INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

Case No. 28

DISPUTE CONCERNING DELIMITATION OF THE MARITIME BOUNDARY BETWEEN MAURITIUS AND MALDIVES IN THE INDIAN OCEAN

REPUBLIC OF MAURITIUS / REPUBLIC OF MALDIVES

MEMORIAL OF MAURITIUS

VOLUME I

25 MAY 2021

Table of Contents

CHAPTER 1
INTRODUCTION

1.1 The Republic of Mauritius ("Mauritius") has for many years sought to negotiate an agreement with the Republic of Maldives ("Maldives") to delimit the Parties' maritime boundary in the Indian Ocean. Twenty years ago, on 19 June 2001, Mauritius first invited Maldives to preliminary negotiations. After initially declining to participate, Maldives participated in one round of talks with Mauritius on 21 October 2010. Despite recognising the existence of an overlap in the maritime entitlements of the Parties, Maldives subsequently declined to engage in any further negotiations.

1.2 Following almost two decades of diplomatic efforts, Mauritius was prompted to initiate these proceedings due to Maldives' unwavering refusal to participate in any further negotiations as anticipated under Articles 74(1) and 83(1) of the United Nations Convention on the Law of the Sea 1982 ("UNCLOS" or "the Convention").

1.3 On 25 February 2019, the International Court of Justice ("ICJ") gave an Advisory Opinion which confirmed that the Chagos Archipelago is part of the territory of Mauritius. On 18 June 2019, the Parties having failed to reach a settlement after exchanges of view as contemplated under Part XV of the Convention, Mauritius filed its Notification of Claim under Article 287 and Annex VII of the Convention. Mauritius did so for two reasons: *first* to resolve the difference with Maldives as to the Parties' overlapping entitlements in the Exclusive Economic Zone ("EEZ") and continental shelf within and beyond 200 nautical miles ("M"); and *second* to enable Mauritius to definitively establish its maritime spaces and sovereign rights under international law, within and beyond 200 M.

1.4 On 24 September 2019, following consultations with the President of the International Tribunal for the Law of the Sea ("ITLOS"), the Parties concluded a Special Agreement to submit the present dispute to the Special Chamber concerning the delimitation of the maritime boundary between them in the Indian Ocean.

1.5 On 18 December 2019, Maldives filed preliminary objections under Article 294 of UNCLOS and Article 97 of the ITLOS Rules. All five of Maldives' preliminary objections were based on a "core" assertion – subsequently deemed erroneous by the Special Chamber – that there exists an "unresolved sovereignty dispute between Mauritius and the United Kingdom" over the Chagos Archipelago.

1.6 On 28 January 2021, following written pleadings submitted by the Parties and a hybrid hearing convened pursuant to Article 74 of the ITLOS Rules, the Special Chamber rejected all five of Maldives' preliminary objections. In particular, the Special Chamber determined that:

i. "it is inconceivable that the United Kingdom, whose administration over the Chagos Archipelago constitutes a wrongful act of a continuing character and thus must be brought to an end as rapidly as possible, and yet who has failed to do so,

can have any legal interests in permanently disposing of maritime zones around the Chagos Archipelago by delimitation";[1]

ii. "Mauritius can be regarded as the coastal State in respect of the Chagos Archipelago for the purpose of the delimitation of a maritime boundary even before the process of the decolonization of Mauritius is completed";[2] and

iii. "Mauritius can be regarded as the State with an opposite or adjacent coast to the Maldives within the meaning of article 74, paragraph 1, and article 83, paragraph 1, of the Convention and the concerned State within the meaning of paragraph 3 of the same articles."[3]

1.7 On 3 February 2021, the Special Chamber, having thus ruled that it has jurisdiction to delimit the maritime boundary between the Parties, fixed the time-limit for the filing of written pleadings by the Parties. Mauritius submits this Memorial in accordance with that Order.

***

1.8 Mauritius' case is summarised in its Notification and Statement of Claim. This dispute concerns the delimitation of the EEZ and continental shelf of Mauritius and Maldives in the Indian Ocean. The Parties are States with opposite coasts for the purposes of Article 74(1) and 83(1) of the Convention. There is no treaty or other international agreement concluded by Mauritius and Maldives delimiting any part of the maritime boundary between them.

1.9 In light of the Judgment of 28 January 2021, confirming that the Special Chamber will proceed to delimit the maritime boundary between the Parties, Mauritius no longer pursues its claims under Articles 74(3) and 83(3) of UNCLOS relating to Maldives' obligations to enter into provisional arrangements of a practical nature during the transition period pending delimitation.

1.10 Mauritius' Memorial consists of three volumes. **Volume I** comprises the main text of the Memorial together with illustrative charts and figures. **Volume II** contains the full set of charts and figures that accompany the main text of this Memorial. **Volume III** contains the Memorial's annexes.[4]

---

[1] *Dispute Concerning Delimitation of the Maritime Boundary Between Mauritius and Maldives in the Indian Ocean (Mauritius/Maldives)*, Preliminary Objections, Judgment of 28 January 2021 (hereinafter "*Mauritius/Maldives* Judgment"), para. 247.

[2] *Ibid.*, para. 250.

[3] *Ibid.*, para. 251.

[4] For the sake of ensuring that its Memorial is "as short as possible" in accordance with the Tribunal's Guidelines Concerning the Preparation and Presentation of Cases before the Tribunal, Mauritius has not reproduced documents that are readily accessible online.

1.11 The main text of the Memorial, Volume I, consists of four chapters, including this Introduction, followed by Mauritius' Submissions. **Chapter 2** describes the geographic setting of the dispute, including in particular the features relevant to the delimitation: Peros Banhos Atoll and Salomon Islands Atoll (Blenheim Reef) in the Chagos Archipelago (Northern Mauritius) and Addu Atoll (Southern Maldives). It also addresses the geology and geomorphology of the Chagos-Laccadive Ridge, upon which both the Chagos Archipelago and Maldives are located. Insofar as geology is concerned, there is clear physical continuity between the land territory of the Chagos Archipelago and the seabed and subsoil in the Indian Ocean beyond 200 M to the north. The submerged landmass beyond the Mauritian EEZ in the Northern Chagos Archipelago Region is the natural prolongation of the continental shelf from Peros Banhos Atoll and Salomon Islands Atoll (Blenheim Reef) in the Chagos Archipelago. Finally, it is also explained that pending an on-site survey, it has not yet been possible to confirm with precision the coordinates of base points along the low-water line of Blenheim Reef.

1.12 **Chapter 3** sets out the history of the dispute, including the Parties' respective maritime legislation and Mauritius' concerted attempts to reach a negotiated agreement. Mauritius and Maldives were both colonies of the United Kingdom of Great Britain and Northern Ireland; they each acceded to independence in the mid-1960s.[5] As will be shown, the Parties have enjoyed friendly and cordial relations since they first established diplomatic relations on 15 January 1981. Mauritius and Maldives have each adopted legislation declaring a 200 M EEZ and have both submitted information to the UN Commission on the Limits of the Continental Shelf ("CLCS") in respect of the area to be delimited by the Special Chamber.

1.13 **Chapter 4** addresses the delimitation of the EEZ and continental shelf. Therein Mauritius sets out its claim that, in accordance with the requirements of the Convention and the applicable case law, the EEZ and continental shelf within 200 M of the Parties' baselines should be delimited by means of an equidistance line. The geographic circumstances of this case call for the now-generalised three-step analytical framework known as the "equidistance/relevant circumstances method." As to the delimitation of the Parties' entitlements to the continental shelf beyond 200 M based on the geology and geomorphology of the seabed, Mauritius demonstrates that the overlapping area should be delimited by means of a line apportioning an equal share of the continental shelf to each Party.

1.14 This Memorial concludes by setting out Mauritius' Submissions.

---

[5] Mauritius became independent on 12 March 1968 and Maldives acceded to independence on 26 July 1965.

CHAPTER 2
GEOGRAPHY, GEOLOGY AND GEOMORPHOLOGY

2.1 This Chapter describes the geographical, geological and geomorphological circumstances relevant to the delimitation of the maritime boundary between Mauritius and Maldives in the Indian Ocean. **Section I** addresses the geographical circumstances of Mauritius and Maldives, especially where the Parties' coasts face each other across the Indian Ocean and generate overlapping maritime entitlements. **Section II** describes the geological and geomorphological circumstances that extend both Parties' continental shelf entitlements beyond 200 M from their respective coasts, and result in overlapping continental shelf entitlements beyond 200 M from both Parties' coasts.

I. Geographical Circumstances

2.2 Mauritius and Maldives are small island developing States located in the Indian Ocean. The Indian Ocean is largely enclosed by major landmasses, with Africa to the west, Asia to the north and north-east, and Australia to the east. It stretches more than 4,000 M from east to west, between the coastlines of western Australia and southern Africa, and by a roughly equal measure north-south, from the southern tip of India to the Southern Ocean. The Indian Ocean covers an area of approximately 73 million km^2. It has an average depth of about 3,960 metres and contains almost 20% of global ocean volume.

2.3 The general geographic setting, including the location of Mauritius and Maldives, is depicted in **Figure 2.1** (following page 6).

A. MAURITIUS

2.4 Mauritius is made up of a group of islands in the south-west and central Indian Ocean. The main Island of Mauritius is located at longitude 57°30'E and latitude 20°00'S, approximately 475 M east of Madagascar. The total land area of Mauritius is roughly 2,000 km^2. Mauritius has a population of 1.27 million, of which around 147,000 reside in the capital city of Port Louis. The population of Rodrigues Island is approximately 43,155, and about 274 people live in Agalega and St Brandon Islands.[6]

2.5 The Island of Mauritius is dominated by plains in the north, west and south-east. A central plateau rises to approximately 600 metres and is encircled by rocky peaks. The highest point is Piton de la Petite Rivière Noire, which is 828 metres above sea level. The Island of Mauritius is fringed by coral reefs that provide shelter for an abundance of marine life.

---

[6] Republic of Mauritius, Ministry of Finance, Economic Planning and Development, *Statistics Mauritius: Annual Digest of Statistics 2018*, Vol. 63 (January 2020), p. 13 *available at* https://statsmauritius.govmu.org/Documents/Statistics/Digests/Annual_Digest/Annual_Digest_Statistics_Yr18.pdf (last accessed 23 May 2021).

2.6 The territory of Mauritius includes, in addition and in relation to the Island of Mauritius:

a) the islands of Cargados Carajos (the St Brandon Group of 16 Islands and Islets), 217 M north;

b) Rodrigues Island, 302 M north-east;

c) Agalega, 504 M north;

d) Tromelin, 313 M north-west; and

e) the Chagos Archipelago, including Diego Garcia, 1,188 M north-east, and, at its closest point, 269 M south of Maldives.[7]

2.7 In 1977, Mauritius declared a 200 M EEZ and continental shelf to the outer edge of the continental margin, or 200 M from its baselines, around the entirety of its territory, including the Chagos Archipelago.[8] Mauritius' EEZ was subsequently reaffirmed by way of the Maritime Zones Act 2005.[9] This is depicted in **Figure 2.2** (following Figure 2.1).

1. The Chagos Archipelago

2.8 The Chagos Archipelago is recognised under international law as forming an integral part of the sovereign territory of Mauritius. On 25 February 2019, the ICJ rendered an Advisory Opinion determining that the entirety of the Chagos Archipelago is an integral part of the territory of Mauritius.[10] In February 2020, the United Nations changed its official maps to

---

[7] *See* Constitution of Mauritius, Art. 111 *available at* https://attorneygeneral.govmu.org/Documents/Laws%20of%20Mauritius/A-Z%20Acts/C/Co/Constitution,%20GN%2054%20of%201968.pdf, which states that:

> "Mauritius" includes –
>
> (a) the Island of Mauritius, Rodrigues, Agalega, Tromelin, Cargados Carajos and the Chagos Archipelago, including Diego Garcia and any other island comprised in the State of Mauritius;
>
> (b) the territorial sea and the air space above the territorial sea and the islands specified in paragraph (a);
>
> (c) the continental shelf; and
>
> (d) such places or areas as may be designated by regulations made by the Prime Minister, rights over which are or may become exercisable by Mauritius.

[8] Maritime Zones Act 1977 (Act No. 13 of 3 June 1977), *available at* https://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/MUS_1977_Act.pdf (last accessed 23 May 2021) (hereinafter "Maritime Zones Act 1977").

[9] Maritime Zones of Mauritius Act No. 2 (2005) (hereinafter "Maritime Zones Act No. 2") (Written Observations, Annex 15). *See also* Maritime Zones (Baselines and Delineating Lines) Regulations 2005 (The Maritime Zones Act 2005) (hereinafter "Maritime Zones Regulations 2005") (Memorial of Mauritius, Annex 1).

[10] *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965*, Advisory Opinion of 25 February 2019, ICJ Reports 2019.

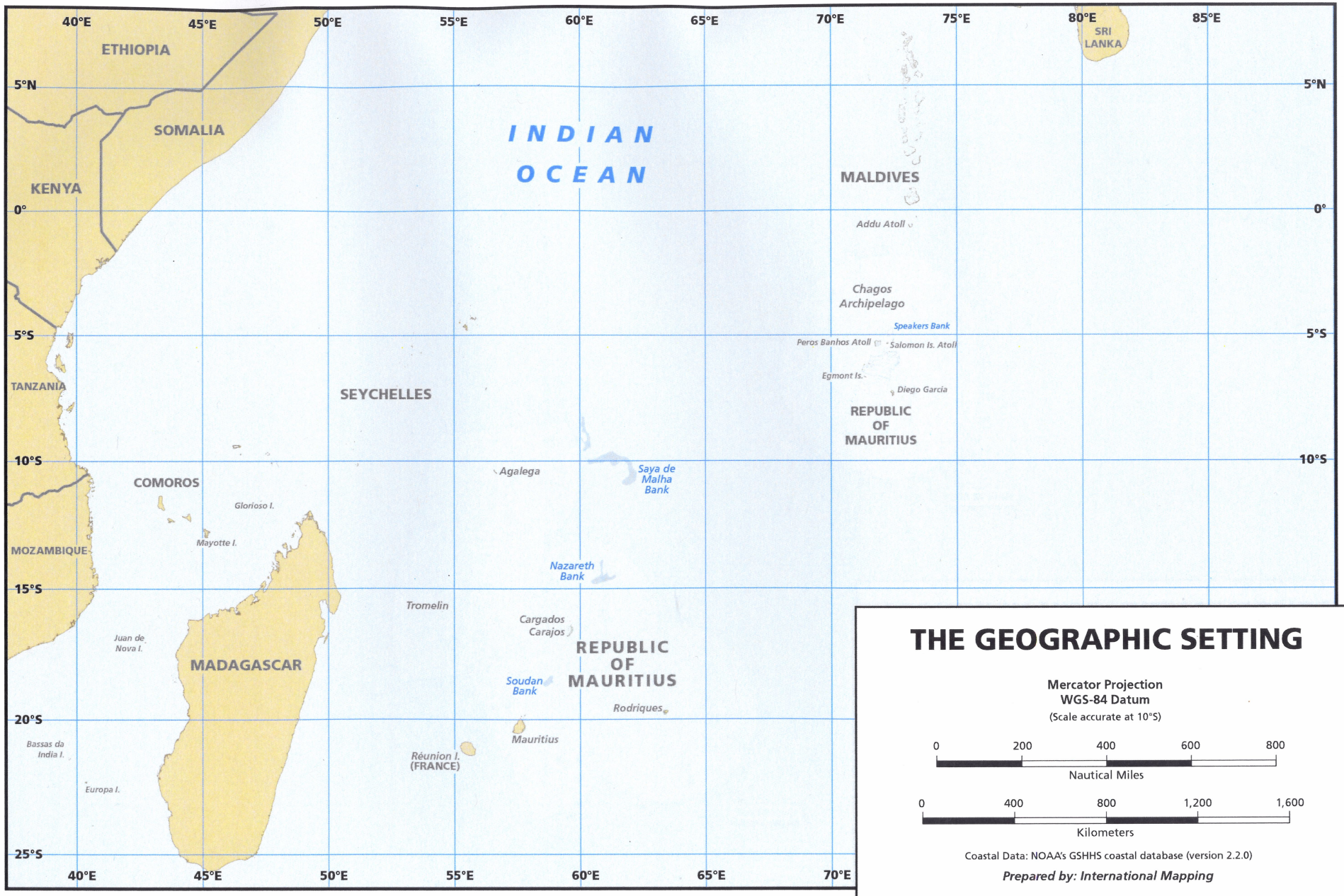
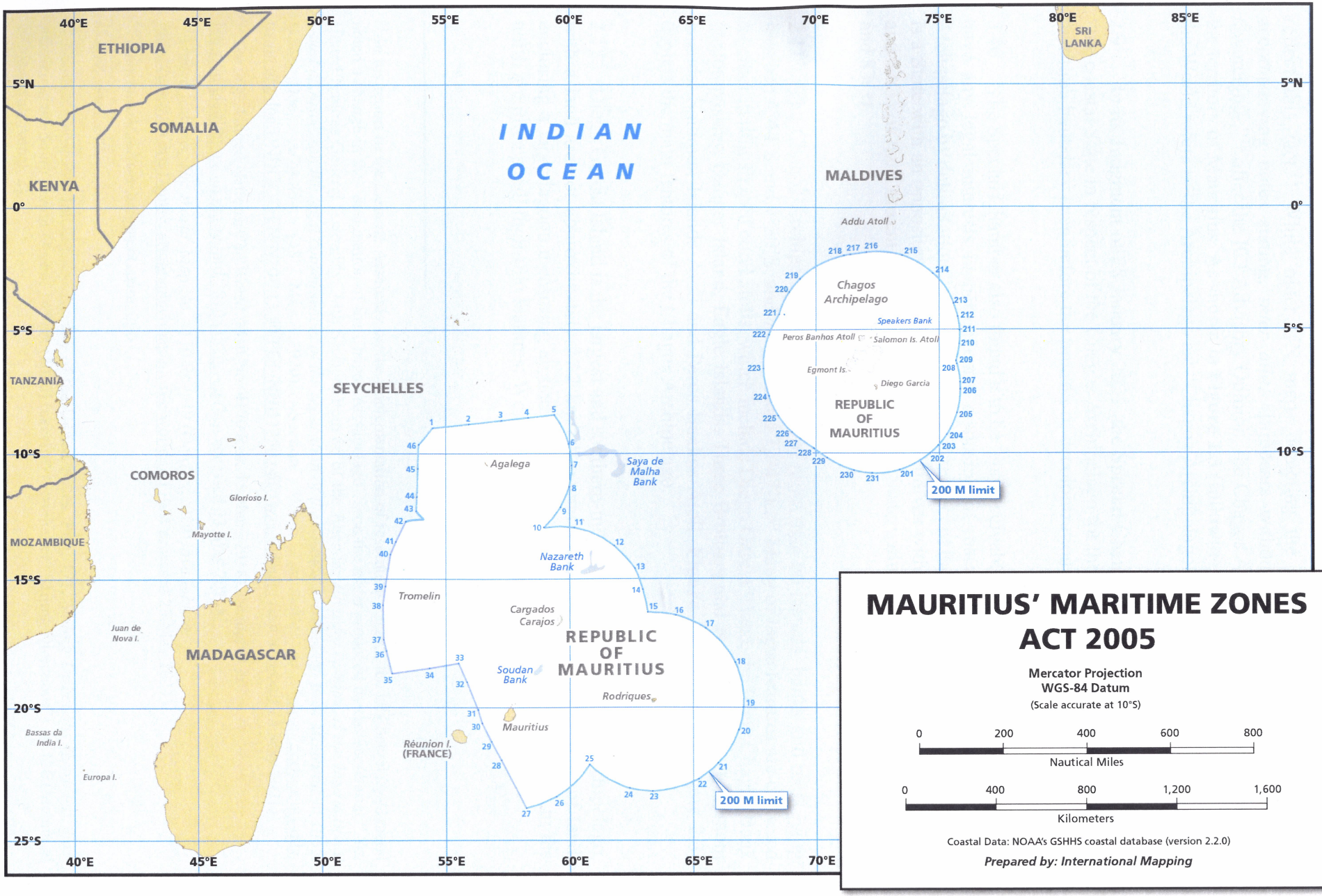

40°E
45°E
50°E
55°E
60°E
65°E
70°E
75°E
80°E
85°E
5°N
0°
5°S
10°S
15°S
20°S
25°S
ETHIOPIA
SOMALIA
KENYA
TANZANIA
MOZAMBIQUE
SRI LANKA
INDIAN OCEAN
MALDIVES
Addu Atoll
Chagos Archipelago
Speakers Bank
Peros Banhos Atoll
Salomon Is. Atoll
Egmont Is.
Diego Garcia
REPUBLIC OF MAURITIUS
SEYCHELLES
Agalega
Saya de Malha Bank
COMOROS
Glorioso I.
Mayotte I.
Nazareth Bank
Tromelin
Cargados Carajos
REPUBLIC OF MAURITIUS
Soudan Bank
Rodriques
Mauritius
Juan de Nova I.
MADAGASCAR
Bassas da India I.
Réunion I. (FRANCE)
Europa I.
THE GEOGRAPHIC SETTING
Mercator Projection
WGS-84 Datum
(Scale accurate at 10°S)
0
200
400
600
800
Nautical Miles
0
400
800
1,200
1,600
Kilometers
Coastal Data: NOAA's GSHHS coastal database (version 2.2.0)
Prepared by: International Mapping

Figure 2.1



MAURITIUS' MARITIME ZONES ACT 2005

Mercator Projection
WGS-84 Datum
(Scale accurate at 10°S)

0 200 400 600 800
Nautical Miles

0 400 800 1,200 1,600
Kilometers

Coastal Data: NOAA's GSHHS coastal database (version 2.2.0)

Prepared by: International Mapping

Figure 2.2

reflect this fact.[11] While older UN maps depicting the Chagos Archipelago contained accompanying notes stating, *inter alia*, "[a]ppears without prejudice to the question of sovereignty,"[12] after the ICJ Advisory Opinion, the Chagos Archipelago is depicted as part of the territory of Mauritius. As shown in **Figure 2.3** (following page 8), the official UN Map of the World refers to the Archipelago as: "Chagos Archipelago (Mauri.)."[13]

2.9 In its Judgment of 28 January 2021, the Special Chamber confirmed that Mauritius is "the coastal State in respect of the Chagos Archipelago for the purpose of the delimitation of a maritime boundary even before the process of decolonization of Mauritius is completed."[14]

2.10 The Special Chamber also found it to be "inconceivable" that the United Kingdom "can have any legal interests in permanently disposing of maritime zones around the Chagos Archipelago by delimitation."[15] It follows that, in respect of the Chagos Archipelago, Mauritius is a State with an opposite or adjacent coast to Maldives within the meaning of Articles 74(1) and 83(1) of the Convention and the "concerned" State within the meaning of Articles 74(3) and 83(3).

2.11 The Chagos Archipelago is composed of more than 60 islands, banks and reefs lying between 4°44'S and 7°39'S, and 70°50'E and 72°47'E.[16] Many of these features are clustered together in ring-shaped coral atolls, which include Diego Garcia Island, the Great Chagos Bank (encompassing Danger Island, Eagle Islands, Three Brothers and Nelson's Island), Egmont Islands, Salomon Islands Atoll and Peros Banhos Atoll. **Figure 2.4** (following Figure 2.3) depicts the main features of the Chagos Archipelago.

2.12 Diego Garcia Island is the largest and southern-most island in the Chagos Archipelago, with a land area of approximately 27.2 km^2. It comprises a thin U-shaped ribbon of land, enclosing a large lagoon measuring around 7 M by 12 M. At the mouth of the lagoon to the north are three small high-tide features: West Island, Middle Island and East Island.

---

[11] In his report to the General Assembly on the implementation of resolution 73/295, the UN Secretary-General noted a change in the "designation of the Chagos Archipelago … on the maps produced by the Secretariat." *See* United Nations General Assembly, 74th Session, Item 86 of the Agenda, *Advisory opinion of the International Court of Justice on the legal consequences of the separation of the Chagos Archipelago from Mauritius in 1965*, U.N. Doc. A/74/834 (18 May 2020), Section IV(6), *available at* https://documents-dds-ny.un.org/doc/UNDOC/GEN/N20/113/50/PDF/N2011350.pdf?OpenElement (last accessed 23 May 2021).

[12] *See, e.g.*, United Nations, *The World*, Map No. 4170 Rev. 15 (June 2018), *available at* https://digitallibrary.un.org/record/3810838?ln=en (last accessed 23 May 2021).

[13] United Nations, *The World*, Map No. 4170 Rev. 19 (October 2020), *available at* https://www.un.org/Depts/Cartographic/map/profile/world.pdf (last accessed 23 May 2021).

[14] *Mauritius/Maldives* Judgment, para. 250.

[15] *Ibid.*, para. 247.

[16] National Geospatial Intelligence Agency of the United States, Pub. 171, *Sailing Directions (Enroute), East Africa and the South Indian Ocean*, 14th ed. (2020) (excerpt) (hereinafter "Sailing Directions"), p. 136 (Memorial of Mauritius, Annex 2).

2.13 The Great Chagos Bank – the world's largest coral atoll structure – dominates the centre of the Chagos Archipelago. Around the edge of the Great Chagos Bank lie a number of distinct geographical features:

a) Egmont Islands just off the south-western edge of the Great Chagos Bank, comprising six high-tide features in a horse-shoe configuration: Île des Rats, Île Sipaille, Île Lubine, Île Carre Pate, Île Tattamucca and Île Sudest.

b) Along the south-western fringe lie Danger Island, Cow Island and Eagle Island.

c) Along the north-western ridge of the Great Chagos Bank is Three Brothers, which actually comprises four high-tide features: North Brother, Middle Brother, South Brother and Resurgent Island.

d) Along the northern tip of the Great Chagos Bank is Nelson's Island.

2.14 In the north of the Chagos Archipelago lie the three geographical features that directly face Maldives and therefore are relevant to the delimitation: Peros Banhos Atoll, Salomon Islands Atoll and Blenheim Reef (which lies within 10.6 M of Salomon Islands Atoll). These features can be seen in **Figure 2.5** (following Figure 2.4), which is British Admiralty ("BA") Chart 727 ("*Peros Banhos to Blenheim Reef including Nelson's Island*").

2. Peros Banhos Atoll

2.15 Peros Banhos is a large rectangular coral atoll, measuring approximately 14 M from east to west and 13 M from north to south, with a total area of around 500 km^2 ("Peros Banhos Atoll"). It is composed of at least 30 high-tide features,[17] with a total land area of around 9.2 km^2. The largest islands in Peros Banhos Atoll are Île Pierre and Île du Coin (both approximately 1.3 km^2), followed by Île Diamant and Île Poule (both roughly 0.9 km^2). Peros Banhos Atoll is depicted in **Figure 2.6a** (following Figure 2.5).

2.16 In 1960, Peros Banhos Atoll had a population of no less than 374, with Île du Coin serving as the administrative headquarter.[18] Early maps of Peros Banhos Atoll also show a settlement on Île Diamant on the north-western edge of the atoll.[19] In 1973, the British

---

[17] Île Yeye, Petite Île Coquillage, Grande Île Coquillage, Coin du Mire, Île Vache Marine, Île Fouquet, Mapou de l'Île du Coin, Île du Coin, Île Anglaise, Île Monpatre, Île Gabrielle, Île Poule, Petite Sœur, Grande Sœur, Île Finon, Île Verte, Île Manon, Île Pierre, Petite Île Mapou, Grande Île Mapou, Île Diamant, Île de la Passe, Moresby Island, Île Saint-Brandon, Île Parasol, Île Longue, Petite Île Bois Mangue, Grande Île Bois Mangue and Île Manöel. Further, there is one small unnamed high-tide feature between Île Verte and Île Manon.

[18] *Chagos Marine Protected Area Arbitration (Mauritius v. United Kingdom)*, Memorial of Mauritius, Volume I, PCA Case No. 2011-03 (1 August 2012), Annex 2, (Robert Newton, Report on the Anglo-American Survey in the Indian Ocean, 1964, CO 1036/1332), para. 7, *available at* https://pca-cpa.org/en/cases/11/ (last accessed 23 May 2021).

[19] *Ibid.*, Vol. IV (1 August 2012), Figure 16, *available at* https://files.pca-cpa.org//pcadocs/mu-uk/Annexes%20to%20Memorial/MM%20Charts.pdf (last accessed 23 May 2021).

