

MARITIME BOUNDARY DELIMITATION IN WEST AFRICA:
A case study of Ghana, Coté d'Ivoire and Nigeria

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ABSTRACT

Within West Africa, many international boundaries were inherited by states at their independence. These arbitrarily imposed demarcations have resulted in modern states that continue to face lingering tensions and conflicts over borders and boundaries. Coastal states in West Africa continue to grapple with overlapping maritime boundaries, resulting in disputes in the region. The discovery of resources, such as hydrocarbons, minerals, and other marine resources, within these territories has brought attention to maritime boundaries that were previously overlooked. To address these challenges, it is crucial to implement mechanisms and structures for managing maritime boundaries to control, resolve, and prevent disputes between neighbouring states. This is essential for ensuring national security, promoting good governance, fostering good neighbourliness, and driving overall economic development. Additionally, the process of maritime boundary delimitation aids coastal states in safeguarding territorial integrity and effectively exploring and exploiting marine resources.

This study explores the relevance of delimiting maritime boundaries of West African littoral/coastal states with a focus on Ghana, Cote d'Ivoire and Nigeria. It also assesses the role of boundary commissions in the delimitation process. Finally, the study examines whether the involvement of a boundary commission contributes to a more efficient process in delimiting maritime boundaries for West African states and proposes recommendations on the relevance of boundary commissions to other West African states.

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ACRONYMS

AU: African Union

AUBP: African Union Border Programme

AUBPAT: African Union Border Programme Assessment

BBNJ: Agreement under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas beyond National Jurisdiction

CNFCI: Commission Nationale des Frontieres de la Cote d'Ivoire

CNMC: Cameroon-Nigeria Mixed Commission

CS: Continental Shelf

CLCS: Commission on the Limits of the Continental Shelf

DOALOS: Division for Ocean Affairs and the Law of the Sea Office of Legal Affairs

ECOWAS: Economic Community of West African States

EEZ: Exclusive Economic Zone

GhBC: Ghana Boundary Commission

GIS: Geographic Information System

GIZ: Deutsche Gesellschaft für Internationale Zusammenarbeit

GNPC: Ghana National Petroleum Corporation

GNSS: Global Navigation Satellite System

ICJ: International Court of Justice

IUU: Illegal unreported unregulated fishing

JMC: Joint Maritime Committee

JTC: Joint Technical Commission

INBTC: International Boundary Technical Committee

ISA: International Seabed Authority

ITLOS: International Tribunal for the Law of the Sea

LBT: Land Boundary Terminus

NIB: National Intelligence Bureau

NM: Nautical Miles

NNJCC: Nigeria-Niger Joint Commission for Cooperation

NBC: National Boundary Commission (Nigeria)

ONS: Office of National Security

PRAAD: Public Records and Archives Administration Department

TS: Territorial Sea

UNCLOS: United Nations Convention on the Law of the Sea

UN: United Nations

VCLT: Vienna Convention on the Law of Treaties

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INTRODUCTION

1.0 Background of the Study

The absence of clearly defined maritime boundaries characterised almost all coastal African States at the end of colonial rule.¹ The non-existence of such an important attribute, as espoused by the Montevideo Convention², connotes a threat to the territorial integrity of the said states and hence, a halt in development. In other words, the absence of clearly defined maritime boundaries can result in an eruption of disputes between neighbouring states. These disputes have been a significant source of lingering tension and conflict between neighbouring states. Within the context of the recent spike in terrorism, coup d'états, and general unrest in the West African region,³ the importance of delimiting maritime boundaries between neighbouring states to ensure territorial integrity, effective exploitation of natural resources, promotion of national security, and overall economic development becomes imperative.⁴ The geography of the coastal region of West Africa, has made it difficult or almost impossible for them to fully exercise jurisdiction over their 200 nautical miles from the baselines. This has resulted in numerous overlapping entitlements or claims. The conflicts in the sub-region are exemplified in the recent delimitation between Ghana and Côte d'Ivoire, which was settled in 2017 by a special chamber of the International Tribunal for the Law of the Sea (ITLOS)⁵. Currently, Ghana has been in the process of delimiting its maritime boundary with its Eastern neighbour Togo through negotiations since 2018.⁶ The outcome of this delimitation will also affect Nigeria, with whom Ghana shares its maritime boundary, as well as the maritime boundary between Togo and Benin.

¹ AUBP. (2014). Delimitation and Demarcation of Boundaries in Africa: General Issues and Case Studies.

² Montevideo Convention (1933) Montevideo Convention on the Rights and Duties of States.

³ Okonkwo T. (2017). Maritime Boundary Delimitation and Dispute Resolution in Africa. Beijing Law Review. Vol8. No.1

⁴ Ghana Boundary Commission. (2021) Annual Report. Ghana Boundary Commission.p.10

⁵ Boamah F. (2021). Diplomacy and the challenges of resolving maritime boundary disputes in West Africa: Weighing the options in the case of Ghana and its immediate neighbours. Vol 33(4) 773-790; Delimitation of the Maritime Boundary in the Atlantic Ocean (Ghana/Cote d'Ivoire), Judgment, ITLOS Reports 2017,P.4

⁶ Supra Note 4

1.1 Objectives of the Study

This study aims to explore the delimitation of maritime boundaries of West African littoral/coastal states, with a specific focus on Ghana, Côte d'Ivoire, and Nigeria. The study will particularly examine:

- (i) the relevance of delimiting maritime boundaries for these West African coastal states.
- (ii) provide an overview of the roles of Boundary Commissions in the settlement of disputes and the delimitation process.

1.2 Research Questions

Below are the research questions for the study:

- i) What are the applicable rules of international law relevant for maritime boundary delimitation?
- ii) How do West African States delimit their maritime boundaries?
- iii) What lessons could be drawn from the maritime boundary delimitation of Ghana, Côte d'Ivoire and Nigeria?
- (iv) Is the use of the UNCLOS provisions the best method for West Africa to delimit its maritime boundaries.
- (ii) Are there other institutions that West African States can utilise for the settlement of disputes and delimitation processes apart from Boundary Commissions?

1.3 The Outline of the Study

This thesis is divided into two parts. Part one, chapter one, provides an overview of the legislative framework, specifically the UNCLOS provisions for the delimitation of maritime boundary, specifically the EEZ and Continental Shelf and maritime boundary delimitation in West Africa. The second chapter will focus on an overview of the Maritime Boundary Disputes and dispute settlement in West Africa.

Part two, Chapter One, discusses the role of Boundary Commissions in the delimitation of maritime boundaries among West African coastal states. The second chapter will focus on the

relevance and impact of Boundary Commissions in the region regarding maritime boundary delimitation. The conclusion will provide major findings and recommendations.

1.4 Research Methodology

This study seeks a detailed understanding of the importance of delimitation of maritime boundaries with respect to coastal states in the West African Region and determine whether the establishment of Boundary Commissions within these states will facilitate delimitation and maintenance of some peace and order with regards to international boundaries. The study methodology will primarily consist of a doctrinal legal research approach using relevant international sources of law provided under Article 38 of the ICJ Statute including the United Nations Convention on the Law of the Sea (UNCLOS), as well as rules of interpretation under the Vienna Convention of the Law on treaties, relevant rules of international law, as well as relevant judgments from the International Court of Justice(ICJ) ,the International Tribunal for the Law of the Sea (ITLOS) and other maritime boundary delimitation and disputes cases from other tribunals. Furthermore, this thesis will employ the use of reports and inquire other practical methods used by states to settle disputes, share resources and delimit their shared maritime boundaries with their neighbours. A desk review of the laws and regulations governing Boundary Commissions in West Africa will also be conducted. Secondary data, supplemented by telephone interviews to gather additional information, will be used to support the work. The objective is to provide valuable insights to these Commissions and coastal states in West Africa on key actions needed to enhance harmonisation, especially in the context of peaceful dispute resolution and maritime boundary delimitation. Articles and news coverage on the activities of West African Boundary Commissions will be utilised. Information on the delimitation status of West African states will be sourced from the United Nations website, academic journals, books, articles from the United Nations DOALOS Office and UN Dag Hammarskjold library, UiT Arctic University library, AUBP, Sierra Leone Authorities in charge of international boundaries, the Ghana Boundary Commission (GhBC), the Nigerian National Boundary Commission (NBC), and the Cote d'Ivoire Boundary Commission(CNFCI), all of which play significant roles in Boundary Management and Governance in West Africa.

PART ONE

CHAPTER ONE

1.5 Introduction: Historical Background on Cote d'Ivoire, Ghana, Nigeria and the Delimitation of their maritime boundaries

The West African region is comprised of Benin, Burkina Faso, Cape Verde, Gambia, Ghana, Guinea, Guinea Bissau, Liberia, Mali, Mauritania, Niger, Nigeria, Senegal, Sierra Leone, and Togo, as well as Saint Helena, Ascension Island, and Tristan da Cunha.⁷ However, for the purposes of this discussion, I will focus solely on specific coastal states along the Gulf of Guinea in the region namely, Ghana, Nigeria and Côte d'Ivoire. The geographical characteristics of West Africa, with its mix of convex and concave coastlines, archipelagic states,⁸ and abundant natural resources, create a fertile ground for numerous maritime boundary disputes and challenges between neighbouring states, both adjacent and opposite each other.⁹

The clamour by the West for natural resources, accompanied by self-serving political actors, has made Africa, in general, a dispute-prone zone.¹⁰ Most African states have united with significant actors and formed international organizations to mitigate conflicts, develop the region, and use preventative diplomacy to resolve disputes and conflicts. For West African states, the Economic Community of West African States (ECOWAS) has been at the helm of affairs.¹¹ Though they have made little strides, their intervention in many disputes cannot be downplayed.¹²

Despite these efforts, the regional body may have in mitigating disputes, the ECOWAS bloc has witnessed numerous maritime boundary disputes involving states such as Cameroon and Nigeria, Sao Tome and Nigeria, Guinea and Gabon, Guinea and Guinea Bissau,¹³ Senegal and Guinea, Burkina Faso and Nigeria, Ghana and Cote d'Ivoire¹⁴, and currently Ghana and Togo.¹⁵

⁷ United Nations Statistical Division. (2011) Composition of macrogeographical (continental) regions, geographical sub-region, and selected economic and other groups.

⁸ Underwood P.C (1988). Ocean Boundary Making. First Edition.p.33

⁹ Owusu, B. (2018). 'Doomed by the 'resource curse'? Fish and oil conflicts in the Western Gulf of Guinea, Ghana. *Development*, 61, 149-159.

¹⁰ Okwonko T. Maritime Boundary Delimitation and Dispute Resolution in Africa. (2017) Beijing law Review Vol. 8 .

¹¹ Arthur, P. (2010). ECOWAS and regional peacekeeping integration in West Africa: Lessons for the future. *Africa Today*, 57(2), 2-24.

¹² Franci J. D. (2009) Peacekeeping in a Bad Neighbourhood: The Economic Community of West African States (ECOWAS) in peace and security in West Africa .Africa Journal Online .Visited 25/08/2024

¹³ Dzurek J.D (1999) Gulf of Guinea Boundary Disputes .IBRU Boundary and Security Bulletin.

¹⁴ Delimitation of maritime boundary in the Atlantic Ocean (Ghana /Cote d 'Ivoire) Judgment ,ITLOS Reports p.4

¹⁵ Annual Report (2021) Ghana Boundary Commission

While these coastal states are likely to turn to dispute settlement mechanisms in international law to help resolve their maritime disputes, it is crucial for regional organizations like the AU and ECOWAS to play a role in establishing effective dispute resolution mechanisms to preserve peace and good neighbourly relations, which have been increasingly strained in the region.¹⁶

FIG 1.0 *The Study Area: Map showing West African States along the Gulf of Guinea*



Source: Ghana Boundary Commission (2024)

Section A

1.6 UNCLOS Provisions on Maritime Boundary Delimitation

Many West African coastal states have signed and ratified United Nations Convention on the Law of the Sea (UNCLOS) and regard it as an authority to all issues related to maritime boundaries. UNCLOS is a multifaceted monument to international cooperation. UNCLOS divides the oceans into maritime zones namely, Internal waters, the Territorial Sea, the Contiguous Zone, the Exclusive Economic Zone, the Continental Shelf, the High Seas and the Area¹⁷. The convention recognized that there was an increasing need for resources and as such, it was imperative for coastal states to undertake negotiations and enter into economic agreements on maritime boundary delimitation by clearly defined maritime zones over which they could exercise sovereignty or sovereign rights. The convention also addressed various issues, including navigation, transit, deep sea mining, protection of the marine environment,

¹⁶ Okwonko T. (Ibid)

¹⁷ Division for Ocean Affairs and the Law of the Sea Office of Legal Affairs. (1982) United Nations Convention on the law of the Sea. United Nations, New York.

scientific research, and the resolution of disputes, along with other rules and procedures. Due to the fact that it was concluded decades ago, there are recent global events that were excluded, however, the treaty has birthed other implementation agreements to handle its omissions; for example, issues of the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction being addressed by Agreement under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas beyond National Jurisdiction, the “BBNJ Agreement”.¹⁸

1.7 UNCLOS Maritime Zones for Delimitation-Territorial Sea, EEZ and Continental Shelf

The maritime zones most subject to boundary delimitation include the territorial sea, contiguous zone, exclusive economic zone (EEZ), and continental shelf (CS).¹⁹ The delimitation of the continental shelf (CS) and the exclusive economic zone (EEZ) in West Africa and Africa has become increasingly necessary in recent times. All West African coastal states are parties to the 1982 United Nations Convention on the Law of the Sea (UNCLOS), with ratification occurring at different times. For example, Ghana ratified it in 1983, Cote d’Ivoire, Gambia, and Senegal ratified the convention as early as 1984, while Liberia ratified it in 2008.²⁰

UNCLOS provides a framework for the delimitation of the continental shelf (CS) and exclusive economic zone (EEZ). However, the effective implementation of this framework in West Africa is dependent on various factors, such as whether the states are monists or dualists, the existence or enactment of domestic laws to implement the Law of the Sea provisions, among others, which can pose significant limitations and often lead to disputes. The disputes within the region have been projected to increase due to the interest in oil and gas exploration²¹ if measures such as increased cooperation, collaboration and sharing of resources are not explored.

¹⁸ United Nations (2023) <https://www.un.org/bbnjagreement/en> Visited 2/2/2024

¹⁹ United Nations Convention on the Law of the Sea (1982).
https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf

²⁰United Nations Treaty Collection
https://treaties.un.org/Pages/ViewDetailsIII.aspx?src=TREATY&mtdsg_no=XXI-6&chapter=21&Temp=mtdsg3&clang=en Visited 3/7/2024

²¹ Analytica O (2017). West African maritime boundary disputes will grow. Emerald Insight.
<https://www.emerald.com>

Historically, the International Court of Justice (ICJ) and arbitral tribunals were entrusted with the responsibility of peacefully resolving maritime boundary disputes, as a crucial component of global peace, security, and adherence to international law.²²In 2010, the International Tribunal for the Law of the Sea (ITLOS) took on its first maritime delimitation case between *Bangladesh* and *Myanmar* in the Bay of Bengal²³.

1.7.1 Delimitation of the Territorial Sea, EEZ and Continental Shelf

In delimiting the maritime zones, the UNCLOS provisions applied are Article 15 for the Territorial Sea, Article 74 for the EEZ, and Article 83 for the Continental Shelf. These provisions for delimitation of the EEZ and Continental Shelf embody the equidistance principle and form the foundation of the delimitation legal framework. The delimitation of the EEZ and the Continental Shelf faces challenges and limitations but is a task that African coastal states need to implement to prevent further disputes in the region. The implementation of UNCLOS is the preferred legal instrument in the settlement of disputes in West African states due to its regard for sovereignty, equity, and consideration of the effects of colonialism in Africa.²⁴

1.7.2 Delimitation of the Territorial Sea

The territorial sea is the oldest established maritime zone. The Territorial Sea delimitation relies on the baseline related to the low-water mark from its landward side. This is the normal baseline for measuring the breadth of the territorial sea.²⁵All coastal states are entitled to the Territorial Sea; the breadth of the territorial sea is up to 12NM measured from baselines, and the coastal state has sovereignty in the territorial sea, the air above the sea, the seabed, and subsoil.

