



INFORMATION NOTE

Regarding Judgment of the International Tribunal for the Law of the Sea (“ITLOS”) in Dispute Concerning Delimitation of the Mauritius/Maldives Maritime Boundary

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(Regarding Judgment of the International Tribunal for the Law of the Sea (“ITLOS”) in Dispute Concerning Delimitation of the Mauritius/Maldives Maritime Boundary)

I. Introduction

The International Tribunal on the Law of the Sea (ITLOS) has delivered its verdict on April 28, 2022, in the maritime boundary dispute between Mauritius and the Maldives. The dispute primarily involved the Exclusive Economic Zones (EEZ) of the Maldives and the **Chagos archipelago**, as well as the delimitation of territorial waters between Mauritius and the Maldives. This note examines the outcome of the case and provides an overview of the key arguments presented by both parties.

II. Subject Matter of the Dispute

At stake in this case were 92,563 square kilometres of ocean territory claimed by both Mauritius and the Maldives within their exclusive economic zones (EEZs). Mauritius had argued that base point for determining the area should commence from the Blenheim Reef which is visible during low tide. The Maldives in reverse, asserted that the base point cannot be determined by a reef spotted during low tide (*underwater at high tide and partially over the water at low tide*) and the demarcation should be determined from the coast of the Chagos Islands. The case presented an unusual situation as both Mauritius and the Maldives are self-declared archipelagic states, and the United Nations Convention on the Law of the Sea (UNCLOS) provides provisions on determining maritime boundaries between neighbouring archipelagos.



The origin of the dispute traces back to 2019 when the United Nations General Assembly sought the International Court of Justice's (ICJ) opinion on the status of the Chagos Islands. On 18 June 2019, Mauritius initiated proceedings by notifying the Maldives and commencing the case at the ITLOS. Then, on 17 January 2022 Mauritius has uttered that Maldives putting unacceptable restrictions on its scientific survey, including excluding its lawyers and Mauritian government officials from survey team, as well as asking Mauritius to get clearances from UK for the expedition.

III. What is Special Chamber's Judgement?

The operative section of the 28 April 2023 judgment unanimously reached the following conclusion: The Special Chamber of the International Tribunal for the Law of the Sea (ITLOS) established a clear and definitive maritime boundary for the exclusive economic zone (EEZ) and continental shelf within a 200 nautical mile (nm) range between Mauritius and the Maldives. The Special Chamber has confirmed its unanimous jurisdiction to delimit the continental shelf beyond 200 nautical mile (nm) and deemed Mauritius' request admissible. However, due to the complexity of determining Mauritius' rights in the Northern Chagos Archipelago Region, the Special Chamber did not proceed with delimitation in that specific area. (*para. 466.*)