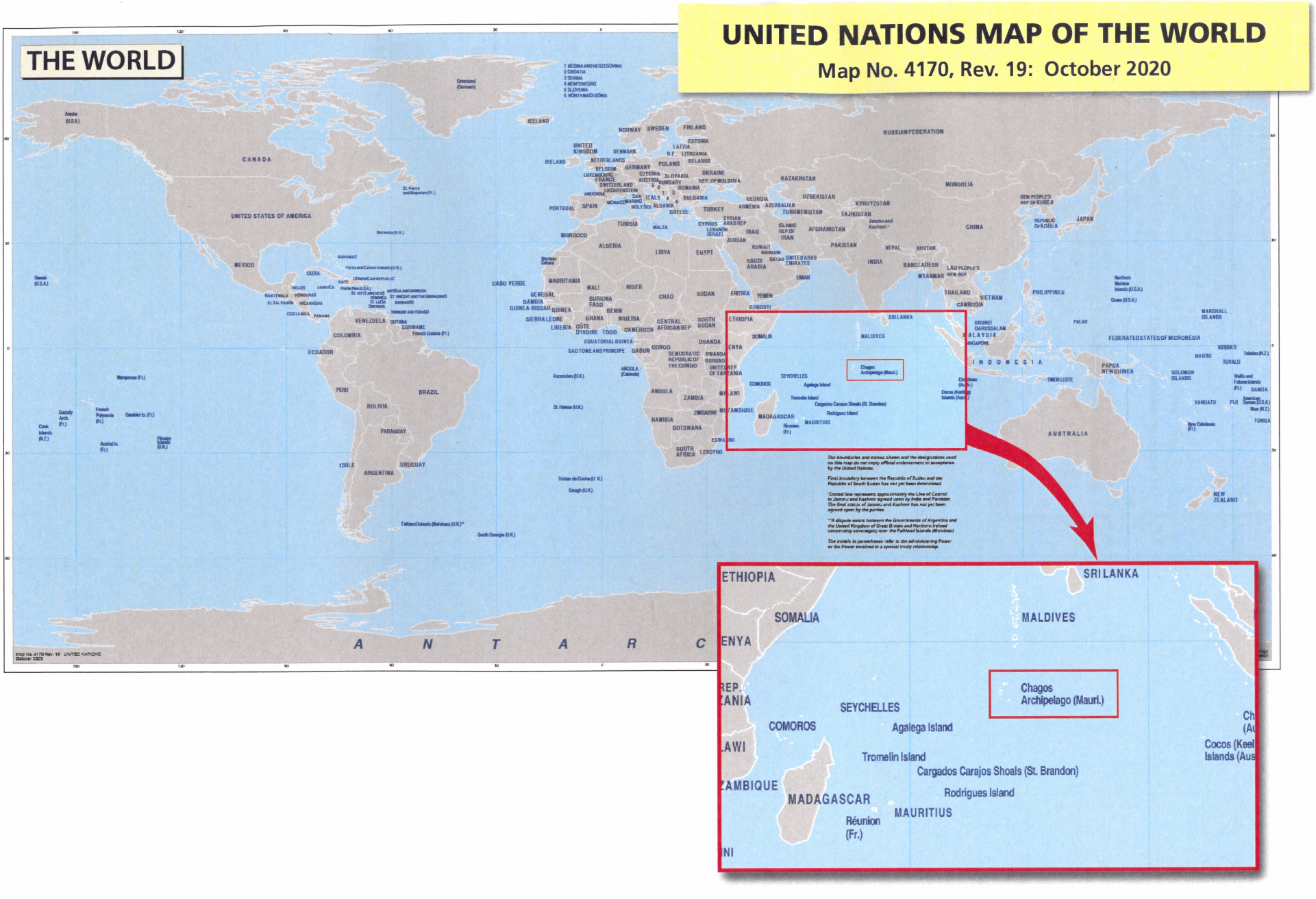

THE WORLD
UNITED NATIONS MAP OF THE WORLD
Map No. 4170, Rev. 19: October 2020
ETHIOPIA
SOMALIA
KENYA
SRI LANKA
MALDIVES
SEYCHELLES
COMOROS
Agalega Island
Tromelin Island
Cargados Carajos Shoals (St. Brandon)
Chagos Archipelago (Mauri.)
Rodrigues Island
MADAGASCAR
MAURITIUS
Réunion (Fr.)
Cocos (Keeling) Islands (Aus.)
ANTARCTICA

Figure 2.3

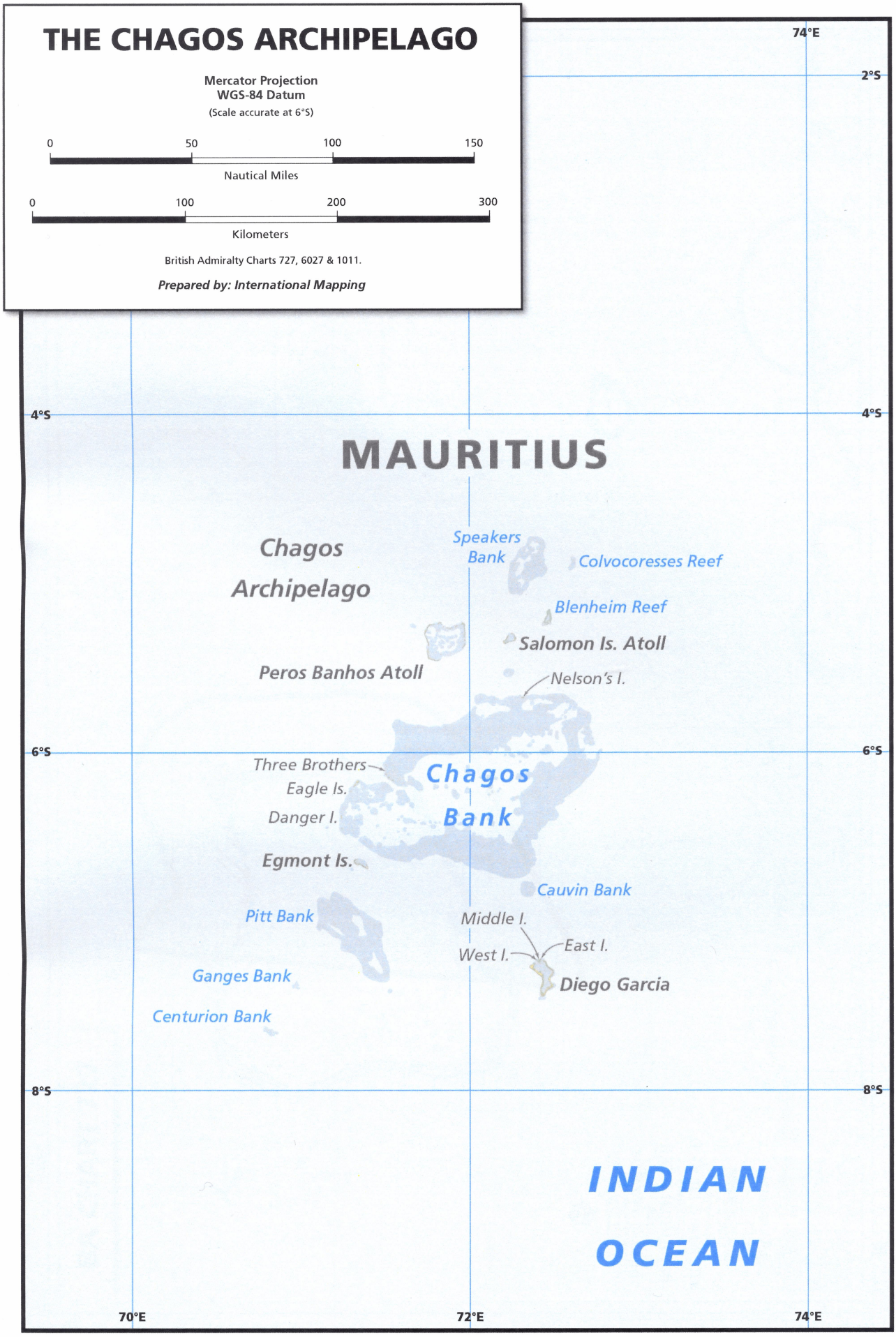

THE CHAGOS ARCHIPELAGO
Mercator Projection
WGS-84 Datum
(Scale accurate at 6°S)
0
50
100
150
Nautical Miles
0
100
200
300
Kilometers
British Admiralty Charts 727, 6027 & 1011.
Prepared by: International Mapping
74°E
2°S
4°S
MAURITIUS
Chagos
Archipelago
Speakers
Bank
Colvocoresses Reef
Blenheim Reef
Salomon Is. Atoll
Peros Banhos Atoll
Nelson's I.
6°S
Three Brothers
Eagle Is.
Danger I.
Egmont Is.
Chagos
Bank
Cauvin Bank
Pitt Bank
Middle I.
West I.
East I.
Diego Garcia
Ganges Bank
Centurion Bank
8°S
INDIAN
OCEAN
70°E
72°E
74°E

Figure 2.4


727
WGS84
BA CHART 727
PERO S BANHOS
BLENHEIM REEF
SALOMON ISLANDS
DEPTHS
(see Note)
STRICT NATURE RESERVE
INDIAN OCEAN
BRITISH INDIAN OCEAN TERRITORY
CHAGOS ARCHIPELAGO
PERO S BANHOS
TO
BLENHEIM REEF
INCLUDING
NELSON´S ISLAND
DEPTHS IN METRES
SCALE 1:180 000 at lat 5°20
GREAT CHAGOS BANK
WGS84
727

Figure 2.5

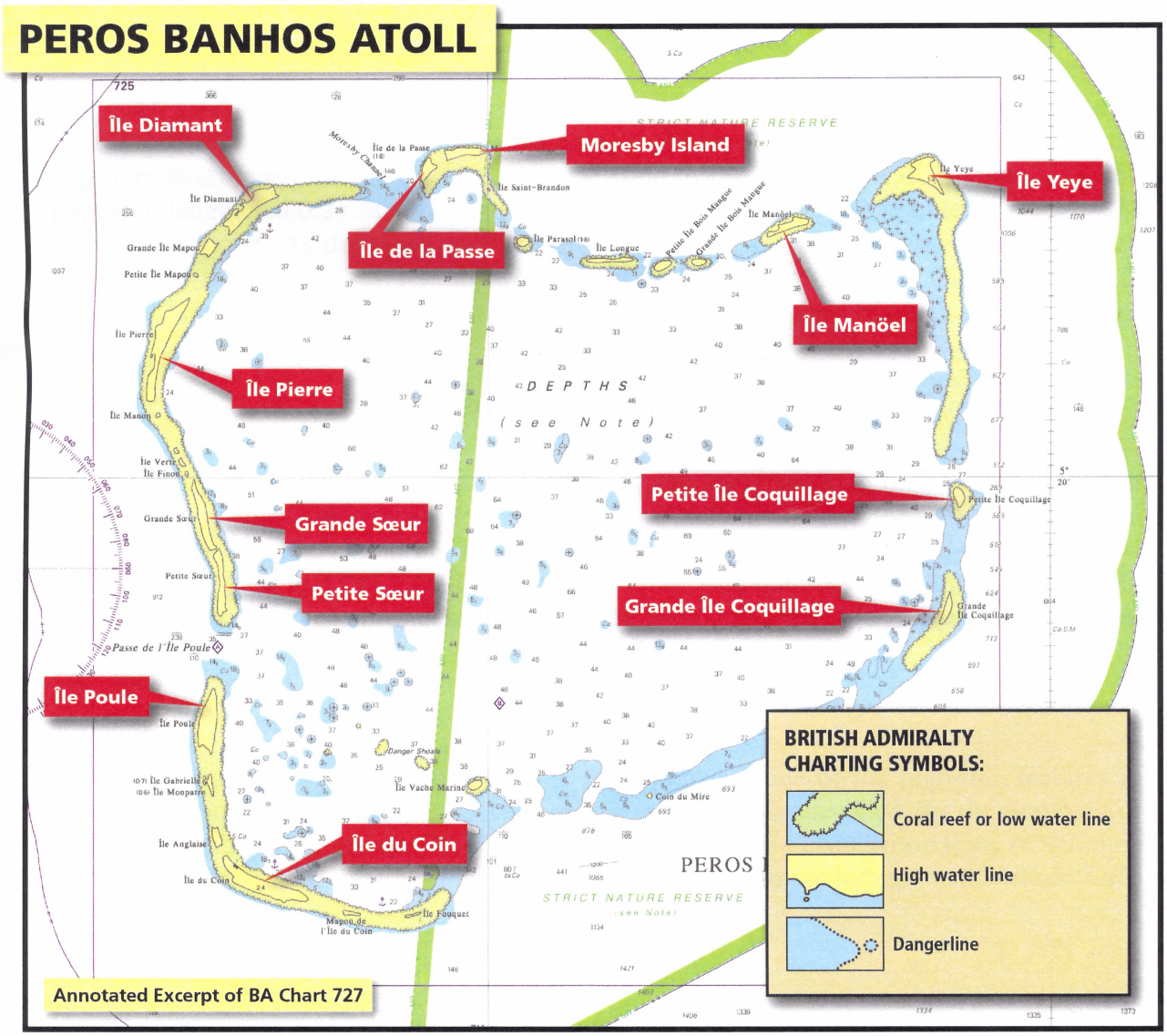

PEROS BANHOS ATOLL
Île Diamant
Moresby Island
Île de la Passe
Île Yeye
Île Manöel
Île Pierre
Grande Sœur
Petite Sœur
Petite Île Coquillage
Grande Île Coquillage
Île Poule
Île du Coin
STRICT NATURE RESERVE
DEPTHS
(see Note)
PEROS
BRITISH ADMIRALTY CHARTING SYMBOLS:
Coral reef or low water line
High water line
Dangerline
Annotated Excerpt of BA Chart 727

Figure 2.6a

Government forcibly removed all inhabitants of Peros Banhos Atoll, taking them by ship to Mauritius and Seychelles.[20]

2.17 As can be seen in **Figure 2.6b** (following page 10), there are three islands in Peros Banhos Atoll that are located along the north-western edge directly facing the southern coastline of Maldives:

a) Île Diamant;

b) Île de la Passe; and

c) Moresby Island.

2.18 All three islands (Île Diamant, Île de la Passe and Moresby Island) are covered with dense vegetation, including coconut palms rising to 30 metres in height.[21] Île Diamant is the largest, measuring approximately 1.3 M in length and 0.3 M in width. Île de la Passe is around 0.45 M in length and 0.24 M wide, and Moresby Island is roughly 0.7 M in length and 0.2 M at its widest point. As described in Chapter 4 (paragraph 4.29), nine basepoints have been identified by the "CARIS-LOTS" software along the low-water line of Île Diamant, Île de la Passe and Moresby Island that contribute to the construction of a provisional equidistance line.

3. Salomon Islands Atoll and Blenheim Reef

2.19 Similar to Peros Banhos Atoll, Salomon Islands Atoll is also a rectangular coral atoll composed of various high-tide and low-tide features ("Salomon Islands Atoll"). It is located to the east of Peros Banhos Atoll but is somewhat smaller, measuring about 5 M long and 3 M wide. Between 1967 and 1973, the entire population of Salomon Islands Atoll (approximately 200 inhabitants) was forcibly removed by the British Government.[22] As can be seen from **Figure 2.7** (following Figure 2.6b), which is an excerpt from BA Chart 725C, there are 11 high-tide features in Salomon Islands Atoll.[23]

2.20 Located 10.6 M to the north-east of Île Takamaka, one of the high-tide features in Salomon Islands Atoll, is Blenheim Reef, which is a low-tide elevation for the purposes of Article 13(1) of the Convention. Because it is located within the 12 M territorial sea of Salomon Islands Atoll, Blenheim Reef has a territorial sea of its own, in accordance with Article 13(2)

---

[20] *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965 (Request for Advisory Opinion)*, Written Statement of Mauritius, ICJ Reports 2019 (1 March 2018), Annex 151, (David Vine, Island of Shame: *The Secret History of the U.S. Military Base on Diego Garcia* (2009) (hereinafter "Vine"), ch. 7, pp. 112-125, *available at* https://www.icj-cij.org/en/case/169/written-proceedings (last accessed 23 May 2021)).

[21] Sailing Directions, p. 136 (Memorial of Mauritius, Annex 2).

[22] *See* Vine, pp. 112-120. *See also* J. Lablache & H. Amla, "Re-opening old wounds: Chagossians in Seychelles tell of trip to visit home islands", *Seychelles News Agency* (30 May 2015) *available at* http://www.seychellesnewsagency.com/articles/3041/Reopening+old+wounds+Chagossians+in+Seychelles+tell+of+trip+to+visit+home+islands (last accessed 23 May 2021).

[23] Île de la Passe, Île Mapou, Île Takamaka, Île Fouquet, Île Sepulture, Île Jacobin, Île du Sel, Île du Sel, Île Poule, Île Boddam, Île Diable and Île Anglaise. BA Chart 725C is reproduced in Volume II (**Figure 2.15**).

of the Convention. The location of Blenheim Reef in relation to Salomon Islands Atoll can be seen in **Figure 2.8** (following Figure 2.7).

2.21 Blenheim Reef is the northern-most above-water feature in the Chagos Archipelago, and the closest geographically to Maldives. It is situated 269 M from the Maldivian island of Gan in Addu Atoll.

2.22 Blenheim Reef has a total area of 36.8 km^2, including a lagoon of 8.5 km^2, and measures approximately 6 M by 3 M. The *South Indian Ocean Pilot* (1971) describes Blenheim Reef as follows:

> Blenheim Reef, situated 11 miles north-eastwards of Salomon Island, extends 5 ¾ miles northward and is steep to. A narrow strip which, in 1837, was generally covered at high water except for some large blocks of coral and sandstone on the eastern side, enclosed a lagoon on all sides except at the southern end (5° 15' S. 72° 27'E) where anchorage could be found in the opening in depths of from 36' to 42' (11m.0 to 12m.8). The lagoon is encumbered by rocks.[24]

2.23 The National Geospatial Intelligence Agency's Sailing Directions provides the following description:

> **Blenheim Reef** (5°12'S., 72°28'E.) is steep-to; it covers nearly everywhere at HW except at its S extremity. The lagoon of the reef is encumbered with rock.[25]

2.24 As can be seen in **Figure 2.9** (following Figure 2.8), charts of the relevant area produced by the British Admiralty, the United States National Imagery and Mapping Agency ("NIMA") and the French Naval Hydrographic and Oceanographic Service ("SHOM") all depict Blenheim Reef as a large reef structure which dries at low tide:

a) The 2017 edition of BA Chart 727 (first published in 2004) is a large-scale nautical chart (1:100,000), which is entitled "*Peros Banhos to Blenheim Reef.*" It covers the northern portion of the Chagos Archipelago. Blenheim Reef is illustrated as a low tide reef that tracks along the entire rim of the atoll, enclosing a sizable inner lagoon that covers over 8 km^2. On this Chart the whole of the Blenheim Reef structure is designated as drying at low tide. The 2017 edition of BA Chart 003 shows the same, with a large reef structure drying at low tide.

---

[24] Hydrographer of the Navy of Great Britain and W.M. Passmore, *South Indian Ocean Pilot*, 8th ed. (1971) , p. 295.

[25] Sailing Directions, p. 136 (Memorial of Mauritius, Annex 2).

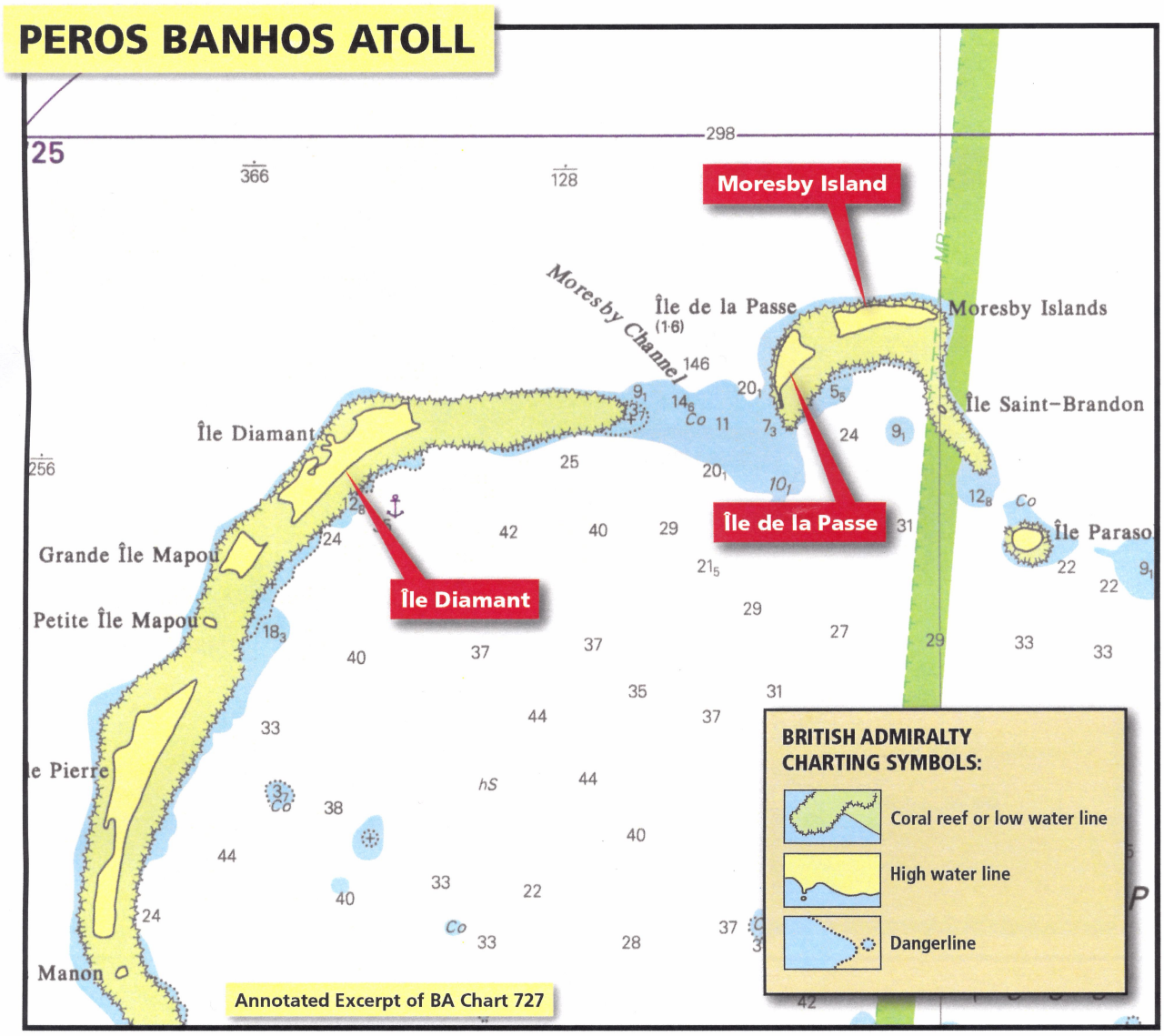

PEROS BANHOS ATOLL
25
298
366
128
Moresby Island
Moresby Channel
Île de la Passe
(1·6)
Moresby Islands
Île Saint-Brandon
Île Diamant
256
Île de la Passe
Grande Île Mapou
Île Diamant
Petite Île Mapou
Île Paraso
le Pierre
Manon
BRITISH ADMIRALTY
CHARTING SYMBOLS:
Coral reef or low water line
High water line
Dangerline
Annotated Excerpt of BA Chart 727

Figure 2.6b

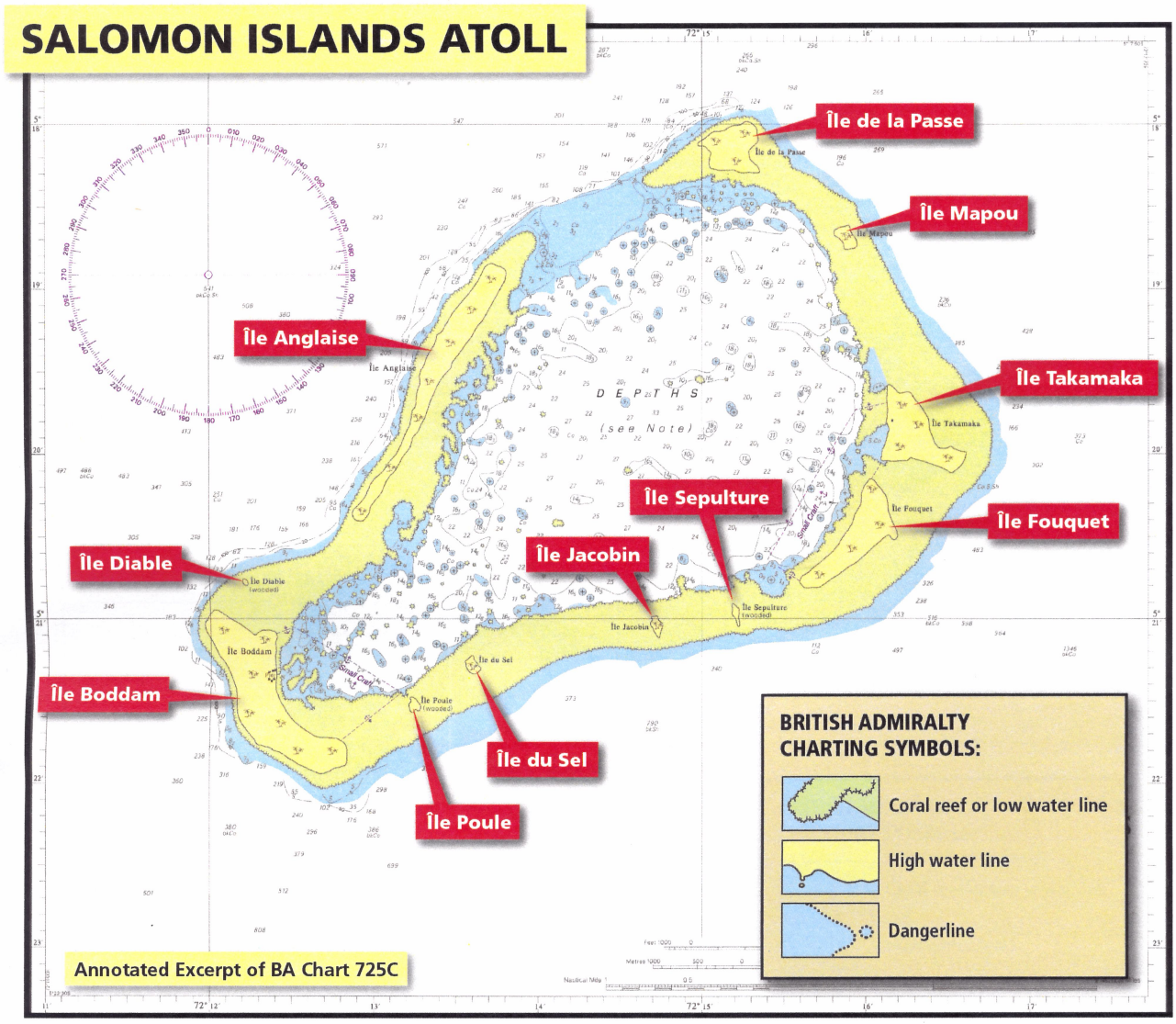

SALOMON ISLANDS ATOLL
Île de la Passe
Île Mapou
Île Anglaise
Île Takamaka
Île Sepulture
Île Fouquet
Île Jacobin
Île Diable
Île Boddam
Île du Sel
Île Poule
DEPTHS
(see Note)
BRITISH ADMIRALTY CHARTING SYMBOLS:
Coral reef or low water line
High water line
Dangerline
Annotated Excerpt of BA Chart 725C

