

Uncorrected

Non-corrigé

CR 2002/26

Cour internationale
de Justice

LA HAYE

International Court
of Justice

THE HAGUE

ANNÉE 2002

Audience publique

tenue le jeudi 21 mars 2002, à 16 h 55, au Palais de la Paix,

sous la présidence de M. Guillaume, président,

*en l'affaire de la Frontière terrestre et maritime entre le Cameroun et le Nigéria
(Cameroun c. Nigéria; Guinée équatoriale (intervenante))*

COMPTE RENDU

YEAR 2002

Public sitting

held on Thursday 21 March 2002, at 4.55 p.m., at the Peace Palace,

President Guillaume presiding,

*in the case concerning the Land and Maritime Boundary between Cameroon and Nigeria
(Cameroon v. Nigeria: Equatorial Guinea intervening)*

VERBATIM RECORD

Présents : M. Guillaume, président
M. Shi, vice-président
MM. Oda
Ranjeva
Herczegh
Fleischhauer
Koroma
Mme Higgins
MM. Parra-Aranguren
Kooijmans
Rezek
Al-Khasawneh
Buergenthal
Elaraby, juges
MM. Mbaye
Ajibola, juges *ad hoc*
M. Couvreur, greffier

Present: President Guillaume
 Vice-President Shi
 Judges Oda
 Ranjeva
 Herczegh
 Fleischhauer
 Koroma
 Higgins
 Parra-Aranguren
 Kooijmans
 Rezek
 Al-Khasawneh
 Buergenthal
 Elaraby
 Judges *ad hoc* Mbaye
 Ajibola
 Registrar Couvreur

Le Gouvernement de la République du Cameroun est représenté par :

S. Exc. M. Amadou Ali, ministre d'Etat chargé de la justice, garde des sceaux,

comme agent;

M. Maurice Kamto, doyen de la faculté des sciences juridiques et politiques de l'Université de Yaoundé II, membre de la Commission du droit international, avocat au barreau de Paris,

M. Peter Y. Ntamark, professeur à la faculté des sciences juridiques et politiques de l'Université de Yaoundé II, *Barrister-at-Law*, membre de l'Inner Temple, ancien doyen,

comme coagents, conseils et avocats;

M. Alain Pellet, professeur à l'Université de Paris X-Nanterre, membre et ancien président de la Commission du droit international,

comme agent adjoint, conseil et avocat;

M. Joseph Marie Bipoun Woum, professeur à la faculté des sciences juridiques et politiques de l'Université de Yaoundé II, ancien ministre, ancien doyen,

comme conseiller spécial et avocat;

M. Michel Aurillac, ancien ministre, conseiller d'Etat honoraire, avocat en retraite,

M. Jean-Pierre Cot, professeur à l'Université de Paris 1 (Panthéon-Sorbonne), ancien ministre,

M. Maurice Mendelson, Q. C., professeur émérite de l'Université de Londres, *Barrister-at-Law*,

M. Malcolm N. Shaw, professeur à la faculté de droit de l'Université de Leicester, titulaire de la chaire sir Robert Jennings, *Barrister-at-Law*,

M. Bruno Simma, professeur à l'Université de Munich, membre de la Commission du droit international,

Sir Ian Sinclair, K.C.M.G., Q.C., *Barrister-at-Law*, ancien membre de la Commission du droit international,

M. Christian Tomuschat, professeur à l'Université Humboldt de Berlin, ancien membre et ancien président de la Commission du droit international,

M. Olivier Corten, professeur à la Faculté de droit de l'Université libre de Bruxelles,

M. Daniel Khan, chargé de cours à l'Institut de droit international de l'Université de Munich,

M. Jean-Marc Thouvenin, professeur à l'Université de Paris X-Nanterre, avocat au barreau de Paris, société d'avocats Lysias,

comme conseils et avocats;

The Government of the Republic of Cameroon is represented by:

H.E. Mr. Amadou Ali, Minister of State responsible for Justice, Keeper of the Seals,

as Agent;

Mr. Maurice Kamto, Dean, Faculty of Law and Political Science, University of Yaoundé II, member of the International Law Commission, *Avocat* at the Paris Bar, Lysias Law Associates,

Mr. Peter Y. Ntamark, Professor, Faculty of Law and Political Science, University of Yaoundé II, Barrister-at-Law, member of the Inner Temple, former Dean,

as Co-Agents, Counsel and Advocates;

Mr. Alain Pellet, Professor, University of Paris X-Nanterre, member and former Chairman of the International Law Commission,

as Deputy Agent, Counsel and Advocate;

Mr. Joseph-Marie Bipoun Woum, Professor, Faculty of Law and Political Science, University of Yaoundé II, former Minister, former Dean,

as Special Adviser and Advocate;

Mr. Michel Aurillac, former Minister, Honorary *Conseiller d'État*, retired *Avocat*,

Mr. Jean-Pierre Cot, Professor, University of Paris 1 (Panthéon-Sorbonne), former Minister,

Mr. Maurice Mendelson, Q.C., Emeritus Professor University of London, Barrister-at-Law,

Mr. Malcolm N. Shaw, Sir Robert Jennings Professor of International Law, Faculty of Law, University of Leicester, Barrister-at-Law,

Mr. Bruno Simma, Professor, University of Munich, member of the International Law Commission,

Sir Ian Sinclair, K.C.M.G., Q.C., Barrister-at-Law, former member of the International Law Commission,

Mr. Christian Tomuschat, Professor, Humboldt University of Berlin, former member and Chairman, International Law Commission,

Mr. Olivier Corten, Professor, Faculty of Law, Université libre de Bruxelles,

Mr. Daniel Khan, Lecturer, International Law Institute, University of Munich,

Mr. Jean-Marc Thouvenin, Professor, University of Paris X-Nanterre, *Avocat* at the Paris Bar, Lysias Law Associates,

as Counsel and Advocates;

M. Eric Diamantis, avocat au barreau de Paris, Moquet, Bordes & Associés,

M. Jean-Pierre Mignard, avocat au barreau de Paris, société d'avocats Lysias,

M. Joseph Tjop, consultant à la société d'avocats Lysias, chercheur au Centre de droit international de Nanterre (CEDIN), Université Paris X-Nanterre,

comme conseils;

M. Pierre Semengue, général d'armée, contrôleur général des armées, ancien chef d'état-major des armées,

M. James Tataw, général de division, conseiller logistique, ancien chef d'état-major de l'armée de terre,

S. Exc. Mme Isabelle Bassong, ambassadeur du Cameroun auprès des pays du Benelux et de l'Union européenne,

S. Exc. M. Biloa Tang, ambassadeur du Cameroun en France,

S. Exc. M. Martin Belinga Eboutou, ambassadeur, représentant permanent du Cameroun auprès de l'Organisation des Nations Unies à New York,

M. Etienne Ateba, ministre-conseiller, chargé d'affaires a.i. à l'ambassade du Cameroun, à La Haye,

M. Robert Akamba, administrateur civil principal, chargé de mission au secrétariat général de la présidence de la République,

M. Anicet Abanda Atangana, attaché au secrétariat général de la présidence de la République, chargé de cours à l'Université de Yaoundé II,

M. Ernest Bodo Abanda, directeur du cadastre, membre de la commission nationale des frontières,

M. Ousmane Mey, ancien gouverneur de province,

Le chef Samuel Moka Liffafa Endeley, magistrat honoraire, *Barrister-at-Law*, membre du Middle Temple (Londres), ancien président de la chambre administrative de la Cour suprême,

M^c Marc Sassen, avocat et conseil juridique, société Petten, Tideman & Sassen (La Haye),

M. Francis Fai Yengo, ancien gouverneur de province, directeur de l'organisation du territoire, ministère de l'administration territoriale,

M. Jean Mbenoun, directeur de l'administration centrale au secrétariat général de la présidence de la République,

Mr. Eric Diamantis, *Avocat* at the Paris Bar, Moquet, Bordes & Associés,

Mr. Jean-Pierre Mignard, *Avocat* at the Paris Bar, Lysias Law Associates,

Mr. Joseph Tjop, Consultant to Lysias Law Associates, Researcher at the *Centre de droit international de Nanterre* (CEDIN), University of Paris X-Nanterre,

as Counsel;

General Pierre Semengue, Controller-General of the Armed Forces, former Head of Staff of the Armed Forces,

Major-General James Tataw, Logistics Adviser, Former Head of Staff of the Army,

H.E. Ms Isabelle Bassong, Ambassador of Cameroon to the Benelux Countries and to the European Union,

H.E. Mr. Biloa Tang, Ambassador of Cameroon to France,

H.E. Mr. Martin Belinga Eboutou, Ambassador, Permanent Representative of Cameroon to the United Nations in New York,

Mr. Etienne Ateba, Minister-Counsellor, Chargé d'affaires a.i. at the Embassy of Cameroon, The Hague,

Mr. Robert Akamba, Principal Civil Administrator, Chargé de mission, General Secretariat of the Presidency of the Republic,

