INTERNATIONAL COURT OF JUSTICE

CASE CONCERNING *LAND AND MARITIME BOUNDARY*
(CAMEROON v. *NIGERIA)*

Observations of the Republic of Cameroon on the responses by the Federal Republic of Nigeria to the questions put to it by Members of the Court

JUDGE FLEISCHHAUER'S QUESTIONS

1. Judge Fleischhauer put the following questions to the two Parties:

> "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?"

Cameroon submitted its written responses to these questions to the Registry of the Court on 11 March 2002.

I. General comments

2. First, Cameroon notes that Nigeria is seizing what it believes to be the occasion provided by the questions put by Judge Fleischhauer in order to elaborate further its argument concerning the boundary delimitation, which it believes defective or inappropriate, made by the relevant instruments. The Republic of Cameroon considers it neither correct nor in keeping with the letter and spirit of Article 61 of the Rules of Court to proceed in this way and at this stage to reopen the oral argument on points which have been debated at length. It is therefore apparent to it that the Court should take account only of those aspects of Nigeria's answer which are strictly required to respond to Judge Fleischhauer's questions.

3. Second, Cameroon observes that, while Nigeria's legal team apparently visited several of the disputed locations, the information gathered at that time concerning the manner in which the border problems are handled in practice at the local level is incredibly vague and approximate (with regard to this subject, see point (iv) of the introductory section, p. 3, or the discussion concerning the area of Jimbare, pp. 10-11).

4. Third, Cameroon points out that the points raised in dispute by Nigeria and the resulting attempts to alter the boundary are motivated by a desire for territorial conquest based on the claim that the areas in question are "heavily populated by Nigerians", as shown by the following passages from its response to the Judge's question:

— Paragraph 5 (ii), page 2: "At the time of the 1931 Declaration, pressure on land was not great . . .". In other words, because such pressure on land has purportedly become great, Nigeria seeks a change in the boundary to take that into account.

— *The Kirawa River:* "By way of general comment, this is an area inhabited by a large Nigerian farming community . . ." (3 (i), p. 6).

— *Jimbare:* "By way of general comment, this area is relatively well-populated by Nigerians" (3 (i), p. 10).

— *Sapeo:* "By way of general comment, this area includes a substantial population living in a number of substantial Nigerian villages . . ." (9 (i) p. 11).

— *Mount Kombon:* "Despite being a relatively remote area, the region nonetheless contains a large Nigerian farming population . . ."; and "[t]he local population, essentially comprising Nigerians from the Mambila tribe . . ." (11 (i) and (iii), p. 14).

— *Maduguva:* "By way of general comment, this area is heavily populated and farmed by Nigerians" (16 (i) p. 18).

Even assuming these allegations to be true — which Cameroon denies — the movement of people from one State onto the territory of a neighbouring State cannot serve as the basis for territorial claims in violation of a boundary defined by treaty.

5. On several occasions, Nigeria advances the argument that the Nigerian inhabitants have conducted activities "without protest from Cameroon and without attempt by Cameroon to regulate or tax them" in one or another boundary area which Nigeria claims (1 (iv), p. 5). This is asserted to be the case notably at the mouth of the Ebeji and in Kotcha (Koja). Cameroon will point out that the ethnic mixing of the inhabitants of the border areas encourages the groups to cross, and even to settle on the other side of, the boundary. So long as this remains mere population movements, i.e., purely private acts, the question is handled at the local level, generally by the traditional chiefs. The Cameroon Government intervenes only when these population movements are accompanied or followed by support from or the presence of Nigerian civilian and/or military authorities, leading to prejudice to national sovereignty and the resulting desire to call the boundary into question.

6. In the light of these observations, Cameroon wishes to make two sets of general comments on Nigeria's responses.

(a) ***The treatment and resolution of boundary conflicts at the local level***

7. Between 1919 and 1930, the two administrating Powers, Britain and France, had boundary work undertaken with a view to clarifying certain provisions of the 1919 Agreement and facilitating the future work of the "Delimitation Commission".

