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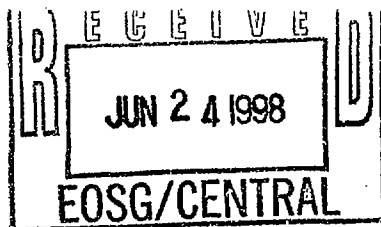
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Summary Note

Mr. Zacklin's Note on the ICJ Judgement regarding admissibility of the case concerning land and maritime boundary between Cameroon and Nigeria

1. On 29 March 1994, Cameroon instituted proceedings in the ICJ against Nigeria in a dispute over the land and maritime boundary between Cameroon and Nigeria, essentially related to the question of sovereignty over the Bakassi Peninsula and islands in Lake Chad.
2. On 13 December 1995, Nigeria raised eight preliminary objections, challenging the ICJ's jurisdiction and the admissibility of Cameroon's claims.
3. On 11 June 1998, the Court rejected seven of these objections and upheld one in part. **The Court will now proceed with consideration of the merits of the case.**
4. In addressing Nigeria's objections, the Court concluded that:
 - (I) Cameroon's acceptance of compulsory jurisdiction without informing Nigeria did not violate Article 36, paragraph 2 of the Statute of the Court, or other legal obligations. *Details of judgment - not even needed.*
 - (ii) There was no precondition that all boundary questions be settled through the existing bilateral machinery, and there is no general principle of international law requiring the exhaustion of diplomatic negotiations before a matter can be referred to the Court.
 - (iii) The Lake Chad Basin Commission did not have competence to settle boundary disputes within the Lake Chad region.
 - (iv) The Court was not precluded from making a determination about the boundary of Lake Chad at the tripoint point where a third party - Chad -- also had its boundary.
 - (v) The delimitation of the length of the border was in dispute.
 - (vi) Cameroon's application contained sufficient information for consideration by the Court.
 - (vii) Article 36, paragraph 1 of the Statute of the Court was not applicable in this case and, therefore, provisions of the United Nations Convention on the Law of the Sea relating to settlement of disputes were also inapplicable.
 - (viii) The question of maritime delimitation may affect the rights and interests of third States and that the absence of those States may prevent it from rendering a judgement. The Court thus upheld, in part, Nigeria's objection in this regard.

S. Iqbal Riza
17 June 1998

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INTEROFFICE MEMORANDUM

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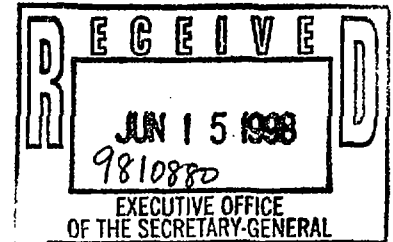
SIR
(L.S. amw.)

F2 Summary of CTT (p.i.)
main points for SC pls
DATE: 15 June 1998

TO: The Secretary-General

THROUGH: Mr. Iqbal Riza
Chef de Cabinet

FROM: Ralph Zacklin *R. Zacklin*
Assistant Secretary-General
in charge of the Office of Legal Affairs



SUBJECT: Analysis of the Judgement of the ICJ regarding admissibility of the case concerning land and maritime boundary between Cameroon and Nigeria submitted to the Court by Cameroon

1. On 29 March 1994, Cameroon instituted proceedings in the ICJ against Nigeria in respect of a dispute regarding the land and maritime boundary between Cameroon and Nigeria which essentially relates to the question of sovereignty over the Bakassi Peninsula and over islands in Lake Chad. In its application Cameroon relied on the declarations made by Nigeria and Cameroon accepting the compulsory jurisdiction of the ICJ under Article 36, paragraph 2, of the Statute of the Court.
2. On 13 December 1995, Nigeria raised eight preliminary objections challenging the jurisdiction of the Court in this case and the admissibility of Cameroon's claims.
3. Cameroon in its written statement on the objections requested the Court to dismiss them or in the alternative to join them to the merits and to declare that it had jurisdiction to deal with the case and that the application was admissible.
4. Cameroon chose Mr. Kéba Mbaye, and Nigeria Mr. Bola Ajibola to sit as judge ad hoc.
5. On 15 March 1996, in response to a request by Cameroon, the Court indicated certain provisional measures calling upon the Parties to ensure that no action of any kind, and in particular no action by their armed forces should be taken which might prejudice the rights of the other in respect of whatever judgement the Court may render in the case, or which may aggravate or extend the dispute before it.