As stated earlier, the Equidistance method is used in the delimitation of coastal states that are opposite or adjacent to each other. This method can be used with the agreement between parties.²⁶ However, in the absence of an agreement between the parties, the boundary shall be

²² B. Kwiatkowska. The International Journal of Marine and Coastal Law 28 (2013)

²³ International Tribunal for the Law of the Sea. <https://www.itlos.org/en/main/cases/list-of-cases/case-no-16/>
Visited 28/08/2024

²⁴ Azmaira A (2019). Interrogating an African Approach to Maritime Boundary Delimitation between Adjacent Coastal States under Article 83(1) of the United Nations Convention on the Law of the Sea, Strathmore University Law School.

²⁵ UNCLOS Article 4

²⁶ Ibid

the equidistance line unless, because of historic title or the presence of other special circumstances, there may be a requirement of a boundary at variance with equidistance.²⁷

The Delimitation between Ghana and Cote d'Ivoire in the Atlantic Ocean, Somalia and Kenya in the Indian Ocean, Costa Rica and Nicaragua in the Caribbean Sea and the Pacific Ocean are all examples of recent cases that involved the delimitation of the territorial sea.

1.7.3 Delimitation of the Continental Shelf (CS) and The Exclusive Economic Zone (EEZ)

The convention defines the exclusive economic zone (EEZ) of a coastal state as an area beyond and adjacent to the territorial sea where the coastal state has sovereign rights for exploring and exploiting, conserving and managing the natural resources, and has rights to the seabed and subsoil.²⁸ The maximum outer limit of the EEZ is set at a maximum of 200 NM from the baselines.²⁹

The Continental Shelf (CS) of a coastal state include 'the seabed and subsoil of the submarine areas that extend beyond its territorial sea, either throughout the natural extension of its land territory to the outer edge of the continental margin or up to a distance of 200 nautical miles from the baselines' used to measure the territorial sea, if the continental margin does not reach that distance.³⁰ The delimitation of the continental shelf between states with opposite or adjacent coasts according to Article 83 shall be undertaken by an agreement based on international law as referred to in Article 38 of the Statute of the ICJ in order to achieve an equitable solution. This is important because it encourages the neighbouring states to delimit their continental shelf by themselves using available sources of international law, such as conventions eg VLCT, international customs, and general principles of law recognized by civilised nations among sources. In the event that this failed within a reasonable period, the states were then directed by the Convention, to resort to any of the peaceful dispute settlement procedures under Section One of PART XV.³¹ The settlement of disputes through peaceful means is mandatory to all parties of the convention,³² and can be undertaken using any peaceful

²⁷ Lando M. (2017). Judicial Uncertainties on the Territorial Sea Delimitation Under Article 15 UNCLOS of the UN Convention on the Law of the Sea. *International & comparative Law Quarterly*, 66(3), 589-623

²⁸ UNCLOS Article 55

²⁹ UNCLOS Article 57

³⁰ UNCLOS Article 76(1)

³¹ Section 1, Part XV; Articles 74(2), 83(2)

³² Article 279

method of the parties' choice.³³ Section 2 of PART XV is only invoked after the recourse to such means has failed and there are no more procedures the parties wish to explore³⁴. The states can also agree to refer the delimitation to an international court or tribunal and the decision of the international court or tribunal is legally binding on both parties.³⁵ The states also have the option of making a unilateral application to an international court or tribunal after a reasonable time has expired.

Pending a maritime boundary delimitation agreement, the parties are to enter into provisional arrangements of a practical nature. An example of such an agreement is Joint Development Agreements (JDAs) between states. JDA's are employed in instances where two or more states claim ownership of resources in an overlapping maritime zone, to encourage the sharing of resources located pending final delimitation between the parties. JDAs are one of the effective ways in deterring maritime boundary disputes between states with overlapping entitlements.³⁶ An example of such an arrangement is between Nigeria and São Tomé. During this period, the parties are not to jeopardize the reaching of a final agreement.³⁷ Lastly, the convention states that where there is an agreement in force between the states, questions relating to the delimitation shall be determined in accordance with that agreement.³⁸

1.7.4 Methods Applicable to Maritime Boundary Delimitation

The final determination of a maritime boundary (outside an arbitral award or court determination) is the result of a diplomatic agreement between two coastal states. However, there are bilateral talks and negotiations that begin the process, which require the comprehensive use of legal, political, and technical expertise to generate equitable results.³⁹ Various methods have been employed by the courts and tribunals for delimitation, including the equidistance/median method, equiratio, bisector, and perpendicular line and azimuth methods.⁴⁰ The courts or tribunals employ different methods depending on the specific case,

³³ Article 280

³⁴ Article 286

³⁵ Vermeer Z. and Akande D.(2019). Prior Consent by States to the Jurisdiction of International Courts and Tribunals in Inter-state Disputes.

³⁶ Wifa L.E,Amakoromo M.,Johsonson-Ogbo I (2018) The role of a Joint Development Agreement(JDA) in resolving the conflicts and uncertainties over maritime boundary delimitation in Egede E.,Igiehon M.The Bakassi Dispute and the International Court of JJustice.Routlege, London1st Edition

³⁷ Articles 74(3),83(3)

³⁸ Article 83(4)

³⁹ Zhang J,Chen ,S,Ning .P,Zhang.X(2023) An equidistance/equiratio method of maritime delimitation on the Earth ellipsoid. Journal of Sea Research Vol.191

⁴⁰ United Nations (2000). Handbook on the Delimitation of Maritime Boundaries. United Nations Publication. New York

taking into consideration the geographic characteristics of the relevant coast and employing various laws.⁴¹ The equidistance/median method is used to calculate the boundary line along which every point of the coastline/baseline is located using geometry. A lateral line is drawn (the equidistance line) between two adjacent coasts, and a median line is drawn between two opposite coasts. The starting point of maritime delimitation is the basepoint, and the “Equidistance line defined as a line every point of which is equidistant from the nearest points on the baselines of two or more states between which it lies.”⁴²

One of the most widely used methods is the equidistant method, particularly in the three-stage approach as articulated by the court in the Black Sea Case (Romania-Ukraine) (2009).⁴³ In this case, the ICJ outlined a clear approach to delimitation. The first step is to establish a provisional delimitation line. “An equidistance line will be drawn unless there are compelling reasons that make this unfeasible in the particular case.”⁴⁴ Secondly, the court will consider factors that may require an adjustment to the provisional line to achieve an equitable result, and thirdly, the line is verified by applying a “disproportionality” test. Some cases that have employed this method include Nicaragua v Colombia (2012), the Bay of Bengal case (Bangladesh-India) (2014), Chile v Peru (2014), Ghana v Cote d’Ivoire (2017), Costa Rica v Nicaragua (2018), and Somalia v Kenya (2021). In the Ghana v Cote d’Ivoire case, Cote d’Ivoire argued that the use of this method could impact the future delimitation of the overlapping entitlement between Ghana and Togo and could have a ripple effect on the region's future delimitation⁴⁵.

⁴¹ Johnson A-A (2019). Ghana in the Midst of Maritime Boundary Delimitation in the Gulf of Guinea. United Nations – The Nippon Foundation Fellowship Programme.pp.52

⁴² United Nations Division for Ocean affairs and the Law of the Sea, Office of Legal Affairs (1982) United Nations Convention on the Law of the Sea (1982) https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf Accessed 28/08/2024

⁴³ Maritime Delimitation in the Black Sea (Romania v Ukraine). <https://www.icj-cij.org/case/132>. Visited 28/08/2024

⁴⁴ Ibid

⁴⁵ Dispute Concerning Delimitation of The Maritime Boundary Between Ghana And Cote d’Ivoire in the Atlantic Ocean [2017] ITLOS <https://www.itlos.org/en/main/cases/list-of-cases/case-no-23/>

Section B

1.7.5 Factors influencing maritime boundary delimitation in West Africa

Various factors including geographical, historical, land boundary demarcation, political, security,⁴⁶ and economic considerations play a role in maritime boundary delimitation.

i. Geography

Geographical aspects such as regional geography, characteristics of the region like the ocean, semi-enclosed sea, coast configurations, presence of islands and rocks, basepoints and concave or convex shapes are key in delimitation. The curved geographical nature of the West African region also contributes to the competing claims of adjacent states, as the division of maritime zones brings states closer in the maritime domain. Some coastal states have shorter continental coasts compared to others with more extensive coastal lines. For instance, Togo and Benin have short coastlines putting them at a geographical disadvantage.⁴⁷ The significance of concavity or convexity of coastlines was established by the ICJ in the 1969 North Sea Continental Shelf cases, where equitable principles were emphasized to address concave coastlines. Instances like *Guinea v Guinea Bissau*, *Nigeria v Cameroon* highlighted the impact of concave coastlines in West Africa.

ii. Presence of Third-Party States

The involvement of third-party states also affects boundary delimitation, due to the convergence of the maritime area of three coastal states and the overlapping of their entitlements. The entitlements of the three states create the possibility for tripoint issues to form where maritime boundaries can intersect.⁴⁸ This is a very common issue which occurs in about 50% of all maritime boundary delimitation.⁴⁹ Where all three states agree that there is a Tripoint, they can enter into a trilateral agreement. These trilateral geographical relationships

⁴⁶ Kwiatkowska B. (1993). 'Economic and Environmental Considerations in Maritime Boundary Delimitations', *International Maritime Boundaries* (The American Society of Law), Charney J.I and L.M Alexandereds., Dordrecht, Boston, London, Martinus Nijhoff Publishers), vol I,P.75

⁴⁷ Prescott, V., Schofield, C. (2005). *The Maritime Political Boundaries of The World* 2nd Ed. Martinus Nijhoff Publishers, page 54

⁴⁸ Lapthrop G. C (2005). *Tripoint issues in Maritime Boundary Delimitation*.Duke Law Scholarship Repository.eduhttps://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1929&context=faculty_scholarship

⁴⁹ *Handbook on the Delimitation of Maritime Boundaries* (2000).Division for Ocean Affairs and the Law of the Sea,Office of Legal Affairs,UN,New York pp.45

can cause disputes over territories and the delays in delimitation.⁵⁰ An example of such a situation is the sovereignty dispute among Equatorial Guinea, Gabon and Sao Tome and Principe over islands located in Corisco Bay. This dispute has delayed the delimitation of the Equatorial Guinea-Gabon boundary.⁵¹

iii. Colonial Land Boundary Demarcation

A fundamental issue causing the delay in delimitation of maritime boundaries stems from the haphazard way the land boundaries were demarcated by the colonial governments. African states chose to adopt these land boundaries, through the legal principle of *uti possidetis*, however, the problematic division of African land boundaries directly correlates to the delimitation of maritime boundaries. This is because according to the convention, the land territory of a coastal state is the main starting point for measuring the base point of maritime boundaries. For instance, the determination of the land boundary terminus (LBT) Pillar 1 was crucial in establishing the maritime boundary between Ghana and Togo. This terminus was determined based on the Anglo-French demarcation report in 1929 and served as the projection point for the boundary.⁵² Thus, the delimitation of the maritime boundaries in this region must be approached in a manner that benefits the states involved, without exacerbating the damage caused and left behind by colonialists.⁵³

iv. Other factors

The delimitation of the EEZ and CS of African coastal states depends on factors such as interests, relationships with neighbouring states, political will, and the current circumstances the states face. The discovery of natural resources located in areas of overlapping claims by two states may cause disputes and stall the delimitation process. Unstable political and economic climates may also contribute to the lack of interest or delay in resolving maritime boundary disputes and advancing delimitation processes. Factors like base points, presence of

⁵⁰ Lathrop, C.G.(2005) Tripoint issues in maritime boundary delimitation. "INTERNATIONAL MARITIME BOUNDARIES, David A. Colson, Robert W. Smith, eds., American Society of International Law

⁵¹ Dzurek, D. Gulf of Guinea Boundary Disputes (1999) Ibru Boundary and Security Bulletin Spring

⁵² Ayettey, A Reaffirmation of Ghana-Togo Boundary: a Crossroads of Old and New Approaches to Position Determination (Ghana)

Terminus https://fig.net/resources/proceedings/fig_proceedings/fig2024/papers/ts05f/TS05F_ayettey_12642_abs.pdf

⁵³ Mboce N., Muigua K., Munyi P. (2020) Examining the Role of Delimitation of the Continental Shelf and the Exclusive Economic Zone in relation to Maritime Boundary Disputes in Africa. <https://kenyalaw.org/kl/fileadmin/pdfdownloads/KLReviewJournal/Final-Joint-Article.pdf>

ports, islands, and economic resources such as hydrocarbons and fisheries are sometimes considered during delimitation.

CHAPTER TWO

1.8 Disputes

Disputes off the coast of West Africa have arisen due to disagreements over competing claims to territorial seas, exclusive economic zones (EEZs), and continental shelves, as well as overlapping entitlements and disputes over islands and mainlands. Examples of such disputes include those between Ghana and its neighbouring states, such as Cote d'Ivoire (2015-2017) and Togo (presently), involving overlapping entitlements to maritime rights and jurisdictions. Additionally, disputes like the one between Equatorial Guinea and Gabon over the sovereignty of islands like Mbanie/Mbane, Cocotiers/Cocoteros, and Conga further contribute to the tensions in the region and disputes over mainlands, such as Nigeria and Cameroon, over the Bakassi Peninsula in 1994. Most of these disputes, at first glance, seemed to be about the maritime boundaries, but the underlying issue was the claims to the rich natural resources, especially hydrocarbons, being discovered in these areas.⁵⁴ The resolution of these disagreements is crucial to maintaining peace, promoting economic development, and ensuring sustainable management of resources⁵⁵.

1.8.1 Dispute Settlement

A secure maritime domain is crucial for a country's security and economic well-being, as disputes can undermine the country's efforts to maintain economic and maritime security.⁵⁶

⁵⁴ Supra 88

⁵⁵ Kadagi N.I, Okafor-Yarwood, I. Glaser S and Lien ,Z.(2020). Joint Management of Shared Resources as an alternative approach for addressing maritime boundary disputes: The Kenya-Somalia maritime boundary dispute. *Journal of the Indian Ocean Region* 16(3)348-370

⁵⁶ Bateman S.(2016) 'Maritime Security Governance in the Indian Ocean', *Journal of the Indian Ocean Region*, 12 p.6.

The UN Charter encourages parties to settle disputes which, if left unresolved, could jeopardize peace and security, utilizing methods chosen by the parties involved.⁵⁷ The parties can agree to settle the dispute among themselves, alternatively, the parties may opt for a neutral third party to assist. Article 33(1) of the UN Charter encourages methods including but not limited to negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, or resorting to regional agencies or arrangements.

Negotiation stands out as the most predictable approach for dispute resolution, as it entails peaceful bilateral discussions where parties can express their interests, make concessions, and reach a mutually beneficial agreement. Conversely, involving a third party, such as a court or arbitration tribunal, can lead to more unpredictable outcomes for either of the parties to the dispute, with the Court or tribunal making the final determination. Negotiating maritime boundaries between adjacent coastal states allows for the establishment of a mutually agreed-upon boundary line, ensuring each state has full control over the delimitation.

