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International Court
of Justice

THE HAGUE

ANNÉE 2002

Audience publique

tenue le vendredi 8 mars 2002, à 10 heures, au Palais de la Paix,

sous la présidence de M. Shi, vice-président, faisant fonction de président,

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

COMPTE RENDU

YEAR 2002

Public sitting

held on Friday 8 March 2002, at 10 a.m., at the Peace Palace,

Vice-President Shi, Acting President, presiding,

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

VERBATIM RECORD

Présents : M. Shi, vice-président, faisant fonction de président en l'affaire
MM. 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:	Vice-President	Shi, Acting President
	Judges	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,

M. Christian Tomuschat, professeur à l'Université Humbold 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,

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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,

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,

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as Counsel and Advocates;

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

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[e] 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,

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

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

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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 Betah 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,

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comme assistants de recherche;

M. Boukar Oumara,

M. Guy Roger Eba'a,

M. Aristide Esso,

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 Betah Sona, Geological Engineer, Consulting Expert to the United Nations for the Law of the Sea,

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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,

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

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Mr. Boukar Oumara,

Mr. Guy Roger Eba'a,

Mr. Aristide Esso,

Mr. Nkende Forbinake,

Mr. Nfan Bile,

M. Eithel Mbocka,

M. Olinga Nyozo'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 Nyozo'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,

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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,

comme conseils;

S. Exc. l'honorable Dubem Onyia, ministre d'Etat, ministre des affaires étrangères,

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. Alhaji Dahiru Bobbo, directeur général, commission nationale des frontières,

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. 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. K. A. Adabale, directeur pour le droit international et le droit comparé, ministère de la justice,

M. A. B. Maitama, colonel, ministère de la défense,

M. Jalal Arabi, membre de l'équipe juridique du Nigéria,

M. Gbola Akinola, membre de l'équipe juridique du Nigéra,

M. K. M. Tumsah, assistant spécial du directeur général de la commission nationale des frontières et secrétaire de l'équipe juridique,

M. Aliyiu 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,

as Counsel;

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

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

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

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

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

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

Colonel A. B. Maitama, Ministry of Defence,

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,

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

as Advisers;

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Mr. Dick Gent, United Kingdom Hydrographic Office,

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

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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.

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

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

comme agent et conseil;

S. Exc. M. Rubén Maye Nsue Mangue, 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,

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

M. Antonio Nzambi Nlonga, *Attorney-General*,

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,

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.

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

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

as Agent and Counsel;

H.E. Mr. Rubén Maye Nsue Mangue, 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,

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

Mr. Antonio Nzambi Nlonga, Attorney-General,

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,

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.

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.

The VICE-PRESIDENT, Acting President: Please be seated. I now give the floor to Professor Georges Abi-Saab.

M. ABI-SAAB : Thank you, Mr. Vice-President and good morning.

LA RESPONSABILITÉ INTERNATIONALE

1. Monsieur le vice-président, Madame et Messieurs de la Cour, ce matin en ouverture de la partie de nos plaidoiries sur la responsabilité internationale, je me propose de faire quelques remarques préliminaires à ce sujet et notamment en ce qui concerne la preuve de cette responsabilité.

2. Monsieur le vice-président, on nous a livré chapitre après chapitre, à la manière des manuels de droit international, des exposés de caractère général sur les règles primaires supposées être violées par le Nigéria : l'interdiction du recours à la force, le principe de la non-intervention, le respect de l'intégrité territoriale, et même sur le principe de l'*uti possidetis*; ainsi que sur les règles secondaires de la responsabilité internationale, et ses éléments : le fait générateur qu'est la violation et l'attribution de cette violation à l'Etat en question. Comme s'il y avait controverse sur ces propositions générales; comme s'il était déjà établi que le Nigéria, par ses actions et agissements, a en fait violé toutes ces règles et injonctions.

3. Par cette démarche, le Cameroun esquive, à ses propres risques et périls, les difficultés réelles qui entravent sa démonstration et qui se rapportent toutes à son devoir d'administrer la preuve des faits qu'il allègue et de la véracité des présomptions qu'il fait.

4. Permettez-moi, Monsieur le vice-président, de faire quelques remarques sur ces aspects-là, et je m'excuse d'avance du caractère par trop élémentaire de mes propos, que je n'aurais jamais osé tenir dans cet auguste prétoire s'ils n'étaient pas si ignorés de manière si flagrante par l'autre Partie.

La charge de la preuve

5. Ma première remarque porte sur la charge de la preuve, le fameux *onus probandi*. C'est une règle élémentaire que cette charge incombe au demandeur, c'est-à-dire que la partie qui avance une prétention assume la charge de la prouver.

6. Le Cameroun invoque dans son mémoire une longue liste d'incidents supposés engager la responsabilité internationale du Nigéria envers lui. Mais dans sa réplique (p. 493, par. 11.25), le Cameroun nous déclare que :

> «Ce sont moins les incidents en eux-mêmes et pris isolément qui importent que l'ensemble qui constitue et qui établit, *au-delà de tout doute* [je souligne] que le Nigéria doit être tenu pour responsable de violations graves, fréquentes et généralisées des règles et des principes fondamentaux énoncés ci-dessus (voir *supra*, par. 11.15) et des violations répétées et délibérées de la frontière entre les deux pays.»

7. C'est donc l'ensemble, et pas les incidents individuels, qui prouve «au-delà de tout doute», la responsabilité du Nigéria. Mais, Monsieur le vice-président, un ensemble, que ce soit dans l'acception mathématique ou celle courante du terme, est composé d'éléments. Si les éléments n'existent pas, ce qui veut dire, dans notre contexte, s'ils ne sont pas juridiquement prouvés un par un, comment peut-on prouver, ou même simplement en déduire, l'existence de l'ensemble, *leur* ensemble ?

8. A moins qu'on accepte comme nouveau standard de preuve, la preuve par insinuation, du genre «il n'y a pas de fumée sans feu». Ce serait une innovation juridique révolutionnaire, mais je n'ai pas besoin de la commenter.

9. Il est vrai que la Cour a rejeté, dans la phase des exceptions préliminaires de la présente affaire, la sixième exception préliminaire du Nigéria visant à lui faire déclarer inadmissibles les demandes en responsabilité du Cameroun, en raison de leur manque de précision quant aux faits. La Cour a considéré que l'article 38, paragraphe 2, du Règlement, ne requiert qu'un «exposé succinct des faits et moyens sur lesquels cette demande repose» (*C.I.J. Recueil 1998*, par. 98), et que c'est tout ce qui est demandé pour les besoins de l'admissibilité de la requête en tant que requête.

10. Mais la Cour n'a pas manqué de constater que : «C'est au demandeur de subir les conséquences d'une requête qui ne contiendrait pas un exposé satisfaisant des faits et motifs sur lesquels repose sa demande.» (*Ibid.*, par. 101.) Et elle a rappelé ce qu'elle a dit dans son arrêt sur les exceptions préliminaires dans l'affaire du *Nicaragua* : «C'est en définitive au plaideur qui cherche à établir un fait qu'incombe la charge de la preuve; lorsque celle-ci n'est pas produite, une conclusion peut être rejetée dans l'arrêt comme insuffisamment démontrée...» (*C.I.J. Recueil 1984*, p. 437, par. 101.)

11. C'est précisément ce que le Cameroun devait faire au stade actuel du fond. Mais il ne l'a toujours pas fait. Car c'est renverser la charge de preuve que de lancer des accusations non étayées, basées sur des faits non suffisamment identifiés, en s'attendant à ce que l'autre partie les précise pour pouvoir les réfuter.

12. Malgré le flou artistique camerounais, dans l'identification des «éléments» de l'«ensemble», flou fait d'absences, d'inexactitudes ou de contradictions et de pas mal d'ambiguïtés à propos des dates, des lieux, de leur toponymie, des parties et des faits impliqués dans ces incidents; malgré cela, le Nigéria a fait un effort énorme pour identifier ce qui est identifiable et établir la réalité des faits dans la mesure du possible, ce qui démontre, pour beaucoup de cas, le manque de sérieux des accusations camerounaises, et même dans quelques cas, que ces incidents prouvent exactement le contraire, c'est-à-dire que la responsabilité qu'ils engagent incombe en réalité au Cameroun et non pas au Nigéria. Je me permets de vous référer à ce sujet à la duplique (chap. XI, p. 597-711) et à ce que diront juste après moi mes éminents collègues, sir Arthur Watts et le professeur James Crawford.

13. Face à ce travail sérieux de la part du Nigéria, le Cameroun se défile et adopte une stratégie d'évitement, en nous disant que ce qui compte ce ne sont pas les incidents individuels, mais leur ensemble, comme si l'ensemble est autre chose que la somme de ses éléments.

14. Mais passons des faits non avérés aux présomptions non vérifiées. Ce qui m'amène à ma seconde et dernière remarque, qui porte sur le rapport entre contrôle territorial et responsabilité internationale.

Contrôle territorial et responsabilité internationale

15. Monsieur le vice-président, Madame et Messieurs de la Cour, mis à part cet ensemble mythique d'incidents non ou mal identifiés ou déformés, le Cameroun invoque une autre source de responsabilité. En effet, le même paragraphe de la réplique qui parle de l'ensemble plutôt que des incidents qui le composent, commence par la réserve suivante : «à l'exception des occupations massives de parties importantes de son territoire» (réplique du Cameroun, p. 493, par. 11.25).

16. Et le professeur Corten, ici présent aujourd'hui, conclut sa plaidoirie du mardi 26 février ainsi :

> «Il importe en définitive de revenir à l'essentiel : des faits reconnus par les deux Parties — le déploiement et stationnement continu de troupes nigérianes *en territoire camerounais* —, des principes juridiques acceptés par tous — en particulier, l'interdiction du recours à la force —, une conclusion : la responsabilité du Nigéria.» (CR 2002/7, p. 45, par. 35.)

17. Mais si les principes sont en fait reconnus par les Parties, et même si l'on assume *arguendo* que les faits sont également reconnus par elles, toute la construction logique de cette affirmation du professeur Corten, comme de toutes les autres pièces de plaidoiries du Cameroun, sont assises sur une présomption qui ne saurait prévaloir sans la preuve de sa véracité de la part du Cameroun. Car il ne s'agit pas ici d'une présomption juridique, c'est-à-dire édictée par une règle de droit, et qui, par conséquent, renverse la charge de la preuve. Non, il s'agit ici d'une présomption *de fait* érigée par le Cameroun, faute de pouvoir prouver les faits qu'elle postule.

18. Cette présomption est double : en premier lieu, que les faits en question ont eu lieu «en territoire camerounais», et en deuxième lieu, que ce territoire était contrôlé et administré par le Cameroun au moment du déroulement des faits. C'est seulement si cette présomption, dans sa double affirmation, est démontrée, par la preuve administrée par le Cameroun, comme correspondant à la réalité des faits; et si on assume que les événements se sont déroulés comme les a présentés le Cameroun, et seulement à ces conditions-là, qu'on pourrait arriver à la conclusion juridique que ces faits engagent la responsabilité du Nigéria.

19. Je me permets d'analyser ces deux affirmations l'une après l'autre pour démontrer pourquoi chacune d'elles, et les deux cumulativement, doivent être prouvées par le Cameroun, avant de pouvoir conclure juridiquement à la responsabilité du Nigéria.

20. Il est clair que la souveraineté sur Bakassi est l'objet même du différend qui a été originairement soumis à la Cour. Si la Cour arrive à la conclusion que les territoires où se sont produites ces prétendues «agression et occupation», ou, pour employer les termes plus neutres du professeur Corten, «le déploiement et le stationnement» des forces; si la Cour arrive à la conclusion que ces territoires appartiennent au Nigéria, et que le Nigéria les administrait à ce moment-là, il est évident que ces activités seraient de simples actes de maintien de l'ordre et de défense du territoire. La responsabilité, si responsabilité il y a, est celle de celui qui trouble l'ordre ou viole le territoire, le Cameroun en l'espèce dans cette hypothèse.

21. Si, en revanche, et par hypothèse improbable, la Cour arrive à la conclusion que le titre sur ces territoires appartient au Cameroun, cela ne suffirait pas, comme le prétendent les plaidoiries du Cameroun, à changer la qualification juridique du «déploiement et stationnement des forces» en «agression et occupation». Car il reste à prouver qu'à ce moment-là, à la date critique si vous voulez, le Cameroun administrait ces territoires, et qu'il a été attaqué et délogé par la force.

22. En effet, ce qui compte dans ce type de situation, où il y a un différend territorial ou frontalier, ce n'est pas tant le titre contesté par les deux parties, et dont l'appartenance ne sera clarifiée de manière définitive que par la suite, par accord ou par arrêt. Mais entre temps, ce qui compte c'est le contrôle et l'administration paisible du territoire, qui déterminent le *statu quo* protégé par le droit.

23. Sur ce point, les deux Parties sont d'accord. Ainsi, la réplique du Cameroun nous dit que ce que le Cameroun reproche au Nigéria, c'est «la violation du *statu quo* territorial et l'utilisation de la force, armée ou non, pour imposer unilatéralement sur le terrain sa propre vision de la frontière» (réplique du Cameroun, p. 490, par. 11.15).