8. The Thomson-Marchand Declaration incorporated within its provisions the earlier work that was relevant. In referring to local handling of boundary conflicts, Nigeria attempts to gain acceptance of that earlier work which was not confirmed by the Thomson-Marchand Declaration.

9. The "Cameroons" under French and British administration were mandated, and then Trust, territories and, consequently, no modification of their territory could be decided at the local level without prior approval by the League of Nations or the United Nations.

(b) ***The earlier boundary work not adopted in the Thomson-Marchand Declaration***

10. Some work done prior to the Thomson-Marchand Declaration was not ratified by the provisions of the Declaration but, according to Nigeria, was introduced into the maps representing the Declaration provisions. Through this manoeuvre, Nigeria seeks to give the same force to the description of the boundaries in the Thomson-Marchand Declaration and the provisions' cartographic representations which were not annexed to the Declaration. This would enable it to reopen discussion of the earlier work which was not confirmed in the provisions of the Thomson-Marchand Declaration.

11. The Republic of Cameroon has set out its argument at length on this subject in its written pleadings (see MC, pp. 97-101, paras. 2.119-2.125) and during the oral argument (CR 2002/2, pp. 21-22, paras. 14-15).

12. Some provisions of the Thomson-Marchand Declaration permitted the Parties to make limited adjustments to the course of the boundary. However, these limited arrangements or interpretations were not to distort the provisions of the Declaration and that is what the claims of Nigeria, attempting to make improper use of this latitude in order to serve its territorial ambitions, do. The discussion in Nigeria's responses concerning the area lying between Mount Ngossi and Roumsiki or the area of Koja (Kotcha) are striking examples of this propensity.

13. Cameroon, which adheres fully to the responses it gave to Judge Fleischhauer's questions, will nevertheless briefly reply to Nigeria's responses to them — pointing out that a careful reading of them dispels the impression, if any such dispelling is needed, of precision and solidity which a superficial hearing of Nigeria's oral argument might have created.

II. The locations in dispute

14. The Republic of Cameroon does not think it appropriate to interpret the questions put by Judge Fleischhauer to include the locations where Cameroon's maps are allegedly in conflict with the applicable texts and it will focus the major part of its (brief) replies on the first part of Nigeria's responses *(a)*. It will however make some very brief remarks on the second part *(b)*.

(a) ***The first part of Nigeria's responses. Locations where Nigeria considers the boundary delimitation to be defective.***

(i) The mouth of the Ebeji

15. Nigeria's response to Judge Fleischhauer contradicts its written pleadings and oral argument. Nigeria argued at length comparing the physical characteristics of the western and eastern channels, citing in support of its thesis the arbitral award rendered in the *Andes Frontier* case and refusing to take account of the decision in the *Kasikili/Sedudu Island* case.

16. Having been unable to prove the merit of its hydrological argument, Nigeria now falls back on an *effectivité* not based on any document and never previously discussed. For its part,

Cameroon notes that Cameroonian farmers have their livestock graze without any problem in the area now disputed by Nigeria, notably in the area of the confluence, as shown during the oral argument. Moreover, peaceful use of these territories in no way establishes an *animus dominandi*. As the Court pointed out in the *Kasikili/Sedudu Island* case:

> "the peaceful and public use of Kasikili/Sedudu Island, over a period of many years, by Masubia tribesmen from the Eastern Caprivi does not constitute 'subsequent practice in the application of the [1890] treaty' within the meaning of Article 31, paragraph 3 *(b)*, of the Vienna Convention on the Law of Treaties" (*I.C.J. Reports 1999*, p. 1095, para. 75).

17. Cameroon notes that Nigeria admits that the respective locations of the two channels of the Ebeji have not changed since 1931. The Court should therefore either consider that the Parties accepted an authoritative interpretation of the Milner-Simon Declaration in the context of the LCBC or should interpret Article 1 of the Declaration in order to determine where the mouth of the Ebeji was in 1919 and in 1931 under the criteria applied by the international jurisprudence and put forward by one or the other Party.