In Africa, and especially West Africa, the concept of borders did not exist until European colonization. Africans themselves advocate for the idea that these boundaries should function as bridges rather than barriers⁵⁸, particularly considering that people in border regions share commonalities in ethnicity and culture. Therefore, disputes should be resolved, and agreements should be reached amicably for instance, Ghana and Togo have been negotiating their maritime boundary since 2018 through collaboration and cooperation, aiming to settle their boundary dispute peacefully without the need for a third party. However, if the need arises, the parties can invoke another method under Article 33.

Settlement through the interventions of third parties can involve mediation, arbitration, and the use of international courts such as the ICJ and ITLOS. Regional bodies like the AU or ECOWAS often play a role in West African boundary disputes.⁵⁹ Important actors, can also serve as mediators in boundary disputes for example in 2015, Kofi Annan, the former UN Secretary General, with the support of the Kofi Annan Foundation, invited presidents of Ghana

⁵⁷ United Nations. (1945) *Charter of the United Nations and Statute of the International Court of Justice*. Article 33(1).<http://treaties.un.org>. Visited 23/08/2024

⁵⁸ GIZ (2016). *From Barriers to Bridges*. Support to the African Union Border Programme (AUBP). Addis Ababa, Ethiopia

⁵⁹ Dadson, E. (2017) *Examining the Role of Third-Party Mediation in Cote d'Ivoire Conflict with Ghana*. Kofi Annan International Peacekeeping Training college .<https://www.kaiptc.org>

and Cote d'Ivoire to discuss the delimitation of their shared maritime boundary and encourage cooperation between the two countries in a manner that promoted regional integration.⁶⁰

Section A

1.8.2 NIGERIA & GHANA AND THEIR NEIGHBOURS: Disputes, Settlement of Disputes and Delimitation of Maritime Boundaries

1.8.2.1 Nigeria

Nigeria possesses an extensive coastline⁶¹ and is located in West Africa along the Gulf of Guinea. Nigeria shares maritime boundaries with Benin, Cameroon, Equatorial Guinea, Ghana, and São Tomé and Príncipe in the Gulf of Guinea. Nigeria is entitled to a Territorial Sea of 12 NM, EEZ of 200NM, Continental Shelf of 200nm, and beyond an outer limit of 350nm from the coastal baselines.⁶² Nigeria is in the process of delimiting almost all its shared maritime boundaries with its neighbours, and has established one of the most instrumental boundary Commissions in the West African Region at the helm of its delimitation and delineation affairs.⁶³

Nigeria also has joint exploitation with some of its neighbours, pending a final delimitation through the establishment of joint development zones and joint development agreements.⁶⁴ By establishing these zones and entering into these agreements, Nigeria satisfies Articles 74(3) and

⁶⁰ Kofi Annan Foundation. (2015 May 25) *Dialogue between Ghana and Cote d'Ivoire*. Kofiannanfoundation.org.

⁶¹ Okoye A (Nov 2021). International Maritime Boundaries of Nigeria -Revisiting Joint Development of Natural Resources

⁶² UNCLOS Articles 3, 33, 57, 76 and 303.

⁶³ Okoye A. (2021) The International Maritime Boundaries of Nigeria-Revisiting Joint Development Natural Resources. AfronomicsLaw. <https://www.afronomicslaw.org/category/analysis/international-maritime-boundaries-nigeria-revisiting-joint-development-natural> Accessed 2/8/2024

⁶⁴ Wifa E, Amakoromo M, Johnson-Ogbo I (2017) The role of a Joint development agreement (JDA) in resolving the conflicts and uncertainties over maritime boundary delimitation: A missed opportunity in the Bakassi Dispute and the International Court of Justice(pp.157-173)

83(3) of UNCLOS to enter into provisional agreements of a practical nature through cooperation with its neighbour Sao Tome and Principe.⁶⁵ Nigeria is poised to assume a leadership role in the maritime field by updating its legislation to serve as a model for laws governing maritime zones and the legal management of maritime areas in the region.⁶⁶

FIG 2: Map of Ghana, Nigeria and Cote d'Ivoire with neighbours showing actual and provisional exclusive Economic Zones (EEZ)



Source: marineregions.org accessed 20/8/2024

1.8.2.2 Nigeria - Cameroon, Nigeria -Equatorial Guinea, Nigeria-Sao Tome and Principe, Nigeria-Benin & Nigeria-Ghana

1.8.2.3 Nigeria /Cameroon

Nigeria and Cameroon had their maritime boundary delimited by the ICJ in 2002 when bilateral talks failed between them.⁶⁷ Equatorial Guinea which shares a maritime boundary with both

⁶⁵ Nigeria and São Tomé and Príncipe Joint Development Agreement (NSTPJDA)<https://nstpjda.org/>. Visited 12/7/2024

⁶⁶ Ocean Law Reform: A Multi-level Comparative Law Analysis of Nigerian Maritime Zone Legislation (2016).⁶⁷ Marine Policy 60. Chircop A., Dzidornu D., Oguamanam Chidi. Schulich Law Scholars, Schulich School of Law

⁶⁷Case Concerning the Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v Nigeria: Equatorial Guinea Intervening) [2002] ICJ Rep 303. <https://www.icj-cij.org/case/94>

Nigeria and Cameroon, intervened in the case as the delimitation between the two states impacted it, due to the presence of its Bioko Islands. Cameroon contested the boundaries and ownership of the oil-rich Bakassi Peninsula in the South, the shared Maritime Boundary with Nigeria where oil blocs were located, the entire land boundary, and Lake Chad. The peninsula was inhabited by Nigerians. The delimitation of maritime boundaries northwest of Bioko Island (Equatorial Guinea) was influenced by the Cameroon-Nigeria dispute over the ownership of the Bakassi Peninsula, situated between the Akwayafe and Del Rey rivers. Nigeria suggested that Bioko should only partially affect the delimitation of their maritime boundary. During the delimitation procedures, three competing lines were presented: a line that extended into the middle of Nigeria's existing oil field (the line initially proposed by Cameroon), Nigeria's claimed line running down the eastern side of Bakassi, and the Oil Practice Line, which was observed by licensing authorities and oil companies in all three states. This line represented the de facto division between Nigeria and Cameroon's offshore oil interests, although there were areas of overlap even on that line.⁶⁸

The Court had to consider Cameroon's geographical disadvantages (i.e the enclavement of Cameroon's coastline) when delimiting the boundaries with these two states to reach an equitable result. In its Judgment, the ICJ awarded ownership of the Bakassi peninsula to Cameroon. This decision adversely affected Nigeria's socioeconomic, the inhabitants, and investors of the disputed area.⁶⁹

1.8.2.4 Nigeria/Equatorial Guinea

Nigeria and Equatorial Guinea delimited their maritime boundary and signed a treaty known as the 'Unitization Agreement' in 2000.⁷⁰ The delimitation line was drawn considering the oil interests of both states and the historical pattern of licensing. The line extended from a point slightly south of the notional tripoint between Nigeria, Cameroon, and Equatorial Guinea, with the southern limit being the median line between Sao Tome and Equatorial Guinea.

⁶⁸ Ibid

⁶⁹ Aghemelo, A. and S Ibhasebhor, S (2006) 'Colonialism as a Source of Boundary Dispute and Conflict among African States: The World Court Judgement on the Bakassi Peninsula and Its Implications for Nigeria' 13 Journal of Social Sciences 177.

⁷⁰ Treaty between the Federal Republic of Nigeria and the Republic of Equatorial Guinea concerning their maritime boundary. 23 September 2000. <https://www.un.org/depts/los/LEGISLATIONANDTREATIES/PDFFILES/TREATIES/NGA-GNQ2000MB.PDF> Visited 24/02/2024

The line was established through compromises between Equatorial Guinea's median line claim and a claim by Nigeria that would have considered proportionality based on the differing lengths of the coastlines. One area of contention was the Ikanga/Zafiro oil field located in Equatorial Guinea. Nigeria's initial proposal risked depriving Equatorial Guinea of this field. The agreed-upon line posed a threat to Nigeria's access to the Ikanga extension of the Zafiro field, already discovered by Elf under a Nigerian license. To maximize benefits from this field, the two nations entered into a unitization arrangement. Currently, Nigeria and Equatorial Guinea operate under a Maritime Boundary and Joint Exploration Agreement.⁷¹

1.8.2.5 Nigeria/Sao Tome and Principe

Sao Tome claimed an archipelagic status under Article 46 of UNCLOS due to the nature of its coastline being a cluster of islands, whose features would be given appropriate recognition and consideration during delimitation. Sao Tome had a 200-mile exclusion zone in the northeast by the median line negotiated with Equatorial Guinea and in the northwest by the median line with Nigeria. The issue arose from Nigeria's 200-mile EEZ legislation which overlapped with Sao Tome and Principe's maritime claims. Sao Tome wanted the median line to be used as the boundary line while Nigeria preferred the median line to be adjusted. Both claims were driven by the presence of hydrocarbons in the region.⁷²

Subsequently, this impasse was resolved by establishing a Joint Development Zone⁷³ in the overlapping area, allowing for exploration and licensing activities to proceed smoothly. A Joint Development Agreement (JDA) was signed by the parties to the effect that the resources, both living and non-living, in the zone would be shared between the states, with Nigeria receiving 60% and Sao Tome 40%.⁷⁴ The Nigeria-Sao Tome JDZ serves as a model of collaboration by states pending maritime boundary delimitation. A Joint Development Authority has been

⁷¹ Treaty Between the Federal Republic of Nigeria and the Republic of Equatorial Guinea Concerning their Maritime Boundary, adopted 23 September 2000, entered into force 3 April 2002, ; Treaty Between Equatorial Guinea and Nigeria on Joint Exploration of Crude Oil, especially at the Zafiro-Ekanga Oil Field Located in the Maritime Boundary of both States, 3 April 2002 (unpublished).

⁷² Okaphor F.E (2019) Joint Development Zone between Nigeria and São Tomé and Príncipe: An Assessment. <https://journals.ezenwaohaatorc.org>. Visited 20/10/24

⁷³ Treaty between the Federal Republic of Nigeria and the Democratic Republic of São Tomé and Príncipe on the Joint Development of Petroleum and other Resources in respect of Areas of the Exclusive Economic Zone of the two States, 21 February 2001, entered into force 16 January 2003, in: D.A. Colson et al. (Eds.), *International Maritime Boundaries*, volume V, Martinus Nijhoff, 2005, pp. 3649-82. A substantial concern was the certainty of maritime boundaries for the purposes of offshore oil licensing blocks in a promising area. See T. Daniel, *African Maritime Boundaries*, in: D.A. Colson et al., *ibid.* pp. 3429, 3432-3434.

⁷⁴ Daniel T, *Maritime Boundaries in the Gulf of Guinea*. London https://legacy.ihp.int/mtg_docs/com_wg/ABLOS/ABLOS_Conf2/DANIEL.PDF

established by the two states to oversee activities in the JDZ along the maritime boundary in the Bright of Bonny.⁷⁵

1.8.2.6 Nigeria/Benin

Nigeria and Benin agreed on their maritime boundary on 4th April 2006⁷⁶, although the agreement is yet to be ratified. They divided their overlapping Territorial Sea, Continental shelf, and EEZ entitlements using the equidistant method. Due to the unfavourable coastline of Benin, Nigeria conceded some maritime space with its boundary with Benin. In return, Nigeria received a reciprocal area along the northern course of the boundary.⁷⁷

The line drawn between Nigeria and Equatorial Guinea and the northern limits of the Sao Tome and Principe JDZ significantly influenced Nigeria's EEZ delimitation. The configuration of Nigeria's coastline to the east of the Nigeria/Benin line results in a portion of the line extending out to the full 200 miles where Nigeria and Ghana share a common maritime boundary.

1.8.2.7 Nigeria / Ghana

Ghana shares maritime boundaries with Côte d'Ivoire to the West, Togo, Benin, and Nigeria to the East.⁷⁸ Ghana has in recent times, had maritime disputes with both neighbouring states, Côte d'Ivoire and Togo. This has necessitated the delimitation of its maritime boundaries with its neighbouring states. The delimitation of the Ghana-Nigeria boundary will be necessary when this happens to prevent any future disputes between the two friendly states with a shared rich history, despite being separated geographically by Togo and Benin. To prevent this, bilateral talks have already begun between the two states through their respective boundary commissions: the Ghana Boundary Commission and Nigeria's National Boundary Commission⁷⁹ to ensure that the maritime boundary is defined economically and mutually beneficial to both states.⁸⁰

⁷⁵ Nigeria-Sao Tome Joint Development Authority .<https://nstpjda.org/> accessed 2/3/2024

⁷⁶ Treaty on the Maritime Boundary Delimitation between The Federal Republic of Nigeria and The Republic of Benin, Abuja (4 August 2006) in: D.A. Colson et. al., (n 5) pp. 4266-4269.

⁷⁷ <https://sovereignlimits.com/boundaries/benin-nigeria-maritime> visited 16/08/2024

⁷⁸ <https://ghanaboundarycommission.org/maritime-boundary/> visited on 16/08/2024

⁷⁹ Annual Report (2002) Ghana Boundary Commission

⁸⁰ Thompson A. (2021) Boundary Commission meets Ghana counterpart on maritime issues. <https://tbiafrica.com/2021/10/28>

1.8.2.8 Ghana

Ghana is favourably positioned bordering the Gulf of Guinea along a 538km coastline between Togo and Cote d'Ivoire. It shares maritime boundaries with these countries, as well as Benin and Nigeria. Ghana's maritime claims include a Territorial Sea of 12NM, Contiguous Zone of 24 NM, an Exclusive Economic Zone of 200NM, a Continental shelf area to the 200NM limit and outer limit points at Ghana's Eastern and Western Extended Continental Shelf Region.

1.8.2.9 Ghana /Togo (Ongoing)

Togo is bordered by Ghana to the West, Benin to the East and Burkina Faso to the North. To the south, Togo has 56km (360mi) of coastline along the Bright of Benin of the Gulf of Guinea in the North Atlantic Ocean. Togo is now in the process of establishing the precise line of its maritime boundaries with its neighbouring states. The territorial sea of Togo spans a distance of 12 nautical miles (NM) from the baseline and has an approximate surface area of 1,245 km². The Exclusive Economic Zone (EEZ) of Togo is estimated to encompass an area of 19,498 km².⁸¹ Togo has a limited coastline with one of the smallest Exclusive Economic Zones in the world and as a result is 'shelflocked' by overlapping claims by its neighbours.⁸² Togo's National Agency for State Action at Sea (ONAEM) was created to safeguard the country's maritime interests.⁸³

The Ghana-Togo border spans 1,098km from the tripoint with Burkina Faso in the North to the Atlantic Ocean⁸⁴. The Togo and Ghana dispute arose when Ghana discovered oil blocks located in East Keta in the late 1990s⁸⁵. The dispute led to a cessation of fishing and oil activities in the area claimed by both states.⁸⁶

Negotiations were initiated in 2018 to delimit the maritime boundary, with a joint maritime technical committee formed by experts and heads of relevant government agencies/ministries from both states. A joint technical sub-committee consisting of survey and mapping, geological and legal experts was created to undertake the technical aspect of the delimitation process. The

⁸¹ Togo: Country Information. Retrieved from <https://www.mspglobal2030.org/msp-roadmap/msp-around-the-world/africa/togo/#:~:text=>

⁸² Prescott, V. (2005). *The Maritime Political Boundaries of the World*. Martinus Nihoff.