24. Cela s'accorde par ailleurs avec l'interprétation la plus autorisée de l'article 2, paragraphe 4 de la Charte, que porte la «déclaration relative aux principes de droit international touchant aux relations amicales» (Assemblée générale, résolution 2625 XXV, 1970), où, sous le principe de l'interdiction du recours à la force, on peut lire :

> «Tout Etat a le devoir de s'abstenir de recourir à la force pour violer les frontières internationales existantes d'un autre Etat ou comme moyen de règlement des différends internationaux, *y compris les différends territoriaux et les questions relatives aux frontières des Etats*.» (Les italiques sont de nous.)

25. La pratique du Conseil de sécurité va également dans le même sens, par exemple dans son traitement de la crise des îles Malouines/Falklands, où les résolutions du Conseil ont réservé expressément le différend territorial hors de leur portée (cf. Oscar Schachter, *International Law in Theory and Practice*, La Haye, Nijhoff, 1991, p. 116).

26. Ainsi, l'Etat qui administre paisiblement un territoire, *à titre de souverain*, car croyant de bonne foi, pour des raisons juridiques crédibles, que ce territoire lui appartient, est l'Etat protégé par le droit, y compris pour ce qui est de l'intégrité territoriale de ce territoire; et cela, même s'il

s'avère, par la suite, par exemple à l'issue d'un arbitrage, que le titre sur ce territoire échoit à un autre Etat.

27. Cet Etat, ayant agi paisiblement et de bonne foi, ne commet aucun tort et n'encourt aucune responsabilité par le simple fait d'avoir administré le territoire. C'est l'essence même de la doctrine, tant décriée par l'autre Partie, d'*«honest belief and reasonable mistake»* (que j'exprime en anglais, car c'est une doctrine très connue en *common law*), doctrine qu'on a caricaturée pour mieux la critiquer, comme si on ne savait pas de quoi on parlait.

28. Mais de grâce, il ne s'agit pas de commettre une agression par erreur et/ou de bonne foi. Il s'agit de la bonne foi de l'Etat qui est déjà en possession paisible du territoire, qui l'administre à titre de souverain, parce qu'il croit, pour des raisons juridiques crédibles, qu'il est le souverain; et cela même s'il s'avère par la suite qu'il ne l'est pas.

29. Ainsi, Monsieur le vice-président, Madame et Messieurs de la Cour, je retourne à mon point de départ. La responsabilité pour la prétendue agression, de même que la responsabilité pour les incidents ou pour leur ensemble, dépend de la preuve des faits. Et le fait déterminant ici est de savoir qui était le possesseur paisible du territoire, sur lequel il exerçait sa puissance publique à titre de souverain au moment des événements.

30. Le Nigéria a démontré par le détail, en fournissant la preuve par quatre, qu'il était toujours présent, lui comme ses prédécesseurs, à Bakassi; qu'ils ont habité et gouverné sans interruption, comme maîtres des lieux, et cela jusqu'à présent, dans la ferme conviction qu'il s'agissait d'une partie du territoire national.

31. Cette administration était tout à fait adéquate et adaptée aux besoins de l'endroit, y compris en terme de force de l'ordre. Et si à la fin de 1993, le Gouvernement fédéral du Nigéria a dû accroître sa présence militaire et ses forces de sécurité à Bakassi (duplique du Nigéria, p. 118, par. 3.131 et suiv.), il ne s'agissait en aucune manière d'un déploiement et stationnement de force dans un territoire où elle n'y était pas déjà. Mais il s'agissait d'un renforcement dicté par des événements internes sans rapport avec le présent différend et qui sont décrits en détail dans la duplique du Nigéria. Il est vrai que ce renforcement répondait également à une autre source grandissante de préoccupation, à savoir, les incursions croissantes des agents et des gendarmes camerounais dans la région et leur harcèlement des habitants.

32. Dans ces conditions, il est tout à fait normal pour le Nigéria de défendre contre ces incursions ce qu'il considère comme son territoire, même si elles étaient menées au nom d'une prétention de souveraineté contradictoire. Ce sont ces incursions qui constituent l'agression et qui engagent la responsabilité de l'assaillant, quel que soit le sort de sa prétention quant au titre sur le territoire.

33. Le Cameroun lui aussi, prétend avoir été le possesseur du territoire, et qu'il a été attaqué et délogé par le Nigéria. Mais le Cameroun ne l'a pas prouvé. Il n'a pas prouvé sa présence effective dans ce territoire, ce qui est la prémisse essentielle de son raisonnement. Il s'est contenté d'invoquer sa qualité formelle de souverain, sur la base de titres qui sont contestables et contestés par le Nigéria.

34. En fait, le Cameroun, par la voix du professeur Mendelson, a accusé le Nigéria d'«empiler les preuves», comme si l'abondance de preuves de la possession paisible et de l'administration effective du territoire, par le jeu d'une dialectique juridique qui dépasse l'entendement, est en soi une preuve à l'encontre de celui qui l'administre. Cependant, c'est sur la preuve de cet élément, et non pas sur un quelconque titre contesté, que se décide la question de la responsabilité, en départageant l'assaillant du *statu quo* du possesseur paisible et de bonne foi, qui, lui, bénéficie de la protection du droit.

35. Monsieur le vice-président, Madame et Messieurs de la Cour, il n'y a pas d'échappatoire devant l'évidence. Et l'évidence ici, ce sont, en anglais *«the rules of evidence»*, les règles de preuve, et surtout celle de la charge de la preuve qui incombe au demandeur, qui est ici le Cameroun. Une charge qu'il n'a pas assumée. Ce qui non seulement rend sans fondement sa demande en responsabilité, mais l'expose au même type de demande à rebours, car dans ce genre de situation, si on n'est pas l'assailli on est nécessairement l'assaillant.

Je vous remercie, Monsieur le vice-président, Madame et Messieurs de la Cour.

The VICE-PRESIDENT, Acting President: Thank you, Professor Abi-Saab. I now give the floor to Sir Arthur Watts. Sir Arthur Watts you have the floor.

Sir Arthur WATTS: Thank you, Mr. Vice-President.

STATE RESPONSIBILITY

1. Mr. Vice-President, Members of the Court, the State responsibility aspects of this case must not only be among the more extensive to have been brought before this Court, but also one of the most muddled. Cameroon's presentation of this part of its case is an object lesson in indecision, imprecision and inadequacy.

2. Cameroon's case has involved two aspects of alleged State responsibility on the part of Nigeria. First there are a number of *general* allegations, covering Nigeria's alleged breaches of treaties or of general rules of international law. Second, there are a number of *particular* allegations of responsibility said to arise out of specific incidents which Cameroon says occurred.

3. The present hearings are not the first time that the Court has considered these issues of State responsibility brought before the Court by Cameroon's Applications. It is, in fact, the fourth time. It might be of assistance if I remind the Court of the other three.

4. The first was in February 1996, when Cameroon sought from the Court an indication of provisional measures. Cameroon claimed that Nigeria had launched a series of attacks against Cameroonian forces in Bakassi on 3 February 1996.

5. I will consider later the facts of those so-called attacks, but for the present I need only observe that, of course, Mr. Vice-President, within the framework of those proceedings, the Court, in its Order on Cameroon's request for the indication of provisional measures[1], was unable to decide what the true facts were. However, in indicating various provisional measures which were to be adopted by *both* Parties, the Court certainly did not find that the Cameroonian allegations were well-founded. The Court simply said that the differing versions of events given by the Parties "have not enabled the Court, at this stage, to form any clear and precise idea of those events", although the Court did considered it clear that there had been military incidents in Bakassi, and that they had caused suffering, including loss of life, to individuals as well as material damage[2]. Even so, the Court observed that, in the context of proceedings concerning the indication of provisional

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[1] *I.C.J. Reports 1996*, p. 13.

[2] Order, para. 38.

measures, it could not make definitive findings of fact or of imputability, and it left over further consideration of fact and argument for the merits[3].

6. Even at this early stage, the pattern of subsequent developments was beginning to emerge — Cameroon makes allegations, largely unsubstantiated by anything in the way of serious evidence and often vague as to details, and Nigeria responds, with evidence, demonstrating that Cameroon's claims lack substance and, in many instances, turn reality on its head — I will give specific examples later, Mr. Vice-President.

7. The second time that the Court considered these matters was in the preliminary objections phase of this case. Nigeria, in its sixth preliminary objection, submitted that the issues of State responsibility raised by Cameroon should be declared inadmissible. Nigeria made that submission on the grounds that Cameroon's Applications and Memorial were inadequate as to the facts on which they were based, including the dates, circumstances and precise locations of the various incidents which Cameroon alleged engaged Nigeria's international responsibility. And exactly those same missing characteristics were evident in the further alleged incidents which Cameroon saw fit to add in its observations on Nigeria's preliminary objections.

8. In its Judgment of 11 June 1998[4] the Court rejected this objection. Three elements of the Court's Judgment are, nevertheless, relevant to subsequent developments.

— First, the Court in effect held that Cameroon could add to the facts and grounds set out in its Applications — so long, of course, as the result did not transform the dispute into one of a different character;

— second, the Court noted that while Cameroon's statement of the facts and grounds on which it relies was sufficient for purposes of the admissibility of the case, this did not necessarily mean that they would be sufficient for the consideration at the merits phase. As the Court put it, its decision

> "does not, however, prejudge the question whether, taking account of the information submitted to the Court, the facts alleged by the Applicant are established or not, and whether the grounds it relies upon are founded or not. Those questions belong to the merits . . ."[5];

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[3]Order, para. 43.

[4]*I.C.J. Reports 1998*, pp. 317-319, paras. 95-102; p. 326, para. 118 (1) *(f)*.

[5]Para. 100.

— moreover — and this was the third element — the Court observed that, while the alleged factual inadequacy in Cameroon's Application was not such as to preclude the Court from proceeding with the case, it "Is the applicant which must bear the consequences of an application that gives an inadequate rendering of the facts and grounds on which the claim is based."[6]

9. Since Nigeria needed to be clear about which specific incidents it had to respond to, the extent of Cameroon's right to go on adding new incidents to its charge-sheet against Nigeria was the subject of the Court's third consideration of State responsibility issues. The Court delivered its Judgment on Nigeria's request for interpretation on 25 March 1999[7]. The Court in effect confirmed that Cameroon could introduce into the proceedings facts and incidents other than those specified in its Applications, even including, apparently, yet further new incidents which might be added in the future — always subject, of course, to the nature of the proceedings remaining unchanged.

10. Cameroon did indeed continue to add new incidents to the original citations in the Applications — "new" both in the sense of involving alleged recent occurrences, and in the sense of older events which must have been — or at least should have been — known to Cameroon when its various documents were lodged with the Court. Each new pleading added yet more allegations, with the threatened possibility of even more yet to come.

11. The position reached, therefore, as we approached this present, fourth, occasion for the Court to consider questions of State responsibility was that Cameroon put before the Court not only a number of *general* allegations of State responsibility for such things as being in breach of various treaties or rules of general application, but also a considerable number of *particular* allegations of international responsibility arising out of a whole series of specific incidents said to have occurred over a considerable period — each of which, accordingly, required separate examination on its own merits.

12. Nigeria dealt carefully with that mixed bag of claims in its Counter-Memorial, including a lengthy refutation of Cameroon's claims based on the 82 particular incidents which Cameroon

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[6]Para. 101.

[7]*Request for Interpretation of the Judgment of 11 June 1998 in the Case concerning the* Land and Maritime Boundary between Cameroon and Nigeria, Preliminary Objections (Nigeria v. *Cameroon), Judgment, I.C.J. Reports 1999.*

had said had occurred[8]. Nigeria showed that virtually every single allegation put forward by Cameroon was either insufficiently specific as to the nature of the incident itself or its location, or was unsupported by evidence, or was too old to be a proper basis now for a claim of State responsibility, or concerned events which in no way involved matters for which Nigeria was responsible.

13. But then, at the final stage of the pleadings, Cameroon, having engaged in a process of steady inflation of its "State responsibility" case against Nigeria, changed its mind. In its Reply, Cameroon withdrew its assertion of Nigeria's international responsibility for incidents taken in isolation and on a separate and individual basis. At least, Mr. Vice-President, that is what Cameroon appears to have done although, as I shall explain, a little uncertainty still remains.

14. Nigeria, of course, welcomes this fundamental change in Cameroon's position. It is, on Cameroon's part, a welcome acceptance of reality: those claims were, as Nigeria has shown, unsustainable, and by now withdrawing them Nigeria's patient and detailed response to each and every one of them has been completely vindicated. Moreover, Mr. Vice-President and Members of the Court, as I am sure you will appreciate, the task of the Court is now greatly simplified.

