



institute for global dialogue

THE INVIOABILITY OF AFRICA'S COLONIAL BOUNDARIES

Lessons from the Cameroon–Nigeria border conflict

Francis Nguendi Ikome

November 2004



Occasional paper no 47

THE INVIOABILITY OF AFRICA'S COLONIAL BOUNDARIES

Lessons from the Cameroon–Nigeria border conflict

Francis Nguendi Ikome

Series editor:
Garth le Pere

Institute for Global Dialogue
Johannesburg South Africa

November 2004

Published in November 2004 by the:

Institute for Global Dialogue
IGD House, Thornhill Office Park
Bekker Street, Vorna Valley
Midrand, South Africa

P O Box 23571, Braamfontein 2017, South Africa

Tel +27 (0)11 315-1299
Fax +27 (0)11 315-2149
www.igd.org.za

All rights reserved. This publication may not be copied, stored, or transmitted without the prior permission of the publisher. Short extracts may be quoted, provided the source is fully acknowledged.

ISBN 1-919697-77-2

Produced by Riaan de Villiers & Associates

ABOUT THE AUTHOR

Francis Nguendi Ikome is senior researcher: Africa and southern African programme of the IGD. He is also a doctoral research fellow at the University of Witwatersrand's Centre for Africa's International Relations (CAIR). This paper is the product of a research trip to Cameroon in June 2004, sponsored by CAIR.

TABLE OF CONTENTS

List of acronyms · 4

1 Introduction · 5

2 A historical reconstruction of the Cameroon–Nigeria border question · 9

3 Inconclusive boundary treaties and border conflicts in Africa: the case of the Bakassi peninsula · 17

4 The recourse to the ICJ: justification and denial · 24

5 The ICJ verdict and the future of African borders: to review or not to review? · 26

6 The UN's good offices post ICJ: a new chapter in inter-African boundary relations · 27

7 Conclusion · 29

End notes · 30

LIST OF ACRONYMS

AU	African Union
ECCAS	Economic Community of Central African States
ECOWAS	Economic Community of West African States
EPZ	The Calabar Export Processing Zone
ICJ	International Court of Justice
IOMR	Nigeria's Institute of Oceanography and Marine Research
NEPAD	New Partnership for Africa's Development
NIIA	Nigerian Institute of International Affairs
NIPSS	Nigeria's National Institute of Policy and Strategic Studies
OAU	Organisation of African Unity
UN	United Nations

1 Introduction

Unlike the nations of the northern hemisphere, the peoples of Africa did not voluntarily determine the formation of nation states and their boundaries on the continent. Rather, contrary to the African concept of kingdoms, defined in terms of peoples and their cultures, irrespective of where they choose to live or migrate to, agents of external interests balkanised the continent, imposing inflexible and permanent boundaries. These divisions that seemed so natural to imperialist powers in faraway Berlin in 1884 displayed a painful ignorance of Africa's physical, cultural, economic, and political realities.¹

While it is widely accepted that the boundaries of contemporary African states are unusually arbitrary, largely as a result of their colonial origins,² there is no consensus on whether this has been a liability for African states.³ Two schools of thought have animated the discourse on the implications of these boundaries for African states and their relationship with one another. The first is that of the 'revisionists', who argue that the arbitrary nature of African boundaries has been a major source of instability and an obstacle to development, and that they should therefore be urgently reviewed.⁴

The second is that of the 'anti-revisionists', who argue for the maintenance of the status quo. Scholars in this category advance three main arguments in support of their view. First, they argue that borders everywhere are artificial, and that the case for African exceptionalism is therefore weak.⁵ Second, while acknowledging the arbitrary nature of African boundaries, they have suggested that this has either had few deleterious consequences,⁶ presented opportunities for African populations,⁷ and, in some cases, served as assets for state consolidation.⁸ Their third and most popular argument is that, while it is true that Africa has suffered from its partitioned nature, the costs of any attempt to adjust its boundaries would far surpass the hypothetical benefits of doing so.⁹

At independence, the 'anti-revisionist' thesis appeared more appealing to both the departing colonialists and the emergent African leadership. Therefore, despite being aware of the haphazard and arbitrary nature of the inherited boundaries, African leaders agreed to maintain them as handed down by the colonialists. It was against this backdrop that the principle of the inviolability of national borders emerged as an axiom of Africa's international relations. In 1963, it was officially inscribed into the charter of the Organisation of African Unity (OAU). It was also given a stamp of approval by the United Nations (UN) system. This approach was based on the consensus that any attempt to review Africa's borders would amount to opening a 'Pandora's box' that could unleash a spate of violence and possibly anarchy on the continent. The context in which African leaders adopted what then appeared to be a pragmatic policy of 'territorial status quo' is well captured by the following declaration by the founding father of Mali, president Modibo Keite:

We must take Africa as it is, and we must renounce any territorial claims if we do not wish to introduce what we might call black imperialism in Africa ... African unity demands of each one of us complete respect for the legacy that we have received from the colonial system, that is to say: maintenance of the present frontiers of our respective states ... If we desire that our nations should be ethnic entities, speaking the same language and having the same psychology, then we shall find no single veritable nation in Africa.¹⁰

However, Africa's boundaries lack homogeneity and functional polities. And, rather than contributing to peaceful relations, its colonially inherited borders have turned out to be a major source of conflict. The Cameroon–Nigeria border typifies the artificial and arbitrary nature of Africa's colonially inherited boundaries. Their long, imprecise, and poorly demarcated border has been the most prominent cause of the volatile relations between these neighbouring West African states.¹¹

On a number of occasions, the border conflict between these two countries – particularly over the oil-rich maritime areas – has almost escalated into war. Many analysts believe the best way to avert this would be to redraw the border between these countries, in a manner acceptable to both.

Unfortunately, however, the two states have developed divergent views on the border question, which have fed into the pro-revisionist versus anti-revisionist dichotomy in the African border discourse. Nigeria favours a diplomatic solution that would address the arbitrary nature of colonial boundaries and would permit border adjustments in line with shifting national and regional circumstances. By contrast, Cameroon has stressed a legal solution that hinges on sustaining the inviolability of Africa's frontiers. In this context the border dispute between the two states, which was referred to the International Court of Justice (ICJ) in 1994, has arguably constituted a 'litmus test' of the continued validity or otherwise of the sanctity of Africa's colonially inherited borders.

This paper examines how this border conflict fits into ongoing debates on Africa's boundaries, and the continued validity of the notion of their inviolability. It focuses especially on the implications of the recent ICJ judgment on the future of African borders generally, in terms of having them reviewed or otherwise maintaining the status quo. It argues that, by basing its final judgement on colonial treaties reached between the British and the Germans in the early 20th century, the ICJ has implicitly upheld the principle of the inviolability of Africa's borders, and strengthened the anti-revisionist camp. However, Nigeria's rejection of the court's judgement, and the subsequent UN initiatives aimed at addressing the specific interests and concerns of the two states (especially issues of national defence, the plight of border people, and the management of border resources) underscore the limits of maintaining Africa's colonially inherited borders without regard for their cultural, economic, and strategic implications.

The paper has been conceived in the belief that the Cameroon–Nigeria border conflict warrants urgent attention, particularly in the light of the heightened, oil-related, international interest in the West African coast. The presence of valuable mineral resources, especially oil, along the maritime border between the two countries creates the potential for destabilising great-power politics. Moreover, the decision of Cameroon and Nigeria, with the help of the UN, to supplement legalism (the ICJ verdict) with diplomacy in their quest for a lasting solution to the protracted border conflict is an innovative one, and could serve as a model for managing other border conflicts on the continent.

I begin by setting out the framework for my analysis. I then review the history of the Cameroon–Nigeria border question, emphasising the lapses in colonial and post-colonial border agreements. I move on to demonstrate how the two states have exploited these lapses to build convincing arguments either for a review of the border, in the case of Nigeria, or the maintenance of the status quo, in the case of Cameroon. I demonstrate how these divergent attitudes have frustrated efforts to work out a bilateral solution to the conflict. I then proceed to examine the circumstances under which the conflict was taken to the ICJ, and examine the implications of its verdict for the principle of the inviolability of Africa's borders. I conclude with an appraisal of the post-ICJ, UN-brokered diplomatic initiatives (particularly the UN–Cameroon–Nigeria mixed boundary commission) for a peaceful resolution of the conflict, and its potential for serving as a model for conflict management on the continent.

1.1 *Analytical framework*

Conflict is a broad term, used in physical, biological, philosophical, and social discourses.¹² In social science it has been defined as an essential social phenomenon with both creative and destructive manifestations, or a competitive situation in which each party seeks a position which they know is incompatible with the wishes and interests of the other.¹³ It has also been seen as a perennial affliction of social relations and human institutions, both formal and informal. Conflict can be objective or subjective; it can be consensual (dispute over resources) or dissensual (dispute over values, such as religion and ideology). However, in this paper conflict is defined simply as friction between units of social organisation. The international system is regarded as the main social organisation, and the states of Cameroon and Nigeria as sub-units interacting within that system.

The concept of conflict management has been given diverse meanings and emphasis. Generally, however, it is depicted as a means of winning a conflict while keeping the dangers and risks to both sides within tolerable limits. It is also a means of reaching a solution acceptable to both sides without resorting to war. Conflict management consists primarily of efforts to maximise gains, avoid war, or achieve a combination of the two.¹⁴

The concept of boundary is also defined in different ways. However, in the simplest sense, a boundary is the 'imaginary line that divides two pieces of land from one another'. When these lines run between two or more national states, they are regarded as international boundaries. These are defined from point to point in treaties, arbitration awards, or the reports of boundary commissions.¹⁵ From a legal perspective, international boundaries are the sharp edges of the territories within which states exercise their jurisdictions¹⁶ – the imaginary lines that mark the legal termination of the territory of one state or political unit, and the start of another.¹⁷

More importantly, two principles for determining international boundaries have been popular in the literature: territoriality, and cultural affinity. The first is based on the assumption that political units comprise members of a community and that all the territory so defined belong to them, even if they are not its only occupants. Conversely, the latter rests on the supposition that members of a community should be grouped in the same political unit, even if they do not own all the territory they occupy. When one political unit adopts one principle, and a neighbour the other, border conflicts are bound to arise.¹⁸

These can assume the form of a territorial claim, a boundary claim, or both. Boundary and territorial claims are informed by or based on a variety of arguments:

- It could be historical, in which case there is often a claim to ancient sovereignty;
- it could be geographical, in which case it is often contended that the boundary should follow a natural feature;
- it could hinge on ethnic and cultural factors, in which case it is often claimed that a given ethnic or cultural group has been arbitrarily divided by a boundary line;
- it could be economic, in which case it is usually argued that the disputed territory or borderland is vital for the economic life of the states in question; and
- border and territorial claims have also been informed by military and/or strategic considerations, in which case states have sought to rectify the boundaries so as to make them more defensible in times of crisis or wars.¹⁹

Cameroon and Nigeria seem to have adopted opposing principles in their border dispute: while Cameroon upholds territoriality, Nigeria emphasises cultural affinity. Moreover, their boundary conflict is both a conflict over the proper location of the border as well as one over border territories. It has been fuelled by historical, geographical, ethno-cultural, economic, military, and strategic factors.

