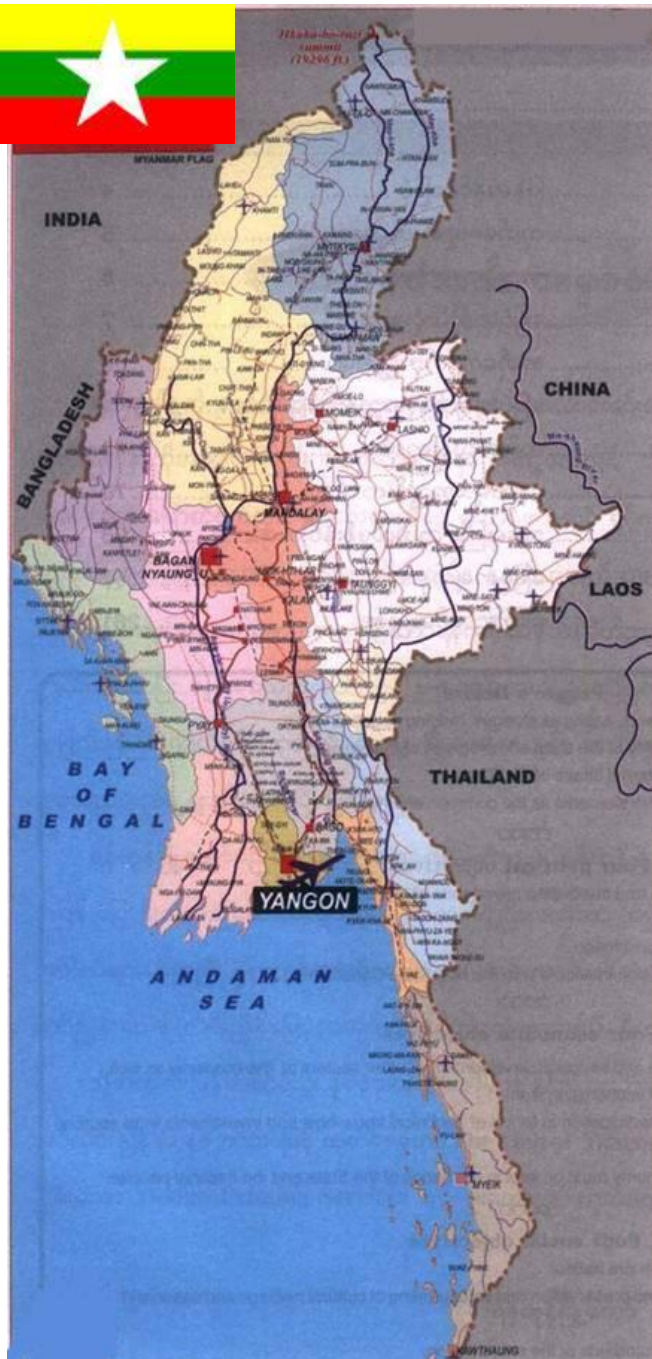


Settlement of Dispute concerning Delimitation of the Maritime Boundary between Bangladesh and Myanmar in the bay of Bangal

29-5-2014



The Republic of the Union of Myanmar

Area : 676577 km square

Population : 60 Million(2013)

