

INTERNATIONAL COURT OF JUSTICE

**LAND AND MARITIME DELIMITATION AND SOVEREIGNTY
OVER ISLANDS**

(GABON/EQUATORIAL GUINEA)

**MEMORIAL OF
THE REPUBLIC OF EQUATORIAL GUINEA**

VOLUME I

5 October 2021

Table of Contents

Chapter 1	Introduction	1
Chapter 2	The Geographic Context of The Present Dispute.....	9
Chapter 3	The Colonial History and the Legal Titles Acquired by Spain and France	17
	I. The Period before the 1900 Convention	17
	II. The 1900 Convention and the Legal Titles recognized during the Remainder of the Colonial Period.....	25
	A. References to the Corisco Dependencies in the Historical Record from 1900 to 1960.....	26
	B. The Historical Record regarding Legal Title to Continental Territory following the 1900 Convention....	35
	C. The Land Boundary in the Southwest	44
	D. The Land Boundary in the Northeast	52
	III. The Status of the Colonial Powers' Legal Titles to Islands and Continental Territory upon Gabon's Independence in 1960, and Equatorial Guinea's Independence in 1968	62
	A. The Status of the Islands in Corisco Bay	62
	B. The Status of the Continental Land Territory	71
Chapter 4	The Origin of the Parties' Dispute	77
Chapter 5	Efforts to Resolve the Boundary and Territorial Dispute from 1979 to 2016	85
	I. 1979-1984: Bilateral Negotiation Efforts to Establish a Joint Development Zone.....	85
	II. 1985-2001: Bilateral Negotiations to Resolve the Sovereignty and Boundary Disputes.....	88

	A.	2003: Continuation of Bilateral Negotiations and Gabon’s Introduction of an Agreement Allegedly Reached in 1974	93
	B.	The United Nations Mediation to Resolve the Disputes From 2003 to 2016	95
Chapter 6		The Legal Titles that Have the Force of Law between the Parties Concerning Sovereignty of Mbañe, Cocoterros and Conga and the Delimitation of their Common Land and Maritime Boundaries	99
	I.	The Legal Titles of Equatorial Guinea and of Gabon to Insular and Continental Territory were Acquired by Succession to the Legal Titles Held by Spain and France.....	99
	II.	Legal Title to the Islands and Islets of Corisco Bay at Independence	103
	A.	Spain Acquired Legal Title to the Corisco Dependencies in 1843 and Retained it until Equatorial Guinea’s Independence in 1968.....	104
	B.	Equatorial Guinea Succeeded to Spain’s Legal Title to the Corisco Dependencies	106
	C.	Gabon’s Actions since the Dispute Crystallized in March 1972 Do Not Affect Equatorial Guinea’s Legal Title to the Corisco Dependencies	110
	III.	Legal Titles to Continental Land Territory	111
	A.	The Legal Titles of Spain and France to the Land Territory in the Utamboni River Area.....	113
	B.	The Legal Titles of Spain and France to the Land Territory in the Kie River Area	116
	IV.	The Legal Titles in the Sea Adjacent to the Parties’ Coasts	120
	A.	Equatorial Guinea’s Maritime Zone Legislation.....	123
	B.	Gabon’s Maritime Zone Legislation	124

Chapter 7 The Alleged 1974 Convention that Gabon First Produced and Invoked
in 2003 Does Not Establish Legal Title or Have the Force of Law in
the Relations between the Parties 127

I. The Document Presented in 2003 By Its Terms Is Not a Final Treaty
..... 132

II. The Parties Did Not Take the Actions that Would Have Been
Necessary to Implement the Terms of the Document
Presented in 2003 135

III. The Parties Continued their Efforts to Settle their Sovereignty and
Boundary Disputes Based on Other Legal Titles and Made
No Reference to the Document Presented in 2003 137

