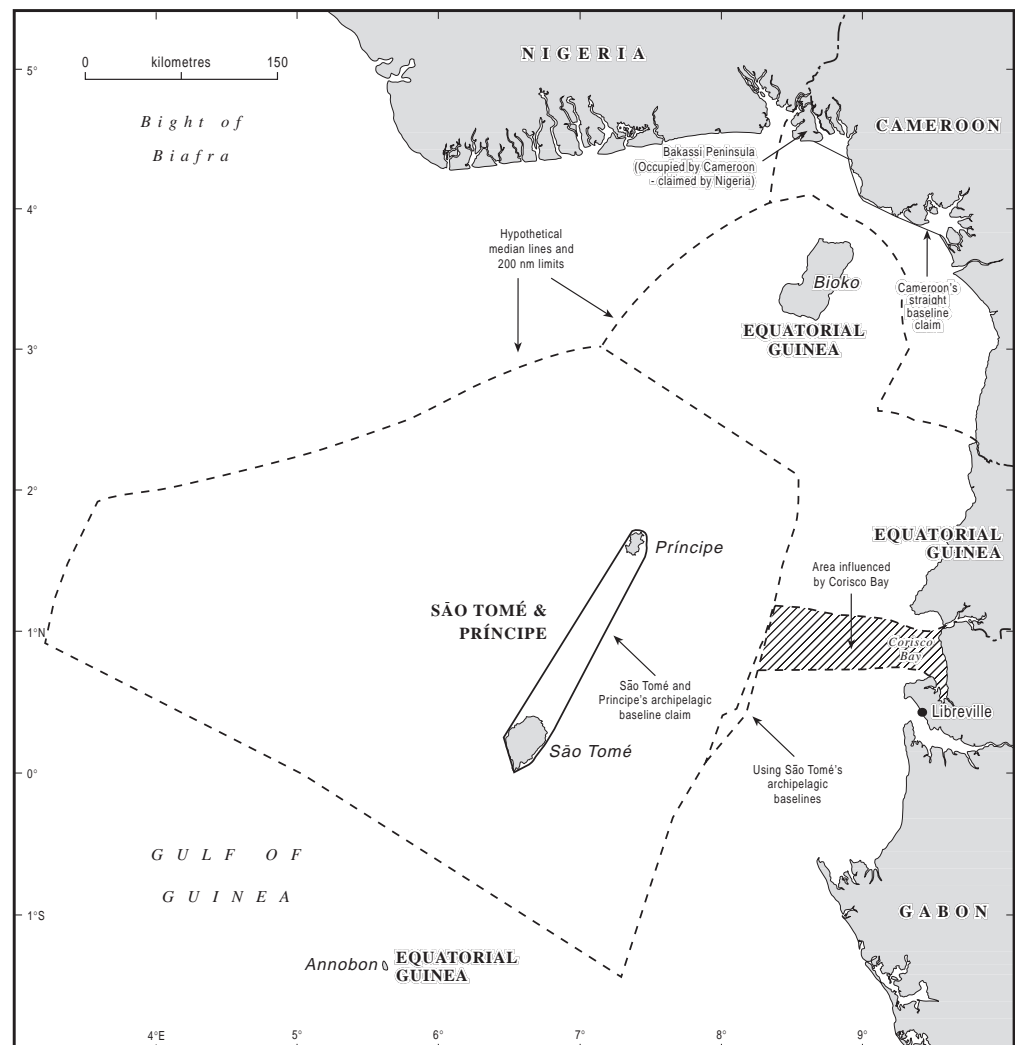


# GULF OF GUINEA BOUNDARY DISPUTES

Daniel J. Dzurek

## INTRODUCTION

Cameroon, Equatorial Guinea, Gabon, Nigeria and Sao Tome and Principe have not delimited their offshore boundaries in the Gulf of Guinea.<sup>1</sup> All these countries have ratified the 1982 United Nations Convention on the Law of the Sea (1982 UN Convention).<sup>2</sup> Equatorial Guinea, Nigeria, and Sao Tome and Principe officially recognise median lines as the limit of their jurisdiction. There is some evidence that Cameroon also takes this position vis-à-vis Equatorial Guinea. However, the locations of the respective national baselines, from which median lines would be constructed, are uncertain. The map depicts hypothetical median lines in the Gulf of Guinea.