Climate : tropical monsoon climate

*People : Myanmar
(8 major ethnic groups & over 100 ethnic groups)*

*Religion : 83 % Buddhism,
5.6 % Christianity,
3.8 % Muslin
0.5% Hindu.*

*Festivals : Seasonal festivals,
social and religious festivals*

Independence Day : 4 January

Union Day : 12 February

Capital : Nay Pyi Taw

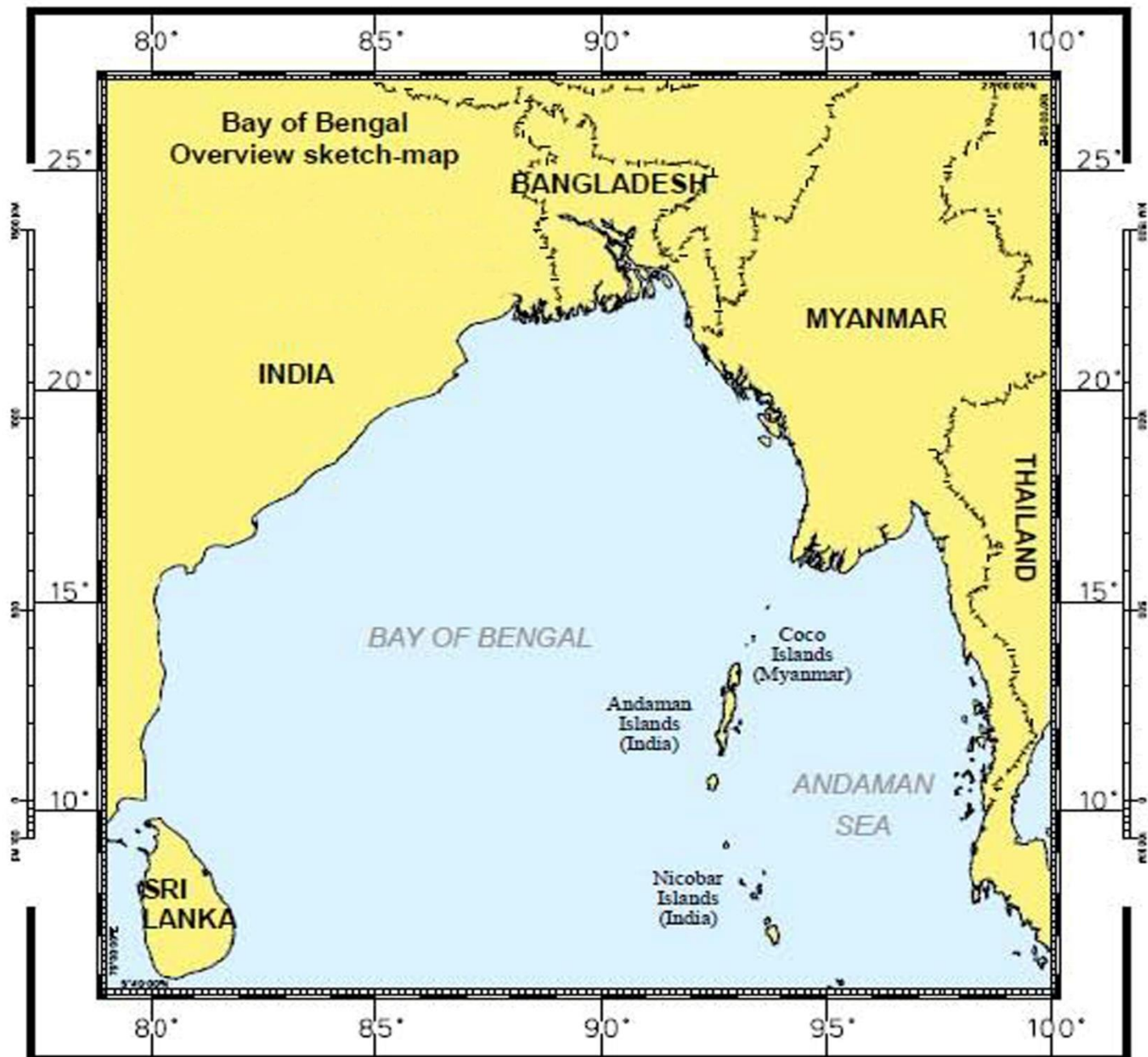
Myanmar's national sea jurisdiction

coastline - 1385 miles (Coastal Neighbours are Bangladesh, India and Thailand)

- 443 miles in the Rakhine Coast / 272 miles in the Gulf of Martaban (Mottama) & 670 miles in the Tenasserim Coast –
- Myanmar used to established
 - 12 mile territorial sea
 - 200 mile exclusive economic zone(EEZ)
 - continental shelf extending to the outer edge of the continental margin or 200 miles

by enacting the national law (Territorial Sea and Maritime Zones Law in 1977)

- In this context, it has become incumbent for Myanmar to conduct bilateral negotiations with its three coastal state neighbours, namely, Bangladesh, India and Thailand for the delimitation of a dividing line as sea boundary.



Negotiations with India, Thailand and Myanmar

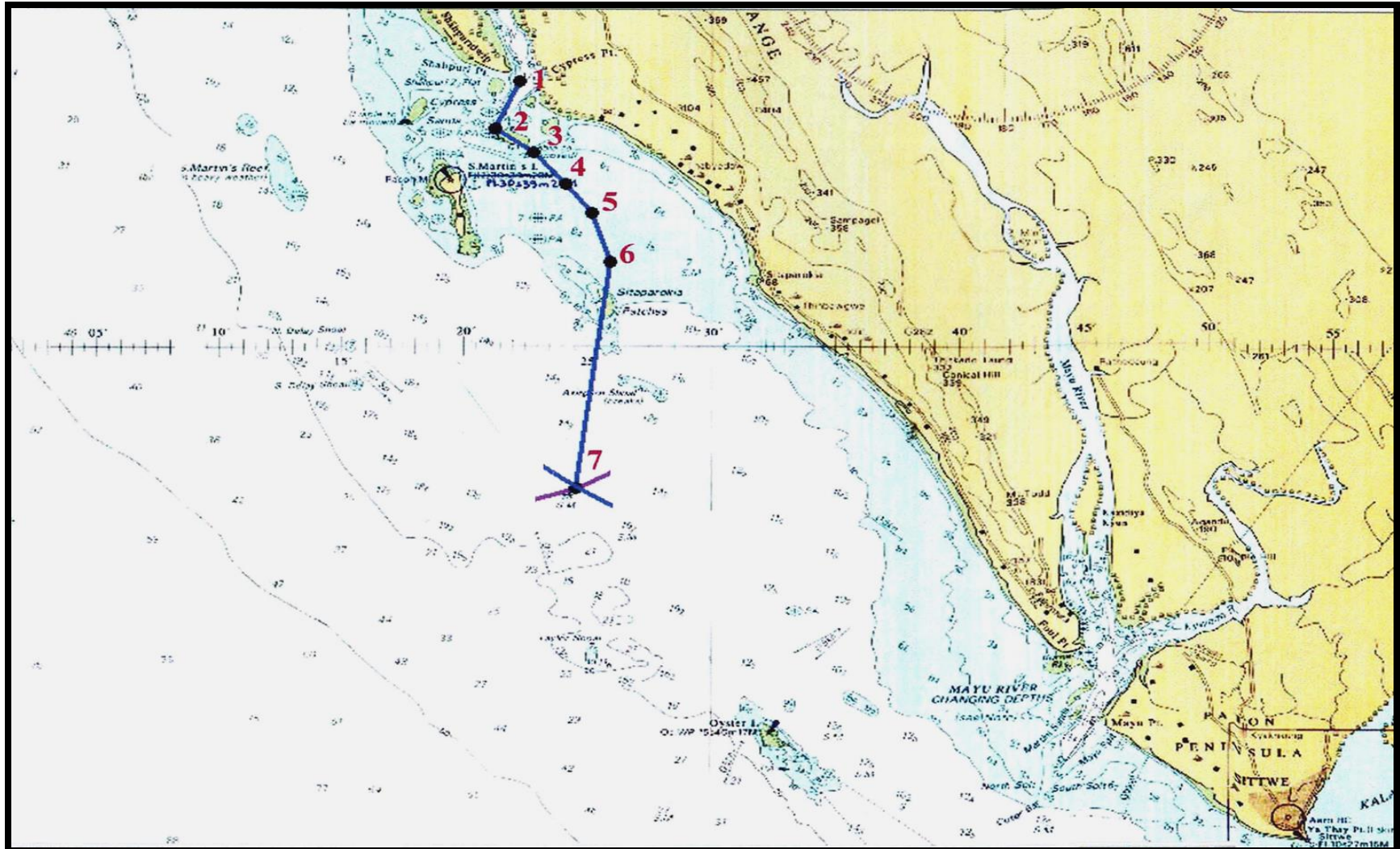
- Myanmar established bilateral agreements with Thailand on 25-7-1980 (in the Andaman Sea)
- With India on 23-12-1986 (in the Andaman Sea, in the Coco Channel and in the Bay of Bengal)
- With both India and Thailand on 27-10-1993 (the trijunction point between the three countries in the Andaman Sea)