⁸³ Ibid

⁸⁴ Durham University (2021) Ghana and Togo target November 2021 for completion of the maritime boundary delimitation agreement . <https://www.durham.ac.uk/research/institutes-and-centres/ibru-borders-research/news-and-events/boundary-news/ghana--togo-maritime-delimitation-agreement/> visited 16/08/2024

⁸⁵ Ghana Togo dispute border at East Keta . <https://theenergyyear.com/news/ghana-togo-dispute-border-at-east-keta/> visited 16/08/2024

⁸⁶ Ghana Boundary Commission (2021) Annual Report. Ghana Boundary Commission p.19

team employed international law including UNLCOS provisions and best practice in this coordinated effort to draw the maritime boundary line.⁸⁷ A provisional line was drawn by Ghana and examined by the Togolese counterparts, taking into consideration the nature of the Togolese coastline, among other important factors to be considered for an equitable delimitation solution.⁸⁸ This series of meetings to finalize the delimitation of the shared maritime boundary continued until 2023, when the last meeting was held in Ghana. The final adoption of the provisional maritime boundary line is currently under consideration by the Heads of states of the two states.⁸⁹

1.8.3 Ghana/Cote d'Ivoire

Côte d'Ivoire is surrounded by Ghana to the East and Togo to the west. Côte d'Ivoire has a coastline that spans 515km (320mi) along the Gulf of Guinea. In terms of maritime boundaries, Cote d'Ivoire claims a 200 NM (370km) Exclusive Economic Zone, 12 Nautical Miles (22km) of Territorial Sea, and a 200 NM (370km) Continental Shelf.⁹⁰

Ghana discovered hydrocarbons in the Deepwater Tano Block containing the TEN (Tweneboa, Enyenra, Ntomme) fields and began conducting activities in the area. Côte d'Ivoire also laid claim to the area, which caused a dispute. Initial bilateral negotiations were attempted to settle the dispute, but when these failed, Ghana, relying on Annex VII of UNCLOS, commenced proceedings against Côte d'Ivoire before an ad hoc arbitral tribunal. The two countries then entered into a Special Agreement to transfer the case to a Special Chamber of ITLOS, seeking the delimitation of their maritime boundary. The tribunal delimited the boundary within and beyond 200 NM from their coastlines, utilizing a strict application of the equidistance methodology in favor of Ghana. The delimitation begins at a point BP 55+, located at the extension of the land boundary between the two states, through the EEZ and the extended continental shelf.

Ghana and Côte d'Ivoire continue to meet to implement the ruling of the ITLOS Tribunal on their maritime boundary in 2017.⁹¹

⁸⁷ Ghana News Agency.(2021) togo-to-study-ghanas-provisional-maritime-boundary-proposal-to-fast-track-delimitation-process <https://gna.org.gh/2021/06/togo-to-study-ghanas-provisional-maritime-boundary-proposal-to-fast-track-delimitation-process>

⁸⁸ Ibid

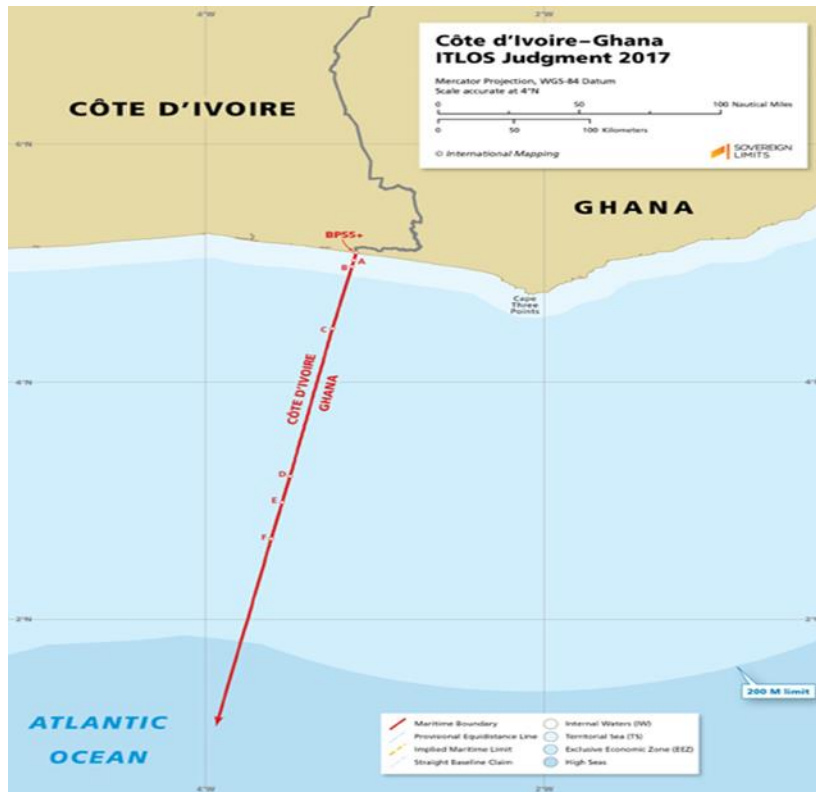
⁸⁹ Ghana Boundary Commission (2023) Annual Report

⁹⁰ <https://www.cia.gov/the-world-factbook/states/cote-divoire> visited on 16/08/2024

⁹¹ See Case 23, Ghana v. Côte d'Ivoire, International Tribunal for the Law of the Sea, <https://>

FIG 3: Map showing the strict equidistance maritime boundary line between Ghana and Cote d'Ivoire.

Source: Source: ITLOS (Sketch map no.7)



Section B

1.9 Relevance of Delimitation in West African States

1.9.1 Legal, Economic and Maritime Security Implications

Delimitation of maritime boundaries establishes clear boundaries between states, which is crucial for maritime security and economic development. Well-defined borders help prevent conflicts, improve cooperation in resource management, and ensure sustainable use of maritime resources. The peaceful resolution of maritime disputes, the sharing of resources while delimitation is pending by neighbouring states through Joint Development Agreements (JDAs)

and Joint Maritime Zones (JMZs) not only facilitate the sustainable exploitation of resources but also strengthens diplomatic relations.⁹²

The development of the economy and the security of maritime activities are also linked to the delimitation of the maritime boundaries. Setting clearly described maritime boundaries can prevent disputes and establish a clear legal framework on how states can sustainably manage marine resources. Much of this is true, especially for the case of West Africa, which has overlapping claims and is rich in natural resources for exploration and exploitation.⁹³ In these regards, the delimitation of maritime boundaries assumes an importance in ensuring economic development and security in West Africa. Well-delimited boundaries ensure peace in the exploitation of marine resources and further help reduce potential conflicts and increase regional cooperation. As mentioned previously, in instances where the boundary is yet to be delimited, JDAs, JMZs and unionisation agreements can be established to ensure sustainable exploitation while strengthening diplomatic relationships between states.⁹⁴

1.9.2 Legal

Delimitation establishes legal certainty over the disputed area, which is important for the sovereignty of every nation. This certainty is also imposed by the courts and tribunals when a boundary is delimited. The disputing states are legally obliged to follow the court's judgment, and the conflicts cease. The coastal states cooperate to implement the judicially enforced maritime boundary line employing both technical and legal aspects. For example, Nigeria and Cameroon and Ghana and Cote d'Ivoire have cooperated to implement their respective judicially enforced lines.

In instances where two states agree to jointly exploit their maritime boundary through development agreements and joint development zones, the law is furthered to draw treaties for an equitable sharing of natural resources.

⁹² Khalfaoui, A., Yiallourides, C. (2019), Maritime Disputes and Disputed Seabed Resources in the African Continent. Social Science Research Network. <https://doi.org/10.2139/ssrn.3330555>

⁹³ Kadagi, N.I., Okafor-Yarwood, I., Glaser, S & Lien, Z. (2020). Joint management of shared resources as an alternative approach for addressing maritime boundary disputes: The Kenya-Somalia Maritime Boundary Dispute. *Journal of the Indian Ocean Region*. Accepted for publication on 09 September 2020.

⁹⁴ Ibid

1.9.3 Maritime Security

Maritime security aims to mitigate the effects of maritime crimes such as piracy, armed robbery, illegal fishing, and other territorial disputes which have plagued the West African Coastal Region. Delimitation of maritime boundaries is a prerequisite for the effective implementation of security measures, conducting risk assessments, and the development of regulations and policies governing the activities of ports and shipping companies. For instance, the delimitation of boundaries allows security agencies to coordinate their activities more efficiently and opens avenues for joint, integrated, and cooperative maritime security actions involving diverse sectors.⁹⁵

Within West Africa, delimitation has been a prime factor to combat security problems and to render aid for civil marine activities of international trade. According to Kadagi et al., (2020),⁹⁶ JDAs and JMZs have been an effective way of ensuring the sustainable exploitation of transboundary marine resources and entrenching friendly diplomatic relations. Besides that, delimitation of maritime boundary mitigates issues such as piracy and armed robbery by providing a legal basis for military and police operations, whereas areas of dispute create safe havens for such criminal activity.⁹⁷ This framework gives a route for these operations to be successfully performed⁹⁸. Ghana and Nigeria share a maritime boundary and as such, in 2021, the navies of the two states signed a communique of cooperation to jointly patrol and combat maritime security threats along their shared boundary.⁹⁹

1.9.4 Economic Development

The discovery and exploitation of marine natural resources, whether oil/gas, or fisheries, is an economic booster for any coastal economy. When delimitation is carried out, it guarantees that resources are kept in a manner that is suitable for future generations and that economic activity

⁹⁵ Ali K.D (2015) Maritime Security Cooperation in the Gulf of Guinea: Prospects and Challenges ,Brill Nijoff.

⁹⁶ Kadagi N.I, Okafor-Yarwood, I. Glaser S and Lien ,Z.(2020). Joint Management of Shared Resources as an alternative approach for addressing maritime boundary disputes: The Kenya-Somalia maritime boundary dispute. Journal of the Indian Ocean Region 16(3)348-370

⁹⁷ Prins B,Phayal A,Gold A(2021).Fights overmarine boundaries are creating safe zones for pirates.
<https://goodauthority.org/news/fights-over-marine-boundaries-are-creating-safe-zones-for-pirates/>. Visited 20/10/2024

⁹⁸ Canca H.S (2014).Defeating terrorism, piracy and armed robbery against ships in a collective maritime security system. Journal of Human Sciences,11(1)1282-1300 <https://doi.org/10.14687/ijhsvllil.2951>

⁹⁹ Ghana and Nigeria agree to curb maritime insecurity (2021) <https://gna.org.gh/2021/07/ghana-and-nigeria-agree-to-curb-maritime-insecurity/>. Visited 28/08/2024

does not result in conflicts¹⁰⁰. The emergence of the Blue Economy which includes all activities derived from marine and aquatic ecosystems including waterbodies and their living and non-living resources and promises a multisectoral sectoral approach (MSA) towards the sustainable management for sustainable development of resources which will positively impact the economies of various African states. The ocean's wealth is valued at \$24 trillion, with an estimated \$2.5 trillion generated annually from goods and services.¹⁰¹

The West African coastal region alone is home to some of the largest ports in the world, including the ports of Lome, Abidjan, Apapa, Tema, Dakar, Conakry, and Freedom.¹⁰² The Gulf of Guinea is rich in natural marine resources and hydrocarbons. Coastal states derive a significant portion of their GDP from ocean activities, including fishing and offshore drilling. The exploitation of these oil and gas, fisheries and other natural resources contributes to maritime disputes arising from overlapping claims and the ongoing havoc caused by foreign vessels along the African coast.¹⁰³

Ghana's fisheries contribute 4.5 percent to the annual GDP and indirectly support the livelihoods of 2.2 million people or 10% of all people in Ghana.¹⁰⁴ In comparison, its neighbor Cote d'Ivoire's seafood sector accounted for about 3.2% of the agricultural GDP, which was 0.8% worth \$114 million of the overall GDP in 2021.¹⁰⁵ In 2023, the oil and gas sector was projected to add 10.25 billion Ghanaian cedis (GHS), around 855.3 million U.S. dollars, to the

¹⁰⁰ Hasan, M.M, Jian.H., Alam, M.W. & Chowdhury, K.M.A (2019). Protracted maritime boundary disputes maritime laws. *Journal of International Maritime Safety Environmental Affairs, and Shipping*, 2(2), 89-96. <https://doi.org/10.1080/25725084.2018.1564184>

¹⁰¹ United Nations Economic Commission for Africa. Africa's Blue Economy: Opportunities and challenges for sustainable development and socioeconomic transformation https://nairobiconvention.org/clearinghouse/sites/default/files/Africa%27s%20Blue%20Economy%20Issues_Paper_UNECA.pdf visited 17/08/2024

¹⁰² Istanbul Africa, Trade Company. Top 25 Ports in Africa. <https://www.istanbulafrica.com/top-25-largest-ports-in-africa/#:~:text=The%20Port%20of%20Abidjan%20is,system%20in%20Cote%20d'Ivoire,visited> 17/08/2024

¹⁰³ The Economist. (April 2024) <https://www.economist.com/middle-east-and-africa/2024/04/11/chinas-fishing-fleet-is-causing-havoc-off-africas-coasts> visited 17/08/2024, Coalition for Fair Fisheries Arrangement .Illegal operations of Italian vessels in west Africa: when will the Commission get its head out of the sand? (January 2024). <https://www.cffacape.org/publications-blog/iuu-italian-vessels-west-africa-commission-address-situation> visited 17/08/2024

¹⁰⁴ Republic of Ghana Fisheries and Aquaculture Sector Development Plan 2011-2016. visited 17/08/2024 <https://faolex.fao.org/docs/pdf/gha178892.pdf>

¹⁰⁵ USDA foreign Agricultural Service, US. Department of Agriculture. Cote d'Ivoire CDI Seafood Report (April 2022).

Gross Domestic Product (GDP) in Ghana.¹⁰⁶ Nigeria's oil sector contributed to 5.4% of the total real GDP in the 3rd Quarter of the same year.¹⁰⁷

In the case of Ghana and Cote d'Ivoire, the International Tribunal for the Law of the Sea (ITLOS) enabled the continuation of oil exploration and drilling activities within the legally defined limits in the case of Ghana and Cote d'Ivoire, thereby fostering economic prosperity and stability for both nations.¹⁰⁸

Moreover, well-defined boundaries contribute to the growth of the national economy by providing essential safe and efficient marine communication links. These boundaries ensure effective maritime transport, crucial for international commerce, thereby increasing a country's participation in global markets¹⁰⁹. The conflict between Ghana and Cote d'Ivoire over offshore oil deposits was ¹¹⁰significant due to the potential economic benefits involved.

1.9.5 Addressing Illegal Activities and Resource Management

Delimitation also addresses issues such as illegal, unreported, and unregulated (IUU) fishing, which often occurs within waters belonging to West Africa. Establishing defined boundaries enables states to enforce laws and manage maritime resources more effectively. The fragmented legislation at the national, regional, and continental levels governing illegal, unreported, and unregulated fishing in Africa highlights the need for unified legal processes.¹¹¹

¹⁰⁶ Statista (2023) Contribution of oil and gas sector to Gross Domestic Product (GDP) in Ghana from 2014 to 2027. <https://www.statista.com/statistics/1235708/gdp-of-the-oil-and-gas-industry-in-ghana/#>: Visited 17/08/2024.