Cameroon has asked the International Court of Justice (ICJ) to decide the course of the Cameroon-Nigeria land boundary, the sovereignty of the Bakassi Peninsula, and the course of their maritime boundary. If the Court delimits that maritime boundary, it is likely to affect the maritime boundaries of Equatorial Guinea, which has been negotiating with both Cameroon and Nigeria. Both Sao Tome and Principe and Equatorial Guinea have recently delimited their exclusive economic zones (EEZs). With all this activity, most of the boundaries in the Gulf of Guinea are likely to be resolved within the next few years.

**CAMEROON -  
NIGERIA**

Cameroon claimed straight baselines along parts of its coast on 26 August 1971.<sup>3</sup> It claims a 50nm territorial sea but has not formally claimed an EEZ, although it has asked the ICJ to delimit an extended boundary with Nigeria. Cameroon ratified the 1982 UN Convention on 19 November 1985. Nigeria claims a 12nm territorial sea, a 200nm EEZ, and a continental shelf to the 200 metre isobath or the limit of exploitability. It ratified the 1982 UN Convention on 14 August 1986. On 1 January 1998, Nigeria changed its territorial sea claim from 30 nautical miles to 12nm. In its 1978 EEZ legislation, Nigeria originally specified a median line as the limit of its jurisdiction.<sup>4</sup> However, Nigeria issued a Decree amending its EEZ legislation on 25 December 1998 which served to remove the reference median or equidistance lines.<sup>5</sup> The maritime boundary dispute between Cameroon and Nigeria relates to an earlier maritime boundary agreement and the issue of sovereignty over the Bakassi Peninsula. Both issues figure in the ICJ case.

**THE MAROUA  
AGREEMENT**

In 1975 Nigerian President Gowon and Cameroonian President Ahidjo met in Maroua, Nigeria, and signed an agreement to extend a 1971 boundary that divided estuarine waters and river islands. The Maroua Line is not a median line. The final point lies about 15nm south of the Bakassi Peninsula and 13nm from a possible Cameroon-Equatorial Guinea-Nigeria tripoint.<sup>6</sup>

President Gowon was overthrown shortly after signing the agreement. Subsequent Nigerian governments have claimed that the accord was defective, that President Gowon did not have the authority to sign, and that the agreement has never been ratified. Cameroon maintains that the 1975 Maroua Agreement is in force. The alignment of the 1971 and 1975 boundaries would seem to indicate that the Bakassi Peninsula is Cameroonian territory, the sovereignty of which is disputed by Nigeria.<sup>7</sup>

**EFFECT OF  
BAKASSI  
PENINSULA  
DISPUTE**

The delimitation of maritime boundaries northwest of Bioko Island (Equatorial Guinea) is compounded by the Cameroon-Nigeria dispute over ownership of the Bakassi Peninsula, which lies between the Akwayafe and Del Rey rivers. The peninsula is inhabited by a Nigerian ethnic group. The disputed area was divided between the United Kingdom and Germany by agreements of 11 March and 12 April 1913, which delimited their colonial boundary. Following World War I, the former German colony of Kamerun was divided by the UK and France. On 13 December 1946 the United Nations transformed the British and French Mandates into Trusteeships. Following a plebiscite and UN General Assembly approval, the British Trusteeship of southern Cameroon was joined to the Republic of Cameroon on 1 October 1961.