Negotiations between Myanmar and Bangladesh

- Held 8 rounds of negotiation between 1974 and 1986 (6 of them – Technical level) (2 of them – political level)
 1. 1st round – 4-9-1974 to 9-9-1974 (technical level) Yangon.
 2. 2nd round – 20-11-1974 to 25-11-1974 (technical level) Dhaka, signed the Agreed Minutes between the head of delegations
 3. 3rd round – 14-2-1975 to 20-2-1975 (technical level) Yangon

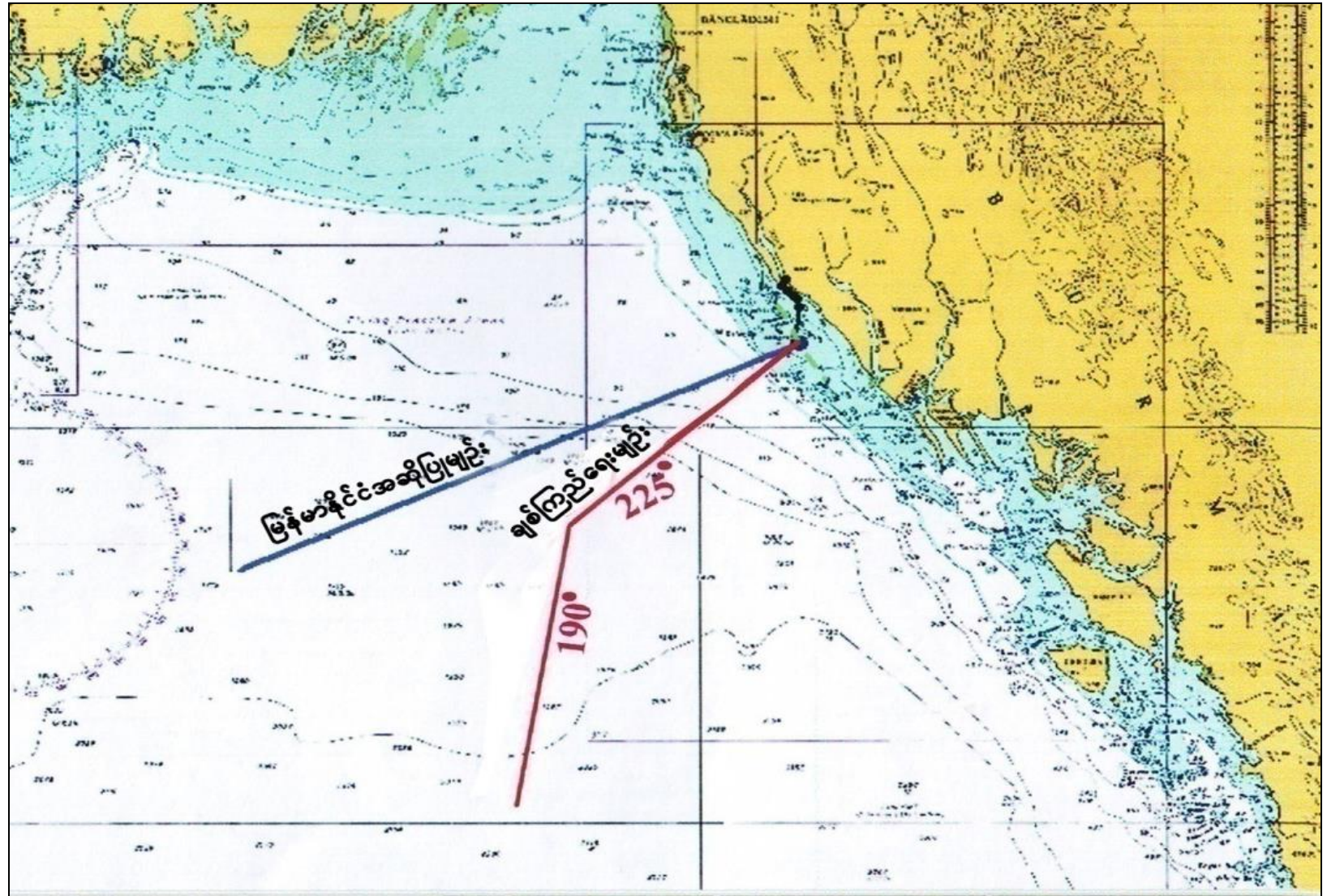
Second Round of Talks (Technical Level) (20-11-1974 to 25-11-1974)