Analysts differ over how boundary studies should be conducted. Some favour a social studies approach, cutting across disciplines and providing a holistic, integrative, and participatory framework.²⁰ Others have tried to organise border studies into two broad categories: traditional and modern.²¹ The former has been divided into two further subcategories: 'academic', descriptive, and interpretative studies; and those focusing

on disputes and conflicts, emphasising legal, military, and political aspects, and usually aimed at finding ‘just’ or ‘natural’ boundaries. ‘Traditional’ border studies have generally been characterised by a legal and geographic theoretical focus, and an often static ideological orientation. Modern border studies are characterised by an emphasis on socio-economic issues. They tend to focus on integrative rather than conflictual processes, and on the problems of border people rather than on nation-states. Moreover, they are more policy-oriented than the traditional approaches.²²

In recent times in particular, border studies have tended to be integrative in approach, and behavioural in emphasis. Analyses have become more people-oriented, with the initial focus on the nation-state gradually receding. Understandably, African boundary scholars have insisted on the need to focus on the plight of border people who were most affected by the arbitrary ‘colonial surgery’ on the continent.²³

Notwithstanding the valid criticisms against the traditional approach to African border studies, this paper leans in this direction, supplemented only by the more modern sociological and peopled-centred approach. It combines political, legal, and military perspectives. This choice is informed by the following considerations:

- First, I argue that the Nigeria–Cameroon border conflict has not been one between incompatible border peoples, nor a challenge to the legitimacy of either state by partitioned groups; rather, it has been a conflict between sovereign states over border resources and national security and strategic concerns. Moreover, the issues involved, such as the interpretation of border treaties and related international conventions, as well as strategic, security, and politico-economic calculations all fall within the ambit of state power.
- Second, an interstate dispute of this nature is amenable to three solutions: a political solution through diplomacy, a legal solution by recourse to a court of law, and a military solution by recourse to war – the most extreme of all foreign policy instruments. I contend that the decision as to which of these options should be pursued at any given time is a prerogative of states and not of border peoples. Also, it is usually a function of the stakes involved in the conflict for both parties. The nation-state analytical approach is therefore most appropriate for a proper understanding of the dynamics of the conflict under review. It enables us to examine the stakes involved, and how the two states have coped with choosing among a political, legal, and military solution to the conflict.

2 A historical reconstruction of the Cameroon–Nigeria border question

The political entities of Nigeria and Cameroon are British and German creations respectively. The name Nigeria was handed down to this vast West African territory by

Lord Lugard in 1914, after the amalgamation of the Northern Protectorate, the southern colony of Lagos, and the oil protectorate of Calabar. The name Cameroon was handed down to this Central/West African territory by Portuguese sailors. However, today's Cameroon is a product of the territory's colonial history that saw it first administered by the Germans, and then partitioned by the French and the British. Nigeria and Cameroon share a border of about 1 600 kilometres, stretching from Lake Chad in the north to the Bight of Biafra in the Atlantic Ocean.²⁴ It is broken down into four sectors. The first is between the tripoint with Chad and the Kombon or the Kosere Gesumi Uplands; the second, between the Kombon Mountains and the Gamana River; the third, between the Gamana river and the Cross River; and the fourth, between the Cross River and the Bight of Biafra.²⁵

From the tripoint southwards, the boundary traverses Lake Chad for about 38 miles, uses various rivers and straight-line segments, and follows the thalweg of Akpa-Yafe to the line between Bakassi Point and King Point on the Bight of Biafra. The sector between Gamana River and the Bight of Biafra is relatively well demarcated by pillars and rivers. However, the last sector between the Cross River and the Bight of Biafra is poorly demarcated, and has been the biggest source of conflict. Various arrangements over this area both between the colonial powers as well as the Nigerian and Cameroonian authorities after independence have been inconclusive.

2.1 *The Anglo-German border arrangements: the foundation of the conflict*

Much of the current border between Nigeria and Cameroon was determined in a series of accords and agreements between the British and the Germans, beginning with the accord of April–June 1885 that defined the German and British spheres of influence from the coast of the Gulf of Guinea.²⁶ This agreement placed the dividing line on the right bank of the Rio-del Rey, which reaches the sea between 8° 42' East and 8° 46' East.

This accord assumed that the Rio-del-Rey was a river. However, between May and June 1885 it was discovered that it was only an estuary and could therefore not be relied upon as a permanent landmark. To rectify this error, the British and Germans exchanged a series of notes between July and August 1886 in respect of the frontier from the Rio-del-Rey to Yola.²⁷ This agreement was also riddled with imperfections; it lacked precision, and was also based largely on questionable assumptions.

In a bid to correct these flaws, the Germans and the British signed yet another agreement in 1890, which further modified the boundary. This time the Anglo-German spheres of influence were defined by a provisional line from the head of Rio-del-Rey Creek to a point on the British Admiralty Chart at about longitude 8° 8' East.

On 14 April 1893 another Anglo-German accord was signed with the aim of clarifying

the ambiguities of the previous one. It clearly stipulated that the right bank of the Rio-del-Rey waterway was to be the boundary between the British Cross River Protectorate and the German Cameroons. In November 1893 a further agreement was reached that extended the border up to Lake Chad. And in March 1906 another accord was signed which defined the frontier from Yola to Chad.

Despite the multiplicity of agreements, Britain and Germany failed to agree on a satisfactory border. While the Germans, who had realised the coastline's strategic importance, insisted that the Akpa-Yafe River was the ideal natural dividing line, the British preferred the Ndian River. As far as the British were concerned, the latter river formed the natural boundary between the Bantu peoples of the Cameroons and the Efiks of Nigeria. After lengthy negotiations and renegotiations, the British reluctantly accepted the German preference, which was formalised in an agreement signed on 20 April 1906. The starting point of the new coastal boundary was the intersection of the channel linking King Point with Bakassi Point and the Akwa-Yafe River. Between May 1907 and October 1909, Britain and Germany exchanged a series of notes, giving more precision to the borders of their colonial possessions of Cameroon and Nigeria, from Yola to the Atlantic Ocean.²⁸

The last and probably most important border agreement was signed on 11 March 1913. It is particularly significant for at least three reasons: it was purportedly signed to correct the shortcomings of all the earlier agreements; as a result of the outbreak and outcome of World War 1, this agreement turned out to be the last between the British and the Germans; and it has played a key role in all subsequent border negotiations and tensions between the two territories.

Some key clauses of the 1913 agreement were specifically aimed at addressing sensitive issues surrounding the volatile maritime portions of the border. Particularly relevant are articles 18, 19, 20, 21, 27, and 29.

Article 18 defined the boundary line at the coast as follows: '[It] follows the thalweg of Akpakorum River dividing the mangrove islands near Ikang ... It then follows the thalweg of the Akwa-Yafe as far as a straight line joining Bakassi Point and King Point.'²⁹

Conscious that the river might change its course, article 19 stated that: 'Should the thalweg of the lower Akwa-Yafe, upstream from the line Bakassi Point, change its position, in such a way as to affect the relative positions of the thalweg and the mangrove islands, a new adjustment of the boundary shall be made, on the bases of the new positions – as determined by a map to be made for this purpose.'³⁰

By establishing the thalweg of the Akpa-Yafe as the new maritime boundary between the two colonies, articles 18 and 27–29 placed the Bakassi Peninsula under German

jurisdiction. However, there was uncertainty over the ownership of the peninsula should the lower course of the Akwa-Yafe River change.

This ambiguity was addressed by article 20, which stipulated that: 'Should the lower course of the Akpa-Yafe so change its mouth as to transfer its waters to the Rio-del-Rey, it is agreed that the area now known as the Bakassi Peninsula shall still remain German territory. The same condition applies to any portion of the territory now agreed to as being British, which may be cut off in a similar way.'³¹

Article 21 further clarified the definition of the maritime boundary by stating that: 'From the centre of the navigable channel on a line joining Bakassi Point and King Point; the boundary shall follow the centre of the navigable channel of the Akwaya-Yafe River as far as a three-mile limit of territorial jurisdiction. For the purposes of defining the boundary, the navigable channel of the Akwa-Yafe River shall be considered to lie wholly to the East of the navigable channel of the Cross and Calabar Rivers.'³²

Article 23 provided for free navigation between the open sea and the Akpa-Yafe, while article 25 gave Britain the right to develop the navigable channels of the Cross and Calabar Rivers from a three-mile limit landward. Article 36, on the other hand, protected the fishing rights of the native populations on the Bakassi Peninsula – without however, diminishing German jurisdiction over the peninsula.³³

More importantly, the nationality of the border populations as affected by these boundary adjustments was addressed by article 27, which stipulated that: 'It is agreed that within six months from the date of marking the boundary, natives living near the boundary-line may if they so desire, cross over to live on the other side, and may take with them, their portable property and harvesting crops.'³⁴

This was the state of the Cameroon–Nigeria border when World War 1 broke out in 1914. Despite the apparently detailed nature of the Anglo–German Treaty of 1913, the border was still ill-defined, which made the agreement difficult to implement. Arguably, the origins of the Cameroon–Nigeria border question could be traced back to the failure of the British and the Germans (who first colonised the area) to create a well-defined and conflict-free boundary. Following the war, the Cameroons were taken over by the British and the French. This led to new boundary arrangements between Cameroon and Nigeria.

2.2 *The Anglo–French border arrangements*

After Germany's defeat, Lancelot Oliphant and Georges Picot, representing the British and French governments respectively, partitioned the former German Cameroons in February 1916, with France claiming four fifths and the British barely one fifth of the territory.³⁵ This arrangement was formalised in March 1916 in what became known

as the Picots Partition. Meanwhile, on 17 March 1916, General Dobell ‘unilaterally’ issued Proclamation no 10 that determined the boundary between the British and the French zones.³⁶ On 10 July 1919 the British secretary of state for colonies, Lord Alfred Milner, and the French minister of colonies, Henry Simon, signed an agreement that essentially confirmed the accord of 4 March 1916. And in 1922 the League of Nations accepted the Anglo–French arrangement over former German Cameroon.

