



LEGAL HISTORY OF BOUNDARY CREATION IN AFRICA:  
THE CASE OF NIGERIA-CAMEROON BOUNDARY CONCERNING  
BAKASSI PENINSULA (1884-2008)

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ABSTRACT

The paramount goal of this article is to take a look at the treaties that were used to create the Nigerian-Cameroon boundary, especially the treaties concerning the Bakassi Peninsula. The article also intends to assess the impact of the treaties on the territory. It is axiomatic that the 1885 *General Act of Berlin* had authorized the European Powers to carve out African territories and occupy them effectively. To avoid conflict, the European Powers had to create boundaries to demarcate their territories of interest. Following the defeat of Germany in the First World War, its colonies were taken over and shared by the Allied Powers, particularly Great Britain, France, Belgium, Italy and South Africa. The Victorious Powers that shared the German colonies entered into treaties to create boundaries to demarcate their *mandates*. The Nigerian-Cameroon boundary offers a good example. The article adopts historical descriptive analysis methodology by which relevant primary and secondary sources were interrogated. These treaties and artificial international boundaries were created without the knowledge and consent of the indigenous people who owned the land. These artificial boundaries have been generating conflicts since the colonial times.

*Keywords:* International Law; Treaty; Agreement; Declaration; Exchange of Note; *Uti possidetis*, *Boundary*; *Bakassi*

1. INTRODUCTION

Boundary question is one of the legacies the European colonial masters had left behind in Africa. Competition by the European Powers for territories in Africa gave rise to the 1884/1885 Berlin West Conference and the General Act of Berlin (1885) which authorized the Powers to carve out, own and effectively occupy territories in Africa. This warranted creation of some artificial boundaries to demarcate territorial possessions between the rival European Powers. The General Act of Berlin and the boundary treaties entered into between the European nations made stipulations concerning rivers, territorial ownership and land boundaries in Africa, without involving African rulers and land owners in the negotiations. Following the defeat of Germany in the First War, its territories in Africa were taken and shared among the victorious Powers, deriving legal backing from the Treaty of Versailles of 1919. This generated another boundary questions in the former German colonial possessions now shared by the European Powers. Experience has shown that almost all African countries have been having frosty relations with their neighbours since the

colonial times. It is believed that part of the soured relations emanate largely from the arbitrary artificial boundaries created by the European Powers when they scrambled for and partitioned African territories among themselves in the 19<sup>th</sup> century. Boundary conflicts became even more intense after African countries had regained independence. Nigeria-Cameroon relations have offered an example of frosty relations that are boundary-related since colonial times.

Justice Nasir Boundary Adjustment Commission set up in 1976 to examine boundary disputes reportedly traced the history of boundary disputes to 1917 when some people from Ilorin and Kabba Provinces of Northern Nigeria demanded boundary adjustments in order to join their kith and kin in the Western portion of the Southern Protectorate. However, the present research traces the commencement date for the Nigeria-Cameroon boundary disputes to 1850s when the activities of rival agents of Britain, France and Germany, who were determined to establish claims over villages in the hinterland of coastal possessions, gave rise to the making of many treaties between the European Powers before and more especially after the Berlin West African Conference. To achieve these aims, the study begins with a brief background of Euro- Old Calabar relations up to 1884, and then assesses the relevant legal instruments beginning from the British Treaty with Old Calabar of 1884 to the Green Tree Treaty of 2006.

## 2. METHODOLOGY

Written in a legal history perspective, this article seeks to examine the treaties and politico-administrative policies that were used to create the Nigerian-Cameroon boundary, particularly as they have affected the Bakassi Peninsula, which was part of Nigeria, but now ceded to the Republic of Cameroon, by the World Court Judgement of 2002. The article adopts historical descriptive analysis methodology. Relevant primary and secondary sources were consulted, including multilateral treaties, bilateral agreements, official speeches, journals, newspapers and books. The article is split into sixteen brief sections analyzing the legal instruments and politico-administrative policies that were used to create the Nigeria-Cameroon boundaries. Endnotes referencing system (automatic) is used to disclose the sources consulted. The article commences with a brief background of Euro- Old Calabar relations and ends with concluding comments,

## 3. BRIEF BACKGROUND OF EURO- OLD CALABAR RELATIONS, 1841-1884

There is *consensus ad idem* among Historians that the year 1841<sup>1</sup> marked the beginning of formal relations between Britain and Old Calabar of which Bakassi was a part. It was in that year that “the two countries”<sup>2</sup> signed anti-slavery treaties to stop slavery in the area. Additional Articles were signed in 1842 to give Britain the right to intervene with force if slave trading revived in the Old Calabar territory. In 1849, John Beecroft was appointed Her Britannic Majesty’s Consul to protect the British commercial interests in the region. Being the first British Consul, Beecroft’s jurisdiction covered the Bights of Benin and Biafra. The area covered not only the Niger Delta and Lagos, but also extended to the kingdom of Dahomey and Cameroon including the Bakassi Peninsula. By this time, Britain did not have any territorial ambitions in establishing the consulate, as could be seen in Beecroft’s *Appointment Letter*, which stated *inter- alia*: “*Her Majesty’s Government in establishing this consulate in the Bights of Benin and Biafra, have no intention to seek to gain possession, either by purchase or otherwise, of any portion of African Continent in*

<sup>1</sup>A. J. H. Latham, *Old Calabar 1600 – 1891: The Impact of the International Economy Upon a Traditional Society* (Oxford: Clarendon Press, 1973), p.134.

<sup>2</sup>Latham, *Old Calabar...*, p.134

those parts, nor of any neighbouring Islands.”<sup>3</sup> This implied that, as British government policy, Beecroft’s consular duties did not include territorial aggrandizement. He was not to grab African land for or on behalf of the British or the British Crown. But rather, “the Consul’s job was to protect British subjects and promote their commercial interests, and he had no authority over them or over the Africans with whom he dealt.”<sup>4</sup>

The Kings and the Chiefs of Old Calabar made repeated requests<sup>5</sup> for British protection and annexation. The first request was made in 1847 when a French Steamer arrived to persuade the Efik to accept French Protection.<sup>6</sup> The Kings and Chiefs refused and instead asked that Britain annex Calabar.<sup>7</sup> Following the Chiefs’ persistent requests (which got the support of the British traders, some consular officials and missionaries), increase in British trade and the French threat as evidenced by the presence of a French gunboat on River Niger, the British Government finally accepted to extend its protection to Old Calabar. Thus, by 22 December 1883, the British Government decided to strengthen the Consular administration and to make treaties with the Chiefs. The Anglo-Old Calabar Treaties were to the effect that the Kings, Chiefs and people of Old Calabar should not cede their territories to other foreign Powers.<sup>8</sup> It fell on Hewett to conclude such treaties of protection with the Natural Rulers, one of such treaties of protection being the 1884 Treaty.

