA CHAMBRE
CONSTITUÉE PAR ORDONNANCE DE LA COUR
DU 20 JANVIER 1982

1984

INTERNATIONAL COURT OF JUSTICE

REPORTS OF JUDGMENTS,
ADVISORY OPINIONS AND ORDERS

CASE CONCERNING DELIMITATION
OF THE MARITIME BOUNDARY
IN THE GULF OF MAINE AREA

(CANADA/UNITED STATES OF AMERICA)

JUDGMENT OF 12 OCTOBER 1984 GIVEN BY THE CHAMBER
CONSTITUTED BY THE ORDER MADE BY THE COURT
ON 20 JANUARY 1982

SPECIAL AGREEMENT 1979

Article II

1. The Chamber is requested to decide, in accordance with the principles and rules of international law applicable in the matter as between the Parties, the following question:

What is the course of the single maritime boundary that divides the continental shelf and fisheries zones of Canada and the United States of America from a point [A] to a point to be determined by the Chamber within an area bounded by straight lines connecting the following sets of geographic coordinates [...]?

- Procedural issues that could/should be addressed:
 1. Forming a chamber
 2. Appointing *ad hoc* judges
 3. Appointing arbitrators
 4. The number and order of written pleadings
 5. The order of oral pleadings
 6. Official languages for the proceedings
 7. Time within which arbitrators must issue an award
 8. Sharing costs
 9. Interpretation, clarification or rectification.

- Specific undertakings:
 - refraining from any act which could jeopardize the peaceful resolution of the dispute or threaten peace between the parties;
 - recognizing the binding effect of a judgment or award;
 - specifying steps for the practical execution of a judgment or award

- Model language:

The Parties shall accept as final and binding upon them the judgment/award of the Court/Tribunal.

The Parties shall execute the judgment/award in its entirety and in good faith.

Immediately after the transmission of the judgment, the Parties shall enter into negotiations on the modalities for its execution. If the Parties are unable to reach an agreement within *NUMBER* months, any one of the Parties may request the Court/Tribunal to render an additional judgment to determine the modalities for executing its judgment.

COUR INTERNATIONALE DE JUSTICE

COMPROMIS

DE SAISINE DE LA COUR INTERNATIONALE DE JUSTICE, AU
SUJET DU DIFFÉREND FRONTALIER ENTRE LE BURKINA FASO
ET LA RÉPUBLIQUE DU NIGER

notifié conjointement à la Cour le 20 juillet 2010

INTERNATIONAL COURT OF JUSTICE

SPECIAL AGREEMENT

SEISING THE INTERNATIONAL COURT OF JUSTICE OF THE
BOUNDARY DISPUTE BETWEEN BURKINA FASO AND THE
REPUBLIC OF NIGER

jointly notified to the Court on 20 July 2010

Article 7

Judgment of the Court

1. The Parties accept the Judgment of the Court given pursuant to this Special Agreement as final and binding upon them.
2. From the day on which the Judgment is rendered, the Parties shall have eighteen (18) months in which to commence the work of demarcating the boundary.
3. In case of difficulty in the implementation of the Judgment, either Party may seize the Court pursuant to Article 60 of its Statute.
4. The Parties request the Court to nominate, in its Judgment, three (3) experts to assist them as necessary in the demarcation.

- The final clauses of the special agreement usually deal with its:
 - entry into force,
 - registration with the Secretariat of the United Nations; and
 - notification to the Court.

- Model language:

The present Special Agreement shall be subject to ratification. The instruments of ratification shall be exchanged as soon as possible in *LOCATION*. The present Special Agreement shall enter into force immediately upon the exchange of those instruments.

The present Special Agreement shall be registered with the Secretariat of the United Nations, pursuant to Article 102 of the Charter of the United Nations, by any one of the Parties.

Upon the entry into force of the present Special Agreement, it shall be notified to the Court/Tribunal by any one of the Parties [or: by a joint letter of the Parties]. If such notification is not effected within one month from the entry into force of the present special agreement, any one of the Parties may proceed with its notification to the Court.

Thank You for your excellent
participation!

Do not hesitate to contact me if you have
any further questions:

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