The various Anglo–French accords from 1916 to 1919 did not alter the Cameroon–Nigeria border as laid down in the 1913 Anglo–German Treaty, especially in respect of the maritime portions. Border discussions between London and Paris from 1919 to 1960 were largely limited to tidying the partition line between the British and French Cameroons. As regards the British colony of Nigeria and British Cameroon, a kind of ‘no boundary mentality’ prevailed for much of this period. This was especially so as the British, for the purposes of administrative convenience, administered their portion of the Cameroon as an appendage to eastern Nigeria.

In the minds of the British, southern Cameroon was ethnologically part of the eastern region of Nigeria. And, to borrow from Adener, ‘the British acquired Southern Cameroon in order to extend the Eastern Nigerian Boundary Eastwards, and in the process, fill the missing links of Eastern Nigeria’.³⁷

However, the plebiscite in the British Cameroons on 11 February 1961 revived the importance of ascertaining the Cameroon–Nigeria border. It brought about the first major change in the boundary line between Cameroon and Nigeria since the 1913 agreement. While the northern portion of British Cameroons became an integral part of the independent Federal Republic of Nigeria, the southern part was reunited with the French-speaking part. However, this did not affect the coastal boundary line between Nigeria and Cameroon, which continued to conform to the Anglo–German Treaty of 1913.

2.3 *Post-independence boundary arrangements (1961–75): a futile attempt to forestall disputes*

Although Cameroon and Nigeria subscribed to the principle of the inviolability of colonially inherited boundaries, as prescribed by departing colonial powers and formalised in the OAU Charter, the governments of the two contiguous states were aware that their border constituted a potent seed of discord, especially in the aftermath of the controversial plebiscite in Southern Cameroon in 1961. To forestall any disputes, a Joint Cameroon–Nigeria border commission was created in 1965, shortly after independence. However, the commission had hardly begun its work when the Nigerian civil war broke out in 1966. It resumed its activities after the war, arriving at a number of landmark declarations on the border question.

On 14 August 1970, the commission produced the Yaounde I Declaration, which proposed the delimitation of the borders in three stages:

- the delimitation of the frontier on the basis of the Anglo-German protocol of 12 April 1913;
- the delimitation of the frontier around Lake Chad; and
- the delimitation of the maritime frontier. Paragraph 2 of the declaration emphasised that the delimitation of the maritime frontier has to conform with the Geneva Convention of 1958 on the law of the sea, and the terms defined by the Anglo-German Accord of 11 March 1913, 'fixing the frontier between Cameroon and Nigeria, from Yola to the sea, and the regulation of navigation on the Cross River'.³⁸

The Nigerian and Cameroonian heads of state signed another declaration on 4 April 1971 (Yaounde II) in which they agreed to:

- consider as frontier the line on British Admiralty Chart no 3433 up to the three-mile limit, joining the points Sandy and Tom Shot in conformity with the Anglo-German Treaty of 1913;
- adopt the Ngoh-Coker line from a point at longitude 8° 30' 40" and latitude 4° 40' 28" north of the Bakassi Peninsula, at the middle of the line joining King Point (Nigeria) to Bakassi Point (Cameroon) up to point 12 of Longitude 8° 24' 38" East and Latitude 4° 31' 26" to the East of Buoy no 3; and
- apply the Geneva Convention of 1958 on the Law of the Sea to the delimitation of the rest of the maritime boundary.³⁹

However, Nigeria later rejected the Ngoh-Coker delimitation line, describing it as a 'document of infamy' and a suicidal arrangement for Nigeria. This response was based on the following considerations:

- First, to keep the port of Calabar open to merchant shipping, Nigeria would have to maintain buoys within Cameroon's territorial waters. Alternatively, a new channel would have to be dredged and buoyed for use by ships entering and leaving Calabar (a major port and naval base).
- Secondly, should oil be discovered in the area, Cameroon would be at liberty to erect rigs along the channel, thus closing the port of Calabar.
- Thirdly, Nigerian naval vessels would have to seek clearance from the government of Cameroon before moving in and out of the naval base at Calabar.
- Finally, the creeks of the Bakassi Peninsula, the Rio-del-Rey, Bakassi Flats, and Akwa-Yafe Flats immediately to the east of the Nigeria-Cameroon borders were traditional fishing areas for Nigerians living on the opposite banks of the Cross River, and therefore it was imperative that their fishing interests be protected as envisaged in the Anglo-German Treaty of 1913.⁴⁰

For its part, the Yaounde government felt strongly that the Nigerian contentions were unjustified, arguing rather that the Ngoh–Coker delimitation line made adequate provision for security and freedom of navigation in the Calabar and Cross River channels for ships of both countries, as defined by international treaties and conventions.⁴¹ It argued further that the rights of the fishing communities had always been respected as stipulated by the 1913 Anglo-German agreement. Nigeria's rejection of the Ngoh–Coker line and the Cameroon government's response created a stalemate in border negotiations between the two countries.

In an attempt to resolve it, the Cameroonian and Nigerian heads of state (Ahidjo and Gowon) met in Kano, Nigeria, from 30 August to 1 September 1974. However, they failed to agree, and decided to call upon the UN to interpret the 1913 agreement and the 1958 Geneva Convention. They also resolved that the future demarcation of the Cameroon–Nigeria border should include both the maritime and land areas as well as a two-kilometre corridor on either side of the line joining Fairway Buoy and Buoy nos 1, 2, & 3 on Admiralty Chart 3433 was declared an area of free oil prospection.⁴² However, probably because of the understanding between the two countries during the Nigerian civil war, Ahidjo and Gowon later agreed on the need for a bilateral solution of their border stalemate as opposed to involving third parties. Accordingly, between 31 May and 1 June 1975, they met in Garoua and signed what became known as the Ahidjo–Gowon Agreement, or the Maroua Accord.

This agreement extended the maritime boundary between Cameroon and Nigeria from point '12' (Longitude 8° 24' 38") to point 'G', and also reaffirmed a commitment to the free movement of ships of both countries in the Calabar and Cross River channels, in line with international treaties and conventions.⁴³ It marked the peak of bilateral boundary diplomacy between Cameroon and Nigeria after independence. It was described as a historic breakthrough; a gigantic milestone in bilateral relations that theoretically settled the constant problem of border clashes over fishing and land rights.⁴⁴ This agreement was conceivably the most important post-independence border agreement between the two states.

However, the agreement was repudiated by the Murtala Mohammed administration that replaced the Yakubu Gowon government in Nigeria on the grounds that it did not change the prejudice suffered by Nigeria as a result of the 1971 negotiations with Cameroon.⁴⁵ According to the Nigerian authorities, the Maroua accord only resulted in a slight and rather inconsequential shift of the borderline east of the 'infamous' Ngoh–Coker line of 1971. They therefore believed that the Maroua Declaration was essentially a re-enactment of the Ngoh–Coker delimitation line. Accordingly, accepting this accord would have amounted to relinquishing Nigeria's historical claim to Bakassi Peninsula, besides damaging its other vital interests in the area. Some analysts have contended that Ahidjo outmanoeuvred General Gowon, to making unacceptable concessions to Cameroon.⁴⁶

In response, Yaounde argued that the agreement was the culmination of intensive work by border experts from the two countries between 1970 and 1975. In its view, Ahidjo and Gowon had simply appended their signatures to give this 'historic document' its deserved legal and political weight. Regarding the thesis that Ahidjo outsmarted Gowon in the negotiations, the Yaounde authorities argue that Ahidjo had in fact made substantive concessions to Gowon. This included among others, the loss of an important strip of land consisting of the Calabar channel, substantial petroleum and poly-metallic mineral deposits, and rich fishing grounds.⁴⁷ This claim has been confirmed by the cartographer JC Anene, who has written that:

... the shift westwards of the direction of the line beyond point '12' was marked by Nigeria's desire to have unfettered access through Nigerian waters for vessels visiting the ports of Calabar and the Cross River estuaries... That, this departure from the principle of equidistance in the delimitation of the boundary between point '12' and point 'G' was to the marked disadvantage of Cameroon.⁴⁸

Be that as it may, the repudiation of the agreement and the resultant controversies pushed Nigeria–Cameroon border relations to their lowest ebb. From the repudiation of the Maroua Agreement in 1975 to the onset of military hostilities over the oil-rich Bakassi Peninsula in 1994, leading to the conflict being referred to the ICJ, the two states were unable to negotiate any tangible new agreement. Despite numerous initiatives, including regular meetings between border authorities, the creation of several joint border commissions, and the adoption of a number of joint declarations, the stalemate has persisted.

What emerges from this historical account is that the entire border – from the 'tripoint' in Lake Chad, to the southernmost segment – is covered by agreements arrived at variously between colonial powers (Germany and Britain, and Britain and France) on the one hand, and the independent states of Cameroon and Nigeria on the other. Secondly, the maritime portion of the border appears to have posed the greatest difficulty to both the colonial and indigenous authorities. This was adjusted and readjusted on several occasions, moving from its original position at the Roi-del-Rey to the Akpa-Yafe in 1913, and then from point '12' to point 'G' in 1975. Therefore, given the evident difficulties in defining them, agreements about these portions tended to be ad hoc and inconclusive.

This created room for divergent attitudes and interpretations that have had a negative impact on the bilateral border intercourse. Among other things, Nigeria and Cameroon have sought to uphold only those aspects of the border agreements that serve their respective national interests. Thus, while Nigeria has emphasised pre-1913 boundary arrangements that placed the maritime border with Cameroon at the Rio-del-Rey, Cameroon has emphasised the 1913 and post-1913 agreements that moved the borderline from the Roi-del-Rey to the Akpa-Yafe. These divergences have crystallised

in the arguments advanced by the two states in their boundary and territorial claims, frustrating efforts to resolve the conflict.