15. In its Reply, when giving expression to its abandonment of these individual claims, Cameroon suggested that Nigeria had all along been wrong in thinking that Cameroon wanted to hold Nigeria responsible for each of the incidents taken as separate and individual incidents[9]. Mr. Vice-President, this touches the borderline between being disingenuous and something worse. *Everything* that Cameroon did in and before its Memorial clearly indicated that that was *precisely* what Cameroon wanted[10]. That was what its Applications involved; and that was what its Memorial involved, where the alleged acts were described as separate and individual incidents and were thus manifestly included within the scope of Cameroon's submissions.

16. Moreover, Nigeria's understanding that Cameroon was claiming separate international responsibility for each incident was the evident basis for Nigeria's sixth preliminary objection — on no other basis would Nigeria have maintained that Cameroon had provided inadequate detail

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[8]Counter-Memorial of Nigeria, pp. 653-795.

[9]Reply of Cameroon, para. 11.11: and see Rejoinder of Nigeria, p. 602, para. 16.12, footnote 3.

[10]Rejoinder of Nigeria, pp. 602-604, paras. 16.11-16.20.

about the various incidents, and on no other basis would Nigeria have requested from the Court an interpretation related exclusively to Cameroon's continued introduction of new incidents. At no time during those two sets of proceedings did Cameroon seek to deny Nigeria's evident understanding, or to explain its own position as it has done now.

17. Despite Cameroon's attempt to explain away its *volte face*, the inescapable conclusion is that Cameroon has now abandoned a major portion of this part of its case against Nigeria.

18. But, Mr. Vice-President, its abandonment appears not to be total. Cameroon seeks to draw a distinction between, on the one hand, its allegations that Nigeria had violated its obligations in respect of some general matters — to respect established boundaries, to refrain from occupying Cameroonian territory, and to observe certain so-called fundamental legal principles — and, on the other hand, the particular acts by which those violations have been manifest[11].

19. Thus Cameroon says that it "is at pains to reiterate, in the most formal manner and in order to avoid all ambiguity, that . . . it is not so much the incidents in themselves, taken in isolation, which matter, as the incidents as a whole . . ."[12]

20. Later, Cameroon is even more specific. It says that Cameroon's "intention in presenting these facts *is not to ask the Court to accept that the Respondent is liable with respect to each of them*, but to show that Nigeria has violated and continues to violate the rights of Cameroon . . ."[13]; in effect as embodied in certain broad legal principles categorized by Cameroon as "fundamental". Again,

> "the specific incidents . . . *are not therefore the essential subject of this claim* . . .[i.e., for responsibility]. It is not therefore a case of lodging a host of claims for responsibility dealing separately with each act of incursion and then occupation by Nigeria . . . the incidents referred to below *should not be considered to be autonomous bases for implying responsibility* . . ."[14]

21. That is crystal clear. Such statements are made separately in relation to Bakassi, Lake Chad, and the land boundary between them. Cameroon's withdrawal of separate and individual

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[11]Reply of Cameroon, paras. 11.13-11.17.

[12]Reply of Cameroon, para. 11.25.

[13]Reply of Cameroon, para. 11.30.

[14]Reply of Cameroon, paras. 11.168, 11.170, 11.171.

claims is beyond any doubt. Nigeria welcomes that development, belated though it is — those claims should never have been presented in the first place.

22. Now, of course, Cameroon seeks to argue that its position has been misunderstood all along — an argument which is wholly lacking in conviction. Equally unconvincing is Cameroon's almost risible suggestion that, by concentrating on the individual and separate claims, Nigeria was seeking to divert attention away from Cameroon's main case — namely the general claims relating to certain broad principles of international law. That refrain is familiar, Mr. Vice-President. Earlier this week I had occasion to note Cameroon's contention that Nigeria only wanted to examine specific locations along the land boundary so as to divert attention from Cameroon's main case seeking the general affirmation of the relevant boundary instruments.

23. In fact, Mr. Vice-President and Members of the Court, that situation and the present situation have two significant things in common. First, both involve issues which were put before the Court *by Cameroon* — that is, the request to specify the boundary definitively, and the request to find Nigeria responsible in respect of a large number of individual incidents. Second, in relation to *both* situations, once Nigeria picks up Cameroon's issue and examines it in detail, Cameroon backs off: here, yet again, just as with the land boundary, Cameroon declines to get its hands dirty with detail. It much prefers to make largely unsupported allegations, trying to create prejudice in the Court's mind, and then, when the going gets hard, Cameroon says: "Oh, we meant something else!"

24. Given, all the same, that Cameroon has now also backed away from these individual claims of State responsibility, one must ask what purpose Cameroon now thinks that these individual incidents serve. In relation to the land boundary, we know: Cameroon has said in its Reply of 4 April that it cited the various incidents along the land boundary "only to prove, primarily, that the dispute between the two countries also applies to this part of the land boundary"[15].

25. But Cameroon had obviously forgotten — Mr. Vice-President, I said at the beginning that Cameroon's case was muddled — that nearly two years earlier, in June 1998, the Court had in

[15]Reply of Cameroon, para. 12.29.

its Judgment on Preliminary Objections already rejected this argument. The Court, it will be recalled, said that

> "not every boundary incident implies a challenge to the boundary . . . Even taken together with the existing boundary disputes [by which the Court was referring to those concerning Darak, Bakassi and Tipsan], the incidents and incursions reported by Cameroon do *not* establish by themselves the existence of a dispute concerning all of the boundary between Cameroon and Nigeria."[16]

26. The Court's 1998 conclusion is now all the stronger given that, as was explained earlier this week, Cameroon has also now abandoned its allegation about the dispute at Tipsan. Indeed, Cameroon having abandoned its claim to Tipsan, and having abandoned individual responsibility claims, and having tried to abandon its request to have the land boundary specified definitively, and having abandoned a succession of its earlier maritime boundary lines, the remnants of Cameroon's case are looking rather tattered.

27. Cameroon still, however, appears to maintain the individual incidents as *facts*, even if not as *claims*. We are told that they are not "the essential subject of this claim", that is, the claim for responsibility[17]. Instead, they are variously expressed to be only "accessory issues"[18], or "facts proving the continued occupation by Nigeria of part of Cameroon territory"[19], or "grounds in *support* of [Cameroon's] submissions"[20], or "merely facts that testify and illustrate this occupation"[21].

28. So let me look now at the general, broad, claims for which Cameroon would like to use these individual incidents as supporting evidence. They seem to boil down to four, namely that Nigeria:

attacked and occupied Cameroonian territory;

violated the principle of *uti possidetis juris*;

violated the obligation to settle disputes by peaceful means; and

violated the Court's Order of 15 March 1996.

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[16] *I.C.J. Reports 1998*, para. 90: emphasis added.

[17] Reply of Cameroon, para. 11.168.

[18] Reply of Cameroon, para. 11.168.

[19] Reply of Cameroon, para. 11.171.

[20] Reply of Cameroon, para. 11.16: emphasis added.

[21] Reply of Cameroon, para. 11.168.

29. The complaint that Nigeria attacked and occupied Cameroonian territory is, of course, question-begging. Before Cameroon can complain, for example, of the military occupation by Nigeria of its territory, Cameroon must show that the territory was indeed Cameroon's in the first place. Cameroon uses words like "invasion" and "occupation" to describe Nigeria's military actions — words which carry with them the implication that the lands affected were somehow already Cameroonian. Quite apart from Cameroon's inadequate legal arguments to that effect, *evidence* of such a state of affairs is thin, if not completely lacking.

30. Indeed, as Mr. Brownlie showed a week ago, with an overwhelming review of the evidence, the principal characteristic of both the Bakassi and Lake Chad areas was peaceful administration *by Nigeria*, well before the recent events of which Cameroon complains. So far as concerns Cameroon's alleged pre-existing presence there, Mr. Brownlie showed that it was notable for its absence — for example, no Cameroonian health facilities, no Cameroonian education facilities.

31. Along the land boundary we have seen, at Tipsan, what a muddled concept of "occupation of Cameroonian territory" is applied by Cameroon. In Bakassi, from the 1960s onwards, Nigeria introduced and implemented extensive local government changes. Are we to believe that Cameroon was the governing administration in Bakassi, but chose to say nothing while these changes were taking place? The only realistic conclusion is that Cameroon simply was not there — otherwise, perhaps, than on an unlawful and ephemeral basis.

32. Let me remind the Court of another significant matter. Mrs. Andem-Ewa described to the Court last week[22] the dispute which, from the late 1980s and into the 1990s, had taken place in Nigeria between Cross River State and Akwa Ibom State: the dispute was over which of them should govern the whole of Bakassi. The dispute was both public and widely publicized. It began at a time — the late 1980s — when Cameroon says it was already in occupation of Bakassi. And yet throughout the dispute Cameroon uttered not a word of protest, or even concern. So much for Cameroon's alleged pre-existing presence in Bakassi.

33. So, Mr. Vice-President, the question begged by Cameroon's claims against Nigeria starts with an answer which strikes at the very root of Cameroon's case on State responsibility. But more

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[22]CR 2002/1, p. 35, paras. 31-34.

is involved than the begging of questions. There is also the question of evidence. Not only evidence of Cameroon's pre-existing presence in Bakassi, which is singularly lacking, but evidence of events which are alleged to infringe Cameroon's rights.

34. And such evidence is crucial. As Professor Abi-Saab has shown, it is for Cameroon to produce the evidence to back up its claims. The evidence must unambiguously support the proposition in respect of which it is introduced, must leave no room for reasonable doubt, must be precise and detailed, and must be such as to enable the Court to "satisfy itself that each concrete claim is well founded in fact and in law". That, Mr. Vice-President, is how the Court put it in the *Fisheries Jurisdiction* case[23] — a case to which Professor Crawford will return more fully later this morning. In a matter as serious as a claim of State responsibility, Cameroon's burden of proof is heavy. It has not discharged it.

35. Using words like "invasion", or even more so, "aggression", does not of itself establish that that is, in law, what happened. Here Cameroon fails to draw a crucial distinction. It is the distinction between the absence of a constituent element of a wrongful act, with the result that no wrongful act has taken place, and, on the other hand, a defence to State responsibility which applies so as to preclude an act, which prima facie constitutes a wrongful act, from giving rise to State responsibility. Self-defence, for example, normally belongs in the latter category, whereas the fact that an act of force was not directed against the territorial integrity of another State would be in the former category.

36. Nigeria, for the reasons given in its Counter-Memorial and Rejoinder, denies that it has committed any internationally wrongful act against Cameroon by reason of the launching of any attack on the territory of Cameroon, or staying on any Cameroonian territory afterwards.

37. To turn to the three remaining Cameroonian general allegations, Professor Abi-Saab showed earlier this week that in no way can Nigeria be considered to have violated the principle of *uti possidetis*, and there is no need for me to add to what he said.

38. I can also be brief about the allegation that Nigeria has been in breach of its obligations to settle its international disputes by peaceful means. Cameroon has not sought to justify this

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[23] *I.C.J. Reports 1974*, p. 204, para. 76.

allegation in any detail, and there is indeed no evidence, or even argument, which supports it. Nigeria has, and is participating in these present proceedings; Nigeria has played its full part in the Lake Chad Basin Commission; Nigeria has negotiated its maritime boundaries with those States which — unlike Cameroon — have sought to settle those matters by negotiation as required by the Law of the Sea Convention. The long-standing status quo in the Bakassi and Lake Chad areas, and along the land boundary, has been and still is one of Nigerian administration and sovereignty: it is only Cameroon which, by its attempts to encroach upon Nigerian territory, has destabilized a previously stable region and has led to the existence of a dispute — one which is of Cameroon's making and which Cameroon has maintained by the actions of its own military forces and gendarmerie.

39. To turn to the last head of Cameroon's general claims against Nigeria, concerning alleged non-observance of the Court's Order of 15 March 1996, Nigeria has already rejected those allegations as unfounded[24].

40. Counsel for Cameroon nevertheless argued at some length that Nigeria was in breach of the Court's Order. This Order followed Cameroon's request to the Court following a military incident which occurred in early February 1996.

41. Let me first consider the facts of that incident. Cameroon's story is that Cameroon's soldiers in West Atabong went to the beach for a beer and a swim, and Nigerian forces chose that moment to fire mortar shells onto West Atabong. Nigerian forces shelling a Nigerian town, Mr. Vice-President? That does not seem likely. In fact, Nigeria's account is very different. As explained to the Court in 1996 and also in Nigeria's Rejoinder[25] what happened was that, on what was a peaceful market day in West Atabong, Cameroonian forces stealthily approached West Atabong along the many creeks and waterways — the Court saw them on the video the other day — and fired mortar shells on the town. Nigerian forces responded in self-defence, and the Cameroonian forces fled — some, indeed, along the beach, but *not* for a beer and a swim. While the two stories differ, one thing appears not to be in dispute — there was material damage, and —

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[24]Rejoinder of Nigeria, p. 577, para. 15.53.

[25]Rejoinder of Nigeria, pp. 685-693.

more important — there was loss of life, and injury to people. In fact 12 Nigerian soldiers and civilians were killed, and at least 23 were injured.

