

LAW AND DEMARCATION OF THE BOUNDARIES IN THE LIGHT OF THE DEMARCATION OF THE BOUNDARY BETWEEN CAMEROON AND NIGERIA

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I - INTRODUCTION


- Boundary is a fundamental element in defining the territory
- The complete determination of the boundary line comprises two main phases: delimitation and demarcation
- Traditionally specialists oppose them : delimitation is said to be a political and legal operation whereas demarcation is considered pure technical and/or material exercise


- The radical opposition between the two is however excessive : delimitation rely on minimum of technical facts particularly cartographic materials , and demarcation is based on legal instruments of delimitation
- Delimitation of the boundary between Cameroon and Nigeria is particularly enlightening in this regard


II - TESTING THE LAW WITH REALITIES ON THE FIELD


- Demarcation exercise commences with an implicit dialogue between technique and law and therefore between technicians and jurists
- Very quickly technicians, wether surveyors, cartographers or topographers realise that the legal instruments of the delimitation have lacunae or that the physical elements to which they refer are imprecise or in divergence with the indicated spots

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- This is exactly what happened within the framework of the demarcation of the land boundary between Cameroon and Nigeria
 - Two african countries in the Golf of Guinea ; both are independant since 1960 ; sharing about 1800km frontier delimited at the end of the 19th century and early 20th century by colonial powers , namely Germany, France and Great Britain


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- Many frontiers incidents occurred as from 1970s ; dispute finally brought before the ICJ IN 1994, who settled the case by a ruling of 10 OCTOBER 2002
 - Nigeria initially rejected the judgment of the Court but later on accepted to comply with

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- The Heads of State of Cameroon and Nigeria and the Secretary of the United Nations created on the 15. 11. 2002 the Cameroon-Nigeria Mixed Commission (CNMC) for the implementation of the Judgement of the Court ; Commission chaired by a Special Representative of the SGUN

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- The CNMC created in her mist a Sub Commission on Demarcation which in her turn sat up a Join Technical Team (JTT) composed exclusively of cartographers , surveyors and topographers to carry on the in the field
 - The demarcation work : it started with evaluation of the boundary ; many points of contention appeared ; three of them where resolved either by the JTT or by the Sub Commission on Demarcation



a) MARSH OF AGZABAM : the JTT agreed to resolve the problem by “ adopting the mediane line separating the two charts initially proposed by the two parties. The sites of the boundary pillars were calculated and the files signed “



b) DUMO : during the meeting of the JTT of April 2006 the UN expert proposed to the Parties to “ accept “ the following solution :the point recorded by the JTT located on the line of the watershed having coordinates : (coordinates indicated) . The Parties accepted this solution and signed the document

c) SOURCE OF THE TSIKAKIRI RIVER : this point is treated in the 1929 Thomson- Marshan declaration delimitating the boundary in that area and confirm by the ruling of the Court. But in the field thereare three sources and not only one as suggested by these legal instruments and each of the two Parties designated a different source. The expert of the UN proposed the following solution : ‘ the JTT will walk along the Tsikakiri river bed , going upstream , until it reaches the last point of which the bed of the river is clearly defined “ , as agreed previuesely by the JTT. The Parties accepted this solution and signed the document

- From a legal point of vu, the vocabulary used in these document is very enlightening : the occurrence of terms such as “agreement” , and expressions such as “ have agreed ‘ ‘ have adopted ‘ have adhered “ or “ have accepted “ is a clear indication of the juridical commitment of the Parties through these documents

III - TECHNICAL OR PRACTICAL ARRANGEMENTS OF THE DEMARCATION EXERCISE AND BINDING FORCE


- The Sub Commission on Demarcation mainly approved two sets of documents : - The *Preliminary Demarcation Instructions* contained in a document entitled : “Provisional Functions of JTT “ ; and the *Technical Manual* . Both documents consign the consensus of the Parties and the detailed rules and procedure to be followed during the field work


- Question : How can technical experts who are sometime at the low level of the administrative hierarchy in their countries could agree on arrangements of biding legal value to their countries?

- Answer : the legal force of these arrangements and related documents flows from the chain of negotiating capacity starting from the Mixt Commission who received that power from the Heads of state of the two countries ,to the JTT through the Sub - Commission on Demarcation , not forgetting that each level maintain its monitoring and validating power in the opposite direction , i.e. From the butom to the top level

IV - Conclusion

- The technical process of demarcation and the related documents are not something new. What the jurist would like to underscore is that these documents are not simply a collection of technical material for topography and cartography. They are of legal nature, as they bear the successive commitment of the Parties to the demarcation exercise on questions they have to adress

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- There is no doubt, demarcation experts make law ; maybe unconsciously
 - It is certainly too early to talk of an *International Law of Demarcation*. We need more studies on more experiences in different part of the world

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- But we can certainly say that the demarcation exercise produces law. For that reason, that surveyors and others experts on demarcation should bear in mind that they play a key role in that international operation of demarcating boundaries between states . They can help building peace among Nations through their skill and above all their dedication and their moral integrity
 - *Thank you for kind attention*