

The Relationship between the Procedures Involving the CLCS and Third Party Dispute Settlement in relation to the Delimitation of the Continental Shelf Beyond 200 Nautical Miles

Tromsø, 23 September 2014

Øystein Jensen



- Delineation (Article 76) vs delimitation (Article 83)



- Article 76, paragraph 10:
 - “The provisions of this article are without prejudice to the question of delimitation of the continental shelf between States with opposite or adjacent coasts”.



- Rule 5 (litra a) of Annex I to the Rules of Procedure:
 - “In cases where a land or maritime dispute exists, the Commission shall not consider and qualify a submission made by any of the States concerned in the dispute. However, the Commission may consider one or more submissions in the areas under dispute with prior consent given by all States that are parties to such a dispute”.



- *Dispute concerning delimitation of the maritime boundary between Bangladesh and Myanmar in the Bay of Bengal*, para. 384:
 - “The Tribunal observes that the determination of whether an international court or tribunal should exercise its jurisdiction depends on the procedural and substantive circumstances of each case”.



- Para 368:

- “In addition, as far as the Area is concerned, the Tribunal wishes to observe that, as is evident from the Parties’ submissions to the Commission, the continental shelf beyond 200 nm that is the subject of delimitation in the present case is situated far from the Area”.



- Para 443:
 - “Notwithstanding the overlapping areas indicated in the submissions of the Parties to the Commission, the Tribunal would have been hesitant to proceed with the delimitation of the area beyond 200 nm had it concluded that there was significant uncertainty as to the existence of a continental margin in the area in question”.



- Para 391:

- “A decision by the Tribunal not to exercise its jurisdiction over the dispute relating to the continental shelf beyond 200 nm would not only fail to resolve a long-standing dispute, but also would not be conducive to the efficient operation of the Convention”.



- Entitlement



- Relevant circumstances