#### 4. THE 1884 BRITISH-MONARCH OF CALABAR TREATY

One of the consequences<sup>9</sup> of the requests made by the Efik was the Treaty concluded between Britain and the Kings and Chiefs of Old Calabar on 10<sup>th</sup> September, 1884, which was recognised by the Berlin Conference of 1884-1885. Like their Old Calabar counterparts, the Kings of Cameroons had sought to place themselves under British rule. Lack of funds, delay on the part of the British, and resort to bribery on the part of Germany, combined to rob Britain of the opportunity of extending its jurisdiction to Cameroons in spite of the “offers repeatedly made by the native Chiefs in the Cameroons to place their territories under English protection”.<sup>10</sup> On July 14, 1884, Germany occupied Cameroons officially by raising German flag in several towns of the new protectorate. Consul Hewett arrived Cameroons one week later to forestall the Germans there, but only to earn himself the title “Too Late” Hewett.<sup>11</sup> By this time, the Bakassi Peninsula was within the Old Calabar territory to be protected by the British.

The 1884 Treaty between Britain and Kings and Chiefs of Old Calabar is very relevant to our present study as it had influenced the World Court’s judgment over the ownership of Bakassi. It therefore deserves elaboration here. Article 1 of the 1884 Treaty provided as follows:

<sup>3</sup>K. Onwuka Dike, *Trade and Politics in the Niger Delta 1830 – 1885: An Introduction to the Economic and Political History of Nigeria* (Oxford: Clarendon Press, 1966), p.95; Bassey, J. R., “The Loss of Bakassi by Nigeria to Cameroon: A Study in Legal and Diplomatic History” in *Uniyi Journal of Commercial and Property Law* Vol.1 December 2010.

<sup>4</sup>D. C. M. Platt, “The Role of the British Consular Service in Overseas Trade, 1825 – 1914” cited in Latham, Old Calabar..., p.135.

<sup>5</sup>J. R. Bassey, “Legal Consequences of the Demand for British Protection in Old Calabar, 1841-1891: Background to the Ceding of Bakassi to Cameroon” in *International Journal of Sustainable Development* (Vol.5, No.2, 2010), p.50-72.

<sup>6</sup>Hope Masterton Waddell, *Twenty-nine Years in the West Indies and Central Africa* (London:Oxford Press, 1863), p.350.

<sup>7</sup>Latham, Old Calabar..., p.134.

<sup>8</sup>The two European powers that Britain feared were France and Germany. In May 1884, it was reported that French movements were noticed on the Niger. The presence of the French and Germany spurred up the British into action of establishing protectorate over the Old Calabar.

<sup>9</sup> Bassey, “Legal Consequences...”pp.50-72.

<sup>10</sup>Cook, *British Enterprise in Nigeria...*, p.116.

<sup>11</sup>*Ibid*, p.120.

Article I:

*Her Majesty the Queen of Great Britain and Ireland, & C, in compliance with the request of the Kings and Chiefs, and people of Old Calabar, hereby undertakes to extend to them, and to the territory under their authority and jurisdiction, Her gracious favour and protection.*<sup>12</sup>

Article II:

*The Kings and Chiefs of Old Calabar agree and promise to refrain from entering into any correspondence, agreement, or treaty with any foreign nation or power, except with the knowledge and sanction of Her Britannic Majesty's Government.*<sup>13</sup>

Taken together, the Articles one and two of the treaty set out the duties and obligations which the Kings and Chiefs and Britain had to uphold. On their part, the Kings, Chiefs and people of Old Calabar were forbidden to cede their territories to, or enter into treaties with, other foreign powers, namely France and Germany, who were British rivals. In return for these and other treaty obligations, Britain on its part, very importantly, undertook to extend “her gracious favour and protection” to the Kings, Chiefs and people of Old Calabar, and to recognize the authority of the natural rulers over the territory under their jurisdiction. To all intents and purposes, the 1884 Treaty was a treaty of protection.

The 1884 Treaty has had many implications not only on the Anglo-Old Calabar relations, but also on the Nigeria-Cameroon diplomatic intercourse over the years. For one, like the earlier treaties which Britain had concluded with the Kings and Chiefs of Old Calabar, the protection treaty created more problems than it sought to solve. Articles III and IV of the Treaty made the Consul the central figure in Old Calabar politics by stipulating that the Consul should adjudicate disputes between the Chiefs.<sup>14</sup> The treaty encouraged the Consul to unnecessarily interfere in the internal political affairs of the Old Calabar. The British traders complained to the colonial office that Consul Hewett was undermining King Duke's authority by his interference, to the detriment of the safety of themselves and trade. It has been reported that in 1888, Consul Hewett fell out with Vice Consul Johnson to the extent that he rescinded some official notices which Johnson had issued, and which were viewed as “interfering too vigorously in local affairs.”<sup>15</sup>

Old Calabar passed under full British control in April 1891 when Sir Claude MacDonald was appointed Commissioner and Consul-General to head the Oil Rivers Protectorate with headquarters at Calabar.<sup>16</sup> With the magisterial power vested in him, the Consul-General became *de facto* ruler of the various groups in Old Calabar and therefore, a rival of the existing Kings and Chiefs. Thus, the Consul-General's authority began to replace that of the Kings and Chiefs of Old Calabar including Bakassi. The replacement became more formal following the implementation of the General Act of Berlin, which was the principal source of international law that regulated the activities of the Europeans, particularly in Africa, including Old Calabar. The clash of economic, religious, political and socio-cultural interests among the European Powers especially in the Niger Delta, including Old Calabar led to the Anglo-German Agreement to regulate relations and boundaries between the two Powers.

<sup>12</sup>British Treaty With Kings and Chiefs of Old Calabar, 10 September, 1884. See also Counter-Memorial of Nigeria, Vol. 1, p.109.

<sup>13</sup>*Ibid*, Article 11.

<sup>14</sup>British Treaty With King and Chiefs of Old Calabar...Articles III and IV).

<sup>15</sup>Latham, Old Calabar, p.142-3.

<sup>16</sup>A. E. Afigbo, *The Warrant Chiefs: Indirect Rule in Southern Nigeria, 1891-1929* (London: Longman Group Limited, 1972), p.1.