IV. The Document Presented in 2003 Did Not Acquire the Force of Law
Between the Parties after 2003 139

Submissions 143

CHAPTER 1 INTRODUCTION

1.1 The Republic of Equatorial Guinea submits this Memorial in accordance with the Court's Order of 7 April 2021, which fixed the dates of 5 October 2021 for the submission of Equatorial Guinea's Memorial, and 5 May 2022 for the submission of the Gabonese Republic's Counter-Memorial. As set out in the Court's Order, the Court was seised of the present dispute on 5 March 2021, upon receipt of Equatorial Guinea's formal notification of the "Special Agreement between the Gabonese Republic and the Republic of Equatorial Guinea concluded on 15 November 2016" ("Special Agreement").

1.2 Article 1 of the Special Agreement defines the dispute submitted to the Court as follows:

“Soumission à la Cour et objet du différend

1. La Cour est priée de dire si les titres juridiques, traités et conventions internationales invoqués par les Parties font droit dans les relations entre la République Gabonaise et la République de Guinée Equatoriale s'agissant de la délimitation de leurs frontières maritime et terrestre communes et de la souveraineté sur les îles Mbanié, Cocotiers et Conga.

A cette fin :

2. La République Gabonaise reconnaît comme applicables au différend la Convention spéciale sur la délimitation des possessions françaises et espagnoles dans l'Afrique Occidentale, sur la Côte du Sahara et sur la Côte du Golfe de Guinée du 27 juin 1900 (Paris) et la Convention délimitant les frontières terrestres et maritimes de la Guinée Equatoriale et du Gabon du 12 septembre 1974 (Bata).

3. La République de Guinée Equatoriale reconnaît comme applicable au différend la Convention spéciale sur la délimitation des possessions françaises et espagnoles dans l’Afrique Occidentale, sur la Côte du Sahara et sur la Côte du Golfe de Guinée du 27 juin 1900 (Paris).
4. Chacune des Parties se réserve le droit d’invoquer d’autres titres juridiques.”¹

1.3 The English translation of Article 1, as provided by the Registry, reads:

“Submission to the Court and subject of the dispute

1. The Court is requested to determine whether the legal titles, treaties and international conventions invoked by the Parties have the force of law in the relations between the Gabonese Republic and the Republic of Equatorial Guinea in so far as they concern the delimitation of their common maritime and land boundaries and sovereignty over the islands of Mbanié/Mbañe, Cocotiers/Cocoteros and Conga.

To this end:

2. The Gabonese Republic recognizes as applicable to the dispute the special Convention on the

¹ *Special Agreement between the Gabonese Republic and the Republic of Equatorial Guinea* (15 November 2016) (authentic French version on record), art. 1. The equally authentic Spanish version of Article 1 reads as follows: “... Se solicita a la Corte que determine si los títulos jurídicos, tratados y convenios internacionales invocados por las Partes son aplicables en las relaciones entre la República Gabonesa y la República de Guinea Ecuatorial en lo que se refiere a la delimitación de sus fronteras marítima y terrestre comunes y de la soberanía sobre las islas de Mbañe, Cocoteros y Conga. Para este propósito: 2. La República Gabonesa reconoce como aplicable a la controversia el Convenio especial para determinar los límites entre las posesiones españolas y francesas del África Occidental ...”).

delimitation of French and Spanish possessions in West Africa, on the coasts of the Sahara and the Gulf of Guinea, signed in Paris on 27 June 1900, and the Convention demarcating the land and maritime frontiers of Equatorial Guinea and Gabon, signed in Bata on 12 September 1974.

3. The Republic of Equatorial Guinea recognizes as applicable to the dispute the special Convention on the delimitation of French and Spanish possessions in West Africa, on the coasts of the Sahara and the Gulf of Guinea, signed in Paris on 27 June 1900.