3 Inconclusive boundary treaties and border conflicts in Africa: the case of the Bakassi peninsula

African boundaries have been described as arbitrary, vexatious, and even as scandals of history.⁴⁹ Border agreements have been termed ambiguous, obscure, inconclusive, and illegal. Understandably, at independence and thereafter, African boundaries have triggered off complex boundary disputes. These have typically consisted of disagreements over the exact position of the dividing lines between states, claims over border territories, or a combination of the two. Among these have been the disputes between Equatorial Guinea and Gabon over Corisco Bay Island (1972), Malawi and Tanzania (1967), Ghana and former Upper Volta (from 1964 to 1966), former Dahomey and Nigeria (1963–1965); Congo and Gabon (1962), Algeria and Morocco (1962–1964), Ethiopia and Somalia (1962), Algeria and Tunisia over the Algerian Sahara (1961–1970), Mauritania and Morocco (1961–1970), Mali and Mauritania (1960), Ethiopia and Kenya over the Gaduana wells, Chad and Libya over the Aouzu stripe, and Eritrea and Ethiopia.⁵⁰

As noted earlier, the core of the Cameroon–Nigeria conflict has been the maritime area, especially the oil-rich Bakassi Peninsula, which both states are claiming. These claims have been animated by legal, economic, politico–strategic, demographic, and cultural considerations.

3.1 *The maritime boundary: a legal tango*

The most important legal basis of African boundaries in general and the Cameroon–Nigeria border in particular are treaties, agreements, and the exchange of notes. As demonstrated in the previous section, these legal instruments were variously established between rival colonial powers, then between departing colonial powers and the emergent sovereign African states, and finally between independent African states – in this case, Nigeria and Cameroon. However, both colonial and post-colonial boundary arrangements have complicated, rather than eased, frontier relations between the two countries.

To begin with, while both countries subscribe to the view that most or all colonial boundaries are arbitrary, they fail to agree on whether or not these arrangements should be reviewed. Rather, over the years, they have developed what could be broadly described as a selective attitude towards boundary arrangements.

Nigerian policy-makers regard the pre-1913 colonial border agreements as more im-

portant than those concluded thereafter. Despite their lack of precision, boundary arrangements between 1885 and 1893 especially are held in high legal esteem, as they are considered as having provided the legal basis for the original eastern border between Nigeria and Cameroon.⁵¹ By placing the maritime boundary at the Rio-del-Rey, these agreements placed the disputed Bakassi Peninsula in British-administered Nigeria. From a legal standpoint, therefore, Nigeria's strategy has been to emphasise the early treaties as a way of claiming ownership of the peninsula.

Nigeria's attitude to the historic Anglo-German Agreement of March 1913 has always been one of indignation. It regards the treaty largely as an attempt to shift the maritime boundary in a reckless and imperial manner from the Roi-del-Rey to the Akpa-Yafe, a tributary of the Cross River, which at the time was mistaken for an entirely separate river.⁵² This resulted in the loss of a strategic chunk of territory as well as a sizeable part of the Nigerian population to Cameroon. Over the years, Nigerian policy-makers have sought to demonstrate that the people of the Cross River state challenged this agreement upon signature, and stuck to their historical claim of ownership of the area.

In challenging the Anglo-German accord of 1913, Nigerian policy-makers have invoked the terms of the treaty reached between the kings and chiefs of the old Calabar kingdom and the British in September 1884. In article 1 of this treaty, the British explicitly pledged to protect all territories under the jurisdiction of the Obong (King) of Calabar. At the time when the treaty was signed, Bakassi fell under the jurisdiction of the Efik Kingdom, and the treaty was suppose to protect them against any form of unconsented partition. Therefore, by unilaterally transferring a portion of the Efik territory (Bakassi) to the Germans as provided for in the 1913 agreement, the British violated a crucial provision of the 1884 treaty. Moreover, since neither the British nor the Germans had conquered the Efik people, neither had the moral or legal authority to partition their territory.⁵³

Policy-makers have further tried to repudiate the Anglo-German Treaty of 1913 on the grounds that it was never ratified by the signatories and that the Germans never physically took control of Bakassi owing to the outbreak of World War 1. They contend that the British seized adjoining parts of German Cameroon and continued to administer the Bakassi Peninsula as an integral part of their Nigerian colony, allowing the indigenous people to continue their historical intercourse with their kith and kin on the mainland until the Nigerian Civil War of 1967–70.⁵⁴

They argue further that articles 27 and 28 of the Anglo-German Treaty called for boundary commissioners to visit and demarcate the area before the border could come into force. The boundary commissioners visited and demarcated the boundary from Lake Chad to boundary pillar no 114 near Obokun on the upper banks of the Cross River just before the start of the war. However, according to Nigeria, the southwards boundary was never demarcated. On this basis, Nigeria has argued that, even if the

1913 agreement was valid, it could not be taken to apply to the maritime boundary area. Moreover, the agreement, as well as customary state practice in international law, provides for the ratification of a boundary based in the first instance on a discovery of injustices and errors. Articles 27 to 30, for example, contain conditional instruments for redressing such injustices and errors. Nigerian elites have argued that, although such errors were discovered, they were not rectified before Britain invaded German Cameroon. They therefore invoke the principle of *Rebus Si Stantibus* to challenge some of the objectionable clauses of the 1913 agreement, especially article 20 that mistook the Akpa-Yafe for a separate river, whereas it was only a tributary of the Cross River.⁵⁵

Nigerian policy-makers have also argued that the country's attainment of independence in October 1960 gave it the right to invoke the view of the International Law Commission that newly independent states begin with a *Tabula Rasa* (clean slate) as regards previous treaties. Accordingly, they feel that Nigeria should be able to freely decide which treaties entered into by its colonial predecessors are binding on it.⁵⁶

Overall, Nigeria's legal arguments have been tailored to suit a relocation of the maritime boundary with Cameroon at the Rio-del-Rey, therefore returning the controversial Bakassi Peninsula to Nigeria, and re-establishing the pre-1913 situation. Conversely, while acknowledging shortcomings in colonial boundary arrangements, Cameroon nevertheless subscribes to their legally binding character.

Cameroon leans on the principle of the sanctity of colonially inherited frontiers enshrined in the charter of the OAU, to which both Nigeria and Cameroon are signatories.⁵⁷ Moreover, at independence, there was an exchange of notes between the departing colonial powers (Britain and France) and the newly independent states (Nigeria and Cameroon) in terms of which the latter pledged to honour a number of pre-independence treaties and other international agreements concluded by the former colonial powers. The Anglo-German treaty of March 1913 featured prominently in this category of agreements, and Cameroon argues that it is therefore binding on both states. Cameroonian policy-makers thus regard this treaty as the legal foundation of the present-day Nigeria–Cameroon boundary, serving as the most important reference in both colonial and post-colonial boundary diplomacy between the two states.⁵⁸

They also argue that pre-1913 boundary arrangements, particularly the much-vaunted treaty between the British and the 'Calabars' in 1884, all fell within the ambit of the conquest and pacification of African peoples during the early stages of colonisation, and therefore cannot be invoked in present-day boundary relations. As far as they are concerned, Nigeria's emphasis on these agreements constitute an attempt to recreate a kingdom that ceased to exist with the advent of colonialism. Much of pre-colonial Africa consisted of vast and powerful kingdoms (such as the empires of Mali, Songhia, Sudan, Asante, Kanem Bornu, and Yoruba) that collapsed in the face of colonialism, giving way to today's fragmented African states. Therefore, Cameroon policy elites

argue, any attempt to recreate these pre-colonial African societies would destabilise the entire continent.⁵⁹

3.2 *The demographic thesis: a diversion?*

The demographic composition of the border areas between Cameroon and Nigeria, especially the oil-rich Bakassi Peninsula, has been another key element in the border dispute. In this regard, the two states have interpreted the 1958 Geneva Convention on the law of the sea and contiguous zones to justify their claims to the peninsula. Particularly relevant is article 12 of the convention, which stipulates that:

Where the coasts of two states are opposite or adjacent to each other, neither of the states is entitled, failing agreement between them to the contrary, to extend its territorial sea beyond the median line.... The provisions of this paragraph shall not apply, however, where it is necessary by reasons of historical title or other special circumstances to delimit the territorial seas of the states in a way, which is at variance with this provision.⁶⁰

Nigerian policy-makers have stated that the high concentration of Nigerians of Efik-Oron stock on the Bakassi Peninsula constitutes a special circumstance that warrants a renegotiation of its ownership. Drawing inspiration from the British claims over the Falklands against those of Argentina, Nigeria has sought to legitimise their claims over Bakassi on two grounds, namely evidence of exclusive habitation, and evidence of continuous habitation by Nigerian nationals.⁶¹

However, given Nigeria's exploding population, Cameroonian authorities have viewed the Nigerian argument as a dangerous basis for the progressive 'nigerianisation' of Nigeria's neighbouring states. For example, the ever growing migrant Nigerian population in Cameroon was estimated at a little over 3 million in the early 1990s.⁶² Moreover, there are areas, even in the heart of Cameroonian cities, where people of Nigerian descent form the majority. It therefore follows that if Nigeria were to use the concentration of her nationals to lay claim to border areas, then eventually the same argument could be invoked to claim neighbouring countries' villages and towns. This has been perceived as an attempt to extend Nigeria's boundaries to all neighbouring territories where there is a high concentration of Nigerian nationals. This has been seen as a form of 'black imperialism', reminiscent of Hitler's attempt to unite all the Germans into a single nation, which resulted in World War II.⁶³

3.3 *Politico-strategic considerations: the crux of the matter*

The main bone of contention in the Cameroon-Nigeria boundary conflict is indisputably the Bakassi Peninsula. It is located at the gateway to the west and central African coast, in the all-important Gulf of Guinea. It is vital for access to the Calabar port, and

constitutes a surveillance point for navigation in the entire gulf of Guinea. Indeed, the West African state that controls Bakassi plays a prominent role in security and strategic issues in the entire Gulf of Guinea.⁶⁴ Bamela Engo has argued that the Germans, as a ‘war-loving’ nation, were quick to realise the strategic importance of the peninsula in the early 20th century, and this was the reason why they cajoled the British into moving the maritime boundary from the Roi-de-Rey to the Akpa-Yafe in 1913. In the process, the Germans achieved their ambition of including this strategic territory in German-administered Cameroon. Britain, on the other hand, being essentially an imperial merchant power, was ignorant of the strategic implications of Bakassi, and only insisted on the free passage of its merchant ships to the port of Calabar.⁶⁵

More importantly, the strategic importance of the peninsula for the territorial integrity and security of the Nigerian Federation was revealed during the Nigerian civil war. Some accounts hold that the split of the federation was forestalled when, in 1966, the Ahidjo regime provisionally authorised the Nigerian federal government to use portions of the Bakassi Peninsula to block vital supplies to the Biafran secessionist army.⁶⁶ Therefore, the argument goes, the discovery during the civil war that Nigeria’s security and territorial integrity depended on Cameroon’s goodwill pushed Nigerian authorities into deciding to renegotiate its maritime boundary with Cameroon. Thus Bassey Ate, the influential Nigerian policy advisor and political strategist, has noted that the vital considerations involved in the maritime border dispute are strategic and political rather than legal.⁶⁷