## 5. THE 1885 ANGLO-GERMAN AGREEMENT

In 1985, a Research Fellow at the National Institute of Policy and Strategic Studies (NIPSS), Professor Sam Chime, and Professor Joy Ogwu of the Nigerian Institute of International Affairs (NIIA), had through their study of the Nigeria-Cameroon border, traced the history of the boundary demarcation between Nigeria and Cameroon to the late 1850s. In their study titled, "Policy Problems of the Nigeria-Cameroon Border Dispute", the researchers stated that by "1858, British and German missionary and trading posts were already multiplying and clashing in the eastern delta regions of the West African coast, including Cross River areas, Victoria, Buea, Duala and Akwa."<sup>17</sup>

The activities of rival agents of Britain, France and Germany, who were determined to establish claims over villages in the hinterland of coastal possessions, gave rise to the making of many treaties between the European Powers especially after the Berlin West African Conference of 1884-1885. The Conference was convened by the German Chancellor, Otto Von Bismarck with the aim of partitioning Africa peacefully among the competing European powers. The Berlin Conference brought forth the *Final Act of Berlin*<sup>18</sup> which was a legal instrument that authorized the European Powers to take possession of African territories, provided they had, *inter alia*, notified each other of their intention to occupy a particular territory effectively. Following the provisions of the *Final Act*, Britain and Germany had, from 1885 to 1890, entered into a set of negotiations involving the Nigeria-Cameroon border question. As the NIPSS study rightly concluded, "the facts on ground demonstrate that Rio-del-Rey was agreed upon as the extent of the eastern frontier of British Oil Rivers Protectorate. This implies that Bakassi fell under the British sphere of influence."<sup>19</sup>

It was reported that the Germans were encroaching into the territory of the Royal Niger Company in Northern Protectorate (now Northern Nigeria). Arthur Cook confirmed that this rivalry situation seriously strained the relationship between Britain and Germany, so much that there was some talk of war, even by responsible leaders in Germany. Fortunately, the rebellion in Cameroon influenced positively the British policy that was inclined to adopt a stiff attitude with Germany. Britain changed its mind because, "England desired nothing but a friendly relations with Germany."<sup>20</sup> England's desire for friendship with Germany demonstrated the fact that though Britain and Germany were rival European Powers, Great Britain was more friendly with Germany than it was with France. Further evidence to support this position could be seen in the instruction given to Claude MacDonald when he was appointed Commissioner and Consul-General for the Protectorate of Southern Nigeria in 1891. He was instructed by the British Foreign Office thus: "...Your relations with the Germans should be governed by international obligations and should be friendly..."<sup>21</sup> In order to avoid or reduce border conflict in the territory that later became Nigeria-Cameroon boundary, Great Britain and Germany began to enter into several treaties to delimit their boundaries in the region. Accordingly, on March 20, 1885, the English suggested that the right bank of the Rio del Rey be made the starting point for a boundary that was to extend in a straight line to a point on the Cross River marked "Rapids" on an Admiralty map. After some discussion this line was agreed upon, but the question as to the rights in the hinterland north and east of the Cross River was still undecided.<sup>22</sup>

<sup>17</sup>D. Ola, "Bakassi, A Ruse?" *The News*, 21 March, 1994.

<sup>18</sup>*Final Act of the Conference of Berlin* (1885).

<sup>19</sup>*The News*, 21 March, 1994.

<sup>20</sup> A. N. Cook, *British Enterprise in Nigeria*. London: Frank Cass, 1964), p. 128.)

<sup>21</sup>British Foreign Office: Dispatch of 18 April 1891.

<sup>22</sup>Cook, *British Enterprise*...., p.129.

## 6. ANGLO-GERMAN AGREEMENTS OF 1893, 1903, 1907 AND 1909

As the boundary question was inconclusive, the frontiers of German Protectorate with Nigeria were agreed to by a series of treaties signed between Britain and Germany.<sup>23</sup> In the far North and the Benue, the frontier of the Protectorate of the Northern Nigeria with the Protectorate of Cameroon was delimited by the joint Anglo-German Commission of 1893-1903 and 1909. In the coastal area (former Eastern Nigeria and Western Cameroon) the boundary was demarcated between 1903 and 1907, and agreements were signed in 1906 and 1913.

The Anglo-German Agreement of 1893 became necessary for a number of reasons: The Germans had been seeking to take possession of the Bakassi Peninsula since 1893. In that year, the German merchants wanted to establish trading settlements on the Bakassi Peninsula proper, but they were prevented by the British to do so. This led to Anglo-German agreement of 14 April 1893 whereof Article 3 prevented the Germans from establishing any settlements on the Peninsula. After they had failed to achieve their aim of establishing settlement at Bakassi, the Germans made another request. In 1907, they requested for the frontier to be continued out to the sea at the point of reaching the month of Akwa Yafe, all the way to the middle of the Channel of the mouth of the Calabar River. This time around, Britain conceded to Germany perhaps because of Germany not being confrontational in its approach. Thus, "in exchange for not insisting on the impingement of the Calabar river channel, the British agreed to abrogate the Article 3 of the Anglo-German agreement of April 14, 1893, which had prevented the Germans from establishing trading settlements on the Bakassi Peninsula proper."<sup>24</sup> With the abrogation of the Article 3, the Germans were now allowed by the British to encroach on the Old Calabar territory of Bakassi.

## 7. THE ANGLO-GERMAN TREATY, 1913

The competing activities of the British and German traders, consular officials and missionaries in the Old Calabar territories necessitated a treaty between Great Britain and Germany to determine their territorial boundaries. Consequently, on March 11, 1913, the two countries entered into an agreement with Germany to redefine the southern part of the Nigeria-Cameroon boundary. The Anglo-German Agreement had two main purposes: First, it was for settlement of the frontier between Nigeria and the Cameroons, from Yola to the Sea. Second, it was for the regulation of navigation on the Cross River, covering some 1,100 km of boundary.<sup>25</sup> A few relevant Articles need to be highlighted here<sup>26</sup>. Article XVI provided that "Thence the boundary follows the thalweg of the Cross River to its junction with the River Awa (Akwa), thence along the thalweg of the Awa (Aua) River to a large cairn of stones at its source, situated about latitude 5 degrees 23' 05" north, longitude 8 degrees 50' 11" east, as shown on sheet 1, T.S.G.S. 2240." Article XVIII "Thence it follows the thalweg of the Akpakorum (Akwayafe) River, dividing the Mangrove Islands near Iking in the way shown on the aforesaid map T.S.C.S. 2240, sheet 2. It then follows the thalweg of the Akwayafe as far as a straight line joining Bakassi Point and King Point." Article XIX

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<sup>23</sup>J. R. Bassey, *Impact of International Laws and Diplomacy on Pre-colonial Africa: The Nigerian Experience, 1807-1913* (2015:440-444).

<sup>24</sup>Omoigui, N. (2006). The Bakassi Strpy, Part II. Available from <http://www.omoigui.com>>.Retrieved 28/4/13.)