4. Each Party reserves the right to invoke other legal titles.”²

1.4 The Special Agreement determines the Court’s jurisdiction, which extends to deciding which of the legal titles, treaties and international conventions (“Legal Titles”) invoked by either Party, in the Special Agreement or in the course of these proceedings, have the force of law between the Parties. Having regard to the Spanish text of the Special Agreement, in Equatorial Guinea’s submission, this may equally be understood as being applicable between the Parties, in their relations for the determination of sovereignty over the islands of Mbañe, Cocoteros and Conga, as well as the determination of the Parties’ land and maritime boundaries. The phrase “legal titles” in Article 1, paragraph 1, and the reference in paragraph 4 to the invocation of “other legal titles”, indicate that the Parties have agreed that the Court’s task is to determine all Legal Titles having the force of law between them, not just those emanating from particular treaties and conventions.

² *Special Agreement between the Gabonese Republic and the Republic of Equatorial Guinea* (15 November 2016) (English translation provided by the Registry on record), art. 1.

1.5 In regard to treaties and conventions, paragraphs 2 and 3 of Article 1 of the Special Agreement establish, in regard to the Legal Titles applicable to the present dispute, that the Parties are *in agreement* that the “Special Convention on the delimitation of French and Spanish possessions in West Africa, on the coasts of the Sahara and the Gulf of Guinea, signed in Paris on 27 June 1900” (the “1900 Convention”) has the force of law between them. Further, these provisions reflect the agreement of the Parties that the 1900 Convention was applicable – along with any Legal Titles invoked by a Party and recognized by the Court in accordance with paragraph 4 of Article 1 – in their territorial relations at (i) the date of Gabon’s independence from France in 1960, and (ii) the date of Equatorial Guinea’s independence from Spain in 1968, as each newly independent State inherited the Legal Titles held by its colonial predecessor. The same paragraphs of Article 1 indicate that the Parties *disagree* as to whether the alleged “Convention Delimiting the Land and Maritime Boundaries of Equatorial Guinea and Gabon”, signed in Bata on 12 September 1974” asserted by Gabon has the force of law in their relations. Equatorial Guinea considers that it does not, for the reasons elaborated in Chapter 7 of this Memorial.

1.6 The dispute that the Parties have submitted to the Court arose in 1972, 12 years after Gabon became independent and four years after Equatorial Guinea achieved independence. In that year, for the first time, Gabon asserted a claim to the small island of Mbañe in the Bay of Corisco, and then occupied it by force. Following Equatorial Guinea’s protest, the Parties engaged in bilateral negotiations that extended over a period of 31 years, and then third-party mediation under the auspices of the United Nations for another 13 years. They were unable to reach agreement on sovereignty over Mbañe, Cocoteros or Conga, or to agree on the delimitation of their land or maritime boundaries. However, the mediation was fruitful by allowing the Parties to conclude the Special Agreement to submit to the

Court, pursuant to Article 36(1) of the Court's Statute, the dispute identified in Article 1 of the Special Agreement.

1.7 The Parties have seised the Court with jurisdiction to determine the Legal Titles applicable to sovereignty over the three disputed islands (Mbañe, Cocoteros y Conga), and identify the Legal Titles applicable to the delimitation of their land and maritime boundaries. Accordingly, Equatorial Guinea has organized this Memorial to focus on the identification of the Legal Titles applicable to the settlement of these issues. The Memorial does not seek to address other issues that are in dispute between the Parties, or draw the consequences that would follow from the Court's judgment.

1.8 Following this introductory chapter, Chapter 2 describes the geographic context of the dispute, including the locations of the islands identified in the Special Agreement, the land boundary terminus on the coast of the Bay of Corisco from which the maritime boundary must be drawn; and the adjacent land territories of the Parties, within which the delimitation of the land boundary must eventually take place. Chapter 3 then describes the colonial histories of Equatorial Guinea and Gabon, with a focus on the facts pertaining to the acquisition by Spain of the islands of the Bay of Corisco, and the acquisition by Spain and France, respectively, of land territories that today comprise the sovereign States of Equatorial Guinea and Gabon. The facts detailed in this chapter show that there was a well-settled and stable territorial and boundary relationship between France and Spain when Gabon gained independence in 1960, including in regard to the islands of Corisco Bay, and that this relationship continued without alteration between Gabon and Spain until Equatorial Guinea's independence eight years later. The chapter shows that Equatorial Guinea and Gabon did not consider themselves to – and did not – inherit any territorial disputes from Spain and France.