(ii) Narki

18. Cameroon maintains that there is no water course at the location where Nigeria places the boundary line on map 23 in its Atlas and that the line claimed by Nigeria therefore does not comply with the clear wording of the Thomson-Marchand Declaration.

19. The course of a "provisional boundary" on the 1921 sketch-map, reproduced in Annex NR 151, does not correspond to the alleged boundary line on map 23 of the Atlas. While the boundary line on that latter map starts at point GPS 5, running practically from the south-east to the north-west, the 1921 sketch-map shows the boundary line passing first from a point north-east of Narki for a distance of nearly one kilometre in a northerly direction, before then turning to the west. If that cartographic representation is correctly applied to Nigeria's own modern map, we observe that Narki lies in Cameroonian territory. It is therefore not surprising that Nigeria did not rely on this sketch-map during the oral arguments, given that the map does not support Nigeria's territorial claims in this area.

20. The sketch-map signed by the two District Officers never took on legal status. Nigeria has not shown that it was to play a role in the authoritative interpretation of the Milner-Simon Declaration. Even if the Court ascribes legal value to this sketch-map, Cameroon maintains that the map supports its own legal position, i.e., that Narki belongs to Cameroon.

21. The 1921 sketch-map does not show any locality called Narki (and/or Tarmoa). Accordingly, Nigeria is completely wrong in maintaining that the boundary shown on it "passes some 300 metres north of Limani and south of Narki", given that the latter locality probably did not exist at the time. This is confirmed by the map annexed to the Thomson-Marchand Declaration of 1931, which — once again — shows only "Limanti" but no other village to the north of that locality. The most likely reason why Nigeria does not refer to any pre-independence administrative practice concerning this locality, which it now claims as its own, is therefore that these villages did not exist at the time. They were only founded later when several groups of Nigerians migrated into Cameroonian territory. Accordingly, Cameroon categorically denies Nigeria's assertion, as expressed in its response to Judge Fleischhauer's question, that Tarmoa and Narki "remained" Nigerian after independence, since Nigeria has been unable even to show that these villages existed

before independence. The available evidence points rather to the contrary. Cameroon agrees that the inhabitants of Limani and Narki coexist in peace, but they do so on Cameroonian territory. If Narki were in fact administered by the Bama Local Government Area, within Borno State in Nigeria, an allegation which Cameroon denies once again, that would represent a further example of Nigeria's violation of Cameroon's territorial integrity.

(iii) The Kirawa River

22. Cameroon stands by the detailed, specific written response provided to the Court.

23. According to Nigeria, the local residents give names to the rivers lying in the immediate vicinity of their villages and this practice can lead to the existence of different names for different parts of their course. This is strong evidence that Cameroon's interpretation of the boundary instrument is correct. According to Nigeria's own map, the "Kohum clan" inhabits the area immediately to the south of the river which Cameroon considers to be the true Kohum River referred to in Article 19 of the Thomson-Marchand Declaration.

24. Nigeria also maintains that its representatives spoke with the village chief of Uledda, a locality in fact awarded to Great Britain under Article 19 of the Thomson-Marchand Declaration and which, as a result, is now in Nigeria. However, Cameroon vigorously denies that the locality shown on Nigeria's map (p. 27 of the Atlas and Fig. 7.8 of the Rejoinder) under the name "Roua" is the place referred to by the drafters of the 1931 Declaration. When applied to the "modern map" used by Nigeria (see p. 27 of the Atlas; the physical characteristics unfortunately are not shown on the extract from this map reproduced as Fig. 7.8 in the Rejoinder), the contour lines of the mountains to the north of the Kohom River represented on the 1926 sketch-map to which Nigeria refers, and which is also shown in Figure 7.9 of the Rejoinder — see in particular the location of Johoda and the hills immediately north of the "real" Kohom River — also support Cameroon's interpretation of the relevant Treaty provision: at the time the Treaty was drafted, the locality of Uledda was north of the boundary line claimed by Cameroon. Cameroon is not aware that the population of that village in the meantime moved several kilometres to the south to a place shown on the map under the name "Roua". Although that is possible, such an event is highly improbable in fact, because the practice in this part of the world is rather that villagers transpose the name of their original village to their new settlement. The names "Roua" and "Uledda" are however in no way alike. Accordingly, Cameroon considers that the locality of Uledda still is north of the water course which it considers to be the real Kohom River.