42. What is particularly notable is the very different quality of the evidence produced by the two Parties. Cameroon, even though it was the initiator of the 1996 proceedings, produced very little in the way of evidence to the Court (although it did produce more subsequently). Nigeria, by contrast, supplied the Court during the proceedings with the texts of the messages passing between the Nigerian military units which came under attack and their headquarters. Those messages clearly show the Nigerian forces *responding* to a Cameroonian attack, and being ordered to do no more than was necessary to *defend* themselves.

43. Cameroon seeks to dismiss the evidence by saying that the messages were incomprehensible, and that it was only two-and-a-half hours after the first attack that Nigerian troops sent their first message back to their headquarters.

44. Mr. Vice-President and Members of the Court, in a situation like that which had occurred, a local military unit is likely to have two things above all in its mind. First, to protect itself. Second, to believe that it was faced only with some very minor local incident with which it was well able to cope. It takes a little time to realize that the attack was on a much larger scale. In such circumstances, a two-and-a-half-hour delay is entirely understandable — and indeed it corroborates Nigeria's story.

45. As for the alleged incomprehensibility of the Nigerian military messages, let me just make four short points. First, soldiers are not lawyers: they communicate with each other in their own terms, not ours. Second, military abbreviations are easy for non-soldiers to understand, with the application of just a little intelligence: "SITREP" is readily understood as "situation report", "TPS" as "troops", "POS" as "position", and so on. Third, in fact Nigeria "translated" — if I may use that word — the texts of the military messages in its Rejoinder[26]. Fourth, Nigeria's 1996 military messages are no more incomprehensible than are the messages put in evidence by Cameroon a few weeks ago relating to the alleged aerial incursion in December 2001 — or indeed, Cameroon's own military messages included as various of its Annexes in its written pleadings.

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[26]Rejoinder of Nigeria, pp. 688-690.

46. Let me now turn, Mr. Vice-President, to the alleged violation by Nigeria of the Court's interim measures Order. Counsel for Cameroon developed, in effect, three charges against Nigeria[27]. Thus Nigeria is said to have

continued trying to expel Cameroon's forces from the eastern half of Bakassi;

failed to conserve evidence; and

taken administrative action in relation to Bakassi which prejudices the position of Cameroon.

Not one of these allegations can be sustained.

47. Nothing that may have happened since the Order was made in March 1996 can be regarded as an attempt to expel Cameroon military forces from the eastern half of Bakassi. The incident of April-May 1996, to which Cameroon referred, has already been dealt with in Nigeria's Rejoinder[28]. There was no breach by Nigeria of the Court's Order. The story shows, not some Nigerian attempt to expel Cameroon, but rather Nigeria's self-restraint — for the fact is that it was Cameroon which launched attacks against Nigerian positions between 21 April and 1 May 1996. Nigeria's Foreign Minister lodged a complaint with his Cameroonian counterpart concerning these and other attacks in June 1996[29].

48. Counsel sought also to identify a breach of the Order in General Abacha's statement in May 1996 — in response to Cameroon's attacks on Bakassi — that Nigeria would strengthen its forces in Bakassi. But, Mr. Vice-President, the Court's Order required the Parties not to go beyond their positions as they were in February 1996. This was a matter of location, not numbers. Any aggravation of the dispute consequential upon the events of April-May 1996 must be laid at Cameroon's door, not Nigeria's.

49. Counsel added a complaint about the transformation of the envisaged United Nations fact-finding mission into a mere goodwill mission. The nature of that mission was, however, a political matter to be determined in New York. All that was eventually agreed upon was a goodwill mission. Cameroon might regret that, but that is the political fact — to which I would

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[27]CR 2002/7, pp. 58 *et seq.*, paras. 12 *et seq.* (Tomuschat).

[28]Rejoinder of Nigeria, pp. 694-697.

[29]Counter-Memorial of Nigeria, p. 807, para. 25.17; Rejoinder of Nigeria, App. to Chap. 16, p. 696, para. 173.

only add that, even while these judicial proceedings have been in progress, a contribution to "goodwill" is not to be scorned.

50. Let me now turn to counsel's contention that Nigeria has violated the Court's Order by failing to conserve evidence[30]. The Order did indeed include a requirement "to conserve evidence relevant to the present case within the disputed area". And what, Mr. Vice-President, is Nigeria alleged to have done? Destroyed, it seems, some German-placed stones at Tipsan! But, as I noted earlier in the week, Cameroon has never explained what possible relevance these allegedly German-placed stones have to the boundary at Tipsan.

51. Counsel also referred to another pillar about which Cameroon had received information that it had been removed by Nigeria. Cameroon "had received information"? We need *evidence*, Mr. Vice-President. Counsel indeed cited some evidence — it consists of a report, dated November 1996, referring to an earlier report recording a flight over a border area. That earlier report said that — without mentioning any date — the *Nigerian population* of a village had removed the boundary pillar, and the report proposed a meeting between Nigerian and Cameroonian officials to replace it. So, no evidence of action taken *after* the date of the Court's Order; no evidence of action by Nigerian official organs; and no evidence of any difficulty as between the officials on the two sides. In short, there is no evidence whatsoever of a breach by Nigeria of the Court's Order.

52. The only other point counsel mentioned in the context of the conservation of evidence is the complaint that Cameroon does not have access to its archives in Bakassi, and is thus deprived of its evidence. Leaving aside the facts that are assumed in that complaint, the Court ordered the *conservation* of evidence, and nothing Cameroon says suggests that any evidence has been destroyed.

53. But in any event, the evidence to be conserved is only evidence which is relevant to the present case, and relevance is obviously something to be established by evidence — of which Cameroon submits none.

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[30]CR 2002/7, p. 65, para. 14 (Tomuschat).

54. As for administrative action taken by Nigeria in relation to Bakassi, there is nothing in the Court's Order which requires all civilian administration to come to a halt. Counsel tried to show that what Nigeria had done somehow prejudiced Cameroon's rights in the event that the Court might decide in Cameroon's favour. But his attempt lacks all conviction. There is no possible prejudice to Cameroon's position in Nigeria continuing to make arrangements for the health, the education and social welfare of the Nigerian population of Bakassi, or to provide for the safety of civil aviation in the skies above Bakassi.

55. Mr. Vice-President, Members of the Court, Cameroon's general, broad claims against Nigeria are thus evidently without substance. All the same, it is in that context that Cameroon now wants its various individual incidents to be considered. Instead of being, as hitherto, separate self-standing claims of State responsibility in their own right, they are now presented as being just "grounds in support of [Cameroon's] submissions", or "facts that testify and illustrate" them. This brings us back to the question of evidence.

56. Cameroon's change of presentation does Cameroon no good. In order to establish its general, broad claims against Nigeria, Cameroon must support those claims with the facts which show that the claim is soundly based. But they still have to be *facts*, Mr. Vice-President.

57. In seeking to reduce the significance of these incidents in the way it has, Cameroon has done nothing to reduce the evidentiary burden resting upon it: it must still substantiate them by the production of evidence of sufficient probative value.

58. Allegations about particular happenings are of no forensic value at all unless they are supported by evidence sufficient to establish that they did in fact occur in the manner and location alleged, and are relevant to the purpose for which they are relied on. This applies as much to allegations about incidents relied on as evidence in support of violations of general rules, as it does to incidents which are directly relied on as themselves giving rise to international responsibility on the part of Nigeria.

59. Cameroon purports now to be simply treating the incidents "as a whole"[31], rather than as separate, discrete events. But they must still be substantiated by proper evidence, one by one.

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[31]Reply of Cameroon, para. 11.25.

Where something is alleged to have been done "persistently" or "regularly", it must be *proved* to have been done on several occasions, and not just once: indeed, such an allegation of persistent conduct serves in a sense to increase the burden on the party asserting it, for if the conduct really was persistent, then it follows that there must be plenty of evidence about it, so that the failure to produce any is all the more remarkable.

60. Alleged incidents "illustrate" nothing, and "establish" nothing, except and to the extent that they are proved by evidence. Without evidence, they are nothing. And the cumulative effect of several zeros is still zero.

61. Mr. Vice-President, Members of the Court, I said at the beginning that the State responsibility aspects of Cameroon's case must be among the more muddled ever to have been presented to the Court, and I need briefly to indicate another area of muddle. As I have shown, it seems clear enough on the basis of what Cameroon said in its Reply, that Cameroon has withdrawn or abandoned its international responsibility claims so far as they arise out of the separate and individual alleged incidents which Cameroon has put before the Court.

62. Yet if one looks at the final submissions in Cameroon's Reply[32], one sees that this may not be quite the case. Those submissions make a number of references to the use of force by Nigeria, including "repeated incursions, both civil and military, all along the boundary between the two countries". Then comes subparagraph *(g)*, which asserts that "the internationally wrongful acts referred to above and described in detail in the Memorial of the Republic of Cameroon and in the present Reply involve the responsibility of the Federal Republic of Nigeria".

63. So one must ask — are those incidents still alive, as particular and individual incidents of State responsibility, or have they in that sense been abandoned? It is regrettable that at this stage in the proceedings, and in relation to such an important part of the case, Cameroon's changeable conduct should still make it possible to ask such a question. In view of the clear and repeated statements in the body of Cameroon's Reply, to the effect that these separate and individual claims of State responsibility were being withdrawn, Nigeria assumes that Cameroon cannot now be heard

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[32]Reply of Cameroon, para. 13.01.

to assert otherwise, and that Cameroon's submissions are to be interpreted in the light of those statements.

64. On that basis, Mr. Vice-President, Nigeria will not at this stage go through all these individual incidents one by one — although there are two which I will mention in some detail in a moment.

65. It may, nevertheless, assist the Court if I recall Nigeria's overall conclusions on State responsibility, as set out in Chapter 17 of its Rejoinder. They are as follows:

> "At the level of individual incidents, it is significant how many of Cameroon's allegations are affected by some or all of the following deficiencies:
>
> *(a)* having made the allegations in earlier pleadings, Cameroon has expressly or tacitly abandoned them . . . ;
>
> *(b)* they relate to locations which are either unspecified, uncertain or mislocated;
>
> *(c)* they concern localities which are not the subject of any dispute, and thus have nothing to do with the boundary dispute, or series of boundary disputes, that underlies the present case;
>
> *(d)* they are unsupported by any first-hand evidence, or only supported by evidence that was specifically prepared for the purposes of the case;
>
> *(e)* they do not on the face of them involve conduct attributable to Nigeria under international law;
>
> *(f)* the facts alleged are consistent with Cameroon's own responsibility, or with neither State being responsible;
>
> *(g)* the incidents in question, if they occurred as alleged, were trivial, occasional and ephemeral;
>
> *(h)* there is no allegation that any person or property was actually harmed or damaged in any way;
>
> *(i)* they were resolved locally at the time, or subsequently by agreement between the two States;
>
> *(j)* no attempt was made to exhaust local remedies in relation to the treatment of individual aliens;
>
> *(k)* they were not the subject of timely, or any, protest to Nigeria;
>
> *(l)* they are stale and thus time-barred."

That is a categorization of Cameroon's individual claims.

Mr. Vice-President, I have about another 14 or 15 minutes to go, would it be convenient for the Court for me to continue, or would it be more convenient to have a coffee break now?

The VICE-PRESIDENT: If it is convenient to you, then you may continue.

Sir Arthur WATTS: Thank you very much, Mr. Vice-President.

66. Mr. Vice-President, Members of the Court, I said that there were two of those individual incidents which I would like to mention in some detail. I do so for one reason only: they play a serious part in the story which has unfolded in these proceedings and are utterly without foundation as claims of Nigerian State responsibility, yet Cameroon has nevertheless seen fit to pursue them, even in its Reply. They demonstrate vividly Cameroon's unreliable and cavalier attitude to the evidence it puts forward.

67. The first is the incident which occurred on 16 May 1981. It has been dealt with previously by Nigeria in considerable detail[33], and I will only refer to the salient points here.

68. It is the incident for which President Ahidjo of Cameroon, by a letter of 16 July 1981[34], made a full apology to President Shagari of Nigeria, and paid compensation for the loss suffered by the families of the Nigerian soldiers who had been killed by Cameroon armed forces. In addition to the regrets expressed orally by the Cameroon Foreign Minister, who went specially to Nigeria for the purpose[35], President Ahidjo three times expressed, in writing in his letter of 16 July, his regrets at this incident. And Cameroon paid compensation: Nigeria has put in evidence a copy of the cheque[36]. There can be no doubt that Cameroon accepted at the highest level that responsibility for this affair rested with Cameroon. Yet, Cameroon has sought to use this incident as an example of *Nigeria's* wrongful actions: it is incomprehensible.

69. That, nevertheless, appears still to be Cameroon's position. It is manifestly incorrect. On the facts of the incident, Nigeria recalls that President Ahidjo's letter of apology was written in response to a letter from President Shagari[37].

70. That letter set out Nigeria's account of the facts which had led to the Cameroonian murder of the Nigerian soldiers on Nigerian territory, which differed from Cameroon's account as

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[33]Rejoinder of Nigeria, pp. 611-615, paras. 16.35-16.46, and App., pp. 631-645, paras. 29-45.

[34]Counter-Memorial of Nigeria, Ann. NC-M 345.

[35]Para. 24.66.