1.9 Chapter 4 addresses the origin of the present dispute and sets out the facts regarding Gabon's unexpected and sudden move to make territorial and maritime claims that sought to change the established territorial order that the Parties inherited from Spain and France. Chapter 5 describes the efforts by the Parties to resolve the ensuing dispute over the next four decades, including Gabon's surprising invocation, in 2003 of a purported agreement alleged to have been reached in 1974 – after decades of negotiations in which no mention was made of a purported agreement alleged to have been reached in 1974 – and Equatorial Guinea's rejection of that “agreement”.

1.10 Based on these historical facts, which are fully supported by the evidence included in and annexed to this Memorial, Chapter 6 describes the Legal Titles of Equatorial Guinea and Gabon that have the force of law and are applicable in their relations for the determination of sovereignty over the islands of Mbañe, Cocoteros and Conga in the Bay of Corisco, and for the delimitation of their common land and maritime boundaries. As described in the following chapters, Spain acquired title to the islands of Corisco Bay as a consequence of: (i) the 1778 Treaty of El Pardo with Portugal; (ii) its uncontested 1843 Declaration of sovereignty over Corisco Island and 1846 signature of a Record of Annexation with King I. Orejeck of Corisco Island, Elobey and their dependencies; and (iv) its uncontested and effective occupation of the islands for the following 122 years. Equatorial Guinea succeeded to this title when it became an independent sovereign State, and has maintained it ever since. France never held or claimed legal title to these islands, and Gabon did not acquire such title upon its independence or thereafter.

1.11 Chapter 6 further establishes that, in regard to land territory on the continent of Africa and the delimitation of the land boundary between Equatorial Guinea and Gabon, the colonial powers, Spain and France, delimited the boundary

in their 1900 Convention, with each State recognizing the other's title to the territory on its side of the agreed boundary. That 1900 boundary, described in Article 4 of the Convention, was subsequently modified by Spain and France in accordance with Article 8 and Annex 1 of the 1900 Convention. This is the boundary that was in force, and which Gabon and Equatorial Guinea inherited, at the time of their succession to French and Spanish land titles, respectively. **Figure 1.1** (following page 8) shows (as detailed in the chapters of this Memorial) the territory of Spain on the date of Equatorial Guinea's independence on 12 October 1968 and shows Spain's boundary relationship with France at Gabon's independence on 17 August 1960 and with Gabon in 1968. Those inherited titles – Gabon's on its side of the boundary existing at independence, and Equatorial Guinea's on its side – have remained intact to this day.

1.12 Finally, Chapter 6 shows that the Legal Titles applicable to the delimitation of the maritime boundary between Equatorial Guinea and Gabon are: (i) the same Legal Titles that determine sovereignty over the Corisco Bay Islands and the continental land territory in Africa; and (ii) those provided for by the United Nations Convention on the Law of the Sea ("UNCLOS"), of which both Equatorial Guinea and Gabon are State Parties.

1.13 Chapter 7 explains why the alleged "Convention demarcating the land and maritime frontiers of Equatorial Guinea and Gabon, signed in Bata on 12 September 1974", invoked by Gabon for the first time in 2003, is not a Legal Title and has no force of law between the parties in relation to sovereignty over Mbañe or the other Corisco Bay Islands, or to the delimitation of the land and maritime boundaries between the Parties. The alleged agreement, which was never mentioned by Gabon during the decades of negotiations after its alleged signature, was suddenly invoked as having settled all of the issues that the Parties had been negotiating in a series of bilateral meetings over the past decades – including

sovereignty over the disputed islands and the location of the land and maritime boundaries. In 2003, Gabon did not produce a signed original of the document, but only a partially illegible photocopy reflecting a purported “agreement” that was incomplete as to central subjects on its face. No copy of the original has been provided in the following eighteen years. When, in 2004, Gabon first sought to register the alleged agreement with the United Nations, it was rejected as illegible. Only after submitting a retyped copy (but not the original) was registration achieved, over Equatorial Guinea’s protest. The conduct of the Parties between 1974 and 2003 makes clear that neither of them regarded it as a binding agreement, let alone a settlement of the very issues over which they continued to negotiate during that thirty-year period.