The territorial dispute erupted into violence in May 1981, and intermittent skirmishes continued until recently. Nigeria apparently claims that in 1884 the chiefs of the area accepted British protection, but did not relinquish sovereignty. It also maintains that the 1913 agreements that delimited the boundary from Yola to the sea were never ratified.<sup>8</sup>

Cameroon brought the Bakassi dispute to the ICJ on 29 March 1994. In its submission, Cameroon requested the Court to decide the sovereignty of the Bakassi Peninsula and to delimit its maritime boundary with Nigeria “*up to the limit of the maritime zones which international law places under their respective jurisdictions.*”<sup>9</sup> Nigeria filed eight preliminary objections to the ICJ’s jurisdiction. Its seventh and eighth objections relate to the maritime dispute. Nigeria maintains,

*That there is no legal dispute concerning delimitation of the maritime boundary between the two Parties which is at the present time appropriate for resolution by the Court and,*

*That the question of maritime delimitation necessarily involves the rights and interests of third States and is inadmissible beyond point G [of the Maroua Declaration]<sup>10</sup>*

On 11 June 1998, the ICJ rejected Nigeria's first seven preliminary objections and held that its eighth objection was not exclusively preliminary in character and would be settled during the proceedings on the merits of the case. The majority opinion held that the Court must deal with the merits of Cameroon's request in order to consider a boundary beyond Point G, but it did not rule out the possibility that third state rights might prevent the Court from rendering a decision on an extended maritime boundary.<sup>11</sup> In separate opinions, Judges Oda and Higgins question whether the extended maritime boundary is a "legal dispute" and whether the ICJ has jurisdiction in the matter.<sup>12</sup> Equatorial Guinea's recent EEZ legislation may be a preliminary move to join the Case and influence the location of the Cameroon-Equatorial Guinea-Nigeria tripoint (see below).

On 29 October 1998, Nigeria filed a request for an interpretation of the ICJ judgement of 11 June 1998. The Court is treating the request for an interpretation separately from the Boundary Case brought by Cameroon. On 5 March 1999, the ICJ granted Nigeria an extension for filing its counter-memorial in the Boundary Case. The counter-memorial is due by 31 May 1999.<sup>13</sup> It seems clear that the Boundary Case will proceed. It is less apparent that the ICJ will delimit a maritime boundary between Cameroon and Nigeria beyond the area of the Maroua Declaration.

## EQUATORIAL GUINEA

Equatorial Guinea's jurisdiction in the northeast Gulf of Guinea radiates from Bioko Island and from the Equatoguinean mainland. The jurisdictional effect of islands has been a source of dispute in West Africa, though such questions usually arise over islands smaller than Bioko.<sup>14</sup> However, Nigeria has proposed that Bioko should be accorded only partial effect in delimiting their maritime boundary. Equatorial Guinea has potential maritime boundaries with Cameroon, Gabon (2), Nigeria, and Sao Tome and Principe (2), but none have been delimited.

Equatorial Guinea claimed a 12nm territorial sea and 200nm EEZ in Act No. 15/1984. Article 11 of this act explicitly provides for median line EEZ boundaries.<sup>15</sup> It ratified the 1982 Convention on 21 July 1997. Equatorial Guinea delimited its territorial sea and EEZ as a median line, the coordinates of which are specified in Decree-Law 1/1999 (6 March 1999).<sup>16</sup> In general, these limits are equidistant from the opposing shoreline and straight or archipelagic baselines.<sup>17</sup> However, the Equatoguinean EEZ claim extends south of the hypothetical median line shown on the map. Equatorial Guinea discounts part of Gabon's coastline at the southern entrance to Corisco Bay (Cape Esteiros) and uses islands in the bay disputed by Gabon.<sup>18</sup> Article 4 of the Decree-Law 1/1999 also includes a without prejudice clause such that its median line claims "*are not intended to be detrimental to any other future decision which may be taken by the Government with each of its neighbouring countries' governments.*"

## CORISCO BAY ISLANDS DISPUTE

Equatorial Guinea and Gabon dispute sovereignty of several small islets in Corisco Bay: Islote Mbane, Ile des Cocotiers and, possibly, Isla de Corisco. The dispute surfaced in 1972 when Gabon extended its territorial sea, and relates to interpretation of Article 7 of the Franco-Spanish Convention of 27 June 1900. The disagreement has been relatively quiescent, but there are occasional incidents, such as in October 1995, when Equatoguinean authorities seized Gabonese fishing boats near Corisco Island. Equatorial Guinea and Gabon are reportedly negotiating their maritime boundaries – and, by implication, the status of the islands – with the assistance of the Multilateral Investment Guarantee Agency (World Bank). However, the state of these negotiations is unclear.<sup>19</sup>