Conditional Agreed Minutes



- 4th round – 5-3-1976 to 7-3-1976 (Ministerial level) Yangon
- 5th round – 8-6-1979 to 9-6-1979 (Technical Level) Dhaka
- 6th round – 18-11-1985 to 21-11-1985 (Ministerial level) Yangon
- 7th round – 10-2-1986 to 13-2-1986 (Technical level) Dhaka
- 8th round – 30-6-1986 to 5-7-1986 (Technical level) Yangon

Fourth Round of Talks (Ministerial Level) (5-3-1976 to 7-3-1976) (Yangon)



Main Points of Myanmar's Proposal during the bilateral agreements

- Myanmar proposed to use **equidistance method** , fair and to adjust for equity to achieve equitable result.
- Myanmar's position is based on the principle of natural prolongation of land territory and respect for territorial sea of other states.

Myanmar's Proposal in Technical Level

- In 1975, 2rd round, Myanmar suggested latitude line, perpendicular line of 235 degree drawn at fixed point No. 1.
- Myanmar proposed 235 degree line to be moved to 225 degree line to achieve more equitable for Bangladesh.
- In 1975, 3rd round, Myanmar proposed 235 degree line perpendicular from fixed point 1.

- Myanmar proposed 243 degree line drawn from terminal point of the projected Myanmar – Bangladesh territorial sea boundary taking St. Martin and Oyster as base points.
- In 1985, Myanmar proposed the first segment of CS/ EEZ shall be drawn 243 degree (true median line) from the end of the territorial sea and true median line will be deflected for the second segment.

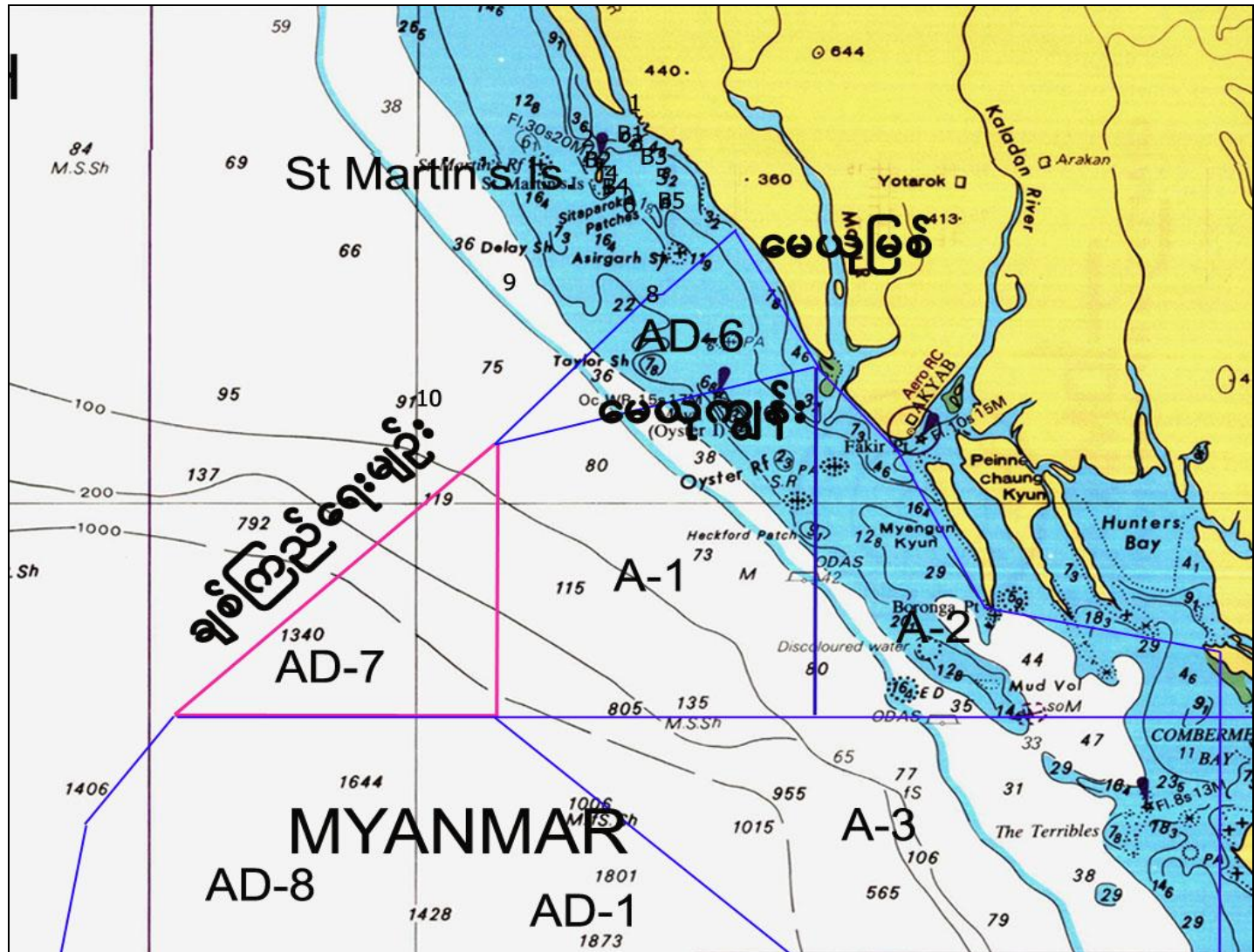
- In 1986, Myanmar agreed the first segment to begin from mid point between St. Martin and Oyster which are 22 miles to the south from the land. Myanmar agreed to move to 22 miles to the south.
- Both sides have different views on point 7.(The water between St. Martin and May Yu as internal water or territorial sea).