(iv) From Mount Kuli to Bourha

25. Nigeria states that both before and after independence the boundary in this area was handled at the local level and that there is no significant dispute concerning the limits of the respective administrative spheres.

But Nigeria relies in its understanding of the course of the boundary as supposedly agreed "in practice" on a wholly incorrect reading of a procès-verbal from 1920 (see Ann. RN 152). Nigeria states:

> "The resulting procès-verbal stated that the boundary should *follow the centre of a track* from Muti towards Bourha, and that Bourha lies *1.5 kilometres* to the east of the frontier" (p. 8 of Nigeria's response, emphasis added).

The original text (in French) reads however as follows (see Ann. NR 152):

"... la ligne frontière est jalonnée par les villages ou les monts ci-après du nord au sud... Mukta (F. et A.), Muti (F. et A.), Mouhoum (F. et A.), ***à mi-chemin entre*** *Muti et Burha, Burha (2* ***km.*** *est frontière, F.)..."* ["the boundary line is marked out by the following villages or hills from north to south . . . Mukta (F. and E.), Muti (F. and E.), Mouhoum (F. and E.), *midway between* Muti and Burha, Burha (*2 km* east boundary, F.) . . ."] [translation by the Registry] (emphasis added).

Accordingly, this document states that Bourha was considered to be situated 2 km, not 1.5 km, to the east of the boundary. Above all, it indicates that the boundary was not to "follow the centre of a track between Muti and Bourha", but rather was to pass by a village called Mouhoum, located "midway between Muti and Bourha". Cameroon hopes that this clearly erroneous translation, which has — at least potentially — serious consequences, was not a deliberate attempt to mislead the Court.

26. Cameroon has no intention of reopening a discussion on the interpretation of the border instruments at this stage. However, it cannot ignore this erroneous reading of the relevant documents produced by Nigeria itself, and then translated into representations on maps of the alleged boundary line, and finally, now, used as evidence showing the alleged administrative practice on the ground.

(v) Koja

27. Cameroon explained its position on this point in detail in its oral response to Judge Fleischhauer's question (CR 2002/15, para. 45 *(c)*). Cameroon is well aware that in the Koja area there has been a proliferation in the last few years of villages inhabited by Nigerians beyond the international boundary defined in the Thomson-Marchand Declaration and far into Cameroonian territory. Remaining true to its tradition of hospitality, Cameroon has not taken measures against these purely private activities. However, it has never acquiesced in administrative activities by Nigeria on its territory.

(vi) The source of the Tsikakiri River

28. According to Nigeria, the area in question is remote and a long distance from the road network and all other public infrastructure. That is true on Nigeria's side but not on Cameroon's, where this area is accessible from the Cameroonian village of Dumo.

29. It is wholly incorrect — contrary to what is suggested in Nigeria's response (p. 10) — that in the summer of 1920 the District Officers Vereker and Pition carried out in the immediate vicinity of the source of the Tsikakiri River a boundary line demarcation which "[a]fter independence, the local people on both sides have recognised . . . as the boundary" (p. 10 of the Response).

30. According to Nigeria, "they [the district officers] traced the course of the Tsikakiri and carefully fix[ed] the local boundary" (p. 10 of the Response). Rather, the document on which Nigeria relies in this connection (Ann. NR 152 C 1) reads as follows: "Starting from the right bank of the river Benue, following up the Rivers Tiel and Tsikakiri, *thence carefully fixing the local boundaries of Dumo (French) and Bade (British) on the spot . . .*" (emphasis added). There is no evidence that the course of the Tsikakiri River was determined, let alone the source of that water course. In fact, such an operation was never undertaken.