[36]Ann. NC-M 63.

[37]Ann. NC-M 344.

given in President Ahidjo's earlier letter[38]. President Ahidjo's reply to President Shagari's letter in no way contradicted or dissented from President Shagari's statement of the facts, save only that he referred to it as having occurred on the Rio del Rey, whereas, as President Shagari stated (and repeated in a subsequent letter[39]), it actually occurred on the Akpa Yafe River, in Nigeria's Cross River State.

71. Cameroon's compensation was in response to Nigeria's assertion — not contradicted by President Ahidjo — that

> "The fact of the matter is that Nigerian troops have been murdered and seriously wounded by Cameroonian soldiers on Nigerian territory and Nigeria insists on its demand of unqualified apology, full compensation and reparations to the families of the victims of the wanton aggression, and bringing the perpetrators of the dastardly murders to justice."

72. In these circumstances the payment of compensation by Cameroon is a clear acceptance of the correctness of Nigeria's account of the incident.

73. In the face of these admissions by Cameroon, at the highest level, of responsibility for the incident and resulting loss of Nigerian life, Cameroon's attempts to cast its position in a more favourable light are of no value.

74. The evidence originally invoked by Cameroon in support of its version of events is scarcely compelling; indeed, as Nigeria has shown in its written pleadings, it is wholly unreliable[40].

75. Cameroon seeks to suggest that President Ahidjo's letter of 16 July 1981, offering compensation — and incidentally also offering regret for the incident, but Cameroon does not mention this — was decided upon "extremely wisely . . . [as] . . . a political gesture of appeasement", and was "merely a gesture of appeasement designed to restore a climate of dialogue between the two countries". This is to turn history on its head.

76. Nigeria must recall what President Shagari said. He asserted "most emphatically and unequivocally . . . that the sad event . . . did take place on Nigerian territory"; he added that "it was a deliberate, premeditated and carefully prepared ambush against our patrol"; it "took place on

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[38]Ann. NC-M 343.

[39]Ann. NC-M 346.

[40]Rejoinder of Nigeria, App. to Chap. 16, pp. 633-635, paras. 34-35.

Akwa yaji River [that is, the Akwa Yafe], about 2 miles south of Ikang, a Nigerian town"; and he added that it was "stretching credibility too far" to say, as Cameroon did, "that Nigerian troops in two patrol boats opened fire first on an unsuspecting Cameroonian patrol boat and yet killed not a single Cameroonian soldier" while at the same time five Nigerian soldiers were killed and three others seriously wounded.

77. The facts set out in Nigeria's Rejoinder in full detail[41] show that Cameroon's conduct was aggressive, reckless and irresponsible, and provided yet another illustration of Cameroon's repeated attempts to advance its presence into Nigerian territory. Cameroon's conduct involved first, a major build-up of its armed forces in the region; second, a carefully laid ambush of a Nigerian patrol; third, with the hope of provoking Nigeria into starting a major, full-scale armed response; and fourth, thereby enabling Cameroon to make political capital by painting Nigeria as an aggressor.

78. It was President Shagari whose conduct prevented this incident from developing from a limited ambush into the major armed confrontation which Cameroon had been trying to provoke; it was President Shagari who was able to quell the Nigerian people's justified outrage at this incident, which, as he said in his letter of 25 May 1981, "shook the entire Nigerian nation morally and politically"; and it was President Ahidjo who, after taking time for consideration, agreed to apologize and pay compensation and to press the matter no further.

79. The second allegation which I should like to look at in some detail is Cameroon's complaint about Nigeria's alleged occupation of— and I dare hardly mention the name again, Mr. Vice-President — Tipsan[42]. Cameroon's complaint is that Nigeria, by locating an immigration post on Cameroon's side of the border, had occupied Cameroonian territory and violated its sovereignty: for which Nigeria bore international responsibility. This complaint hinges on the location of Tipsan and its relation to the frontier in that area. On the screen now is a map of the Tipsan area which you may recall from earlier in the week: it is at tab T in your folders. As Nigeria has shown earlier this week, the frontier in that region, as delimited by the Thomson-Marchand Declaration, runs along the River Tipsan: the Nigerian immigration post at

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[41] *Ibid.*, p. 615, para. 16.45, and App. to Chap. 16, pp. 637-639, paras. 42-43.

[42] See Counter-Memorial of Nigeria, paras. 24.260-24.267; Reply of Cameroon, paras. 11.218-11.238.

Tipsan and the village which has formed around it are well on the Nigerian side of the river. Moreover, Cameroon not only acknowledges that the boundary in this area is delimited by the Thomson-Marchand Declaration[43] but has now admitted in its Reply that the immigration post is "undoubtedly situated in Nigerian territory"[44]. Nevertheless, Cameroon, in that part of its Reply dealing with matters of international responsibility, puts forward different, and conflicting, arguments. For reasons which will become apparent in a moment there has been added to the map on the screen an arc of a circle showing the distance between Kontcha and the immediately-facing boundary with Nigeria.

80. Cameroon seeks to show that up to 1994 Nigeria was present at Tipsan only by virtue of Cameroonian consent to a presence in Cameroonian territory. The presence is said to result from a request, made apparently in the late 1970s by the local Nigerian inhabitants of Ethnie Moumie — a place not identified by Cameroon — to be allowed to move closer to Kontcha. They are said to have been followed, in 1984, by the movement of the Nigerian Immigration Post to Tipsan[45]: and the post is said to have been formerly at Mayo-Bagboua — "until that time, at the correct boundary". But Cameroon makes no attempt to justify this assertion that the boundary was at Mayo-Bagboua — it does not even locate Mayo-Bagboua on any map: that location is not mentioned in the Thomson-Marchand Declaration, and if it were the line of the boundary it would be totally inconsistent with that Declaration's clear stipulation that the boundary follows the River Tipsan.

81. Cameroon seeks to support this account by another report, dated 6 July 1993[46]. This recognizes that at that date there was no dispute between Cameroon and Nigeria with respect to Tipsan. It, indeed, accepts that "the boundary [is] currently situated along the Tipsan watercourse", but it continues that "it should actually be well beyond this point on Nigerian land at the Mayo-Djigawal, a brook four km from Kontcha". Again, Cameroon does not tell us where the Maio Djigawal is; nor does Cameroon explain why the Maio-Djigawal should be the boundary when

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[43]Reply of Cameroon, para. 4.95.

[44]*Ibid.*, para. 4.99: *"est indiscutablement situé en territoire nigérian"*.

[45]Reply of Cameroon, para. 11.224: this quotes from a report by a local official dated, it may be noted, after the commencement of the present proceedings, *"jusqu'alors à la vraie limite"*.

[46]*Ibid.*, para. 11.225.

it is nowhere mentioned in the Thomson-Marchand Declaration and at 4 km from Kontcha is inconsistent with that Declaration which states that the boundary follows the River Tipsan, which is at about 3 km from Kontcha.

82. A further report, dated 20 February 1995, says that the result of the 1961 referendum "subsequently caused a further delimitation of the boundary which is today situated 9 km from Kontcha, that is to say, 3 km from the river Tipsan, which itself is 3 km from Kontcha". This report — which, it must be noted, was only prepared *after* these proceedings commenced, even though it dealt with matters apparently occurring many years earlier — is full of inconsistencies. Thus it claims that there was some "further delimitation". Cameroon nowhere explains what this "further delimitation" consisted of, or indeed why it was needed at all given the clear terms of the Thomson-Marchand Declaration; nor does Cameroon explain why this new boundary should prevail over the terms of that Declaration; nor why the boundary is, in this report, said to be 9 km from Kontcha when the previously mentioned report put it at only 4 km from Kontcha and while, of course, the River Tipsan boundary itself is about 3 km from Kontcha.

83. Mr. Vice-President, I could go on almost indefinitely about the inconsistencies, and indeed pure inventiveness, of Cameroon's arguments about Tipsan. But I will not: the details are all in Nigeria's pleadings. What is clear from this whole episode, however, is that Cameroon's grasp of the local geography is non-existent, that Cameroon's so-called evidence is full of inadequacies, and that nothing — absolutely nothing — even approaching a Nigerian occupation of Cameroonian territory has been shown to have occurred.

84. This Tipsan affair, just like the 1981 incident mentioned earlier, exemplifies Cameroon's mistaken approach in putting forward its claims of Nigerian international responsibility. Facts are simply inverted in order to present a story which fits Cameroon's preconceptions, there is a complete disregard for the value of evidence, and legal considerations, which in other contexts Cameroon emphasizes, it in these contexts disregards. Cameroon's treatment of these two alleged incidents demonstrates in the clearest possible way the inadequacy which pervades the whole of Cameroon's approach to the serious matter of alleging that Nigeria has incurred international responsibility.

85. Mr. Vice-President and Members of the Court, that concludes my pleading on this subject. I thank the Court for its patient attention. May I now invite you, Mr. Vice-President, to call upon Professor Crawford to address the Court — but perhaps after a coffee break, if that would be more convenient for the Court.

The VICE-PRESIDENT, Acting President: Thank you, Sir Arthur. The Court will now adjourn for ten minutes.

The Court adjourned from 11.30 to 11.45 a.m.

The VICE-PRESIDENT, Acting President: Please be seated. Professor Crawford, you have the floor.

Mr. CRAWFORD: Thank you very much, Mr. Vice-President.

NIGERIA'S COUNTER-CLAIMS

Introduction

1. Mr.Vice-President, Members of the Court, Nigeria now turns to the last part of its case — at last, you might think. This concerns its counter-claims against Cameroon concerning questions of State responsibility. My presentation will be in four segments. First, I will outline the legitimate purpose and emphasize the admissibility of the counter-claims, both aspects of which Cameroon now chooses to challenge. Secondly, I will turn to discuss some of the factual issues and some of the documents concerning the counter-claims. Thirdly, I will refute three general criticisms of the counter-claims made in Cameroon's written observations. Finally, I will relate Nigeria's position on the counter-claims to Nigeria's case as a whole.

2. I should like to acknowledge the considerable help of Mr. David Lerer of the law firm D. J. Freeman in the preparation of this speech.

The Nigerian counter-claims, their admissibility and their purpose

3. I turn to my first segment, the purpose of the counter-claims and their admissibility. Now Sir Arthur Watts has already traced the history of State responsibility as part of this case. In its Memorial, Cameroon raised a series of allegations concerning incidents along the land boundary from Chad to Bakassi, and presented State responsibility claims with respect to those incidents

alleged to have occurred in and around Bakassi and Lake Chad. The Memorial called on the Court to declare . . .

> "*(g)* That the internationally unlawful acts referred to above and described in detail in the body of this Memorial involve the responsibility of the Federal Republic of Nigeria." (Reply of Cameroon, para. 9.1 *(g)*.)

There was no allegation of a systematic series of acts or of what has sometimes been described as a complex or composite wrongful act. Rather, Cameroon called on the Court to condemn Nigeria for certain individually identified "internationally wrongful acts . . . described in detail in the body of this Memorial". I pause to say that the phrase "described in detail" was laying it on a bit thick — it would have been more accurate to say, "vaguely adumbrated". We have seen that Cameroon always has a problem with phrases such as "described in detail" or "definitively specified"; these are chameleons which turn out to mean much less than they appear. But that does not affect the point that what Cameroon alleged was a series of individual acts with no apparent relation to each other, apart from their location along the boundary and the fact that they were said to have arisen in the course of what Cameroon alleged to be a single dispute concerning the boundary as a whole.

4. Now this approach to the matter placed us in something of a dilemma. On the one hand, as Nigeria made clear at the preliminary objections stage, it is unhelpful to link together a boundary dispute or a series of boundary disputes and allegations of State responsibility associated with what are, in the overall scheme of things — and despite their harmful effects on individuals and local communities — comparatively minor incidents. This does not contribute to dispute settlement between States. As anyone with diplomatic experience knows, it is better to separate out individual difficulties between two States than to put them all together as a single aggregate. But it is Cameroon that has done that. Moreover, as Professor Abi-Saab has just demonstrated, there is no simple relationship between a disputed territorial title and State responsibility for incidents in the disputed area.

5. Furthermore, there has been no credible allegation that Nigeria has detained cultural or other State property of Cameroon in the disputed areas, an allegation made by Cambodia in the *Temple of Preah Vihear* case. Indeed there is no indication at all in the record that Cameroon has *any* property in *any* of the disputed areas in Lake Chad or Bakassi. It is true that there may be some Cameroon State property in one or two of the areas where Cameroon is encroaching along the

boundary, for example at Turu, where there is a Cameroonian school[47]. But in general it remains the case that when Cameroon officials intervened in the various localities which are the subject of the State responsibility claims and counter-claims, it was not to construct but to abstract, it was not to bring State property but to take away the property of others. They were concerned not with *addition* but with *subtraction*, if I can put it arithmetically.

6. So on the one hand, Nigeria found the State responsibility part of the case artificial and unhelpful. But on the other hand, the claim had been brought. The dispute or series of disputes concerning the land boundary as a whole had been held to be within your jurisdiction. The Court had itself pointed to one particular place along the land boundary as disputed, that is to say, of course, Tipsan[48]. And so Cameroon's dual approach, boundary disputes plus State responsibility, was well and truly launched.