Postpone of Bilateral agreements

- Bilateral Agreements were postponed for 21 years, reason – no common ground between the parties.
- the conditional agreement was no longer binding
- The United Nations Convention on the Law of the Sea was adopted in 1982 and the Convention entered into force for Bangladesh on 26-8-2001 and for Myanmar on 20-6-1996.
- Article 287 pp 1 of UNCLOS, **a State shall be free to choose 4 means for the settlement of disputes including the International Tribunal for the Law of the Sea.**
- Article 279 of the UNCLOS, states are under an obligation to settle disputes by peaceful means as indicated in Article 33 of the UN Charter.

Bilateral talks (2008 to 2010)

- In the past years, Myanmar has been exploring and exploiting gas at the east side of Bangladesh's proposed friendship line.
- Bangladesh side agented the exploring and exploiting gas on 29-10-2008.
- Both of the two countries resumed the talks on 2008 and the two sides signed the Agreed Minutes of the Meeting on 1-4-2008.



- 9th round, (29-3-2008 to 1-4-2008),
Dhaka, signed the Agreed Minutes
- 10th round, (4-9-2008 – 5-9-2008), Bagan
- 11th round, (16-11-2008 to 18-11-2008),
Dhaka
- 12th round (30-7-2009 to 31-7-2009)
Naypyitaw
- 13th round (8-1-2010 to 9-1-2010)
- 14th round (17-3-2010 to 18-3-2010)

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. The Delegations of Bangladesh and Myanmar held discussions on the delimitation of the maritime boundary between the two countries in Dhaka from 31 March to 1st April, 2008. The discussions took place in an atmosphere of cordiality, friendship and understanding.
2. Both sides discussed the ad-hoc understanding on chart 114 of 1974 and both sides agreed ad-referendum that the word "unimpeded" in paragraph 3 of the November 23, 1974 Agreed Minutes, be replaced with "Innocent Passage through the territorial sea shall take place in conformity with the UNCLOS, 1982 and shall be based on reciprocity in each others' waters".
3. Instead of chart 114, as referred to in the ad-hoc understanding both sides agreed to plot the following coordinates as agreed in 1974 of the ad-hoc understanding on a more recent and internationally recognized chart, namely, Admiralty Chart No.817, conducting joint inspection instead of previously agreed joint survey:

Serial No.	Latitude	Longitude
1.	20°-42'-12.3" N	092°-22'-18" E
2.	20°-39'-57" N	092°-21'-16" E
3.	20°-38'-50" N	092°-22'-50" E
4.	20°-37'-20" N	092°-24'-08" E
5.	20°-35'-50" N	092°-25'-15" E
6.	20°-33'-37" N	092°-26'-00" E
7.	20°-22'-53" N	092°-24'-35" E

Other terms of the agreed minutes of the 1974 will remain the same.

4. As a starting point for the delimitation of EEZ and Continental Shelf, Bangladesh side proposed the intersecting point of the two 12 nautical miles arcs (Territorial Sea limits from respective coastlines) drawn from the southernmost point of St. Martin's island and Myanmar mainland as agreed in 1974, or any point on the line connecting the St. Martin's Island and Oyster Island after giving due effect i.e. 3:1 ratio in favour of St. Martin's Island to Oyster Island. Bangladesh side referred to the Article 121 of the UNCLOS, 1982 and other jurisprudence regarding status of Islands and rocks and Oyster Island is not entitled to EEZ and Continental Shelf. Bangladesh side also reiterated about the full effects of St. Martin's Island as per regime of Islands as stipulated in Article 121 of the UNCLOS, 1982.

7/11/08

Mar

5. Myanmar side proposed that the starting point for the EEZ and Continental Shelf could be the mid point on the line connecting the St. Martin's Island and Oyster Island. Myanmar side referred to Article 7(4), 15, 74, 83 and cited relevant cases and the fact that the proportionality of the two coastlines should be considered. Myanmar also stated that Myanmar has given full effect to St. Martin's Island which was opposite to Myanmar mainland and that Oyster Island should enjoy full effect, since it has inhabitants and has a lighthouse, otherwise, Myanmar side would need to review the full-effect that it had accorded to St. Martin's Island.
6. The two sides also discussed and considered various equitable principles and rules applicable in maritime delimitation and State practices.
7. They agreed to continue discussions in the matter with a view to arriving at a mutually acceptable maritime boundary in Myanmar at mutually convenient dates.