1.14 Equatorial Guinea’s Submissions follow Chapter 7 and conclude the main text of the Memorial, which is Volume I. The Memorial also includes six volumes of Annexes. Volume II reproduces Equatorial Guinea’s Maps and Figures, and Volumes III to VII contain the exhibits supporting Equatorial Guinea’s claims.

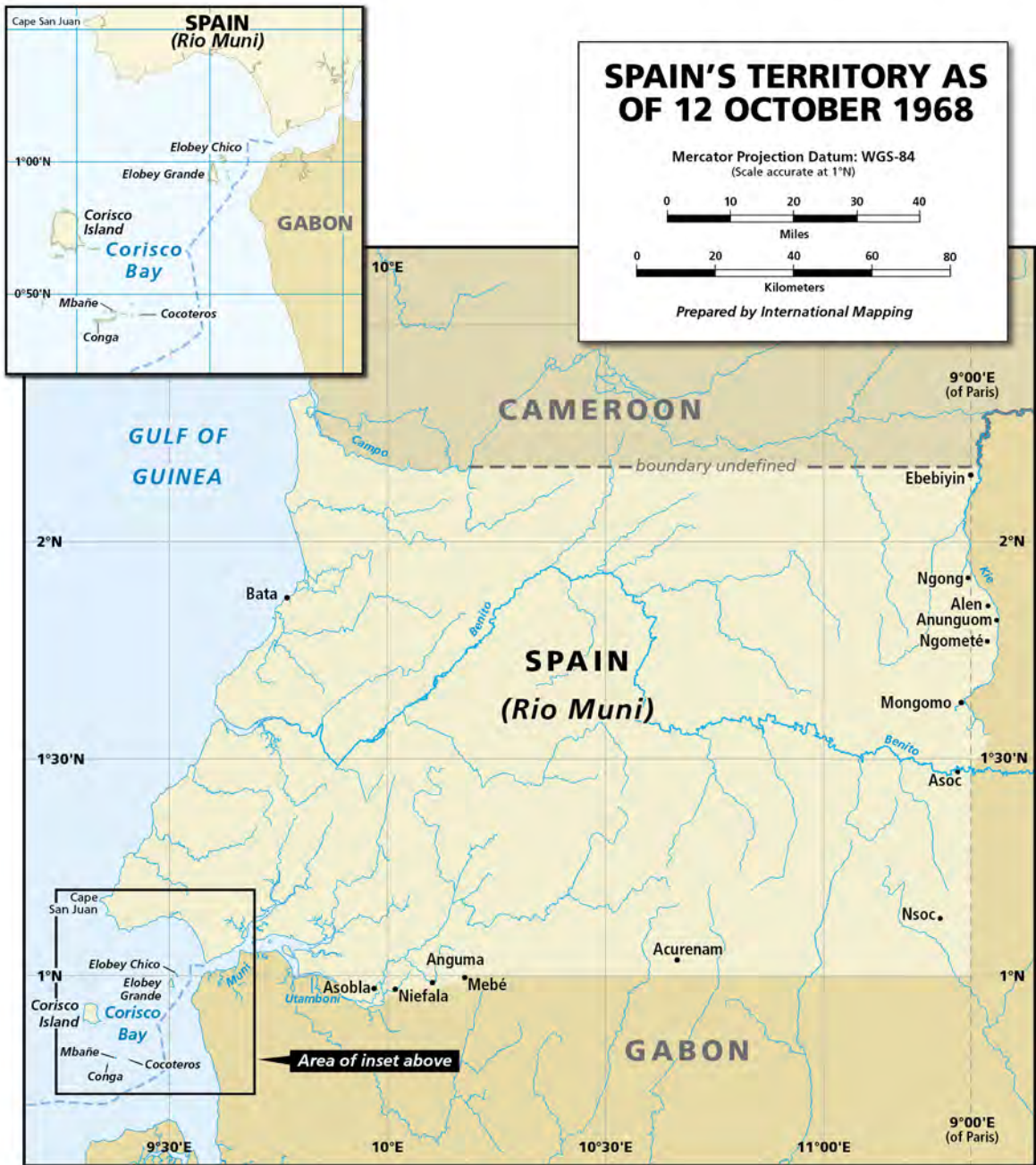


Figure 1.1

CHAPTER 2 THE GEOGRAPHIC CONTEXT OF THE PRESENT DISPUTE

2.1 Equatorial Guinea and Gabon are both situated along the western coast of sub-Saharan Africa, as shown in **Figure 2.1** following page 10.

2.2 Equatorial Guinea, which became independent from Spain in 1968, consists of two regions: an insular region and a mainland or continental region.³ The estimated population of Equatorial Guinea in 2019 was approximately 1,405,704 in 2019,⁴ around 72% of which lives in the continental region.⁵ The official language is Spanish, with French and Portuguese as co-official languages.⁶

2.3 Equatorial Guinea's insular region is composed of two main islands in the eastern Atlantic Ocean. The two islands are Bioko, formerly Fernando Po or Fernando Póo, where the country's capital, Malabo, is located, and Annobón.⁷ There is no dispute as to title to these islands; the Parties and the international community recognize them as part of Equatorial Guinea.

³ Equatorial Guinea National Statistics Institute, *Equatorial Guinea in Figures* (2019), p. 6. Memorial of Equatorial Guinea (hereafter "MEG"), Vol. VI, Annex 195.