<sup>25</sup>Agreement Between Great Britain and Germany Respecting : (1) the Settlement of the Frontier Between Nigeria and the Cameroons, from Yola to the Sea; and (2) the Regulation of Navigation on the Cross River. Signed at London, March 11, 1913. BFSP. Vol. 106, 1913, pp. 782-787; also Treaty Series No. 13 (1913). United Kingdom Cd. 7056 (with maps).

<sup>26</sup>For full analysis of the 1913 Anglo- German Treaty; see Bassey, *Impact of International Laws and Diplomacy...*chapter 26.

provided that “Should the thalweg of the Lower Akwayafe, upstream from the line Bakassi Point-King Point, change its position in such a way as to affect the relative positions of the thalweg and the Mangrove Islands, a new adjustment of the boundary shall be made, on the basis of the new positions, as determined by a map to be made for the purpose.” While Article XX stipulated that “Should the lower course of the Akwayafe so change its mouth as to transfer it to the Rio del Rey, it is agreed that the area now known as the Bakassi Peninsula shall still remain German territory. The same condition applies to any portion of territory now agreed to as being British, which may be cut off in a similar way.” Under Article XXIII “Nothing in this Agreement shall prevent British or German vessels, whether public or private, from using the most convenient course between the open sea and the Akwayafe River, and from navigating that river without any differential treatment whatever.”<sup>27</sup> The fishing rights of the people were preserved under Article XXVI, which stipulated that “the fishing rights of the native population of the Bakassi Peninsula in the estuary of the Cross River shall remain as heretofore.” Great Britain and Germany also agreed under Article XXVIII that:

In marking out the boundary the representatives of the two Governments shall have the power, subject to subsequent approval by the two Governments, to make minor deflections from the boundary herein laid down, such deflections not to exceed 1-1/4 miles (2 kilometers) in cases where it is considered desirable, in order that farms shall not be separated from the villages to which they belong.<sup>28</sup>

Although Article XXVI of the 1913 Anglo-German Treaty respected the fishing rights of the people as they were before the treaty, under Article XXVII of that same treaty, the affected people were given six month notice to move away to the other side of the border. They were to take only “their portable property and harvesting crops”<sup>29</sup>. This implied that from that dated of the Agreement, the land, the economic trees and the natural resources had ceased to be the property of the British colonial government or the people of Old Calabar. Rather, by virtue of the Agreement, the territory, resources and other interests in the land now revolved to the German colonial government and or German Cameroonians.

The effect of the 1913 Anglo-Germany Treaty can further be briefly assessed. The Treaty unilaterally ceded the Nigerian territory to Bakassi to the Republic of Cameroon. Besides, it has been the major source of frosty relationship between Nigeria and Cameroon and the attendant crises, particularly in the Bakassi Peninsula. Furthermore, the treaty was strongly relied upon by Cameroon in its claim for ownership over Bakassi at the World Court, where it contended that the Anglo-German Agreement of 11 March 1913 fixed the course of the boundary between Nigeria and Cameroon in the Area of the Bakassi Peninsula, placing the latter on the German side of the boundary. The International Court of Justice almost solely relied upon the 1913 Anglo-German Treaty when it delivered its historic judgement on the *Cameroon v. Nigeria* case (2002). It held accordingly that:

The Court accordingly concludes that the boundary between the Cameroon and Nigeria in Bakassi is delimited by Articles XVIII to XX of the Anglo-German Agreement of 11 March

<sup>27</sup>*Anglo-German Treaty, 11 March 1913: Articles XVI, XVIII, XIX, XX, and XXIII ; ICJ Judgement: Cameroon v. Nigeria (2002) 43 Weekly Reports of Nigeria.*

<sup>28</sup>*Anglo-German Treaty, 11 March 1913: Article XXVIII; ICJ Judgement: Cameroon v. Nigeria (2002), Weekly Reports of Nigeria.*

<sup>29</sup>*Anglo-German Treaty, 11 March 1913: Articles XXVII.*

1913, and that sovereignty over the (Bakassi) Peninsula lies with Cameroon.<sup>30</sup>

The World Court reached this judgement based on the 1913 Treaty and Maroua Declaration of 1975 without giving due regards to the 1884 Treaty, and in breach of the two oldest principles of international law, namely *pacta sunt servanda* and *nemo dat quod non habet*. Nor did the Court give any attention to the weightier evidence of historical consolidation, which Nigeria energetically and consistently pleaded. The Court also held against Nigeria on the ground of acquiescence in the 1913 Treaty and in other negotiation instruments between Nigeria and Cameroon by not protesting against them.<sup>31</sup> Such protest was very important because even the ICJ had made reference to legal effect of protest when it noted in its judgement thus: “moreover, the Court has been presented with no evidence of any protest in 1913 by the Kings and Chiefs of Old Calabar; nor of any action by them to pass (the) territory to Nigeria as it emerged to independence in 1960.”<sup>32</sup> This implies that protest was a necessary instrument to get back Bakassi.

#### 8. THE DEFINITION OF BOUNDARIES PROCLAMATION OF 1954

*The Northern Region, Western Region and Eastern Region Definition of Boundaries Proclamation of 1954*, which was issued in pursuant to the Nigerian Constitution Order-in-Council of 1951, repeated the provisions of the Anglo-German Agreement of 11 March, 1913. Hence, “from the sea, the boundary follows the navigable channel of the River Akpayafe, then follows the thalweg of the aforesaid River Akpayafe, upstream to its confluence with the Rivers Akpa-Korum and Eba.”<sup>33</sup> Thus, by Article XXI of the Anglo-German Treaty and Definition of Boundaries Proclamation of 1954, Britain had wished away Bakassi Peninsula to Germany without consulting with, or obtaining the consent of the Kings and Chiefs and people of Old Calabar. By this unilateral act, the British had breached the 1884 Treaty of Protection thereby violating the international law principle of *pacta sunt servanda*, which means agreements are binding on the parties that entered into them and must be kept.

It may be pertinent to ask: why did Britain cede the Nigerian territory of Bakassi to Germany? The answers to this question could be found in British diplomatic history. First, as already stated, Britain desired to maintain friendly relations with Germany, particularly in Africa.<sup>34</sup> Second, Britain wanted German’s support against France because “by this time, the British had come to realize that France was the more dangerous rival... (and so) they were inclined to show favour to the less dangerous opponent.”<sup>35</sup> Third, the British did not attach any economic value to the Bakassi Peninsula. By that time, Great Britain considered it as a “worthless zone of contention amounting to nothing but a strip of dismal swamp, peopled by a few miserable fisher-folk”.<sup>36</sup> Had Britain known that Bakassi was/is very rich in mineral and aquatic resources, it is doubtful whether it would have generously ceded the Peninsula to Germany.

<sup>30</sup>ICJ Judgement *Cameroon v. Nigeria* (2002) 43 Weekly Reports of Nigeria part 225.