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6. Having considered the eight preliminary objections raised by Nigeria, the Court on 11 June 1998 rejected them by vote and concluded that it had jurisdiction to deal with the merits of this case and that the application of Cameroon was admissible. This Judgement allows the Court to proceed with the consideration of the merits of the case.

7. The conclusions reached by the Court in that Judgement are the following.

8. Nigeria contended that as Cameroon had accepted the compulsory jurisdiction of the Court only on 3 March 1994, 21 days before it had filed an application to the ICJ, and had never informed Nigeria about this fact, Cameroon, consequently, had violated its obligation to act in good faith, abused the system instituted by Article 36, paragraph 2 of the Statute, and disregarded the conditions of reciprocity provided for in that article and in Nigeria's declaration under it.

9. The Court rejected this objection arguing that the requirement of Article 36, paragraph 2 of the Statute, had been strictly observed in this case and that although the principle of good faith governs the creation and performance of legal obligations, it is not in itself a source of obligation.

10. With reference to Nigeria's objection providing that the Parties had accepted in their dealings a duty to settle all boundary questions through the existing bilateral machinery, the Court observed that the declarations filed by Cameroon and Nigeria under Article 36, paragraph 2 of the Statute of the Court did not contain a precondition of this type. Moreover, neither in the Charter nor otherwise in international law is any general rule to be found to the effect that the exhaustion of diplomatic negotiations constitutes a precondition for a matter to be referred to the Court.

11. With reference to Nigeria's contention that the settlement of boundary disputes within the Lake Chad region is subject to the exclusive competence of the Lake Chad Basin Commission, the Court, having analysed the relevant treaty texts and the practice of Member States, concluded that the Commission was an international organization that did not have as its purpose the settlement at a regional level of matters relating to the maintenance of international peace and security and thus did not fall under Chapter VII of the Charter.

12. Nigeria contended that the Court should not in these proceedings determine, as requested by Cameroon, the boundary in Lake Chad to the extent that that boundary was constituted by the tripoint in Lake Chad where the frontiers of Cameroon, Chad and Nigeria met.

13. The Court rejected this objection by pointing out that neither Cameroon nor Nigeria contest the current course of the boundary in the centre of Lake Chad. Consequently, the request to specify the frontier between Cameroon and Nigeria from Lake Chad to the sea did not imply that the tripoint could be moved away from the line constituting the Cameroon-Chad boundary.

14. Nigeria also alleged that apart from the question of the title over Darak and adjacent islands and over the Bakassi Peninsula, there was no dispute between Cameroon and Nigeria concerning delimitation of the whole length of the boundary which runs more than 1,600 km from the tripoint in Lake Chad to the sea.

15. The Court noted in this regard that in its submissions to the Court, Nigeria did not indicate whether or not it agreed with Cameroon on the course of the boundary or on its legal basis. In the latter case it referred generally to "relevant instruments" without specifying which instruments these were. This seems to suggest, in the view of the Court, that the existing instruments may require confirmation and that a dispute exists between the Parties, at least as regards the legal basis of the boundary.

16. The Court rejected Nigeria's assertion that the application submitted by Cameroon was inadequate as it did contain sufficient information required for the consideration of the case by the Court and for the effective preparation by Nigeria of its response.

17. With reference to Nigeria's objection providing that the issues of maritime delimitation should not be admissible in the absence of prior sufficient action by the Parties to effect a delimitation by agreement on the basis of international law, the Court held that it was not seized with this case on the basis of Article 36, paragraph 1, of the Statute, and, in pursuance of it, the relevant provisions of the United Nations Convention on the Law of the Sea, relating to the settlement of disputes arising between the Parties to that Convention with respect to its interpretation and application, but on the basis of the declarations made under Article 36, paragraph 2 of the Statute, wherein Nigeria and Cameroon stipulated the conditions of their acceptance of the compulsory jurisdiction of the Court.

18. In its last objection, Nigeria contended that the question of maritime delimitation necessarily involved the rights and interests of third States and was to that extent inadmissible.

19. The Court acknowledged that the prolongation of the maritime boundary seawards in the Gulf of Guinea may affect the rights and interests of the third States, in particular

Equatorial Guinea and Sao Tome and Principe, and that the impact of the judgement requested by Cameroon could be such that the Court would be prevented from rendering it in the absence of these States. The Court, therefore, observed that Nigeria's eighth preliminary objection would have to be upheld at least in part.