

INTERNATIONAL COURT OF JUSTICE

**CASE CONCERNING
THE LAND AND MARITIME BOUNDARY
BETWEEN CAMEROON AND NIGERIA**

(CAMEROON v. NIGERIA)

(EQUATORIAL GUINEA INTERVENING)

OBSERVATIONS

OF

THE FEDERAL REPUBLIC OF NIGERIA

ON

THE WRITTEN STATEMENT OF
THE REPUBLIC OF EQUATORIAL GUINEA

JULY 2001

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A. **Introduction**

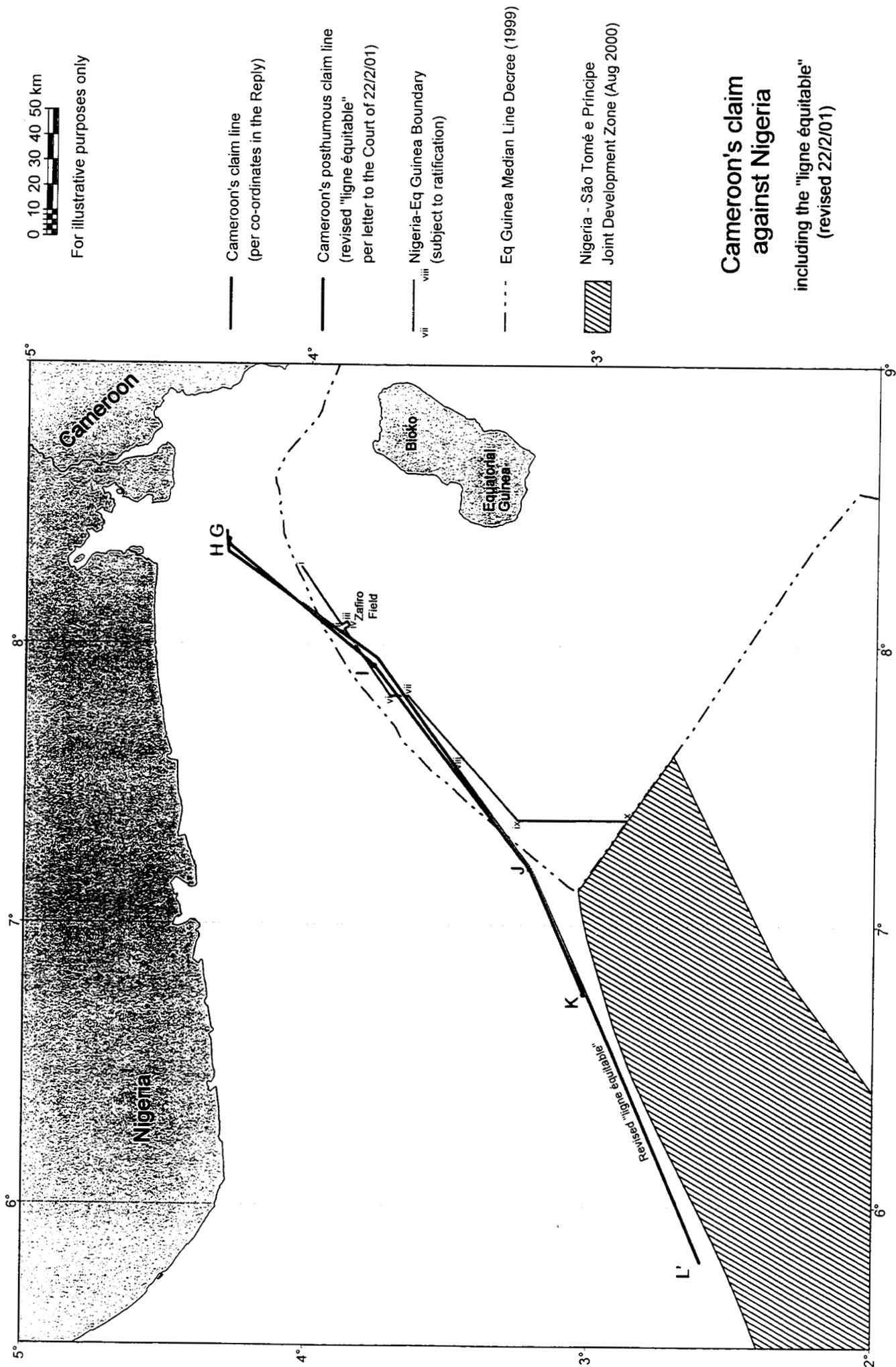
1. In accordance with the Court's order of 21 October 1999, Nigeria submits the following *Observations* on the *Written Statement* of the intervenor, Equatorial Guinea, dated 4 April 2001.
2. Nigeria recalls and reaffirms its maritime claim as specified in its earlier pleadings. It notes in particular that its claim (as portrayed in Fig. 13.9 of Nigeria's *Rejoinder*) does not trespass on areas claimed by Equatorial Guinea. The remarks that follow are without prejudice to Nigeria's submissions as set out in its *Rejoinder*, and the evidence and argument adduced by Nigeria in support thereof.
3. Nigeria also notes that by a letter to the Registrar dated 22 February 2001, Cameroon admitted the earlier errors in its depiction of its "claim line", errors which had been pointed out in Nigeria's *Rejoinder*.¹ At the same time Cameroon produced yet another depiction of its maritime claim. This new line, which departs in significant respects from that shown in Cameroon's earlier pleadings, was produced after the closure of the written pleadings as between the parties on the maritime boundaries. It does not correct mere clerical or arithmetical errors but involves a further change in position. In that respect it can properly be described as "posthumous".
4. Cameroon's posthumous line is shown in black on Fig. NO 1. Also shown are: (a) the Cameroon claim line as described by co-ordinates in its *Reply* (continuous red line); (b) the Equatorial Guinea median line (broken purple line), (c) the line delimited by the Nigeria-Equatorial Guinea Treaty of 23 September 2000 (not yet ratified) (continuous green line), and (d) the Joint Development Zone covered by the Agreement of 21 February 2001 between Nigeria and São Tomé e Príncipe² (red striped area). Nigeria is depositing copies of the latter Agreement with the Registrar, for the information of the Court.