Mr. Anicet Abanda Atangana, Attaché to the General Secretariat of the Presidency of the Republic, Lecturer, University of Yaoundé II,

Mr. Ernest Bodo Abanda, Director of the Cadastral Survey, member, National Boundary Commission,

Mr. Ousmane Mey, former Provincial Governor,

Chief Samuel Moka Liffafa Endeley, Honorary Magistrate, Barrister-at-Law, member of the Middle Temple (London), former President of the Administrative Chamber of the Supreme Court,

Maître Marc Sassen, Advocate and Legal Adviser, Petten, Tideman & Sassen (The Hague),

Mr. Francis Fai Yengo, former Provincial Governor, Director, *Organisation du Territoire*, Ministry of Territorial Administration,

Mr. Jean Mbenoun, Director, Central Administration, General Secretariat of the Presidency of the Republic,

M. Edouard Etoundi, directeur de l'administration centrale au secrétariat général de la présidence de la République,

M. Robert Tanda, diplomate, ministère des relations extérieures

comme conseillers;

M. Samuel Betha Sona, ingénieur-géologue, expert consultant de l'Organisation des Nations Unies pour le droit de la mer,

M. Thomson Fitt Takang, chef de service d'administration centrale au secrétariat général de la présidence de la République,

M. Jean-Jacques Koum, directeur de l'exploration, société nationale des hydrocarbures (SNH),

M. Jean-Pierre Meloupou, capitaine de frégate, chef de la division Afrique au ministère de la défense,

M. Paul Moby Etia, géographe, directeur de l'Institut national de cartographie,

M. André Loudet, ingénieur cartographe,

M. André Roubertou, ingénieur général de l'armement, hydrographe,

comme experts;

Mme Marie Florence Kollo-Efon, traducteur interprète principal,

comme traducteur interprète;

Mlle Céline Negre, chercheur au Centre de droit international de Nanterre (CEDIN), Université de Paris X-Nanterre

Mlle Sandrine Barbier, chercheur au Centre de droit international de Nanterre (CEDIN), Université de Paris X-Nanterre,

M. Richard Penda Keba, professeur certifié d'histoire, cabinet du ministre de la justice, ancien proviseur de lycées,

comme assistants de recherche;

M. Boukar Oumara,

M. Guy Roger Eba'a,

M. Aristide Easo,

M. Nkende Forbinake,

M. Nfan Bile,

Mr. Edouard Etoundi, Director, Central Administration, General Secretariat of the Presidency of the Republic,

Mr. Robert Tanda, diplomat, Ministry of Foreign Affairs,

as Advisers;

Mr. Samuel Betha Sona, Geological Engineer, Consulting Expert to the United Nations for the Law of the Sea,

Mr. Thomson Fitt Takang, Department Head, Central Administration, General Secretariat of the Presidency of the Republic,

Mr. Jean-Jacques Koum, Director of Exploration, National Hydrocarbons Company (SNH),

Commander Jean-Pierre Meloupou, Head of Africa Division at the Ministry of Defence,

Mr. Paul Moby Etia, Geographer, Director, *Institut national de cartographie*,

Mr. André Loudet, Cartographic Engineer,

Mr. André Roubertou, Marine Engineer, Hydrographer,

as Experts;

Ms Marie Florence Kollo-Efon, Principal Translator-Interpreter,

as Translator-Interpreter;

Ms Céline Negre, Researcher, *Centre d'études de droit international de Nanterre* (CEDIN), University of Paris X-Nanterre,

Ms Sandrine Barbier, Researcher, *Centre d'études de droit international de Nanterre* (CEDIN), University of Paris X-Nanterre,

Mr. Richard Penda Keba, Certified Professor of History, *cabinet* of the Minister of State for Justice, former Head of High School,

as Research Assistants;

Mr. Boukar Oumara,

Mr. Guy Roger Eba'a,

Mr. Aristide Esso,

Mr. Nkende Forbinake,

Mr. Nfan Bile,

M. Eithel Mbocka,

M. Olinga Nyouzo'o,

comme responsables de la communication;

Mme Renée Bakker,

Mme Lawrence Polirsztok,

Mme Mireille Jung,

M. Nigel McCollum,

Mme Tete Béatrice Epeti-Kame,

comme secrétaires de la délégation.

Le Gouvernement de la République fédérale du Nigéria est représenté par :

S. Exc. l'honorable Musa E. Abdullahi, ministre d'Etat, ministre de la Justice du Gouvernement fédéral du Nigéria,

comme agent;

Le chef Richard Akinjide SAN, ancien *Attorney-General* de la Fédération, membre du barreau d'Angleterre et du pays de Galles, ancien membre de la Commission du droit international,

M. Alhaji Abdullahi Ibrahim SAN, CON, commissaire pour les frontières internationales, commission nationale des frontières du Nigéria, ancien *Attorney-General* de la Fédération,

comme coagents;

Mme Nella Andem-Ewa, *Attorney-General* et commissaire à la justice, Etat de Cross River,

M. Ian Brownlie, C.B.E., Q.C., membre de la Commission du droit international, membre du barreau d'Angleterre, membre de l'Institut de droit international,

Sir Arthur Watts, K.C.M.G., Q.C., membre du barreau d'Angleterre, membre de l'Institut de droit international,

M. James Crawford, S.C., professeur de droit international à l'Université de Cambridge, titulaire de la chaire Whewell, membre des barreaux d'Angleterre et d'Australie, membre de l'Institut de droit international,

M. Georges Abi-Saab, professeur honoraire à l'Institut universitaire de hautes études internationales de Genève, membre de l'Institut de droit international,

M. Alastair Macdonald, géomètre, ancien directeur de l'*Ordnance Survey*, Grande-Bretagne,

comme conseils et avocats;

M. Timothy H. Daniel, associé, cabinet D. J. Freeman, *Solicitors*, City de Londres,

Mr. Eithel Mbocka

Mr. Olinga Nyouzo'o,

as Media Officers;

Ms René Bakker,

Ms Lawrence Polirsztok,

Ms Mireille Jung,

Mr. Nigel McCollum,

Ms Tete Béatrice Epeti-Kame,

as Secretaries.

The Government of the Federal Republic of Nigeria is represented by:

H.E. the Honourable Musa E. Abdullahi, Minister of State for Justice of the Federal Government of Nigeria,

as Agent;

Chief Richard Akinjide SAN, Former Attorney-General of the Federation, Member of the Bar of England and Wales, former Member of the International Law Commission,

Alhaji Abdullahi Ibrahim SAN, CON, Commissioner, International Boundaries, National Boundary Commission of Nigeria, Former Attorney-General of the Federation,

as Co-Agents;

Mrs. Nella Andem-Ewa, Attorney-General and Commissioner for Justice, Cross River State,

Mr. Ian Brownlie, C.B.E., Q.C., Member of the International Law Commission, Member of the English Bar, Member of the Institute of International Law,

Sir Arthur Watts, K.C.M.G., Q.C., Member of the English Bar, Member of the Institute of International Law,

Mr. James Crawford, S.C., Whewell Professor of International Law, University of Cambridge, Member of the English and Australian Bars, Member of the Institute of International Law,

Mr. Georges Abi-Saab, Honorary Professor, Graduate Institute of International Studies, Geneva, Member of the Institute of International Law,

Mr. Alastair Macdonald, Land Surveyor, Former Director, Ordnance Survey, Great Britain,

as Counsel and Advocates;

Mr. Timothy H. Daniel, Partner, D. J. Freeman, Solicitors, City of London,

- M. Alan Perry, associé, cabinet D. J. Freeman, *Solicitors*, City de Londres,
- M. David Lerer, *solicitor*, cabinet D. J. Freeman, *Solicitors*, City de Londres,
- M. Christopher Hackford, *solicitor*, cabinet D. J. Freeman, *Solicitors*, City de Londres,
- Mme Charlotte Breide, *solicitor*, cabinet D. J. Freeman, *Solicitors*, City de Londres,
- M. Ned Beale, stagiaire, cabinet D. J. Freeman, *Solicitors*, City de Londres,
- M. Geoffrey Marston, directeur du département des études juridiques au *Sidney Sussex College*, Université de Cambridge, membre du barreau d'Angleterre et du Pays de Galles,
- M. Maxwell Gidado, assistant spécial principal du président pour les affaires juridiques et constitutionnelles, ancien *Attorney-General* et commissaire à la Justice, Etat d'Adamaoua,
- M. A. O. Cukwurah, conseil adjoint, ancien conseiller en matière de frontières (ASOP) auprès du Royaume du Lesotho, ancien commissaire pour les frontières inter-Etats, commission nationale des frontières,
- M. I. Ayua, membre de l'équipe juridique du Nigéria,
- M. K. A. Adabale, directeur pour le droit international et le droit comparé, ministère de la justice,
- M. Jalal Arabi, membre de l'équipe juridique du Nigéria,
- M. Gbola Akinola, membre de l'équipe juridique du Nigéria,
- M. K. M. Tumsah, assistant spécial du directeur général de la commission nationale des frontières et secrétaire de l'équipe juridique,

comme conseils;