Figure 2.7

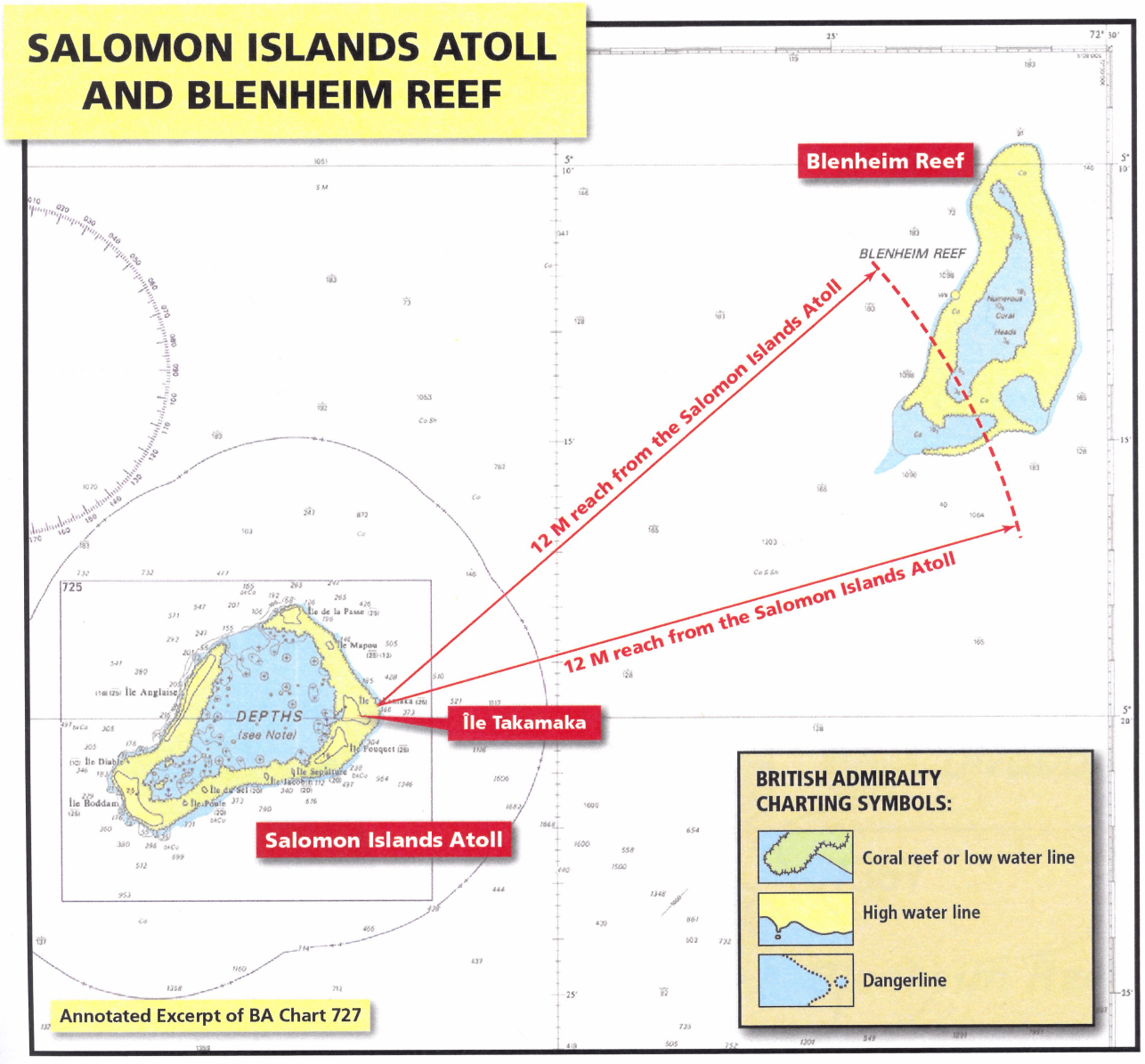
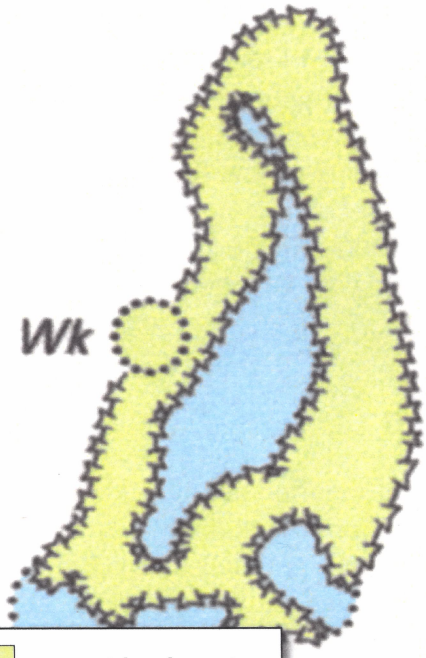

SALOMON ISLANDS ATOLL AND BLENHEIM REEF
Blenheim Reef
BLENHEIM REEF
12 M reach from the Salomon Islands Atoll
12 M reach from the Salomon Islands Atoll
Île Takamaka
Salomon Islands Atoll
DEPTHS (see Note)
BRITISH ADMIRALTY CHARTING SYMBOLS:
Coral reef or low water line
High water line
Dangerline
Annotated Excerpt of BA Chart 727

Figure 2.8

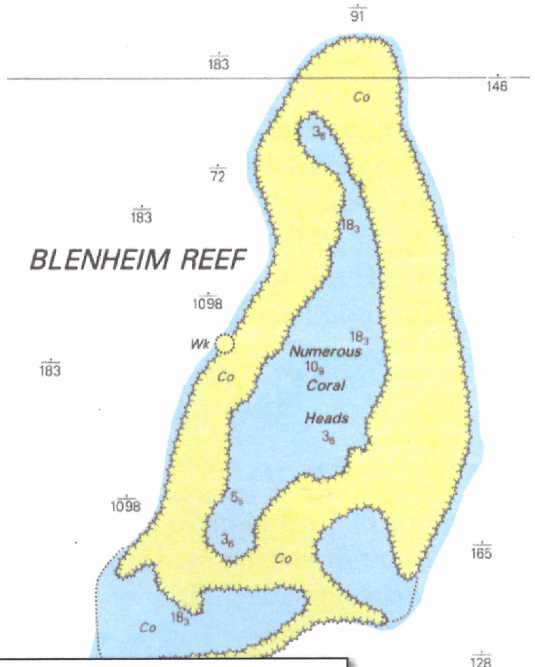
BLENHEIM REEF
(as depicted on U.K., U.S., & French Charts)

Extract from BA003



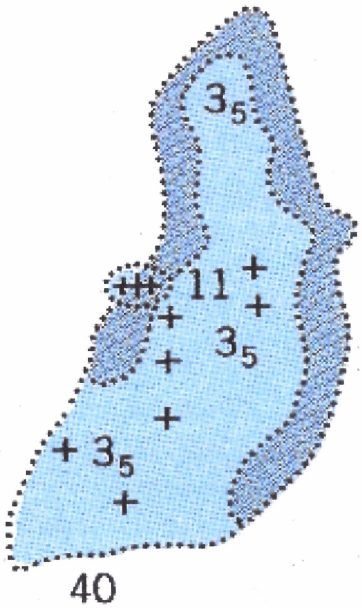
Low tide elevation

Extract from BA727



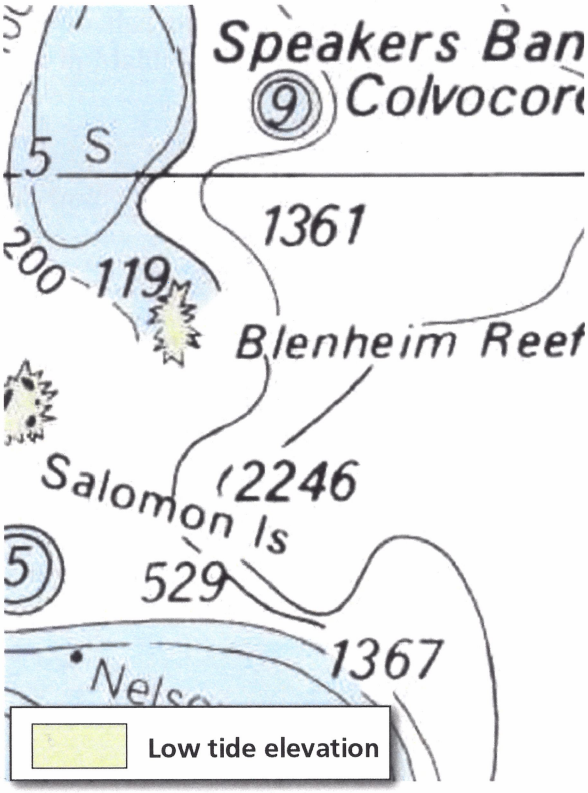
Low tide elevation

Extract from NIMA 61610



Low tide elevation

Extract from SHOM 6673



Low tide elevation

Figure 2.9

b) The latest edition of NIMA Chart 61610 (1997) also shows a large area of reef drying at low tide.

c) Likewise, the most recent edition of SHOM Chart 6673 (*De l'archipel des Chagos à Madagascar*) depicts a reef drying at low tide.[26]

2.25 As set out in Chapter 4 (paragraph 4.29), four base points have been identified by the "CARIS-LOTS" software along the low-water line of Blenheim Reef that contribute to the construction of the provisional equidistance line. The location of these base points is derived from the data contained within BA Chart 727. Confirmation of the coordinates of the base points may require an on-site survey, however, this has not been possible, in spite of the February 2019 ICJ Advisory Opinion and the January 2021 Judgment of the ITLOS Special Chamber, due to the claims by the United Kingdom and its illegal colonial occupation of the Chagos Archipelago.

B. MALDIVES

2.26 Maldives lies in the northern Indian Ocean and consists of around 1,200 coral islands and sandbanks (of which approximately 200 are inhabited). These islands form 27 separate atolls. The northernmost atoll is about 225 M south-southwest of the Indian mainland, and the central area, including the capital Malé, is approximately 400 M southwest of Sri Lanka. **Figure 2.10** (following page 12) depicts the 12 M and 200 M limits claimed by Maldives.

2.27 Maldives has a population of approximately 531,000 of which almost 227,000 live in or around the capital Malé, located on the southern edge of the North Malé Atoll.

2.28 The topography of Maldives is comparable to that of the Chagos Archipelago: the islands are small, flat and sandy. The highest point in Maldives, "Mount Villingili" in Addu Atoll, is only 5.1 metres above mean sea level.

1. Addu Atoll

2.29 Addu Atoll is the southern-most atoll in Maldives. It is comprised of numerous islands, inhabited and uninhabited. The second largest and southern-most island in Addu Atoll, Gan, lies approximately 290 M south of Malé, and 269 M north of Blenheim Reef in Mauritius. BA Chart 2067, shown in **Figure 2.11** (following Figure 2.10), depicts Addu Atoll, the main features of which, including Gan, have been highlighted.

2.30 BA Chart 2067 complements BA Chart 727.[27] These two large scale BA Charts define the relevant coasts for both States for the purposes of this delimitation. As explained in Chapter 4 (paragraph 4.29), 41 base points have been identified by the "CARIS-LOTS" software along

---

[26] BA Chart 003, NIMA Chart 61610 and SHOM Chart 6673 are reproduced in Volume II (**Figures 2.16-2.18**).

[27] BA Chart 2067 is reproduced in Volume II (**Figure 2.19**).

the low-water line of Addu Atoll which contribute to the construction of the provisional equidistance line. There are no base points on any other feature in Maldives.

II. Geological and Geomorphological Circumstances

2.31 The geological and geomorphological circumstances are pertinent to the delimitation of the continental shelf beyond 200 M, as they constitute the basis for the Parties' respective claims of entitlement to an extended continental shelf. Mauritius and Maldives agree that there is a continental margin in the Indian Ocean appurtenant to their respective landmasses and both have submitted information to the CLCS.

A. Chagos-Laccadive Ridge

2.32 The Chagos Archipelago and Maldives are both located on the Chagos-Laccadive Ridge ("CLR"), which is a volcanic ridge that runs through the centre of the Indian Ocean.

2.33 The CLR lies between 14°N and 9°S, extending for about 2,500 km roughly along the 73°E meridian. The CLR is composed of atolls, shoals, banks and coral reefs at depths less than 1,500 metres. The CLR supports the landmasses of the Laccadive Islands in the north, Maldives in the central section and the Chagos Archipelago to the south. Notably, all of the islands and features of the Chagos Archipelago and Maldives sit on the same submarine ridge, share a common geological origin and are connected by saddle-like features to form this topographic continuity.

2.34 The CLR was formed between 48 and 60 million years ago by the Reunion Hotspot which affected most of the western and central Indian Ocean as from approximately 65 million years ago.[28] The same hotspot also formed the Island of Mauritius between 8 and 10 million years ago.[29] Taking into account the linearity of the CLR and its north-to-south age progression with the northward motion of the Indian plate over the Reunion Hotspot, the CLR represents the trace of the Réunion Hotspot. Both Mauritius and Maldives claim an extended continental shelf in relation to the CLR.[30]

2.35 To the south and east of the Chagos Archipelago there is a linear depression, the Chagos Trough, which runs alongside the CLR.[31] To the north, the CLR extends further eastward as irregular seafloor until it merges with the flat-lying deep ocean floor at a depth of around 5,000

---

[28] United Nations Convention on the Law of the Sea, *Amended Preliminary Information Submitted by the Republic of Mauritius Concerning the Extended Continental Shelf in the Northern Chagos Archipelago Region*, MCN-PI-DOC (May 2021) (hereinafter "Mauritius' Amended Preliminary Information (2021)"), para. 5-3 (Memorial of Mauritius, Annex 3).

[29] *Ibid.*

[30] *Ibid. See also* United Nations Convention on the Law of the Sea, *Submission by the Republic of Maldives to the Commission on the Limits of the Continental Shelf, Executive Summary*, MAL-ES-DOC (July 2010) (hereinafter "Maldives' CLCS Submission") (Memorial of Mauritius, Annex 5).

[31] Mauritius' Amended Preliminary Information (2021), para. 5-4 (Memorial of Mauritius, Annex 3).

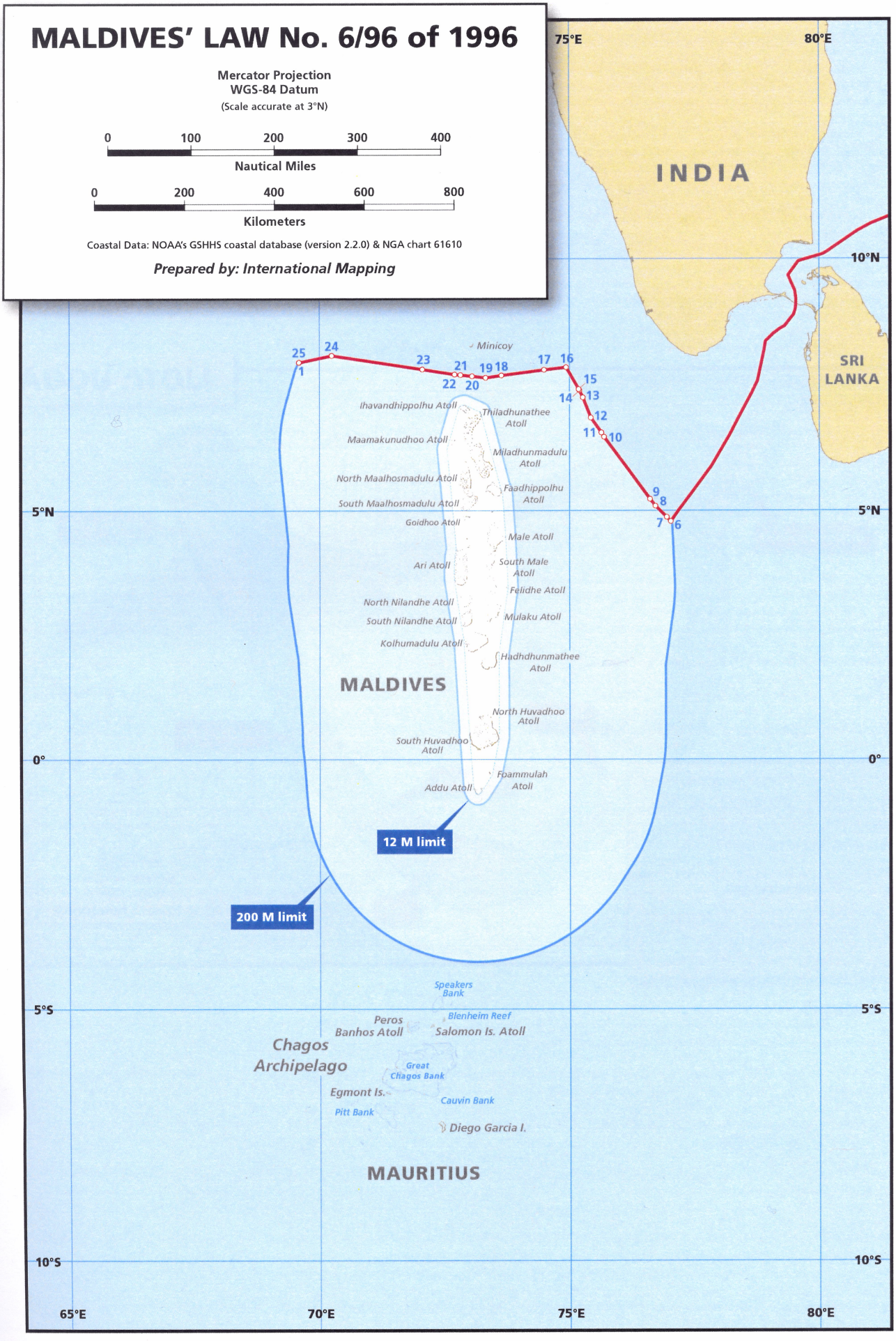

MALDIVES' LAW No. 6/96 of 1996
Mercator Projection
WGS-84 Datum
(Scale accurate at 3°N)
0 100 200 300 400
Nautical Miles
0 200 400 600 800
Kilometers
Coastal Data: NOAA's GSHHS coastal database (version 2.2.0) & NGA chart 61610
Prepared by: International Mapping
75°E
80°E
INDIA
SRI LANKA
10°N
5°N
0°
5°S
10°S
65°E
70°E
75°E
80°E
Minicoy
Ihavandhippolhu Atoll
Thiladhunathee Atoll
Maamakunudhoo Atoll
Miladhunmadulu Atoll
North Maalhosmadulu Atoll
Faadhippolhu Atoll
South Maalhosmadulu Atoll
Goidhoo Atoll
Male Atoll
Ari Atoll
South Male Atoll
Felidhe Atoll
North Nilandhe Atoll
South Nilandhe Atoll
Mulaku Atoll
Kolhumadulu Atoll
Hadhdhunmathee Atoll
MALDIVES
North Huvadhoo Atoll
South Huvadhoo Atoll
Foammulah Atoll
Addu Atoll
12 M limit
200 M limit
Speakers Bank
Peros Banhos Atoll
Blenheim Reef
Salomon Is. Atoll
Chagos Archipelago
Great Chagos Bank
Egmont Is.
Cauvin Bank
Pitt Bank
Diego Garcia I.
MAURITIUS

Figure 2.10

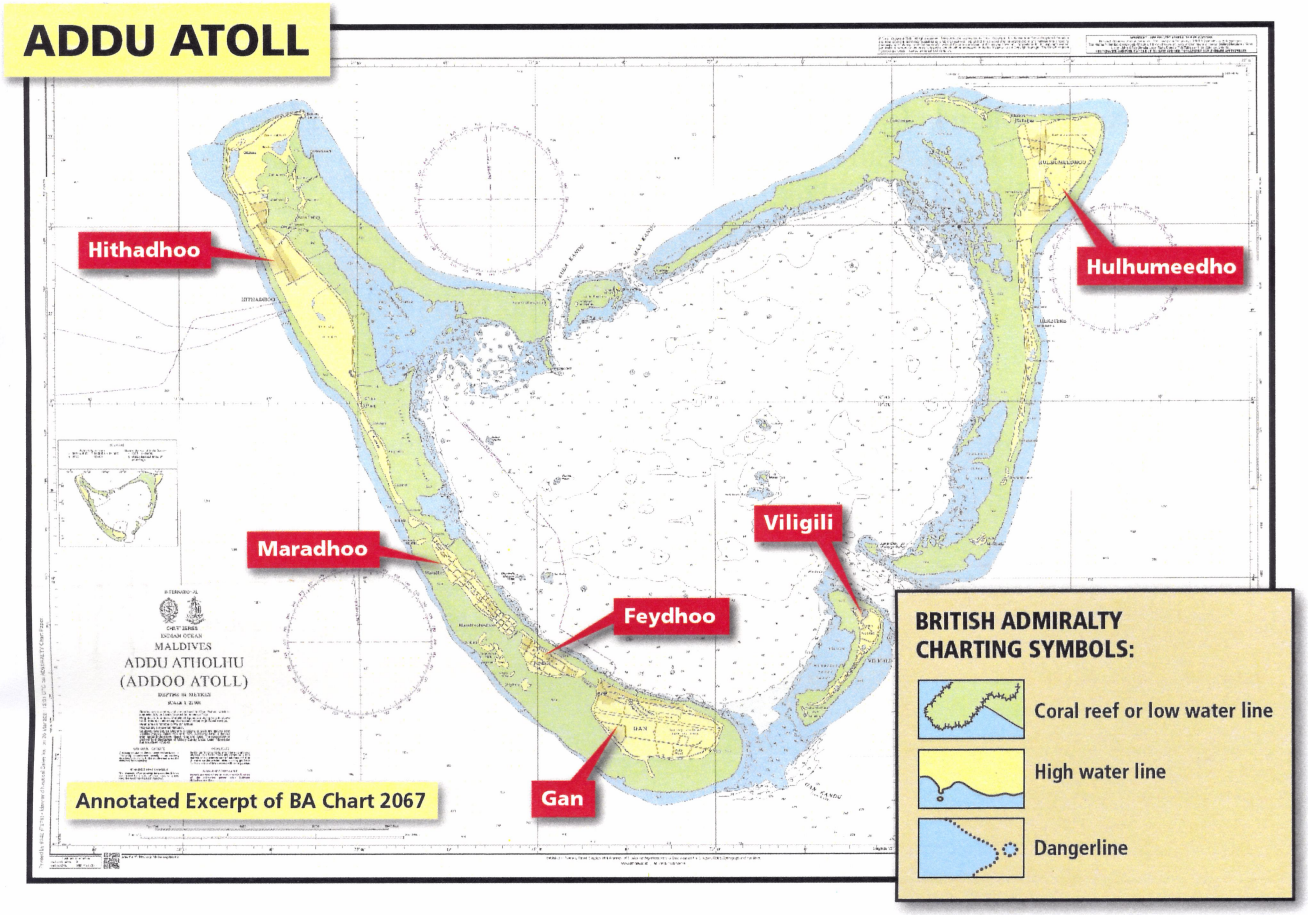

ADDU ATOLL
Hithadhoo
Hulhumeedho
Maradhoo
Viligili
Feydhoo
Gan
MALDIVES
ADDU ATHOLHU
(ADDOO ATOLL)
Annotated Excerpt of BA Chart 2067
BRITISH ADMIRALTY
CHARTING SYMBOLS:
Coral reef or low water line
High water line
Dangerline

Figure 2.11

metres. **Figure 2.12** (following page 14) provides a three-dimensional view of the CLR, showing the Chagos Archipelago in the centre and Maldives further to the north.

2.36 As can be seen from Figure 2.12, the banks, atolls and coral reefs which cap the CLR slope downward to a depth of 5,000 metres to the east of the Chagos Archipelago and the southern-most atolls of Maldives, and to lesser depths in other directions. The width of the CLR varies and is narrowest at around 3°S, where only 170 km separate the 4,000-metre bathymetric contours to either side, broadening to the north and south.

B. MAURITIUS

2.37 On the basis of the geological and geomorphological circumstances described above, Mauritius has an extended continental shelf comprised of the seabed and subsoil of the submarine areas that extend to the north-east beyond its territorial sea throughout the natural prolongation of its land territory to the outer edge of the continental margin. The outer edge of the continental margin representing the natural prolongation of the relevant land territory in the Chagos Archipelago (Peros Banhos Atoll, Salomon Islands Atoll and Blenheim Reef), as determined by application of Articles 76(4)-(7) of UNCLOS – described below – extends beyond 200 M measured from the archipelagic baselines established by Mauritius in accordance with Article 47 of the Convention.

2.38 On 6 May 2009, Mauritius submitted Preliminary Information to the CLCS concerning the extended continental shelf in the Chagos Archipelago Region.[32] Thereafter, Mauritius made three partial submissions to the CLCS:

a) On 1 December 2008, Mauritius made a joint submission with Seychelles concerning the region of the Mascarene Plateau;[33]

---

[32] United Nations Convention on the Law of the Sea, *Preliminary Information Submitted by the Republic of Mauritius Concerning the Extended Continental Shelf in the Chagos Archipelago Region Pursuant to the Decision Contained in SPLOS/183*, MCS-PI-DOC (May 2009) *available at* https://www.un.org/Depts/los/clcs_new/submissions_files/preliminary/mus_2009_preliminaryinfo.pdf (last accessed 23 May 2021) (hereinafter "Mauritius' Preliminary Information (2009)").

[33] United Nations Convention on the Law of the Sea, *Joint Submission to the Commission on the Limits of the Continental Shelf Concerning the Mascarene Plateau Region* (December 2008) *available at* https://www.un.org/depts/los/clcs_new/submissions_files/submission_musc.htm (last accessed 23 May 2021). The CLCS made favourable recommendations in 2011. *See* United Nations Convention on the Law of the Sea, Commission on the Limits of the Continental Shelf, *Summary of the Recommendations of the Commission on the Limits of the Continental Shelf in regard to the Joint Submission made by Mauritius and Seychelles concerning the Mascarene Plateau region on 1 December 2008* (March 2011) *available at* https://www.un.org/depts/los/clcs_new/submissions_files/musc08/sms08_summary_recommendations.pdf (last accessed 23 May 2021).

b) On 6 May 2009, Mauritius made a partial submission concerning the region of Rodrigues Island;[34] and

c) On 26 March 2019, Mauritius made a partial submission concerning the Southern Chagos Archipelago Region.[35]

2.39 In its partial submission of 26 March 2019, Mauritius advised the CLCS that:

> The Republic of Mauritius also intends to make another partial submission concerning the continental shelf in the Northern Chagos Archipelago Region in due course. However since there is a likely overlap with the claim for an extended continental shelf submitted by the Republic of Maldives (MAL-ES-DOC) and the representations made by the Republic of Mauritius (Note No: 10887/10 and Note No. 11031/11), the Republic of Mauritius is envisaging bilateral talks with the Republic of Maldives with a view to reaching an agreement both in respect of the maritime delimitation and the extended continental shelf.[36]

2.40 Unfortunately, the bilateral talks with Maldives favoured by Mauritius did not materialise, due to Maldives' unwillingness to engage with Mauritius, as explained in Chapter 3 below. Accordingly, on 24 May 2021, Mauritius submitted its own Amended Preliminary Information to the CLCS in which it explained that the natural prolongation of the continental shelf in the Northern Chagos Archipelago Region along the CLR extends northwards from the islands of Peros Banhos Atoll, Salomon Islands Atoll and Blenheim Reef.[37] The submerged landmass beyond 200 M from Mauritius' coast in the Northern Chagos Archipelago Region is therefore the natural prolongation of the continental shelf from the islands of Peros Banhos Atoll, Salomon Islands Atoll and Blenheim Reef in the Chagos Archipelago.

2.41 Mauritius is in the process of finalising its submission to the CLCS concerning the Northern Chagos Archipelago Region, which covers some of the area to be delimited by the Special Chamber. Mauritius' entitlement to this area is based on the delineation of the outer

---

[34] United Nations Convention on the Law of the Sea, *Submission by the Republic of Mauritius to the Commission on the Limits of the Continental Shelf concerning the Extended Continental Shelf in the Region of Rodrigues Island* (May 2009) *available at* https://www.un.org/depts/los/clcs_new/submissions_files/submission_mus_36_2009.htm (last accessed 23 May 2021).

[35] United Nations Convention on the Law of the Sea, *Submission by the Republic of Mauritius to the Commission on the Limits of the Continental Shelf Concerning the Southern Chagos Archipelago Region*, MCS-ES-DOC (March 2019) (hereinafter "Mauritius' CLCS Submission with respect of the Southern Chagos Archipelago Region") (Memorial of Mauritius, Annex 4).

[36] *Ibid.*, para. 1-5.

[37] *See* Mauritius' Amended Preliminary Information (2021), paras. 4-1 to 10 (Memorial of Mauritius, Annex 3).

3-D VIEW OF THE CHAGOS-LACCADIVE RIDGE

Figure 2 from Mauritius' Amended Preliminary Information

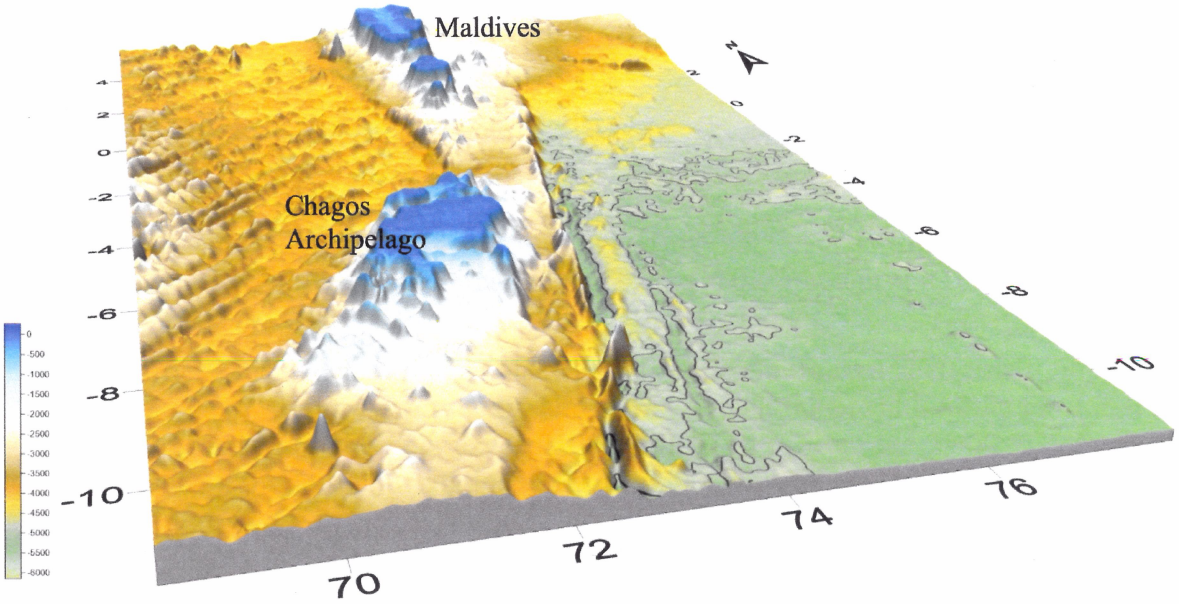


Figure 2.12

limit of the extended continental shelf in accordance with the provisions of Article 76(4) to 76(7) of the Convention:

a) Article 76(4)(a) requires the coastal State to establish the outer edge of the continental margin beyond 200 M by either:

   i. a line delineated by reference to "the outermost fixed points at each of which the thickness of sedimentary rocks is at least 1 per cent of the shortest distance from such point to the foot of the continental slope" (the Gardiner Formula); or

   ii. a line delineated by reference to "fixed points not more than 60 nautical miles from the foot of the continental slope" (the Hedberg Formula).

b) Pursuant to Article 76(4)(b), the foot of the continental slope ("FOS") "shall be determined as the point of maximum change in the gradient at its base," unless there is evidence to the contrary.

c) Article 76(5) states that the outer limits of the continental shelf "shall not exceed 350 nautical miles from the baselines from which the breadth of the territorial sea is measured or shall not exceed 100 nautical miles from the 2,500 metre isobath, which is a line connecting the depth of 2,500 metres."

d) Article 76(7) provides that the continental shelf beyond 200 M shall be delineated "by straight lines not exceeding 60 nautical miles in length, connecting fixed points, defined by coordinates of latitude and longitude."