Commodore Maung Oo Lwin
Leader of the Myanmar Delegation

Dated: April 1, 2008
Dhaka.



M.A.K. Mahmood
Additional Foreign Secretary
Leader of the Bangladesh Delegation

- Both sides failed to follow the other dispute settlement procedures, apart from bilateral negotiations
- On 8-10-2009, Bangladesh addressed to Myanmar a written notification instituting arbitral proceeding under UNCLOS.
- Myanmar feed back to submit to the ITLOS and Bangladesh agreed.

- Then, the Ministry of Foreign Affairs of Bangladesh notified the President of the ITLOS concerning the settlement of dispute between Myanmar and Bangladesh relating to the delimitation of maritime boundary in the Bay of Bangal.
- On that basis, MOFA of Bangladesh invited the Tribunal and the case was entered in the list of cases as Case No. 16 on 14-12-2009.

Special Task Force for Myanmar

- The Government of the Union of Myanmar formed the Special Task Force in 2009 firstly and it was refounded by the International Law Specialists and Technicians.
1. Leader / Agent of Myanmar Delegation - H.E. Dr. Tun Shin, Attorney General of the Union of Myanmar
 2. Deputy Agents - Ms. Hla Myo Nwe and Mr. Kyaw San.
 3. Leads of Counsel - Mr. Alain Pellet, Professor of the University of Paris Quest and Sir Michael Wood
 4. 8 members of the Counsels and Advocates
 5. 1 Geologist
 6. 5 Hydrographers/Cartographers

Reasons why Myanmar decided to submit the case in ITLOS

1. Myanmar strongly believe that the Judgment may be justified because most of the Judges represents the Developing countries and some of the Judges represents from countries of International legal system.
2. Myanmar also believe that ITLOS may settle the dispute no so long and it may save the budget.