- S. Exc. l'honorable Dubem Onyia, ministre d'Etat, ministre des affaires étrangères,
- M. Alhaji Dahiru Bobbo, directeur général, commission nationale des frontières,
- M. F. A. Kassim, directeur général du service cartographique de la Fédération,
- M. Alhaji S. M. Diggi, directeur des frontières internationales, commission nationale des frontières,
- M. A. B. Maitama, colonel, ministère de la défense,
- M. Aliyu Nasir, assistant spécial du ministre d'Etat, ministre de la Justice,

comme conseillers;

- M. Chris Carleton, C.B.E., bureau hydrographique du Royaume-Uni,
- M. Dick Gent, bureau hydrographique du Royaume-Uni,
- M. Clive Schofield, unité de recherche sur les frontières internationales, Université de Durham,
- M. Scott B. Edmonds, directeur des opérations cartographiques, *International Mapping Associates*,

Mr. Alan Perry, Partner, D. J. Freeman, Solicitors, City of London,

Mr. David Lerer, Solicitor, D. J. Freeman, Solicitors, City of London,

Mr. Christopher Hackford, Solicitor, D. J. Freeman, Solicitors, City of London,

Ms Charlotte Breide, Solicitor, D. J. Freeman, Solicitors, City of London,

Mr. Ned Beale, Trainee, D. J. Freeman, Solicitors, City of London,

Dr. Geoffrey Marston, Fellow of Sidney Sussex College, University of Cambridge; Member of the Bar of England and Wales,

Mr. Maxwell Gidado, Senior Special Assistant to the President (Legal and Constitutional Matters), Former Attorney-General and Commissioner for Justice, Adamawa State,

Mr. A. O. Cukwurah, Co-Counsel, Former UN (OPAS) Boundary Adviser to the Kingdom of Lesotho, Former Commissioner, Inter-State Boundaries, National Boundary Commission,

Mr. I. Ayua, Member, Nigerian Legal Team,

Mr. K. A. Adabale, Director (International and Comparative Law) Ministry of Justice,

Mr. Jalal Arabi, Member, Nigerian Legal Team,

Mr. Gbola Akinola, Member, Nigerian Legal Team,

Mr. K. M. Tumsah, Special Assistant to Director-General, National Boundary Commission and Secretary to the Legal Team,

as Counsel;

H.E. the Honourable Dubem Onyia, Minister of State for Foreign Affairs,

Alhaji Dahiru Bobbo, Director-General, National Boundary Commission,

Mr. F. A. Kassim, Surveyor-General of the Federation,

Alhaji S. M. Diggi, Director (International Boundaries), National Boundary Commission,

Colonel A. B. Maitama, Ministry of Defence,

Mr. Aliyu Nasir, Special Assistant to the Minister of State for Justice,

as Advisers;

Mr. Chris Carleton, C.B.E., United Kingdom Hydrographic Office,

Mr. Dick Gent, United Kingdom Hydrographic Office,

Mr. Clive Schofield, International Boundaries Research Unit, University of Durham,

Mr. Scott B. Edmonds, Director of Cartographic Operations, International Mapping Associates,

M. Robert C. Rizzutti, cartographe principal, *International Mapping Associates*,

M. Bruce Daniel, *International Mapping Associates*,

Mme Victoria J. Taylor, *International Mapping Associates*,

Mme Stephanie Kim Clark, *International Mapping Associates*,

M. Robin Cleverly, *Exploration Manager, NPA Group*,

Mme Claire Ainsworth, *NPA Group*,

comme conseillers scientifiques et techniques;

M. Mohammed Jibrilla, expert en informatique, commission nationale des frontières,

Mme Coralie Ayad, secrétaire, cabinet D. J. Freeman, *Solicitors*, City de Londres,

Mme Claire Goodacre, secrétaire, cabinet D. J. Freeman, *Solicitors*, City de Londres,

Mme Sarah Bickell, secrétaire, cabinet D. J. Freeman, *Solicitors*, City de Londres,

Mme Michelle Burgoine, spécialiste en technologie de l'information, cabinet D. J. Freeman, *Solicitors*, City de Londres,

comme personnel administratif,

M. Geoffrey Anika,

M. Mau Onowu,

M. Austeen Elewodal,

M. Usman Magawata,

comme responsables de la communication.

Le Gouvernement de la République de Guinée équatoriale, qui est autorisée à intervenir dans l'instance, est représenté par :

S. Exc. M. Ricardo Mangué Obama N'Fube, ministre d'Etat, ministre du travail et de la sécurité sociale,

comme agent et conseil;

S. Exc. M. Rubén Maye Nsue Mangué, ministre de la justice et des cultes, vice-président de la commission nationale des frontières,

S. Exc. M. Cristóbal Mañana Ela Nchama, ministre des mines et de l'énergie, vice-président de la commission nationale des frontières,

S. Exc. M. Antonio Nzambi Nlonga, *Attorney-General* de l'Etat,

M. Domingo Mba Esono, directeur national de la société nationale de pétrole de Guinée équatoriale, membre de la commission nationale des frontières,

Mr. Robert C. Rizzutti, Senior Mapping Specialist, International Mapping Associates,

Mr. Bruce Daniel, International Mapping Associates,

Ms Victoria J. Taylor, International Mapping Associates,

Ms Stephanie Kim Clark, International Mapping Associates,

Dr. Robin Cleverly, Exploration Manager, NPA Group,

Ms Claire Ainsworth, NPA Group,

as Scientific and Technical Advisers;

Mr. Mohammed Jibrilla, Computer Expert, National Boundary Commission,

Ms Coralie Ayad, Secretary, D. J. Freeman, Solicitors, City of London,

Ms Claire Goodacre, Secretary, D. J. Freeman, Solicitors, City of London,

Ms Sarah Bickell, Secretary, D. J. Freeman, Solicitors, City of London,

Ms Michelle Burgoine, IT Specialist, D. J. Freeman, Solicitors, City of London,

as Administrators,

Mr. Geoffrey Anika,

Mr. Mau Onowu,

Mr. Austeen Elewodalù,

Mr. Usman Magawata,

as Media Officers.

The Government of the Republic of Equatorial Guinea, which has been permitted to intervene in the case, is represented by:

H.E. Mr. Ricardo Mangué Obama N'Fube, Minister of State for Labour and Social Security,

as Agent and Counsel;

H.E. Mr. Rubén Maye Nsue Mangué, Minister of Justice and Religion, Vice-President of the National Boundary Commission,

H.E. Mr. Cristóbal Mañana Ela Nchama, Minister of Mines and Energy, Vice-President of the National Boundary Commission,

H.E. Mr. Antonio Nzambi Nlonga, Attorney-General of the State,

Mr. Domingo Mba Esono, National Director of the Equatorial Guinea National Petroleum Company, Member of the National Boundary Commission,

S. Exc. M. Juan Oló Mba Nzang, ancien ministre des mines et de l'énergie,

comme conseillers;

M. Pierre-Marie Dupuy, professeur de droit international public à l'Université de Paris (Panthéon-Assas) et à l'Institut universitaire européen de Florence,

M. David A. Colson, membre du cabinet LeBoeuf, Lamb, Greene & MacRae, L.L.P., Washington, D.C., membre du barreau de l'Etat de Californie et du barreau du district de Columbia,

comme conseils et avocats;

Sir Derek Bowett,

comme conseil principal,

M. Derek C. Smith, membre du cabinet LeBoeuf, Lamb, Greene & MacRae, L.L.P., Washington, D.C., membre du barreau du district de Columbia et du barreau de l'Etat de Virginie,

comme conseil;

Mme Jannette E. Hasan, membre du cabinet LeBoeuf, Lamb, Greene & MacRae, L.L.P., Washington, D.C., membre du barreau du district de Columbia et du barreau de l'Etat de Floride,

M. Hervé Blatry, membre du cabinet LeBoeuf, Lamb, Greene & MacRae, L.L.P., Paris, avocat à la Cour, membre du barreau de Paris,

comme experts juridiques;

M. Coalter G. Lathrop, *Sovereign Geographic Inc.*, Chapel Hill, Caroline du Nord,

M. Alexander M. Tait, *Equator Graphics*, Silver Spring, Maryland,

comme experts techniques.

H.E. Juan Oló Mba Nzang, Former Minister of Mines and Energy,

as Advisers;

Mr. Pierre-Marie Dupuy, Professor of Public International Law at the University of Paris (Panthéon-Assas) and at the European University Institute in Florence,

Mr. David A. Colson, LeBoeuf, Lamb, Greene & MacRae, L.L.P., Washington, D.C., member of the California State Bar and District of Columbia Bar,

as Counsel and Advocates;

Sir Derek Bowett,

as Senior Counsel;

Mr. Derek C. Smith, LeBoeuf, Lamb, Greene & MacRae, L.L.P., Washington, D.C., member of the District of Columbia Bar and Virginia State Bar,

as Counsel;

Ms Jannette E. Hasan, LeBoeuf, Lamb, Greene & MacRae, L.L.P., Washington, D.C., member of the District of Columbia Bar and Florida State Bar,

Mr. Hervé Blatry, LeBoeuf, Lamb, Greene & MacRae, L.L.P., Paris, Avocat à la Cour, member of the Paris Bar,

as Legal Experts;

Mr. Coalter G. Lathrop, Sovereign Geographic Inc., Chapel Hill, North Carolina,

Mr. Alexander M. Tait, Equator Graphics, Silver Spring, Maryland,

as Technical Experts.