(vii) Jimbare

31. Cameroon has never denied that the course of the boundary line in the "Jimbare" area raises difficulties which have to be resolved at the time of demarcation. Nigeria's response to Judge Fleischhauer's question provides no substantive information on the place where current practice considers the boundary to run, confining itself to general comments such as: "This line [e.g. the 'Logan-Le Brun' line] was shown to the local population on the ground and has since been passed on from generation to generation" (Response, p. 10 *(f)*); and "local resident farmers showed [Nigeria's legal] team where the boundary runs. This accorded almost precisely with the Logan-Le Brun procès-verbal."

32. Where exactly did Nigeria's legal team question "local resident farmers"? What does "almost precisely" mean? What is the source of the information that "this line was shown to the local population" and that this information was "passed on from generation to generation"? Clearly, Nigeria's assertions are too vague to be taken as cogent proof of the practice observed on the ground.

(viii) Sapeo

33. On this point, Cameroon stands by the written response it provided to the Court.

(ix) Namberu-Banglang

34. On this point Cameroon stands by the definition of the boundary set out in Articles 37 and 38 of the Thomson-Marchand Declaration of 1931.

(x) The position of Mount Kombon

35. According to Nigeria, the boundary in this area is a "tribal boundary between the Mambila tribe on the high Mambila Plateau and the Cameroonians from the lowlands" (Nigeria's Response, p. 14).

36. Not only does this notion of a "tribal boundary" have no legal meaning, but the Mambila tribe is found on both sides of the boundary.

37. For the rest, Cameroon stands by its written response on this point provided to the Court.

(xi) The boundary westwards from Tonn Hill to the Mburi River

38. According to Nigeria, it is impossible to apply the provisions of the 1946 Order in Council on the ground.

Cameroon maintains that the boundary line in this area is determined by the relevant provisions of the 1946 Order in Council, as confirmed by the Northern Region, Western Region, Eastern Region (Definition of Boundaries) Proclamation of 1954.

(xii) The Sama River

39. According to Nigeria, the course of the boundary has been treated by the local Nigerian population, initially without protest, as following the course of the southern tributary of the Sama River.

40. On this point, Nigeria's response provides no further information than that appearing in its written pleadings and oral argument. Accordingly, Cameroon reiterates the terms of its written response provided to the Court.

(b) ***The second part of Nigeria's responses. The locations where Nigeria considers Cameroon's maps to be in conflict with the relevant instruments.***

41. As already pointed out, Cameroon:

— does not believe that the questions put by Judge Fleischhauer, which relate solely to areas in which "Nigeria contests the correctness of the delimitation", extend to the nine additional locations referred to, in a wholly artificial way, by Nigeria; and

— reaffirms that, in any event, the text of the relevant instruments must prevail over any map drawn up by the Parties.

42. It also believes that it has responded in advance to the arguments which Nigeria sees fit to repeat in this regard (see RC, pp. 323-337). It shall therefore confine itself to a few very brief remarks as examples.

— Cameroon categorically denies Nigeria's assertion that in the Maduguva area, "Nigerians have been subjected to intimidation, extortion and violence by Cameroonian officials" and "the Cameroonian local chief of Bourha . . . threatens Nigerian farmers in the area of Maduguva, extorts money from them, steals their property and destroys crops" (pp. 18-19 of the Response). Not only is this statement untrue, but it bears no relationship with Judge Fleischhauer's question.

— Cameroon is not aware that, in the area of pillar 6-Wamni, the boundary "has always been treated as running from the point on the Maio Hesso, north of Beka, which is shown on Figure 7.30 of Nigeria's Rejoinder and which used to be marked by a boundary pillar" (Nigeria's Response, 17 (iv), p. 20).

JUDGE KOOIJMANS' QUESTIONS

1. Judge Kooijmans asked Nigeria to respond to the following questions:

"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?"