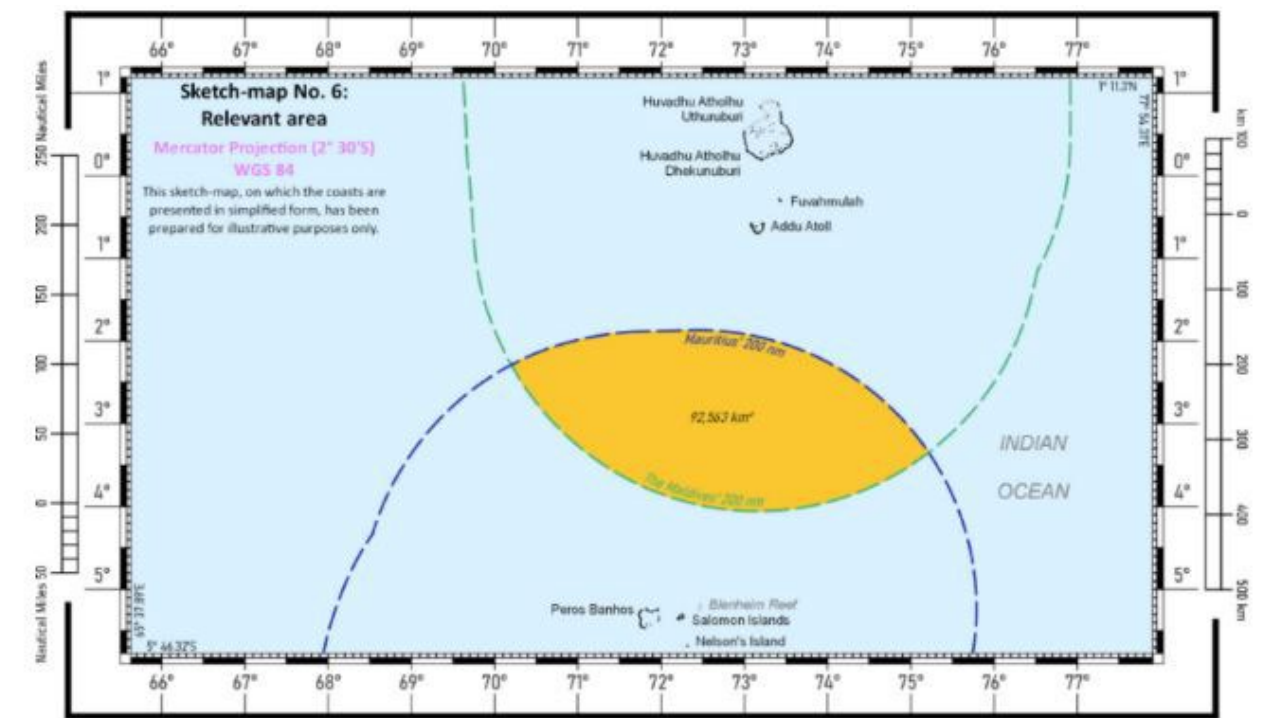


Figure 1. The overlapping claims of Mauritius and Maldives (Decision of the ITLOS, 28 April 2023.).

IV. What are the focal points uttered by the Chamber?

During the proceedings at the ITLOS, both countries agreed to use the "equidistance" formula, similar to the method previously applied by the UK in the 1990s to delineate Chagosian waters from Maldivian waters, although this was not officially ratified. The process involved three steps: establishing a provisional boundary **splitting** the disputed area, adjusting the boundary to ensure **fairness**, and verifying that the **proportion** of waters to each state corresponded to the length of their coastlines.

The main point of contention between Mauritius and the Maldives was *Blenheim Reef*, a collection of partially submerged reefs. Mauritius argued for including Blenheim Reef, which harbours the status as a "drying reef", as part of its coast and using it to calculate the equidistance line, supported by a geodetic survey conducted during a scientific trip to the Chagos Islands. On the other side, the Maldives has objected to considering the 36 square kilometre Blenheim Reef in the calculations and insisted on using islands like Peros Banhos and Salomon to determine the boundary.

The Maldives presented satellite images depicting Blenheim Reef underwater at high tide with only patches of coral heads visible at low tide, while Mauritius argued that Blenheim Reef constituted a single "underwater structure." If Blenheim Reef were included in the maritime boundary calculation, it would

shift half of the proposed boundary 11 miles further north, resulting in Mauritius being gained an additional 4,690 square kilometres of water, which Mauritius considered *extremely modest* but the Maldives viewed as *disproportionately large*.