Le PRESIDENT : Veuillez vous asseoir. La séance est ouverte et je vais maintenant donner la parole à la République fédérale du Nigéria pour le deuxième tour de plaidoiries sur l'objet de l'intervention de la Guinée équatoriale et pour les conclusions finales. Je donne dès l'abord la parole au professeur Crawford.

Mr. CRAWFORD:

1. Mr. President, Members of the Court, in successive speeches my friend Georges Abi-Saab and I have dealt comprehensively with the maritime boundary and with the terms of Equatorial Guinea's intervention. Nigeria welcomes that intervention, and has no further observations to make on the remarks of Equatorial Guinea's Agent and counsel yesterday.

2. As to Cameroon's remarks this afternoon, they do, however, call for a few brief comments. These concern first the merits of Cameroon's claim, and then the issue of your jurisdiction over that claim to the extent that it trenches on areas claimed by Equatorial Guinea.

3. As to the merits of the claim, you will note that Cameroon this afternoon was conspicuously silent. This was not because Equatorial Guinea was silent on the merits; it most certainly was not. It did not intervene in this case simply to make a point about jurisdiction; a letter to the Court — a Saudi Arabia letter — would have been enough to do that. Equatorial Guinea described its oil practice. It described its maritime claims. It stated that there has not been a single Cameroon protest at any activity of Equatorial Guinea up to the median line. Cameroon has not denied this and therefore you can take it to be true. Cameroon's practice vis-à-vis Equatorial Guinea is thus entirely consistent with its practice vis-à-vis Nigeria, where again there have been no protests whatever in the area of concern to the Court.

4. Equatorial Guinea showed a series of Cameroon maps to the same effect, over time, including very recent ones, all adhering to the median line. This practice is highly relevant, but Cameroon made not a single observation about this, this afternoon. So again the practice is conceded.

5. In this context I should pause to show you the map of the Moudi licence area that Cameroon produced on Tuesday. Mr. Colson pointed out that the area of overlapping concessions, which you can see in yellow, contains exclusively Equatorial Guinea wells, these are the three

Tsavorita wells which were drilled in the mid-1990s and are now in production. They were drilled without protest from Cameroon. You will note that to the extent the Cameroon licence limits on this map extend south beyond the median line, it is no longer a continuous line but a dashed line. The reason for that is that the oil company which produced this map knew perfectly well of the Equatorial Guinea claim. The Cameroon licensees, apparently Perenco and Total/Mobil, were well aware as to the questionable character of any attempt to exploit south of the long-established *de facto* line; they indicate that by the dashed lines on the screen. And they did not do so. Nor did Cameroon protest when the Tsavorita wells were drilled. That is the real life situation, divorced as it is from Cameroon's pleadings in the present case.

6. Incidentally the appearance of this map in the last round was a new element. That map was not previously in the record but we are happy to see it, and Nigeria formally consents to its admission. It shows that Cameroon is perfectly well informed about this area, despite its earlier professions of ignorance: you remember in the first round, they did not know anything about the wells. The oil industry in this region is far too large, far too important for the States concerned — all of which derive substantial revenue from it — not to know it in detail; they do know it in detail. It is only the Court that Cameroon tries to keep in the dark.

7. Let me now turn to Equatorial Guinea's yellow area — the so-called yellow banana — in which Equatorial Guinea believes the tripoint to lie. Nigeria agrees. And there is every reason to believe so. You can see the familiar map of the three States' installations, which is tab 95 in our first round. As to these installations, there are no *chevauchements*, there are no overlaps. Unless the Court is to take unprotested wells from one State and present them to another State, this map is virtually dispositive, to the north of Bioko. Which wells is the Court going to give to Cameroon, the Ekanga, Tsavorita? Which ones? Cameroon does not tell you.

8. I remind you again of the *Tunisia/Libyan Arab Jamahiriya* decision, and its relation to the actual installations in that case. You can see it again on the screen; it is tab 44 in our second round.

9. Now let me turn to Cameroon's *ligne équitabile*, so-called. The theory on which this is based, that of global allocation, is of vital concern to Equatorial Guinea. In principle it should define their rights as well; a system of global allocation should define the rights of all the States in

the Gulf, but Cameroon refuses to say how, even in principle. You cannot derive from their method an allocation for Equatorial Guinea. The theory is now in complete tatters; there was no attempt today by either of Cameroon's counsel to revive it. Cameroon having said nothing about the global method, there is nothing more I need to say.

10. Mr. President, let me turn briefly to Cameroon's theory of your jurisdiction, and let me take their map in order to do it. In fact, there is a problem here because Cameroon has two theories of jurisdiction: one of Professor Mendelson and apparently the Agent; one of Professor Pellet. Professor Mendelson said in the second round, and I understood Professor Kamto to say also, that the drawing of this line did not guarantee to Cameroon any point to the south-east of the line. It simply kept Nigeria at bay. That is the exclusion line. Today you heard Professor Pellet disavow Professor Mendelson. He said that maritime delimitation is objective and that if you draw that line there will be Cameroon maritime territory at every point immediately south of the line. It is true, he said, that you do not have to decide how thick the territory is but you have to decide that there is territory, otherwise you are allocating nothing. He said that the maritime delimitation is objective. That was the basis on which he says that the Treaty of 2000 is effective vis-à-vis Cameroon, it creates an objective situation. But if it creates an objective situation, if that argument is right, then it follows, as night follows day, that the point immediately south-east of point H² belongs to Cameroon. That is what Professor Pellet says. And that point is reasonably claimed by Equatorial Guinea. Not only is it claimed by Equatorial Guinea, there is an Equatorial Guinea field there, it is called the Ekanga field, it is worth a vast sum of money. We are not talking about abstract rights, we are talking about real rights. These are real things. Cameroon claims the Ekanga field. And then they say that Equatorial Guinea's rights are not affected. The Court lives in the real world, not in the world of illusions. Professor Pellet's theory involves the assumption that the Court can, in effect, given an advisory opinion which determines precisely, with exactness, the scope of Equatorial Guinea's rights. It is true that Professor Pellet tried to put that in the negative. He said you have to determine what are *not* Equatorial Guinea's rights, precisely. But we all know that to determine precisely what are not Equatorial Guinea's rights will be precisely to determine what they are and to do so immediately south of this line. The Court's decision in the *Eastern Carelia* case has never been overruled. It is true that in the *Peace Treaties* case the Court was confronted

with a somewhat different situation about the legitimate scope of activity of a United Nations organ, notwithstanding that the issue also concerned the rights of States. Do you think this Court could be given, by a majority decision of the General Assembly, the authority to decide in an advisory opinion which of Equatorial Guinea and Cameroon was entitled to a particular maritime area? That would be to evade the requirement of consent in the Statute of the Court, and I can just imagine Professor Pellet at the ensuing negotiations with Equatorial Guinea when the formal point was taken: “Ah,” he would say, with all his insistence, “the Court has decided exactly what your rights are, you have nothing to do but to comply.” In fact, however, maritime jurisdiction as between States is not objective in Professor Pellet’s sense in the first instance. If it is objective, then the Court’s jurisdiction stops at point H², ineluctably, for the reasons that I have given. But it is not objective in the first sense, and there are two reasons for that. First of all, and in this respect, there may be a difference between maritime and land territory. Maritime territory is determined in the first instance by negotiation between two coastal States *inter se* striking a bargain. And it is obvious that that bargain cannot be opposable to and cannot benefit third States. It is true that there will be a background of the reasonable claims and legitimate rights of States in the area. The Court can assess those. But the actual bargain will be struck between two States. Unless it is recognized or comes to be instituted by course of practice over time, that is simply a bilateral bargain, and that is all that the 2000 Treaty is. As I said the other day, Nigeria did not bargain on behalf of Cameroon in relation to Ekanga and Equatorial Guinea has a right to the implementation of the unitization agreement in that area, on both sides of the line. The result of that, we say ineluctably, is that the Court’s jurisdiction stops at point H¹, because that is the point where, you have heard, Equatorial Guinea still makes a claim. Equatorial Guinea’s *erga omnes* claim is to the median line. It has resolved from that claim but only vis-à-vis Nigeria for the time being, whether effectively vis-à-vis Nigeria we shall see.

11. Now, so far we have been talking about point H¹ and Nigeria accepts — and I accepted in the first round — that the line from H to H¹ is within your jurisdiction. Equatorial Guinea makes no claim to areas to the north of its equidistance line. And you could, as a matter of jurisdiction, decide to give Equatorial Guinea all the maritime territory to the east of the line H to H¹. But of course, as we have established there is no basis whatever for you to do so as a matter of merits.