2. Cameroon will point out that, in its Response to these questions, Nigeria uses, in flagrant violation of the Rules of Court, a series of records which were not produced before the end of the written proceedings. Those are the following Foreign Office documents:

— FO 881/5161
— FO 881/5260
— FO 881/5588
— FO 881/6351
— FO 881/6471
— FO 84/1740

Accordingly, Cameroon considers that no account should be taken of the assertions based on these documents.

(a) *The first question*

3. Nigeria's response to this question is curiously confused and largely conjecture. Yet the questions put by Judge Kooijmans bear on points which lie at the very heart of Nigeria's assertions concerning the continuous international legal personality, accompanied by international territorial sovereignty, of the entity called the Kings and Chiefs of Old Calabar. Nigeria begins with two preliminary comments: the first concerns the lack of records supporting its argument, which consists of claiming that the Kings and Chiefs of Old Calabar had a continuing international legal personality. It would appear that this is to be ascribed, for example, to the time having elapsed since then, to a lack of organization and to the fact that those Kings and Chiefs were "unlikely to have been as bureaucratically-minded as the British officials were" (p. 29, para. 6) — notwithstanding the fact that supporting British records have not been found. Whatever may be the excuses put forward (pp. 28-29, paras. 3-6), what is obvious is that Nigeria itself admits that there is no record providing evidence for its assertions concerning the legal status and scope of the authority of the Kings and Chiefs of Old Calabar.

Moreover, it may be asked why Nigeria, which found documents dating from 1884-1885, is unable to produce any documentary evidence whatsoever concerning the "formal contacts" between Great Britain and the Kings and Chiefs of Old Calabar.

4. Nigeria's second comment is that the Kings and Chiefs of Old Calabar were "a loose federation" (p. 29, para. 7). After undertaking "further research" and, in particular, consulting with the current Obong of Calabar (p. 30, para. 8), Nigeria attempts to elaborate on its response during the oral proceedings to Judge Kooijmans' question, without however explaining the legal meaning of the concept of an acephalous federation, which it now calls a "loose federation". If the information provided by the Obong of Calabar is evidence, it is new evidence, in violation of the provisions of the Rules of Court.

5. In any event, the oral statements of the current Obong of Calabar, an official of the Nigerian administration, are without any evidentiary value; this is especially so since the individual in question was present at the Court's hearings and attended the oral argument on the case, which disqualifies him as a witness.

6. Further, one might ask why, if the Kings and Chiefs of Old Calabar remained a distinct international legal person separate from Great Britain and enjoyed territorial sovereignty under international law, these Kings and Chiefs believed it necessary until 1960 to change the title of the suzerain to exclude the notion of "Majesty" on the grounds that such a title would be in conflict with the accepted title of Britannic "Majesty" (p. 33, para. 18).

7. Aside from the fact that Nigeria does not provide evidence of "formal contacts" between Great Britain and the Kings and Chiefs of Old Calabar, any such contacts could not demonstrate the existence or acceptance of an international legal title to any territory (let alone to the Bakassi Peninsula).

8. On some occasions, the Kings and Chiefs of Old Calabar were considered by the British authorities to be appropriate intermediaries to implement their decisions. Major MacDonald makes very clear the spirit of British rule in this regard: "I informed the Chiefs that, when I sent them a message, *implicit obedience* was what I expected, and what I, as representative of Her Majesty, would have" (Ann. 1, p. 41, emphasis added).

(b) *The second question*

9. Cameroon will point out that Nigeria concedes its inability to answer Judge Kooijmans' second question. Nigeria states: "The records which would enable the question to be answered simply no longer exist, either in London, or in Calabar or Lagos, or Abuja. It seems likely that it will prove impossible to say with any certainty, supported by documentary evidence, that the Kings and Chiefs were not consulted and why, or that they were consulted and their answer was such and such" (Nigeria's Response, p. 38, para. 30).

(c) *The third question*

10. In respect of the response to Judge Kooijmans' third question concerning the termination of the purported international legal personality of the Kings and Chiefs of Old Calabar, Cameroon will point out that Nigeria is also incapable of responding to this question, which is the corner stone of its claim to the Bakassi Peninsula. Indeed, Nigeria admits (yet again) that: "It is not possible to say with clarity and certainty what happened to the international legal personality of the Kings and Chiefs of Old Calabar after 1885" (para. 40).