Given that nations are said to have permanent interests and not permanent friends, it is unthinkable that Nigeria would want to pin its national security and territorial integrity on Cameroon’s goodwill, as was the case during the civil war. Against a backdrop of continually shifting interests and circumstances in the region, Nigeria could not indefinitely expect the same support from Cameroon. For example, analysts have argued that the support which the Yaounde government gave the Lagos government in 1966 derived from Ahidjo’s desire to stem similar destabilising revolutionary forces in Cameroon.⁶⁸

Moreover, despite Cameroon’s solidarity towards Nigeria during the civil war, the former country has always ranked high in Nigeria’s threat perceptions. This has been sharpened by Cameroon’s close ties with France, which Nigeria has traditionally perceived as an enemy, and a rival in Africa’s political space.⁶⁹ Understandably, Nigeria’s strategic calculations in respect of its relationship with Cameroon take into account the superior economic, technological, and military capabilities of France and its allies. As far as Nigeria is concerned, it would be suicidal to surrender control of its commercial and defence lifelines – the Calabar channel and Bakassi Peninsula – to a traditionally hostile neighbour.⁷⁰ Oscar Ede has underlined the centrality of Cameroon in Nigeria’s threat perceptions by provocatively asserting that:

Although Cameroon is considered a moderate French sphere country and although she has no defence pact with France, she is a neighbour to which Nigeria needs have a well-defined policy. For if war were to break out between Nigeria and any of its neighbours, the chances are that, this neighbour will be Cameroon.⁷¹

Against this backdrop, Nigeria's foreign policy-makers realised that its national interests could only be secured through the effective control of the Cross River estuary and the Calabar channel, including the Bakassi Peninsula. They intimated that such control could be achieved unilaterally, or via close collaboration with Cameroon. In the 1990s Nigeria's political strategy to attain this goal consisted of a review of the entire border question with Cameroon, with a particular emphasis on denouncing both colonial and post-colonial boundary agreements that appeared to legitimise Cameroon's claims over the peninsula.⁷²

In early 1993, Nigeria pursued its ultimate political option by occupying the disputed areas, notably the Bakassi Peninsula. This was preceded by the alteration of boundary maps by Nigeria's federal directorate of surveys, backed by legal arguments formulated by the federal ministry of justice challenging the validity of boundary agreements between Cameroon and Nigeria, especially the 1913 Anglo-German Treaty and the Ahidjo-Gowon Agreement of 1975.⁷³

Nigeria's military occupation of the disputed areas gained an added dimension in the aftermath of the aborted presidential elections of 12 June 1994. The resultant domestic crisis heightened the threat perceptions of the Abacha military junta, and, given that border issues are often those that can be used most readily by a nation's enemies, Nigerian policy-makers felt obliged to secure their borders at all costs. Hence Nigeria's resolve to control Bakassi, particularly at a time when the international community was increasingly isolating the Abacha regime because of its poor democratic and human rights record. The Abuja authorities saw Bakassi as a potential beachhead which Nigeria's enemies could use at the slightest provocation.

However, given that a state's attitudes towards security can make its neighbours feel insecure, the Yaounde government viewed Nigeria's strategic and security calculations in respect of their common maritime border with alarm. This was particularly so as Cameroon has always perceived her giant neighbour as a sub-imperial state, with expansionist designs. Given Nigeria's far larger population, and military and economic superiority, Cameroon suspected that Nigeria's designs over Bakassi could be the first stage in a gradual grabbing of more Cameroonian territory,⁷⁴ particularly former British Southern Cameroons.

In this context, it is noteworthy that the long-standing historical, cultural, and linguistic ties between the English-speaking regions of the Cameroons and Eastern Nigeria deepened Yaounde's threat perception of her western neighbour. Rightly or wrongly,

Yaounde believed that its English-speaking population could indeed be sympathetic towards Nigeria's border claims. This perception was enhanced by increased agitation by English-speaking Cameroonians, beginning in 1990, for a return to the immediate-post-independence federal arrangement that allowed them greater autonomy from the central government.⁷⁵ Sadly, though, the Yaounde authorities have misconstrued the calls for federalism as a first step towards an attempted secession by the Anglophone region. And, influenced by their traditional distrust of their Nigerian neighbours, they have suspected that the Abuja government could use the Bakassi Peninsula to facilitate the breakaway of its erstwhile English-speaking brothers from the United Cameroon Republic. For all these reasons, the Yaounde government has found it difficult to negotiate its ownership of the peninsula with Nigeria. Yaounde feels that doing this would facilitate an alliance between Abuja and what it perceives as a secessionist movement among Anglophone Cameroonians.

In general, then, both states have viewed their common border as a strong military division and as a defence line for promoting their exclusive national interests. Therefore, although borders are said to create both risks and opportunities, this one has created conflict rather co-operation. Hence, political and strategic calculations over this border have been tailored to address threat perceptions rather than promoting fruitful cross-border intercourse. The post-ICJ bilateral boundary commission is aimed at establishing confidence-building measures that would help the two states to transcend their deeply rooted threat perceptions, and establish fruitful cross-border collaboration.

3.4 *Economic stakes: the immediate source of convulsion*

Border disputes in Africa have often been triggered off by a desire to control valuable economic resources. As Okon Ekpenyon rightly observes, 'the location of minerals does not respect international boundaries. And those that occur at such locations in Africa have raised some vexing issues, and created problems of boundary authentication'.⁷⁶ This was the case in the protracted dispute between Chad and Libya over the Aouzou Strip, between Ethiopia and Kenya over the economically important Gadudana Wells, between Algeria and Tunisia over the oil-rich Algerian desert and between South Africa and Namibia over Walvis Bay.

The wranglings over the Bakassi Peninsula are strongly influenced by its rich mineral and fishery resources. Particularly tempting are its rich fishing grounds, and gas and oil reserves. Nigeria's Institute of Oceanography and Marine research (IOMR) has revealed that the continental shelf in the South Eastern sector (the area in dispute) is the broadest along the entire Nigerian coastline, and very rich in both fish and mineral resources, including oil. As early as 1975, the IOMR estimated that the area was yielding close to 100 000 metric tonnes of fish a year.⁷⁷

Moreover, both states, together with their multinational exploration partners, have

made huge investments near the disputed area. Nigerian policy-makers have argued that the Bakassi Peninsula and the Calabar channel are key to the economic survival of the port of Calabar and its Export Processing Zone (EPZ). And, as Sam Chime puts it, 'there is a more serious economic component to the strategic consideration if one takes into account Nigeria's presence in the Bight of Bonny and the Atlantic'.⁷⁸ More importantly, Nigeria's oil resources, which provide about 90 per cent of its foreign exchange earnings, occur predominantly in a zone from 10 to 41 nautical miles off the coast of Calabar. Within this zone are six oil tanker terminals, and three oil refineries.⁷⁹

Although oil accounts for only 35 per cent of Cameroon's foreign exchange earnings, it also has oil installations adjacent to the disputed area – it is effectively exploiting the same oil field as Nigeria, from the opposite side.⁸⁰ Also, the supplies of crude to its only oil refinery come almost exclusively from the area in dispute. Therefore, giving up the Bakassi Peninsula and its adjacent areas to Nigeria would result in the closure of its only oil refinery.

These important economic resources deepened the mutual distrust and suspicion between the two countries. Ordinarily, joint exploitation of these resources would be the best way of reducing conflict. However, this option has been ruled out by a combination of factors. First, the economic relations between Cameroon and Nigeria have been tenuous, fanned by feelings of self-sufficiency in terms of human and natural resource endowments.⁸¹ Secondly, from a political economic perspective, Nigeria and Cameroon happen to be the nerve centres of two important economic communities: the Economic Community of West African States (ECOWAS), and the Economic Community of Central African States (ECCAS) respectively. Over the years the two states have placed greater emphasis on promoting economic growth and co-operation within their respective regional economic communities. Therefore, rather than co-operating over the exploitation of the resources in the maritime border area, they have tried to appropriate these resources exclusively, probably to further strengthen their economic standing in their respective subregional economic groupings.

4. The recourse to the ICJ: justification and denial

Despite regular consultations between border authorities, numerous joint border commissions, and a series of 'sugar-coated' joint declarations on the border question, border incidents continued. However, border relations between Cameroon and Nigeria reached a turning point in December 1993 when elements of the Nigerian army occupied certain strategic islands forming part of the Bakassi Peninsula.

Following this, the Cameroonian government decided that only the ICJ could resolve this protracted conflict.⁸² This was despite the fact that, notwithstanding the universal promise of the court, its jurisdiction has been sparingly sought by states. And as

John T Rourke (1989) has observed, ‘the use of the ICJ has been sporadic, declining, and even ebbing’.⁸³ Three factors have conspired to make recourse to the ICJ a matter of last resort: the possibility of worsening relations between the states in conflict; the uncertainty of the outcome of legal proceedings; and the finality of an adverse ruling by a body beyond the control of the states involved.⁸⁴

If recourse to the ICJ has been perceived as a last resort, then the implications are that the other procedures for the pacific settlement of conflicts, namely bilateral negotiations, mediation, good offices, and conciliation, should be tried first. Understandably, the Cameroonian government argued that it had exhausted all other avenues towards peaceful settlement.⁸⁵ In fact, in deciding to seek the jurisdiction of the ICJ, Cameroonian policy-makers had concluded that political arrangements between Cameroon and Nigeria over the border question had at best been ad hoc, and tended to complicate rather than resolve the border conflict. Bilateral agreements reached in the past had all been questioned or spurned by Nigeria. And, as a Cameroonian ambassador to the UN has bluntly stated:

It is a sheer waste of time negotiating or working a political solution with Nigeria. We have negotiated and renegotiated over the past twenty years or more... all these efforts have been reduced to ‘naught’ by Nigeria, who keeps questioning every agreement reached at. It is not possible to keep governing a state under such conditions of uncertainty; hence we want the border question to be resolved once and for all. ...⁸⁶

In a statement at the Hague in 1996, Cameroon’s then minister of justice, Doula Motoume, accused Nigeria of bad faith in its border negotiations with Cameroon. He pointed out that Nigeria had developed a culture of systematically repudiating border agreements whenever it estimated that they no longer served its national interest. Examples included the rejection of agreements reached during the Nigeria–Cameroon border consultations of 5 October 1964, 11 October 1965, and 7 June 1966; the Yaounde Declarations in 1979 and 1981; and the historic Ahidjo–Gowon Maroua Declaration of 1975.⁸⁷ This perception of Nigeria’s attitude strengthened Cameroon’s insistence that only the ICJ could provide a permanent solution to the nagging border conflict.