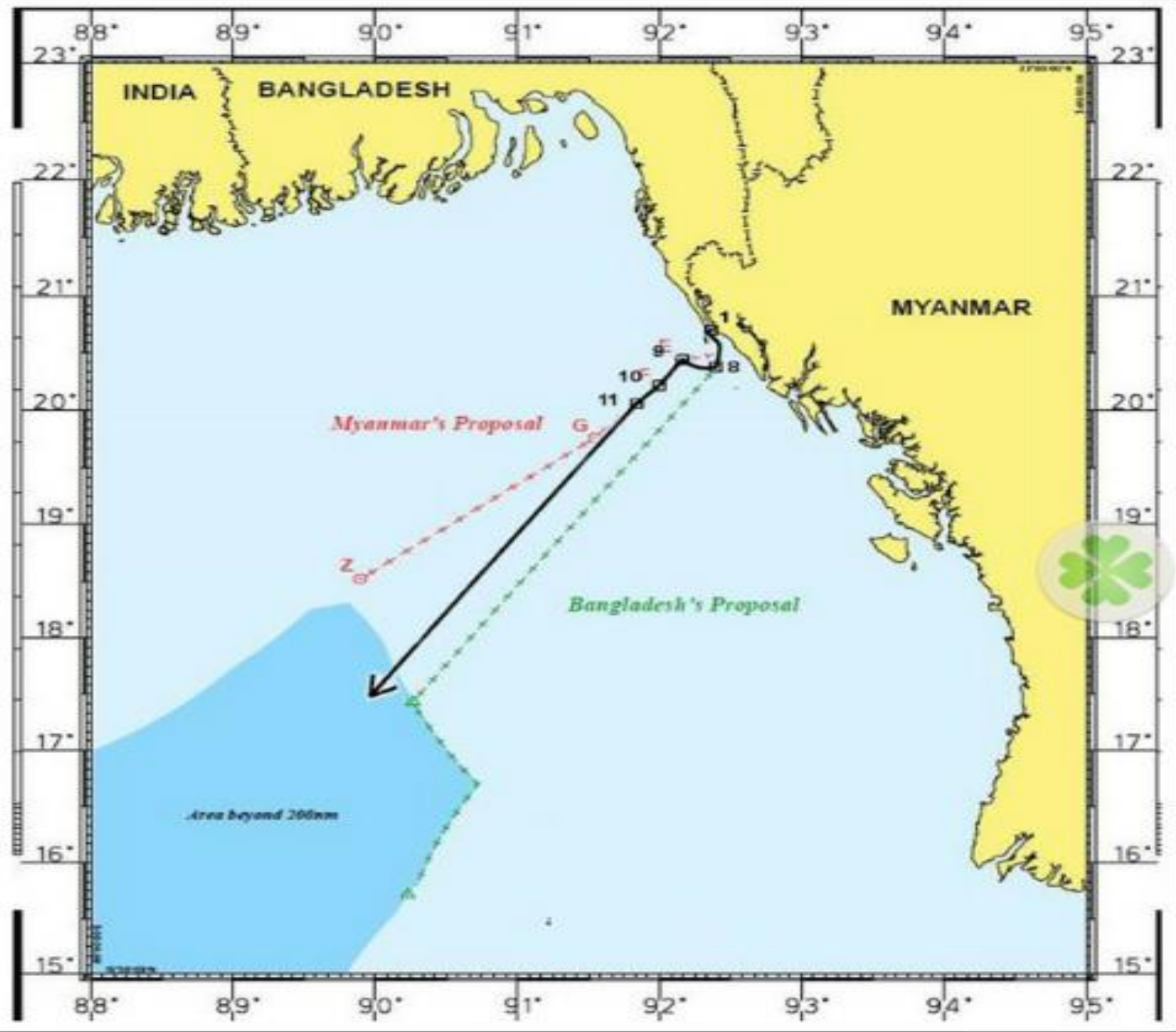
Case No. 16 before the ITLOS

- Both sides submitted the Written Pleadings to the ITLOS with step by step and it took time about a year-
- Memorial, submitted by Bangladesh (1-7-2010)
- Counter Memorial , submitted by Myanmar (1-12-2010)
- Reply of Bangladesh (15-3-2011)
- Rejoinder of Myanmar (1-7-2011)
- The Oral Proceedings (September 2011 to March 2012)

- In the course of the oral proceedings, the Parties displayed numbers of slides, including maps, charts and excerpts from documents.
- The Final Submission of Myanmar was submitted on 24-9-2011 with the declaration of the points.

Judgement

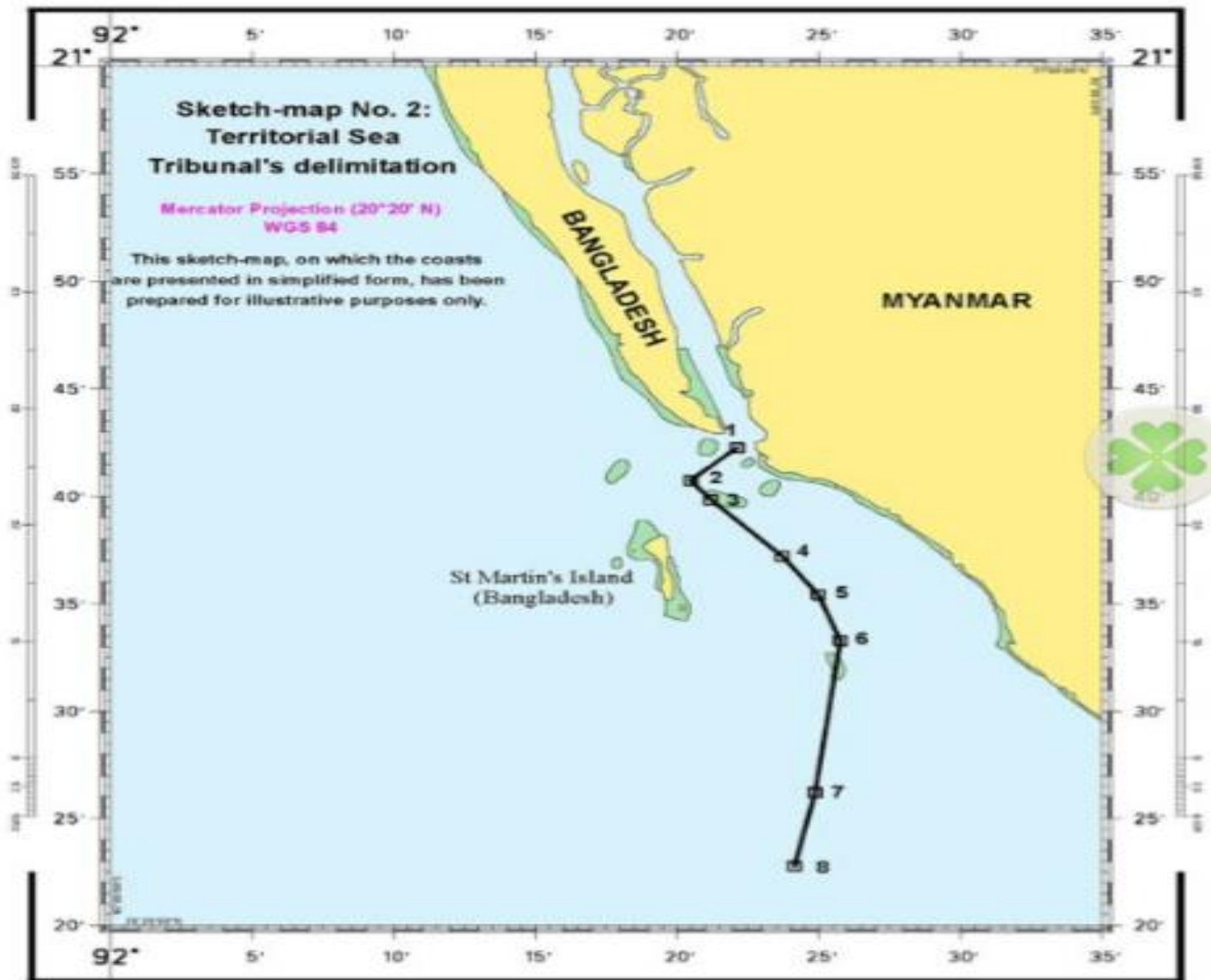
- The Tribunal delivered the Judgment on **14-3-2012** and it was read by Judge Jose Luis Jesus, who presided over the Tribunal in this case.