11. Nigeria's reference to the *Western Sahara* case provides no help on this point. That case simply shows that where a colonial power acquired a title to territory based on treaties of cession entered into with specific entities having a social and political organization, the concept of *terra nullius* does not apply (*I.C.J. Reports 1975*, p. 39). It does not establish that such entities were, or if they were, that they continued to be, international legal persons holding an international legal title like States under contemporary international law.

JUDGE ELARABY'S QUESTION

1. Judge Elaraby put the following question to Nigeria:

> "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?"

2. In answering that question, Nigeria makes some general comments which do not respond to the specific point raised by Judge Elaraby. Cameroon does not find it necessary to address once again the historical questions raised here (see Nigeria's Response to Judge Elaraby's question, paras. 2-20 and see MC, pp. 185-258, paras. 3.111-3.276).

3. However, it should be noted that Nigeria agrees with the following arguments made by Cameroon (CR 2002/4, pp. 18 *et seq.*):

(i) the mandatory governments (and later the Trust governments) did not have sovereignty over the mandated (and later Trust) territories (pp. 53 and 57-58, paras. 22, 30 and 32);

(ii) all territorial changes required approval by the League of Nations *(ibid.)*;

(iii) the League of Nations paid close attention to questions concerning the extent of the mandated territories *(ibid.)*;

(iv) the mandatory governments did not have the right to deal unilaterally with a mandated territory or to acquire additional territory to include it within the mandate *(ibid.)*;

(v) a mandatory government was required to refer any present or future territorial change to the Permanent Mandates Commission of the League of Nations or the Trusteeship Council of the United Nations *(ibid.)*;

(vi) "*Nigeria* clearly inherited a boundary determined by the Thomson-Marchand Declaration" (p. 55, para. 25, emphasis in the original);

(vii) "the territorial limits of the Trust Territory therefore formally remained throughout the Trusteeship period as prescribed in Article 1 [of the Trusteeship Agreements]" (p. 55, para. 26);

(viii) those limits were in conformity with those laid down in the Mandates (p. 55, para. 27);

(ix) the boundary of southern Cameroons including Bakassi remained what it was at the beginning of the mandate period, given that no territorial change was made or referred to the relevant international supervisory bodies (p. 58, para. 33);

(x) the 1922 boundary was the same as in 1914, because Great Britain was without authority, as a belligerent occupying power during the First World War or as the transitional administering authority from 1918 to 1922, to modify unilaterally the boundaries of Kamerun (pp. 58-59, para. 35).

Finally, Nigeria also agrees with Cameroon that "the only possible change in its [Bakassi's] territorial status before then [1914] would have been that which resulted from the Anglo-German Treaty of 11 March 1913" (para. 36).

Thus, the two Parties agree that the relevant boundaries of southern Cameroons, including Bakassi, in 1960-1961 were those of 1914.

4. Nigeria is careful to avoid referring at all to the relevant practice during the mandate and trusteeship periods showing that Bakassi was part of Cameroon under mandate and then under British trusteeship. The relevant international supervisory bodies were fully aware of this practice and raised no objection whatsoever to it. It was therefore recognized that Bakassi belonged to British Cameroons.

5. Cameroon has provided a detailed description of the relevant practice in this area, both in its written pleadings (see MC, pp. 185-258, paras. 3.111-3.276) and its oral argument (see CR 2002/4, p. 33 and pp. 58 *et seq.*; CR 2002/16, pp. 31-32).

6. To summarize, the Bakassi Peninsula was part of British Cameroons during the entire mandate and trusteeship periods. This was accepted by the British authorities, the League of Nations and the United Nations. The Bakassi Peninsula was attached to the Republic of Cameroon as a part of southern Cameroons further to the plebiscite organized under United Nations supervision on 11 February 1961. Cameroon's title to Bakassi is therefore free of all doubt.