¹⁰⁷ National Bureau of Statistics (November 2023). Nigerian Gross Domestic Product Report, Q3 2023. <http://nigeriastat.gov.ng>

¹⁰⁸ McCreath, M., & Scanlon, Z. (2019). The Dispute Concerning the Delimitation of the Maritime Boundary Between Ghana and Côte d'Ivoire: Implications for the Law of the Sea. *Ocean Development and International Law*, 50(1), 1–22. <https://doi.org/10.1080/00908320.2018.1548425>

¹⁰⁹ Valdivieso, R. H. (2017). Seguridad integral marítima como base para el desarrollo económico. *Ensayos Sobre Estrategia Marítima*, 4, 163–174. <https://doi.org/10.25062/2500-4735.659>

¹¹⁰ Youn, Y. M. (2018). An Analysis of ITLOS Judgment on the Dispute Concerning Delimitation of the Maritime Boundary between Ghana and Côte D'Ivoire in the Atlantic Ocean and Its Implications. *Haesabeop Yeongu/Hae'sa'beop Yeon'gu*, 30(3), 1–24. <https://doi.org/10.14443/kimlaw.2018.30.3.1>

¹¹¹ Negm, N. (2020). AU AIM Strategy and the Fragmentation of IUU Fishing Regulations in Africa: the Case of West Africa. *International Community Law Review*, 22(3–4), 449–454. <https://doi.org/10.1163/18719732-12341441>

PART TWO INTRODUCTION

2.0 The Role of Boundary Commissions in Maritime Boundary Delimitation in West Africa

The Berlin Conference of 1884-1885, led by Germany, Great Britain and France, was a significant event in history that resulted in the division of the African continent.¹¹² These boundaries arising from the conference established new barriers between families and ethnic groups.¹¹³ The impact of the Berlin conference has present-day implications across the African continent, including, but not limited to, the recurring land and maritime boundary disputes, which are manifestations of the imposition of artificial boundaries.¹¹⁴

As mentioned earlier, African leaders agreed to maintain the boundaries inherited by the colonial governments to prevent violent conflicts and disputes across the continent, even though most of the borders were artificial and cut across ethnic groups and historically important regions¹¹⁵. The international boundaries inherited were demarcated by intra and inter-colonial boundary commissions, which at the time were tasked with surveying and mapping, but later undertook extensive demarcation of the land itself in states such as Somaliland, Ethiopia -Kenya and DRC-Zambia.¹¹⁶

As discussed in Part 1, *uti possidetis* principle, also known as the ‘intangibility principle’ resulted in African states accepting the colonial boundaries and is therefore important for boundary commissions because it helps establish a starting point for boundary definition. The principle also serves as the framework for the settlement of disputes/conflicts using international adjudication or arbitration.¹¹⁷ However, this principle does not inhibit states from

¹¹² Gashaw T.T (2017) Colonial Borders in Africa: Improper Design and its impact on Africa Borderline Communities. Wilson Center.<https://www.wilsoncenter.org/blog-post/colonial-borders-in-africa-improper-design-and-its-impact-on-african-borderland-communities>.visited 20/9/2024

¹¹³Uwakwe I.S (2018) An Exploratory Assessment of Interstate Boundary Disputes in Nigeria. International Journal of Africa and Asian Studies.
<https://core.ac.uk/download/pdf/234690455.pdf>.Vistited 4/10/2024

¹¹⁴ Supra 112

¹¹⁵ Frynas, J. G. (2000). Foreign investment and international boundary disputes in Africa: Evidence from the oil industry. Occasional Paper Series, (9).

¹¹⁶ Creation and Operation of Boundary Commissions in Africa: The User’s Guide. African Union Border Programme (AUBP)

¹¹⁷ Ibid

defining or re-drawing their boundaries if it is governed by an agreement with neighbouring states. Beyond this principle, there are no fixed international laws on how states should create boundary commissions, either joint or national. Thus, any legally valid work on the physical definition of a boundary must be with the consent of the neighbouring country; for example, the reaffirmation work on Ghana's land boundaries with the consent, agreement and sometimes in collaboration with the boundary commissions of Togo, Cote d'Ivoire and Burkina Faso.¹¹⁸

The primary mandate of a boundary commission is to demarcate land boundaries and delimit maritime boundaries. During the colonial era, inter and intra colonial boundary commissions were created temporarily to undertake boundary survey or demarcation work until the 1920s to 1950s, when more permanent commissions undertaking land boundary demarcation were created to undertake joint periodic inspection of pillars.¹¹⁹

Since attaining independence, very few African states have been able to define their boundaries, both land and maritime, because of the lack of interest of neighbouring states and the lack of financial resources or political commitment. In the West African region, only a few states have been able to create Boundary Commissions, whether national or joint, to continue the demarcation, delimitation and delineation work they inherited, such as Mali, Gambia, Ghana, Cote d'Ivoire, Burkina Faso, Togo and Nigeria.

2.1 Factors to be considered before the Creation of a Boundary Commission

Factors considered by states before they invest in a boundary commission include the relationship with each other in relation to the boundaries i.e., whether there are existing boundary disputes, whether the boundary has previously been defined, whether there are existing boundary commissions (national or joint) and existing joint committees, the system of governance, whether the state is divided into federal states such as in Nigeria or if it the government is centralized as it is in Ghana. In addition to this, the availability of skilled personnel with technical know-how, resources and machinery to support the commissions' operations need to be considered.¹²⁰

¹¹⁸ Simmons, B. (2024). International Borders: Yours, Mine and Ours. University of Chicago Law School <https://legal-forum.uchicago.edu/print-archive/international-borders-yours-mine-and-ours> .Visited 23/10/2024

¹¹⁹Africa Union Border Programme (AUBP)(2013). Creation and operation of Boundary Commissions in Africa The User's Guide p.12

¹²⁰ Ibid

CHAPTER ONE

Section A

2.2 Structures of Boundary Commissions

The Commissions in West Africa follow the structure of boundary commissions worldwide.¹²¹ According to the guidelines of the African Union Border Programme,¹²² there are either joint or national commissions. Joint boundary Commissions consist of government representatives from neighbouring states to work towards a common purpose. An example of this is the Senegalo-Gambia Boundary Commission, which was jointly established to identify, protect and maintain boundary pillars¹²³ and national boundary commissions such as the Ghana Boundary Commission. The two kinds of commissions are not mutually exclusive.¹²⁴

Joint boundary commissions take several forms. They can be temporary or permanent. The temporary commissions are established by neighbouring states to achieve a specific project. They are often dissolved upon completion. An example of a temporary commission was seen when Niger, Mali and Mauritania established a joint technical commission for the survey and demarcation of boundary pillars along their shared boundaries. Joint Commissions are also established to re-establish former administrative boundaries into national boundaries e.g. Yugoslavia.¹²⁵

Permanent joint commissions are created by treaties or agreements between neighbouring countries to be permanent units for boundary work. Temporary joint commissions are established by states with many neighbours where the boundaries may be shorter and may not require frequent work and nor permanent staff. Their work may entail undertaking work on a specific boundary, and it may take several years before any type of work can be done on that boundary.¹²⁶

¹²¹ Ibid

¹²² <https://www.peaceau.org/en/page/85-au-border-programme-aubp>. Visited 23/10/2024

¹²³ Sallah A.R (2013). Senegalo-Gambia Boundary Commission holds sensitization on protection of boundary pillars <https://thepoint.gm/africa/gambia/article/senegalo-gambia-boundary-commission-holds-sensitization-on-protection-of-boundary-pillars>

¹²⁴ Supra Note 113

¹²⁵ Africa Union Border Programme (AUBP)(2013). Creation and operation of Boundary Commissions in Africa The User's Guide p.15

¹²⁶ Africa Union Border Programme (AUBP)(2013). Creation and operation of Boundary Commissions in Africa The User's Guide P.14

2.3 The Responsibilities of Boundary Commissions in relation to Maritime Boundaries

The functions of Boundary Commissions in Africa can be divided into administrative work and field work.¹²⁷ The administrative work generally ranges from data collection, sharing and interpretation of relevant data including textual descriptions of a boundary such as treaties, international agreements, legislation; both past and present and administrative decisions, legacy documents, all relevant maps related to the international boundaries, records of any boundary commissions, both joint and national, that existed before independence and after, and relevant survey reports, aerial photography and images from drones.¹²⁸ The fieldwork consists of survey and mapping, physical demarcation of the land and maintenance of the boundary, such as the management of pillars, placing of buoys and other maritime markers on the maritime boundaries and reconnaissance work.¹²⁹ Sensitisation of border communities is an important part of the fieldwork because of the politically sensitive nature of the boundaries. As a result, before work on the boundaries commences, engagement with the border communities is carried out. This encourages education and participation in the work to be undertaken.¹³⁰ The work of the commission, depending on its nature, is submitted to the relevant agency and the Head of State of Government or the Prime Minister for the appropriate response.¹³¹

Section B

2.4 National Boundary Commissions in West Africa

National boundary commissions in West Africa are usually created within a governmental organisation by an act of parliament or presidential or executive decrees, and governed by law.¹³² In recent years, many West African states have established national boundary commissions with various tasks and also support the bilateral commissions between two neighbouring states.¹³³ They require significant resources and skilled technical personnel and are usually creatures of statutes that may not be available to any single government ministry or

¹²⁷ Ibid p.39

¹²⁸ Ibid p.45

¹²⁹ www.Ghanaboundarycommission.org. Visited 12/10/2024

¹³⁰ Ovuakporie E. (2020) *National Boundary Commission Embarks on Advocacy and Sensitization Campaign for Sustainable Peace and Security in Border Communities* National boundary commission. <https://boundarycommission.gov.ng/national-boundary-commission-embarks-on-advocacy-and-sensitization-campaign-for-sustainable-peace-and-security-in-border-communities/>. Visited 5/10/2024

¹³¹ Interview with Senior military Personnel, Ghana Boundary Commission

¹³² Delimitation and Demarcation of boundaries in Africa; General Issues and case studies pp77

¹³³ www.Ghanaboundarycommission.org. Visited 12/10/2024

department. Many West African states such as Ghana, Cote d'Ivoire, Nigeria, and Benin all have national boundary commissions. It is usually more cost-efficient to have a national boundary commission rather than a joint/bilateral commission with each neighbouring country however, states can form joint committees with neighbouring states to undertake certain projects together such as with the Cameroon-Nigeria Mixed Commission whose main aim was to facilitate the implementation of the 10 October 2002 judgment of the International Court of Justice (ICJ) on the Cameroon-Nigeria boundary dispute.¹³⁴ Some of West African coastal states along the Gulf of Guinea who are yet to establish their formal Boundary Commissions include Togo, Guinea, Guinea Bissau Sierra Leone, Liberia, Cape Verde and Gambia.

2.5 The Nigeria National Boundary Commission

Nigeria's National Boundary Commission (NBC) was established in 1987 and inaugurated in 1988. The Commission was established by the National Boundary Commission Act, Chapter 238 of 1987 but was repealed and replaced by the National Boundary Commission (Establishment) Act, 2006.¹³⁵ The new law expanded the mandate of the NBC to promote development in borderland areas.

The NBC has been instrumental in the delimitation of Nigeria's maritime boundary with Equatorial Guinea and agreed on a Joint Exploration of Crude Oil, at the Zafiro-Ekanga Oil Field and other areas along their shared maritime boundary¹³⁶ and Joint Development of Petroleum and other Resources in areas of the EEZ with Democratic Republic of São Tomé and Príncipe.¹³⁷

¹³⁴Cameroon-Nigeria Mixed Commission. <https://unowas.unmissions.org/cameroon-nigeria-mixed-commission> .Site visited on 20/10/2024

¹³⁵ National Boundary Commission (establishment) act, 2006 act no. 12

¹³⁶ Treaty between the Federal Republic of Nigeria and the Republic of Equatorial Guinea concerning their maritime boundary, 23 September 2000

<https://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/TREATIES/NGA-GNQ2000MB.PDF>. Visited 27/10/2024

¹³⁷ D.A. Colson et al. (Eds.), International Maritime Boundaries, volume V, Martinus Nijhoff, 2005, pp. 3649-82.

2.5.1 Structure and Mandate of the Nigerian National Boundary Commission

The NBC is an independent government agency within the Office of the President of the Federal Republic of Nigeria. There is an inter-ministerial committee that supervises the work of the Commission. The Committee is chaired by the Vice President of the Republic, who serves as chairperson, and includes ministers from various government departments, Ministries and agencies, including the Minister of Defence, Police Affairs, Foreign Affairs, among others. The Director-General of the Commission serves as the secretary. The Commission also has four main Committees, including the Internal and International Boundary Technical Committees, the State and Local Committees.¹³⁸

The International Boundary Technical Committee is chaired by the Minister of Foreign Affairs and consists of key ministers such as the Defence, Political Affairs from the office of the Presidency, the Solicitor-General of the Federation and the Permanent Secretary, Federal Ministry of Justice¹³⁹ who are pivotal to the Commission due to the diplomatic nature of the international relations with the neighbouring states, being balanced with the national interest of the country.

The NBC is headed by a Director-General and comprises seven (7) departments responsible for International Boundaries, Research and Policy Analysis, Legal Services, Border Regions Development, Internal Boundaries, Maritime Services and Geo-information, and an Administration and Supplies Department.¹⁴⁰

The main mandate of the NBC is to demarcate land boundaries and delimit maritime boundaries. The functions include the intervention and facilitation of the settlement of internal and international boundary disputes and advising the government of boundary-related issues.¹⁴¹

NBC's experience is structured such that both international and internal boundaries are addressed within the same organisation. Such a structure gives the NBC an advantage which other countries do not have. At the maiden Experience Sharing Workshop under the auspices of the Ghana Boundary Commission and National Boundary Structures for SADC States and Ethiopia, the NBC delivered an extensive presentation to guide the states present on how to

¹³⁸ National Boundary Commission (2006) (Establishment) Act, Act no. 12

¹³⁹ Ibid

¹⁴⁰ Ibid

¹⁴¹ Ahmad, M.B. 'The National Boundary Commission of Nigeria 1987-2007: The Milestone Score-Cards in the International Boundaries Arena' in Akinyeye, Y. ed. *That They May Be One: African Boundaries and Regional Integration*, Essays in Honour of Professor Anthony I. Asiwaju Imeko: African Regional Institute, 2008.

structure and operate Boundary Commissions, the challenges and success stories of the NBC.¹⁴² The NBC's knowledge and expertise gained on international boundary issues has been useful in advising on internal boundary disputes. Each federal state in Nigeria now has its own statewide boundary commission modelled on the national NBC.¹⁴³

The NBC has a well-established Technical Team and International Boundary Technical Committee (INBTC) with the Minister of Foreign Affairs as the Chairperson. The Committee is responsible for the technical work of the Commission with neighbouring states, as well as reporting and making recommendations to the NBC. The INBTC also deals with matters affecting Nigeria's boundaries with neighbouring states including land and maritime, participates in delimitation of maritime boundaries in their entirety and promotes trans-border Cooperation and development of the boundary/border regions.¹⁴⁴ The NBC's department for border region development, created specifically to address development of border communities and cooperation in border regions, depicts how a boundary commission can expand its mandate for relevant causes.¹⁴⁵

2.5.2 Legislation

Nigeria is party to UNCLOS thus, the Convention serves as a guideline for maritime boundary delimitation and the main legal framework that national maritime boundary laws and policies are derived from. Nigeria's ocean reform was informed by events, including delimitation of maritime boundaries with its neighbours¹⁴⁶, a submission to the Commission on the Limits of the Continental Shelf¹⁴⁷ and the implementation of the ICJ Judgement on the land and maritime case with Cameroon and has been working extensively to reform its Ocean governance laws.