7. Faced with this situation, Nigeria had no choice but to bring its own counter-claims. Not to have done so would have been in effect to accept Cameroon's version of the story: that of a weak, inoffensive neighbour continually threatened by military incursions along the whole of this long border. But that version does not reflect the reality. The reality is that of a border with a serious dispute over one sector, Bakassi, where local civil administration has been and is Nigerian; a series of localized incidents along the land border, predominantly caused by incursions by local officials from the Cameroon side; and incidents affecting civilians in Lake Chad, again caused by local Cameroon officials and essentially unrelated to the ongoing, and unperfected, work of the LCBC. That is the impression given by Nigeria's counter-claims, and it is an accurate impression. As the Court said in its Order of 17 December 1997 in the *Bosnia* case, counter-claims enable it "to have an overview of the respective claims of the parties and to decide them more consistently"[49]. So the Court now has its overview.

8. Nigeria was frank in stating its position that the intermingling of claims of State responsibility and a series of boundary disputes was not helpful. But since "the parties are and

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[47]See Rejoinder of Nigeria, Chap. 18, App., para. 34, with references.

[48]*Land and Maritime Boundary between Cameroon and Nigeria (Cameroon* v. *Nigeria), Preliminary Objections, Judgment, I.C.J. Reports 1998*, p. 314, para. 87.

[49]*Application of the Convention on the Prevention and Punishment of the Crime of Genocide, Counter-Claims, Order of 17 December 1997, I.C.J. Reports 1997*, p. 257, para. 30.

must be in a position of equality before the Court in all respects", Nigeria brought counter-claims with respect to a range of incidents involving the international responsibility of Cameroon along the boundary. The Court held the Nigerian counter-claims admissible in full, as presented by Nigeria.

9. In the Court's Order of 30 June 1999, you reached your own appreciation of the situation. You made two findings. First, you said that Nigeria's claims "rest on facts of the same nature as the corresponding claims of Cameroon . . . all of those facts are alleged to have occurred along the frontier between the two States". And secondly, you said "the claims in question of each of the Parties pursue the same legal aim, namely the establishment of legal responsibility and the determination of the reparation due on this account". It was on the basis of these two independent findings that you held the counter-claims admissible in full. As you said, "the counter-claims submitted by Nigeria are admissible as such and form part of the present proceedings". Incidentally, it seems that the Court is quite fond of the phrase "as such", as well. Nigeria's counter-claims did not involve any allegation of a systematic attack by Cameroon; they involved a series of individual incidents along the various sectors of the boundary. They affected Nigerian territory, and communities and individuals on that territory. They did so in an unsystematic way.

10. Now at this late stage Cameroon now challenges the admissibility of Nigeria's counter-claims, or of some of them. It does so on two grounds.

11. The first is based on the fact that the counter-claims involve, among other things, damage suffered by individuals who are members of the Nigerian communities[50]. But that has always been true. Nigeria's counter-claims as presented in its Counter-Memorial concerned damage suffered by individuals and communities. The Court held that these "rest on facts of the same nature as the corresponding claims of Cameroon . . . all of those facts are alleged to have occurred along the frontier between the two States". It may be that Cameroon believes the Court only held the counter-claims admissible because Cameroon did not object — but that is not what the Court said. Or else Cameroon may have thought the counter-claims admissible on the ground that the rules of law invoked in the claim and counter-claim were identical[51]. But again that is not what you said.

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[50]Cameroon's Observations, 4 July 2001, paras. 44-52.

[51]*Ibid.*, para. 49.

Under Article 80 the criterion for admissibility is one of factual connection, not legal relationship. A counter-claim does not have to rely on the same rule as the claim with which it is connected. That is neither a necessary nor a sufficient condition for the purposes of Article 80. After all the Court is not giving a set of lectures on the application of rules: this is not The Hague Academy. The Court is deciding disputes between States. In holding the counter-claims admissible you reached your own appreciation, based on similarity of facts and on the relationship of those facts to the areas in dispute. And your determination of admissibility is final.

12. Mr. Vice- President, Members of the Court, these are not diplomatic protection claims on either side. They are claims about incursion and harassment of individuals and communities in the course of a boundary dispute or rather — in Nigeria's view — a number of different boundary disputes. When the officials of one side intrude on territory administered by another State under claim of right and beat up or detain people, then prima facie there is an internationally wrongful act, and it is not one within the framework of diplomatic protection. Peaceful civil administration of territory under claim of right, whatever the underlying situation of title may be, is not to be subverted by such means; and I would stress that there has at no stage been a peaceful civil administration by Cameroon over any of the areas concerned in this case, as my colleagues have shown. Moreover it is a curious conception of responsibility that relegates death and injury and terror caused by gendarmes to the realm of diplomatic protection with all its constraints, but allows as *per se* actionable any intrusion on territory claimed by Cameroon, whether or not it causes damage. Cameroon has an exclusively territorial conception of this case, ignoring the fact that the areas in dispute house substantial human populations. The international law of territorial title does not treat populated and unpopulated regions in the same way. Yet Cameroon's approach implies that unpopulated areas are actually *privileged* by the law of State responsibility so far as incursions are concerned.

13. There is a second complaint of inadmissibility, which relates to the additional counter-claims put forward in Nigeria's Rejoinder[52]. Again, however, Cameroon ignores the position between the Parties. It has continually and consistently reserved the right to add new State

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[52] *Ibid.*, para. 10.

responsibility claims, and the Court specifically upheld its right to do so in the Judgment on the request for interpretation of 25 March 1999[53]. This was, I would stress, prior to Cameroon's change of position on State responsibility, when it was still asserting State responsibility claims in relation to incidents "as such", as well as the right to add further incidents. The Court upheld Cameroon's right to do so. In its Counter-Memorial at paragraph 25.6, Nigeria reserved the right to present evidence of additional incidents, to the same extent as Cameroon. Of course, like Cameroon, Nigeria's additional incidents could not transform the case, or alter its essential character; but they do not do so and indeed Cameroon does not even allege that they do. In terms of the equality of the Parties before this Court, it cannot be that Cameroon has the right to add additional incidents of the same general character as those already advanced, whereas Nigeria does not. So this objection likewise fails.

14. Thus the counter-claims are, as the Court has already held, admissible to the same extent as are Cameroon's claims of State responsibility contained in the Application, the Additional Application and the Memorial.

15. Now, it is true that since the decision on the request for interpretation, Cameroon has conducted a strategic retreat on State responsibility. Or perhaps it is a tactical retreat. We are not sure, because, as Sir Arthur has shown, even now it is not entirely clear what Cameroon is doing. It seeks to distinguish between the incidents "as such" or "in themselves", which are not the subject of claims, and the incidents "as a whole". It says that Nigeria has violated not particular obligations on particular occasions but certain general principles in some systematic way. To the extent that this involves Cameroon not pressing its individual State responsibility claims, that is a matter for Cameroon. Nigeria, however, is under no obligation to do the same, as we will see. It is entitled to adhere to its own view of the State responsibility situation, both in respect of claims and counter-claims, and to establish it by evidence.

16. Mr. Vice-President, Members of the Court, this is not just cussedness on our part — if I may use, this time, an American phase — it is because the Court has to appreciate the actual

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[53] *Request for Interpretation of Judgment of 11 June 1996 in the Case concerning the* Land and Maritime Boundary between Cameroon and Nigeria, Preliminary Objections (*Nigeria* v. *Cameroon*), *Judgment, I.C.J. Reports 1999*, para. 15.

situation. Cameroon has sought to ignore the actual situation in its strategic, or tactical, retreat. Moreover it has done so even if, as I have said, it is not an unequivocal retreat.

17. On the one hand Cameroon seems to be saying that it is only concerned with the systematic action of Nigeria, and by implication that there is no systematic action along the central part of the boundary where it does not make a State responsibility claim. It may contradict what Cameroon told you at the Preliminary Objections stage about the central part of the boundary — but let that pass. The point is that a review of Nigeria's counter-claims and of Cameroon's claims taken together shows that there is no grand plan, no overall "enterprise" in relation to *any* part of the boundary, still less the boundary as a whole[54]. The actual record, taking the State responsibility claims and counter-claims together, reveals nothing of the kind. Leaving to one side entirely questions of evidence and proof, Cameroon's own allegations amount to nothing more than sporadic conduct in a variety of locations, spread over many years, separated by considerable distances, actuated by a variety of local circumstances. Cameroon's assertion of what amounts to a quasi-criminal "enterprise" of a general character on the part of Nigeria fails entirely, and it does so quite independently of the question of the merits of particular claims or the truth of particular incidents. Cameroon seems to think that it is easier to prove a conspiracy, as distinct from individual wrongful acts; but, as any criminal lawyer will tell you, it is actually more difficult. To say that someone is a habitual wrongdoer requires you to prove wrongdoing on a series of occasions. Nigeria's individual claims, by contrast, each stand on their merits.

18. Now, another possible interpretation of Cameroon's position is that it now limits its State responsibility claim to Nigerian conduct which, in its view, rises to the level of the breach of principles, not rules. Cameroon makes much of the word "principles". But, Mr. Vice-President, Members of the Court, under the law of State responsibility one violates obligations, not principles, not even rules. The central insight of Roberto Ago on State responsibility reflected in Article 2 is that State responsibility arises from the violation of obligations. Cameroon has to show particular violations on particular occasions.

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[54]Reply of Cameroon, para. 12.01.

19. A good example of the baffling character of Cameroon's position is its discussion in Chapter 12 of its Reply concerning Nigeria's arguments relating to Lake Chad. Chapter 12 of the Reply is concerned with counter-claims. Cameroon complains that Nigeria in relation to Lake Chad relies on consolidation and acquiescence[55]. But historical consolidation of title (and acquiescence as it relates to historical consolidation of title) has nothing whatever to do with State responsibility. It belongs to the separate department of the law concerning title to territory. It is almost as if Professor Brownlie committed a separate international delict by relying on consolidation and acquiescence in relation to Lake Chad, and the Court should punish him accordingly. Cameroon's position here is totally confused.

20. Mr. Vice-President, Members of the Court, let me move away from Cameroon's jurisprudence of concepts and bring us down to earth again on the subject of State responsibility claims and counter-claims. The position was stated by this Court in the *Fisheries Jurisdiction (Federal Republic of Germany* v. *Iceland)* case. It will be recalled that the Court there declined to make a declaratory award in respect of compensation for a series of incidents involving damage to fishing vessels — German fishing vessels — arising in the course of the dispute. The Court said:

> "In order to award compensation the Court can only act with reference to a concrete submission as to the existence and the amount of each head of damage. Such an award must be based on precise grounds and detailed evidence concerning those acts which have been committed, taking into account all relevant facts of each incident and their consequences in the circumstances of the case. It is only after receiving evidence on these matters that the Court can satisfy itself that each concrete claim is well founded in fact and in law."[56]

That Judgment was given in 1974. The dispute had arisen in 1971. The incidents in question were recent; they were, in principle, well attested; they were part of a series and were said to be based on a deliberate and concerted policy of the respondent State. In other words they were not merely accidents, unconnected with each other. But the Court demanded "precise grounds and detailed evidence concerning those acts which have been committed, taking into account all relevant facts of each incident and their consequences in the circumstances of the case". It was only on the basis of such a demonstration that it could satisfy itself that each concrete claim was "well founded in fact and in law". In the absence of such satisfaction, the Court could not event grant a declaration.

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[55]Reply of Cameroon, paras. 12.07-12.10.

[56]*I.C.J. Reports 1974*, p. 175 at p. 204, para. 76.

Sir Arthur Watts has shown that the Cameroon claims are not well founded in fact and in law in respect of State responsibility. But this test *is* satisfied in respect of Nigeria's counter-claims; each concrete claim is well founded in fact and in law. The Court, however, will be relieved, on the fourteenth day of this case, that I am not going to deal with them all. Instead, I will be selective — but this is in no sense intended to indicate that Nigeria in any way withdraws from any of the counter-claims made.

Specific claims and Cameroon's responses (or silences)

A. Cameroon's attacks on the Bakassi villages

21. The first group of counter-claims I wish to deal with involves a series of miscellaneous attacks on Nigerian villages in Bakassi in recent years. They are numbered counter-claims 5 to 17, and relate essentially to the period from January 1994 to February 1999; some more recent incidents of the same character are referred to in Nigeria's Rejoinder and are grouped together as counter-claim No. 30[57]. The Court will find as tab U — "U" for umbrella that is — in your folders, a summary of these claims with appropriate references to the pleadings and documents. It will be seen that the attacks were largely on civilian targets. Supporting documents — including several witness statements — attest to Cameroonian conduct which resulted in at least 117 Nigerians wounded and 29 Nigerians killed, nearly all civilians, and much destruction of property.