2.42 In accordance with these provisions, Mauritius has delineated its extended continental shelf entitlement on the basis of the Hedberg Formula and by using a combination of one critical FOS point and straight lines less than 60 M in length, up to the 350 M limit prescribed by Article 76(5) of the Convention. The FOS point has been determined in accordance with Article 76(4)(b), applying the criterion of "maximum change in gradient at the base of the slope." The coordinates of the FOS point are: 2°3'32.40"S, 76°17'6.01"E.

2.43 It follows that the outer limit of Mauritius' extended continental shelf consists of a series of geodesics not more than 60 M in length which join fixed points generated from the application of the Hedberg Formula, and constrained by the 350 M limit, commencing and terminating at fixed points on the 200 M lines of Mauritius and Maldives.

2.44 The outer limit of the extended continental shelf in the Northern Region of the Chagos Archipelago is thus defined by 169 fixed points:

a) The first (ECS 1) is located where the outer limit of Mauritius' extended continental shelf entitlement commences, just beyond Mauritius' 200 M limit from the Chagos Archipelago.

b) 121 points (ECS 2 to ECS 115 and ECS 163 to ECS 169) are located on the arc at 60 M from the FOS (Article 76(4)(a)(ii)).

c) 47 points (ECS 116 to ECS 162) are defined by the 350 M limit (Article 76(6)).

d) The coordinates of all 169 fixed points are set out in Mauritius' Amended Preliminary Information.[38]

2.45 The resulting area of continental shelf beyond 200 M from the territorial sea baselines of Peros Banhos Atoll, Salomon Islands Atoll and Blenheim Reef that is claimed by Mauritius comprises approximately 23,300 km². This area is depicted in **Figure 2.13** (following page 16).

C. MALDIVES

2.46 Maldives deposited a submission to the CLCS on 26 July 2010, claiming an extended continental shelf comprising the seabed and subsoil of the submarine areas that extend beyond its territorial sea throughout the natural prolongation of its land territory to the outer edge of the continental margin.[39]

2.47 In similar vein to Mauritius' Amended Preliminary Information, Maldives' submission is based on the assertion that the CLR, the Laccadive Basin and the Comorin Ridge are "in morphological physical juxtaposition and represent the submerged prolongation of the land territory of the Republic of Maldives."[40] Maldives' submission further states that:

> the Indian Ocean displays a history of multi-phase sea-floor spreading and evolving plate boundary geometries. In this regard, all of the features that comprise the continental shelf of Maldives morphologically share a geological history related to the continental breakup of Gondwanaland, and the interaction of a series of hotspots or mantle plumes, including the development of the Deccan-Réunion Hotspot.[41]

2.48 The continental shelf beyond 200 M claimed by Maldives is depicted in **Figure 2.14** (following Figure 2.13).

2.49 **Figures 2.13** and **2.14** show that there is a large measure of overlap in the area of extended continental shelf, lying beyond 200 M from the coasts of Mauritius and Maldives, which is claimed by both Parties. **Figure 4.9** (following Figure 4.8), in Chapter 4, shows precisely where the overlapping claims, which require delimitation by the Special Chamber, are located.

---

[38] Mauritius' Amended Preliminary Information (2021), pp. 24-28 (Memorial of Mauritius, Annex 3).

[39] Maldives' CLCS Submission (Memorial of Mauritius, Annex 5).

[40] *Ibid.*, para. 6-1.

[41] *Ibid.*, para. 6-2.

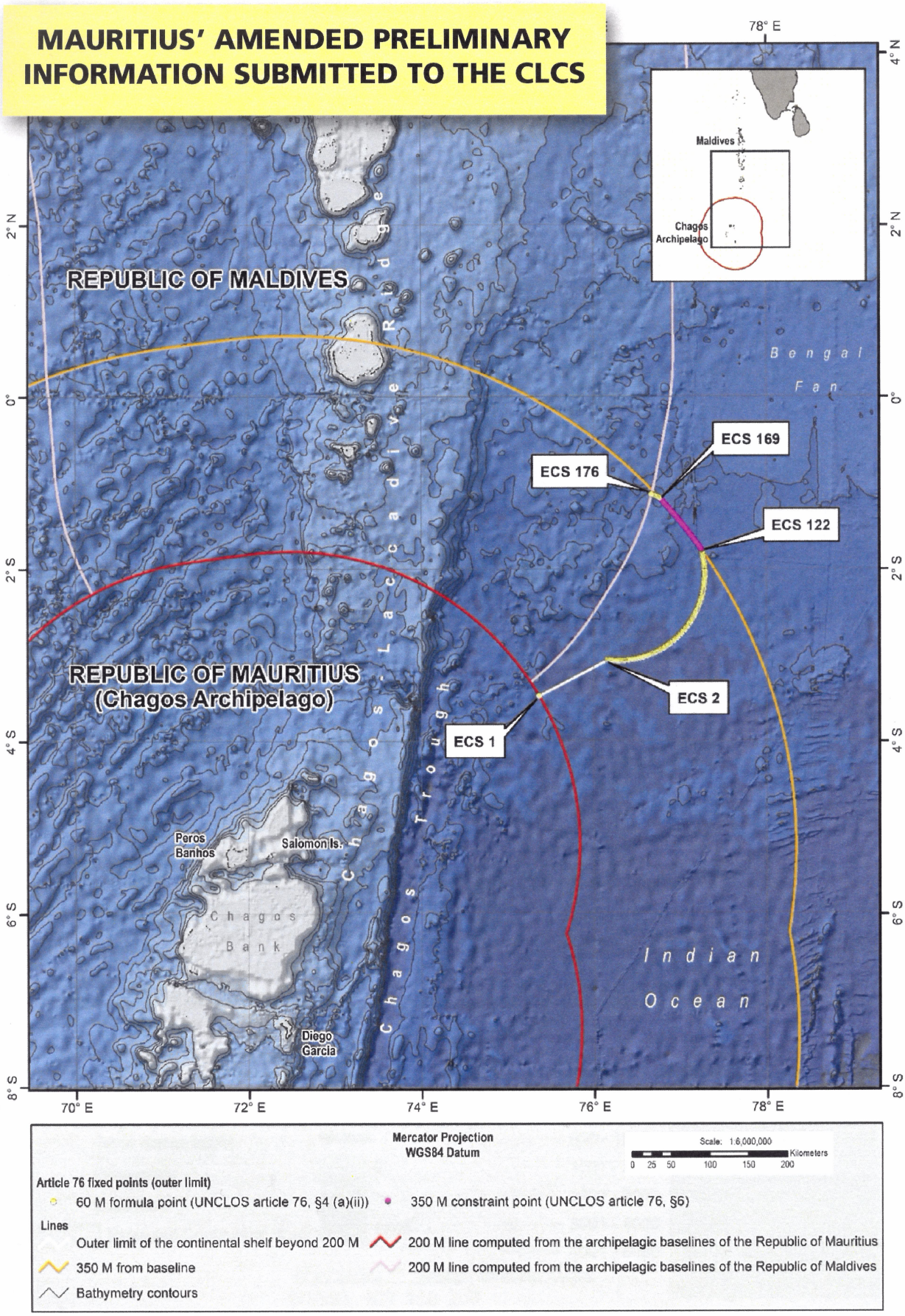

MAURITIUS' AMENDED PRELIMINARY INFORMATION SUBMITTED TO THE CLCS
78° E
4° N
2° N
0°
2° S
4° S
6° S
8° S
70° E
72° E
74° E
76° E
78° E
Maldives
Chagos Archipelago
REPUBLIC OF MALDIVES
REPUBLIC OF MAURITIUS (Chagos Archipelago)
Chagos-Laccadive Ridge
Bengal Fan
ECS 169
ECS 176
ECS 122
ECS 2
ECS 1
Chagos Trough
Peros Banhos
Salomon Is.
Chagos Bank
Diego Garcia
Indian Ocean
Mercator Projection
WGS84 Datum
Scale: 1:6,000,000
0 25 50 100 150 200 Kilometers
Article 76 fixed points (outer limit)
60 M formula point (UNCLOS article 76, §4 (a)(ii))
350 M constraint point (UNCLOS article 76, §6)
Lines
Outer limit of the continental shelf beyond 200 M
350 M from baseline
Bathymetry contours
200 M line computed from the archipelagic baselines of the Republic of Mauritius
200 M line computed from the archipelagic baselines of the Republic of Maldives

Figure 2.13

MALDIVES' OUTER CONTINENTAL SHELF SUBMISSION TO THE CLCS

Map No. 1

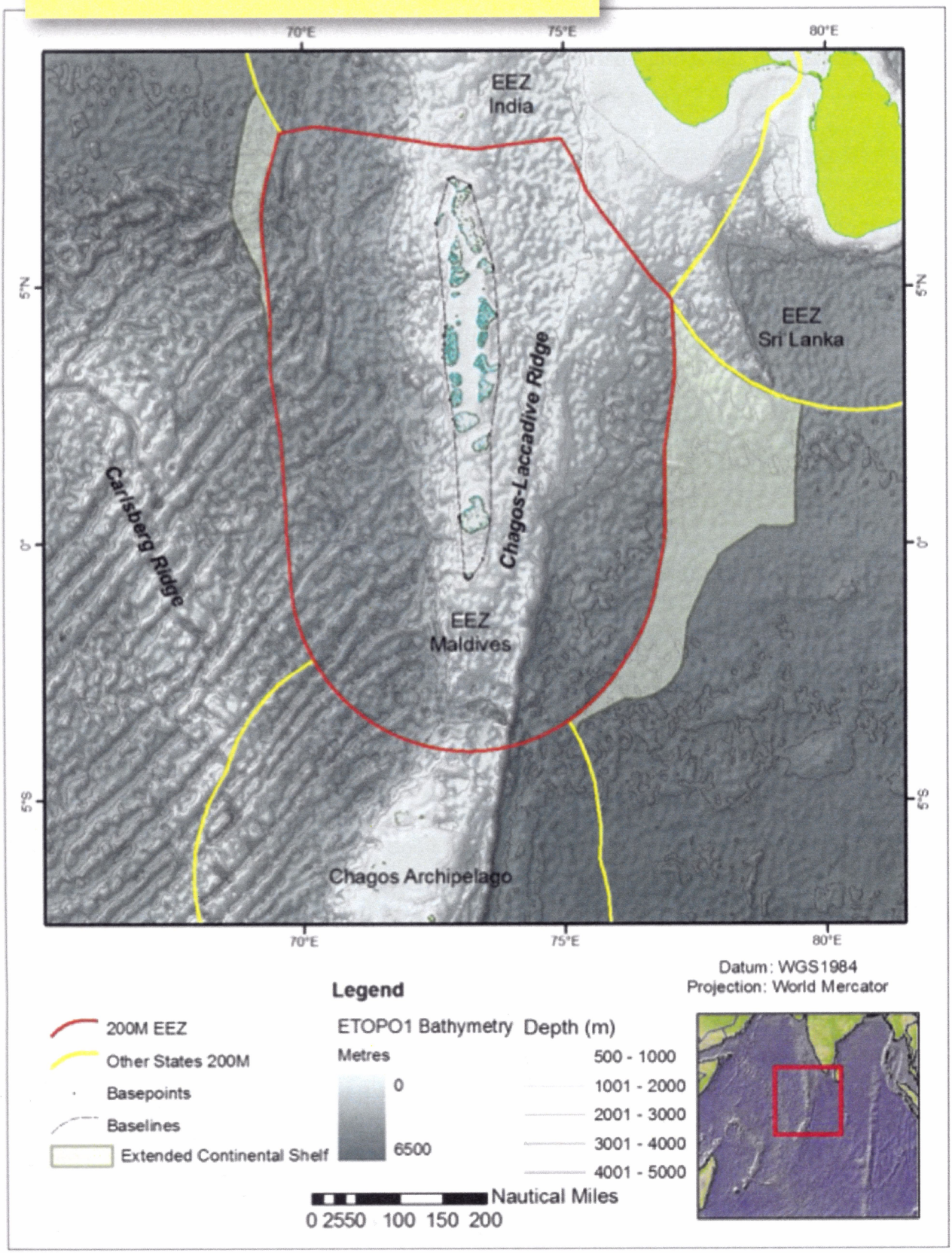


Figure 2.14

CHAPTER 3
HISTORY OF THE DISPUTE AND THE PARTIES' RESPECTIVE MARITIME CLAIMS

3.1 This Chapter presents the relations between the Parties (**Section I**), a description of their respective maritime zones in the area concerned by the present dispute (**Section II**), and their claims in the outer continental shelf (**Section III**). It also summarises the Parties' efforts to negotiate a maritime boundary agreement (**Section IV**).

I. Relations between the Parties

3.2 Mauritius and Maldives, which are both former colonies of the United Kingdom, have generally enjoyed friendly and cordial relations since they first established diplomatic relations on 15 January 1981. Their bilateral relationship has developed over four decades. Beyond trade relations between the Parties, Mauritian companies have invested in Maldives in the banking and tourism sectors. In February 2013, the Parties signed a Bilateral Air Services Agreement.

3.3 There have also been a number of high-level visits. In March 2011 the President of Maldives, H.E. Mohamed Nasheed, paid a State visit to Mauritius on the occasion of the 43rd anniversary of Independence. Other dignitaries from Maldives have also visited Mauritius. The latest visit was that of the President of Maldives in July 2019 in the context of the Indian Ocean Island Games hosted by Mauritius.

3.4 As small island developing States ("SIDS"), Mauritius and Maldives face common challenges, including the adverse effects of climate change, economic and environmental vulnerabilities, and inherent structural handicaps such as a narrow resource base and remoteness from major markets. They have been working closely within the United Nations and the Alliance of Small Island States for greater recognition of the special concerns and needs of SIDS.

3.5 Both Mauritius and Maldives are members of the Commonwealth, the Non-Aligned Movement, the Indian Ocean Rim Association and other regional international organisations, including the Indian Ocean Tuna Commission.

II. Maritime Claims of the Parties

3.6 Both Mauritius and Maldives have enacted legislation concerning their maritime zones. These provide the basis for their claims in the area concerned by the present dispute.

A. MAURITIUS

3.7 In 1977, Mauritius adopted the Maritime Zones Act, applicable to the entirety of its territory.[42] By this Act, Mauritius declared a 200 M EEZ and a continental shelf to the outer edge of the continental margin, or to a distance of 200 M from its baseline where the outer edge of the continental margin does not extend up to that distance, around the entirety of its territory. The legislation applied fully to the Chagos Archipelago.

3.8 By its Maritime Zones Act 2005, Mauritius reaffirmed its 200 M EEZ and continental shelf.[43] On 26 July 2006, pursuant to Articles 75(2) and 84(2) of the Convention, Mauritius submitted geographical coordinates to the UN Division for Ocean Affairs and the Law of the Sea, including in regard to the maritime zones generated by the Chagos Archipelago.[44] The zones are shown in **Figure 2.2** (following Figure 2.1).

3.9 On 20 June 2008, in accordance with Articles 16(2) and 47(9) of UNCLOS, Mauritius deposited with the Secretary-General of the United Nations the list of geographical coordinates of points representing the base points and defining the baselines from which the maritime zones of Mauritius are measured, including the archipelagic baselines around the Chagos Archipelago, as contained in the Regulations made by the Prime Minister of Mauritius under sections 4, 5 and 27 of Mauritius' Maritime Zones Act 2005. Mauritius also deposited therewith an illustrative map entitled "Chagos Archipelago: Archipelagic Baselines."[45] Considered in its entirety, Mauritius' archipelagic baseline system has been deemed to be consistent with the provisions of Article 47 of UNCLOS.[46]

---

[42] Maritime Zones Act 1977.

[43] Maritime Zones Act No. 2 (Written Observations, Annex 15).

[44] Note Verbale of 26 July 2006 from the Permanent Mission of the Republic of Mauritius to the United Nations, New York, to the UN Secretary General, No. 4678/06 (Annex 134 in *Chagos Marine Protected Area Arbitration (Mauritius v. United Kingdom)*, Memorial of the Republic of Mauritius, PCA Case No. 2011-03 (1 August 2012), *available at* https://files.pca-cpa.org//pcadocs/mu-uk/Annexes%20to%20Memorial/MM%20Annexes%2081-177.pdf (last accessed 23 May 2021)).

[45] United Nations Convention on the Law of the Sea, *Deposit by the Republic of Mauritius of charts and lists of geographical coordinates of points, pursuant to article 16, paragraph 2, and article 47, paragraph 9, of the Convention*, Circular Note M.N.Z. 63.2008-LOS (Maritime Zone Notification) (27 June 2008) *available at* https://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/mzn_s/mzn63.pdf (last accessed 23 May 2021). Mauritius' Maritime Zones (Baselines and Delineating Lines) Regulations 2005 provide the Chagos Archipelago's Archipelagic Baseline Vertices. Maritime Zones Regulations 2005, p. 38 (Memorial of Mauritius, Annex 1). The Regulations were adopted by the Prime Minister of Mauritius pursuant to Article 4 of the Maritime Zones Act 2005, which authorises the Prime Minister, by regulation, to "prescribe the baselines from which the maritime zones of Mauritius shall be determined," including "straight archipelagic baselines determined in the manner referred to in Article 47 of UNCLOS." Maritime Zones Act No. 2, Arts. 4(1)-(2) (Written Observations, Annex 15).

[46] United States Department of State, Bureau of Oceans and International Environmental and Scientific Affairs, *Limits in the Sea, No. 140, Mauritius: Archipelagic and other Maritime Claims and Boundaries* (8 July 2014) *available at* https://www.state.gov/wp-content/uploads/2019/11/LIS-140.pdf, pp. 5, 10.

B. MALDIVES

3.10 In 1996, Maldives adopted the Maritime Zones Act No. 6/96. Article 6 of the Act provides that "the maritime area adjacent to and beyond the territorial sea ... together with the seabed thereof up to 200 nautical miles measured from the archipelagic baselines ... shall be the exclusive economic zone of Maldives."[47] The maritime claims of Maldives based on this legislation are depicted in **Figure 2.10** (following page 12).

3.11 Like Mauritius, Maldives has claimed archipelagic baselines.[48] However, Maldives' archipelagic baselines do not conform to the requirements of Article 47(2) because three baseline segments are longer than 100 M despite the fact that this exceeds 3% of Maldives' total archipelagic baseline segments.[49] As a consequence, Maldives archipelagic baselines have been objected to by some States.[50]

III. The Parties' Claims in the Outer Continental Shelf

3.12 In May 2009, Mauritius submitted to the CLCS preliminary information concerning the extended continental shelf in the Chagos Archipelago region, in order to satisfy the requirement of Article 4 of Annex II to the Convention.[51] At the time, Mauritius stated its intention to complete a Submission in respect of that region by 2012.[52] The Submission was however delayed. It was completed in 2019 for the Southern part of that region[53] and Amended Preliminary Information was submitted in May 2021 for its Northern part.[54]

3.13 On 26 July 2010, Maldives submitted to the CLCS information on the limits of the continental shelf beyond 200 M from the baselines from which the breadth of its territorial sea is measured.[55] The submission was accompanied by a map, reproduced at **Figure 2.13** (following page 16), which, in addition to claiming areas of extended continental shelf, also indicated the areas of the EEZ claimed by Maldives. Maldives stated at the time "that the area

---

[47] Maritime Zones of Maldives Act No. 6/96, Art. 6 (Written Observations, Annex 16).

[48] The coordinates of Maldives' archipelagic baselines are set out in Schedule 1 of the Maritime Zones of Maldives Act No. 6/96.

[49] United States Department of State, Bureau of Oceans and International Environmental and Scientific Affairs, *Limits in the Sea, No. 126, Maldives: Maritime Claims and Boundaries* (8 September 2005) *available at* https://www.state.gov/wp-content/uploads/2019/12/LIS-126.pdf, p. 3.

[50] *See* Office of the Legal Adviser, United States Department of State, S. Cummins and D. Stewart (eds.), DIGEST OF UNITED STATES PRACTICE IN INTERNATIONAL LAW (2001) *available at* https://2009-2017.state.gov/documents/organization/139600.pdf, pp. 711-714.

[51] Mauritius' Preliminary Information (2009).

[52] *Ibid.*, para. 2-2.

[53] Mauritius' CLCS Submission with respect of the Southern Chagos Archipelago Region (Memorial of Mauritius, Annex 4).

[54] Mauritius' Amended Preliminary Information (2021) (Memorial of Mauritius, Annex 3).

[55] Maldives' CLCS Submission (Memorial of Mauritius, Annex 5).

of extended continental shelf contained in the Submission is not the subject of any dispute between it and any other coastal State(s)."[56]

3.14 On 21 September 2010, Mauritius objected to the maritime claims depicted in Maldives' submission to the CLCS.[57] The Government of Mauritius conveyed its agreement to "hold[] formal talks with the Government of the Republic of Maldives for the delimitation of the exclusive economic zones (EEZs) of Mauritius and Maldives." It asserted that "the holding of EEZ delimitation boundary talks are all the more relevant in the light of this submission" in order to resolve the two States' overlapping claims.[58]

3.15 Shortly thereafter, on 21 October 2010, the Parties met to discuss the delimitation of their maritime boundary. In the course of the meeting, Maldives acknowledged that in its "submission to the CLCS the exclusive economic zone (EEZ) coordinates of the Republic of Mauritius in the Chagos region were not taken into consideration."[59] Maldives "assured the Mauritius side that this would be rectified by an addendum to the submission of the Republic of Maldives which would be prepared by the Expert in consultation with the Government of the Republic of Mauritius."[60]

3.16 However, Maldives did not file an addendum with the Secretary-General of the United Nations to amend its submission. This failure prompted Mauritius to send a diplomatic note to the United Nations Secretary-General on 24 March 2011. In the note, Mauritius "protest[ed] formally against the submission made by the Republic of Maldives in as much as the Extended Continental Shelf being claimed by the Republic of Maldives encroaches on the Exclusive Economic Zone of the Republic of Mauritius."[61] In spite of this protest, Maldives' submission was not amended and the matter remained unresolved.

3.17 On 26 March 2019, Mauritius submitted information to the CLCS concerning the Southern Chagos Archipelago Region.[62] In its submission, Mauritius stated that:

---

[56] *Ibid.*, para. 5-1.

[57] Diplomatic Note from Ministry of Foreign Affairs, Regional Integration and International Trade, Republic of Mauritius, to Ministry of Foreign Affairs, Republic of Maldives (21 September 2010) (Written Observations, Annex 12).

[58] *Ibid.*

[59] First Meeting on Maritime Boundary Delimitation and Submission Regarding the Extended Continental Shelf Between the Republic of Maldives and Republic of Mauritius (21 October 2010) (Written Observations, Annex 13).

[60] *Ibid.*

[61] Diplomatic Note No. 11031/11 from the Permanent Mission of the Republic of Mauritius to the Secretary-General of the United Nations (24 March 2011), p. 2 (Preliminary Objections, Annex 27).

[62] Mauritius' CLCS Submission with respect of the Southern Chagos Archipelago Region (Memorial of Mauritius, Annex 4).

> The Republic of Mauritius also intends to make another partial submission concerning the continental shelf in the Northern Chagos Archipelago Region in due course. However since there is a likely overlap with the claim for an extended continental shelf submitted by the Republic of Maldives (MAL-ES-DOC) and the representations made by the Republic of Mauritius (Note No: 10887/10 and Note No. 11031/11), the Republic of Mauritius is envisaging bilateral talks with the Republic of Maldives with a view to reaching an agreement both in respect of the maritime delimitation and the extended continental shelf.[63]

As it became clear that there would be no such negotiations, Mauritius is preparing a fourth submission.

3.18 On 24 May 2021, Mauritius submitted Amended Preliminary Information to the CLCS concerning the Northern Chagos Archipelago Region. The area beyond 200 nautical miles claimed by Mauritius in this submission as its extended continental shelf is depicted in **Figure 2.13** (following page 16).

3.19 On 28 June 2019, the United Kingdom objected to the consideration by the CLCS of the submission made by Mauritius concerning the Southern Chagos Archipelago Region on the grounds that there was a sovereignty dispute between Mauritius and the United Kingdom over the Chagos Archipelago.[64] During the presentation of its submission to the CLCS on 14 August 2019, Mauritius pointed out that it is the coastal State in relation to the Chagos Archipelago and that the Commission should proceed to consider its submission as the only objection thereto had been filed on behalf of the so-called "British Indian Ocean Territory."[65] It underscored that the CLCS should refrain from giving effect to that objection in line with UN General Assembly Resolution 73/295.[66] On 16 August 2019, the CLCS informed Mauritius that it would revert to the consideration of its submission when it would be next in line for consideration as queued in the order in which it was received.[67]

---

[63] *Ibid.* para. 1-5.

[64] Note Verbale dated 28 June 2019 from Permanent Mission of the United Kingdom to the United Nations in New York to the United Nations Secretary-General (Memorial of Mauritius, Annex 6).

[65] Republic of Mauritius, *Presentation to the Commission on the Limits of the Continental Shelf on the Submission Concerning the Southern Chagos Archipelago Region* (Opening Statement, Legal Presentation and Concluding Remarks) New York (August 2019), Opening Statement, pp. 6-7; Legal Presentation, pp. 5-13; Concluding Remarks, pp. 3-4 (Memorial of Mauritius, Annex 7).

[66] *Ibid.*

[67] Letter from Chairperson of the Commission on the Limits of the Continental Shelf to the Permanent Representative of Mauritius to the United Nations in New York (16 August 2019) (Memorial of Mauritius, Annex 8).

IV. The Parties' Efforts to Negotiate a Maritime Boundary Agreement

3.20 In the meantime, the Parties have also sought to negotiate an agreement to delimit their maritime boundary. On 19 June 2001, Mauritius wrote to Maldives to invite it to "agree to preliminary negotiations being initiated at an early date" in order to delimit their continental shelves and also to "look at the issue of delimitation of the Exclusive Economic Zones" in the areas adjacent to the Chagos Archipelago.[68] Initially, Maldives declined the invitation. It did so on the basis that "jurisdiction over the Chagos Archipelago is not exercised by the Government of Mauritius," so that "the Government of Maldives feels that it would be inappropriate to initiate any discussions between the Government of Maldives and the Government of Mauritius regarding the delimitation of the boundary between the Maldives and the Chagos Archipelago."[69]

3.21 However, in due course Maldives changed its position. In February 2010, it proposed "that Mauritius and Maldives hold discussions for the delimitation of the exclusive economic zones of [the] two countries."[70] Mauritius welcomed the proposal; it confirmed that "the Government of the Republic of Mauritius [was] agreeable to holding formal talks with the Government of the Republic of Maldives for the delimitation of the exclusive economic zones (EEZs) of Mauritius and Maldives."[71]

3.22 On 21 October 2010, the Parties met in Malé, Maldives, "to discuss a potential overlap of the extended continental shelf and to exchange views on maritime boundary delimitation between the two respective States."[72] It is apparent from this meeting, and the preparatory steps that led to it, that the Parties recognised the existence of an overlap as between their maritime claims. As noted above, in the course of the meeting, Maldives recognised that in its "submission to the CLCS the exclusive economic zone (EEZ) coordinates of the Republic of Mauritius in the Chagos region were not taken into consideration" and stated that it would

---

[68] Letter from Minister of Foreign Affairs and Regional Cooperation of Mauritius to Minister of Foreign Affairs of Maldives (19 June 2001) (Preliminary Objections, Annex 24).

[69] Note Verbale from Ministry of Foreign Affairs of Maldives to Ministry of Foreign Affairs of Mauritius (18 July 2001) (Preliminary Objections, Annex 25).

[70] Letter from Dr. the Hon. Arvin Boolell (Minister of Foreign Affairs, Regional Integration and International Trade, Republic of Mauritius), to H.E. Dr. A. Shaheed (Minister of Foreign Affairs, Republic of Maldives) (2 March 2010) (Written Observations, Annex 11).