First, as to point H, which you can see on the screen — the Court will be aware that this speech has had to be prepared during the coffee break — you will see the long-established Nigerian installations, pipelines and wells, production facilities, drilled in the 1980s without protest: the claim to point H flatly contradicts the practice of the Parties. If this was a claim to prescription, that would be sufficient in this area, but of course it is not a claim to prescription, there is no question of prescription because there is no pre-existing Cameroon title, notwithstanding its arguments. So point H, as such, is excluded for the reasons that I have given you. If point H is excluded, there is no basis for the line H to H¹ because the orientation of that line depends upon Cameroon's global method which has been totally discredited. The best Prof. Kamto can now do is to argue for an equidistance line adjusted on the basis of who knows what arguments.

12. Mr. President, Members of the Court. My final point concerns Cameroon's increasingly desperate pleas for "equity". There is a saying that he who seeks equity must do equity; and this involves, among other things, complete candour with the Court on precisely what is sought. Cameroon has not been candid with the Court on the maritime boundary. Despite repeated invitations it has refused — and it refused again today — to tell you what its claim is. On a global allocation method there must be an implicit claim for Equatorial Guinea. It refuses to tell you what it is. It knows what it is, it refuses to tell you. It has not been candid. A line, of itself, has no breadth and covers no resources. Only an area enclosed by a line can be deemed to be equitable. A *ligne équitable* is a contradiction in terms. Cameroon has never bothered to tell you what its claim is. And the reason is clear enough: the claim is in substance and in fact a claim against third States. As against those third States it is patently inadmissible; and it is inadmissible against Nigeria too, for the reasons that we have explained. The Court, of course, has jurisdiction north of the equidistance line but not to award that line because of the patent inadmissibility of the underlying method.

13. Mr. President, Members of the Court, on behalf of counsel for the Federal Republic of Nigeria, may I thank you all for your courteous attention during this long and difficult case. Faced with a torrent of accusations, accusations made with very little by way of substance or attention to detail, we have attempted to restore a sense of balance and to avoid rhetoric. I hope we have succeeded. If we have not, we apologize.

Mr. President, may I ask you to call on Nigeria's Agent, the Hon. Minister Musa Abdullahi, to sum up and conclude Nigeria's case.

Le PRESIDENT : Je vous remercie, Monsieur le professeur. Je donne maintenant la parole à M. l'agent du Nigéria.

Mr. ABDULLAHI:

1. Mr. President, distinguished Members of the Court, we have heard a lot of politics from the distinguished Agent of Cameroon. It was, if I may say so, the usual exaggerated depiction of relations between our two States. You will have noted the exaggerated references to "war" and "bleeding wounds", and so on.

2. Mr. President and Members of the Court, Nigeria does not believe that yet more of those kinds of remarks are appropriate in legal proceedings before this Court. This is the highest court of international law, the principal organ of the United Nations in its judicial jurisdiction. Nigeria has argued in these proceedings on the basis of its legal position. We do not propose to descend, with Cameroon, to the level to which the distinguished Agent sought to take us. We can leave all that for a more appropriate forum. In *this* forum, this afternoon, I will simply recapitulate the legal case which Nigeria has presented to this International Court of Justice.

3. We do not, of course, accept the picture painted by the Agent of Cameroon but, Mr. President and Members of the Court, Nigeria considers it necessary to reserve the right to respond in writing to what the Agent said — which, it seems to Nigeria, far exceeded a mere recapitulation of Cameroon's case.

4. Let me just make the point, which the Agent referred to in his speech, about Bama, which the Agent said is the home town of the late Nigerian Head of State, General Sani Abacha, and that it is a Cameroonian town. Mr. President, the Bama that we know, the Bama that is the home town of our late Head of State, is in Nigeria and never in Cameroon. I believe that by this, the Court will appreciate that General Sani Abacha was never a Cameroonian. Nor have we ever claimed that my distinguished friend, who should be of Nigerian descent, is a Nigerian. He is a Cameroonian.

5. Mr. President, distinguished Members of the Court, it now falls to me to recapitulate Nigeria's case. Although these proceedings do concern other issues, they are primarily about

people — about substantial, established, living Nigerian communities, first and foremost in the Bakassi Peninsula, but also along the land boundary and in the Lake Chad region. It is astonishing that Cameroon presents the facts about these communities as largely irrelevant to the decisions the Court has to take about their future.

6. For example, Nigeria has presented the Court with a great deal of evidence in relation to the post-independence period in Bakassi, much of it in documentary form. Yet Cameroon, in its oral proceedings, referred to hardly any documents relating to the administration of Bakassi, and quoted from only five of them.

The Bakassi Peninsula

7. The Bakassi Peninsula contains a settled population of 156,000 Nigerians, mainly fishermen and small-scale farmers of Efik and Effiat stock, strongly connected to the traditional social structure at Calabar. This community is intensely loyal to Nigeria. It has no connections with Cameroon.

8. In these proceedings, Cameroon is seeking to reverse a very clearly proven status quo in Bakassi that is of long standing. If it succeeds in this claim, the practical consequences for the local population would be very grave. The evidence suggests that any attempt by Cameroon to take over Bakassi would be strongly resented by the inhabitants, and that Cameroon would not respect the inhabitants' human and civil rights.

The pre-independence origins of Nigeria's claim to the Bakassi Peninsula

9. Nigeria claims an original title to Bakassi in the Kings and Chiefs of Old Calabar. They had international personality. They received consuls; they concluded treaties — in fact many treaties. And one of these treaties was the Treaty of Protection they concluded in 1884 with the Queen of Great Britain.

10. That Treaty must be interpreted according to its actual terms, Mr. President. It was solely a Treaty of *Protection*. Nothing in its terms gave Great Britain sovereignty over the territories of the Kings and Chiefs of Old Calabar, or made them a British colony. The Treaty did not permit Great Britain to alienate any part of the territories of the Kings and Chiefs. It was the

origin and basis of Great Britain's actions for more than three-quarters of a century. It remained "operative and in force" until Nigeria reached independence in 1960.

11. In so far as the Anglo-German Treaty of 1913 purported to give away to Germany territories belonging to the Kings and Chiefs of Old Calabar it was simply incapable of doing so. *Nemo dat quod non habet*. The relevant provisions are unlawful and ineffective. There is also no evidence that they were ever implemented before World War I intervened. No event between 1913 and Nigeria's independence in 1960 could have operated in law to render them effective.

12. Throughout the Mandate and Trusteeship periods the 1884 Treaty of Protection continued in force and binding upon the United Kingdom. The administrative, legal and other ties between Bakassi and the rest of Nigeria continued unbroken and uninterrupted. In practice Bakassi was administered from and as part of Nigeria. Effective authority continued to be exercised by the traditional source of power and authority in Bakassi, namely by the Kings and Chiefs of Old Calabar and their successors in title, the Obong of Calabar and his Council of Etuboms. No one had the legal power unilaterally to give away title to Bakassi. It remained with the Kings and Chiefs and their successors in title. Upon Nigeria's independence in 1960, the peninsula vested, internationally, in Nigeria as the successor to Old Calabar. From 1884 until now, the relationship between the traditional rulers of Old Calabar and Bakassi has remained peaceful, secure and uninterrupted.

Bakassi after independence

13. Cameroon's claim to Bakassi is exclusively treaty-based. It relies upon the unimplemented and ineffective provisions of the 1913 Treaty. Nigeria retained an original title in respect of Bakassi, and the title also invoked by Nigeria, historical consolidation of title, has the role of providing a confirmation of that original title.

14. But Nigeria is also arguing in the alternative. It is well-recognized that a treaty-based title may be modified or displaced by lawful means. Likewise, a title inherited on the basis of *uti possidetis juris* can be modified or displaced by lawful means, such as acquiescence. Even if, for the sake of argument, the 1913 Treaty were taken as valid and fully implemented, Nigeria would still have lawful title to Bakassi on the basis of historical consolidation of title, with particular

reference to the post-independence period. In other words, Nigeria's title does not necessarily depend on the legal status of the 1913 Treaty.

15. Nigeria's position, Mr. President, involves three distinct but interrelated bases of title over Bakassi. The first is long occupation by Nigeria and by Nigerian nationals which constitutes a historical consolidation of title confirming that original title, which vested in Nigeria at the time of independence in 1960. The second is peaceful possession by Nigeria, acting as sovereign, and an absence of protest by Cameroon. The third is manifestations of sovereignty by Nigeria together with acquiescence by Cameroon in Nigerian sovereignty over Bakassi.

16. These three bases of title apply both individually and jointly. In particular, the title on the basis of historical consolidation, together with acquiescence, in the period since the independence of Nigeria, constitutes an independent and self-sufficient title to Bakassi.

17. At least until 1968, and in fact thereafter, Nigeria exercised peaceful possession in respect of Bakassi and Cameroon acquiesced in this status quo. At no stage did Cameroon exercise either *peaceful* possession or control over Bakassi *as a whole*. The first Cameroon Note directly related to the issue of sovereignty over Bakassi was dated 13 October 1980, some 20 years after independence. The evidence of Cameroonian possession and control provided in Cameroon's pleadings is, I humbly submit, extremely unimpressive.