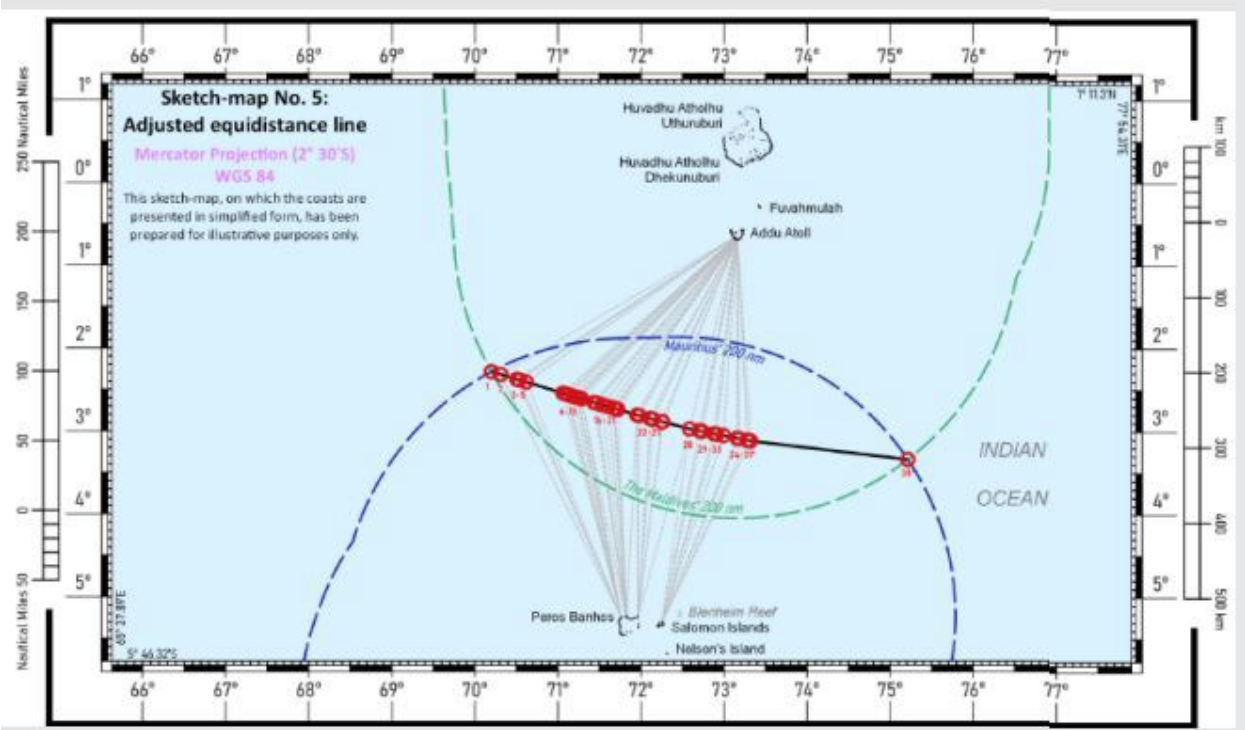


Figure 2. The boundary decided by the ITLOS (Decision of the ITLOS, 28 April 2023).

With regards to the delimiting the continental shelf entitlements of Mauritius and Maldives, Articles 74(1) and 83(1) of UNCLOS and the “three-stage approach” used by international courts and tribunals since the *Black Sea (Romania v. Ukraine)* case has applied:

- First and foremost, the ITLOS ruled that **Blenheim Reef could not serve as the basis for constructing the provisional equidistance line**. It also concluded there were “a number (not certain)” of low-tide elevations (“LTE”) and, for purposes of drawing archipelagic baselines under Article 47(1) of UNCLOS, only those LTEs “situated wholly or partly” within 12 nm of the nearest island (Île Takamaka) could be used. Thus, it did incorporate a portion of the reef within 12 nautical miles of Île Takamaka when drawing the boundary. The aim was to align the division of the disputed maritime zone as closely as possible with Mauritius' 40.3-kilometer coast (excluding most of Blenheim) and the Maldives' 39-kilometer coast.
- Furthermore, the ITLOS verdict awarded the **Maldives 47,232 square kilometers** and **Mauritius 45,331 square kilometers** out of the contested 92,563 square kilometers, stating that the ratio between the allocated areas and the respective lengths of the parties' coastlines was *not significantly disproportionate*.

Ultimately, The Special Chamber reached a unanimous decision affirming its authority to establish boundaries for the continental shelf beyond 200 nautical miles and deemed Mauritius' request admissible. However, the Special Chamber did not proceed with the delimitation process as it encountered difficulties in determining Mauritius' rights in the Northern Chagos Archipelago Region.

V. Conclusion

In addition to expanding Mauritius' territorial waters by 45,331 square kilometres, the ruling may be hailed as a "historic judgment" which also resolved the simmering boundary dispute with the Maldives. Although the ITLOS has resolved the EEZ boundaries between Mauritius and the Maldives by splitting the disputed area between them, both coastal states will still need to compel the use an adjudication in order to reach an agreement regarding the continental shelf they both claim, which lies just outside each other's EEZs.