In its 1999 EEZ law, Equatorial Guinea claimed more than two-thirds of Corisco Bay. Gabon's response to that law has not been publicised. Until the sovereignty of the islands is settled, Equatorial Guinea and Gabon are unlikely to delimit their lateral territorial sea/EEZ boundary into the Gulf of Guinea. The dispute could also hamper settlement of their boundary opposite Isla de Annobon, south of Sao Tome Island.

**GABON**

Gabon claimed a 12nm territorial sea and EEZ out to a maximum of 200nm (370km), under Act No. 9 of 1984. According to Article 11 of that law, overlapping claims are to be resolved according to generally recognised principles of international law – equidistance is not mentioned.<sup>20</sup> Gabon ratified the 1982 Convention on 11 March 1998. Eventually Gabon must settle five maritime boundaries. It needs to delimit lateral territorial sea/exclusive economic zone (EEZ) boundaries with the adjacent states of Equatorial Guinea and Congo. Gabon's lateral boundary with Equatorial Guinea is complicated by an island dispute in Corisco Bay. Sao Tome and Principe's islands and Equatorial Guinea's Annobon Island (Isla Pagalu) lie less than 200nm from Gabon's mainland, producing overlapping EEZs. Eventually these overlaps must be divided by opposite maritime boundaries. Due to the curvature of the West African coast, part of a potential EEZ claim from Angola (Cabinda) reaches beyond Congo's likely zone and overlaps the Gabonese EEZ. Therefore, Gabon and Angola may have to delimit a short EEZ boundary.

**SAO TOME AND PRINCIPE**

In 1978, Sao Tome and Principe claimed a 12nm territorial sea and EEZ out to 200nm. It claimed archipelagic baselines under the same law, but amended the coordinates of its baselines in Decree Law 48/82. On 3 November 1987, it ratified the 1982 Convention. Sao Tome made a declaration upon signature, which does not appear to affect boundary delimitation.<sup>21</sup> The US Department of State has analysed the archipelagic baseline claim and concluded that it accords with provisions of the 1982 UN Convention.<sup>22</sup> Sao Tome and Principe has potential maritime boundaries with Equatorial Guinea (2), Gabon, and Nigeria, but none have been delimited.

In 1998, Sao Tome and Principe revoked its earlier maritime legislation, reiterated its archipelagic baseline claim, and delimited the outer limits of its EEZ in Law No. 1/98. Article 4 of that law provides that,

*In case of specific provisions set up in international treaties signed together with other States whose coasts are adjacent to the ones in the Democratic Republic of Sao Tome and Principe, the outer limit of the exclusive economic zone in the Democratic Republic of Sao Tome and Principe shall not be extended beyond the median line every point of which is equidistant to the other one.*<sup>23</sup>

The language in the article is a bit confusing. Because Sao Tome and Principe is an archipelagic country, the reference to adjacent states, presumably refers to opposite states. The reference to international treaties signed with other states would seem to apply to bilateral agreements as well as the 1982 UN Convention on the Law of the Sea. Since all of the Gulf of Guinea countries that neighbour Sao Tome and Principe have ratified the 1982 UN Convention, the median line provision would appear to bind Sao Tome and Principe with regard to all its neighbours. In delimiting its EEZ limit, Sao Tome and Principe explicitly designated the coordinates of its equidistance line with Equatorial Guinea, Gabon, and Nigeria. It is unusual to specify which sections of an EEZ are presumed to be bilateral boundaries.

Although Equatorial Guinea and Sao Tome and Principe both recently delimited their EEZ limits using median lines, these claims do not coincide where one would expect. Only point 82 of Equatorial Guinea's claim matches one turning point (Point 22) of Sao Tome and Principe. Both the number of turning points and the location of the turning points differ along the presumably shared median line. The lack of coincidence demonstrates some of the technical difficulties in delimiting maritime limits and boundaries.