Nigeria is a dualist state and therefore the incorporation of the UNCLOS into national law was by enacting the Maritime Zones Act. A Nigerian Maritime Zones (2020) Bill was introduced to the Nigerian Senate in 2009 to propose a new framework for the definition and exercise of

¹⁴² Amedetor T. (2023) Ghana Boundary Commission hosts experience workshop. <https://www.gbcbghanaonline.com/news/ghana-boundary/2023/Visited on 20/10/24>

¹⁴³ Ibid

¹⁴⁴ Ibid

¹⁴⁵ Ibid

¹⁴⁶ ICJ case 94

¹⁴⁷ Aldo Chircop A, David Dzidzornu, Chidi Oguamanam. Ocean law reform: A multi-level comparative law analysis of Nigerian maritime zone legislation <https://pdf.sciencedirectassets.com/271824/1-s2.0-S0308597X16X00036/1-s2.0-S0308597X16000178/main.pdf?X-Amz-Security-Token=IQoJb3JpZ2luX2VjEEIaCXVzL.Visited 17/10/2024>

national jurisdiction over ocean space and included a re-organization of existing legislation. This bill was to repeal the Exclusive Economic Zone Act Cap.E17 LFN 2004 and the Territorial Waters Act Cap. TS LPN 2004 to enact a comprehensive Maritime Zones Act ¹⁴⁸ and facilitate the application of Nigerian law to maritime activities by executive and judicial bodies. ¹⁴⁹

2.5.3 Successes

The NBC, in its almost 40 years of existence, has been instrumental in settling the boundary disputes with its neighbour, Cameroon, over the Bakassi Peninsula that came to a climax in 2002 when the ICJ pronounced judgment in the matter discussed in the earlier chapters. ¹⁵⁰

The NBC has established Joint Commissions with Cameroon and Niger. The NBC established the Cameroon-Nigeria Mixed Commission (CNMC) with Cameroon, which jointly worked with the UN to peacefully hand over the Bakassi peninsula to Cameroon and the demarcation and delimitation of Nigeria's international boundaries with its neighbouring states. ¹⁵¹ The CNMC has planned the logistics for the fieldwork of pillar construction, assessed the security situation and reported to the relevant security agencies, and carried out sensitisation programmes for the border communities. The CNMC has collaborated with state agencies and relevant actors to develop several developmental projects for the communities for the benefit of local communities affected by the demarcation, especially the inhabitants of the Bakassi Peninsula. ¹⁵² Another example of cooperation and collaboration by Nigeria and neighbouring countries to settle border disputes and sustainably develop their shared international boundaries is the Niger-Nigeria Joint Commission for Cooperation (NNJCC). ¹⁵³ The NNJCC was created

¹⁴⁸ House Bill 170 and Senate Bill 240: A Bill for an Act to Repeal the Exclusive Economic Zone Act Cap. E17 LFN 2004 and the Territorial Waters Act Cap. TS LPN 2004 and Enact the Maritime Zones Act to Provide for the Maritime Zones of Nigeria and for Matters Connected Therewith. National Assembly of Nigeria,

¹⁴⁹ Aldo Chircop A,n , David Dzidzornu , Chidi Oguamanam. Ocean law reform: A multi-level comparative law analysis of Nigerian maritime zone legislation

<https://www.sciencedirect.com/science/article/pii/S0308597X16000178#bbib30> visited on 20/10/2024

¹⁵⁰ Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria: Equatorial Guinea intervening) <https://www.icj-cij.org/case/94>. Visited 19/10/2024

¹⁵¹ UNOWAS ,Cameroon-Nigeria Mixed Commission. <https://unowas.unmissions.org/cameroon-nigeria-mixed-commission>. Visited 2/10/2024

¹⁵² Ibid

¹⁵³ Oji, O. R. (2018). Nigeria Niger Joint Commission for Cooperation Southeast journal of political science, 3(2). (NNJCC): A Model for the Cross-Border Cooperation Initiative of the African Union Border Programme.

to facilitate delimitation and demarcation activities, environmental, social, and other issues, while fostering cross-border cooperation and diplomacy.¹⁵⁴

The NBC's efforts in the collection of Boundary Records such as maps, legacy documents and Geospatial Data have improved Nigeria's work in defining its international and internal boundaries. The Commission is involved in the Sensitisation of border communities to educate and increase their awareness of the laws, border crimes, boundary demarcation and delimitation.¹⁵⁵ This encourages the communities to pledge allegiance to their states and become security-conscious, which enhances the security and stability of Nigeria's borders. Lastly, active participation in regional activities to harmonize boundary management and promote cooperation across the region.¹⁵⁶ Nigeria's maritime boundary with Benin extends southwards from a tripoint with Niger on the Niger River to the shoreline of the Gulf of Guinea, and delineated its maritime boundary with Benin in 2006¹⁵⁷ and is also negotiating its maritime boundary with Ghana with its counterparts at the Ghana Boundary Commission.¹⁵⁸ Nigeria plans to establish the Nigeria-Benin Republic Permanent Joint Boundary Commission (NBJC) and the Nigeria-Chad-Sao Tome Joint Commission to further cooperation for the economic growth, security, demarcation, and delimitation of their shared boundaries.¹⁵⁹

2.6 Cote d'Ivoire National Boundary Commission (Commission Nationale des Frontieres de la Cote d'Ivoire-CNFCI)

The National Boundary of Cote d'Ivoire (CNFCI) was established by the Ivorian Government in 2017 through Decree No. 2017-462, which created the attributions, composition and operation.

¹⁵⁴ Miles F.S.W(2005). Development not Division: Local Verus External Perception of the Niger-Nigeria Boundary. *The Journal of African Studies* 34(2),297-320. <https://www.jstor.org/stable/3876208?seq=1>

¹⁵⁵ Nigeria Boundary Commission <https://boundarycommission.gov.ng/>. Visited 25/10/2024

¹⁵⁶ Ibid

¹⁵⁷ Abba N.(2022) The Maritime Delimitation of Nigeria:A case study. https://www.isa.org.jm/wp-content/uploads/2022/12/4_Mustafa_Nurudeen_Abba_ADSR_Abuja_workshop_Day_1.pdf

¹⁵⁸ National Boundary Commission (2021). "The National Boundary Commission meets with top officials of the Ghana Boundary Commission on maritime Boundary". <https://boundarycommission.gov.ng/national-boundary-commission-meets-with-top-officials-of-the-ghana-boundary-commission-on-maritime-boundary/> Visited 19/9/2024

¹⁵⁹ Proposed Nigeria-Benin Permanent Joint Commission <https://baccima.ng/home/case-study/nigeria-benin-joint-commission>. Visited 24/10/24

2.6.1 Structure and Mandate

The mandate of the CNFCI is to assist the Ivorian Government in designing and implementing border/boundary policies and strategies by making proposals to the Government for the delimitation, materialisation, and management of borders/boundaries. The Commission ensures the effective execution of national boundary policies, the prevention of conflicts and the resolution of boundary disputes that may arise between Côte d'Ivoire and its neighbouring states.¹⁶⁰

The structure of the CNFCI comprises an inter-ministerial Commission for land and maritime boundaries with the Prime Minister as its president, supported by two vice-presidents: the minister responsible for Territorial Administration and Foreign Affairs, with the Executive Secretary serving as a Rapporteur. Some members of the CNFCI include the ministers for Defence, Justice, Security, Petroleum and Energy, and Animal and Fisheries Resources, or their representatives. Other relevant representatives include those from the Institute of Tropical Geography and the National Archives.¹⁶¹ This structure is similar to that of the boundary commissions of Ghana and Nigeria, except that the Prime Minister is the Head of the Commission. The CNFCI may also call upon an individual or institution whose expertise is deemed necessary, given the national security nature of its work.¹⁶² The Executive Secretariat, which is the executive body of the Commission, consists of the Special Secretariat, the Administration and Financial Department, Legal Affairs, Litigation and Documentation Department, Land Borders/Boundaries Directorate and Air Border Directorate.¹⁶³

Similar to Nigeria's NBC, the CNFCI is tasked with initiating and implementing mechanisms and programme to prevent border conflicts and promote cross-border cooperation. Finally, the Commission is responsible for collecting and archiving all documents related to boundaries and as well as for exchanging information and experiences with other Commissions. For example, the CNFCI hosted an experience-sharing meeting during its engagements with the Ghana Boundary Commission (GhBC) in 2023, as part of bilateral meetings concerning the implementation of the ITLOS ruling on their shared maritime boundary. The organisational framework of the CNFCI was established following the appointment of the Executive Secretary in 2022.¹⁶⁴

¹⁶⁰ Decree No. 2017-462 July 12, 2017

¹⁶¹ Decree No. 446/PMMBPE/CAB July 25, 2018

¹⁶² Ibid

¹⁶³ Decree No 2020-129 January 29, 2020.

¹⁶⁴ Ibid

2.6.2 Successes

Through the efforts of the Executive Secretariat of the CNFCI, the Ivorian government adopted the National Policy for Integrated Border Management of Cote d'Ivoire (PNGIF-CI) as well as a budgeted action plan to include all the State's actions at land, sea and air borders in a coherent and pragmatic framework and improve the living environment and well-being of border populations.¹⁶⁵

The CNFCI did not exist as a formally constituted Commission until after the maritime boundary dispute. The Commission has since been collaborating with its Ghanaian counterparts for the successful implementation of the 2017 International Tribunal for the Law of the Sea (ITLOS) ruling. The cooperative nature of the CNFCI and the Ghana Boundary Commission has enabled both states to avoid potential conflict that could have ensued after the ruling. The CNFCI jointly established the Joint Technical Committee (JTC) with Ghana, comprising technical experts in the fields of survey, law, science and other professionals to develop framework agreements, workplans and contribute to all activities for the implementation of the ITLOS ruling in 2017. The CNFCI also has joint boundary commissions with neighbouring states, including the Côte d'Ivoire-Mali Joint Boundary Commission, the Côte d'Ivoire-Burkina Faso Joint Commission¹⁶⁶ and a Joint Technical Commission with Guinea¹⁶⁷. These frameworks facilitate cooperation on delimitation and demarcation, security, border management, and strengthen diplomatic relations. The CNFCI regularly organises conferences and workshops aimed at securing and sustainably developing its border areas. One of such is the Abidjan Border forum in 2024, a biennial conference, an initiative of the (SE-CNFCI), a platform for the exchange and interaction between states, on-state, national and international border stakeholders in Africa.¹⁶⁸ The Commission collaborates with external

¹⁶⁵ Sey A.(2023) Cote d'Ivoire Adopts new border management policy. <https://apanews.net/cote-divoire-adopts-new-border-management-policy/>. Visited 12/10/2024

¹⁶⁶ APA News(2021) Installation of a Commission to materialize the Ivory Coast-Burkina Border. <https://fr.apanews.net/burkina-faso/installation-dune-commission-pour-materialiser-la-frontiere-cote-divoire-burkina/> Visited 12/10/2024

¹⁶⁷ APA News (2021) Installation of a Commission for the materialization of the Ivory Coast-Guinea Border <https://fr.apanews.net/cote-divoire/installation-dune-commission-de-materialisation-des-frontieres-ivoiro-guineennes/> Visited 12/10/2024

¹⁶⁸ www.cnfci-ci.ci

stakeholders including AUBP, GIZ, EU, Abidjan-Lagos Corridor Organisation, IOM UN Migration Agency among others, for the execution of its work.¹⁶⁹

2.7 Ghana Boundary Commission (GhBC)

The Ghana Boundary Commission (GhBC) was established by an Act of Parliament in 2010.¹⁷⁰ This Act lacked several provisions and did not reflect the work and structure of the Commission in accordance with International law and best practices; thus, in 2021, a new Bill was drafted to replace ACT 795.¹⁷¹ The Bill addresses relevant provisions that were absent from ACT 795, such as contemporary functions of the commission, the establishment of departments and major financial provisions. The bill also complies with and implements the African Union Border Programme, the Niamey Convention and other international conventions.¹⁷²

The GhBC, similar to the CNFCI, was not formally established until 2021 with the appointment of the National Coordinator in 2020 and the employment of the administrative and operational workforce in 2021.¹⁷³ The Commission is a body under the Ministry of Lands and Natural Resources.¹⁷⁴ The establishment of a physical Commission complete with multiskilled staff, was a response for Ghana to have one main agency responsible for the international boundaries such as the tracing of important documents such as legacy maps, agreements, treaties, proper record keeping, provision legal advice on best international practices, sensitisation of border communities, negotiations and the facilitation of the settlement of disputes both internally and with neighbours, the physical delimitation-affirmation, demarcation and border management of Ghana's international boundaries. The Staff of the Commission is intentionally young to ensure there is retention of institutional memory and growth of the Commission.¹⁷⁵

2.7.1 Structure of GhBC

Similar to Nigeria and Cote d'Ivoire, the governance structure of the GhBC comprises of an inter-ministerial Governing Body which supervises the work of the Commission by directing

¹⁶⁹ Ibid

¹⁷⁰ Parliament of Ghana (2010) Ghana Boundary Commission Act 795

¹⁷¹ Ghana Boundary Commission (2023) Annual Report. Ghana Boundary Commission p8

¹⁷² Ibid

¹⁷³ Ibid 42

¹⁷⁴ Act 795

¹⁷⁵ Interview with Senior Military Personnel, Ghana Boundary Commission

policy and strategy.¹⁷⁶ This Board is chaired by the Minister for Lands and Natural Resources (MLNR) and comprises key Ministers, including the Minister responsible for foreign affairs, the Attorney-General, Minister for Defence, or representative for national security, and a representative from the Ghana Institution of Surveyors and Ghana Institution of Geoscientists. There are two main Technical Committees established by the Board, comprising of technical experts; the Land and the Maritime Boundary Technical Committees.¹⁷⁷

The Commission, headed by the National Coordinator, is divided into five (5) main departments. These departments are the Boundary Operations Department, Survey and Delimitation Department, Policy, Plans and Programmes Department Research Department and Administration Department.¹⁷⁸ The Office of the National Coordinator comprises of the Legal Unit and Finance Unit. With the inception of the new Bill, the legal and finance unit would be upgraded to Departments.¹⁷⁹

2.7.2 Successes

The GhBC has undertaken several field activities and negotiations aimed at securing Ghana's maritime boundaries. The Commission established a Joint Technical Committee (JTC) and Sub-committees with Togo consisting of technical experts to negotiate and jointly delimit their maritime boundary line between the two states in accordance with international law and best practice.¹⁸⁰ The technical team in 2021 submitted a draft Maritime Boundary Agreement to the two Heads of States. The GhBC and the National Boundary Commission of Cote d'Ivoire also formed a Joint Technical Committee for the Delimitation and Reaffirmation of the Maritime and land boundaries.¹⁸¹

The GhBC's work is assisted by stakeholders and Development Partners including the Ghana Military, Ghana National Petroleum Corporation (GNPC), Deutsche Gesellschaft für Internationale Zusammenarbeit /African Union Border Programme (GIZ/AUBP), among others, who support the Commission financially and in Capacity Building Activities and collaborates with relevant security agencies such as the military, ministry of national security

¹⁷⁶ Ghana Boundary Commission (2021) Annual report. Ghana Boundary Commission.p11

¹⁷⁷ Act 795

¹⁷⁸ Supra Note 167

¹⁷⁹ Kudekor M (2024) "Parliament to pass Boundary Commission Act" .

<https://www.adomonline.com/parliament-set-to-pass-boundary-commission-act/>. Visited 20/9/2024

¹⁸⁰ Supra Note 167

¹⁸¹ Ghana Boundary Commission (2022) Annual Report. Ghana Boundary Commission.p.19

and defence to ensure the security the country's boundaries and to safeguard the territorial sovereignty of Ghana at all time.¹⁸²

Field activities such as mapping and survey activities on the land and sea have been essential in securing the land boundaries and national security of Ghana. For instance, a collaboration with the National Intelligence Bureau (NIB), the internal intelligence agency of Ghana that oversees matters of counterintelligence and national security of Ghana discovered Dollar Power, a community along the Ghana and Ivorian border engaging in illegal mining operations for gold, locally termed as 'galamsey' which means "gather them and sell". This illegal mining of gold by Ghanaians, other West African and Chinese nationals is responsible for the destruction of 60% of Ghana's lakes and rivers and aquatic and marine life, including rivers shared with neighbouring Cote d'Ivoire, with an entry into the sea in the Western Region of Ghana.¹⁸³ This issue is a major national security issue the country is currently dealing with, and an international maritime issue, as oceans are transboundary.