<sup>31</sup>ICJ Judgement *Cameroon v. Nigeria*...p. 210.

<sup>32</sup> ICJ Judgement in *Cameroon v. Nigeria*... p.33.

<sup>33</sup>*Anglo- German Treaty, 11 March 1913: Article XXI; ICJ Judgement: Cameroon v. Nigeria .*

<sup>34</sup>Cited in Cook, *British Enterprise*... p.128.

<sup>35</sup>Cook, *British Enterprise*...p.131.

<sup>36</sup>J. C. Anene, *International Boundaries of Nigeria*, (London: Longman, 1970), p.85.



## 9. THE 1958 GENEVA CONVENTION AND CAMEROON'S BOUNDARY DEMAND

The 1958 Geneva Convention on International Boundaries fixed the boundary between Nigeria and Cameroon at the Rio del Rey which effectively included Bakassi in Nigeria's territory<sup>37</sup> Cameroon was reported to have been unhappy about the Geneva Treaty and was looking for an opportunity to reverse that treaty and to grab the disputed territory. It will be shown in this article that Cameroon grabbed the long awaited opportunity and therefore got the Bakassi Peninsula when General Gowon and Ahidjo negotiated the boundary in 1971-1975 and Gowon committed a technical error in marking the boundary lines.

### 9.1 *The Exchange of Note and the Bakassi Question*

The Exchange of Note is another evidence implicating Nigeria on the Bakassi question. Nigeria's first Prime Minister, Alhaji Tafawa Balewa knowingly or unknowingly, directly or indirectly admitted that the Bakassi Peninsula was not part of Nigeria but an integral part of Cameroon when he signed the *Exchange of Notes*<sup>38</sup> with Nigeria's former colonial master, the Great Britain. The Exchange of Notes states *inter alia* that:

“...it is the understanding of the United Kingdom of Great Britain and Ireland that the Government of the Federation of Nigeria agrees to the following provisions: (i) all obligations and responsibilities of the Government of the United Kingdom which arise from any valid international instrument shall, henceforth, in so far as such instrument may be held to have application to Nigeria, be assumed by the Government of the Federation of Nigeria....”

The stipulations of the Exchange of Note quoted above imposed on independent Nigeria all the treaties and obligations Great Britain had had with other European Powers concerning Nigeria. Nigeria has to by law assume all the obligations and responsibilities as if it were Great Britain. In other words, Nigeria has to honour the treaties Britain had made with Germany concerning Bakassi.

## 10. THE DOCTRINE OF *UTI POSSIDETIS*

The doctrine of *uti possidetis* has similar effect as the 1960 *Exchange of Note*, as far as African boundary question is concerned. *Uti possidetis* is a Latin maxim in international law, developed in South America by the European colonialists. According to the *Black's Law Dictionary*, *uti possidetis* means “the doctrine that colonial administrative boundaries will become international boundaries when a political subdivision or colony achieves independence.”<sup>39</sup> It is a land law doctrine meaning “as you possess, so shall you possess.” “It is a degree of the Praetor that the ownership of property in question should remain in the

<sup>37</sup>*African Concord*, (March 7, 1994), p.19.

<sup>38</sup> See for example the Exchange of Notes between the United Kingdom and Germany confirming Protocols defining Boundaries between Britain and German Territories in Africa; United Kingdom Treaty Series No.17 (1909); Also, Agreement between Great Britain and Germany respecting the Boundary between British and Germany Territories from Yola Lake Chad (Nigeria and Cameroons). Signed at London, March 19, 1906; United Kingdom Treaty Series No.17 (1906).

<sup>39</sup>Bryan A. Garner *et al. Black's Law Dictionary* (USA: Thompson West 2007), p.1582.

person in possession.”<sup>40</sup> The doctrine of *uti possidetis* was adopted by the Organisation of African Unity (OAU), of which Nigeria was a leading founding member. The OAU was formed by the Independent States of Africa in 1963. The OAU was the first indigenous regional governmental international organizations that provided a common forum for deliberation of affairs of African State. It sought, *inter alia*, to speak with one voice against colonialism and new-colonialism by the Western Powers as well as against apartheid in South Africa. It also sought to foster peace, unity and integration among African countries. The OAU had a Charter as its establishing legal instrument that guided the activities of member States and their relations with other International Organisations. As a founding member, Nigeria had ratified the Charter since 1963. The Charter contained thirty-three Articles. Article III, paragraph 3 of the Charter conveyed the principle of *uti possidetis* as binding on member States when it stated: “...respect for the sovereignty and territorial integrity of each State and for its inalienable right to the independent existence.”<sup>41</sup> Nigeria and other member States of the OAU (now African Union) are bound by this Article as far as boundaries inherited from their colonial masters are concerned. As argued elsewhere by the present author,<sup>42</sup> rather than taking radical actions that would have resolved once and for all the colonial boundary problems, Nigeria under Prime Minister Abubakar Tafawa Balewa declared that “these boundaries (with their problems) should be respected and in the interest of peace, must remain the recognized boundaries until such a time the people concerned decide on their own free will to merge into one unit” and that “Nigeria recognizes all the existing boundaries in Africa.”<sup>43</sup> This implies that Balewa’s government was strongly in favour of *uti possidetis juris*, being the principle of boundary maintenance. This principle was being followed by successive Nigerian governments.

#### 11. THE CAIRO DECLARATION, 1964

Besides adopting the *Exchange of Note* and the *Uti Possidetis* doctrine, Nigeria had ratified the July 1964 Cairo Declaration of the OAU that has committed African States to the inviolability of colonial borders created by the European Powers in Africa. The Cairo Declaration as conveyed by AHG/RES/16(1) “solemnly declares that all Member States pledge themselves to respect the border existing on their achievement of national independence.” By ratifying the Cairo Declaration, Nigeria had, by implication confirmed its commitment to the Nigeria-Cameroon colonial border including the transaction of the 1913 Anglo-Germany Treaty that ceded Bakassi. Nigeria’s ratification of the Cairo Declaration had further confirmed its avowed commitments in the 1960 Exchange of Notes.

In spite of these commitments on colonial boundaries, a number of border incidents were recorded in 1965, particularly in two Nigeria-Cameroon border villages of Boudan and Danare near the present Ikom Local Government Area in Cross River State of Nigeria. To stop the incident, a joint Nigeria-Cameroon boundary demarcation team was set up and sent to the area. The reason for the boundary incidents was that though, as confirmed in 1960, that the area was well demarcated by the colonial administration based on the 1913 Anglo-German Treaty, the beacons were too far apart. The job of the team, therefore, was to place inter-visible beacons along the old 1913 Anglo-German boundary. Unfortunately, the fixing

<sup>40</sup>Leslie Rutherford and Sheila Bone (eds.) *Oshorn’s Coincise Law Dictionary* (London: Sweet & Maxwell, 1993), p.339.

