

**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. 2

(Concerning the Hearing on the Merits)

The Arbitral Tribunal:

Judge Rüdiger Wolfrum (President)

Judge Jean-Pierre Cot

Judge Thomas A. Mensah

Dr. Pemmaraju Sreenivasa Rao

Professor Ivan Shearer

The Registry:

The Permanent Court of Arbitration

**The Hague, 6 November 2013
(corrected: 8 & 12 November 2013)**

WHEREAS Article 5 of Annex VII to the United Nations Convention on the Law of the Sea provides that “[u]nless the parties to the dispute otherwise agree, the arbitral tribunal shall determine its own procedure, assuring to each party a full opportunity to be heard and to present its case”;

WHEREAS on 26 May 2010, the Tribunal adopted the Rules of Procedure for these proceedings, which included rules on the conduct of hearings;

CONSIDERING the terms of the Tribunal’s letter to the Parties dated 28 January 2013, which reserved the period of 9-18 December 2013 for the hearing;

CONSIDERING the terms of the Tribunal’s letter to the Parties dated 11 February 2013, which amended certain provisions of the Rules of Procedure, including the time limit for the Tribunal to conduct hearings after the submission of the Rejoinder;

CONSIDERING the Parties’ comments on a draft of this Order provided to the Parties on 21 October 2013;

THE TRIBUNAL ISSUES THE FOLLOWING ORDER:

1. Time and Place of the Hearing

1.1 The hearing on merits will be held at:

The Peace Palace
Carnegieplein 2
2517 KJ, The Hague
The Netherlands

1.2 Nine days shall be reserved. The hearing will start at **9:30, 9 December 2013** and end at **18:00, 18 December 2013**.

1.3 The following rooms of the Peace Palace have provisionally been made available for the hearing:

Hearing Room:	PCA Administrative Council Chamber / “Japanese Room”
Deliberation Room for the Tribunal:	The Tower Room
Break-out Room for Bangladesh:	Party Room 1 (Room 1)
Break-out Room for India:	Party Room 2 (Room 25)

2. Conduct of the Hearing

2.1 The principle of equal time as between the Parties shall be observed in the conduct of the hearing.

2.2 The Tribunal’s current understanding is that the hearing will consist solely of oral argument by agents and counsel.

2.3 The periods of time indicated in paragraph 2.4 below shall be allocated between the Parties in the following manner:

- (a) *Opening Statements* (Day 1): Bangladesh shall begin on the morning of 9 December 2013 and shall have 15 minutes for its introductory remarks. India shall follow

Bangladesh and shall also have 15 minutes for its introductory remarks. 10 minutes on Day 1 shall be reserved for the Tribunal's introductory remarks.

- (b) *First Round of Oral Argument* (Days 1- 6): Each Party shall have a total of 8 hours for agent and counsel argument, which may be allocated as that Party sees fit. Bangladesh's agents and/or counsel shall begin its argument, followed by India's agents and/or counsel.
- (c) *Second Round of Oral Argument* (Days 7 - 9): Bangladesh and India will each have 2 hours and 40 minutes to complete their second round of argument, which shall be confined to responding to the argument and submissions of the opposing Party.
- (d) *Closing* (Day 9): Upon the conclusion of the second round of argument on 18 December 2013, 40 minutes will be reserved for the Tribunal's remaining questions and closing remarks.
- (e) *Tribunal questions; contingencies*: At any point during the hearing, the Tribunal may pose questions to the Parties. The time taken for such questions and the answers thereto shall not be deducted from the Parties' allotted time. As necessary, the time periods indicated in paragraph 2.4 shall be extended to take account of the Tribunal's questions and other contingencies.

2.4 Subject to such modifications as the Tribunal may consider necessary during the course of the hearing, the following schedule shall be observed:

Day 1: Monday, 9 December 2013 (Whole Day)

09:30 – 09:40	Introductory Remarks (10 mins)	Arbitral Tribunal
09:40 – 09:55	Introductory Remarks (15 mins)	Bangladesh
09:55 – 10:10	Introductory Remarks (15 mins)	India
10:10 – 11:30	Hearing (80 mins)	Bangladesh Argument I
11:30 – 11:50	Break (20 mins)	
11:50 – 13:10	Hearing (80 mins)	Bangladesh Argument II
13:10 – 14:30	Lunch (80 mins)	
14:30 – 15:50	Hearing (80 mins)	Bangladesh Argument III
15:50 – 16:10	Break (20 mins)	
16:10 – 17:30	Hearing (80 mins)	Bangladesh Argument IV

Day 2: Tuesday, 10 December 2013 (Morning)

10:00 – 11:20	Hearing (80 mins)	Bangladesh Argument V
11:20 – 11:40	Break (20 mins)	
11:40 – 13:00	Hearing (80 mins)	Bangladesh Argument VI

Day 3: Wednesday, 11 December 2013

FREE DAY

Day 4: Thursday, 12 December 2013 (*Afternoon*)

14:00 – 15:20	Hearing (80 mins)	India Argument I
15:20 – 15:40	Break (20 mins)	
15:40 – 17:00	Hearing (80 mins)	India Argument II

Day 5: Friday, 13 December 2013 (*Whole Day*)

