

# A new opportunity for Bangladesh in the Bay

BARRISTER HARUN UR RASHID

It was realised in the early days of independence that Bangladesh would need to explore and exploit the immense untapped natural resources of the sea as the land territory of Bangladesh covered only about 144,000 square kilometers. Against this backdrop, bilateral talks to demarcate the maritime boundary commenced with India and Myanmar in 1974. But the talks remained stagnant for more than three decades. Under these circumstances, Bangladesh had to look for another way to resolve the maritime disputes with the two countries.

On October 8, 2009, the AL government took a bold but a risky decision to seek justice under the arbitral settlement provisions of the 1982 UN Convention on the Law of The Sea (UNCLOS). This avenue was open as all three countries -- Bangladesh, India and Myanmar -- had filed UNCLOS and hence were bound to act by the provisions of the Convention. The risk was that the judgment of the UN dispute machinery could go against Bangladesh unless there was a thorough preparation of Bangladesh's case and a team of international lawyers of repute could be put together to argue the case of Bangladesh before the arbitral tribunals. It was a 'legal gamble' for Bangladesh.

Under the Convention, two methods of

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dispute-resolving mechanisms were available to the parties. Myanmar agreed to the jurisdiction of the Hamburg-based International Tribunal of the Law of the Sea (ITLOS), while India agreed to the authority of The Hague-based Permanent Court of Arbitration (PCA), and verdicts of both courts have been delivered.

## BANGLADESH -MYANMAR DISPUTE:

On March 14, 2012, ITLOS delivered the judgment rejecting the application of equidistance method in delimiting the boundary of economic zone and continental shelf. It awarded 200 nautical miles of

economic zone to Bangladesh (before that Bangladesh could claim only 130 miles of economic zone), thus allocating 1,11,631 square kilometers of sea area to Bangladesh. St. Martin's Island would have full 12-miles territorial sea instead of six miles as territorial sea.

Bangladesh was able to claim not only 200 nautical miles of economic zone but also continental shelf (seabed) beyond the 200 nm, which was a significant gain, given the fact that no international adjudicating body yet has exercised its jurisdiction in delimiting the continental shelf beyond 200 nm while the outer limit of the continental shelf is pending before the UN.

The judgment is a "win-win" situation for both countries as it has resulted in clearly defined maritime areas for both Bangladesh and Myanmar. Both countries are now able to explore and exploit the living and non-living resources of the maritime zones for their benefits.

## BANGLADESH-INDIA DISPUTE:

The Permanent Court of Arbitration (PCA) at The Hague officially conveyed the result to both parties on July 7, 2014, which was made public on July 8. India said that the judgment would further enhance goodwill between the two countries by putting an end to a longstanding issue.

The Court rejected the application of equidistance method in awarding to Bangladesh 19,467 sq. km. of the total

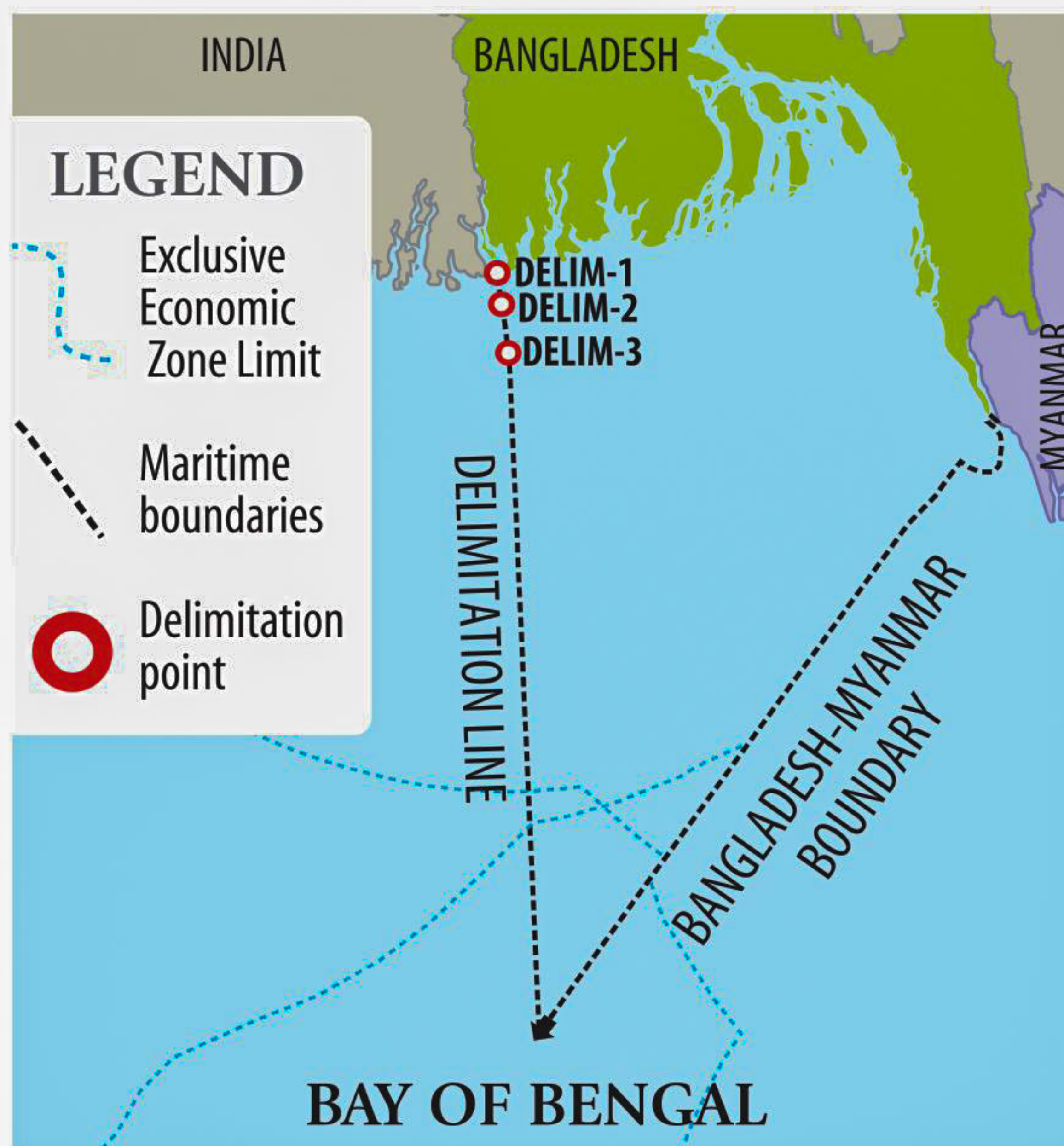
disputed 25,602 sq km sea area (76%), leaving 6,135 sq. km. (24%) to India.