18. Mr. President and distinguished Members of the Court, Cameroon has not made any effective challenge to Nigeria's evidence as to the elements constituting the process of historical consolidation of title to the Bakassi Peninsula. And in any event the evidence shows an overwhelming preponderance of Nigerian administration in Bakassi, coupled with evidence of the ethnic and social connections with the mainland of Nigeria and the existence after independence of a Nigerian administrative and social status quo which eventually Cameroon sought to disturb by various means, including the use of force.

19. What is important is the predominance of evidence favourable to Nigeria and Cameroon's failure to challenge the legal status of the various categories of evidence. It is significant that Cameroon relies upon items of evidence which are not only problematic in themselves but evidentially peripheral. The necessary result is the validation of the title by historical consolidation on the basis of the predominant evidence.

20. Moreover, Mr. President, even if one were to assume what Nigeria denies, namely that the issues relied on heavily by Cameroon, such as the Maroua Declaration or the map evidence, were to be resolved, as isolated issues, in favour of Cameroon, the predominant evidence would still stand in support of Nigeria's title to Bakassi. It would be illogical in the extreme to circumvent the major elements of the evidence by reference to issues which are both peripheral and, in the case of the Maroua Declaration, on any view legally problematic.

21. At no stage did Bakassi have the status of *terra nullius*. The legal situation in relation to Bakassi appears to Nigeria to be in certain respects similar to that obtaining in the *Minquiers and Ecrehos* case. The elements which constitute the process of historical consolidation in relation to Bakassi are the original title of the City States of Old Calabar, the attitude and ethnic affiliations of the population of Bakassi, the Efik and Effiat toponymy of the Bakassi towns and villages; the administration of Bakassi as part of Nigeria from 1913 to the date of independence; the exercise of authority over the towns and clans of Bakassi by traditional Rulers either based in Calabar or otherwise owing allegiance to Nigeria; the activities of the Ekpe Society, the exercise of jurisdiction by customary law courts by virtue of Nigerian legislation; the long-established settlements of Nigerian nationals in Bakassi; and manifestations of sovereignty by Nigeria in Bakassi after independence in 1960. These elements are examined in detail in the Nigerian Rejoinder.

22. Until 1972 the Government of Cameroon acquiesced in the long-established Nigerian administration of Bakassi. From 1972 there were various Cameroon initiatives, including the project for renaming the villages, which clearly demonstrated the previous absence of a Cameroonian administration. On the ground there were sporadic Cameroonian activities which did not result in the establishment of effective or exclusive Cameroonian control of Bakassi. At no stage did Cameroon exercise peaceful possession. This late development of an expansionist policy could not and did not erase the effects of earlier acquiescence.

23. The evidence demonstrates that the two Parties treated questions of maritime delimitation as separate and distinct from any dispute about Bakassi. The general position offshore, established in the 1960s, was maintained and extended by each Party, and by Equatorial Guinea, with little debate or disagreement. The connection between activities at sea and on land was not drawn. Thus

the negotiations over the inshore boundary in the 1970s and 1980s had, as a principal concern, questions of maritime access. They did not involve any discussion as to Bakassi.

The land boundary

24. Mr. President, distinguished Members of the Court, let me now turn to the land boundary between Lake Chad and Bakassi. Cameroon's Additional Application requested the Court to specify it definitively. Cameroon in effect asked the Court to do two things. The first was to confirm that the land boundary was delimited by the four directly relevant boundary instruments. The second was to specify that land boundary with exactitude.

25. Cameroon then sought to resile from that second request. As Nigeria has shown, by reference to your statement in the *Barcelona Traction* case, once having made that request in its Additional Application, Cameroon no longer had the right to withdraw that matter from the Court without Nigeria's consent. For very good reasons Nigeria does not consent. In respect of a number of specific and limited locations those boundary instruments are defective in themselves, or have been rendered uncertain because of Cameroon's attitude towards them. Twenty-two of those locations remain to be clarified, and Nigeria has identified them. Nigeria's position has all along been clear: Nigeria accepts that the relevant boundary instruments — which Nigeria has from the start identified and accepted — effectively delimit the Nigeria-Cameroon land boundary, subject to the provisions relating to those outstanding 22 locations being interpreted in such a way that the delimitations are in practice meaningful.

26. Such a confirmation that the relevant instruments govern the boundary, *and* a declaration by the Court that the defective or uncertain provisions bear meanings which are both effective and consistent with the intentions of the boundary instruments, are necessary and desirable for the future stability of the international boundary. They are also necessary for whatever future arrangements may be made by the Parties for the demarcation of their common boundary, and in the meantime to enable the local populations to know with confidence where the boundary runs.

27. Cameroon at first denied that the delimitation in the various instruments was in any way defective or uncertain. It said that any problems could be solved at the demarcation phase. But during these oral hearings Cameroon abandoned that position, belatedly admitting, as Nigeria has

maintained all along, that the boundary instruments *are* in a number of respects defective. It is most unfortunate and regrettable that Cameroon, nevertheless, has refrained from assisting the Court with information and argument of its own which would help the Court deal with those imperfections in the boundary instruments.

28. Although Cameroon has failed to argue this part of its case in the necessary detail, Nigeria *has* submitted to the Court — notably in its Reply — very full legal, practical, technical and cartographic argumentation on each of the 22 outstanding locations of defective or uncertain delimitation. It was Cameroon which in the first place seized the Court of the request to determine the boundary with exactitude; Nigeria then placed all the necessary material before the Court to enable it to do so, in respect of *all* the 22 outstanding locations where there are delimitation deficiencies or uncertainties.

29. I stress in this respect that Cameroon's Agent last week expressly accepted that unresolved issues of delimitation along the land boundary could be resolved by you. He said "if you deem that certain of the problems raised . . . by Nigeria should be dealt with at your level, we do not see the least inconvenience. Our sole concern is that the boundary should be definitively specified." (CR 2002/17, p. 65, para. 5.) So, while not helping you very much in performing this role, Cameroon expressly accepts that you can perform it. Nigeria says not only that you can but that you *should* do so, and should do so in relation to each of the 22 locations it has identified.

Lake Chad

30. Mr. President, distinguished Members of the Court, I now turn to Lake Chad. The 33 villages in Lake Chad that are in issue in this case have a total population of approximately 60,000 people. This area was part of the Emirate of Borno (now in Nigeria) long before the colonial powers came on the scene in the nineteenth century. Strong affiliations continue to exist with Borno, as demonstrated in Nigeria's written pleadings. The 33 villages contain settled Nigerian populations, which have for many years been under Nigerian administration, living mainly from fishing and agriculture. These communities are intensely loyal to Nigeria.

31. In defending its title to these villages, Nigeria is defending not only its territorial integrity, but a large Nigerian population and its way of life. Cameroon seeks to reverse a very

clearly proven status quo of long standing. If Cameroon succeeds in this claim there would be very serious practical consequences for the population. It is likely that any attempt by Cameroon to take over would be strongly resented by the inhabitants. There is also a very real fear that the Cameroonians would not respect the inhabitants' civil or human rights. Nigeria's fears are accentuated by the existence of private armies in adjoining parts of Cameroon, operating under local chiefs. These armies were identified by the Special Rapporteur to the United Nations Commission on Human Rights in November 1999, referred to in Chief Richard Akinjide's speech.

32. The areas of Lake Chad to the north and east of the terminus of the land boundary at the mouth of the Ebeji constitute territory the title to which is undetermined. This is subject to the existence of Nigeria's title to specific areas based upon historical consolidation of title and acquiescence.

33. Title to the areas of Lake Chad claimed by Nigeria is based upon historical consolidation of title and acquiescence. It vests in Nigeria independently of the present status of the delimitation work carried out under the auspices of the Lake Chad Basin Commission. The Commission's work did not result in a delimitation which was final and binding upon Nigeria. The practice of the riparian States confirms that there is no definitive delimitation in place.

34. The three bases of the Nigerian claim to title over Darak and the other 32 locations are as follows, namely long occupation by Nigeria and by Nigerian nationals constituting an historical consolidation of title; effective administration by Nigeria, acting as sovereign, and an absence of protest; and manifestations of sovereignty by Nigeria together with the acquiescence by Cameroon in Nigerian sovereignty over Darak and the other Lake Chad villages.

35. These three bases of claim apply both individually and jointly. In the view of the Nigerian Government, each of the bases of title would be sufficient on its own.

36. Whilst some of the villages lie to the west or south of the provisional demarcation of Lake Chad boundaries carried out by IGN, most of them lie to the east. It is a basic premise of Nigeria's legal position that title to the named villages vests in Nigeria independently of the present status of the delimitation as such.

37. The longest existing village (Katti Kime) was founded 43 years ago and the newest one (Murdas) was established 16 years ago. The majority of these villages have been in existence for between 20 and 40 years.