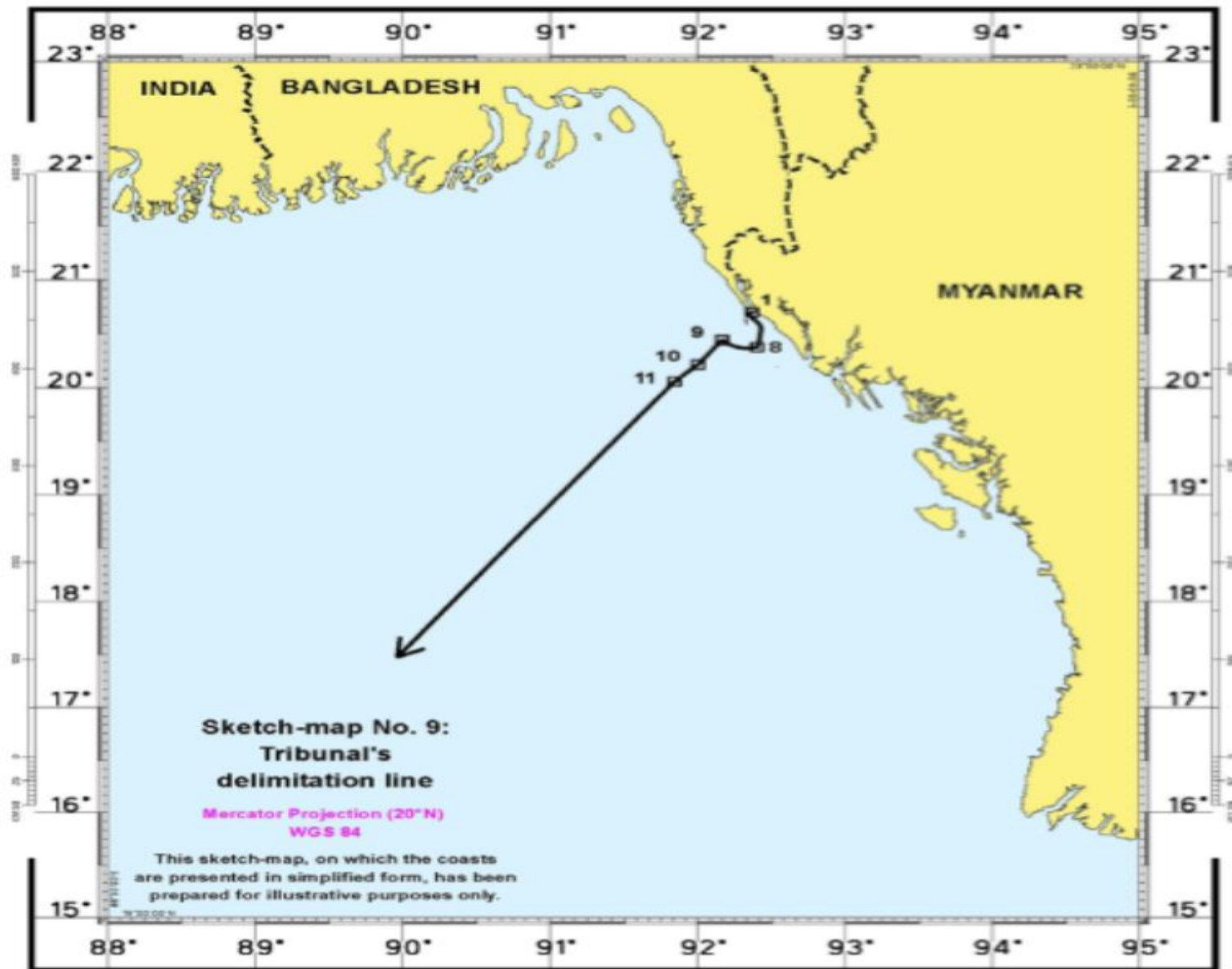
- The Tribunal finds that it has jurisdiction to delimit the maritime boundary of the territorial sea, EEZ and the continental shelf between the parties and also finds that its jurisdiction concerning continental shelf includes the delimitation of the continental shelf beyond 200 nm. (Vote – For: 21, Against:1)
- There is no agreement between the Parties within the meaning concerning the delimitation of the territorial sea. (Vote – For: 20, Against:2)

Delimitation with Points

- Stating from Point 1 as agreed by the Parties in 1966, the line of the single maritime boundary shall follow a geodetic line until it reaches Point 2.
- From Point 2, the single maritime boundary shall follow the median line formed by segments of geodetic lines connecting the points of equidistance between St. Matrin's Island and Myanmar through Point 8.
- From Point 8, the single maritime boundary follows in a northwest direction the 12 nm envelope of arcs of the territorial sea around St. Martin's island until it intersects at Point 9 with the delimitation line of the EEZ and Continental Shelf between the Parties. (For 21. Against 1)



- From Point 9, the single maritime boundary follows a geodetic line until Point 10 and then along another geodetic line until Point 11.
- From Point 11, the single Maritime boundary continues as a geodetic line starting at an azimuth of 215 ° until it reaches the 200 nm limit calculated from the baseline from which the breadth of the territorial sea of Bangladesh is measured. (For 21, Against 1)
- Beyond that 200 nm, the maritime boundary shall continue from Point 11 at an azimuth of 215 ° , until it reaches the area where the rights of third States may be affected. (For 19, Against 3)



Conclusion

- satisfies with the Judgment
- both parties respect the Judgment
- the Judgment can maintain the friendly neighboring relationship between Bangladesh and Myanmar
- Appreciate ITLOS and both parties for using one of the peaceful means of settling dispute

Thank You