10:00 – 11:20	Hearing (80 mins)	India Argument III
11:20 – 11:40	Break (20 mins)	
11:40 – 13:00	Hearing (80 mins)	India Argument IV
13:00 – 14:30	Lunch (90 mins)	
14:30 – 15:50	Hearing (80 mins)	India Argument V
15:50 – 16:10	Break (20 mins)	
16:10 – 17:30	Hearing (80 mins)	India Argument VI

Day 6: Saturday, 14 December 2013

FREE DAY

Day 7: Monday, 16 December 2013 (*Morning*)

10:00 – 11:20	Hearing (80 mins)	Bangladesh Second Round I
11:20 – 11:40	Break (20 mins)	
11:40 – 13:00	Hearing (80 mins)	Bangladesh Second Round II

Day 8: Tuesday, 17 December 2013

FREE DAY

Day 9: Wednesday, 18 December 2013 (*Afternoon*)

14:00 – 15:20	Hearing (80 mins)	India Second Round I
15:20 – 15:40	Break (20 mins)	
15:40 – 17:00	Hearing (80 mins)	India Second Round II
17:00 – 17:20	Break (20 mins)	
17:20 – 18:00	Tribunal Questions and Closing Remarks (40 min)	Arbitral Tribunal

- 2.5 No new documents may be presented at the hearing, unless authorized by the Tribunal. However, demonstrative exhibits may be shown using portions of documents and maps that already form part of the record in this arbitration. In addition, the Parties may employ any photographs and video recordings of the site visit that are admitted by the Tribunal into evidence by procedural order.

3. Confidentiality; Transparency of Proceedings; Publication of Documents and Award

- 3.1 Under Article 13(6) of the Rules of Procedure, “[t]he written and oral pleadings of the Parties and any documentary material or evidence submitted by them shall remain confidential until the final Award.”
- 3.2 Under Article 13(8) of the Rules of Procedure, “[t]he hearings shall not be open to the public, unless the Parties agree otherwise.”
- 3.3 Under Article 15 of the Rules of Procedure, “[t]he Arbitral Tribunal shall endeavour to render its Award within six months of the close of the proceedings. After it has been made available to the Parties the Award shall be made public.”
- 3.4 Having considered the Parties’ comments on the modalities of transparency for the remainder of these proceedings, the Tribunal has determined that the foregoing provisions of the Rules of Procedure shall continue to govern, subject to the following:
- (a) on the first day of the hearing (i.e., on 9 December 2013), the Rules of Procedure and the Tribunal’s Procedural Orders will be made public *via* publication on the PCA website;
 - (b) a press release shall be issued at the beginning and end of the hearing, the text of which will be finalized by the Tribunal after having consulted the Parties;
 - (c) the hearing shall not be open to the public;
 - (d) the Tribunal shall give the Parties at least one week’s advance notice of the date that it will issue its Award. On the date of issuance, an electronic copy of the Award shall be transmitted to each Agent. Simultaneously with the electronic issuance of the Award to the Agents, the Ambassadors of Bangladesh and India to the Netherlands shall be invited by the Secretary-General of the PCA to receive a hard copy of the Award at the Peace Palace;
 - (e) the Award shall be made public on the PCA website on the day after the Award is transmitted to the Parties as provided above. Until the Award is so published, neither Party shall comment upon or make public the Award or its contents;
 - (f) the published Award shall be accompanied by a press release summarizing the proceedings and key rulings of the Tribunal.; and
 - (g) the written and oral pleadings of the Parties shall be made available to the public on the PCA website at the same time the Award is published.

4. Title of this Arbitration

- 4.1 These proceedings shall henceforth be entitled the “*Bay of Bengal Maritime Boundary Arbitration between Bangladesh and India*”.

5. Other Matters

- 5.1 After the close of the hearing on Wednesday, 18 December 2013, the Tribunal shall host an informal reception followed by a dinner for all the agents, counsel, and other party representatives present at the hearing (along with their spouses and partners). The reception shall immediately follow the end of the hearing; the dinner will begin at 19:00 at a venue to be announced during the hearing. Each Party is requested to inform the PCA of the number of persons who will be attending the dinner from their respective delegations by no later than **Wednesday, 11 December 2013**.
- 5.2 The PCA will coordinate with the Parties to ensure that the technical requirements (including LiveNote, PowerPoint slide projection, wireless internet, and photocopiers) necessary for the efficient conduct of the hearing are met. In that regard, the Parties are requested to provide, by no later than **Monday, 11 November 2013**, a list of the members of their delegations who will be in attendance at the hearing and also to inform the PCA of the number of LiveNote laptops and other technical and logistical requirements they may have.
- 5.3 The regular hours of the Peace Palace during weekdays are from 08:00 up to 19:30. Should the Parties require access to the Party break-out rooms for setup and preparation during the weekend before the hearing, or extended evening access during the course of the hearing, they are requested to inform the PCA of such requirements by no later than **Monday, 11 November 2013**.
- 5.4 After consulting with the Parties and the Tribunal, the PCA shall make seating arrangements in the PCA Administrative Council Chamber/“Japanese Room” in a manner that facilitates the efficient conduct of the hearing.
- 5.5 The PCA will organize the catering of lunches (with appropriate arrangements being made for agents, counsel, and other party representatives) and sufficient supplies of water, coffee, and tea every hearing day.

Dated: 6 November 2013 (corrected: 8 and 12 November 2013), The Hague.

ON BEHALF OF THE ARBITRAL TRIBUNAL:



Judge Rüdiger Wolfrum

President