38. The activities of the fishermen and farmers who founded these communities were open and peaceful, and the process of administration by Ngala Local Government Authority, which followed the process of settlement, was equally open and peaceful. At no stage prior to the present legal proceedings did the Government of Cameroon make any reservation or protest.

39. The various elements constituting the process of historical consolidation of title in respect of the Lake Chad villages can be summarized in six points. First, the attitudes and affiliations of the population of the villages indicate an exclusive association with the Borno state of Nigeria. Second, the historical associations of the region constitute strong evidence of the gravitational pull, in geopolitical and economic terms, of the Borno Emirate (and its successors) in relation to the shores of Lake Chad and, more especially, in the southern sector. Third, the historical associations of the area in question are reinforced and complemented by the contemporary political power and constitutional status of the Nigerian traditional rulers and, in the region concerned, of His Royal Highness the Shehu of Borno. Fourth, the villages are inhabited by Nigerian nationals. Fifth, the villages have been administered as part of Nigeria for a considerable period of time. Sixth, the acquiescence of Cameroon in face of the peaceful exercise of sovereignty by Nigeria.

40. In the context of the process of historical consolidation in respect of the villages claimed by Nigeria, it is to be understood that the process has not had the effect of displacing a definitive title of Cameroon or of any other riparian State.

41. Mr. President, distinguished Members of the Court, by contrast to Nigeria's own evidence, such evidence as Cameroon has provided of state activities in the region is seriously flawed. Cameroon has produced no evidence at all in relation to 15 of the villages claimed by Nigeria. In respect of six more, only two documents have been produced by Cameroon. Moreover, many of the documents produced on behalf of Cameroon are entirely programmatic in content.

42. The evidence concerning state activities must also be related to the fact that Cameroon made no protests in face of the Nigerian administration of the villages until 1994. This silence on

the part of Cameroon is of particular significance in light of the fact that Nigeria's state activities were entirely public, open and visible to all, unconcealed in flat terrain.

43. As to acquiescence, for varying periods of up to 40 years' duration, Nigeria has had peaceful possession of the Lake Chad villages, at all times administered as part of Nigeria's Borno state. Never, until the Note of 11 April 1994 did Cameroon make any protest or claim relating to the Lake Chad villages now in issue. Cameroon has never exercised peaceful possession or had a system of administration in place in the region. The episode of Cameroonian interference in 1987 was short-lived and did not lead to any claim to the region by Cameroon.

The maritime boundary

44. Mr. President, distinguished Members of the Court, I now turn to the maritime boundary.

45. It is clear that Cameroon's position on the maritime boundary has been improvised during the course of the written and oral pleadings, and that it bears no relationship to any position taken by Cameroon in its negotiations with its neighbours, Nigeria and Equatorial Guinea, in the years before 1994. It is totally unrelated to the practice or conduct of the parties.

46. Cameroon presents a maritime claim which is in significant part inadmissible and which ignores entirely the established international law of the sea and the Court's settled approach to the delimitation of offshore areas. Although I have not the time to list all the deficiencies of Cameroon's approach, it is deficient in the following notable ways:

- (i) it is in large part an exclusion line, not a delimitation between two coastal States, as Cameroon's counsel this week at last expressly accepted. The Court cannot draw a unilateral maritime boundary;
- (ii) Cameroon's claim line depends upon an undisclosed form of sharing of maritime areas in the Gulf of Guinea as a whole, a procedure which the Court has expressly rejected in its earlier decisions. Cameroon's own presentation of that line has been lacking in both clarity, consistency and candour. In particular it refuses to tell the Court the extent of its claim;

- (iii) as presented, Cameroon's claim line does not involve any actual claim to any specified maritime area. It is therefore impossible to determine whether it is equitable. A mere line cannot be equitable, yet that is all Cameroon says that it claims;
- (iv) Cameroon's claim line requires the Court to adjudicate on the rights of two States not a party to these proceedings, that is, Equatorial Guinea and Sao Tome and Principe. Their position is exactly the same in principle, even though one has intervened and one has not. The Court has no jurisdiction over either and should not proceed to a delimitation which requires it to determine the actual extent of their maritime claims;
- (v) the only maritime issues which were discussed between Nigeria and Cameroon, and for that matter between Cameroon and Equatorial Guinea, were issues of delimitation between the mainland and the island of Bioko, envisaging in particular the determination of the tripoint;
- (vi) in the context of the binding provisions of the United Nations Convention on the Law of the Sea requiring delimitation of maritime zones by agreement, the Court should reject outright any new maritime claim which bears no relationship to the practice or previous claims of the party advancing that claim, and which has never been the subject of any attempt of negotiation.

47. Instead, in Nigeria's view, the Court should start with an equidistance line from the point where the land boundary meets the coast, and consider what special or relevant circumstances exist which may require an adjustment to that line. In this case, this means that the maritime delimitation line will begin in the Rio del Rey and proceed southerly and south-westerly until it meets the equidistance line claim of Equatorial Guinea, which is expressly maintained in place by the Agreement of 2000.

48. Although Cameroon does not accept this, Nigeria strongly believes that oil installations and wells drilled without protest from another party are a relevant circumstance in maritime delimitation and that they should be taken into account in determining the actual boundary. The Court itself has so held. Unlike Cameroon, Nigeria has provided full information to enable the Court to take these installations and wells into account offshore. On the other hand, as I have said,

such matters have only secondary importance with respect to populated land areas; the offshore is a resource zone, and resources should not determine the future of people.

49. Nigeria takes note with appreciation of the additional information presented to the Court by Equatorial Guinea in the course of its intervention. That information entirely corroborates Nigeria's account of the practice of the Parties and their maritime claims made in negotiations prior to the written pleadings in this case. Nigeria notes that Cameroon's claim that the Agreement of 2000 was coerced has been withdrawn, having previously been stated by the Agent of Equatorial Guinea to be totally false. Nigeria only regrets that similar unfounded claims by Cameroon of Nigerian coercion, fraud and deception have not similarly been withdrawn, as they should have been.

State responsibility

50. I turn, Mr. President, distinguished Members of the Court, to matters of State responsibility. Cameroon presents Nigeria as an aggressive State, mounting wanton attacks on Cameroon, as "invading" Cameroonian territory, and "occupying" it. Nigeria regrets Cameroon's extravagant language. It may be the appropriate rhetoric of politics, but it has no place in this Great Hall of Justice, and before this International Court of Justice.

51. It is moreover to be regretted since it bears so little relation to the facts. There was a status quo in Bakassi and Lake Chad — and, for that matter, all along the land boundary as well. Although Cameroon sought to establish its own claim to Bakassi, Cameroon knows very well that the evidence shows beyond any doubt that the status quo was overwhelmingly one of Nigeria's presence in the areas which Cameroon sought to dispute. It is the State which by force seeks to disturb the status quo which commits the internationally wrongful act, not the State which maintains it.

52. It is Cameroon, not Nigeria, which has consistently been the initiator of the disturbances of the status quo. Nigeria's alleged international responsibility for any "invasion" or "occupation" has simply not been established on any applicable legal basis. And on the facts, the figures of casualties speak for themselves. As counsel for Nigeria showed in relation to the Bakassi

Peninsula since 1990¹, the Nigerian documents submitted in this case attributed to Cameroon the killing of 30 Nigerians, of whom 27 were civilians, and the wounding of 117 people, of whom 106 were civilians. In addition eight houses and four boats were destroyed or damaged, together with a substantial amount of other damage. On the other hand, Cameroon's documents blamed Nigeria for the killing of three people, and wounding 13, all military. If one is to use inflated language, that marked discrepancy shows clearly enough who the "aggressor" has been. The general picture established by these figures was not challenged by Cameroon in its final speech on counter-claims on the morning of Tuesday 19 March².

53. Apart from that fundamental and substantive point, we come to the question of evidence. International responsibility, a serious matter, is not just to be alleged and asserted. It has to be proved by evidence — not just by any old evidence, but by compelling evidence which unequivocally supports the allegation.

54. Throughout this case, Mr. President, distinguished Members of the Court, we have had a series of vivid demonstrations of Cameroon's attitude to evidence. So unreliable and inadequate has it been that Cameroon itself found it better to avoid any detailed examination of its various separate allegations regarding incidents which it said gave rise to international responsibility on the part of Nigeria. It abandoned those individual claims, and chose not to pursue them as separate and autonomous bases of responsibility. They instead were simply to be used in support of Cameroon's main allegations of Nigeria's responsibility, consisting in effect of its alleged invasion and occupation of Cameroonian territory. But even when invoked on that basis, those incidents still have to be *proved*, by reliable and adequate evidence. Cameroon's evidence has been neither.

55. Nigeria has also shown that Cameroon's claims that Nigeria had not observed the Court's provisional measures Order of 1996 are baseless.

56. Right across the field, Mr. President and Members of the Court, Cameroon has failed, both in law and in fact, to establish any basis on which Nigeria is to be held internationally responsible to Cameroon. Its claims in that sense should be dismissed.

