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**PERMANENT MISSION OF BANGLADESH
TO THE UNITED NATIONS**

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Note Verbale

The Permanent Mission of the Peoples Republic of Bangladesh to the United Nations presents its compliments to the Secretary-General of the United Nations in his capacity as the depositary for the United Nations Convention on Law of the Sea (“UNCLOS”), and draws his attention to the following observations of the Government of Bangladesh arising from his communication of 23 December 2008, Ref. CLCS.16.2008.LOS (Continental Shelf Notification) concerning the submission presented by the Union of Myanmar to the Commission on the Limits of the Continental Shelf (the “Commission”).

Based on its initial review of the Executive Summary of Myanmar’s submission, the Mission has the honour to further convey the observation of the Government of Bangladesh that the submission fails to comply with UNCLOS on both substantive and procedural grounds and with the Rules of Procedure of the Commission (the “Rules”). Attention is drawn, in particular, to the following observations:

1. In Section IV (Relevant Maritime Delimitations) of the Executive Summary, Myanmar states:

“In accordance with paragraph 2(a) of Annex I to the Commission’s Rules of Procedures, Myanmar wishes to inform the Commission that the area of continental shelf that is the subject of this submission is not subject to any dispute between Myanmar and other States. ... Delimitation negotiations between Myanmar and Bangladesh are ongoing and consistent with Article 76, paragraph 10, and [sic] this submission has been made without prejudice to the eventual delimitation.”

2. In this regard, the Government of Bangladesh observes that the delimitation negotiations mentioned by Myanmar in its Executive Summary relate to the continental shelf (as well as to the EEZ) between Bangladesh and Myanmar and that such delimitation remains

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unresolved and the subject of ongoing negotiation. The unresolved delimitation in the Bay of Bengal is therefore to be considered as a dispute for the purposes of Rule 46 of the Rules, and of Annex I thereto.

3. In accordance with UNCLOS, including Article 76 and Annex II thereto, and the Rules of Procedure of the Commission, and in particular Annex I thereto, the actions of the Commission may not prejudice matters relating to the delimitation of boundaries between States with adjacent or opposite coasts. Yet, Myanmar's submission invites the Commission to do just that, by claiming, incorrectly, that "the subject of this submission is not subject to any dispute between Myanmar and other States..." In fact, the areas claimed by Myanmar in its submission to the Commission as part of its putative continental shelf are the natural prolongation of Bangladesh and hence Myanmar's claim is disputed by Bangladesh.

4. The straight baselines claimed by Myanmar, as recently defined by Myanmar in The Law Amending the Territorial Sea and Maritime Zones Law enacted on 5 December 2008 (The State and Peace Development Council Law No. 8/2008), and identified by it in each of Figures 1, 2 and 3 of its Executive Summary, have been objected to by Bangladesh. In particular, by a Note Verbale dated 30 June 2009, the Government of Bangladesh has protested to the Government of Myanmar the straight baselines claimed by Myanmar for the Preparis and Co Co islands, and along the coast of Myanmar up to Oyster Island. They are, accordingly, disputed under Rule 46 and Annex I to the Rules.

5. The Government of Bangladesh is of the view that, having no competence over questions of baselines from which the breadth of territorial sea is measured, the CLCS should not be perceived as endorsing disputed baselines, including those proclaimed by the Government of Myanmar and protested by the Government of Bangladesh, which are, in any event, not consistent with UNCLOS or international law.

6. The Executive Summary, in Section III (General Description of the Continental Shelf Margin and Provisions of Article 76 Invoked), states that Myanmar has claimed a natural prolongation of its landmass through to the outer edge of the 'Rakhine Continental Margin' on the basis of morphology, geology, and tectonics. The Government of Bangladesh believes this assertion is not supported by persuasive morphological, geological, or tectonic evidence. Scientific research and analyses have established that the morphology of the seabed in the Bay of Bengal is marked by a regional slope where water depth gradually increases from north to

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south. This characteristic contradicts the notion of a westward prolongation of Myanmar's landmass, which would imply a regional slope at a right angle; *i.e.*, from east to west. The characteristic also underscores the reality that the seabed in the northern Bay of Bengal owes much of its shape and composition to the high volumes of sediment that have emerged mostly from or across the landmass of Bangladesh over geological time.

7. The Government of Bangladesh reserves its right to submit further comments in relation to the submission of Myanmar as and when a more qualified assessment can be conducted, including an assessment of relevant scientific data. Bangladesh also reserves its right to submit comments on Myanmar's contentions regarding the purported applicability of the Statement of Understanding set out at Annex II of the Final Act of UNCLOS III.

8. Recalling paragraph 5(a) of Annex I of the Rules, the Government of Bangladesh observes that, given the presence of a dispute between Bangladesh and Myanmar concerning entitlement to the parts of the continental shelf in the Bay of Bengal claimed by Myanmar in its submission, the Commission may not "consider and qualify" the submission made by Myanmar without the "prior consent given by all States that are parties to such a dispute."

9. In these circumstances, and in accordance with articles 76 and 83(3) of the Convention and Annex I to the Commission's Rules of Procedures, Bangladesh will make every effort to reach a practical arrangement with Myanmar that will allow the Commission, in accordance with paragraph 5(a) of Annex I to its Rules of Procedure, to consider both the submission of Myanmar and the submission that Bangladesh will make by July 2011.

The Permanent Mission of Bangladesh to the United Nations avails itself of this opportunity to renew to the Secretary-General of the United Nations assurances of its highest consideration.

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