However, Nigerian policy-makers have not shared Cameroon’s faith in the ICJ. They have regarded the dispute as an essentially African affair more amenable to an African negotiated settlement than an ‘imposed solution’ by international legal means.⁸⁸ Therefore, Nigeria has consistently emphasised a diplomatic rather than a legal solution to the conflict. Thus George Obiozor, director-general of the Nigerian Institute of International Affairs (NIIA), declared that:

Rushing to the ICJ, the UN and others with documents is just the intensification of the dispute and not any effective guarantee of any solution.... And what is more, when all else fails, the theory of sovereign[ty] can be invoked with its concomitant jettisoning

of the law of nations in order to meet the real needs of the sovereign, by freeing states from a number of procedural restrictions on their freedom to adjust to new international situations.⁸⁹

This led Nigeria to question whether the ICJ actually had jurisdiction over the border dispute. It only reluctantly submitted to its jurisdiction after protracted preliminary proceedings had confirmed the court's competence to adjudicate in the conflict.⁹⁰ However, Nigeria's preference of a political over a legal solution has persisted. This was manifested in its response to the ICJ's verdict of October 2002, compelling the UN through its secretary-general to intensify efforts to establish a political framework for facilitating and complementing the legal solution to the conflict.

5. The ICJ verdict and the future of African borders: to review or not to review?

On 10 October 2002, the ICJ delivered a 150 page judgement. Leaning mostly on agreements between the United Kingdom and Germany in the early 20th century, it ruled on the entire land and maritime boundary between the two states. The Bakassi Peninsula was to remain under Cameroonian jurisdiction, and Cameroon's claims over the Lake Chad area were also granted. Nigeria made some marginal territorial gains along the land boundary. The court requested each party to withdraw its administrative personnel or military or police forces from the areas that had to change hands.⁹¹

By basing its judgement on boundary agreements between the British and the Germans during the colonial era, the ICJ implicitly strengthened the case for the inviolability of Africa's colonially inherited boundaries. It is worth recalling that, throughout the border conflict, Nigeria has consistently challenged the Anglo-German Treaty of 1913 that moved the boundary between German Cameroon and the British oil protectorate of Eastern Nigeria from the Roi-del-Rey to the Akpa-Yafe. By contrast, the ICJ upheld the 1913 agreement as the most important reference in the dispute. However, strengthening the anti-revision thesis does not change the arbitrary nature of Africa's colonially inherited boundaries, nor does it invalidate the contention that the agreements underpinning these boundaries are often inconclusive, and therefore prone to divergent interpretations.

More importantly, legality alone may not be adequate to stabilise relations between Nigeria and Cameroon, particularly as it fails to resolve important politico-strategic and economic issues that have animated the border conflict over the years. This brings to the fore the necessary, if complex, interface between legalism and diplomacy. It is worth noting that, since referring the conflict to the ICJ, Nigeria and Cameroon have acted as though legalism and diplomacy were inherently incompatible. By contrast, it is argued here that a genuine and lasting solution to the conflict is most likely to

be achieved by combining the rule of law (provided, in this case, by the ICJ) and diplomacy, through direct bilateral negotiations and/or third party mediation. While questions relating to treaties and related international conventions can be addressed by legal means, only diplomacy can resolve sensitive political questions such as the security and strategic implications of the disputed areas, including the plight of border peoples. The UN secretary-general's good offices post-ICJ judgement fits into the imperative of complimenting the rule of law with diplomacy.

6. The UN's good offices post ICJ: a new chapter in inter-African boundary relations

Fearing that a rejection of an unfavourable judgement by either party could lead to an escalation of the conflict, with far-reaching consequences for the subcontinent, the UN secretary-general, Kofi Annan, met the presidents of Cameroon and Nigeria in Paris on 5 September 2002 to discuss the anticipated ICJ verdict. The heads of state agreed to respect and implement the forthcoming judgment, and to establish an implementation mechanism. They also agreed on the 'need for confidence-building measures, including the eventual demilitarisation of the peninsula, with the possibility of international observers to monitor the withdrawal of all troops' with the support of the UN.⁹²

However, when the court's decision was eventually made public on 10 November 2002, it provoked outrage in Nigeria, with a preponderance of Nigerian public opinion advocating its rejection. After days of high-level consultations, the Nigerian leader, Olusegun Obasanjo, rejected the court's judgement, largely on the grounds that it was based on the Anglo-German Treaty of 1913.⁹³ Although Obasanjo's negative response was out of tune with the new spirit of continental unity which he was championing via the NEPAD-AU dispensation, it was arguably the most pragmatic decision, given the domestic realities and challenges he faced at that moment. In fact, the management of the court's ruling had enormous implications for the regime's re-election prospects.

To begin with, the majority of the inhabitants of the controversial Bakassi Peninsula are Nigerians. The court addressed this reality superficially by simply taking note of Cameroon's undertaking during the court hearings 'to continue to afford protection to Nigerians living in the [Bakassi] Peninsula and in the Lake Chad area'.⁹⁴ Yet it is common knowledge that the military skirmishes between Nigeria and Cameroon have almost always started off as disagreements between Cameroonian law enforcement officers (gendarmes) and Nigerian fishermen in the creeks of Bakassi. A crucial issue for the Obasanjo regime prior to the election was to ascertain the status and faith of Nigerian nationals in the area (a majority of whom are of Efik-Oron extraction, and thus from Eastern Nigeria). Given the role of ethnicity in Nigerian politics, the management of the ICJ verdict was bound to become a key election issue.

The need for Obasanjo to tread cautiously in managing the verdict was sharpened even further by the history of the Nigerian Civil War. The course of the war left the indigenous people of Eastern Nigeria, especially the Ibos, with the impression that they had failed in their secession bid because of a Yoruba conspiracy. This thesis holds that the Yorubas had secretly agreed to support the Ibos in their secession move, but did not keep their promise, and rather allied themselves with the Housa government led by Murtala Mohammed in order to frustrate the Ibo dream of an independent Biafran republic.⁹⁵ Some sources have even contended that Obasanjo, a Yoruba, was the distinguished military officer under whose command the secessionist rebels surrendered in 1970.⁹⁶ Under these circumstances, Obasanjo was justifiably weary of being accused of a second betrayal if he abided by the ICJ injunction without securing sufficient guarantees for the protection of the interests of Eastern Nigerians living in the area. The threats by Nigerians living on the Bakassi Peninsula to attempt to secede should the Nigerian government accept the court's verdict deepened Obasanjo's dilemma.⁹⁷

Sensing the dangerous implications of Nigeria's rejection of the ICJ verdict, Annan intensified his mediation efforts, culminating in another meeting between the Cameroonian and Nigerian leaders in Geneva on 15 November 2002. During this meeting, the two leaders agreed to ask Annan to establish a mixed commission of Cameroon, Nigeria, and the UN, 'to consider ways of following up on the ICJ ruling and moving the process forward'.⁹⁸ Annan followed up on this request by establishing the mixed commission and by appointing his special representative for West Africa, Ahmedou Ould-Abdallah, as its chair. The commission's mandate covers the following areas:

- the demarcation of the land boundary between the two states;
- the withdrawal of civil administration, military and police forces and transfer of authority in relevant areas along the boundary;
- the eventual demilitarisation of the Bakassi Peninsula;
- the need to protect the rights of the affected populations in both countries;
- the development of projects to promote joint economic ventures and cross-border co-operation; and
- the reactivation of the Lake Chad Basin commission.⁹⁹

Since its inception in November 2002 the commission has met 11 times, alternating between Yaounde and Abuja, and has made significant progress. On 5 October 2003, it approved a work programme relating to the demarcation of the land boundary, which will take about two years. On 18 December 2003 it oversaw the final withdrawal of administrative, military, and police personnel and the transfer of authority from Nigeria to Cameroon and vice versa in the Lake Chad area. This process took place in phases, with 33 villages surrounding the Naga'a, Tchika, Doron liman, and Darack handed over to Cameroon, and Dambore to Nigeria. The commission decided to deploy observers in the Lake Chad area for one year, with a mandate to regularly report to the commission.

To strengthen confidence between the parties, the commission has also identified possible projects to promote cross-border co-operation and joint economic ventures benefiting the populations in the border areas. These include reactivating the Lake Chad Basin commission, formed in 1964 among the states around the Lake Chad, and the upgrading, with the assistance of the African Development Bank (ADB), of the Moutengeune-Abakaliki road, one of the main arteries between the two countries. More importantly, the commission submitted a draft protocol for the protection of the rights of the affected populations to the Cameroon–Nigeria bilateral joint commission in April 2004. And at its meeting in Abuja on 29–30 October 2003, the commission reaffirmed its commitment to guaranteeing the rights of all people affected by the court's decision, both Cameroonian and Nigerian. At its ninth meeting in Yaounde in April 2004, the commission ruled that the process for the withdrawal and transfer of authority in the land boundary would start on 15 June and end on 15 July 2004. It also resolved that the process of withdrawal and transfer of authority on the Bakassi Peninsula would start on 15 July and end on 15 September 2004.¹⁰⁰

The progress made thus far by the post-ICJ, UN-brokered diplomatic initiatives is proof of the fact that, given timely and minimal UN support, African states can wind down conflicts, and resolve their differences peacefully. As Annan puts it, 'Cameroon and Nigeria have set an example for the region'.¹⁰¹ The significance of the post-ICJ diplomacy in this conflict, and its potential to serve as a model for border conflict management elsewhere on the continent, lies in the fact that it looks beyond sentiment about the sanctity of African boundaries.

While seeking to facilitate the implementation of the ICJ verdict, which reinforces the continued validity of Africa's colonial boundaries, the UN-brokered diplomacy also demonstrates that the maintenance of colonial boundaries does not preclude fruitful cross-border co-operation. In other words, although African boundaries need not be reviewed, they need to be transformed from rigid security and economic barriers into 'bridges' for economic, political, and socio-cultural co-operation. The UN-sponsored mixed commission is designed to convert the Cameroon–Nigeria borders from zones of perennial conflict and instability into secure and stable zones for cross-border interchanges.

7. Conclusion

Although the ICJ's ruling in respect of the Cameroon–Nigeria border conflict is not conclusive evidence that the proponents of 'boundary status quo' on the continent have triumphed over the 'boundary revisionists,' it does suggest that the fear of uncontrollable instability that informed African leaders' decision to uphold colonially inherited boundaries still holds sway. Moreover, the ICJ verdict has not invalidated the contention that African boundaries are arbitrary, or the fact that boundary treaties

are inconclusive. Therefore, African boundaries may continue to fuel conflict on the continent.