**EFFECTS OF BASELINES ON MEDIAN LINES**

The normal baseline, from which maritime claims are measured and median lines are constructed, is the low-water line along the coast and islands. However, where the coast is deeply indented, fringed by islands, or unstable a country may claim straight baselines linking salient points.<sup>24</sup>

Much of the Nigerian coast is poorly mapped, swampy, unstable, and fronted by sand bars that extend miles into the Gulf of Guinea. Nigeria would be entitled to delimit straight baselines in some of these areas, but it does not appear to do so. The precise location of the Nigerian low-water line is presumably uncertain and dependent on what definition the country uses for “*low-water line*.”<sup>25</sup> Equatorial Guinea presumably uses the normal (low-water) baseline, though its precise definition of “*low-water*” also is unknown. Cameroon claimed straight baselines along parts of its coast in 1971. However, its claim did not list geographic coordinates, referring instead to physical features, the location of which may be inexact.<sup>26</sup> Uncertainty in the location of the respective coastlines and ambiguity about national baseline definitions add to the difficulties of delimiting boundaries in the Gulf of Guinea.

## STATUS OF NEGOTIATIONS

Equatorial Guinea is negotiating maritime boundaries with both Cameroon, Nigeria, and Sao Tome and Principe. The Multilateral Investment Guarantee Agency of the World Bank had mediated some of the talks.<sup>27</sup> Cameroon and Equatorial Guinea signed a Communiqué on 3 August 1993 in which they agreed to use a particular nautical chart and a median line, equidistant from the nearest points of both countries, to construct a boundary. A treaty is reportedly in draft, but there has been little subsequent movement. The Presidents of Cameroon and Equatorial Guinea discussed their potential maritime boundary in April 1998.<sup>28</sup> The results of those discussions have not been reported, but Equatorial Guinea’s unilateral EEZ delimitation in 1999 suggests lack of progress.

During August 1995, Equatorial Guinea and Nigeria agreed to settle their maritime boundary in accordance with the 1982 Convention, to exchange working charts, and to begin negotiations. A series of negotiating sessions has been held. The parties adopted a common chart and discussed national baselines and delimitation principles.<sup>29</sup> Nigeria had advocated a median line that gave only partial effect to Bioko Island.<sup>30</sup> However, President Obiang Nguema proposed that the boundary follows old offshore block limits during his visit to Nigeria on 12 November 1996. In 1998, a joint committee apparently “*identified the median line and its corresponding coordinates as a basis for appropriate adjustment and eventual delimitation of an agreed maritime boundary.*”<sup>31</sup> During Nigerian President Abubakar’s visit to Equatorial Guinea in April 1999, the countries agreed to resume discussions on their maritime boundary. Officials met in Bata, Equatorial Guinea to resolve the boundary from 5 to 10 May 1999. Nigeria apparently favours unitisation of the Zafiro deposit.<sup>32</sup> The results of these talks have not been publicised.

During October 1998, the Presidents of Equatorial Guinea and of Sao Tome and Principe reportedly failed to agree on dividing their overlapping EEZ claims. The president of STPETRO, a Sao Tomean oil company, attributed the failure to Equatorial Guinea, because it wanted to adjust a median line “*to take the historical context into account.*”<sup>33</sup> Negotiations are supposed to continue.

## CONCLUSION

If the ICJ delimits a maritime boundary between Cameroon and Nigeria, it need not be a median line. If it diverges much from equidistance, the tripoint will move and Equatorial Guinea’s boundaries with the two countries will be affected. It is difficult to see how purported agreements between Equatorial Guinea and Cameroon and between Equatorial Guinea and Nigeria could have been drafted to accommodate the eventual ICJ decision, unless legs connecting to the tripoint are left for later determination. The 1999 EEZ delimitation by Equatorial Guinea may be an effort to prepare to intervene in the ICJ Boundary Case, as well as to pressure negotiating partners to settle its other boundaries. The eventual boundaries in the Gulf of Guinea will be influenced by where national baselines are located, how the parties apply the equidistance method, and whether the offshore islands have the same jurisdictional effect as the much longer Nigerian and Cameroonian mainlands.

