

**IN THE MATTER OF THE BAY OF BENGAL
MARITIME BOUNDARY ARBITRATION**

-before-

**THE ARBITRAL TRIBUNAL CONSTITUTED
IN ACCORDANCE WITH 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

**PROCEDURAL ORDER No. 3
(Concerning the Record of the Site Visit)**

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, 20 November 2013

WHEREAS Article 6(b) of Annex VII to the 1982 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”;

WHEREAS Article 12(3) of the Rules of Procedure adopted on 26 May 2010 provides that “[t]he Arbitral Tribunal may take all appropriate measures in order to establish the facts”;

CONSIDERING that the Tribunal and delegations from both Parties conducted a site visit during the period of 22-26 October 2013 pursuant to *Procedural Order No. 1 (Concerning the Site Visit of October 2013)*;

CONSIDERING that video and photo recordings of the different features viewed and presentations made during the course of the site visit were taken;

CONSIDERING that under paragraph 2.5 of *Procedural Order No. 2 (Concerning the Hearing on the Merits)*, the Parties are authorized to “employ any photographs and video recordings of the site visit that are admitted by the Tribunal into evidence by procedural order”;

CONSIDERING the Parties’ comments on a draft of this Order provided to the Parties on 12 November 2013;

THE TRIBUNAL ISSUES THE FOLLOWING ORDER:

1. Introduction

This Order provides for the manner in which photographs and video recordings of the site visit may be admitted into evidence.

2. Transmission of the Site Visit Record

2.1 On behalf of the Tribunal, the Registry has prepared a record of the site visit (the “**Site Visit Record**”), composed of:

(a) the photographic record, chronologically arranged, of the site visit, with each photograph being numbered sequentially; and

(b) an edited video recording of the site visit.

2.2 Digital copies of the Site Visit Record have been transmitted to the Parties via courier on Friday, 15 November 2013 for paragraph 2.1(a) above, and Wednesday, 20 November 2013 for paragraph 2.1(b) above.

2.3 The Parties are invited to review the Site Visit Record carefully upon receipt.

3. Admission of the Site Visit Record into Evidence

3.1 *Photographs*: Should any Party wish to introduce any of the photographs included in the Site Visit Record into evidence for use in the present proceedings, including during the hearing on the merits, it shall so indicate by identifying the photograph(s) by number and providing the Tribunal, the other Party, and the Registry with a copy thereof (*via e-mail and courier*) by no later than **Wednesday, 27 November 2013**. Each photograph shall be captioned and accompanied by a brief description of the subject(s) depicted and the purpose for which it is

sought to be introduced into evidence. The other Party shall thereafter be given an opportunity to provide any comments and/or objections it may have to those photograph(s)' admission into evidence, by no later than **Wednesday, 4 December 2013**.

- 3.2 *Video:* Should any Party wish to introduce any segment of the Site Visit Record's video recording into evidence for use in the present proceedings, including during the hearing on the merits, it shall so indicate by providing the Tribunal, the other Party, and the Registry with the start and end time periods of the video corresponding to the segment(s) it wishes to present, together with a copy thereof (*via e-mail and courier*), by no later than **Wednesday, 27 November 2013**. Each segment shall be captioned and accompanied by a brief description of the subject(s) depicted and the purpose for which it is sought to be introduced into evidence. The other Party shall thereafter be given an opportunity to provide any comments and/or objections they may have to those segment(s)' admission into evidence, by no later than **Wednesday, 4 December 2013**.
- 3.3 Any part of the Site Visit Record so submitted by a Party that is not objected to by the other Party may be accepted into evidence by the Tribunal. If so accepted, such photographs and video segments shall be duly marked pursuant to Article 12(2) of the Rules of Procedure, and their admission into evidence shall be confirmed by procedural order.
- 3.4 In case a Party raises an objection to the introduction of a particular photograph and/or video segment, the Tribunal shall resolve the dispute prior to the commencement of the hearing, guided by the "the admissibility, relevance, materiality and weight" (Rules of Procedure, Article 12(1)) of the evidence proffered.

Dated: 20 November 2013, The Hague

ON BEHALF OF THE ARBITRAL TRIBUNAL:



Judge Rüdiger Wolfrum

President