¹CR 2002/14, p. 57, para. 31 (Mr. Crawford), and CR 2002/20, p. 37, para. 10 (Mr. Crawford).

²CR 2002/22, pp. 55-59 (Mr. Thouvenin).

Counter-claims

57. Finally I come to counter-claims. Unlike Nigeria, Cameroon *has* engaged *her* international responsibility against Nigeria by attacks on civilian populations and on individual civilians. Cameroon's alleged claim to Bakassi and other territories is no defence in law to this claim. The statistics of dead and wounded in Bakassi since 1990, amongst other things, clearly indicate the truth of Nigeria's contentions.

Preservation of stability and the status quo

58. Mr. President, distinguished Members of the Court, this case is about stability and the preservation of the status quo, in the Bakassi region, along the land boundary, in the Lake Chad region, and in the maritime areas of the Gulf of Guinea. Even the State responsibility and counter-claim issues are about stability and the preservation of the status quo. To our opponents, the facts do not matter, but in fact they matter very much indeed. They demonstrate that in all the disputed areas the status quo is a Nigerian one, and of long standing.

59. Cameroon's attempts to paint Nigeria as the disturber of the status quo are thus not only disproved by the evidence, they are absurd. Nigeria can only lose from disturbance of the status quo, as would the tens of thousands of established and peaceful Nigerian villagers in the disputed areas. Long-established systems of stability and order would be seriously endangered.

60. The Court will recall that in my opening speech in this oral phase I mentioned some of the many regional organizations and international peacekeeping activities in which Nigeria plays a leading and constructive part. I will not repeat the details, but I would like to point out that various regional organizations, such as the Lake Chad Basin Commission itself and the Gulf of Guinea Commission, were originally promoted by Nigeria. It has been Nigeria's consistent policy for four decades since independence to foster international co-operation in the interests of peace and progress, not merely locally but also regionally and internationally.

61. Before I conclude, Mr. President, I would like to say that although Nigeria has given oral answers to many of the points raised in the questions posed by certain distinguished Members of the Court, Nigeria will amplify its responses in writing by 4 April.

62. Mr. President, I should like in closing to repeat once again the sincere thanks of my Government to you, to the Vice-President and the distinguished Members of the Court, and also to

the distinguished Registrar, the Registry, and all the staff, including the interpreters and translators, for your patience and courtesy throughout this long and complex case.

63. I will now read Nigeria's formal submissions under Article 60, paragraph 2, of the Rules.

The Federal Republic of Nigeria respectfully requests that the Court should

1. as to the Bakassi Peninsula, *adjudge and declare*:

- (a) that sovereignty over the peninsula is vested in the Federal Republic of Nigeria;
- (b) that Nigeria's sovereignty over Bakassi extends up to the boundary with Cameroon described in Chapter 11 of Nigeria's Counter-Memorial;

2. as to Lake Chad, *adjudge and declare*:

- (a) that the proposed delimitation and demarcation under the auspices of the Lake Chad Basin Commission, not having been accepted by Nigeria, is not binding upon it;
- (b) that sovereignty over the areas in Lake Chad defined in paragraph 5.9 of Nigeria's Rejoinder and depicted in figs. 5.2 and 5.3 facing page 242 (and including the Nigerian settlements identified in paragraph 4.1 of Nigeria's Rejoinder) is vested in the Federal Republic of Nigeria;
- (c) that in any event the process which has taken place within the framework of the Lake Chad Basin Commission, and which was intended to lead to an overall delimitation and demarcation of boundaries on Lake Chad, is legally without prejudice to the title to particular areas of the Lake Chad region inhering in Nigeria as a consequence of the historical consolidation of title and the acquiescence of Cameroon;

3. as to the central sectors of the land boundary, *adjudge and declare*:

- (a) that the Court's jurisdiction extends to the definitive specification of the land boundary between Lake Chad and the sea;
- (b) that the mouth of the Ebeji, marking the beginning of the land boundary, is located at the point where the north-east channel of the Ebeji flows into the feature marked "Pond" on the map shown as fig. 7.1 of Nigeria's Rejoinder, which location is at latitude 12° 31' 45" N, longitude 14° 13' 00" E (Adindan Datum);
- (c) that subject to the interpretations proposed in Chapter 7 of Nigeria's Rejoinder, the land boundary between the mouth of the Ebeji and the point on the thalweg of the Akpa Yafe

which is opposite the midpoint of the mouth of Archibong Creek is delimited by the terms of the relevant boundary instruments, namely:

- (i) paragraphs 2 to 61 of the Thomson-Marchand Declaration, confirmed by the Exchange of Letters of 9 January 1931;
 - (ii) the Nigeria (Protectorate and Cameroons) Order in Council of 2 August 1946, (Sect. 6 (1) and the Second Schedule thereto);
 - (iii) paragraphs 13 to 21 of the Anglo-German Demarcation Agreement of 12 April 1913; and
 - (iv) Articles XV to XVII of the Anglo-German Treaty of 11 March 1913; and
- (d) that the interpretations proposed in Chapter 7 of Nigeria's Rejoinder, and the associated action there identified in respect of each of the locations where the delimitation in the relevant boundary instruments is defective or uncertain, are confirmed;

4. as to the maritime boundary, *adjudge and declare*:

- (a) that the Court lacks jurisdiction over Cameroon's maritime claim from the point at which its claim line enters waters claimed against Cameroon by Equatorial Guinea, or alternatively that Cameroon's claim is inadmissible to that extent;
- (b) that Cameroon's claim to a maritime boundary based on the global division of maritime zones in the Gulf of Guinea is inadmissible, and that the Parties are under an obligation, pursuant to Articles 74 and 83 of the United Nations Law of the Sea Convention, to negotiate in good faith with a view to agreeing on an equitable delimitation of their respective maritime zones, such delimitation to take into account, in particular, the need to respect existing rights to explore and exploit the mineral resources of the continental shelf, granted by either Party prior to 29 March 1994 without written protest from the other, and the need to respect the reasonable maritime claims of third States;
- (c) in the alternative, that Cameroon's claim to a maritime boundary based on the global division of maritime zones in the Gulf of Guinea is unfounded in law and is rejected;
- (d) that, to the extent that Cameroon's claim to a maritime boundary may be held admissible in the present proceedings, Cameroon's claim to a maritime boundary to the west and south of the area of overlapping licences, as shown in fig. 10.2 of Nigeria's Rejoinder, is rejected;

- (e) that the respective territorial waters of the two States are divided by a median line boundary within the Rio del Rey;
- (f) that, beyond the Rio del Rey, the respective maritime zones of the Parties are to be delimited by a line drawn in accordance with the principle of equidistance, until the approximate point where that line meets the median line boundary with Equatorial Guinea, i.e., at approximately 4° 6' N, 8° 30' E;

5. as to Cameroon's claims of State responsibility, *adjudge and declare*:

- that, to the extent to which any such claims are still maintained by Cameroon, and are admissible, those claims are unfounded in fact and law; and,

6. as to Nigeria's counter-claims as specified in Part VI of Nigeria's Counter-Memorial and in Chapter 18 of Nigeria's Rejoinder, *adjudge and declare*:

- that Cameroon bears responsibility to Nigeria in respect of each of those claims, the amount of reparation due therefor, if not agreed between the Parties within six months of the date of judgment, to be determined by the Court in a further judgment.

Mr. President, distinguished Members of the Court, I wish to thank you very much for your patience and listening.

Le PRESIDENT : Je vous remercie, Monsieur l'agent. La Cour prend acte des conclusions finales dont vous avez donné lecture au nom de la République fédérale du Nigéria, comme elle l'a fait, plus tôt dans l'après-midi, pour les conclusions finales présentées par l'agent de la République du Cameroun.

Je souhaiterais rappeler que toutes réponses additionnelles données par écrit aux questions de MM. Fleischhauer, Kooijmans et Elaraby devront être fournies à la Cour le 4 avril 2002 au plus tard. Je rappellerai également que, conformément à l'article 72 du Règlement de la Cour, les observations qu'une partie désirerait formuler au sujet des réponses écrites fournies par l'autre partie devront être transmises dans les quinze jours suivant la réception desdites réponses.

Ceci nous amène à la fin de ces cinq semaines d'audiences.

Je tiens à adresser mes remerciements, pour leurs interventions, aux agents, aux conseils et aux avocats des deux Parties et de la République de Guinée équatoriale.

Conformément à la pratique, je prierai les agents de rester à la disposition de la Cour pour tous renseignements complémentaires dont elle pourrait avoir besoin. Sous cette réserve, je déclare close la procédure orale en l'affaire de la *Frontière terrestre et maritime entre le Cameroun et le Nigéria (Cameroun c. Nigéria; Guinée équatoriale (intervenante))*.

La Cour va maintenant se retirer pour délibérer. Les agents des Parties et de l'Etat intervenant seront avisés en temps utile de la date à laquelle la Cour rendra son arrêt.

La Cour n'étant saisie d'aucune autre question aujourd'hui, la séance est levée.

L'audience est levée à 18 heures.