Recent increases in the price of oil may accelerate bilateral negotiations in the Gulf of Guinea. Alternatively, price rises could foster greed and retard negotiations.

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Offshore oil has had both effects on maritime delimitation. The countries on the Gulf of Guinea will be lucky if it has the former effect.

- 1 Cameroon and Nigeria dispute the legal status of the 1975 Maroua Declaration in delimiting their nearshore boundary.
- 2 United Nations, Division for Ocean Affairs and the Law of the Sea (1998) *Law of the Sea Bulletin*, No. 37, New York: 6.
- 3 Decree No. 71/DF/416, reproduced in United Nations, Office for Ocean Affairs and the Law of the Sea (1989) *The Law of the Sea: Baselines: National Legislation with Illustrative Maps*, New York: 67-68.
- 4 ICJ, Case concerning the Land and Maritime Boundary between Cameroon and Nigeria, Verbatim Record CR 98/2, 3 March 1998, Presentation by James Crawford, para. 15; Nigeria, Exclusive Economic Zone Decree No. 28 of 5 October 1978, Art. 1, para. 2 [reprinted in United Nations, 1989: 224].
- 5 The Exclusive Economic Zone (Amendment) Decree replaced Section 1(2) of the 1978 EEZ Act:
- Notwithstanding subsection (1) of this section but subject to the provisions of any treaty or other written agreement between Nigeria and any neighbouring littoral State, the delimitation of the Exclusive Zone between Nigeria and any such State shall be the median or equidistance line.*
- with the following:
- The provisions of subsection (1) of this section shall not be applicable to the extent that under the provisions of any treaty or other written agreement between Nigeria and any neighbouring territorial State, the Exclusive Zone is agreed to be less than the distance specified in subsection (1) of this section.*
- 6 The Maroua Line consists of eight segments, from the end of the earlier agreed point 12 (4°31'26"N, 8°24'38"E) to point G (4°17'00"N, 8°22'19"E). Point B in the original Declaration text was corrected in a 17 July 1975 exchange of letters. See, Charney J. I. and Alexander, L. M. (1993) (eds) *International Maritime Boundaries*, American Society of International Law: 841-48.
- 7 The Maroua Agreement is analysed in Charney and Alexander (1993: 841-48); Sholanke, O.O. (1993) 'Delimiting the Territorial Sea Between Nigeria and Cameroon: A Rational Approach', *International and Comparative Law Quarterly*, 42: 398-411; and Young, D.J. (1984) 'Energy Development and Maritime Boundary disputes: Two West African Examples', *Texas International Law Journal*, 19: 435-61.
- 8 Brownlie, I. (1979) *African Boundaries*, London, Hurst: 553-87; Allcock, J.B. *et al.* (1992) (eds) *Border and Territorial Disputes*, 3rd ed., Harlow, Essex, Longman Group: 227-29; Radio Nigeria (Lagos) broadcast, 23 October 1994, translated in BBC SWB AL/2136.
- 9 ICJ Communiqué No. 94/12 of 30 March 1994.
- 10 ICJ, Judgement of 11 June 1998 - Preliminary Objections, General List No. 94, para. 7.1 and 8.1 (<http://www.icj-cij.org/icjwww/idocket/icn/icnjudgment/>).
- 11 ICJ, Press Communiqué 98/23, 11 June 1998; ICJ, Judgement of 11 June 1998, para. 117.
- 12 ICJ, Separate Opinion of Judge Oda and Separate Opinion of Judge Higgins (11 June 1998), available at the ICJ web site (see above).
- 13 ICJ, Press Communiqué 98/34, 29 October 1998; ICJ, Press Communiqué 99/11, 5 March 1999.
- 14 Rembe, N.S. (1980) *Africa and the International Law of the Sea*, Alphen aan den Rijn: Sijthoff & Noordhoff: 96.
- 15 Equatorial Guinea, Act No. 15/1984 of 12 November 1984 on the Territorial Sea and Exclusive Economic Zone, Article 11, para. 1 [reprinted in United Nations (1986) *The Law of the Sea: National Legislation on the Exclusive Economic Zone, the Economic Zone and the Exclusive Fishery Zone*, New York: 84].
- 16 The text of Equatorial Guinea Decree-Law 1/1999 were disseminated by Charles Gurdon in a message to members of the Int-boundaries e-mail list on 27 April 1999. The text of his message may be found through key-word search at <http://www.mailbase.ac.uk/lists-f-j/int-boundaries/>.
- 17 Equatorial Guinea EEZ point 46 appears to be equidistant from Cameroon's straight baseline linking Bakassi and Hanley Points, as measured on US Defense Mapping Agency (1996) *Bonny River to Kribi*, nautical chart 57160, 10th ed., scale 1:300,000. EEZ point 93 was influenced by Sao Tome and Principe's archipelagic baseline.
- 18 Based on measurements from US Defense Mapping Agency (1996) *Cape Three Points to Cap Lopez*, nautical chart 57006, 5th ed., scale 1:1,095,000.
- 19 Rembe, 1980: 96; Brownlie, 1979: 673; *Reuters* (Libreville) 28 and 29 October 1995; Umoren, R. (1995) 'World Bank Arm Navigating in Gulf of Guinea Dispute', *Inter Press Service International News*, 20 September.
- 20 Gabon, Act No. 9/84 Establishing an Exclusive Economic Zone of 200 Nautical Miles, in United Nations, Office for Ocean Affairs and the Law of the Sea (1987) *Law of the Sea Bulletin*, No. 9 (April): 3-5.
- 21 United Nations, Division for Ocean Affairs and the Law of the Sea (1994) *Law of the Sea Bulletin*, No. 25 (June): 34.