<sup>41</sup>*Charter of the Organisation of African Unity*, Article III. Done in Addis-Ababa, Ethiopia 25<sup>th</sup> May 1963.

<sup>42</sup>J.R. Basse, *The Loss of Bakassi by Nigeria to Cameroon: A Study in Legal and Diplomatic History*, *Uniujo Journal of Commercial and Property Law*, (Vol.1 Dec, 2010), p.107.

<sup>43</sup>Cited in O. M. Bonchuks “African Boundaries “*Uti Possidetis*, Transformer Regionalism and Economic Integration in Africa” in Ikechukwu Amadi, *et al (eds.) History & Citizenship: Essays in Honour of Okon Edet Uya* (Calabar: University of Calabar Press, 2005), p.272-3.

of inter-visible beacons was suspended due to the first military coup d'état that took place in January 1966. The exercise was not resumed until after the civil war in 1970.

#### 12. NIGERIA - CAMEROON JOINT COMMITTEE OF EXPERTS AGREEMENTS, 1970

In October 1970, a joint meeting of the Committee of Experts from Nigeria and Cameroons was held. The meeting ended with no agreement of how to define the “navigable channel of the Akpa Yafe River up to where it joins the Calabar estuary. Evidently, there was no consensus amongst the Nigerian boundaries experts: while some said a compromise should be reached with Cameroons so that negotiations would move on, others objected to any compromise that would give any part of Nigerian territory to Cameroons. It has been reported that those who sought compromise were the higher authority at the Federal Surveys. Omoigui sadly lamented that, “unfortunately, though the Head of Boundaries... did not have the support of higher authority at Federal Surveys who felt that a compromise should be reached with Cameroons to allow negotiations proceed. This internal technical disagreement within the Federal Surveys which cost Nigeria several miles of maritime territory in the estuary and beyond did not come to the attention of General Gowon until it was too late.”<sup>44</sup> This is a revelation that should be taken seriously. For one, it shows that Gowon was not having an issue with Bakassi but the Maritime territory bordering Cameroon.

#### 13. GOWON-AHIDJO (YAOUNDÉ) AGREEMENT, APRIL 1971

In April 1971, a summit meeting was held between the Nigeria Head of State, General Gowon and his Cameroonian counterpart, Alhaji Ahmadu Ahidjo in Yaounde. Perhaps, due to the internal technical disagreement with the Federal Surveys, the Head of Boundaries did not attend the 1971 Summit meeting. Baye agrees with Omoigui<sup>45</sup> that it was during the summit that Ahidjo asked his survey experts to stop arguing and requested Gowon to draw a line where he wanted it, and Gowon turned to his own technical experts for guidance. The experts marked a point on the map and Gowon drew the line towards that point. Unfortunately, the line Gowon drew (on direct advice from the Director of Federal Surveys) was not the true navigable channel of the Akpa Yafe River as established by the colonial masters. Not only did the line run right into a ridge, but it also criss-crossed the navigable channels of the Calabar and Cross Rivers, which the British had intended (with German Agreement) to be completely on the Nigerian side, West of the Akpa Yafe channel.<sup>46</sup> Obviously, the internal disagreement, the absence of the Head of Boundaries at such an important meeting and more importantly, the compromise position taken by the higher authority at the Federal Surveys had caused General Gowon to commit a technical error while negotiating the boundary with the Cameroonians. At this meeting, Gowon and Ahidjo agreed to define the navigable channel of the Akpa Yafe River up to point 12.

#### 14. THE COKER- NGO (LAGOS) AGREEMENT

In June 1971 (i.e. two months after the drawing of the erroneous line), the Joint Boundary Commission again met in Lagos. The Nigerian team was led by Chief R. O. Coker while Mr. Ngo led the Cameroonian team. They extended the already faulty Gowon-Ahidjo “compromise line” outwards to the sea in what became known as the Coker-Ngo Line. A few weeks later, following the signing of the Coker-Ngo Line, Gowon discovered what had transpired: He had been misdirected to commit a technical error. He therefore looked for an

<sup>44</sup>Omoigui: Bakassi Story... [www.omoigui.com](http://www.omoigui.com).

<sup>45</sup>Omoigui: Bakassi Story.

<sup>46</sup>Omoigui: Bakassi Story.

opportunity to correct the mistake by all possible diplomatic means. In May 1972, the Joint Boundary Commission met, followed in August 1972 by a Summit meeting at Garoua. At the two meetings, General Gowon tried repeatedly to get President Ahidjo to agree to the reversal and renegotiation of the Gowon-Ahidjo/Coker-Ngo Line. Unfortunately, President Ahidjo did not accept General Gowon's renegotiation moves. Ahidjo had finally grasped what his country lost through the 1958 Geneva Convention on International boundaries and would not let go the Nigerian territory Gowon's mistake had pushed to Cameroons.

#### 15. THE "TINY KINK" MARITIME COMPROMISE, 1974

In 1974, Cameroon constructed an oil rig near the disputed maritime channel near the Bakassi Peninsula. Reportedly, the construction of the oil rig was done in the full view of the Nigerian Naval boats going to and from Calabar. Neither the Naval officers nor any government officials bothered to investigate the nationality of the rig. No one reported to the Nigerian authorities. This information was, however, brought belatedly to the Head of State Summit meeting held in Kano in 1974 when the construction of the rig had reached an advanced stage of completion. In a very fierce argument, Gowon tried unsuccessfully to get Ahidjo to remove the rig. Undoubtedly, President Ahidjo wanted to use the oil rig to stake a maritime boundary westwards towards Nigeria in the outer sea. A compromise was reached as the Cameroonian President refused to yield to Gowon's pressure. The compromise involved a "tiny kink" being made along the maritime boundary to accommodate the oil rig. As Omoigui reported, "An oil rig was erected offshore by the Ahidjo government in 1974, and later in June 1975 in a highly reluctant compromise to accommodate the rig, Gowon conceded to a tiny part of Nigerian Maritime territory to Cameroon".<sup>47</sup>

However, the line was then course-corrected and extended southwest to point G along the original angle as if the rig was not there at all. In other words, the rig was hidden to the Cameroonians' advantage. Pertinent questions are: (i) why was the rig hidden? (ii) why did Gowon compromise again? As shown above, in 1971 Gowon committed a technical error that led to 3-mile compromise line. (iii) having known fully that Cameroon constructed the oil rig on Nigerian territory, why didn't Gowon forcefully remove it from there as diplomacy had failed? All the Gowon government did was to place a arrow at point G end making a vector to prevent Ahidjo from constructing more rigs across the boundary that was not yet marked. That did not in fact prevent Cameroon from encroaching further into Nigerian territory.