22. Let me take from this group several incidents originating in Bakassi which Cameroon does attempt to refute in more detail, despite its general preference for the big picture of general principles. But long journeys consist of individual steps, and big pictures consist of individual brush strokes. Cameroon's lack of attention to detail may be restful but it is not helpful; and it discredits their case, in our submission, when on the occasions they do descend to detail, they get the detail wrong. I hope the Court will forgive me this little excursion into the realm of fact. I will try to make it short, and I will limit myself to Cameroon's observations in reply, since the comments in Cameroon's Reply have already been comprehensively dealt with in our Rejoinder.

23. Let me take the case of Mr. Edet Inyang Sunday, a Nigerian fisherman abducted by Cameroon forces from the Bakassi Peninsula on 3 November 1996. He died on 4 April 1998 as a

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[57]Chap. 18, App., p. 749, para. 31.

result of a bullet wound in the chest inflicted on him while in a Cameroon prison. The post-mortem report, issued by a doctor at the military hospital at Yaoundé, records that Mr. Sunday died of "severe bronchial pneumonia sequel upon a thoracic wound caused by bullet". He had been in custody for about 18 months. It does not seem he was ever charged with any offence.

24. Nigeria provided supporting evidence in a series of annexes[58]. Instead of providing an explanation, Cameroon chooses to focus on the fact that some of Nigeria's documents are English translations of French originals, and thus, it is said, of no probative value[59]. But of the nine corroborating documents produced by Nigeria, only three are English translations, and Nigeria provided a copy of one of the originals — the death certificate[60]. Rather than inferring that Nigeria had fabricated this evidence, Cameroon might perhaps have provided some documentary evidence of its own, perhaps in a response to Nigeria's diplomatic Note of 18 June 1998[61]. No doubt its files contain correspondence with Dr. Munkman who signed the death certificate. That might help to explain how a Nigerian civilian seized in Bakassi apparently ended up in a military hospital in Yaoundé, dead from a bullet wound. That answer came there none.

25. Then there is the Cameroon attack of 6 April 1998[62], which is the subject of the counter-claim. Cameroon doubts the authenticity of one of the annexed reports on the ground that it was prepared by an anonymous person[63]. It is suggested that the same person's handwriting is to be found in other annexed documents[64]. But of course in the area we are talking about, statements are often drawn up in manuscript by a local scribe or amanuensis. I am not giving handwriting evidence but it does appear to me that the village head's statement was not drawn up in the same hand as the various statements in Annexes NR 203 and NR 204.

26. Annex NR 203 consists of a series of witness statements "relating to the Cameroonian attacks of 18 April 1998". Cameroon seeks to devalue the 20 witness statements giving first-hand

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[58]Rejoinder of Nigeria, Anns. NR 200 and NR 201.

[59]OCDR, para. 23.

[60]Rejoinder of Nigeria, Vol. IX, p. 1676.

[61]*Ibid.*, Ann. NR 201.

[62]This is CC 14. See Counter-Memorial of Nigeria, paras. 25.21, 25.22, 25.23; Anns. NC-M 364-369; Rejoinder of Nigeria, Chap. 18, App., pp. 738-739, para. 13; Anns. NR 202 and 205.

[63]OCDR, para. 24, referring to Ann. NR 202.

[64]*Ibid.*, referring to Anns. NR 203 and NR 204.

testimony of its attack by singling out one of them — that of Miss Effiong[65] — and considering that the date on the statement must be wrong, since it is the same date as the attack, whereas the text of the statement suggests a later date[66]. The date appearing at the head of each of these witness statements refers to the date of the attack, not to the date of the taking of the statement. Some of the statements are dated by their signatures, with dates other than 18 April. Overall the testimony concerning the injuries suffered by Nigerian citizens in Bakassi is consistent and credible. And it is not affected by the pinprick attacks in Cameroon's observations.

27. Nigeria also annexed a medical report, which reports on the treatment received by civilian victims of these attacks at a military clinic in East Atabong[67]. Cameroon criticizes the report on the grounds that no recipient is mentioned, and that it only relates to a specific period. These observations do not detract from the credibility of the report, which was prepared by Captain Gambo, a Regimental Medical Officer. The report gives the full names of 29 injured Nigerian civilian victims. One of these was Mr. Edem Asuquo Osudu, whose witness statement is thus corroborated[68].

28. Nigeria has also annexed a number of other witness statements relating to incidents during this period. I take, for example, the statement of Mr. Ibrahim Ita[69]. Cameroon argues that "no details of a nature to shed light on this incident have been given"[70]. But Mr. Ita testifies that he was shot and wounded by Cameroon gendarmes at Ndo on 8 February 1998. Ndo is a village in the heart of Bakassi. That seems clear enough.

29. Cameroon concludes its critique of Nigeria's evidence by commenting that the medical report of 18 June 1998[71] "although it gives details of the injuries sustained by four men . . . does not indicate any of the details about how they were inflicted, nor even by whom"[72]. In fact, three of the

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[65]Rejoinder of Nigeria, Vol. IX, p. 1736.

[66]OCDR, para. 25.

[67]Rejoinder of Nigeria, Ann. NR 205.

[68]*Ibid.*, Ann. NR 204.

[69]*Ibid.*, Ann. NR 206, pp. 1757-1758.

[70]OCDR, para. 28.

[71]Rejoinder of Nigeria, Ann. NR 206, pp. 1771-1772.

[72]OCDR, para. 28.

four men are expressly recorded as having been shot by gendarmes. It is true, no doubt, that the victims did not stop to ask them their names.

30. Mr. Vice-President, I am not trying to make out a criminal indictment against any individuals; this is not a criminal court. As I have already said, these incidents — damaging to the victims as they were — are of a different dimension and character when compared to the underlying dispute over the Bakassi Peninsula. I would simply make two points.

31. First, I would draw your attention to the sum total of the evidence on both sides concerning claims and counter-claims of State responsibility in relation to Bakassi. We have added up the casualty and damage figures in the documents submitted as part of the pleadings on both sides in the whole of the case. We have only included those documents which give dates and sufficiently specific information. Thus we have not included mere newspaper reports unsupported by other evidence. We have looked at the years from 1991 to the end of the written pleadings, that is to say the relatively recent past. And we have assumed for this purpose that all of the allegations are true, that is, of course, without admitting that they necessarily all are true. On our best estimate the documentary evidence contained in the pleadings of both Parties results in the following tally of injury and damage:

(a) Attributed to Cameroon in the Nigerian documents — 117 wounded, of whom 106 were civilians, and 30 killed, of whom 27 were civilians; eight houses and four boats destroyed or damaged, and unspecified other damage worth some millions of Naira.

(b) Attributed to Nigeria in the Cameroon documents — three killed, 20 wounded, all military — no specific evidence of damage to property.

That is the tally of the documents. Now, one might discount individual items of evidence but the overall picture is clear, and it fully sustains the impression that I have stated in respect of the counter-claims. The individual counter-claims are, in our submission, justified. The overall picture of the counter-claims, and the claims taken as a whole, reveals no evidence of system.

32. In other words, the evidence taken as a whole is totally inconsistent with the picture Cameroon seeks to paint of a massive Nigerian military invasion of an area under peaceful

Cameroon occupation — a sort of equatorial equivalent of the invasion of Kuwait by Iraq[73]. Rather it sustains the contrary view; that these were individual incidents in the context of a series of boundary disputes.

B. Cameroon incursions in the central part of the boundary

33. Mr. Vice-President, Members of the Court, let me now move briefly to the central part of the boundary: given time constraints I am only going to take one example. This concerns the incidents at Tosso and Mberogo[74]. Although Cameroon, as part of its strategy in conducting this boundary dispute has repeatedly attempted to convince the Court that Nigeria is responsible for various incursions across the boundary, none of these allegations has been backed up with any worthwhile evidence, as Sir Arthur Watts has shown. In fact, by far the best-documented incident in these whole proceedings involves the responsibility of Cameroon. This incident, which took place on 26 September 1996, involved the entry of two armed Cameroon gendarmes into the Nigerian town of Mberogo, in which village they violently attacked and arrested two Nigerian officials, a tax collector and an immigration officer. You will see the location of the incident in tab 44 of your folders, and there are additional documents in Cameroon's Reply, Annex RC 201, which confirm Nigeria's view of the location.

34. The supporting documentation for this incident on the Nigerian side is substantial. It includes a witness statement of the attacked Nigerian immigration officer, Mr. Adam Dauda[75]; a report on the incident prepared by an inspector at Mubi/Tosso police post[76]; a detailed record of the subsequent interrogation of the two Cameroon gendarmes by Nigerian officials[77]; and an official summary of the incidents, contained in a report by the Commissioner of Police for Taraba State[78].

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[73]Cf. Reply of Cameroon, Ann. RC 189.

[74]CC 23: see Counter-Memorial of Nigeria, paras. 25.58-25.63; Anns. NC-M 394-398; Rejoinder of Nigeria, Chap. 18, App., paras. 20-25; Anns. NR 207-210.

[75]Ann. NR 207.

[76]Ann. NR 208.

[77]Ann. NR 209.

[78]Ann. NR 210.

35. And there are four additional documents which support Nigeria's version of the events, prepared by Cameroon officials and annexed to Cameroon's pleadings[79]. They confirm virtually every detail of the incident alleged by Nigeria: that two armed Cameroon gendarmes entered Mberogo, and overpowered two Nigerian officials, using violence.

36. Cameroon has not advanced any serious arguments to contradict Nigeria's claim. In fact their principal defence is that of the alibi; "this was not Mberogo in Nigeria, Your Honours, but Mberogo in Cameroon; we were somewhere else"[80]. And this, even though the Nigerian documents clearly refer to Mberogo. The Court will be aware of the procedural defence, *lis alibi pendens*; which is becoming perhaps more appropriate in these days of proliferation of courts and tribunals. Well, Cameroon's defence is the geographical equivalent: let us call it *vicus alibi situs*. Colloquially, it is known as the "twin towns defence" — the place was somewhere else, Your Honours. Sir Arthur has already demolished it in relation to Mberogo.

C. Cameroon incursions in the Lake Chad region

37. Mr. Vice-President, Members of the Court, finally, let me turn to the incidents in the Lake Chad region in the same period of time, that is, the 1990s[81]. They have exactly the same episodic and transitory character as those along the land boundary or in Bakassi. A good illustration for our purpose are the attacks by Cameroon authorities on Kirta Wulgo. Cameroon did not deny the attacks in its Reply[82], seeking again to rely on assertions concerning the location of the incident. But the evidence produced by Nigeria makes it quite clear that they took place at Kirta Wulgo, a settlement which would fall within Nigeria even on the basis of the unratified IGN demarcation, a settlement which Cameroon itself does not claim[83], and which, more importantly for present purposes, is under undisputed and peaceful Nigerian civil administration, like the other Nigerian villages in the Lake. Nor does Cameroon add anything to this in its Observations in reply. The claim stands effectively uncontradicted by any evidence produced by Cameroon.

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[79]Anns. MC 370-372 and p. 338 of Ann. OC1 of Cameroon's Observations on Nigeria's Preliminary Objections.

[80]E.g., Reply of Cameroon, paras. 12.37-12.38; OCDR, para. 31.

[81]CC 18-20: Counter-Memorial of Nigeria, paras. 25.29-25.38; Anns. NC-M 375-382; Rejoinder of Nigeria, Chap. 18, App., para. 15.

[82]Cf. Reply of Cameroon, paras. 12.25-12.28.

[83]Reply of Cameroon, para. 3.87 and App. to Chap. 3.

Cameroon's general critique of Nigeria's counter-claims

38. Mr. Vice-President, Members of the Court, I shall emerge now from that submersion into some points of detail, for which, again, I apologize, but as I have shown, Cameroon's responses to Nigeria's individual counter-claims, where they exist, consist largely of quibbles or alibis. In fact, Cameroon's main response to the individual counter-claims is a collective response. It involves three general objections, concerning their alleged artificiality, their local character and their lack of specificity, in particular in terms of the obligations which have been breached. Let me deal with these three points in turn.

"Artificiality"

39. Cameroon asserts that the counter-claims are "artificial", and are motivated "by sole concern of maintaining equality". In fact this is largely name-calling. I have explained already why Nigeria brought the counter-claims, and the counter-claims can be judged by you on their own merits, having regard to the Court's observation that counter-claims enable it "to have an overview of the respective claims of the Parties and to decide them more consistently"[84]. Nigeria submits that its State responsibility claims, that is to say the counter-claims, are valid in themselves — of course it is for the Court to assess that — and also that they enable the Court to get a feel for the actual character of the incidents along the boundary from north to south, as distinct from the highly-coloured and over-generalized way in which Cameroon presents things.

40. Mr. Vice-President, this is why Nigeria "does not even dispute" — I use Cameroon's words — the question of artificiality[85]: it is a false issue — dare one say it, an artificial issue. If the counter-claims are valid then they should be upheld; if not, then not. That is all we ask. The question of "artificiality" does not arise.

The "local nature of the incidents"

41. Cameroon's second complaint is that at least some of the counter-claims involve "purely local disputes" (Observations, para. 13). That is a remarkable statement, given the circumstances of many of the incidents relied on by Cameroon. It is a further revelation of Cameroon's lofty

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[84] *I.C.J. Reports 1997*, p. 257, para. 30.