However, the ruling has helped to provide a more precise definition of the Cameroon–Nigeria border, which will hopefully resolve the disagreements over its location. However, given that the conflict involved more than a simple disagreement over the location of the boundary line, the judgement on its own may not stabilise relations between these neighbouring states. The mixed border commission initiated by the UN recognises the limits of an exclusive emphasis on a legalistic solution to the border conflict. Although it might be too soon to draw any definitive conclusions about its success, its emphasis on establishing mutual trust and confidence has the potential of building the a bridge between Cameroon and Nigeria over their common border. The speed with which the UN acted shortly before and immediately after the ICJ verdict in order to forestall an escalation of the conflict is commendable, and needs to be replicated elsewhere. In the final analysis, if African borders can be converted into areas of co-operation, the whole debate about the review or otherwise of African boundaries will become a sterile one.

Endnotes

- 1 J Burtun, *Conflict and Communication* (London: Longman, 1969).
- 2 For the insights on the discourse of the Arbitrariness of African borders, see variously Adekunle Ajala, 'The nature of African Boundaries', *Afrika Spectrum*, 18, 1980 pp. 177–188; AI Asiwaju, 'The conceptual framework', in AI Asiwaju (Ed.), *Partitioned Africans* (New York: St. Martins, 1985): 1–18; KM Barbour, 'A geographical analysis of boundaries in inter-tropical Africa', in KM Barbour & RM Prothero (Eds.), *Essays on African population* (London: Routledge Kegan Paul, 1961): 303–323; Adebayo Bello, 'The boundaries must change', *West Africa*, April 10, 1995 pp 546; Ian Brownlie, *African boundaries: legal and diplomatic encyclopaedia* (London: C. Hurst, 1997); Basil Davidson, *The black man's burden: Africa and the curse of nation-state* (New York: Times Books, 1992); Jeseph M Kum, 'The central African sub-region', in *Disarmament: Workshop on the role of border problems in African peace and security* (New York: United Nations, 1993); Francis M Deng, 'These borders are not sacred', *Washington Post*, December 20, 1996; Paul Nugent & AI Asiwaju, 'Introduction: The paradox of African boundaries', in Paul Nugent and AI Asiwaju (Eds.), *African Boundaries* (London: Printer, 1996); Gilles Sautter, 'Quelques reflexions sur les frontieres dans le tiers-monde', in Catherine Coquery-Vidrovitch (Ed.), *Problemes frontieres dans le tiers-monde* (Paris: Universite de Paris, 1982); Saadia Touval, 'The sources of status quo and irredentist policies', in Carl G Widstrand (Ed.), *African boundary problems* (Uppsala, Sweden: Scandinavian Institute of African Studies, 1969).
- 3 Pierre Engelbert, Stacy Tarango et al, 'Dismemberment and suffocation: A contribution to the debate on African boundaries', *Comparative political studies*, Vol. 35 No. 10, December 2002 p. 1093.
- 4 For the insights into the 'revisionist thesis', see variously, AI Asiwaju, *Partitioned Africans: Ethnic relations across Africa's international boundaries 1884–1984* (Lagos: University of Lagos Press, 1984); George Ngwane, *Settling disputes in Africa: Traditional basis for conflict resolution* (Yaounde: Buma Kor House Publishers, 1996); SM Alkali, *Nigeria and Cameroon in world affairs: Crisis management on international borders* (Bauchi, Nigeria: Ramadan Press, [nd]); PO Osakwe, 'Sources of Nigeria – Cameroon disputes', (Msc. Thesis, Department of Political Science, University of Ibadan, 1988); Bassey Ate, 'Nigeria – Cameroon boundary dispute: The legal-political positions, particularly as it affects the maritime section', Paper presented at a one day NIIA seminar on immediate neighbours (Lagos: NIIA, 1982); Adebayo Bello, 'This Boundaries must change...' op cit; Jeffrey Herbst, 'War and the state in Africa', *International Security*, 14, 1990 pp. 117–139; Jeffrey Herbst, *States and power in Africa: Comparative lessons in authority and control* (Princeton, NJ: Princeton University Press, 2000); Solomon M Nkiwane, 'Southern Africa', In *Disarmament: Workshop on the role of border problems in African peace and security* (New York: United Nations, 1993); Aiden Southall, 'Partitioned Alur', in AI Asiwaju, (Ed), *Partitioned Africans* op cit.
- 5 Christopher Clapham, *Africa and the international system* (Cambridge, UK: Cambridge University Press, 1996); Sina Odugbemi, 'Consensus and stability', *West Africa*, April 3 1995 pp. 501–503.
- 6 Marina Ottaway, 'Keep out of Africa', *Financial Times*, February 25 1999; Saadia Touval, 'The sources of status Quo...' op cit.
- 7 Daniel Bach (Ed.), *Regionalisation in Africa: Integration and disintegration* (Bloomington: Indiana

- University Press, 1999); Paul Nugent, 'Arbitrary lines and the peoples' minds: A dissenting view on colonial boundaries in West Africa', in Paul Nugent and Asiwaju (Eds.), *African boundaries* op cit.
- 8 Jeffrey Herbst, *States and power...* op cit.
- 9 'Africa's bizarre borders', *The Economist*, January 25 1997 p. 17; KM Barbour, 'A geographical analysis...' op cit.; Jean-Francois Bayart, 'L'historicite de l'Etat importe', in J Bayart (Ed.), *La greffe de l'Etat* (Paris: Khartala, 1996): 11–39; 'Consensus and stability', *West Africa*, April 3–9 1995; Ieuan Griffiths, 'Permeable boundaries in Africa', in Paul Nugent & AI Asiwaju (Eds.), *African boundaries* op cit; Crayford Young, 'The impossible necessity of Nigeria: A struggle for nationhood', *Foreign Affairs*, 75(6) 1996 pp. 139–143; Saadia Touval, *The boundary politics of independent Africa* (Massachusetts: University of Cambridge Press, 1972); Zacharie Ngnimann, *Nigeria – Cameroon: La guerre permanente?* (Yaounde: Edition Cle, 1996); Julius-Victor Ngoh, 'The 1913 Anglo-German Treaty: Understanding the Cameroon–Nigeria crisis over Bakassi peninsula' (Douala, 1994).
- 10 Former Malian president Modibo Keite is qouted in A Ajala, 'The origin of African boundaries,' *The Nigerian Forum* (Lagos: NIIA, September – November 1981): 247.
- 11 Bassey E. Ate, 'Issues in Nigeria's security relations with its immediate neighbours' (Lagos: NIIA, 1992)
- 12 Quincy Wright, cited in the *Journal of conflict resolution: a quarterly for research related to war and peace*, Vol. 1, No. 1 March 1957.
- 13 Babara Hill, 'An analysis of conflict resolution techniques,' *Journal of conflict resolution*, Vol. 26, No. 1, March 1982.
- 14 Kinter and Shwarz, cited in ibid.
- 15 A Ajala, 'The origin of African boundaries,' in the *Nigerian Forum* (Lagos: NIIA, September/October 1981).
- 16 AI Asiwaju, 'Borders and National defence: An analysis,' in Bassey Ate and B Akinterinwa (Eds.), *Nigeria and its immediate neighbours:constriants and prospects of sub-regional security in the 1990s* (Lagos: NIIA, 1992): 31.
- 17 Lauterpacht (Ed.), *International Law* (Cambridge: University of Cambridge Press, 1955): 53.
- 18 O Adejuyigbe, 'Identification and characteristics of borderlands in Africa', in Asiwaju and Adeniyi (Eds.), *Borderlands in Africa* (Lagos: University of Lagos Press, 1989): 27–28.
- 19 MA Ajomo, 'Legal perspectives on border issues', in Asiwaju & Adeniyi (Eds), *Borderlands in Africa*, op cit.
- 20 FA Adeyoyin, 'A methodology of the multi-disciplinary problem: Borderlands and socio-cultural interactions', in Asiwaju and Adeniyi (Eds), *Borderlands in Africa*, p. 378–379; MB Musa, 'Demystification of knowledge creation: A critical reconsideration of research for human centred development,' *Education Review*, Lagos, 1985; L. W. Lyde, *Some frontiers of tomorrow: An aspiration for Europe* (London: Black, 1915).
- 21 See for example Raimondo Strassoldo, 'Border studies: The state of the art in Europe', in AI Asiwaju and PO Adeniyi (Eds.), *Borderlands in Africa*, op cit. 383–385.
- 22 Ibid.
- 23 AI Asiwaju (Ed.), *Partitioned Africans: Ethnic Relations*, op cit.
- 24 Oscar Ede, 'Nigeria – Cameroon boundary: Diplomatic intrigues and crisis', Paper presented at

the Conference on Nigeria's international boundaries (Lagos: NIIA, April 5–7, 1982).

- 25 Ibid.
- 26 See E. Hertslet, *The map of Africa by Treaty Vol. I* (London: Frank Cass and Co. Ltd, 1962).
- 27 Ibid.
- 28 Ibid.
- 29 Ibid.
- 30 Ibid.
- 31 Ibid.
- 32 Ibid.
- 33 Ibid.
- 34 See The British Cameroon's Annual Report, 1936 pp. 16–17.
- 35 Julius-Victor Ngoh, *Constitutional Developments in Southern Cameroons, 1946–1961: From trusteeship to independence* (Yaounde: Pioneer Publishers, 1990).
- 36 See CSO 2414 (NC 52/10) Proclamation No. 10 by General Dobell, March 17, 1916 (NAI) pp. 283–284.
- 37 Edwin ardener, 'The political history of the Cameroons' in *The World, Vol. 18* (London, Oxford university Press, 1962): 343–344.
- 38 Nigeria–Cameroon Border Commission, Declaration Yaounde I (Yaounde, August 14 1970).
- 39 Nigeria–Cameroon Border Commission, Declaration Yaounde II (Yaounde, 4 April 1971).
- 40 For further details on the basis of the Nigerian rejection of the Yaounde I & II declarations, See Sam Chime, 'Policy Problems of the Nigeria–Cameroon border dispute,' Mimeo (Kuru, Jos: NIPSS, [n..d]).
- 41 The Cameroon government was alluding specifically to the Geneva Convention on the Law of the Sea and contiguous zones of 1958, and the Anglo-German Treaty of 1913.
- 42 Kano Declaration, Kano, 31 Septemeber 1974.
- 43 For some insights into the Maroua Agreement, see Fru Joseph Awah, 'Cameroon–Nigeria border crisis: within the realm of international law,' (M.A. Dissertation, Department of Jurisprudence and International Law, University of Lagos, Nigeria, 1992).
- 44 For a glimpse of the hopes and expectations generated by the signing of the Ahidjo–Gowon Agreement, see for example, *The Nigerian Observer*, Lagos, 5 June 1975; *The Punch*, Lagos, 24 August 1978.
- 45 This for instance is the position of Bassey E. Ate in his oft-cited book-chapter, 'Nigeria–Cameroon boundary dispute: The legal', op cit.
- 46 See for example, PO Osakwe, 'Sources of Nigeria–Cameroon', op cit.
- 47 The importance attached to the Maroua Agreement by Cameroonian authorities is well developed in the country's legal arguments presented at the ICJ throughout the duration of the eight year long legal battle between the two states. See for example, CIJ, 'Affaire de la frontiere terrestre et maritime entre le Cameroon et le Nigeria' (Memoire de la Republique du Cameroun, Parti I) du 03 mars 1994 a la Haye; CIJ, Audience publique dans l'Affaire de la frontiere territoriale et martime entre le Cameroun et le Nigeria (Tenue a la Haye le 5, 6, et 8 mars 1996).
- 48 JC Anene, *The International boundaries of Nigeria* (London: Longman, [nd]) particularly chapter 4, paragraph 4:31 & 3:32.
- 49 AI Asiwaju, 'Africa's artificial boundaries' (Lagos, University of Lagos press, 1984).