[71] Diplomatic Note from Ministry of Foreign Affairs, Regional Integration and International Trade, Republic of Mauritius, to Ministry of Foreign Affairs, Republic of Maldives (21 September 2010) (Written Observations, Annex 12).

[72] First Meeting on Maritime Boundary Delimitation and Submission Regarding the Extended Continental Shelf Between the Republic of Maldives and Republic of Mauritius (21 October 2010) (Written Observations, Annex 13).

amend its submission accordingly.[73] Recognising the existence of overlapping claims, Maldives further "agreed that both sides will work jointly on the area of overlap."[74]

3.23 However, in spite of these commitments, Maldives has consistently declined to engage in any further negotiations, with the consequence that none has taken place. Following the ICJ's Advisory Opinion of 25 February 2019, which confirmed that the Chagos Archipelago is part of the territory of Mauritius, Mauritius sent a diplomatic note to Maldives on 7 March 2019, "invit[ing] the Maldives authorities to a second round of discussions."[75] Maldives did not respond.

3.24 On 22 May 2019, when the ICJ Advisory Opinion went to the United Nations General Assembly, Maldives' Permanent Representative to the United Nations explained her country's vote against the Assembly's resolution that welcomed and endorsed the ICJ's Advisory Opinion. She did so in the following terms:

> the draft resolution prejudges the implications on the July 2010 submission by the Maldives to the Commission on the Limits of the Continental Shelf. Without due process and clarity on the legal implications of a contested matter, Maldives is not in a position to support the resolution solely as a matter of decolonization.[76]

This statement, which made clear that Maldives would not respect the ICJ Advisory Opinion, contributed to the circumstances that caused Mauritius to initiate proceedings under UNCLOS.

3.25 In its Judgment of 28 January 2021, the Special Chamber observed that by persisting in its refusal to engage in negotiations with Mauritius on the maritime boundary, "the Maldives demonstrate[d] that 'no agreement can be reached within a reasonable period of time', whatever time could have been reserved for that negotiation."[77] The Special Chamber noted that, after Maldives' refusal to "respond[] to Mauritius' invitation of 7 March 2019, to a second round of discussions following the *Chagos* advisory opinion, it became clear that there was nothing more that Mauritius could have accomplished in insisting on having delimitation negotiations with the Maldives."[78] The Special Chamber therefore concluded that the

---

[73] *Ibid.*

[74] *Ibid.*

[75] Note Verbale from Mauritius Mission to the UN, New York to Maldives Mission to the UN, New York (7 March 2019) (Preliminary Objections, Annex 16).

[76] United States General Assembly, 73rd session, 83rd plenary meeting, 22 May 2019, A/73/PV.83 (Maldives' explanation of vote) (Written Objections, Annex 18).

[77] *Mauritius/Maldives* Judgment, para. 290.

[78] *Ibid.*, para. 291.

obligation to negotiate "under article 74, paragraph 1 and article 83, paragraph 1, of the Convention has been fulfilled."[79]

[79] *Ibid.*, para. 293.

CHAPTER 4
DELIMITATION OF THE EEZ AND CONTINENTAL SHELF

4.1 This Chapter sets forth Mauritius' submissions concerning the delimitation of the EEZ and continental shelf.

4.2 Mauritius submits that, in accordance with the requirements of UNCLOS, the EEZ and continental shelf within 200 M should be delimited, in accordance with the now-standard three-step method, by means of an equidistance line. In Mauritius' view, there are no relevant circumstances that would justify its adjustment, and the equidistance line produces a solution that is equitable for both Parties. This line is shown in **Figure 4.1** (following page 26).

4.3 With respect to the delimitation of the Parties' overlapping claims to the continental shelf beyond 200 M, Mauritius submits that the overlapping area should be delimited by means of a line apportioning an equal share of that area to each Party. This line is also shown in **Figure 4.1**.

4.4 **Section I** reviews the applicable law, including the international jurisprudence that is most pertinent to this case. **Section II** addresses the delimitation of the boundary between Mauritius and Maldives in the EEZ and continental shelf within 200 M of the Parties' baselines. Mauritius submits that the geographic circumstances of this case plainly call for application of the three-step method to delimit the boundary within 200 M, and for the boundary to follow an equidistance line that divides the area where the entitlements of the Parties overlap.

4.5 **Section III** addresses the delimitation of the continental shelf beyond 200 M, where both Parties have overlapping entitlements based on the geology and geomorphology of the seabed. Mauritius submits that, with respect to this area of overlapping entitlements, the legally mandated equitable solution requires delimitation by means of a line that apportions them equal shares of the disputed area lying beyond 200 M from their respective coasts.

I. The Applicable Law

A. The Regimes of the EEZ and Continental Shelf

4.6 The regimes of the EEZ and continental shelf are governed by Part V (comprising Articles 55 through 75) and Part VI (comprising Articles 76 through 85) of the Convention, respectively.

4.7 Article 55 of the Convention defines the EEZ as:

> an area beyond and adjacent to the territorial sea, subject to the specific legal regime established in this Part, under which the rights and jurisdiction of the coastal State and the rights and

> freedoms of other States are governed by the relevant provisions of this Convention.[80]

4.8 Article 57 provides that the EEZ "shall not extend beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured."[81] Unlike a coastal State's rights in the continental shelf, an EEZ must be affirmatively claimed.[82]

4.9 Article 76(1) of the Convention defines the continental shelf as:

> the seabed and subsoil of the submarine areas that extend beyond its territorial sea throughout the natural prolongation of its land territory to the outer edge of the continental margin, or to a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured where the outer edge of the continental margin does not extend up to that distance.[83]

4.10 Coastal States are thus entitled to a continental shelf extending either (1) to a distance of 200 M from their baselines, or (2) to the outer edge of the continental margin when that margin extends beyond 200 M. The requirements for establishing entitlement to a continental shelf beyond 200 M are stated in Article 76(4) and are subject to the constraints provided in Article 76(5). As discussed further in Section III, the application of these rules to both Mauritius and Maldives entitles both to claim a continental shelf extending to as much as 350 M from their coasts in the maritime areas relevant to these proceedings.

---

[80] UNCLOS, Art. 55. Article 56(1) states the rights, jurisdiction and duties of the coastal State in the EEZ. It provides:

> 1. In the [EEZ], the coastal State has:
>
> (a) sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources ... of the waters superjacent to the seabed and of the seabed and its subsoil, and with regard to other activities for the economic exploitation and exploration of the zone ...;
>
> (b) jurisdiction as provided for in the relevant provisions of this Convention with regard to: (i) the establishment and use of artificial islands, installations, and structures; (ii) marine scientific research; (iii) the protection and preservation of the marine environment;
>
> (c) other rights and duties provided for in this Convention.

[81] *Ibid.*, Art. 57. Mauritius declared an EEZ in Part VI of its Maritime Zones Act 2005. Maritime Zones Act No. 2, Sections 14-17 (Written Observations, Annex 15).

[82] *Compare* UNCLOS, Art. 77(3) *with ibid.*, Arts. 56, 57.

[83] *Ibid.*, Art. 76(1).

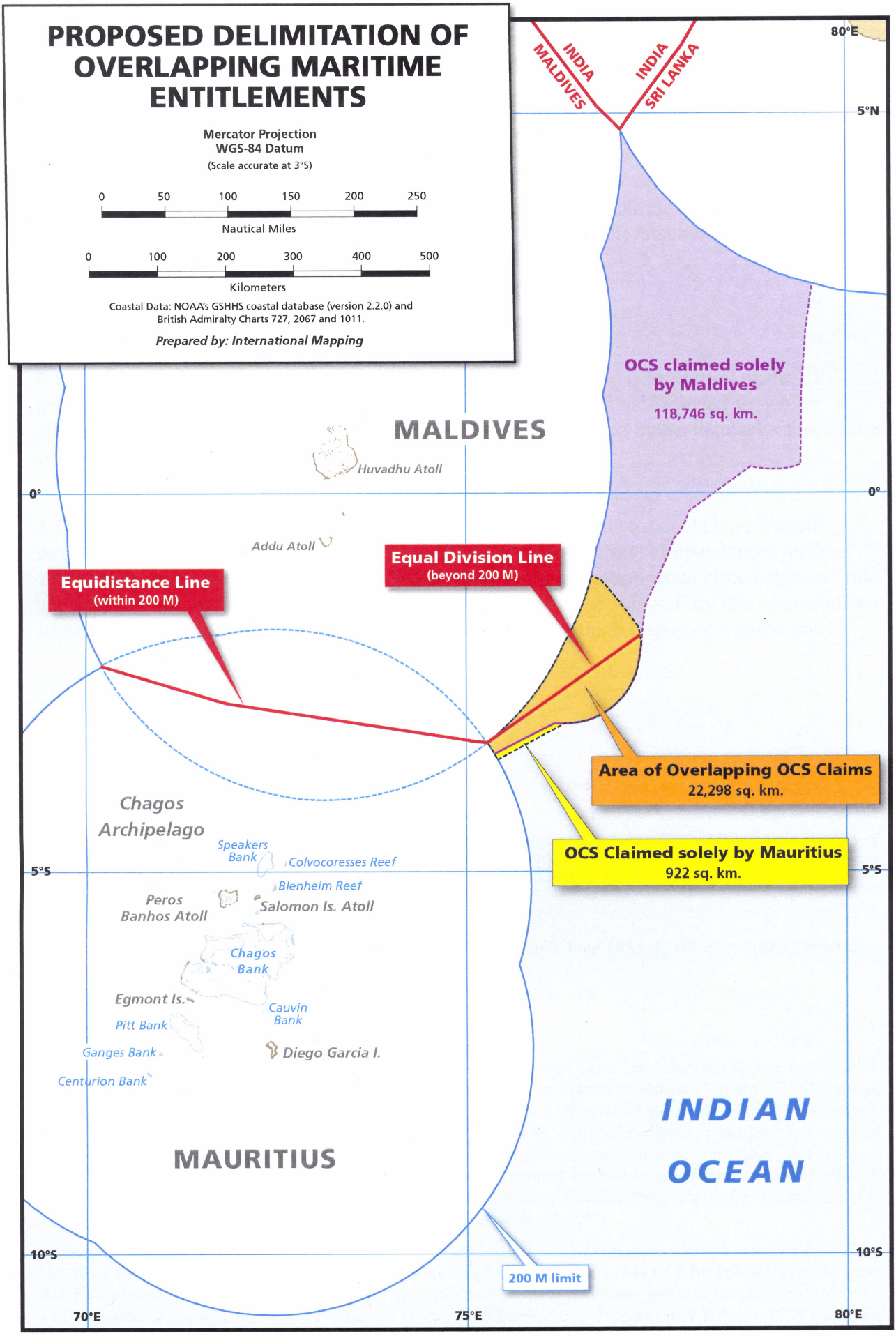

PROPOSED DELIMITATION OF OVERLAPPING MARITIME ENTITLEMENTS
Mercator Projection
WGS-84 Datum
(Scale accurate at 3°S)
0 50 100 150 200 250
Nautical Miles
0 100 200 300 400 500
Kilometers
Coastal Data: NOAA's GSHHS coastal database (version 2.2.0) and British Admiralty Charts 727, 2067 and 1011.
Prepared by: International Mapping
INDIA
MALDIVES
INDIA
SRI LANKA
80°E
5°N
0°
5°S
10°S
70°E
75°E
80°E
OCS claimed solely by Maldives
118,746 sq. km.
MALDIVES
Huvadhu Atoll
Addu Atoll
Equidistance Line
(within 200 M)
Equal Division Line
(beyond 200 M)
Area of Overlapping OCS Claims
22,298 sq. km.
OCS Claimed solely by Mauritius
922 sq. km.
Chagos Archipelago
Speakers Bank
Colvocoresses Reef
Blenheim Reef
Peros Banhos Atoll
Salomon Is. Atoll
Chagos Bank
Egmont Is.
Cauvin Bank
Pitt Bank
Ganges Bank
Diego Garcia I.
Centurion Bank
MAURITIUS
INDIAN OCEAN
200 M limit

Figure 4.1

4.11 A coastal State's rights in the continental shelf "do not depend on occupation, effective or notional, or on any express proclamation."[84] Rather, they exist *ipso facto* and *ab initio*.[85]

4.12 Articles 74(1) and 83(1) govern the delimitation of the EEZ and continental shelf, respectively. As ITLOS has observed, the two articles are "identical in their content" and differ only in that they are applied to different maritime areas.[86] They provide that the respective delimitations "between States with opposite or adjacent coasts shall be effected by agreement on the basis of international law, as referred to in Article 38 of the Statute of the International Court of Justice, in order to achieve an equitable solution."[87]

B. INTERNATIONAL JUDICIAL AND ARBITRAL PRACTICE

4.13 Having set "an equitable solution" as the standard for the delimitation of the EEZ and continental shelf, the Convention "is silent as to the method to be followed to achieve it."[88] "[T]o endow this standard with specific content" has been "left to States themselves, or to the courts."[89]

4.14 Implementing this standard in judicial practice, courts and tribunals have identified the three-step analytical framework known as the "equidistance/relevant circumstances method."[90] This now-generalised approach is very similar to the "equidistance/special circumstances" rule applicable in the territorial sea.[91] It is designed to minimise the subjectivity that characterised some of the early delimitation cases, while also achieving a "high degree of transparency."[92]

---

[84] UNCLOS, Art. 77(3).

[85] *North Sea Continental Shelf (Federal Republic of Germany/Netherlands)*, Judgment of 20 February 1969, ICJ Reports 1969 (hereinafter "*North Sea Cases*"), para. 19.

[86] *Dispute Concerning Delimitation of the Maritime Boundary between Bangladesh and Myanmar in the Bay of Bengal (Bangladesh/Myanmar)*, Judgment of 14 March 2012, ITLOS Reports 2012 (hereinafter "*Bangladesh/Myanmar*"), para. 182.

[87] *Ibid.*

[88] *Continental Shelf (Libyan Arab Jamahiriya/Malta)*, Judgment of 3 June 1985, ICJ Reports 1985 (hereinafter "*Libya/Malta*"), para. 28.

[89] *Ibid.*

[90] *See, e.g., Bangladesh/Myanmar*, para. 238.

[91] *See, e.g., Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain)*, Merits, Judgment of 16 March 2001, ICJ Reports 2001 (hereinafter "*Qatar v. Bahrain*"), para. 231; *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria: Equatorial Guinea intervening)*, Judgment of 10 October 2002, ICJ Reports 2002, para. 288 (The applicable criteria, principles and rules of delimitation "are expressed in the so-called equitable principles/relevant circumstances method. This method, which is very similar to the equidistance/special circumstances method applicable in delimitation of the territorial sea, involves first drawing an equidistance line, then considering whether there are factors calling for the adjustment or shifting of that line in order to achieve an 'equitable result.'").

[92] *Bay of Bengal Maritime Boundary Arbitration between Bangladesh and India (Bangladesh v. India)*, PCA Case No. 2010-16, Award of 7 July 2014 (hereinafter "*Bangladesh v. India*"), para. 344 ("[T]he Tribunal is of the view that, by separating the first and second stages in the application of the equidistance/relevant circumstances method, a high degree of transparency can be achieved."). *See also Barbados v. Trinidad and Tobago*, PCA Case No.

4.15 The three-step methodology was summarised by the ICJ in the *Black Sea* case:

> First, the Court will establish a provisional delimitation line, using methods that are geometrically objective and also appropriate for the geography of the area in which the delimitation is to take place. So far as delimitation between adjacent coasts is concerned, an equidistance line will be drawn unless there are compelling reasons that make this unfeasible in the particular case. ...
>
> [T]he Court will at the next, second stage consider whether there are factors calling for the adjustment or shifting of the provisional equidistance line in order to achieve an equitable result. ...
>
> Finally, and at the third stage, the Court will verify that the line (a provisional equidistance line which may or may not have been adjusted by taking into account the relevant circumstances) does not, as it stands, lead to an inequitable result by reason of any marked disproportion between the ratio of the respective coastal lengths and the ratio between the relevant maritime area of each State by reference to the delimitation line.[93]

4.16 In *Bangladesh/Myanmar*, ITLOS endorsed the Court's approach in the *Black Sea* case and adopted the three-step methodology for the delimitation of the maritime boundary in the Bay of Bengal. It ruled that, "taking into account the jurisprudence of international courts and tribunals on this matter," it would "follow the three stage-approach, as developed in the most recent case law on the subject."[94] The same methodology was followed by the ITLOS Special Chamber in *Ghana/Côte d'Ivoire*, where the Special Chamber described it as the "internationally established approach."[95]

4.17 Thus, both ITLOS and the ICJ have determined that, unless it is not feasible or is otherwise inappropriate, the three-step methodology should be applied to achieve an equitable delimitation of the maritime boundary.[96]

2004-02, Award of 11 April 2006 (hereinafter "*Barbados v. Trinidad and Tobago*"), para. 307 (referring to the equidistance/relevant circumstances method, stating: "The Tribunal is therefore satisfied that the delimitation method discussed ensures both the need for certainty and the consideration of such circumstances that might be relevant for an equitable solution.").

[93] *Maritime Delimitation in the Black Sea* (hereinafter "*Romania v. Ukraine*"), Judgment of 3 February 2009, ICJ Reports 2009, paras. 116-122.

[94] *Bangladesh/Myanmar*, para. 240.

[95] *Dispute Concerning Delimitation of the Maritime Boundary between Ghana and Côte d'Ivoire in the Atlantic Ocean (Ghana/Côte d'Ivoire)*, Judgment of 23 September 2017 (hereinafter "*Ghana/Côte d'Ivoire*"), para. 360.

[96] *See, e.g.*, *Bangladesh/Myanmar*, paras. 233-234; *Ghana/Côte d'Ivoire*, paras. 285-286; *Romania v. Ukraine*, para. 116.

4.18 In Section II, Mauritius will show that application of the three-step method within 200 M is feasible in this case, and leads to the conclusion that the provisional equidistance line is not only the proper starting point for the delimitation between Mauritius and Maldives, but also the appropriate conclusion of the delimitation process. It provides the basis of establishing the equitable solution that is required by the law. There are no relevant circumstances warranting an adjustment in either Party's favour; nor does the equidistance line produce a result that is disproportionate, let alone so grossly disproportionate as to render the result inequitable.

4.19 In Section III, Mauritius shows that the equitable solution required by Article 83 of UNCLOS mandates a different approach to the delimitation of the continental shelf beyond 200 M from both Parties' coasts, namely that their overlapping entitlements beyond 200 M should be delimited by means of a line that apportions them equal shares of the disputed area.

II. Delimitation of the EEZ and Continental Shelf within 200 M by Application of the Three-Step Method

A. The Provisional Equidistance Line

4.20 The first step in the three-step method is the drawing of a provisional equidistance line. The ICJ explained in the *Black Sea* case that the provisional equidistance line should generally be constructed using "the most appropriate points on the coasts of the two States concerned."[97]

2. The Relevant Coasts

4.21 The concept of the "relevant coast" derives from the principle that "the land dominates the sea."[98] A State acquires maritime entitlement through the projection of its coasts into the sea.[99] The ICJ observed in *Tunisia/Libya* that "the coast of the territory of the State is the decisive factor for title to submarine areas adjacent to it."[100]

4.22 As the Court explained in the *Black Sea* case:

---

[97] *Romania v. Ukraine*, para. 117. *See also Territorial and Maritime Dispute (Nicaragua v. Colombia)*, Judgment of 19 November 2012, ICJ Reports 2012 (hereinafter "*Nicaragua v. Colombia*"), para. 191.

[98] *Ibid.*, para. 140 ("It is well established that '[t]he title of a State to the continental shelf and to the exclusive economic zone is based on the principle that the land dominates the sea through the projection of the coasts or the coastal fronts.'") (citing *Romania v. Ukraine*, para. 77).

[99] *North Sea Cases*, para. 96 ("[T]he land is the legal source of the power which a State may exercise over territorial extensions to seaward."); *Romania v Ukraine*, paras. 77, 99; *Nicaragua v. Colombia*, para. 140.

[100] *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)*, Judgment of 24 February 1982, ICJ Reports 1982 (hereinafter "*Tunisia/Libya*"), para. 73.

> it is necessary to identify the relevant coasts in order to determine what constitutes in the specific context of a case the overlapping claims to these zones.[101]

4.23 Thus, in order to be considered "relevant" for delimitation purposes, a coast "must generate projections which overlap with projections from the coast of the other Party."[102] This is because "the task of delimitation consists in resolving the overlapping claims by drawing a line of separation of the maritime areas concerned."[103]

4.24 As a result, only those portions of a State's coast that generate entitlements that overlap with those of the other State are considered relevant. The ICJ explained in *Tunisia/Libya* that:

> it is not the whole of the coast of each Party which can be taken into account; the submarine extension of any part of the coast of one Party which, because of its geographic situation, cannot overlap with the extension of the coast of the other, is to be excluded from further consideration ....[104]

4.25 When two States lie directly opposite one another, it will most often be the case that the entire coastline of each State that faces the other will be considered relevant. In *Nicaragua v. Colombia*, for example, the Court treated as relevant the entirety of Nicaragua's east-facing mainland coast, except only for the very small segment that faced southwards (and away from the area to be delimited).[105]

4.26 In the present case, the entirety of Mauritius' north-facing coast on Peros Banhos Atoll and Salomon Islands Atoll, including Blenheim Reef, faces Maldives, and Maldives' south-facing coast on Addu Atoll faces Mauritius, as depicted in **Figures 4.2** (on the following page) and **4.3** (following Figure 4.2).

4.27 Accordingly, as depicted therein, the relevant coast of Mauritius extends a distance of 46.8 km; and the relevant coast of Maldives extends for 27.4 km.

3. Identification of the Base Points

4.28 In the *Black Sea* case, the ICJ explained that the equidistance line is "to be constructed from the most appropriate points on the coasts of the two States concerned, with particular attention being paid to those protuberant coastal points situated nearest to the area to [be]

---

[101] *Romania v. Ukraine*, para. 78.

[102] *Nicaragua v. Colombia*, para. 150; *Romania v. Ukraine*, para. 99.

[103] *Nicaragua v. Colombia*, para. 141; *Romania v. Ukraine*, para. 77.

[104] *Tunisia/Libya*, para. 75; *Nicaragua v. Colombia*, para. 150.

[105] *Ibid.*, para. 145.

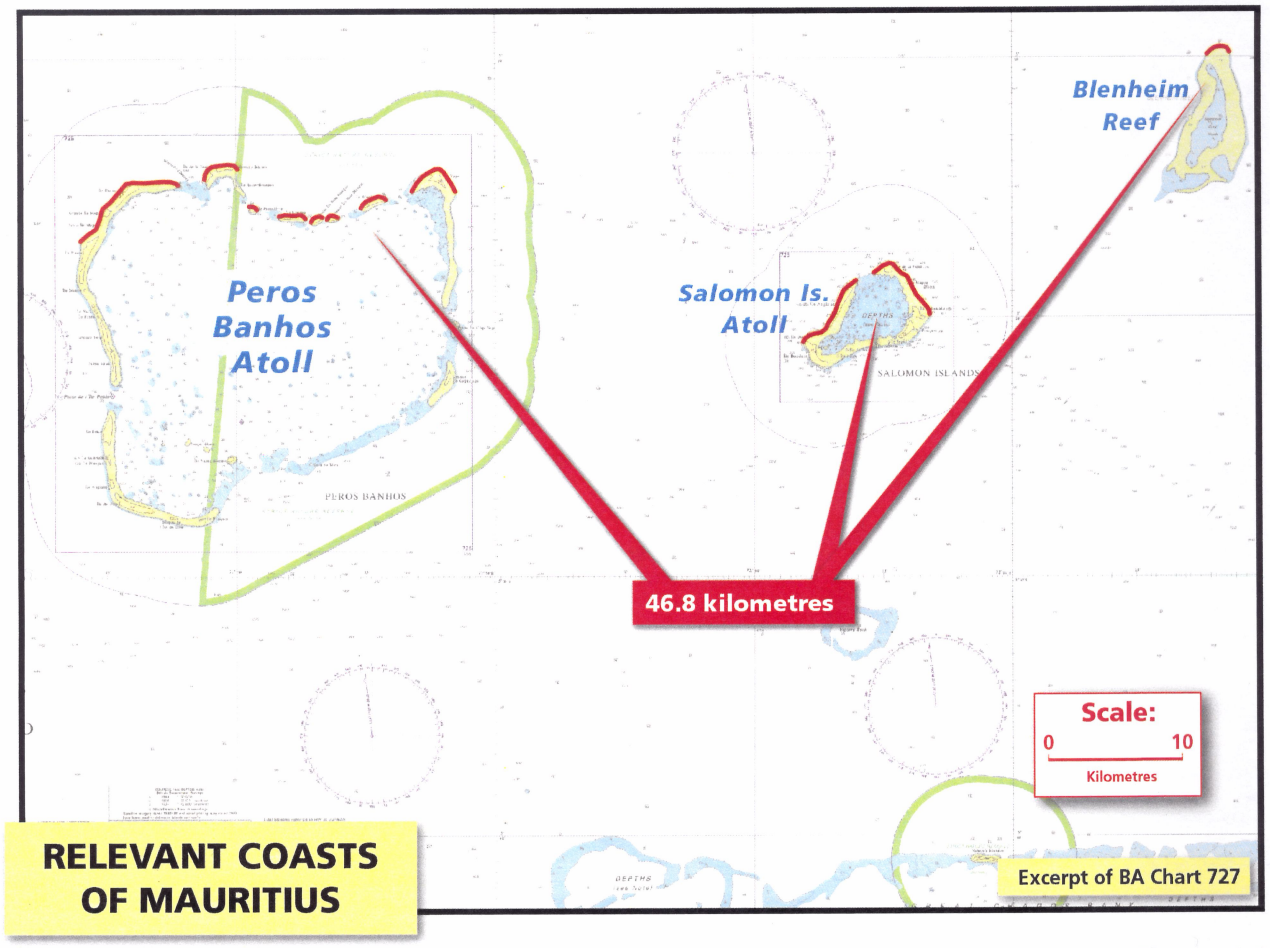

Blenheim
Reef
Peros
Banhos
Atoll
Salomon Is.
Atoll
PEROS BANHOS
SALOMON ISLANDS
46.8 kilometres
Scale:
0
10
Kilometres
RELEVANT COASTS
OF MAURITIUS
Excerpt of BA Chart 727

Figure 4.2

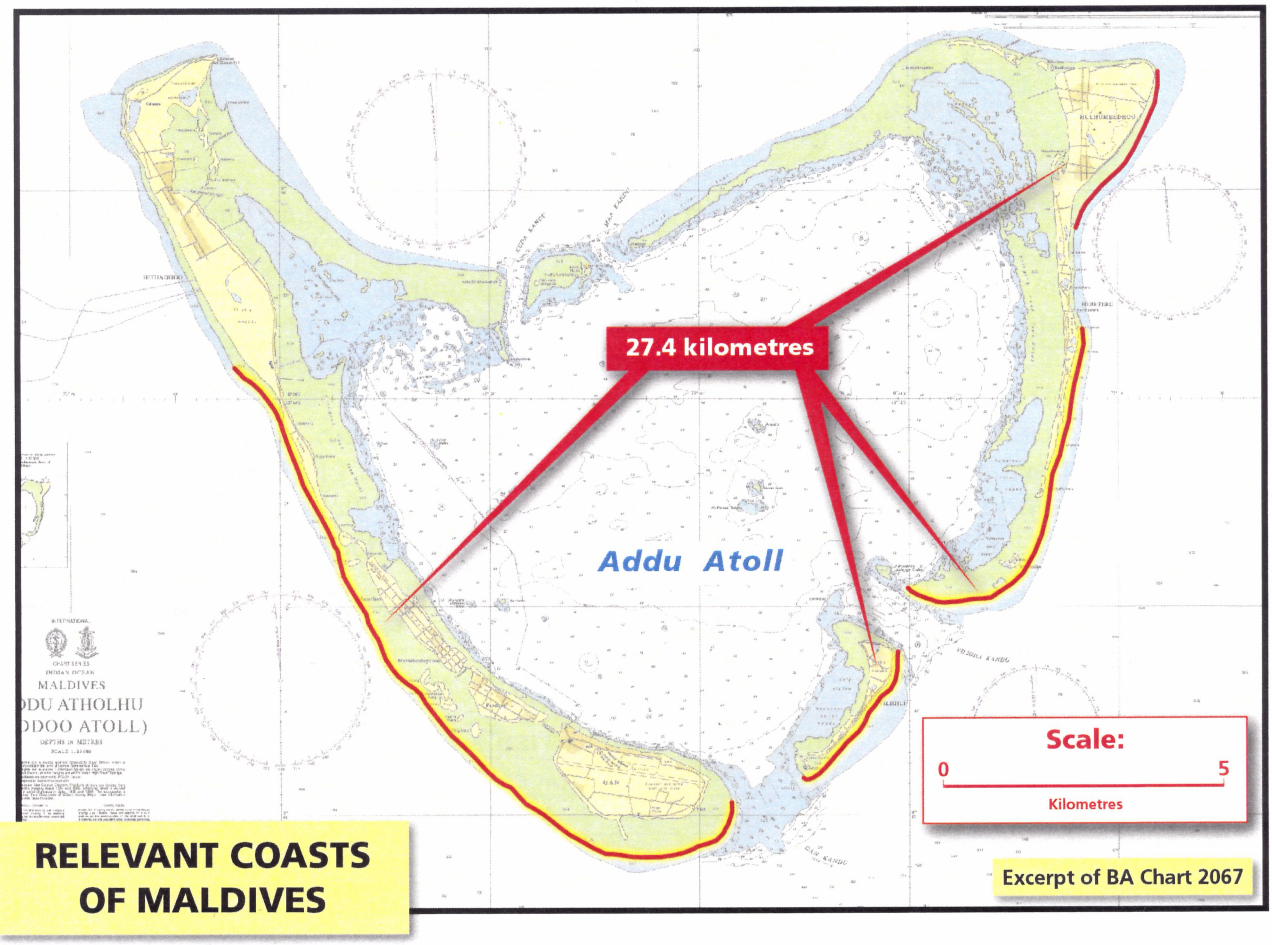

27.4 kilometres
Addu Atoll
Scale:
0
5
Kilometres
Excerpt of BA Chart 2067
RELEVANT COASTS OF MALDIVES

Figure 4.3

delimited."[106] In this regard, the appropriate points are those "which mark a significant change in the direction of the coast, in such a way that the geometrical figure formed by the line connecting all these points reflects the general direction of the coastlines."[107]

4.29 In identifying these points, Mauritius has made use of the most commonly employed software, known as "CARIS-LOTS," based on British Admiralty Charts 727 and 2067. (As indicated in Chapter 2, Mauritius has not yet had an opportunity to make an on-site visit, and hopes to be able to do so prior to the oral phase of these proceedings). The software automatically selects those points that generate the equidistance line, *i.e.*, the line every point of which is equidistant from the nearest points on the Parties' relevant coasts. There are 13 base points on Mauritius' coast, 9 located on Peros Banhos Atoll and 4 on Blenheim Reef, a low-tide elevation within 12 M of Salomon Islands Atoll. The Maldives coast has 41 base points, all located on Addu Atoll. These base points, beginning with those for Mauritius, are identified by their geographical coordinates in **Table 4.1**, below.