Furthermore, the Commission plays an advisory role to the Government on relevant strategies for negotiating land and maritime boundaries and international conventions related to Ghana's boundaries. The GhBC, also in this role, facilitates the signing and ratification of treaties concerning land and maritime boundaries¹⁸⁴ for example the Commission submitted the limits of the Continental Shelf to the CLCS at the ISA headquarters and DOALOS, advocated for the ratification of the Niamey Convention, and submitted the ratified instruments at the AU headquarters.¹⁸⁵

CHAPTER TWO

Section A

2.8 The Work of Boundary Commissions Post-Delimitation

The responsibilities of the West African Boundary Commissions do not cease after delimitation either by the two neighbouring states themselves or by a third-party arbitrator/international

¹⁸² Ghana boundary Commission Act 2010 (Act 795) Parliament of Ghana

¹⁸³ Aikins, R.E (2024) Ghana must stop galamsey before it sinks the country, Institute for Security Services (ISS) <https://issafrica.org/iss-today/ghana-must-stop-galamsey-before-it-sinks-the-country>. Visted 24/10/24.

¹⁸⁴ Supra Note 173

¹⁸⁵ Ibid

court. A maritime boundary delimitation agreement is drafted and signed, considering the constitutional rules. In some states, the agreement must be ratified by parliament,¹⁸⁶ and the Boundary Commissions advocate for this ratification in their various states, depending on how each country adopts international law. The agreement is concluded as an international agreement and governed by international law. An outcome of such an agreement is that the boundaries become final and permanent. In the case of Preah Vihear, *Cambodia v Thailand*, it was stated that '*When two states establish a frontier between them, one of the primary objects is to achieve stability and finality*'.¹⁸⁷

One of the functions of a boundary commission regarding delimitation is the physical implementation of rulings of International Tribunals/Courts (ICJ/ITLOS) or the decisions taken between the parties. The implementation of the ruling or the agreement between the states takes several years to complete. For instance, the Ghana-Cote d'Ivoire ruling was in 2017; however, the implementation of the ruling is now ongoing. In November 2024, the two commissions met to validate a Framework Agreement, Rules of Procedure, and Code of Conduct for the reaffirmation of land boundaries and implementation of the ITLOS ruling. The Commissions also agreed to conduct a joint inspection of their shared maritime boundary in 2025.¹⁸⁸ The two states, through their Commissions, reiterated the mutual commitment to abide by the terms of the ruling and collaborate for the smooth implementation through legal frameworks jointly drafted and negotiated to further this agreement.¹⁸⁹ The work the CNMC in the implementation of the 10 October 2002 judgment of the (ICJ) on the Cameroon-Nigeria boundary included demarcating of the land boundary and delimiting of their shared maritime boundary, supporting the government the withdrawal of troops along the boundary and Bakassi Peninsula, transferring authority to the Cameroonian government through the Green Tree Agreement and sensitising the Affected inhabitants in the area. The Commission meets regularly in Nigeria and Cameroon to this effect.

Furthermore, boundary commissions are tasked with the continuance, maintenance, monitoring, and management of boundaries after demarcation or delimitation. This includes

¹⁸⁶ Papanicolopula I.(2024) Maritime Boundaries After Delimitation pp 46. Portuguese Yearbook of the law of the Sea 1135-153

¹⁸⁷ Case concerning the Temple of Preah Vihear (Cambodia v Thailand), Merits, Judgment of 15 June 1962, Reports 1962, pp. 32-35

¹⁸⁸ <https://ghanaboundarycommission.org/.Site> Visited on 6/11/24

¹⁸⁹ Baneseh M.A (2017) Ghana, Cote d'Ivoire agree to abide by ITLOS decision <https://www.graphic.com.gh/news/general-news/ghana-cote-d-ivoire-in-agreement-to-abide-by-itlos-decision.html>

joint boundary maintenance and enforcement, surveillance and monitoring, resource management and conservation, cross-border cooperation, and facilitating the settlement of disputes, research and data collection, and community engagement, education and partnerships. The Boundary Commissions also oversee the physical markings of maritime boundaries, cooperating with neighbours to ensure that markers and coordinates agreed upon are correctly placed and maintained.¹⁹⁰ Additionally, Boundary Commissions collaborate with maritime enforcement agencies, including the Navy, to ensure that these delimited boundaries are respected by domestic and foreign vessels.

The Commissions are responsible for facilitating continuous collaboration with relevant agencies responsible for Fisheries and Environment, for the sustainable management and conservation of marine resources. This will help regulate fishing activities such as IUU Fishing, oil and gas extraction, and marine conservation efforts to prevent resource depletion and irreversible ecological damage.

Community engagement, education, and partnerships with local coastal communities and authorities, including chiefs, local assembly members, and community leaders, are essential for the success of the Boundary Commissions' work. Continuous engagement with these stakeholders, educating them on boundary laws, resource rights, and environmental conservation. This awareness-building mitigates illegal cross-border activities and the removal of boundary markers. It increases security within the area, reduces criminal activities, promotes sustainable practices, and fosters community cooperation.¹⁹¹

The Commissions are responsible for data collection and research from hydrographic surveys and environmental impact assessments to inform policymaking and prepare for emerging challenges. Proper storage of this data and records such as legal documents, treaties and agreements for posterity, policy development through the reports of boundary security, resource management, and cross-border cooperation to the Heads of Governments, and relevant agencies collaboration with regional organizations like ECOWAS or the AU is a continued interaction which ensures that there is a uniform platform for multiple states to share experiences and for decisions on boundary-related matters to be addressed. Finally, Boundary Commissions may come together to develop economic initiatives, facilitate agreements on

¹⁹⁰ African Union Border Programme (AUBP) (2013) Creation and operation of Boundary Commissions in Africa pp.39-52

¹⁹¹ Ibid

shared development projects, such as joint exploitation of oil and gas fields. These initiatives aim to enhance mutual economic benefits while adhering to boundary agreements.

2.9 Maritime Boundary Departments and Agencies; How do states without Boundary Commissions undertake Delimitation and other Boundary Work?

Most West African Coastal states have formally established boundary commissions or are in the process of doing so.¹⁹² States including Gambia, Sierra Leone, Liberia, Cape Verde, Togo, Guinea Bissau and Guinea have delimited or are in the process of delimiting their shared maritime boundaries with their neighbours. They operate adhoc Commissions and fulfill their work through government ministries or agencies under the Presidency or the Prime Minister.¹⁹³ These governmental agencies are fully functional and consist of skilled experts tasked with the boundary demarcation and delimitation, lobbying for maritime legislation and advancing maritime security, among other functions related to securing their international land and maritime boundaries.¹⁹⁴ States such as Guinea, Sierra Leone, and Liberia currently operate adhoc boundary commissions.¹⁹⁵

2.9.1 The Sierra Leone Experience

The Republic of Sierra Leone does not have a singular body managing both the land and maritime boundaries. Sierra Leone has two national security committees, which are very important for maritime and land boundary management, namely, the Joint Maritime Committee (JMC) and the Integrated Border Management Committee (IBMC). The JMC is a multi-agency established to oversee and manage Sierra Leone's maritime security and resource governance.¹⁹⁶ The primary role of the JMC is to coordinate activities related to the protection, monitoring, and management of Sierra Leone's maritime domain with key stakeholders such as Sierra Leone Police, which provides support in law enforcement within maritime areas and the Office of National Security (ONS) which coordinates security and intelligence related to maritime threats to name a few. ¹⁹⁷In 2014, Sierra Leone's boundaries experienced threats including Harassment of border communities and fishermen and encroachment of Kiragba

¹⁹² An interview with a senior manager, AUBP/GIZ

¹⁹³ An interview with a senior military officer, Ghana Boundary Commission

¹⁹⁴ Ibid

¹⁹⁵ Ibid 75

¹⁹⁶ <http://www.ons.gov.sl> (31/10/2024)

¹⁹⁷ Ibid

Territorial waters by Guinean Armed forces, threats of piracy and armed robbery in the maritime environment among others, however, due to the lack of capacity of Sierra Leone security forces required for effective patrolling, monitoring and protection of the maritime domain¹⁹⁸. *“If Sierra Leone had a boundary commission, it would holistically handle the matter using existing well-established channels of communication, to effectively coordinate the various agencies to deal with the matter expeditiously.”*¹⁹⁹

In the African Union Border Programme Assessment Team (AUBPAT) report on the capacity of the Republic of Sierra Leone to reaffirm its boundaries with Liberia and Guinea, recommendations were made to the Sierra Leone Government to establish a National Boundary Commission. This was to be achieved by an Act of Parliament to replace the existing body overseeing border management issues. This was important because they had been unsuccessful in their work without a formal agency solely for boundary management, especially with the reaffirmation of its land boundaries and the delimitation of its maritime boundaries with its neighbours.²⁰⁰

The AUBPAT also cited some of the challenges faced by *ad hoc* bodies that perform the functions of national boundary commissions. These include the lack of powers to enforce resolutions, sporadic attendance of meetings and activities of members, lack of funds and a budget for the Committee and Joint Commissions, the composition of the members (who are usually civil servants), unstructured and delays in responses to boundary issues, lack of coordination, overlapping/duplication mandates and lack of proper documentation leading to the lack of precedence and distorted or non-existent institutional memory.²⁰¹ This assessment reiterated the need for the establishment of a Boundary Commission for Sierra Leone to handle matters of boundaries effectively and efficiently.

In 2022, the government of Sierra Leone, in collaboration with ECOWAS and AUBP, took several steps to realize this vision by coordinating stakeholders to establish a national technical committee for the reaffirmation and delimitation of land and maritime boundaries between Sierra Leone and Guinea.²⁰² This committee would manage issues concerning the shared land

¹⁹⁸ Fofonah A.(2019) Sierra Leone engages Guinea over land encroachment

¹⁹⁹ Senior member, ONS Sierra Leone

²⁰⁰ African Union Border Programme, Office of the Commissioner Political Affairs, Peace and Security,(2021)Sierra Leone AU Mission

²⁰¹ Ibid

²⁰² Abdul K.W(2022) ONS coordinates National Stakeholders Retreat in Bo. [ONS Coordinates National Stakeholders Retreat in Bo - Office of National Security](#). Visited 20/10/2024

and maritime boundaries between the two countries, and foster peace between Sierra Leone and its neighbouring countries until a National Boundary Commission is established. Sierra Leone and Guinea, in their concerted efforts to achieve this, attended a workshop organized by the AUBP with GIZ and Ecowas support as observers in the maiden experience-sharing sessions between Ghana and Côte d'Ivoire Boundary Commissions. The observers gained knowledge on the institutional, financial, legal, and operational frameworks related to joint border management and the establishment and management of national boundary commissions.²⁰³ Sierra Leone and Guinea intend to establish boundary commissions and delimit their maritime boundaries with their neighbouring countries.²⁰⁴

Section B

2.9.2 Challenges faced by West African Boundary Commission: The Ghanaian, Nigerian and Ivorian experiences.

Boundary commissions in West Africa face a plethora of challenges. Some of the challenges include the lack of harmonization between the work of the commission and other auxiliary agencies, lack of institutional memory due to poor funding and adhoc nature of these commissions, and the lack of a centralized information gathering and storage system.²⁰⁵ These issues have led to a lack of coordination and a duplication of responsibilities and resources. The Ghanaian, Nigerian, and Ivorian boundary commissions, in addition, cited the insufficient funding for both capital expenditures and field operations, inadequate field and office tools, as well as inadequate skilled human resources. The lack of political will and political interference has also been identified as factors inhibiting the work of boundary commissions.

2.9.2.1 Politics

The lack of political will and political interference are two of the biggest challenges encountered by Boundary Commissions in West Africa.²⁰⁶

²⁰³ Ibid

²⁰⁴ Interview with Senior Officer, ONS, Sierra Leone

²⁰⁵ African Union Border Programme (AUBP) (2013). Creation and operation of Boundary Commissions in Africa. The User's Guide

²⁰⁶ Interview with Senior Officer, AUBP

a. Lack of political will

Some West African governments lack the political will to enact laws, implement policy,²⁰⁷ and to enforce decisions affecting the boundaries, even after receiving reports and recommendations from boundary commissions.²⁰⁸ The lack of commitment also impacts the funding and prioritization of the commissions' work.²⁰⁹

b. Political Interferences

The work of the Commissions can be hindered by political interference. The CNMC for instance, has faced challenges due to competing interpretations of the work, which led to political tensions between the two states and delayed the completion of the land boundary demarcation and other work to be undertaken.²¹⁰ Political influences on the decision-making process within these commissions and joint committees with their neighbouring countries also impede the progress of the work.²¹¹

Other political events further constrain the work of the boundary commissions, for example, Presidential elections. At the inaugural meeting of Heads of National Boundary Commissions in the Ecowas Region, socio-political instability in some of the states, including Burkina Faso, Niger and Mali and security issues in the Sahel region were identified as major challenges to the work of the commissions, as boundary work could not be undertaken in such climates.²¹²

2.9.2.2 Inadequate Technical Tools, Equipment, Technology, and Logistics

The GhBC, NBC, and CNFCI all cited the lack of modern equipment and technology as a major issue impeding the demarcation, reaffirmation, and delimitation work on the boundaries. Specific equipment for survey and mapping operations including mapping drones, vehicle-mounted electronic communication systems, Global Navigation Satellite System (GNSS)

²⁰⁷ Baywood C, Ahuchagu udo E. (2022) Boundary Dispute Resolution and national security, Prospect and Challenges. Research gate

²⁰⁸ Anyanwu S. (2024). Federal Ministry of information and national orientation, <https://fmino.gov.ng/national-boundary-commission-showcases-achievements-outlines-challenges-during-senate-oversight-visit/>. Visited 2/10/2024

²⁰⁹ UNOWAS (2019) The Cameroon-Nigeria Mixed Commission: A success in the Resolution of boundary dispute. <https://unowas.unmissions.org>. Site visited on 24/10/24

²¹⁰ Ibid

²¹¹ Interview with senior officer, AUBP

²¹² ECOWAS (2024) Final Report, Inaugural meeting of heads of national boundary commissions in the Ecowas region.

receivers and accessories, Geographic Information System (GIS), among others, was necessary for the work of these Commissions.²¹³

2.9.2.3. Absence of Documents and Poor Record Keeping/Data Storage

Record retrieval and storage of records are an integral part of the work of the Boundary Commissions, as without these, their work is futile. Accurate maritime delimitation relies on detailed and up-to-date geospatial and hydrographic data, while delineation and demarcation rely on maps and archival records. These archival records are crucial to the settlement of disputes and the reaffirmation of land boundaries.

a. Absence of Data/Documents

The Boundary Commissions face challenges due to insufficient data and difficulty in accessing important documents. Specifically, the GhBC struggles with the absence of geospatial information, limited access to key documents, such as historical maps, legacy documents and charts that define Ghana's boundaries with its neighbours.²¹⁴ This hinders research efforts and necessitates extensive searches for these documents through archives of relevant state institutions such as the Public Records and Archives Administration Department (PRAAD) and the Balme Library of the University of Ghana, and international repositories like the Ordnance Survey Library in the United Kingdom. Additionally, the Commission's reliance on outdated charts may lead to inaccurate results.²¹⁵

b. Poor record keeping/Data Storage

Boundary Commissions of West Africa face significant challenges due to inadequate record storage and poor record-keeping practices. Many records are untraceable or completely lost, while others are compromised due to the lack of proper storage facilities, such as map cabinets and equipment/tools used to preserve records.²¹⁶ This issue is prevalent across various commissions and agencies, largely due to poor record-keeping practices within government institutions.