[85] Observations, para. 8.

attitude to the facts. All the counter-claims involve local disputes — we admit it. And of course a local dispute can give rise to State responsibility. Mr. Vice-President, there were various suggestions for additions to the circumstances precluding wrongfulness in the articles on responsibility of States for internationally wrongful acts. But being local was not one of them! We are all local, gendarmes and their victims, tax collectors and their targets; it is just that some of us are luckier in our localities than others.

42. To take a random example, the *Savarkar* case of 1911 was a local dispute. It concerned events that occurred within a single day and night on a French dockside[86]. You will be aware of the rules concerning the unity of action in Greek classical drama. Well, the *Savarkar* dispute met all the classical requirements — unity of time, place and action. Yet it led to an arbitration under the auspices of the Permanent Court of Arbitration, and to a decision which made useful law on State responsibility and is cited accordingly in the ILC's commentaries of last year[87]. Almost by definition, State responsibility disputes are local, although some are more local than others.

43. And that is the second point. In the spectrum of locality, these disputes *are* local, up and down the boundary. That is precisely how Nigeria characterizes them, both the State responsibility claims and the counter-claims. We do not attribute to the central authorities of Cameroon some conspiracy to attack the boundary as such — just as we have shown that Nigeria has no such intention either. As the Court has already held, the counter-claims concern allegations of the same character as Cameroon's State responsibility claims: incidents occurring along the boundary. Individual incidents may not be very significant in themselves, except to those, like Mr. Sunday, unfortunate enough to be caught up in them. They may nonetheless give rise to responsibility.

44. Let me take as an illustration one of the counter-claims Cameroon specifically singles out and disputes on grounds of locality. This is a series of incidents at Maduguva[88]. The question of the location of the boundary in this sector has already been dealt with in Nigeria's pleadings[89], and in further detail by Mr. Alastair Macdonald earlier this week. We look forward to

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[86]United Nations *RIAA*, Vol. XI, p. 243 (1911); Scott, Hague Court *Reports*, p. 275.

[87]Commentary to Art. 20, para. (8).

[88]Cameroon Observations, para. 13, note 17.

[89]Rejoinder of Nigeria, paras. 7.137-7.144.

Mr. Macdonald's return to the podium once Cameroon has dealt with our claims in this respect. Nigeria did not say that the traditional land claims to areas of Nigeria made by the Lamido of Burha in Cameroon gave rise to State responsibility; for this purpose it does not matter whether the Lamido of Burha, a traditional ruler — whether his claims are justified or not. What we do say is that when Cameroon officials instruct and assist the Lamido and his followers to cross the border, to extort money, to expel local residents from their land and to destroy crops and property, then there is a basis for State responsibility. Locality is neither a justification nor an excuse; it is simply the place where a breach of this character occurs.

The basis of claim

45. Finally, Cameroon protests that Nigeria has not identified which international obligations have been breached in relation to these incidents[90]. In fact the basic underlying obligation has been clearly identified, as you have heard from Professor Abi-Saab; it will be for the Court to refine it and to apply it appropriately to the facts as proved by each side, because in this respect, this is a case of first impression, unlike some others. To the extent that there are aggravating factors in particular cases, especially violations of inalienable rights such as the right to life or to be free from cruel, inhuman or degrading treatment or punishment, the relevant obligations are clear enough to all who will see.

Conclusion: Nigeria's counter-claims in the context of Nigeria's overall case

46. Mr. Vice-President, Members of the Court, I turn to some concluding remarks which seek to relate Nigeria's counter-claims to its general case in respect of the boundary from Lake Chad to the sea and beyond.

47. Let me start by recalling the comments made by the Court in the *Barcelona Traction* case in 1964. The passage was quoted by the Hon. Co-Agent, Alhaji Ibrahim, the other day. The Court was dealing with what was then Article 69, paragraph 2, of the Rules, which gives a respondent State the right to object to the attempted discontinuance of a case by the claimant. The provision is

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[90]Observations in reply, paras. 53-56.

now Article 89, paragraph 2. It provides that "If objection is made, the proceedings shall continue." As the Court explained:

> "The right of objection given to a respondent State which has taken a step in the proceedings is protective, to enable it to insist on the case continuing, with a view to bringing about a situation of *res judicata*; or in other words . . . to enable it to ensure that the matter is finally disposed of for good."[91]

The implication is clear. Even though a case has been started by unilateral application, once the respondent has taken a step in the proceedings the case ceases to be controlled by the claimant. The claimant will have selected the terms on which it wants to fight; having done so, the case having been properly begun, the claimant no longer controls it. It cannot without the respondent's consent withdraw the case; it cannot unilaterally alter the scope of the dispute which it has placed before the Court.

48. Mr. Vice-President, Members of the Court, Cameroon's attitude to this case under the optional clause is that it owns the case and can dispose of it. It can advance in the areas it wishes to advance, it can retreat in the areas it wishes to retreat — all Nigeria can do is to respond. If Cameroon no longer wants the Court to definitively specify the course of the land boundary, then there is nothing Nigeria can do but to accept a general declaration concerning certain instruments, however defective their terms. And if there is any doubt about it, Cameroon will decline to confront the issues raised. If Cameroon no longer wishes to allege State responsibility with respect to "internationally unlawful acts . . . described in detail in the body of this Memorial", but only to make a much vaguer allegation of disregard of certain principles, then by implication Nigeria has to follow suit.

49. This approach fundamentally misconceives what it is for the Court to be seised of a case under the optional clause. Once the Court's jurisdiction over a case has been triggered and the respondent has taken a step in the proceedings, it cannot be withdrawn unilaterally. The case as originally formulated exists independently of the continued will of the applicant. No doubt the applicant may choose not to press every demand or claim asserted in its application — the United Kingdom, for example, in the Icelandic *Fisheries* case chose to withdraw some of its

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[91] *Barcelona Traction, Light and Power Company, Limited, Preliminary Objections, Judgment, I.C.J. Reports 1964*, p. 20.

claims — but it will take the consequence of that withdrawal. Each of the demands and claims exists as part of the case and the respondent having been hauled into Court is entitled to respond to each of them in its own terms. That is why Nigeria is entitled to insist, for its own part and irrespective of Cameroon's forensic position or manoeuvres, on the definitive specification of the land boundary[92]. Equally with respect to State responsibility claims and counter-claims. The correct approach to these, if they are to be sustained on both sides, as Nigeria for the time being sustains them, is not to dismiss them loftily with a wave of the hand as "local". Nor is it to fail to see that death, injury and displacement of civilian populations involves State responsibility, and not only in the framework of diplomatic protection. It is to approach each of these claims and counter-claims on their facts and in the light of the evidence, having regard to the requirements laid down by the Court for proof of State responsibility claims in the *Fisheries Jurisdiction (Federal Republic of Germany* v. *Iceland)* case, which I have already cited. Nigeria is convinced that the individual claims it has presented are justified within the framework of the State responsibility segment of this case. You have already held them admissible within that framework. It also believes, as I have explained, that pressing State responsibility claims in boundary disputes does nothing to uphold the rule of law and can impede the eventual resolution of the dispute. Those two positions are entirely consistent.

50. And as to the facts, Nigeria submits that the incidents which form the basis of Cameroon's "global" responsibility claim are disparate, in many cases old and stale, and poorly supported by first-hand or indeed second-hand evidence. It fully accepts that on both sides the situation disclosed both by claims and counter-claims is that of particular, individualized — or to use Cameroon's horror term "local" — disputes. But it is Cameroon that holds to the "enterprise" or "conspiracy" theory of this case, and as the figures that I have shown you of total casualties show, Mr. Vice-President, it has failed utterly to establish that claim.

51. Nigeria accordingly requests the Court, while dismissing Cameroon's claims of State responsibility on the basis of an enterprise or a system as they have been pleaded, to uphold

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[92]See Counter-Memorial of Nigeria, paras. 23.01-23.05.

Nigeria's counter-claims in an appropriately worded declaration to the extent that each of them is held to be justified in terms of the test laid down by the Court that I have already cited.

52. Mr. Vice-President, may I now ask you to call on the Nigerian Agent, the Hon. Musa Abdullahi, to conclude Nigeria's first round presentation.

May I thank the Court for its courteous attention.

The VICE-PRESIDENT, Acting President: Thank you, Professor Crawford. I now give the floor to the distinguished Agent of the Federal Republic of Nigeria, His Excellency, Minister Musa Abdullahi.

Mr. ABDULLAHI: Thank you, Mr. Vice-President.

1. Mr. Vice-President, distinguished Members of the Court, in response to Cameroon's oral pleadings against Nigeria in the matter of the land and maritime boundary between the two nations, Nigeria has presented her oral pleadings on a number of topics, ranging from Bakassi, through Lake Chad, *uti possidetis*, the land boundary and the maritime boundary, to State responsibility and counter-claims. I wish to use this opportunity on behalf of my country to thank all our counsel, the members of the Nigerian team as well as all those who have worked so hard to enable Nigeria to present her case to such good effect and in such detail.

2. The Court allocated Nigeria seven days to present its oral pleadings. Nigeria has endeavoured to use that time well. Its oral pleadings are, I submit, entirely consistent with everything Nigeria has said from the beginning of this case, and in this regard I would like respectfully to draw the Court's attention to the evident contrast between the measured consistency that has characterized Nigeria's written and oral pleadings and the afterthoughts, hesitations and inconsistencies that have characterized the conduct of Cameroon throughout these proceedings. Indeed, Cameroon's oral pleadings, like its written ones, appear to evade the issues of substance and to rely on generalities, strained and fanciful in logic, in contradistinction to the detailed facts and law articulated in relation to the seven topics of Nigeria's oral pleadings.

3. It is for this Court to judge this case, after hearing the second round of pleadings and the intervention of Equatorial Guinea. Nigeria awaits that judgment in the confident conviction that on every one of the seven topics I have mentioned Nigeria is right on the facts and on the law.

4. I wish to thank the President, you Mr. Vice-President, and the distinguished Members of this Court, for their time and patience during our oral presentations. I now have the honour to close the presentation of Nigeria's first round of oral proceedings and pleadings in this case. I thank you very much, Sir.

The VICE-PRESIDENT, Acting President: Thank you very much, Minister Abdullahi. I shall now give the floor to Judge Fleischhauer, who has questions for both Parties, and to Judge Kooijmans and Judge Elaraby, who have questions for the Federal Republic of Nigeria. Judge Fleischhauer, if you please.

Judge FLEISCHHAUER: Thank you, Mr. Vice-President.

I have two interrelated questions for both Parties. My questions are the following:

How was the land boundary in those specified areas in which Nigeria contests the correctness of the delimitation, in practice handled both before and after independence?

In particular, where has the course of the boundary in those areas been treated as running? I thank you, Mr. Vice-President.

The VICE-PRESIDENT: Thank you, Judge Fleischhauer. I now give the floor to Judge Kooijmans.

Judge KOOIJMANS: Thank you, Mr. Vice-President.

I have the following three interrelated questions for the respondent State:

1. Can the Respondent indicate how often and on what kind of occasions the Kings and Chiefs of Old Calabar as a separate entity had formal contacts with the Protecting Power after the conclusion of the 1884 Treaty on Protection?

2. Were the Kings and Chiefs of Old Calabar consulted when the Protecting Power in 1885 incorporated their territory in the British Protectorate of the Niger Districts (see Counter-Memorial of Nigeria, para. 6.66) which in turn had become part of the Protectorate of Southern Nigeria when the 1913 Anglo-German Treaty was concluded? If the answer is no, why were they not consulted? If the answer is yes, what was their reaction and is their reaction contained in a formal document?

3. Did that incorporation bring to an end the purported international personality of the Kings and Chiefs of Old Calabar as a separate entity? If not, when did it cease to exist? Thank you, Mr. Vice-President.

The VICE-PRESIDENT, Acting President: Thank you, Judge Kooijmans. I give the floor to Judge Elaraby.

Judge ELARABY: Thank you, Mr. Vice-President.

I have one question addressed to the Respondent. The question is as follows:

In the course of the oral pleadings, reference was made to the legal régime established by the League's Mandate and the United Nations Trusteeship.

Would it be possible to elaborate further and provide the Court with additional comments on the relevance of the boundaries that existed during that period? Thank you, Mr. Vice-President.

The VICE-PRESIDENT, Acting President: Thank you, Judge Elaraby. The written text of these questions will be sent to the Parties as soon as possible. The Parties may decide, if they deem it convenient, to respond to the questions during the second round of oral arguments. Alternatively, they may provide written responses to the questions not later than 4 April 2002. In the latter case, any comments a Party may wish to make, in accordance with Article 72 of the Rules of Court, on the responses by the other Party must be submitted within 15 days of receipt of the responses.

This marks the end of today's sitting. I wish to thank each of the Parties for the statements submitted to us in the course of this first round of oral arguments. The Court will meet again as from Monday 11 March at 10 o'clock in the morning. to hear the second round of oral arguments of the Republic of Cameroon and of the Federal Republic of Nigeria. Thank you. The sitting is closed.

The Court rose at 12.45 p.m.