TABLE 4.1

Mauritius Base Points			
Base Point	**BA Chart**	**Latitude**	**Longitude**
MUS-BSE-01	BA 0725 A	05° 14' 51.0" S	071° 45' 44.8" E
MUS-BSE-02	BA 0725 A	05° 14' 49.1" S	071° 45' 48.6" E
MUS-BSE-03	BA 0725 A	05° 14' 48.2" S	071° 45' 52.2" E
MUS-BSE-04	BA 0725 A	05° 14' 10.4" S	071° 49' 07.0" E
MUS-BSE-05	BA 0725 A	05° 14' 07.7" S	071° 49' 26.1" E
MUS-BSE-06	BA 0725 A	05° 14' 07.1" S	071° 49' 33.4" E
MUS-BSE-07	BA 0725 A	05° 14' 06.8" S	071° 49' 36.7" E
MUS-BSE-08	BA 0725 A	05° 14' 06.6" S	071° 49' 39.9" E
MUS-BSE-09	BA 0725 A	05° 14' 06.4" S	071° 49' 43.4" E
MUS-BSE-10	BA 0727	05° 09' 38.8" S	072° 28' 16.5" E
MUS-BSE-11	BA 0727	05° 09' 37.8" S	072° 28' 24.4" E
MUS-BSE-12	BA 0727	05° 09' 38.7" S	072° 28' 37.8" E
MUS-BSE-13	BA 0727	05° 09' 43.5" S	072° 28' 44.0" E
Maldives Base Points			
Base Point	**BA Chart**	**Latitude**	**Longitude**
MDV-BSE-01	BA 2067	00° 38' 47.0" S	073° 06' 11.7" E
MDV-BSE-02	BA 2067	00° 39' 43.3" S	073° 06' 36.3" E
MDV-BSE-03	BA 2067	00° 39' 45.0" S	073° 06' 37.2" E
MDV-BSE-04	BA 2067	00° 40' 30.7" S	073° 07' 00.2" E
MDV-BSE-05	BA 2067	00° 40' 33.8" S	073° 07' 02.2" E
MDV-BSE-06	BA 2067	00° 40' 35.4" S	073° 07' 03.3" E
MDV-BSE-07	BA 2067	00° 40' 37.0" S	073° 07' 04.3" E
MDV-BSE-08	BA 2067	00° 40' 38.6" S	073° 07' 05.4" E
MDV-BSE-09	BA 2067	00° 41' 10.7" S	073° 07' 34.1" E
MDV-BSE-10	BA 2067	00° 41' 12.1" S	073° 07' 35.4" E

[106] *Romania v. Ukraine*, para. 117.

[107] *Ibid.*, para. 127.

MDV-BSE-11	BA 2067	00° 41' 16.1" S	073° 07' 39.3" E
MDV-BSE-12	BA 2067	00° 41' 17.5" S	073° 07' 40.6" E
MDV-BSE-13	BA 2067	00° 41' 35.5" S	073° 07' 58.4" E
MDV-BSE-14	BA 2067	00° 41' 36.9" S	073° 07' 59.8" E
MDV-BSE-15	BA 2067	00° 41' 38.2" S	073° 08' 01.1" E
MDV-BSE-16	BA 2067	00° 41' 39.2" S	073° 08' 02.3" E
MDV-BSE-17	BA 2067	00° 41' 40.3" S	073° 08' 03.5" E
MDV-BSE-18	BA 2067	00° 41' 54.4" S	073° 08' 20.8" E
MDV-BSE-19	BA 2067	00° 42' 10.5" S	073° 08' 42.9" E
MDV-BSE-20	BA 2067	00° 42' 11.6" S	073° 08' 44.4" E
MDV-BSE-21	BA 2067	00° 42' 12.8" S	073° 08' 46.1" E
MDV-BSE-22	BA 2067	00° 42' 13.8" S	073° 08' 47.9" E
MDV-BSE-23	BA 2067	00° 42' 19.5" S	073° 08' 58.2" E
MDV-BSE-24	BA 2067	00° 42' 20.3" S	073° 08' 59.5" E
MDV-BSE-25	BA 2067	00° 42' 21.1" S	073° 09' 01.2" E
MDV-BSE-26	BA 2067	00° 42' 22.7" S	073° 09' 05.1" E
MDV-BSE-27	BA 2067	00° 42' 23.1" S	073° 09' 07.3" E
MDV-BSE-28	BA 2067	00° 42' 24.5" S	073° 09' 20.7" E
MDV-BSE-29	BA 2067	00° 42' 24.8" S	073° 09' 25.0" E
MDV-BSE-30	BA 2067	00° 42' 24.8" S	073° 09' 27.1" E
MDV-BSE-31	BA 2067	00° 42' 24.7" S	073° 09' 38.6" E
MDV-BSE-32	BA 2067	00° 42' 24.6" S	073° 09' 40.6" E
MDV-BSE-33	BA 2067	00° 42' 24.0" S	073° 09' 44.2" E
MDV-BSE-34	BA 2067	00° 42' 23.2" S	073° 09' 48.1" E
MDV-BSE-35	BA 2067	00° 42' 22.7" S	073° 09' 50.0" E
MDV-BSE-36	BA 2067	00° 42' 16.6" S	073° 10' 05.9" E
MDV-BSE-37	BA 2067	00° 42' 15.9" S	073° 10' 07.7" E
MDV-BSE-38	BA 2067	00° 42' 14.9" S	073° 10' 09.4" E
MDV-BSE-39	BA 2067	00° 41' 37.9" S	073° 11' 05.9" E
MDV-BSE-40	BA 2067	00° 41' 35.6" S	073° 11' 09.1" E
MDV-BSE-41	BA 2067	00° 41' 34.7" S	073° 11' 10.2" E

4.30 These base points are depicted in **Figures 4.4** (on the following page) and **4.5** (following Figure 4.4).

4. The Provisional Equidistance Line

4.31 The base points listed on **Table 4.1** and shown in **Figures 4.4** and **4.5** yield the provisional equidistance line depicted in **Figure 4.6** (following Figure 4.5), which is comprised of 52 turning points (the geographical coordinates of which are listed in Annex 9 to this Memorial).

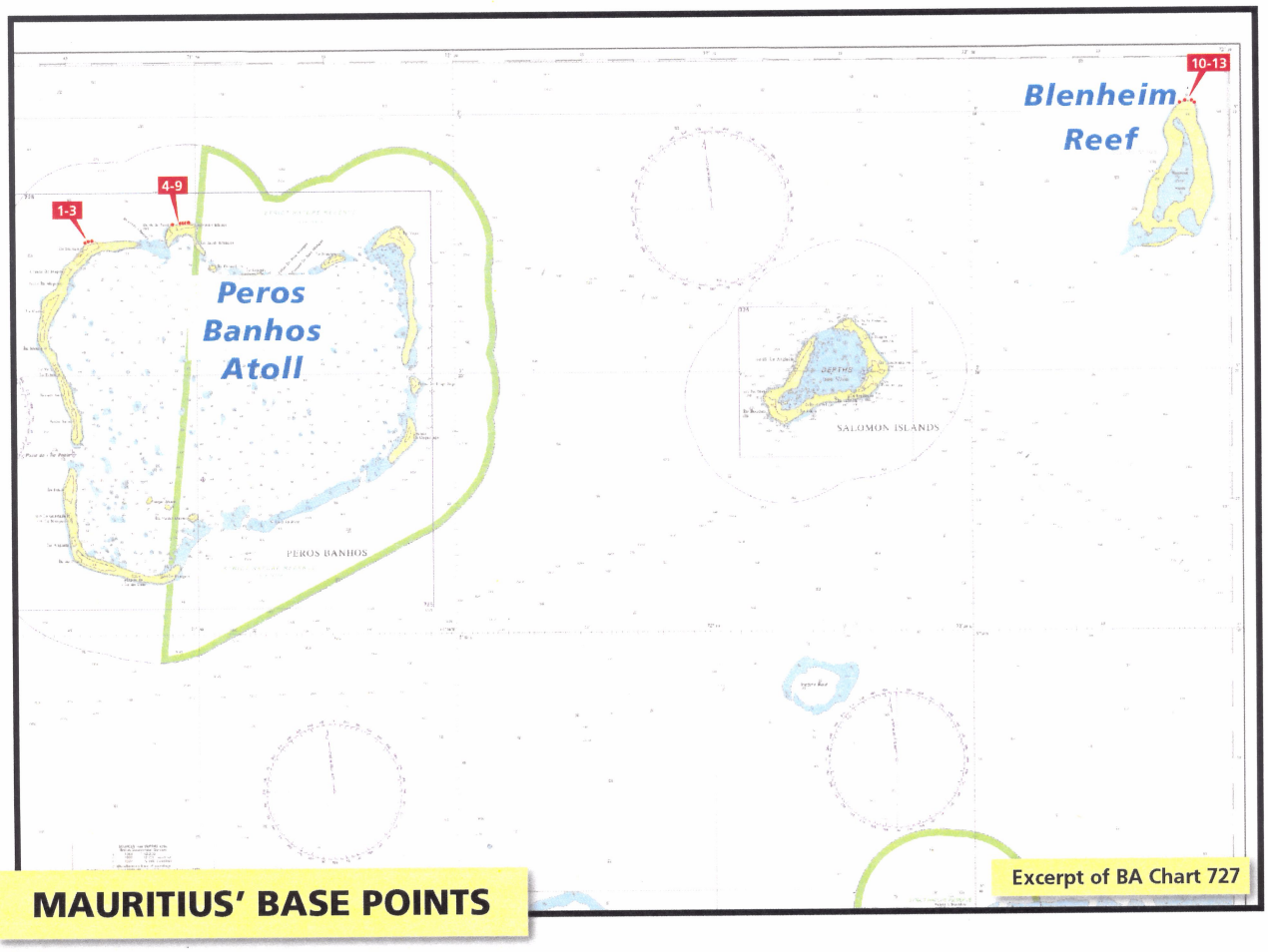

Blenheim
Reef
10-13
4-9
1-3
Peros
Banhos
Atoll
PEROS BANHOS
SALOMON ISLANDS
MAURITIUS' BASE POINTS
Excerpt of BA Chart 727

Figure 4.4

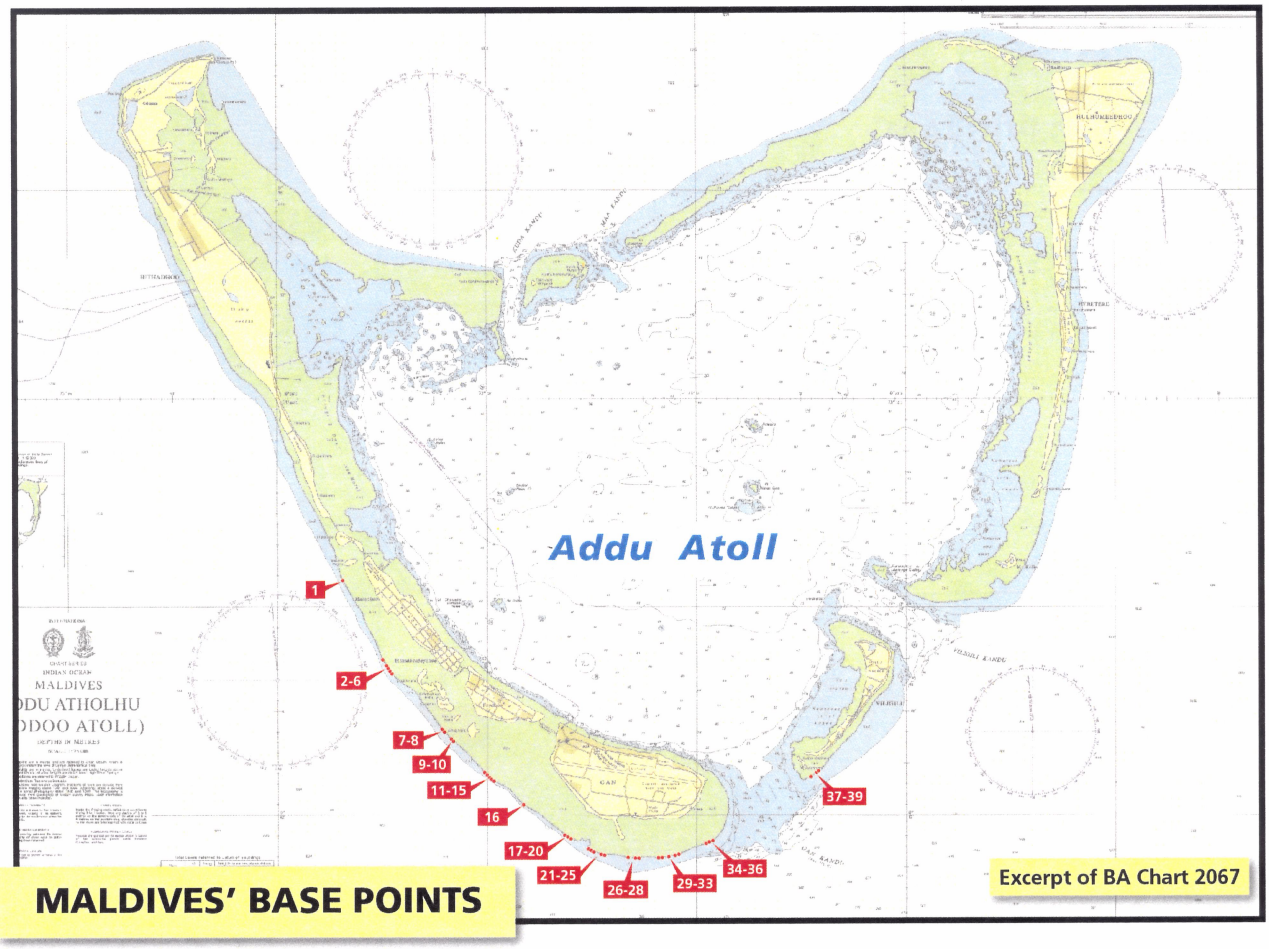
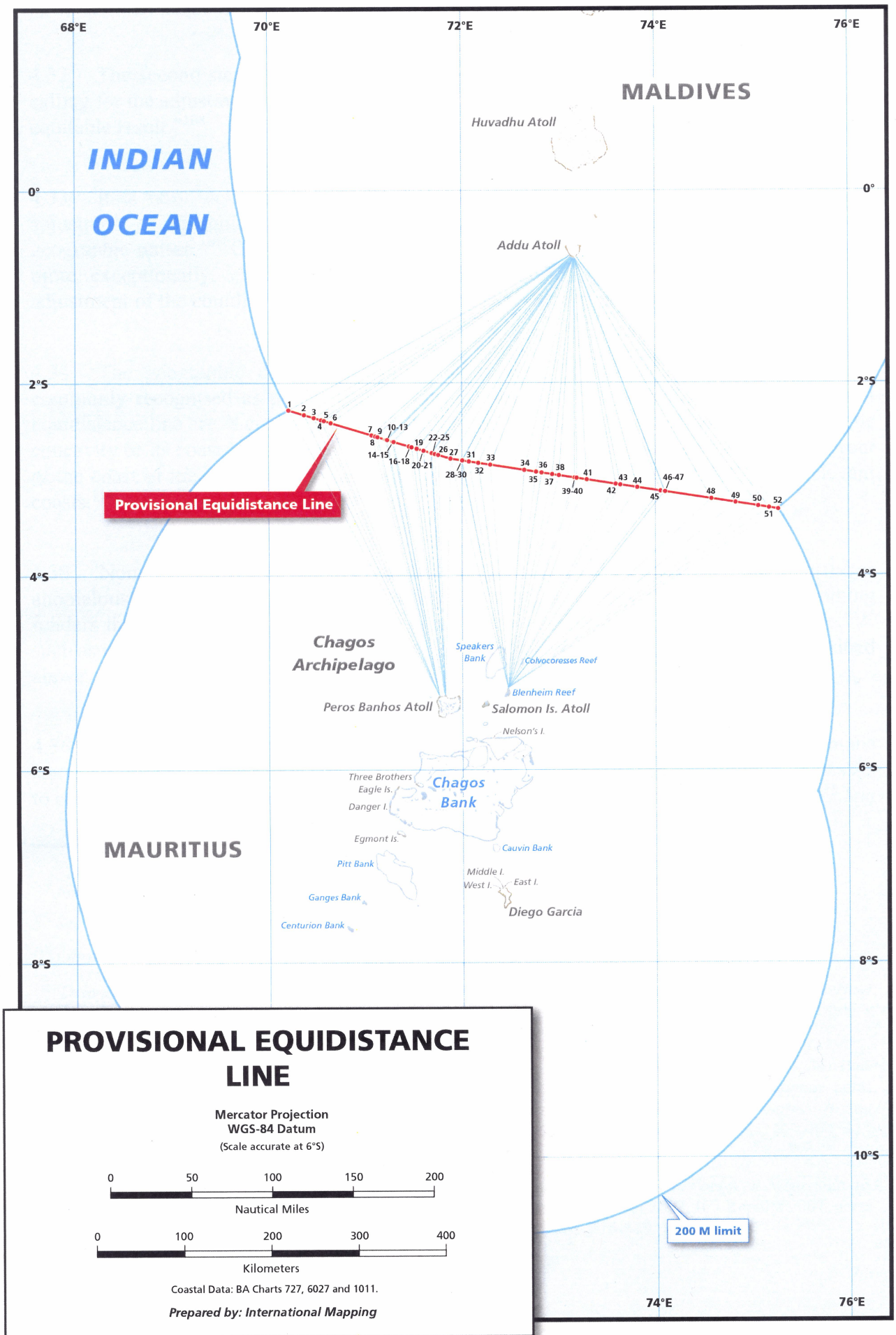

Addu Atoll
1
2-6
7-8
9-10
11-15
16
17-20
21-25
26-28
29-33
34-36
37-39
MALDIVES
DU ATHOLHU
DOO ATOLL)
GAN
MALDIVES' BASE POINTS
Excerpt of BA Chart 2067

Figure 4.5



PROVISIONAL EQUIDISTANCE LINE

Mercator Projection
WGS-84 Datum
(Scale accurate at 6°S)

0 50 100 150 200
Nautical Miles

0 100 200 300 400
Kilometers

Coastal Data: BA Charts 727, 6027 and 1011.

Prepared by: International Mapping

Figure 4.6

B. RELEVANT CIRCUMSTANCES

4.32 The second step of the delimitation process is to "consider whether there are factors calling for the adjustment or shifting of the provisional equidistance line in order to achieve an equitable result."[108]

4.33 It is now well-established that the relevant circumstances which may justify the adjustment of the equidistance line in order to reach an equitable result are essentially of a geographic nature.[109] Only in the rarest of circumstances will security concerns[110] or, even more exceptionally, circumstances related to access to resources,[111] justify a possible adjustment of the equidistance line. In the present case there are no such circumstances.

4.34 The geographic circumstances that international courts and tribunals have most commonly recognised as potentially relevant for the purposes of adjusting the provisional equidistance line are: a cut-off of one of the Parties' coastal projections, especially due to the concavity of its coast;[112] the presence of small islands belonging to one party directly in front of the coast of the other party;[113] and a gross disparity in the lengths of the Parties' relevant coasts.[114]

4.35 None of these circumstances is present in this case. Nor are there any other unusual or anomalous geographical circumstances that could arguably be regarded as relevant. Nothing renders the provisional equidistance line here "extraordinary, unnatural or unreasonable,"[115] such as would give rise to a justification to adjust the provisional equidistance line as described above.

4.36 In this respect, Mauritius observes that while any delimitation line by definition entails some curtailment of the Parties' potential entitlements, the goal of the delimitation process is to ensure that such curtailment is shared in a reasonable and balanced manner. In the *Black Sea*

---

[108] *Romania v. Ukraine*, para. 120.

[109] *See, e.g.*, *Ghana/Côte d'Ivoire*, paras. 452-453.

[110] *Libya/Malta*, para. 51; *Romania v. Ukraine*, para. 204.

[111] *Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America)*, Judgment of 12 October 1984, ICJ Reports 1984, para. 236; *Romania v. Ukraine*, para. 198; *Nicaragua v. Colombia*, para. 223; *Barbados v. Trinidad and Tobago*, para. 241.

[112] *North Sea Cases*, para. 89; *Romania v. Ukraine*, paras. 199-201; *Nicaragua v. Colombia*, para. 244; *Maritime Dispute (Peru v. Chile)*, Judgment of 27 January 2014, ICJ Reports 2014, para. 181; *Bangladesh/Myanmar*, paras. 291-293, 325; *Case Concerning the delimitation of the maritime boundary between Guinea and Guinea-Bissau*, Decision of 14 Feb. 1985, UNRIAA, Vol. XIX, at p. 149, para. 102; *Bangladesh v. India*, paras. 403-404, 413-417.

[113] *Libya/Malta*, para. 64; *Qatar v. Bahrain*, para. 219; *Territorial and Maritime Dispute between Nicaragua and Honduras in the Caribbean Sea (Nicaragua v. Honduras)*, Judgment of 8 October 2007, ICJ Reports 2007, paras. 302 *et seq.*; *Romania v. Ukraine*, para. 185; *Bangladesh/Myanmar*, paras. 316-319.

[114] *Cameroon v. Nigeria*, para. 301; *Nicaragua v. Colombia*, para. 209.

[115] *North Sea Cases*, para. 24.

case, for example, the ICJ noted that the lines advocated by each of the parties inequitably cut off the maritime entitlements of the other. It stated:

> The Court observes that the delimitation lines proposed by the Parties, in particular their first segments, each significantly curtail the entitlement of the other Party to the continental shelf and the exclusive economic zone. The Romanian line obstructs the entitlement of Ukraine generated by its coast adjacent to that of Romania, the entitlement further strengthened by the northern coast of Ukraine. At the same time, the Ukrainian line restricts the entitlement of Romania generated by its coast, in particular its first sector between the Sulina dyke and the Sacalin Peninsula.[116]

4.37 The Court found that, in contrast, the provisional equidistance that it drew, and ultimately adopted as the maritime boundary, avoided such drawbacks because it "allow[ed] the adjacent coasts of the Parties to produce their effects, in terms of maritime entitlements, in a reasonable and mutually balanced way."[117]

4.38 The provisional equidistance line in this case has precisely the same effect. As between Mauritius and Maldives, the equidistance line allows the opposite coasts of the Parties to produce their effects, in terms of maritime entitlements, in a reasonable and mutually balanced fashion. Neither Party is cut-off from its entitlements in an unreasonable or imbalanced manner.

C. THE NON-DISPROPORTIONALITY TEST

4.39 In the third and final step, consideration is given to whether the delimitation line developed by application of the first two steps "lead[s] to any significant disproportionality by reference to the respective coastal lengths and the apportionment of areas that ensue."[118]

4.40 The purpose of this exercise is *not* to ensure a proportionate result but rather to provide a final check against a disproportion that is so gross as to render the proposed delimitation inequitable.[119] It "remains in each case a matter for the Court's appreciation, which it will exercise by reference to the overall geography of the area."[120]

4.41 To determine whether a significant or gross disproportionality is produced by the delimitation line, it is now standard practice for international courts and tribunals to compare the ratio of the lengths of the parties' relevant coasts with the ratio of the maritime area to be

---

[116] *Romania v. Ukraine*, para. 201.

[117] *Ibid.*

[118] *Ibid.*, para. 210.

[119] *Ibid.*

[120] *Ibid.*, para. 213.

delimited that the line attributes to each of them. As the ICJ explained in the *Black Sea* case, at the final stage of the three-step process it checks "whether any disproportionality exists in the ratios of the coastal lengths of each State and the maritime areas falling [on] either side of the delimitation line."[121]

4.42 As shown above at paragraph 4.27, the lengths of the Parties' relevant coasts are 46.8 km for Mauritius and 27.4 km for Maldives. The ratio of their coastal lengths is therefore 1.71:1 in favour of Mauritius.

4.43 To determine the ratio of "the maritime areas falling [on] either side of the delimitation line" it is necessary to determine the location and size of the maritime area to be delimited, or "relevant area." Both the ICJ and ITLOS have made clear that the "relevant area" consists of that space where the maritime entitlements of the Parties' overlap. The Special Chamber succinctly explained in *Ghana/Côte d'Ivoire* that it is comprised of "the area in which the projections of the coasts of the two Parties overlap, extending to the outer limits of the area to be delimited."[122] As the Court put it in *Nicaragua v. Colombia*, "[t]he relevant area comprises that part of the maritime space in which the potential entitlements of the parties overlap."[123] The Court repeated this definition of the "relevant area" word-for-word, and applied it again in performing the non-disproportionality test, in *Costa Rica v. Nicaragua.*[124]

4.44 Applying this principle to the present case, the area within 200 M where "the maritime space in which the potential entitlements of the parties overlap"[125] is easily identified. "[H]ad it not been for the presence of the other State,"[126] each Party would be entitled to *all* of the maritime space within 200 M of their coasts. These areas can be ascertained by drawing 200 M envelopes of arcs from the relevant coasts of both States. Where the arcs intersect constitutes the area of overlapping potential entitlements. This overlapping area is shown in **Figure 4.7** (following page 36). It measures 95,600 km^2.

4.45 The delimitation line divides the relevant area by attributing 48,458 km^2 (or 50.69%) to Mauritius, and 47,142 km^2 (or 49.31%) to Maldives. The ratio is 1.03:1 in favour of Mauritius, as shown in **Figure 4.8** (following Figure 4.7).

4.46 With a coastal length ratio of 1.71:1 in favour of Mauritius, and a relevant area ratio of 1.03:1, in favour of Mauritius, there is plainly no disproportionality here, let alone the kind of gross disproportionality that would be required to argue for any adjustment of the equidistance

---

[121] *Ibid.*, para. 78.

[122] *Ghana/Côte d'Ivoire*, para. 381.

[123] *Nicaragua v. Colombia*, para. 159.

[124] *Maritime Delimitation in the Caribbean Sea and the Pacific Ocean (Costa Rica v. Nicaragua)*, Judgment of 2 February 2018, ICJ Reports 2018, para. 115.

[125] *Ibid.* (citing *Nicaragua v. Colombia*, para. 159).

[126] *Maritime Delimitation in the Area between Greenland and Jan Mayen (Denmark v. Norway)*, Judgment of 14 June 1993, ICJ Reports 1993, para. 59.

line in the third stage of the three-step methodology. In *Nicaragua v. Colombia*, the disparity between the two ratios was 1:8.2 in favour of Nicaragua in regard to coastal lengths, and only 1:3.44 in favour of Nicaragua in regard to the relevant area, yet the Court found that this did not amount to a significant enough disproportionality to justify an adjustment to the delimitation line.[127]

4.47 Accordingly, no adjustment to the delimitation line between Mauritius and Maldives is required at the third stage of the three-stage process. There is therefore no reason to doubt that the equidistance line constitutes an equitable delimitation of the boundary between the Parties in the EEZ and the continental shelf within 200 M.