#### 16. THE MAROUA DECLARATION, 1975

Another meeting was held between the two Heads of State at the Border town Maroua on 29<sup>th</sup> – 31<sup>th</sup> May 1975. This three-day meeting gave rise to a bilateral agreement popularly known as the "Maroua Declaration" of June 1, 1975. At the conclusion of the meeting, Gowon and Ahidjo who represented their countries as Heads of State, agreed to a new boundary defined as follows:

The boundary line runs West along a line parallel to and three miles from the straight line joining Tom Shot Point and Sandy Point up to a Point A longitude 08°24, East and latitude 04°31'20' North, along a straight line to a Point AI long 08°26'32 lat 04°24'20 one kilometer East of Buoy No.2. from Point B the boundary runs through a point C long 08°23'4'E lat 08°23'25 North one kilometer East of Buoy No.1 to a point D

<sup>47</sup>Omoigui: Bakassi Story.

(long 80°22'41E), lat 04°20' where it intersects (lat 04°20). From Point D it runs South West to a Point F (Long 08°2'19E) of fairway Buoy, from where it runs further South, parallel to the Meridian 08°25' to a Point G (long 08°22', lat 04°18'17'N) on the Admiralty Chart No.3433.<sup>48</sup>

Just a month after this reluctant compromise, Gowon was overthrown in a military coup d'état on July 29 1975. Consequently, the new regime decided to question the 1971 and 1975 Gowon-Ahidjo Maritime agreements "either without really understanding the issues or by acting mischievously."<sup>49</sup>In no time the country got the impression that Gowon had given away the Bakassi Peninsula to Cameroon to compensate for President Ahidjo's neutrality during the Nigerian Civil War, an unfortunate and totally false notion which persists in many quarters to this day.<sup>50</sup> Thus, the origins of the false story of Gowon's ceding of Bakassi could be traced to Nigerian military politics in the post-civil war period.

The Maroua Declaration of 1<sup>st</sup> June 1975 is another international treaty on which the World Court held as a very important ground for its decision to award Bakassi to Cameroon. It would be recalled that 1958 Geneva Convention on International Boundaries had fixed the boundary between Nigeria and Cameroon at the Rio del Rey which effectively included Bakassi in Nigeria's territory.<sup>51</sup> The World Court reviewed the Maroua Declaration and gave effect to the instrument as the basis for ceding the Bakassi Peninsula to Cameroon. The Court concluded:

Then, by declaration signed at Maroua on 1 June 1975, the two Heads of State agreed to extend the delineation of the maritime boundary between the countries from point 12 to point G on the Admiralty Chart No.3433 annexed to this Declaration' and precisely defined the boundary by reference to maritime coordinate... The Court finds it clear from each one of these elements that the parties to it as given that Bakassi belonged to Cameroon. Nigeria, drawing on the full weight of its experts as well as its most senior political figures, understood Bakassi to be under Cameroon sovereign.<sup>52</sup>

Nigeria's initial reaction to the ICJ Judgement was not unexpected: At first, the "Giant of Africa" rejected the judgment of the World Court Judgement that ceded the Bakassi Peninsula to Cameroon. The Government of Olusegun Obasanjo justified its rejection of the ruling on "grave and extensive errors of judgment" as well as "apparent bias on the part of the World Court Judges." The government particularly faulted the view of the French and German Judges who considered the actions of the colonialist as superior to the age-old land rights of the indigenes of the Bakassi Peninsula.<sup>53</sup>

As the Minister of Foreign Affairs, Alhaji Sule Lamido put it, "endorsing the (ICJ's) verdict would mean uprooting an entire race, a culture and a generation, which no nation could ever contemplate".<sup>54</sup> The Obasanjo's government therefore questioned the credibility of the President of the World Court, Hon. Gilbert Guilame, a Frenchman, and the Judges from Germany and Britain. The government said belatedly though, that French, Germany and British members of the Courts should not have sat in judgment in the case since their

<sup>48</sup>*African Concord*, (March 7, 1994), p.19.

<sup>49</sup>Omoigui: Bakassi Story.

<sup>50</sup>Omoigui: Bakassi Story.

<sup>51</sup>*African Concord*, March 7, 1994, p.19.

<sup>52</sup>*ICJ Judgement Cameroon v. Nigeria...*p. 210 para. 214.

<sup>53</sup>*The Guardian*; Thursday October 24, 2002, p.1-2

<sup>54</sup>*The Guardian*, Friday, October 25, 2002, p.1.

countries were parties. But why did Nigeria not invoke the principle of *nemo iudex in causa sua* (meaning no one or no person should be a judge in his own case)? Why did Nigeria not refused to subject itself to the jurisdiction of the ICJ, having known that French, German and British Judges would be biased?

#### 17. THE GREEN-TREE AGREEMENT, JUNE 12, 2006

Although Nigeria initially rejected the ICJ judgement, what Obasanjo's administration later sought to achieve was an agreement that would provide "peace with honour". As the President explained "as a great advocate of the observance of the rule of law nationally and internationally and a great believer in the settlement of disputes peacefully, we accept the verdict (of the ICJ) notwithstanding our disappointment."<sup>55</sup> The federal government of Nigeria therefore announced its preparedness to handover some 33 villages in the Lake Chad area to Cameroon before the end of April 2004. Also, as part of the implementation of the World Court's orders, Nigeria employed intense political and diplomatic manoeuvres, which resulted in the establishment in 2002, of the Nigeria-Cameroon Joint Border Mixed Commission.<sup>56</sup>

Being a platform for dialogue, the Commission comprised representatives of the two Countries and the UN, and four observer nations viz: United States, Britain, Germany and France. The Nigeria delegation was headed by the former Minister of Justice, Bola Ajibola. The mixed Commission held series of summit meetings in Paris, Geneva and New York to discuss and agree on amicable implementation of the ICJ's ruling. The Commission had resolved the Lake Chad area boundary problem by resettling some 40 villages<sup>57</sup> which were caught on the Cameroon side by the ICJ verdict, to the Nigerian side. According to President Obasanjo, the land boundary between Lake Chad area and "Bakassi is also to be resolved and demarcated, and the process continues with minor adjustment to movement and resettlement of villages on either side in accordance with the choice of the people."<sup>58</sup>

The last of the summit meeting was held at the Green Tree Resort in Long Island, New York on Monday June 12, 2006. This meeting gave rise to the final international treaty popularly called *Green Tree Accord*, reached and signed by President Obasanjo of Nigeria and President Paul Biya of Cameroon. Under the *Green Tree Agreement*, Nigeria's obligations were stipulated that Nigeria should withdraw its troops within 60-90 days from the date of the Agreement and that the two islands of Atabong and Abana which form the Western part of Bakassi would continue to be administered by Nigeria for two years after the withdrawal of Nigerian troops. The Agreement also stipulates that Mobile Police Force would be stationed on the two population centres until cessation of Nigerian administration; and a special transitional provision to be put in place for five years for Nigerians after cessation of Nigerian administration in Bakassi to enable them have access to law enforcement agents for investigation.<sup>59</sup>