²¹³ Ghana Boundary Commission. Annual Report (2022) Ghana Boundary Commission

²¹⁴ Ghana Boundary Commission (2023) Annual Report p.69

²¹⁵ Senior Officer, Research Department, Ghana Boundary Commission

²¹⁶ Ghana Boundary Commission (2022) Annual Report p.54

2.9.2.5. *Insufficient intelligence and information gaps and Inter-agency coordination*

Both the Ghana and Nigerian Boundary Commissions cited the lack of a well-established coordination between the multiple agencies i.e military, immigration, customs and the boundary commissions as a challenge in their operations. The lack of prompt intelligence from the various security personnel on the field along boundary lines or sea to the Commissions hinders the timely response from the Commissions. Additionally, the lack of an integrated border surveillance systems to facilitate the conveying of intelligence to the commission.²¹⁷

2.9.2.6. *Lack of Funds /Financial*

The 2021, 2022 and 2023 Annual Reports of the Ghana Boundary Commission all cite the lack of funding and support for the operations of boundary commissions by the Government. The perennial financial challenges impede the duration of the work and the ability to meet targets. In 2022, the Government's 30% budget cuts affected the implementation of the GhBC's activities for that year.²¹⁸

The NBC noted that 31.04% of the 2024 budget for the Commission had been accessed and utilised by the Commission at the end of September.²¹⁹ The CNFCI reiterated insufficient budget allocation as a major challenge to the work of the Ivorian Commission.²²⁰ The Commissions, therefore, rely on external stakeholders such as GNPC in Ghana and GIZ to sponsor major meetings and activities of the Nigerian, Ghanaian and Ivorian Boundary Commissions.²²¹

The insufficient budgetary allocation and untimely release of these funds prevent the acquisition of the necessary resources, including equipment and technology, and pose significant challenges to the timely execution of essential projects. ²²²

2.9.2.7. *Inadequate essential skilled human resource*

The mandate of the Commission requires skilled personnel in areas of field operations, survey, land boundary demarcation, and maritime boundary delimitation. Currently, the GhBC lacks essential staff, such as Cartographers for operations; however, attempts to recruit such skilled

²¹⁷ Ghana Boundary Commission (2021) Annual Report. Ghana Boundary Commission p.48

²¹⁸ Ghana Boundary Commission.(2022) Annual Report. Ghana Boundary Commission p54

²¹⁹ Anyanwu S (2024) <https://fmino.gov.ng/national-boundary-commission-showcases-achievements-outlines-challenges-during-senate-oversight-visit/>. Visited 20/10/2024

²²⁰ www.cnfci-ci.ci . Visited 29/10/2024

²²¹ Interview with Senior member AUBP

²²² Interview with Senior member, Côté D'Ivoire National Boundary Commission

personnel have been unsuccessful. As a temporary measure, the Commission relies heavily on available staff to provide such skills. Moreover, as a new institution, most of the staff need to be trained in alignment with the strategic orientation of the Commission.²²³

2.9.2.8. Absence of Maritime Boundary Legislation

Across West African Coastal states, there are no proper rules, policies and legislation on maritime boundary delimitation and other related work, aside maritime acts on shipping and Transport. International legislation such as UNCLOS and Maritime Zones Acts are usually the only available sources of maritime boundaries laws and a few national laws. The absence of legislative support in addressing financial constraints and enforcement of policies were some challenges facing the Nigerian NBC.²²⁴

2.9.2.9. Inadequate Information/Records

The information, records and literature on the work of West African Boundary Commissions and agencies are scarce, outdated or non-existent, with limited online information available for a few states with functioning websites, news articles and annual reports.²²⁵

Staff of these Government institutions are often tight-lipped due to political pressure and bureaucratic constraints, making it difficult to access information. This lack of information and transparency leads to knowledge loss and the erosion of institutional memory, hindering organizational growth and continuity.²²⁶

2.10 Language Barrier

The effect of colonisation is evident in West Africa by the different official languages of English, French and Portuguese across the continent.²²⁷ Ghana for instance, is immediately surrounded by French-speaking countries; thus, the language barrier hampers collaboration and cooperation between the two states. At the Boundary Commission level, this is no different, as

²²³ Interview with Senior Military Personnel, Ghana Boundary Commission

²²⁴ Supra Note 212

²²⁵ Interview with Senior Officer, Côté D'Ivoire Boundary Commission (CNFCI)

²²⁶ Ibid

²²⁷ Official Languages in Africa: An analysis. [https://provisioservices.com/languages-in-africa/#:~:text=French%20\(8\)%20is%20the%20dominant,\)%20and%20Swahili%20\(3\).](https://provisioservices.com/languages-in-africa/#:~:text=French%20(8)%20is%20the%20dominant,)%20and%20Swahili%20(3).)

every meeting between them requires the use of translators. This delays the timely communication among the Commissions.²²⁸

2.11 Boundary Commissions and Regional Bodies

West Africa Boundary Commissions promote regional stability and development through collaborations with ECOWAS, AU, and the Gulf of Guinea Commission among others to boost regional stability, encourage economic growth and coordinate border governance in the region.

a. Africa Union

The African Union Border Programme (AUBP) serves as a platform for the development of frameworks, laws, guidelines and agreements and has been instrumental in the support in all activities involving boundaries and work closely with West African Boundary Commissions of Cross-border cooperation and enhancing security in the region. The AU for example has encouraged all African countries to develop and adopt national border policies for the management of their borders.²²⁹

One of the main objectives of action in the AUBP's Strategic Framework is to complete the delimitation and demarcation of maritime and land boundaries so they may cease to be sources of disputes and problems.²³⁰

b. ECOWAS

The Economic Community of West African States (ECOWAS) maritime domain (EMD) consists of 11 West African States including the island of Cape Verde, adjacent Atlantic Ocean, all water bodies including inland waterways like lakes and rivers and the entire ocean flora. These states are heavily dependent on the resources of this maritime domain and thus to protect the region against the transboundary criminal activities and disputes between neighbours. These states established the ECOWAS Integrated Maritime Strategy (EIMS) to outdoor common standards to regulate and manage the region and control criminal activity.²³¹

²²⁸ Supra Note 218

²²⁹ www.cnfci-ci.ci Visited 15/10/2024

²³⁰ Delimitation and Demarcation of Boundaries in Africa (2014) General Issues and case studies. African Union Border Programme (AUBP) 2nd edition pp.19. <https://www.peaceau.org/uploads/au-2-en-2013-delim-a-demar-user-guide.pdf>

²³¹ ECOWAS (2014) <https://ecowas.int/wp-content/uploads/2022/08/EIMS-English-final.pdf> .visits 2/10/2024

Ecowas has also played a role in conflict management and prevention within the region and played mediation roles in the negotiations and dispute settlement processes in the region, such as Ghana and Cote D'Ivoire and Nigeria in their maritime boundary disputes with each other. Exercising its role as the forum for unity in the region, ECOWAS hosted an inaugural meeting of heads of national boundary commissions in West Africa to establish an effective coordination mechanism and synergy between national and regional actors to enhance the proper implementation of border governance strategies within the region.²³²

c. The Gulf of Guinea Commission (GGC)

The Gulf of Guinea Commission was initially established to promote peace, security and development and for the consultation in the exploitation of natural resources in the Gulf of Guinea among some west and central Africa coastal states from Angola to Nigeria and landlocked states such as Chad and the Central African Republic.²³³ Maritime security is the most important agenda for the GGC due to the increase in piracy attacks and armed robbery within the region²³⁴. Due to the implementation of the Yaounde Code of Conduct which is now in 2013, signed by mostly coastal states in Western and Central Africa, the fewer issues of piracy and armed robbery in 2022 were recorded.²³⁵

Many member states of the GGC are also members of other regional bodies including ECOWAS and ECCAS, therefore this existence of this Commission contributes to the cohesive control measures to ensure the presence of maritime security so that other maritime related activities such as delimitation, exploration and exploitation of resources can take place within the region.

2.12 Recommendations

I. Establishment of Boundary Commissions

West African States without Boundary Commissions are encouraged to establish National Boundary Commissions that serve as platforms for a comprehensive boundary delineation,

²³² ECOWAS (2024) .<https://www.ecowas.int/inaugural-meeting-f-heads-of-national-boundary-commissions-held-in-accra/>. Visited on 2/10/24.

²³³ Tanga Biang, J.(2010) 'The Joint Maritime Development Zone Between Nigeria and Sao Tome and Principe: A Case of Provisional Arrangement in the Gulf of Guinea International Law, State Practice and Prospects for Regional Integration', the United Nations-The Nippon Foundation of Japan Fellowship Programme

²³⁴ Security Council Report (2023, May 31). *Gulf of Guinea Piracy*.
<https://www.securitycouncilreport.org/monthly-forecast/2023-06/gulf-of-guinea-piracy-2.php>

²³⁵ Ibid

demarcation and delimitation, as well as perform all functions boundary commissions undertake to secure the territorial integrity and national security of the states.

Both Ghana and Côte d'Ivoire realised the need to formally establish their commissions after the maritime boundary dispute. The cost of engaging foreign personnel to undertake preparatory and background to enable the states to assert claims over boundaries, the loss of institutional memory and a lack of proper record keeping on data on the land and maritime boundaries are all costs that states can avoid by formally establishing boundary commissions. The importance of creating a single agency to coordinate all other relevant agencies is crucial to a state in fulfilling its requirements of statehood, at least in the West African region because of the porous border and erratic political climate. The West African boundary commissions are wrought with challenges; however, their presence and work are important for the stability of diplomatic relations with their neighbours and for the security of the states.

II. Integration of Environmental Considerations

The integration of environmental considerations into national and regional frameworks is essential for sustainable exploitation, development and conservation of maritime boundaries. West African governments are encouraged to implement relevant legislation and direct relevant agencies to enforce regulations, conduct environmental assessments and develop sustainable practices in the exploitation of marine resources within their maritime zones and joint development areas. The inclusion of traditional ecological practices of maritime boundary communities akin to specific countries should be included in these regulatory frameworks and adhered to by the beneficiaries of boundary delimitation largely comprising of private oil companies.

III. Enforce Legal and Regulatory Frameworks

West African states must enact comprehensive maritime national legislation to align with international standards and law, especially with UNCLOS which most West African states are parties to for the delimitation and settlement of maritime boundary disputes. African states must also strengthen the already existing legal frameworks and ratifying and implementing international maritime treaties. National Boundary Commissions must have clearly defined mandates which encompass all maritime boundary related activities such as demarcation, delimitation, delineation, facilitating the settlement of disputes and whether the mandate includes internal boundaries as well as international boundaries. This clarity is important to avoid the duplication of overlapping of mandates with other institutions.

IV. Promote Data Sharing and Transparency using Technology

The use of technology can significantly enhance the accuracy and efficiency of maritime boundary delimitation. West African states must employ modern technology to facilitate an efficient data -sharing system among boundary commissions in West Africa. Examples of this initiative could involve the sharing of simple information on legal documents, survey data cartographic data, boundary commissions, historical maps etc. States are also encouraged to invest in functional websites for the verification and dissemination of accurate information. In addition, a main security application can be created for collaboration on recent events, early warning signals platforms, security warnings, announcement of meetings being organised by the boundary commissions, states and other actors.

V. Strengthening Regional Cooperation

West African states are encouraged to enhance cooperation through the frameworks of ECOWAS and AU to address boundary issues such as the settlement of disputes between states stemming from overlapping maritime claims such as mediation, to settle conflicts and encourage stability and peace within the region. Collaborative frameworks between neighbouring states with overlapping claims can promote cooperative exploitation and resource management. Neighbouring states are encouraged to engage in collaborations such as collaborative research, field operations such as survey and mapping, and sensitisation work along the international boundaries. This Joint work between states helps to build trust, comradeship and foster good neighbourliness.

VI. Capacity Building for Boundary Commissions

The promotion of Capacity Building is vital for Boundary Commissions for the advancement of the capabilities and continuous professional of the staff and providing continuous professional development for staff longevity and institutional memory of the commission. The staff of the commission should be provided with the most advanced and specific training and resources and opportunities to ensure that they have the expertise and technology needed for effective performance of the mandates of the Commission for example, the Ghana Boundary Commission (GhBC) ensure that various training programmes for each department are undertaken every year. These training programmes include the UN Nippon Fellowship Training on the Law of the Sea for the Legal Unit in 2024, International Boundary Dispute Resolution Workshop organized by IBRU Centre for Borders Research and Policy, Plans and

Programmes Department and River Boundary Delineation Workshop organized by GIZ and AU for the Survey and Mapping Departments.

Capacity Building can also be achieved through the organisation of events among West African Boundary Commissions through workshops, conferences and the Engagement of Experts and Stakeholders. Examples of such notable programmes include-the GhBC's involvement with the Kofi Annan Training Centre, University of Ghana ,Legon and University of Professional Studies to train ,organize seminars and provide diverse perspectives regarding boundary demarcation and delimitation and ocean governance such as the University of Ghana Ocean Governance Research and Development Project with funding from the Norwegian Agency for Development Cooperation (NORAD) with support from the Norwegian Centre for the Law of the Sea (NCLOS) and the UiT Arctic University of Norway.

VII. Political Will

The Political Will of West African governments is essential for the delimitation of their shared maritime boundaries. Governments are therefore encouraged to invest in the establishment²³⁶ and funding of boundary commissions or agencies clearly mandated with the delimitation, demarcation, governance, management of their international boundaries.

CONCLUSION

Maritime boundary delimitation in West Africa is complicated and challenged with various issues stemming from poor demarcation of boundaries by former colonial governments, maritime boundary disputes caused by overlapping claims and entitlements between neighbouring states amongst other issues. The disputes cause rifts in diplomatic relations between states, physical altercations at the boundaries leading to death in some cases, negative impacts on the economies due to long standing disputes or dispute settlement mechanisms at international courts and the inability of states to delimit their maritime boundaries. However, by the adoption of a multifaceted approach such as dispute settlement and resource sharing agreements, the delimitation of maritime boundaries, drafting legal frameworks and strengthening legal frameworks, regional cooperation , the setting up of boundary commissions to facilitate all of these approaches, West African states can properly manage these issues .It is

important to note that at the helm of all these issues is the political will from the African governments. The work of the Boundary Commissions is integral to the national security of the states and fundamental to the state's very existence and progress. Boundary commissions, equipped with accurate geospatial data, clear legal frameworks, and regional cooperation mechanisms, play an essential role in ensuring that border governance processes are handled effectively. Additionally, by fostering collaboration through ECOWAS and implementing joint resource management agreements, states can reduce the likelihood of conflict and promote economic development.

It is therefore important that states with boundary commissions provide the necessary resources to these commissions for them to properly work, along with all necessary agencies that are necessary for securing the security and sovereignty of the nations. The importance of clearly defined maritime boundaries in West Africa cannot be overstated. Delimitation is necessary to ensure that each state clearly recognizes where their boundaries begin and end to curb the confusion and conflicts. It is also necessary for states to remember that borders are not barriers and thus the relationship and brotherhood that existed before colonialism is not destroyed. Delimitation can be undertaken through negotiations by states and resources can be shared to avoid zero sum situations that can further affect the relationship between neighbouring states. Most importantly, maritime boundary delimitation agreements and joint development agreements should contain clauses guaranteeing sustainable exploitation and conservation to protect the marine ecosystem to reaffirm environmental protection obligations of states. Finally, the delimitation of maritime boundaries in West Africa holds significant implications for regional stability, economic growth, and environmental sustainability thus, addressing these disputes requires a comprehensive approach involving legal, technical, and diplomatic measures. In summation, the successful resolution of maritime boundary issues and delimitation of maritime boundaries in West Africa will depend on continued regional collaboration, adherence to international legal standards, and an ongoing commitment to resource sharing and environmental stewardship.

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