III. Delimitation of the Continental Shelf Beyond 200 M

4.48 Mauritius and Maldives have both claimed entitlements to the same general area of continental shelf located more than 200 M from their respective coasts. As shown in **Figure 4.9** (following Figure 4.8), the entitlements claimed by the Parties largely overlap.

4.49 In Mauritius' view, the equitable solution mandated by Article 83 of UNCLOS requires that the area of overlapping continental shelf entitlements be delimited by means of a line that apportions an equal share to each Party, just as the equidistance line apportions to the Parties approximately equal shares of the area of overlapping entitlements lying within 200 M of their coasts. Before setting out the reasoning that supports Mauritius' proposed delimitation of the extended continental shelf, we address the Special Chamber's jurisdiction to delimit this area.

A. Jurisdiction of the Special Chamber to Delimit the Continental Shelf Beyond 200 M

4.50 Article 76(8) of UNCLOS requires States to submit information to the CLCS, which is then to make recommendations on the delineation of the outer limits of the continental shelf,[128] *i.e.*, where national jurisdiction over the continental shelf ends and that of the International Seabed Authority begins.[129] It is on the basis of these recommendations that a State may establish the legal outer limits of its continental shelf beyond 200 M.

4.51 The CLCS, however, has no power to delimit the continental shelf, and has adopted a practice of declining to make recommendations on submissions regarding the outer limits

---

[127] *Nicaragua v. Colombia*, paras. 243-247.

[128] For the sake of clarity, the present Chapter uses the word "delineation" to name this operation (*see* UNCLOS, Art. 76, paras. 4(a)(i), 7; *Ibid.*, Annex II), and "delimitation" when the determination of the lateral boundary between States is concerned.

[129] Article 1(1) of UNCLOS defines the "Area," which is the zone of jurisdiction of the International Seabed Authority, as "the seabed and ocean floor and subsoil thereof, beyond the limits of national jurisdiction."

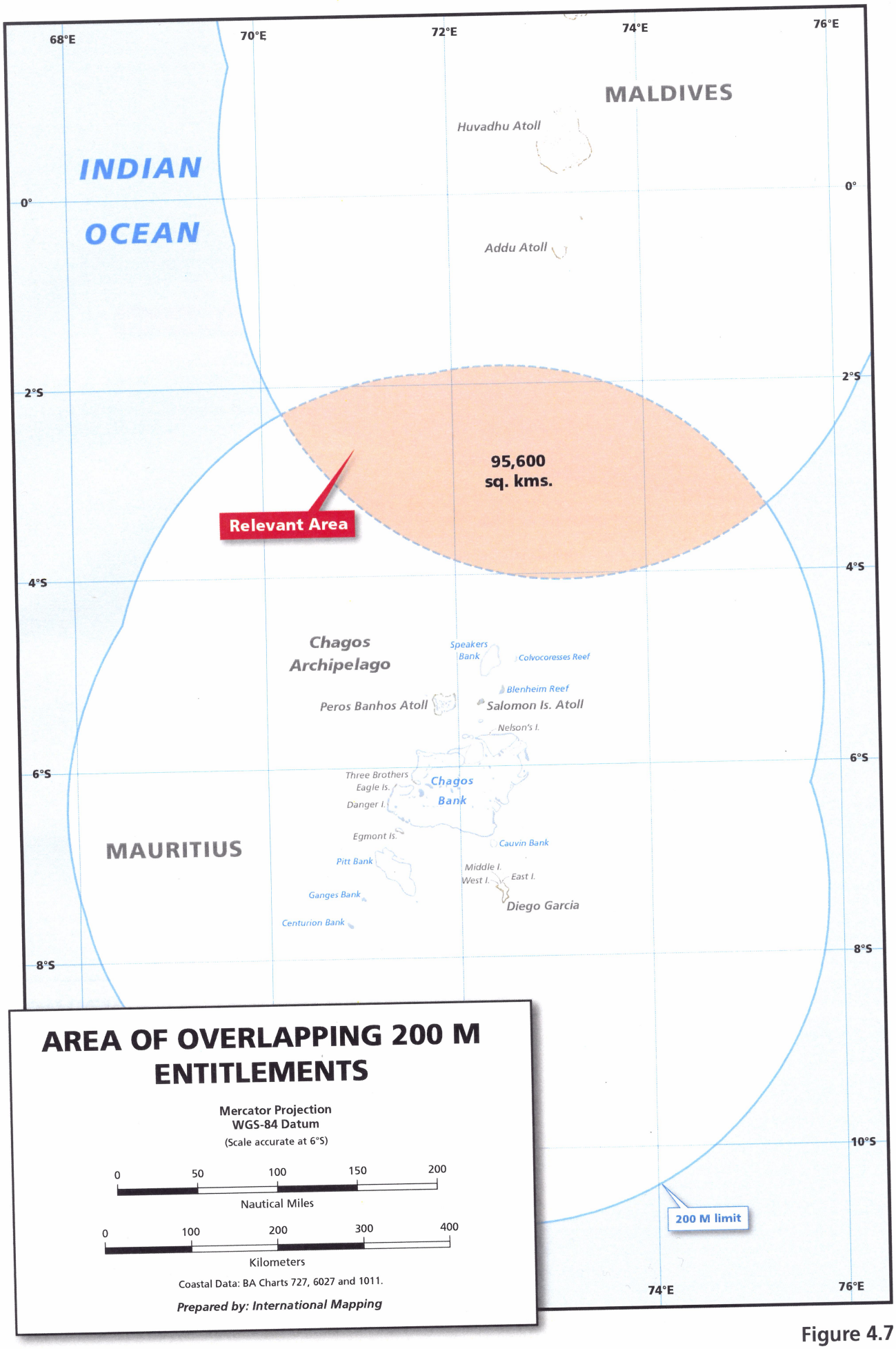
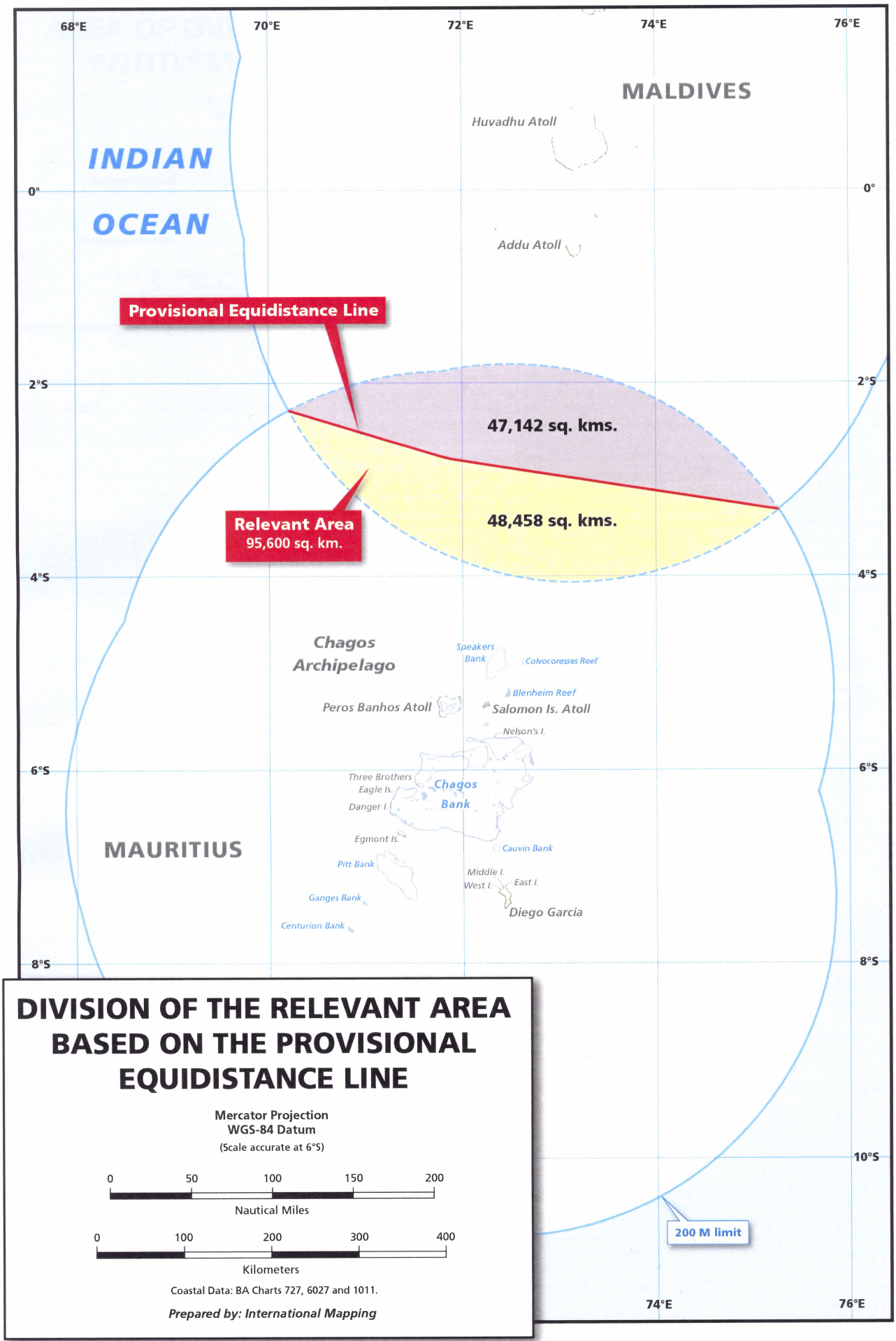

68°E
70°E
72°E
74°E
76°E
MALDIVES
Huvadhu Atoll
INDIAN
OCEAN
0°
Addu Atoll
2°S
95,600
sq. kms.
Relevant Area
4°S
Chagos
Archipelago
Speakers
Bank
Colvocoresses Reef
Blenheim Reef
Peros Banhos Atoll
Salomon Is. Atoll
Nelson's I.
6°S
Three Brothers
Eagle Is.
Danger I.
Chagos
Bank
Egmont Is.
Cauvin Bank
MAURITIUS
Pitt Bank
Middle I.
West I.
East I.
Ganges Bank
Diego Garcia
Centurion Bank
8°S
10°S
200 M limit
74°E
76°E
AREA OF OVERLAPPING 200 M ENTITLEMENTS
Mercator Projection
WGS-84 Datum
(Scale accurate at 6°S)
0
50
100
150
200
Nautical Miles
0
100
200
300
400
Kilometers
Coastal Data: BA Charts 727, 6027 and 1011.
Prepared by: International Mapping

Figure 4.7



DIVISION OF THE RELEVANT AREA BASED ON THE PROVISIONAL EQUIDISTANCE LINE

Mercator Projection
WGS-84 Datum
(Scale accurate at 6°S)

0 50 100 150 200
Nautical Miles

0 100 200 300 400
Kilometers

Coastal Data: BA Charts 727, 6027 and 1011.

Prepared by: International Mapping

Figure 4.8

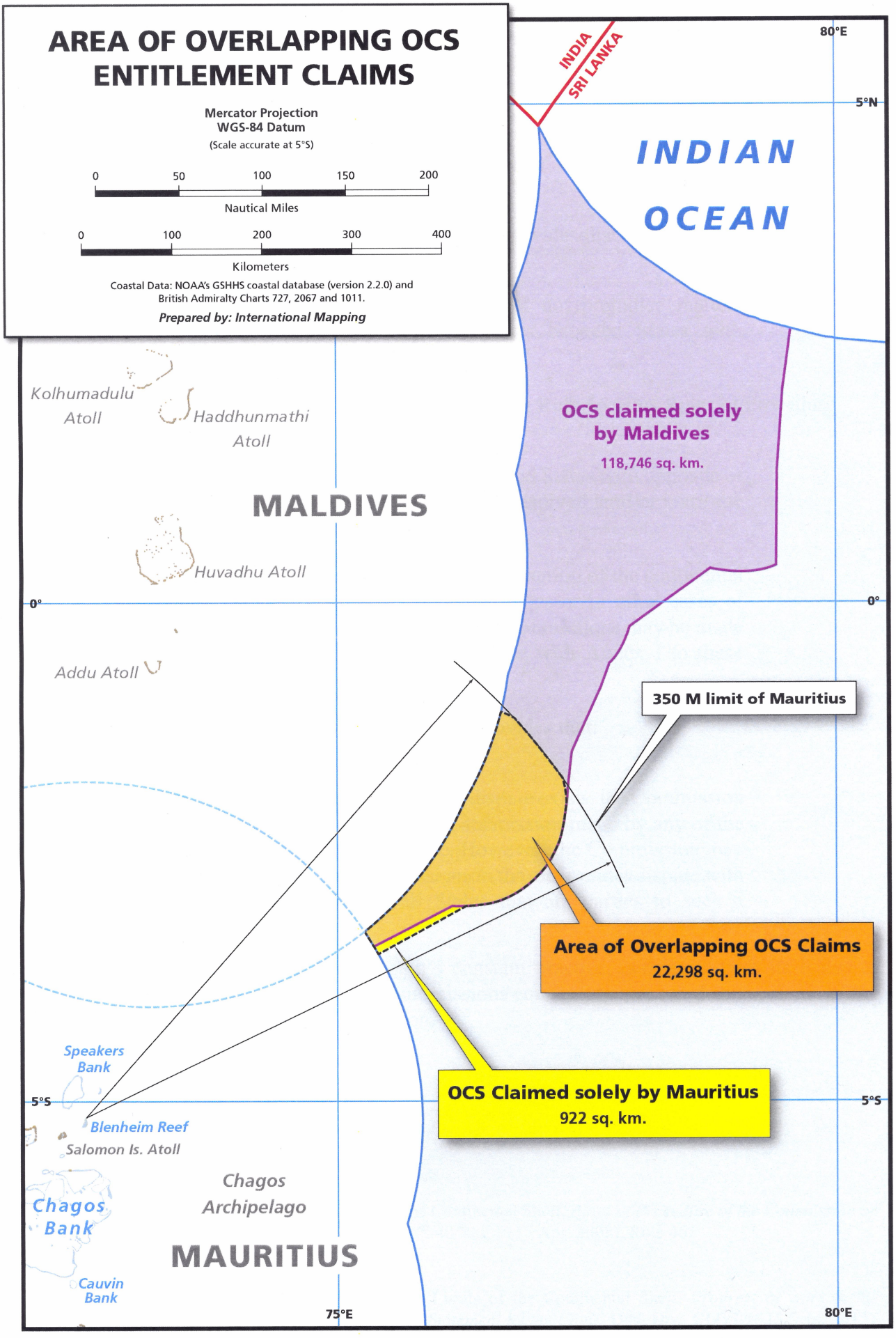

AREA OF OVERLAPPING OCS ENTITLEMENT CLAIMS
Mercator Projection
WGS-84 Datum
(Scale accurate at 5°S)
0 50 100 150 200
Nautical Miles
0 100 200 300 400
Kilometers
Coastal Data: NOAA's GSHHS coastal database (version 2.2.0) and British Admiralty Charts 727, 2067 and 1011.
Prepared by: International Mapping
INDIA
SRI LANKA
80°E
5°N
INDIAN OCEAN
OCS claimed solely by Maldives
118,746 sq. km.
Kolhumadulu Atoll
Haddhunmathi Atoll
MALDIVES
Huvadhu Atoll
0°
Addu Atoll
350 M limit of Mauritius
Area of Overlapping OCS Claims
22,298 sq. km.
OCS Claimed solely by Mauritius
922 sq. km.
Speakers Bank
5°S
Blenheim Reef
Salomon Is. Atoll
Chagos Archipelago
Chagos Bank
MAURITIUS
Cauvin Bank
75°E
80°E

Figure 4.9

where there is a dispute between States concerning their continental shelf boundaries. Article 76, paragraph 10, of UNCLOS specifically provides that:

> The provisions of this article are without prejudice to the question of delimitation of the continental shelf between States with opposite or adjacent coasts.[130]

4.52 Article 9 of Annex II of UNCLOS similarly provides that:

> The actions of the Commission shall not prejudice matters relating to delimitation of boundaries between States with opposite or adjacent coasts.[131]

4.53 The CLCS has implemented this requirement in Rule 46 of its Rules of Procedure:

> Submissions in case of a dispute between States with opposite or adjacent coasts or in other cases of unresolved land or maritime disputes …
>
> 1. In case there is a dispute in the delimitation of the continental shelf between opposite or adjacent States or in other cases of unresolved land or maritime disputes, submissions may be made and shall be considered in accordance with Annex I to these Rules.[132]

4.54 Section 5 of Annex I of the Rules further provides that:

> 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.[133]

4.55 Thus, it has been the Commission's constant practice, consistent with its Rules of Procedure, to defer the consideration of submissions concerning areas in dispute, if one of the States concerned opposes this consideration.[134]

---

[130] UNCLOS, Art. 76(10).

[131] *Ibid.*, Annex II, Art. 9.

[132] United Nations, Commission on the Limits of the Continental Shelf, *Rules of Procedure of the Commission on the Limits of the Continental Shelf*, U.N. Doc. CLCS/40/Rev.1 (17 Apr. 2008), Rule 46.

[133] *Ibid.*, Annex I, Section 5(a).

[134] *See, e.g.*, United Nations, Commission on the Limits of the Continental Shelf, *Progress of work in the Commission on the Limits of the Continental Shelf: Statement by the Chair*, U.N. Doc. CLCS/76 (5 Sept. 2012),

4.56 The distinction between delineation of the outer limits of the continental shelf beyond 200 M, which is the task performed by the CLCS, and delimitation of a boundary in the continental shelf within or beyond 200 M, which is for an international court or tribunal to perform, is well-established in the case law. In *Bangladesh/Myanmar*, ITLOS observed that:

> the exercise of its jurisdiction [to delimit the continental shelf boundary beyond 200 M] in the present case cannot be seen as an encroachment on the functions of the Commission, inasmuch as the settlement, through negotiations, of disputes between States regarding delimitation of the continental shelf beyond 200 nm is not seen as precluding examination by the Commission of the submissions made to it or hindering it from issuing appropriate recommendations.
>
> For the foregoing reasons, the Tribunal concludes that, in order to fulfil its responsibilities under Part XV, Section 2, of the Convention in the present case, it has an obligation to adjudicate the dispute and to delimit the continental shelf between the Parties beyond 200 nm. Such delimitation is without prejudice to the establishment of the outer limits of the continental shelf in accordance with article 76, paragraph 8, of the Convention.[135]

4.57 The Arbitral Tribunal in *Bangladesh v. India* likewise confirmed that it had jurisdiction to delimit the continental shelf beyond 200 M, even though the CLCS had not yet made its recommendations:

> The Tribunal notes that in the present case, the outer limits of the continental shelf have not yet been established in accordance with article 76 and Annex II to the Convention, concerning the Commission on the Limits of the Continental Shelf (the "CLCS"). However, recalling the reasoning of the International Tribunal for the Law of the Sea in *Bangladesh/Myanmar* (*Judgment of 14 March 2012*, paragraphs 369-394), the Tribunal sees no grounds why it should refrain from exercising its jurisdiction to decide on the lateral delimitation of the

---

para. 57 ("The Commission then continued its meeting in private. It recalled that at its twenty-fourth session, it had taken note of the following *notes verbales*: from Argentina, dated 21 April 2009; from the United Kingdom, dated 6 August 2009; from the United States of America, dated 19 August 2009; and from the Russian Federation, dated 24 August 2009. It took also note of the communications received after the first presentation by Argentina, namely, the *notes verbales* from: India, dated 31 August 2009; the Netherlands, dated 30 September 2009; Japan, dated 19 November 2009; and Argentina, dated 8 August 2012. Taking into consideration those *notes verbales* and the two presentations made by the delegation, the Commission reiterated its instructions to the Subcommission, in accordance with the rules of procedure, *not to consider and qualify those parts of the submission that are subject to dispute and not to consider and qualify the part of the submission that relates to the continental shelf appurtenant to Antarctica*.") (emphasis added).

[135] *Bangladesh/Myanmar*, paras. 393-394.

> continental shelf beyond 200 nm before its outer limits have been established. ...
>
> There is a clear distinction in the Convention between the delimitation of the continental shelf under article 83 of the Convention and the delineation of its outer limits under article 76 (*Bangladesh/Myanmar*, Judgment of 14 March 2012, paragraph 376; *Territorial and Maritime Dispute (Nicaragua v. Colombia)*, Judgment of 19 November 2012, Judgment, I.C.J. Reports 2012, p. 624 at p. 669, paragraph 129). Whilst the function of settling disputes with respect to the delimitation of maritime boundaries between adjacent or opposite States is entrusted to the dispute settlement procedures under Part XV of the Convention, the CLCS plays an indispensable role in the delineation of the continental shelf beyond 200 nm. On the one hand, the recommendations of the CLCS "shall not prejudice matters relating to delimitation of boundaries", (Convention, Annex III, art. 9), and on the other hand, the decision of an international court or tribunal delimiting the lateral boundary of the continental shelf beyond 200 nm is without prejudice to the delineation of the outer limits of that shelf. In short, the mandates of these bodies complement one another.[136]

4.58 The Arbitral Tribunal in *Barbados v. Trinidad and Tobago* emphasised that it was under an obligation to settle the entire dispute submitted to it. This included the parties' claims in the continental shelf beyond 200 M:

> There was some difference between the Parties as to the scope of the matters which constituted the dispute with which the Tribunal was required to deal, particularly as regards what the Parties referred to as "the extended continental shelf", by which they meant that part of the continental shelf lying beyond 200 nm. Trinidad and Tobago submitted that that matter was part of the dispute submitted to the Tribunal, while Barbados submitted that it was excluded by the terms of its written notification instituting the arbitration, particularly its description of the dispute and the statement of the relief sought. The Tribunal considers that the dispute to be dealt with by the Tribunal includes the outer continental shelf, since (i) it either forms part of, or is sufficiently closely related to, the dispute submitted by Barbados, (ii) the record of the negotiations shows that it was part of the subject-matter on the table during those negotiations, and (iii) in any event there is in law only a single "continental

[136] *Bangladesh v. India*, paras. 76, 80.

> shelf" rather than an inner continental shelf and a separate extended or outer continental shelf.[137]

4.59 The ICJ, too, has recognised the distinction between delineation and delimitation, and held that the latter falls within its competence:

> The Court emphasizes that both parties in the *Bay of Bengal* case were States parties to UNCLOS and had made full submissions to the Commission ... and that the Tribunal's ruling on the delimitation of the continental shelf in accordance with Article 83 of UNCLOS does not preclude any recommendation by the Commission as to the outer limits of the continental shelf in accordance with Article 76, paragraph 8, of the Convention. ITLOS further noted that a "clear distinction" exists under UNCLOS between the delimitation of continental shelf and the delineation of its outer limits.[138]

4.60 It follows from the above that the CLCS's mandate to make recommendations regarding the outer limit of the continental shelf appurtenant to Mauritius and Maldives is without prejudice to, and does not preclude the Special Chamber from exercising, jurisdiction to the delimit the boundary between Mauritius and Maldives in the continental shelf beyond 200 M.

4.61 There is no reason, in the circumstances of the present case, for the Special Chamber to decline to exercise that jurisdiction. Both Parties agree that there is an extended continental shelf beyond 200 M from their respective coasts, and that their entitlements in this area overlap. Proof of the shelf's existence is confirmed by the Parties' respective submissions to the CLCS. Mauritius' Amended Preliminary Information is attached hereto as Annex 3, and the Executive Summary of Maldives' submission (which is the only part that is available to Mauritius) is attached as Annex 5. The specific areas beyond 200 M claimed by each Party are described above in Chapter 2, at paragraphs 2.37-2.49. The area where their respective claims overlap is shown in **Figure 4.9** (following Figure 4.8).

4.62 Should the Special Chamber consider it necessary to confirm the Parties' entitlements to a continental shelf beyond 200 M, it plainly has the competence to do so. Its competence extends to any question of interpretation or application of the Convention, which includes matters of interpretation or application of Article 76(4)-(7). To be sure, the Convention assigns to the CLCS the role of ascertaining the outer limits of the continental margin. But that assignment does not preclude ITLOS from making the same assessment in a contentious case brought to it under Part XV, especially when the CLCS is precluded by the existence of a dispute from exercising its functions. Only ITLOS (or another Part XV court or tribunal) may resolve such disputes.

---

[137] *Barbados v. Trinidad and Tobago*, para. 213.

[138] *Nicaragua v. Colombia*, para. 125.

4.63 The Special Chamber's lack of specialised expertise, in comparison with the CLCS, need not be a barrier to its resolution of the Parties' dispute beyond 200 M. If it deems necessary, it can consider the views of technical experts retained by the Parties, or retain technical experts of its own to guide its evaluation of the Parties' respective claims.

4.64 The Special Chamber's task in this case is facilitated by the fact that the Parties are in agreement that there is an extended continental shelf in the area that they each claim. Indeed, by asserting competing claims to the same general area Mauritius and Maldives have each acknowledged that the area claimed by the other meets the criteria of Article 76(4)-(7), and that it lies within the outer limits of the continental margin. For this reason, Mauritius is amenable to making a joint submission with Maldives to the CLCS, instead of two separate submissions being made by Mauritius and Maldives, if Maldives agrees. In the circumstances, the role of the Special Chamber can be limited to satisfying itself and confirming that both Parties are correct in their views, and that the area beyond 200 M claimed by both of them represents the extended continental shelf appurtenant to both States.

4.65 In *Bangladesh/Myanmar*, ITLOS was satisfied by the information contained in the Parties' submissions to the CLCS that both parties had valid claims to a continental shelf that extended beyond 200 M, notwithstanding the fact that the CLCS had not acted on those submissions. Bangladesh had contested Myanmar's entitlement beyond 200 M, claiming that its continental shelf naturally ended within 50 M of its coast, and thus did not permit it to claim a shelf beyond 200 M. ITLOS disagreed, holding that:

> The scientific data and analyses presented in this case, which have not been contested, do not establish that Myanmar's continental shelf is limited to 200 nm under article 76 of the Convention, and instead indicate the opposite.[139]

4.66 Here, in contrast, neither State claims that there is a "break" in the shelf appurtenant to the other. Rather, each State implicitly recognises that there is a single shelf in the area, one that is claimed in part by the other State. The Special Chamber need only satisfy itself and confirm, through reliable scientific and technical evidence – which could be supplied by the Parties or, in the Special Chamber's discretion, by an independent expert or experts of its choosing – that a single extended shelf exists in the entirety of the area beyond 200 M claimed by both States in these proceedings, and then proceed to delimit the area between them. The exercise of that function would contribute to the efficient and sound administration of justice, allowing the Special Chamber to assist the Parties in fully resolving their differences, both within and beyond 200 M.

---

[139] *Bangladesh/Myanmar*, para. 448.

B. DELIMITATION OF THE CONTINENTAL SHELF BEYOND 200 M

4.67 It is now axiomatic that there is a single continental shelf, not two separate shelves for the areas within and beyond 200 M. This was stated explicitly by ITLOS in *Bangladesh/Myanmar*:

> The Tribunal notes that article 83 of the Convention addresses the delimitation of the continental shelf between States with opposite or adjacent coasts without any limitation as to area. It contains no reference to the limits set forth in article 76, paragraph 1, of the Convention. Article 83 applies equally to the delimitation of the continental shelf both within and beyond 200 nm.[140]

4.68 In *Ghana/Côte d'Ivoire*, the ITLOS Special Chamber held:

> As far as the methodology for delimiting the continental shelf beyond 200 nm is concerned, the Special Chamber recalls its position that there is only one single continental shelf. Therefore it is considered inappropriate to make a distinction between the continental shelf within and beyond 200 nm as far as the delimitation methodology is concerned.[141]

4.69 In both of those cases, an equidistance line (adjusted in the former, unadjusted in the latter) was adopted as the boundary within 200 M, and, on the principle that there is only one continental shelf, extended along the same azimuth in the area beyond 200 M as far as the outer limit of the Parties' overlapping entitlements. The same is true of *Bangladesh v. India*. It should be noted, however, that in all three of those cases, the States concerned were adjacent to one another, rather than opposite.[142] Indeed, until the present case there has never been another, before any international court or tribunal, in which opposite States have sought a delimitation of overlapping continental shelf entitlements beyond 200 M.

4.70 There is therefore reason to proceed with care in considering whether the method deemed to result in an equitable delimitation beyond 200 M in cases of adjacent States should be applied to the present situation, where the delimitation is between opposite States. In fact, a simple look at how the equidistance line between Mauritius and Maldives, if it were to continue into the area beyond 200 M, would divide that extended shelf area between the Parties, demonstrates that the method used in the cases between adjacent States, described above, should not be applied here. This is illustrated in **Figures 4.10a** (on the following page) and **4.10b**, (following Figure 10a).

---

[140] *Bangladesh/Myanmar*, para. 454.

[141] *Ghana/Côte d'Ivoire*, para. 526.

[142] In *Barbados v. Trinidad and Tobago*, the States were treated as opposite in geographical configuration for the delimitation within 200 M but adjacent for the portion of the delimitation beyond 200 M.