¹ See NR, paras. 9.3-9.10.

² Federal Republic of Nigeria-Democratic Republic of São Tomé e Príncipe, Treaty on the Joint Development of Petroleum and other Resources in respect of Areas of the Exclusive Economic Zone of the Two States, Abuja, 21 February 2001. The Agreement has not yet been ratified, pending agreement between the parties on the modalities of implementation.

5. The following *Observations* may be made as to Cameroon's posthumous line, in particular as it relates to the position of Equatorial Guinea as set out in its *Written Statement*:
- (1) Cameroon's newly-depicted line still does not precisely align with the co-ordinates given in Cameroon's *Reply* for Points G to K, although the differences relating to Points H and I may be due to an inaccurate or imprecise illustration of those co-ordinates.
 - (2) In whichever version that may be used, the line enters waters claimed by Equatorial Guinea at a point (around 3° 57' N, 8° 05' E) which is closer to both Equatorial Guinea and Nigeria than it is to any land area claimed by Cameroon.
 - (3) The posthumous version of the Cameroon claim line then extends out to a new point (which can be called Point L') and presumably beyond (though no further limit is expressed). The co-ordinates of Point L' are not given, but in Cameroon's new depiction, its claim line is shown to extend about 115km beyond point K, the last point Cameroon had defined by co-ordinates in its *Reply*. Even as compared with the (now withdrawn) original depiction in its *Reply* (map R21), the extension of the line beyond Point K in Cameroon's new depiction is 20km longer (as well as being located about 40km closer to Nigeria's coast). In short, Point L' as now depicted by Cameroon entails a substantial additional maritime claim. Again the width of the claim, and therefore its extent, are left wholly unspecified.
 - (4) Point L' is much closer to three other States than it is to any part of Cameroon.³
 - (5) By implication Cameroon claims broad swathes of maritime areas claimed by the other three States, and vis-à-vis Nigeria it claims those areas exclusively. In other words, so it is said, Nigeria has no maritime relations with Equatorial Guinea, or indeed with any State in the Gulf of Guinea other than Cameroon. A claim less consistent with the practice of all the States concerned, or with their legitimate expectations, it would be hard to imagine.

³ The distances from Point L' are approximately as follows:
To Akasso (Nigeria), 101 nm;
To Principe, 109 nm;
To Bioko (SW coast), 163 nm;
To Bakassi (West Point), 198 nm;
To Debundscha (Cameroon), 210 nm.



B. Issues covered by Equatorial Guinea's *Written Statement*

6. Against this background, Nigeria turns to consider Equatorial Guinea's *Written Statement*. As to the factual issues referred to in the *Written Statement*, Nigeria has very little to add. It notes only that:

- (1) Equatorial Guinea's account of Cameroon's claim line (the "ligne équitale") is entirely consistent with that of Nigeria in the Written Pleadings. That is to say, the "ligne équitale" was constructed for the purposes of the written pleadings, marked a major change in Cameroon's position vis-à-vis both Nigeria and Equatorial Guinea, and has never been the subject of prior negotiation with either of them.⁴
- (2) The three States have always proceeded on the basis that there is a tripoint between them, to the north of Bioko.⁵
- (3) Cameroon has never protested the open and public oil practice of Equatorial Guinea on its side of the equidistance line, any more than it has protested the (much longer and more extensive) Nigerian oil practice as already identified in detail in Nigeria's pleadings.⁶
- (4) Equatorial Guinea observes that Nigeria in its *Rejoinder* did not depict "the Equatorial Guinea concessions that were open for lease" in the 1970s and 1980s.⁷ It is of course for Equatorial Guinea to provide this information to the Court. Nigeria would only note that, while the declaration of maritime areas as open for lease or licence is an important step, it is even more significant where areas have already been openly licensed and substantial investments made. As to the areas around the tripoint affected by Cameroon's claim, this is the case so far as all three States are concerned.⁸ Map 3, attached to Equatorial Guinea's *Written Statement*, is a further graphic representation of this long-standing reality.