- 50 Robert Mandel, 'Roots of interstate border disputes,' in *The Journal of conflict resolution*, Vol. 24, no. 3, September 1980.
- 51 This was particularly stressed in the report of the Nigerian Task Force on Cameroon in 1981, headed by the Director General of the Nigerian Institute of International Affairs (NIIA), Lagos.
- 52 Oscar Ede, 'The Nigeria – Cameroon boundary: Diplomatic,' op cit.
- 53 See Bassey Ate, 'Nigeria and Cameroon boundary dispute: The legal and political position, particularly as it affects the maritime section,' Paper presented at the one day Seminar on Nigeria's immediate neighbours (Lagos: NIIA, 1982).
- 54 This Nigerian position was repeatedly echoed during hearings on the Cameroon Nigeria border conflict at The Hague. See for example, CIJ, Audience publique dans l'affaire, op cit.
- 55 Ibid.
- 56 This Nigerian attitude has been hinged especially on article 16, of the 1978 Vienna Convention on Succession of States in respect to Treaties. Nigeria has persisted with this line of argument even as Article II of the Very Vienna Convention makes a qualification to the effect that, state succession does not affect boundary treaties.
- 57 See AAjala, The origins of African boundaries, op cit.; Meanwhile, this principle has been inherited by the OAU's successor organisation, the African Union as provided for in the Constitutive Act of the African Union, Article 4 (b).
- 58 A good case in point is contained in the Yaounde I Declaration by the Cameroon–Nigeria Border Commission, of august 1970. Its paragraph II stipulated that, 'The delimitation of the maritime frontier will be made in conformity with and according to the terms defined by the Anglo-German Accord of March 11 1913'. This treaty equally served as a reference document in drawing the Ngoh–Coker line of April 1971; the Kano Declaration of 1974 and the famous Ahidjo–Gowon Accord of March 1975.
- 59 See FN Ikome, Cameroon–Nigeria boundary: A reappraisal, op cit., pp 57–58.
- 60 See The Geneva Convention on territorial sea and contiguous zones (1958) particularly Article 12.
- 61 See Nigeria's arguments at The Hague as contained in CIJ, Audience publique, op cit.
- 62 See *The Vanguard*, Vol. 12 no. 3412, Lagos, Thursday March 7, 1996.
- 63 FN Ikome, 'The Cameroon–Nigeria Boundary: A reappraisal,' op cit.
- 64 Ibid. p. 73.
- 65 Bamela Engo cited in Ibid.
- 66 See for example, Republique du Cameroun, 'Dossier sur le differend frontalier de la peninsule de Bakassi' (Yaounde, le 1er mars, 1994); also see Julius Ngoh, 'The 1913 Agreement,' op cit.
- 67 Bassey Ate, 'The Nigeria – Cameroon boundary: The legal,' op cit.
- 68 Julius Ngoh, 'The 1913 Agreement,' op cit.
- 69 See Bassey Ate, 'The presence of France in West and Central Africa as a fundamental problem to Nigeria,' *Millennium*, 12 (2), Summer 1983 pp 110–126.
- 70 Bassey Ate, 'Nigeria and Cameroon Boundary: The legal,' op cit.
- 71 Oscar Ede, 'Nigeria and Francophone Africa,' in GO Olusanya and RA Akindele(Eds), *Nigeria's external relations: The first twenty five years* (Ibadan, Ibadan University Press, 1996).
- 72 For further insights into the policy advice to the Nigerian government, see Bassey Ate, 'The Nigeria–Cameroon boundary: The legal,' op cite.

- 73 See Republique du Cameroun, 'Dossier sur le differend frontalier,' op cit.
- 74 For details on these allegations, see Republic of Cameroon, 'Memorial to the ICJ in the maritime border and territorial dispute (Cameroon vs Nigeria) Draft 1,' 29 March 1994 at the Hague.
- 75 For highlights on the Anglophone question in Cameroon, see George Ngwane, *The Anglophone file* (Limbe: Pressbook, 1994); also see the Newspaper Article captioned 'A memorandum on the plight of English speaking people of Southern Cameroon,' *The New Expression*, Limbe, 30 November 1994 p.9.
- 76 J.L Okon Ekpenyon, 'Potentials of Nigerian boundary corridors as sources of international economic conflict,' in Asiwaju & Adeniyi (Eds.), *Borderlands in Africa*, op cit., p. 302–303.
- 77 Bassey Ate, 'Nigeria–Cameroon Boundary: The legal,' op cit.
- 78 Sam Chime, 'Towards a grand strategy for the coordination of Nigeria's defence and foreign policies in the Bight of Bonny and the South Atlantic sea,' Mimeo (Kuru, Jos: NIPSS [nd]).
- 79 Bassey Ate, 'Nigeria–Cameroon boundary: the legal,' op cit.
- 80 J.L Ekpenyon, cited in Ibid.
- 81 P.O Osakwe, 'Sources of Nigeria–Cameroon,' op cit.
- 82 The International Court of Justice (ICJ) was established pursuant to chapter xiv (Article 92–96) of the United Nations Charter. And Article 92 specifies that the Court is 'the principal judicial organ of the UN Charter,' and provides that, the court is to function in accordance with a statute, forming 'an integral part of the Charter'.
- 83 John T Rourke, *International politics on the world stage*, 3rd Edition (Dushkin: Dushkin Publishing Group Inc., 1989).
- 84 For more details on the reasons for the dwindling recourse to the Jurisdiction of the ICJ, see for example, DJ Harris, *Cases and materials on International law* (nd); Micheal Akehurst, *A modern introduction to international law* ((London: George Allen and Urwin, 1977).
- 85 Joseph Fru Awah in 'Cameroon–Nigeria crisis', has demonstrated that over the years, Cameroon and Nigeria have emphasized bilateral negotiations in the management of their border conflict, over a legal solution and even over mediation, conciliation and good offices.
- 86 H.E Bamela Engo, in F.N Ikome, 'Cameroon–Nigeria boundary: A reappraisal,' op cit. pp. 133–144.
- 87 Honourable Doula Motoume, 'Audience Publique tenue le Mardi 05 mars 1996, au Palais de la Paix sous la presidence de M. Bedjaoui, President en l'affaire de la frontier terrestre et maritime (Cameroun C. Nigeria)'.
- 88 Oladipo Diya (Nigerian chief of General Staff), 'Address at the Seminar on International borders' Lagos, 17 July, 1996; This same position had earlier been echoed by Tom Ikimi (Nigeria's Minister of Foreign Affairs), in an address at the OAU Summit in Yaounde, Cameroon, May 1996.
- 89 George Obiozor (DG, NIIA), 'The Bakassi issue,' Lecture delivered at the Chris Ogunbanjo Foundation, Ijebu Ode, Friday, 15 April, 1994.
- 90 Nigeria's challenge of the jurisdiction of the ICJ over the Cameroon–Nigeria conflict, is well captured by retired Chief Justice Bola Ajibola, extensively quoted in *The Vanguard*, Lagos, Monday/Tuesday, 14/15 May 1996.
- 91 ICJ, 'Land and maritime boundary between Cameroon and Nigeria (Cameroon V. Nigeria: Equatorial Guinea intervening).' Press Release no 2002/26 of 10 October 2002.

- 92 United Nations office for West Africa (UNOWA), Cameroon–Nigeria mixed commission – background in http://www.un.org/depts/dpa/prev_dip/africa/office_for_srsg/cnmc/bkground.htm
- 93 Nigeria has sought to demonstrate that, the Anglo–German Agreement was not a valid treaty and therefore could not be binding on her. Nigeria reasoned that since neither the British nor the Germans had conquered the Calabar people, neither of them had the moral authority to partition their territory as was done in the 1913 Treaty. They argue further that, even if the Anglo–German Treaty was valid, it was not given practical effect because of the ousting of Germany from its colonial possessions in Africa, including the Cameroons. According to Nigerian elites, by this fact, the inhabitants of the area who had earlier petitioned the British over the treaty, continued living in the area with the understanding that their petition had been heeded. Paradoxically however, in spite of this Nigerian argument, they invoked and accepted the 1913 Agreement in their border negotiations with Cameroon, until the occupation of Bakassi in 1994.
- 94 See ICJ, Press Release no. 2002/26 op cited.
- 95 FN Ikome, ‘Cameroon–Nigeria boundary: A reappraisal,’ op cit.
- 96 Emmanuel Tataw, ‘Profile of a Patriot’ in *Cameroon Tribune*, Archives: Yaounde 28 July 2004.
- 97 For more insights on Obasanjo’s domestic dilemmas on the eve of the Nigerian presidential elections of 2004, see S’thembisio Msomi, in *The Sunday Times*, Johannesburg, 27 October 2002, p.23; Also see *The Herald*, Yaounde 14 October 2002).
- 98 See Cameroon–Nigeria Mixed Commission, Background, op cit.
- 99 Ibid. Paragraph 4
- 100 For details on the plan of action and activities of the Mixed Commission, see Ibid, paragraphs 5(ii)–5(iii).
- 101 Koffi Annan, cited in Ibid, paragraph 2.