The judgment allows Bangladesh 200-mile exclusive economic zone (EEZ), an additional 134 miles of continental shelf (sea bed) beyond the 200-miles economic zone and an access to the open sea, thus the possibility of turning Bangladesh into a "sea-locked country" is gone forever.

There was an apprehension among some jurists that judgments of ITLOS and the Permanent Court of Arbitration under UNCLOS would lead to the fragmentation of international maritime law, but this has proved to be baseless. Rather, both the judgments have adhered to judicial past precedents and substantially contributed to the progressive development of maritime international law.

## SAFEGUARDING THE MARITIME AREAS:

The total maritime area of Bangladesh covers more than 118,000 sq. km, 200 nm of EEZ and an additional area of about 154 nm of continental shelf (seabed) from the coast. The total area under the sovereign rights of Bangladesh constitutes nearly 81% of the mainland of Bangladesh. So there is an added responsibility to safeguard the area, the prime responsibility of which falls on the Bangladesh Navy (BN). BN too has taken steps to bring in changes in its infrastructure. Moreover, as part of the digitisation



effort, various automation systems are being developed for different functions. These efforts are likely to enhance BN's performances.

It is further reported that the office of the prime minister has constituted a cell consisting of relevant ministries and agencies to develop a maritime policy including setting up a maritime commission to protect the vast sea-area of Bangladesh. The protection of the maritime domain is to be understood from the lenses of national security. It will also include assertion of sovereignty over the areas, environmental security, harnessing the resources of the sea and combating non-traditional maritime threats (piracy, oil-spilling, gun running and human trafficking)

**IMPORTANCE OF BLUE ECONOMY:** The delimitation of the sea-boundary with India and Myanmar has opened up a new opportunity for Bangladesh for achieving sustainable economic growth leveraging the blue ocean to its south.

The ocean is one of Earth's most valuable natural resources. It provides food in the form of fish and shellfish. It's used for transportation -- both travel and shipping. It provides a treasured source of recreation for humans. It is mined for minerals (salt, sand, gravel, and some manganese, copper, nickel, iron, and cobalt can be found in the deep sea) and drilled for crude oil and gas. The ocean is an increasingly important source of biomedical organisms with enormous potentials for fighting diseases.

Increase in population coupled with positive indications of economic growth in the country has resulted in increasing demand for energy (oil and gas) in Bangladesh which could be found in the seabed. As the land resources diminish, the people will depend more on the resources of the sea.

On September 2, 2014 Bangladesh foreign minister reportedly spoke at a two-day international workshop on blue economy and said that "Blue-Economy" must be inclusive, and people-centric. The minister gave an idea of the collaboration that could take place and said that it must be based on certain universal principles of engagement, mutual trust, mutual benefits and equitable sharing of benefits. All collaboration would have to be in research, observation, surveillance, and in respect of sharing analyses, outcomes and observations.

It is reported that India, Maldives and Sri Lanka constituted a working group in 2011 to harness the resources of the sea. Cooperation and partnership with India, Myanmar and other countries could be sought in extracting resources from the Bay of Bengal. We expect that the private sector of Bangladesh will play an important role in the growth of blue economy.

The writer is former Ambassador to UN, Geneva, Switzerland.