⁴ See EGWS, paras. 9-10, 28-33. See also, e.g., NPO, para. 7.6 *et seq.* (especially 7.15); NC-M, paras. 20.4, 20.10, 23.18 (iii) & (iv); NR, paras. 10.11 *et seq.* (especially 10.14, 10.17), 10.24 *et seq.*, 11.21 *et seq.*, 12.3, 12.4, 13.19. Equatorial Guinea observes that it first became aware of Cameroon's claim in December 1998: EGWS, para. 28.

⁵ See EGWS, paras. 28-34.

⁶ See in particular NR paras. 10.16-10.22 and the Appendix to NR Chapter 10

⁷ EGWS, para. 22, n. 15.

⁸ See EGWS, Map 2 opposite p. 10, and Equatorial Guinea's note thereto.

7. In its *Written Statement*, Equatorial Guinea makes reference to the Treaty of 23 September 2000 between Nigeria and Equatorial Guinea. Nigeria has already provided the Court with the text of that Treaty and relevant information. In fact the Treaty is not yet in force, although it is being provisionally applied. In accordance with its terms, it will not be finally brought into force until the successful conclusion of a unitisation agreement relating to the Ekanga area, as identified in Nigeria's *Rejoinder*.⁹ Unless and until this happens, each party naturally maintains its pre-existing claims as between themselves. Subject to this obvious point, Nigeria has nothing to add to the presentation on this matter made by Equatorial Guinea.¹⁰ On any question that may emerge in the course of the proceedings as to the meaning or implications of the Treaty and its possible entry into force, Nigeria reserves its position.
8. As to the legal issues addressed in the *Written Statement*, Nigeria is in broad agreement with Equatorial Guinea, and indeed has already made many of the same points in previous written pleadings dealing with the maritime boundary. In particular, Nigeria would stress that:
- (1) Equatorial Guinea is not, and could not be, a party to the present proceedings.
 - (2) Nonetheless Equatorial Guinea's interests are directly affected by Cameroon's so-called "ligne équitale". In particular, the Cameroon claim line implies a claim to a swathe of maritime territory to the south-east of that line, most of which is attributable to Equatorial Guinea.¹¹
 - (3) In these respects, Equatorial Guinea's legal interests are directly in issue as to areas claimed by it vis-à-vis Cameroon.
 - (4) In conformity with its established jurisprudence, the Court should refrain from attributing to Cameroon any maritime areas which are closer to Equatorial Guinea than they are to Cameroon, i.e. which are on the Equatorial Guinea side of a median

⁹ See NR, para. 10.34 & Figure 10.6.

¹⁰ See EGWS, paras. 35-37.

¹¹ See EGWS, Map 1 opposite p. 6.

line drawn between their respective coastlines. It is only to the north of the tripoint between the three States (a tripoint, moreover, substantially endorsed by them in their respective practice, even if its precise location may remain to be identified) that the Court can avoid infringing on the claims and entitlements of a third State.

- (5) In this respect, Nigeria would respectfully observe that the Court is not in a position to assess the reasonableness or justification for Equatorial Guinea's claim against Cameroon in the present case (or *vice versa*).

C. Conclusion

9. As to the conclusion arrived at by Equatorial Guinea, Nigeria accordingly agrees that the Court should refrain from attributing to Cameroon in the present proceedings "any area that is more proximate to Equatorial Guinea than to the Parties to the case before the Court".¹² Although of great importance both to the Parties to the present proceedings and to third parties,¹³ the Court's role in the present case, in applying the equitable principles referred to in the 1982 Convention, is a restricted one. It concerns areas lying to the north and east of the tripoint with Equatorial Guinea. A decision limited to this area would be both substantively consistent with the practice of all three parties and with the equitable considerations applicable as between them, and would not prejudice the rights of Equatorial Guinea specified in its *Written Statement*.

4 July 2001

Chief Bola Ige, S.A.N.
Honourable Attorney-General of the Federation
and Minister of Justice,
Agent of the Federal Republic of Nigeria

¹² EGWS, para. 60.

¹³ In this respect, Nigeria would note again that Equatorial Guinea is not the only State which would be directly affected by the Court acceding to Cameroon's claims. Furthermore, it is respectfully submitted that Equatorial Guinea, having intervened and presented information and submissions before the Court, should not be prejudiced thereby, as compared with São Tomé e Príncipe which has elected not to do so. The implication of Cameroon's argument is that a State intervening under Article 62 may be *prejudiced* thereby. Any such implication would, in Nigeria's respectful submission, undermine the value of intervention as provided for in Article 62.