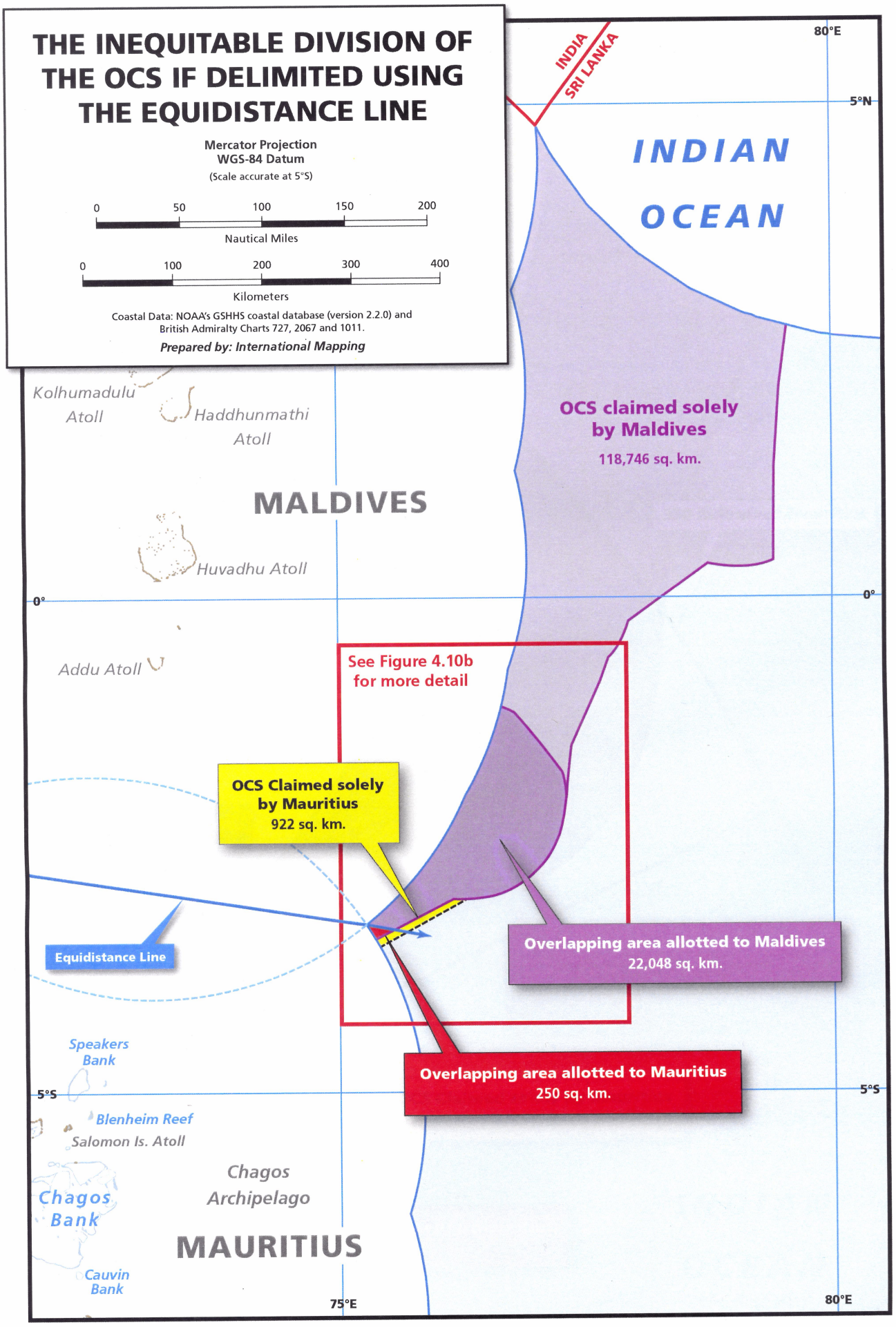

THE INEQUITABLE DIVISION OF THE OCS IF DELIMITED USING THE EQUIDISTANCE LINE
Mercator Projection
WGS-84 Datum
(Scale accurate at 5°S)
0 50 100 150 200
Nautical Miles
0 100 200 300 400
Kilometers
Coastal Data: NOAA's GSHHS coastal database (version 2.2.0) and British Admiralty Charts 727, 2067 and 1011.
Prepared by: International Mapping
INDIA
SRI LANKA
80°E
5°N
INDIAN OCEAN
OCS claimed solely by Maldives
118,746 sq. km.
Kolhumadulu Atoll
Haddhunmathi Atoll
MALDIVES
Huvadhu Atoll
0°
Addu Atoll
See Figure 4.10b for more detail
OCS Claimed solely by Mauritius
922 sq. km.
Equidistance Line
Overlapping area allotted to Maldives
22,048 sq. km.
Overlapping area allotted to Mauritius
250 sq. km.
Speakers Bank
5°S
Blenheim Reef
Salomon Is. Atoll
Chagos Archipelago
Chagos Bank
MAURITIUS
Cauvin Bank
75°E
80°E

Figure 4.10a

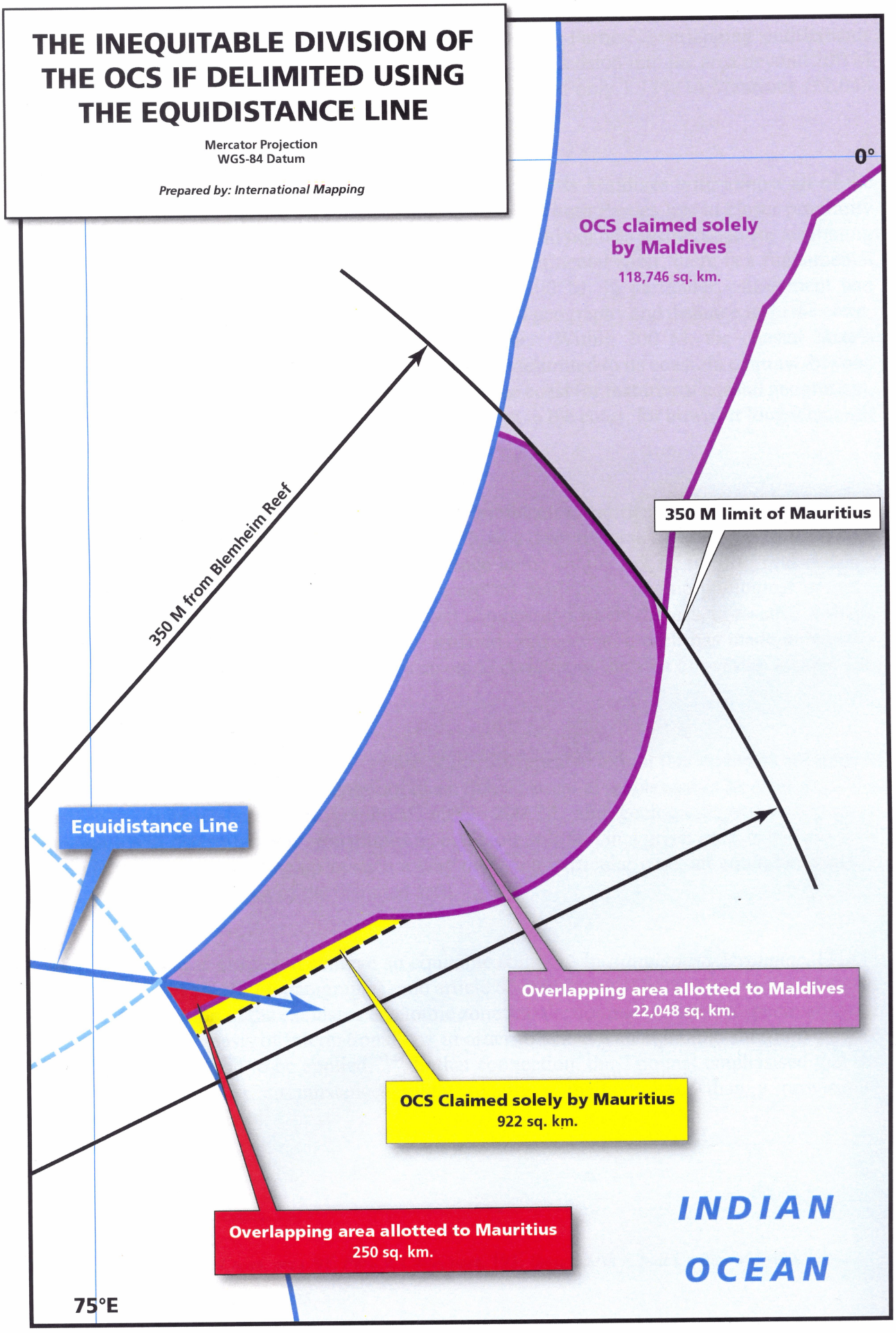

THE INEQUITABLE DIVISION OF THE OCS IF DELIMITED USING THE EQUIDISTANCE LINE
Mercator Projection
WGS-84 Datum
Prepared by: International Mapping
0°
OCS claimed solely by Maldives
118,746 sq. km.
350 M limit of Mauritius
350 M from Blemheim Reef
Equidistance Line
Overlapping area allotted to Maldives
22,048 sq. km.
OCS Claimed solely by Mauritius
922 sq. km.
Overlapping area allotted to Mauritius
250 sq. km.
INDIAN
OCEAN
75°E

Figure 4.10b

4.71 While the equidistance line equitably divides the Parties' overlapping entitlements within 200 M, as shown in Section II of this Chapter, its extension into the area beyond 200 M distributes more than 98.88% of that area to Maldives, and only 1.12% to Mauritius (22,048 km^2 to Maldives, and 250 km^2 to Mauritius).

4.72 To be sure, the reason the equidistance line rewards Maldives with almost all of the area beyond 200 M is that the extended shelf claimed by both Parties lies in closer proximity to Maldives' coast than to that of Mauritius. But this should not be a justification for attributing 98.88% of it to Maldives. Even though there is one continental shelf, there is a fundamental difference between delimitation within and beyond 200 M. In particular, entitlement and ultimately delimitation within 200 M is based on coastal geography and distance from the coast, while entitlement beyond 200 M is based on neither. Within 200 M, the coastal State's entitlement is based on the proximity of the area to be delimited to its coast. In contrast, beyond 200 M the entitlement is not based on distance from the coast (or features of coastal geography), but on the natural prolongation of the shelf appurtenant to the coast, for however long it extends (subject to the 350 M constraint).

4.73 Accordingly, if distance from the coast is irrelevant to entitlement beyond 200 M, there is no reason why it should be used to determine how a disputed area beyond 200 M from both coasts is divided. Mauritius submits that distance alone should not be used to make such a determination. In circumstances where there are no geological, geomorphological or other relevant factors tending to favour one State over another, and where there is, in essence, a single continental shelf on which both States are situated, and to which each has made an equally valid claim, an equitable solution requires an equal division of the area of overlap beyond 200 M.

4.74 Mauritius is, of course, well-aware of the oft-repeated axiom that equity is not always the same as equality.[143] But this does not mean that an equal division cannot be equitable. The facts and circumstances – geographical within 200 M, and geological/geomorphological beyond – will determine what constitutes an equitable solution in a given case, and those facts and circumstances may line up in such a way that, in a particular case, an equitable solution requires an equal division of the disputed area.

4.75 The goal is always to achieve an equitable solution. In *Bangladesh/Myanmar*, ITLOS "observe[d] that article 74, paragraph 1, and article 83, paragraph 1, of the Convention stipulate that the delimitation of the exclusive economic zone and the continental shelf respectively must be effected on the basis of international law in order to achieve an equitable solution, without specifying the method to be applied."[144] In that connection, the Tribunal emphasised that the geographical or other circumstances might require a method other than a provisional equidistance line. It held:

---

[143] *See, e.g.*, *North Sea Cases*, para. 91; *Peru v. Chile*, para. 193; *Bangladesh v. India*, paras. 491-492.

[144] *Bangladesh/Myanmar*, para. 225.

> the issue of which method should be followed in drawing the maritime delimitation line should be considered in light of the circumstances of each case. The goal of achieving an equitable result must be the paramount consideration guiding the action of the Tribunal in this connection. Therefore, the method to be followed should be one that, under the prevailing geographic realities and the particular circumstances of each case, can lead to an equitable result.[145]

4.76 The ITLOS Special Chamber underscored the same principle in *Ghana/Côte d'Ivoire*. The Special Chamber stated:

> As far as the choice of an appropriate methodology for the delimitation of the exclusive economic zone and the continental shelf is concerned, the Special Chamber notes that no particular methodology is specified by articles 74, paragraph 1, and 83, paragraph 1, of the Convention. The appropriate delimitation methodology – if the States concerned cannot agree – is left to be determined through the dispute-settlement mechanism and should achieve an equitable solution, in the light of the circumstances of each case.[146]

4.77 Based on these principles, Mauritius submits that, in the circumstances of this case, in which neither Party has a superior claim in the area beyond 200 M where their entitlements overlap, an equitable solution consists of a line, starting at the eastern end point of the boundary within 200 M, and proceeding to the northeast along a line with an azimuth of 55° that divides in equal parts the area of overlapping entitlements beyond 200 M. The area south and east of this boundary line would constitute Mauritius' extended continental shelf, and the area north and west of the line would belong to Maldives. The entire boundary proposed by Mauritius, dividing the area within and beyond 200 M, is shown in **Figure 4.11** (on the following page).

4.78 The equitableness of the boundary proposed by Mauritius is confirmed by the non-disproportionality test. With regard to the continental shelf beyond 200 M, the non-disproportionality test applies by reference to the entire relevant area, and not separately for the areas within and beyond 200 M. This was determined both by ITLOS in *Bangladesh/Myanmar*[147] and by the Special Chamber in *Ghana v. Côte d'Ivoire*.[148]

4.79 When the entire area in dispute is considered, including the area of overlapping entitlements beyond 200 M, the delimitation divides the area by attributing 59,607 km^2 (50.56%) to Mauritius, and 58,291 km^2 (49.44%) to Maldives. The ratio for portions of the

---

[145] *Ibid.*, para. 235.

[146] *Ghana/Côte d'Ivoire.*, para. 281.

[147] *Bangladesh/Myanmar*, paras. 489-499. The Arbitral Tribunal in *Bangladesh v. India* followed the same approach. *See Bangladesh v. India*, paras. 490-497.

[148] *Ghana/Côte d'Ivoire*, paras. 533-538.

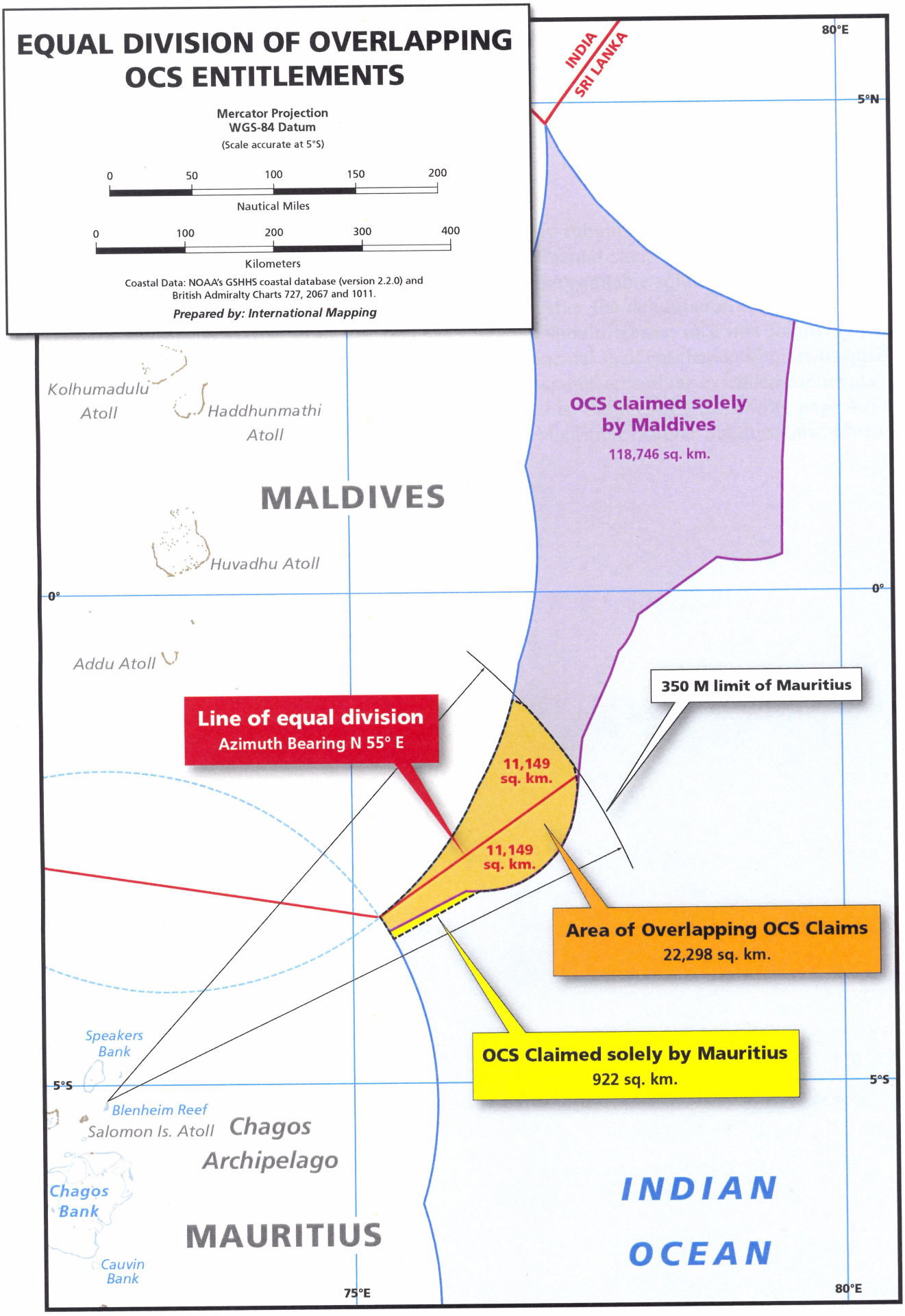

EQUAL DIVISION OF OVERLAPPING OCS ENTITLEMENTS
Mercator Projection
WGS-84 Datum
(Scale accurate at 5°S)
0 50 100 150 200
Nautical Miles
0 100 200 300 400
Kilometers
Coastal Data: NOAA's GSHHS coastal database (version 2.2.0) and British Admiralty Charts 727, 2067 and 1011.
Prepared by: International Mapping
INDIA
SRI LANKA
80°E
5°N
0°
5°S
75°E
Kolhumadulu Atoll
Haddhunmathi Atoll
MALDIVES
Huvadhu Atoll
Addu Atoll
OCS claimed solely by Maldives
118,746 sq. km.
350 M limit of Mauritius
Line of equal division
Azimuth Bearing N 55° E
11,149 sq. km.
11,149 sq. km.
Area of Overlapping OCS Claims
22,298 sq. km.
OCS Claimed solely by Mauritius
922 sq. km.
Speakers Bank
Blenheim Reef
Salomon Is. Atoll
Chagos Archipelago
Chagos Bank
Cauvin Bank
MAURITIUS
INDIAN OCEAN

Figure 4.11

entire relevant area is thus 1.02:1 in favour of Mauritius. This compares with a coastal length ratio of 1.71:1 in favour of Mauritius, as shown in Section II of this Chapter. The narrow disparity between the two ratios indicates that there is no significant disproportionality. The delimitation proposed by Mauritius is therefore equitable.

***

4.80 For the foregoing reasons, Mauritius respectfully submits that the maritime boundary between Mauritius and Maldives in the EEZ and continental shelf within 200 M should be defined by an equidistance line. Such a line produces the equitable solution the law requires; there are no reasons warranting any adjustment to it. After the delimitation line reaches the eastern end of the 200 M limit, the boundary beyond should consist of a line following an azimuth of 55° that divides the area of overlapping continental shelf entitlements into two equal parts, apportioning to each Party an equal share of the disputed area of the extended continental shelf. The boundary proposed by Mauritius is depicted in **Figure 4.12** (following page 46). The coordinates of the turning points are set out in Mauritius' formal Submissions, which immediately follow.

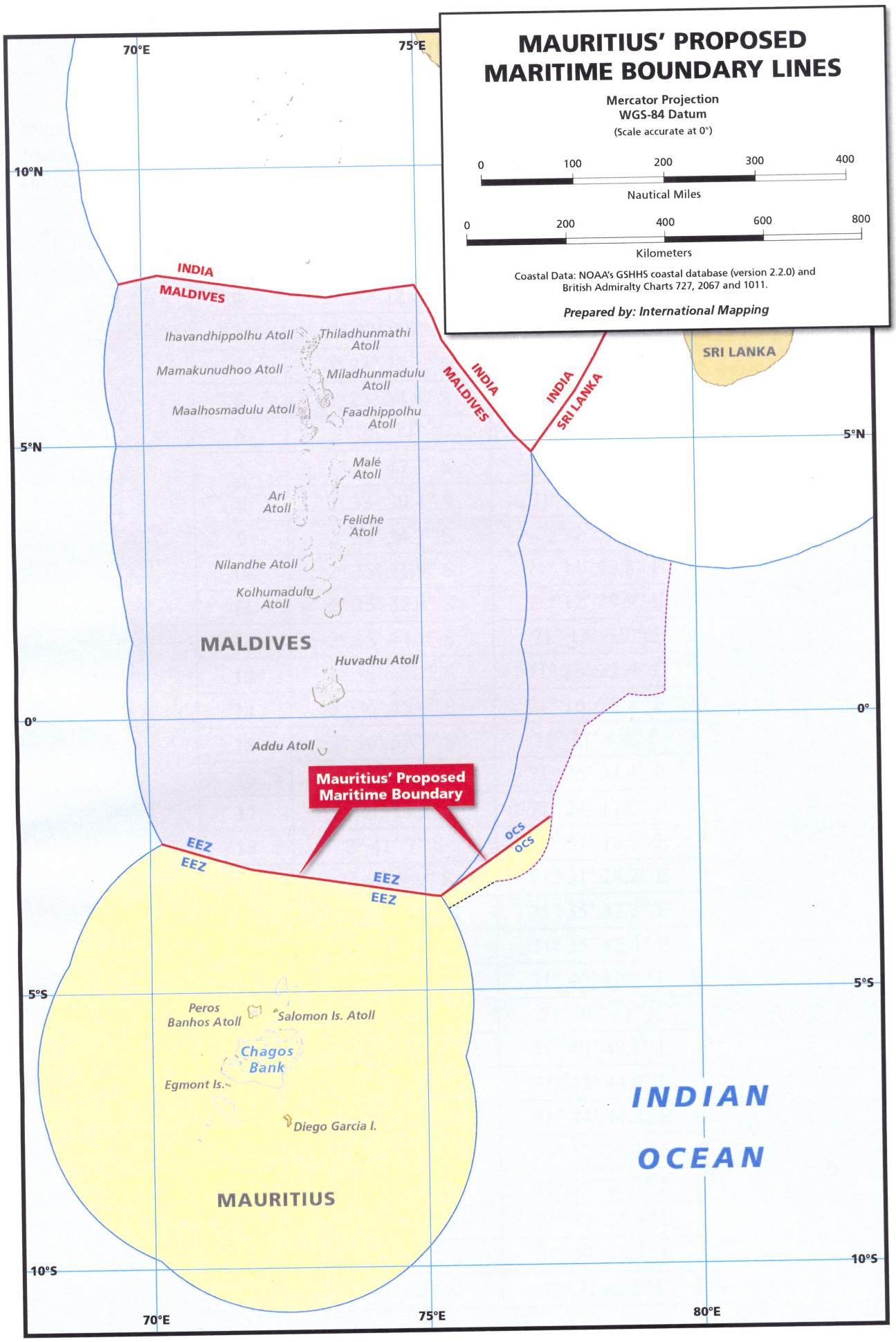

MAURITIUS' PROPOSED MARITIME BOUNDARY LINES
Mercator Projection
WGS-84 Datum
(Scale accurate at 0°)
0 100 200 300 400
Nautical Miles
0 200 400 600 800
Kilometers
Coastal Data: NOAA's GSHHS coastal database (version 2.2.0) and British Admiralty Charts 727, 2067 and 1011.
Prepared by: International Mapping
70°E
75°E
80°E
10°N
5°N
0°
5°S
10°S
INDIA
MALDIVES
INDIA
SRI LANKA
INDIA
MALDIVES
SRI LANKA
Ihavandhippolhu Atoll
Thiladhunmathi Atoll
Mamakunudhoo Atoll
Miladhunmadulu Atoll
Maalhosmadulu Atoll
Faadhippolhu Atoll
Malé Atoll
Ari Atoll
Felidhe Atoll
Nilandhe Atoll
Kolhumadulu Atoll
MALDIVES
Huvadhu Atoll
Addu Atoll
Mauritius' Proposed Maritime Boundary
EEZ
EEZ
EEZ
EEZ
OCS
OCS
Peros Banhos Atoll
Salomon Is. Atoll
Chagos Bank
Egmont Is.
Diego Garcia I.
MAURITIUS
INDIAN OCEAN

Figure 4.12

SUBMISSIONS

On the basis of the facts and law set forth in the Memorial, Mauritius respectfully requests the Special Chamber to adjudge and declare that the maritime boundary between Mauritius and Maldives in the Indian Ocean connects the following points, using geodetic lines (the geographic coordinates are in WGS 1984 datum):

Point	Latitude	Longitude
1	2° 17' 17.4" S	70° 11' 54.4" E
2	2° 20' 12.2" S	70° 21' 35.7" E
3	2° 22' 0.9" S	70° 27' 36.7" E
4	2° 23' 22.1" S	70° 32' 6.2" E
5	2° 23' 54.8" S	70° 33' 54.9" E
6	2° 25' 11" S	70° 38' 8.1" E
7	2° 32' 47.7" S	71° 3' 25" E
8	2° 33' 30.4" S	71° 5' 45.8" E
9	2° 33' 54.7" S	71° 7' 5.8" E
10	2° 35' 21.9" S	71° 11' 53.8" E
11	2° 35' 32.9" S	71° 12' 29.9" E
12	2° 35' 44.1" S	71° 13' 6.9" E
13	2° 36' 43.7" S	71° 16' 22.4" E
14	2° 36' 45.6" S	71° 16' 28.8" E
15	2° 36' 57.7" S	71° 17' 8.4" E
16	2° 39' 43.9" S	71° 26' 34.4" E
17	2° 40' 14.2" S	71° 28' 17.6" E
18	2° 41' 7" S	71° 31' 18.1" E
19	2° 41' 9.9" S	71° 31' 28.2" E
20	2° 42' 23.1" S	71° 35' 37.3" E
21	2° 42' 24.6" S	71° 35' 42.4" E
22	2° 43' 43.1" S	71° 40' 10.2" E
23	2° 43' 52.1" S	71° 40' 41" E
24	2° 43' 54.2" S	71° 40' 48.1" E
25	2° 44' 28.4" S	71° 42' 44.4" E
26	2° 45' 3.7" S	71° 44' 44.3" E
27	2° 47' 19.4" S	71° 52' 25.2" E
28	2° 48' 23.3" S	71° 59' 20.7" E
29	2° 48' 24" S	71° 59' 25.5" E
30	2° 48' 27.1" S	71° 59' 45.3" E
31	2° 49' 4.8" S	72° 3' 49.2" E

32	2° 49' 58.7" S	72° 9' 37.6" E
33	2° 51' 7.4" S	72° 17' 3.7" E
34	2° 54' 22.7" S	72° 38' 10.6" E
35	2° 55' 29.8" S	72° 45' 29.5" E
36	2° 56' 1.3" S	72° 48' 55" E
37	2° 57' 1.5" S	72° 55' 28.5" E
38	2° 57' 40" S	72° 59' 39.1" E
39	2° 59' 10.4" S	73° 9' 26" E
40	2° 59' 21.7" S	73° 10' 39.2" E
41	3° 0' 19.8" S	73° 16' 55.3" E
42	3° 3' 6.6" S	73° 34' 54.1" E
43	3° 3' 33.6" S	73° 37' 48.6" E
44	3° 5' 11.1" S	73° 48' 18.4" E
45	3° 7' 24.8" S	74° 2' 42.8" E
46	3° 7' 47.2" S	74° 5' 8.1" E
47	3° 7' 51.4" S	74° 5' 35.2" E
48	3° 12' 18.4" S	74° 34' 19.5" E
49	3° 14' 37.7" S	74° 49' 19.9" E
50	3° 16' 50.3" S	75° 3' 21.6" E
51	3° 17' 53.4" S	75° 10' 2.2" E
52	3° 18' 47.5" S	75° 15' 44.3" E
52	3° 18' 47.5" S	75° 15' 44.3" E
53	1° 53' 46.4" S	77° 16' 14.9" E

Dheerendra Kumar Dabee G.O.S.K., S.C.
Solicitor-General
Agent for the Republic of Mauritius
25 May 2021

CERTIFICATION

I certify that the annexes to this Memorial are true copies of the documents referred to.

Dheerendra Kumar Dabee G.O.S.K., S.C.
Solicitor-General
Agent for the Republic of Mauritius
25 May 2021

VOLUME I

FIGURES

VOLUME II

FIGURES

VOLUME III

ANNEXES