- 22 US Department of State, Office of the Geographer (1983) *Archipelagic Straight Baselines: Sao*  
*Tome and Principe*, Limits in the Seas, No. 98, Washington, DC.
- 23 United Nations, Division for Ocean Affairs and the Law of the Sea (1998) *Law of the Sea*  
*Bulletin*, No. 37, New York: 76.
- 24 United Nations Convention on the Law of the Sea (hereafter 1982 UN Convention), Articles 5  
and 7.
- 25 Some common standards are Mean Low-water Neaps, Low-water Neaps, High-water Neaps,  
High-water Springs, Mean Low-water Springs, Indian Spring Low-water, and Lowest  
Astronomic Tide.
- 26 Cameroon, Decree No. 71/DF/416 of 26 August 1971, translated in United Nations, 1989: 67-  
68.
- 27 Umoren, R. (1995) 'World Bank Arm Navigating in Gulf of Guinea Dispute', Inter Press  
Service (IPS) International News, 19 September 1995.
- 28 Joint Communique, 3 August 1993; Agence France Presse, 17 April 1998, in FBIS-AFR-98-  
107.
- 29 BBC, Summary of World Broadcasts, 3 May 1994 (SWB AL/1990 A/9 32), 18 May 1994  
(SWB AL/2003 A/11 33), 21 December 1995, 18 August 1995 (SWB AL/2387), 4 September  
1996; US Foreign Broadcast Information Service, 1 May 1997 (FBIS-AFR-97-121), 27 March  
1998 (FBIS-AFR-98-089), 2 June 1998 (FBIS-AFR-98-154), 4 June 1998 (FBIS-AFR-98-155).
- 30 In giving an island half-effect, for example, an interim median line is constructed equidistant  
between the island and the mainland. A boundary is then constructed equidistant from the island  
and the interim line. Thus the final boundary is closer to the island than the mainland.
- 31 NTA Television Network (Lagos), 27 March 1998, transcribed in FBIS-AFR-98-089.
- 32 Xinhua (Lagos) 3 May 1999.
- 33 RTP Internacional Television (Lisbon), 19 October 1998, in FBIS-AFR-98-293.