

**IN THE MATTER OF AN ARBITRATION UNDER ANNEX VII OF
THE 1982 UNITED NATIONS CONVENTION ON THE LAW OF THE SEA**

- between -

THE PEOPLE'S REPUBLIC OF BANGLADESH

- AND -

THE REPUBLIC OF INDIA

(together the "Parties")

**PROCEDURAL ORDER No. 1
(Concerning the Site Visit of October 2013)**

The Arbitral Tribunal:

**Judge Rüdiger Wolfrum (President)
Judge Jean-Pierre Cot
Judge Thomas A. Mensah
Dr. Pemmaraju Sreenivasa Rao
Professor Ivan Shearer**

The Registry:

Permanent Court of Arbitration

The Hague, August 28, 2013 (revised: October 11, 2013)

WHEREAS Article 6 (b) of Annex VII to the United Nations Convention on the Law of the Sea provides that “[t]he parties to the dispute shall facilitate the work of the arbitral tribunal” and shall “enable it when necessary [...] to visit the localities to which the case relates”;

CONSIDERING the terms of the Tribunal’s letter to the Parties dated February 11, 2013, which communicated the Tribunal’s decision to conduct a site visit and invited the Parties to confer and agree upon a joint itinerary for the site visit;

CONSIDERING the Parties’ exchanges of views and their agreement on the broad outlines of the itinerary and certain modalities of the site visit reached on May 3, 2013;

CONSIDERING the Parties’ divergent views on the details of the site visit itinerary expressed on June 30 and July 8, 2013;

CONSIDERING the terms of the Tribunal’s letter to the Parties dated July 11, 2013, which proposed details of the site visit itinerary for the Parties’ consideration;

CONSIDERING India’s view on the proposed itinerary expressed on July 26, 2013, and Bangladesh’s comments thereon on August 5, 2013;

CONSIDERING the Parties’ comments on a draft of this Order sent to the Parties on August 16, 2013;

CONSIDERING further comments by the Parties arising from India’s letter dated October 4, 2013;

THE TRIBUNAL ISSUES THE FOLLOWING ORDER:

1. The Site Visit Itinerary

- 1.1 The Tribunal records that after consulting the Parties, it had earlier set aside October 22-26, 2013 for the conduct of the site visit, with October 22 and 26 being dates of arrival to and departure from the region. The Tribunal hereby fixes these dates.
- 1.2 The Tribunal takes note of Bangladesh’s correspondence dated May 3 and June 30, 2013 as well as India’s correspondence dated July 8 and 26, 2013, in which they outline their respective views on the proper itinerary for this site visit. The Parties agree that Bangladesh will host the delegations on October 23 and the first half of October 24; India will host the delegations from the second half of October 24 and October 25. Having considered the Parties’ further views on the matter, the Tribunal hereby adopts the following itinerary:

DAY	DETAILS OF VISIT	PROPOSED DAY AND DATE	TIME
Day 1	Arrival of the Tribunal and the Party delegations at Dhaka	Tuesday, October 22, 2013	
Day 2	Departure from hotel to helipad	Wednesday, October 23, 2013	0845 hours
	Depart Dhaka by helicopter to base point B5		0900
	Arrive area of base point B5; depart for Chittagong		1115

	Arrive Chittagong, lunch and helicopter refuelling		1230
	Depart Chittagong for Raimangal Estuary via base point B4 and Bengal Delta coast		1430
	Aerial reconnaissance of Haribhanga River and the Raimangal Estuary, including all the proposed base points in the area (including South Talpatty/New Moore)		1630
	Depart Raimangal Estuary for Jessore Air Force base		1715
	Arrive Jessore Air Force base		1745
Day 3	Depart Jessore Air Force base for vessel embarkation site	Thursday, October 24, 2013	0600 hours
	Arrive vessel embarkation site		0645
	Depart for western channel		0700
	Sea site inspection of the Hariabhanga River and the western channel		0800
	Light refreshments		1030
	Transit to disembarkation point identified by India and Bangladesh ¹		1130
	Embark hovercraft ² at disembarkation point for sea site inspection		1200
	Sea site inspection of the Eastern Channel and mouth of the Raimangal Estuary; Lunch on board		1230
	Passage from site to helipad (Mandarbaria) ³		1500
	Embark helicopters; Fly back to Kolkata		1530
	Disembark at Kolkata		1630
	Proceed to hotel		1700-1745
Dinner	2030		
Day 4	Briefing on aerial inspection at hotel	Friday, October 25, 2013	1030 hours
	Early Lunch at Hotel		1100
	Depart for airport (by road)		1145

¹ A possible disembarkation point lies north of Bangladesh's Mandarbari Island (located at the eastern edge of the Raimangal Estuary where the estuary meets the bay). Parties to discuss further and coordinate the hand-over from vessel to hovercraft.