Article 3 of the Green Tree Agreement spells out Cameroon's obligations, emphasizing that the Cameroonian Government and the people should not force Nigerian nationals living in the Bakassi Peninsula to leave the zone or to change their nationality, and that Cameroon should respect Nigeria's culture, language and beliefs. The law says they should respect Nigeria's right to continue their agricultural and fishing activities, right to own property, as well as their customary land rights in Cameroon. It is also unlawful for the Cameroon to levy in any discriminatory manner, any taxes and other dues on Nigerian

<sup>55</sup>Olusegun Obasanjo, "Text of National Broadcast on why Nigeria handed over Bakassi Peninsula to Cameroon", NTA, Thursday June 22, 2006.

<sup>56</sup>Tell, November 10, 2003, p.44.

<sup>57</sup>Obasanjo, "Text of National Broadcast..."

<sup>58</sup>Obasanjo, "Text of National Broadcast, also see Tell, July 26, 2006.

<sup>59</sup>*Green Tree Agreement*, June 12, 2006.

nationals living in Bakassi. The law stipulates that Cameroon must take every necessary measure to protect Nigerian nationals living in Bakassi from harassment or harm in whatever manner.<sup>60</sup>

The Nigerian government had already accepted the Green Tree Agreement “wholehearted” and as President Obasanjo said “we (Nigerians) will scrupulously implement it”. The Committee to implement the Green Tree Agreement was composed of representative of Nigeria, Cameroon, the UN and the witness States. The Federal and Cross River State governments were to sensitize the people of Bakassi on the new development. The Cross River State Governor, Mr. Donald Duke, set up a 32-man committee to oversee the relocation and resettlement of the Bakassians. The federal government approved the sum of N6 billion for the execution of the resettlement project. The Bakassians were advised by the Nigerian Government to make a choice of either being resettled back in Nigeria or remaining as Nigerians resident in Cameroon after the cessation of Nigerian administration in Bakassi.

## 18. CONCLUSION

The act of ceding of the Bakassi Peninsula to the Republic of Cameroon was carried out in stages by both colonial and post-colonial government of Nigeria. Germany started having interest in the Bakassi Peninsula in the 1850s when the German traders wanted to establish trading settlements there, but they were prevented by the British under Article 3 of the 1893 Anglo-German Agreement. In 1907, Britain conceded to Germany the frontier of the Sea up to the mouth of Akwa Yafe River. The 1907 Anglo-German treaty therefore marked the beginning of Britain’s ceding of Bakassi to Germany. By Anglo-German Treaty of 1913, Britain formally ceded the entire Peninsula to Germany. Like the Anglo-German Treaties of 1885, 1893 and 1907, neither Britain nor Germany consulted the Natural Rulers and inhabitants who were the owners of the ceded territories when the two European Powers entered into the 1913 treaties. The legal effect of the 1913 Treaty is that Britain ceded the Nigerian territory of Bakassi to Cameroon and this action was confirmed by the World Court in its judgement where it held that “sovereignty over the (Bakassi) Peninsula lies with Cameroon.”<sup>61</sup> The economic rights of the inhabitants were not respected as they were given just six month notice to move away to the other side of the border. They were to take only “their portable property and harvesting crops.”<sup>62</sup> Thus, by implication the people’s ownership and rights in their land had automatically ceased from the date the 1913 Anglo-German Treaty was made.

Nigeria’s failure to protest against the British unilateral act of ceding Bakassi to Germany was interpreted by the World Court as having been acquiesced in the treaty. The 1913 Anglo-German Treaty and the post-independence instruments such as the Gowon-Ahidjo Agreement, Coker- Ngo Agreement, the “Tiny Kink” Maritime Compromise, Maroua Declaration contained technical errors and compromise that favoured Cameroonian territorial claim to Bakassi. The ICJ Judgement of 2002 and the Green-Tree Agreement of 2006 are the final legal instruments that ceded the Bakassi Peninsula to Cameroon thereby confirming the Anglo-German Treaty of 1913.

This study has uncovered that, contrary to the stipulations of Treaty of Versailles of 1919, Germany did not renounce its rights, titles and privileges conferred on it by the Anglo-German Agreement of 1893 and Anglo-German Treaty of 1913 or any other treaty regarding Bakassi. As part of the punishments meted to Germany under the Treaty of Versailles of 1919, Germany was compelled to renounce all rights, titles and privileges conferred on it by either General Act or bilateral treaties regarding all its colonies in Africa and other parts of

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<sup>60</sup>*Ibid.* Article 3.

<sup>61</sup>*ICJ Judgement Cameroon v. Nigeria* (2002) Weekly Reports of Nigeria part 225.

<sup>62</sup>*Anglo-German Treaty*, 11 March 1913: Articles XXVII.

the world. However, in Africa, Germany only renounced its rights, titles and privileges in Liberia, Morocco and Egypt.<sup>63</sup> Had Germany terminated the Anglo-German Treaties concerning Bakassi, the territorial title would have automatically reverted to Nigeria. Germany's neglect or failure to renounce the treaties and Britain's refusal to notify Nigeria before or during the Cameroon–Nigeria case at the ICJ should be seen as part of the international conspiracy against Nigeria.

Adoption and implementation of certain politico-administrative policies and principles by the independent Nigerian governments had directly or indirectly confirmed and supported the Anglo-German Treaty and Cameroonian claim to Bakassi. Thus, apart from the 1913 Anglo-German Treaty, the post-independence policies and principles such as the 1960 *Exchange of Note* that compels Nigeria to assume all international instruments that Britain had made with other European Powers in Nigeria, the adoption of doctrine of *Uti Possidetis* whereby independent states must maintain colonial boundaries, the Cairo Declaration by which African States pledge themselves to respect the existing international boundaries, all constituted time-bombs against Nigeria and its claim of ownership over Bakassi. Nigeria could have defused this time-bombs if it had made use of the instrument of legal history. The discipline of Legal history could have alerted and reminded Nigeria of the negative implications of the past international treaties, policies and doctrines concerning Bakassi, thereby advising the country to avoid them, for instance, by protesting against the Anglo-German Treaty of 1913. But unfortunately, Nigeria does not encourage the development and study of legal history, hence the inability of the country to defuse the time-bombs and consequently the loss of Bakassi to Cameroon.

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<sup>63</sup> See *Treaty of Versailles*, 1919, Sections IV, V and VI; Articles 138-148.