² The hovercraft to be employed by India has the following dimensions: Length – 27 meters; Breadth – 11.5 meters; Freeboard – 1.38 meters.

³ Bangladesh has given its consent for the use of the helipad at Mandarbaria Island; trial run to be organized.

	Embark aircraft		1245
	Aerial inspection of relevant coast and base points (East coast of India and base points proposed by India and Bangladesh); Aerial inspection of Eastern Channel and mouth of Raimangal Estuary		1300
	Disembark aircraft		1600
	Proceed to hotel (by road)		1615-1700
Day 5	Departure of the Tribunal and Party delegations from Kolkata to their respective destinations	Saturday, October 26, 2013	

2. Size of Delegations

- 2.1 Each Party’s delegation shall be limited to not more than eight individuals, including the Agent, Co-Agents, counsel and experts. The Tribunal takes note of the Parties’ prior agreement that six individuals would form their respective delegations,⁴ and of India’s request for two additional individuals in each Party’s delegation.⁵
- 2.2 The Tribunal’s delegation shall be comprised of nine individuals: all the Members of the Tribunal, the Registrar and two members of the Registry (involved in documentation, videotaping, and logistical support to the Tribunal; one member of the Registry will act as the videographer as mentioned in paragraph 6 below), and the Tribunal’s Expert Hydrographer.

3. Confidentiality

The Tribunal takes note of the Parties’ agreement that “[t]he site visit shall be treated as confidential and no publicity shall be given to it by either side”.⁶

4. Social Events

The Tribunal takes note of the Parties’ agreement that “[t]here shall be no formal receptions held for the Tribunal”, and that “[s]ocial events shall be strictly limited to simple dinner events that the Parties may wish to prepare, if that dinner includes and is restricted to all members of both delegations participating in the site visit, and no other persons”.⁷

5. Presentations

Any presentations made during the site visit shall be limited to objective, technical presentations made by experts *in situ* (whether by members of the official delegations or by other experts). Legal issues or arguments may not be discussed at any point during such presentations. Presentations must be succinct and remain neutral in tone.

⁴ Letter from the Deputy Agent of Bangladesh to the PCA dated May 3, 2013.

⁵ Letter from the Agent of India to the PCA dated July 8, 2013.

⁶ Letter from the Deputy Agent of Bangladesh to the PCA dated May 3, 2013.

⁷ *Id.*

6. Record of the Site Visit

The Tribunal takes note of the Parties' agreement that "[a] videographer shall be present to record the conduct of the site visit" and their joint request that "the Registry make arrangements to provide the videographer."⁸ The Registry will arrange for the recording of the visit and the provision of copies of this record to the Parties.

7. Costs of the Site Visit

The Tribunal takes note of the Parties' agreement that "[a]ll costs relating to the time and travel of the Tribunal and Registry staff shall be borne equally by the Parties", and that "[a]ll costs incurred in connection with activities conducted exclusively in the territory of one of the Parties shall be borne by that Party".⁹

8. Further Arrangements

Within the framework of this Order, the Tribunal invites the Parties to continue conferring on the remaining logistical issues, and to report back to the Tribunal with further points of agreement no later than **August 30, 2013**. The logistical issues to be agreed upon should include but not necessarily be limited to the following:

- (a) arrangements to ensure the security of the delegations at all times;
- (b) provisions for medical support;
- (c) finalized lists of the Parties' delegations and experts that will address the Tribunal during the site visit;
- (d) hotel arrangements,
- (e) modes of internal transportation; and
- (f) appropriate clothing and travel gear for the various stages of the site visit.

Dated: August 28, 2013 (Revised: October 11, 2013), The Hague

ON BEHALF OF THE ARBITRAL TRIBUNAL:



Judge Rüdiger Wolfrum

President

⁸ *Id.*

⁹ *Id.*