⁴ Equatorial Guinea National Statistics Institute, *Statistical Yearbook of Equatorial Guinea* (2020), pp. 7-8. MEG, Vol. VI, Annex 196; Equatorial Guinea National Statistics Institute, *Equatorial Guinea in Figures* (2019), p. 9. MEG, Vol. VI, Annex 195.

⁵ Equatorial Guinea National Statistics Institute, *Equatorial Guinea in Figures* (2019), p. 10. MEG, Vol. VI, Annex 195.

⁶ Equatorial Guinea National Statistics Institute, *Statistical Yearbook of Equatorial Guinea* (2020), p. 7. MEG, Vol. VI, Annex 196.

⁷ Equatorial Guinea National Statistics Institute, *Equatorial Guinea in Figures* (2019), p. 6. MEG, Vol. VI, Annex 195.

2.4 The continental region of Equatorial Guinea, commonly referred to as Rio Muni in reference to the river that forms part of its southern boundary,⁸ covers a surface area of approximately 26,000 square kilometres.⁹ It includes the associated insular features in the Bay of Corisco. These are Elobey Grande, Elobey Chico, Corisco Island, and the islets adjacent to Corisco Island: Mbañe, Cocoteros and Conga (the “Corisco Dependencies”).¹⁰ Rio Muni is surrounded by Gabon to the south and east, the Republic of Cameroon to the north, and Corisco Bay, which is part of the Gulf of Guinea, to the west.¹¹ The most populous city in the country is the coastal city of Bata, in Rio Muni, with approximately 309,345 inhabitants.¹² Other large population centres in Rio Muni include Mongomo, Ebebiyin and Evynayong. The continental region of Equatorial Guinea is shown on **Figure 2.2**, following Figure 2.1.

2.5 Gabon, which became independent from France in 1960, has a land territory covering approximately 257,000 square kilometres.¹³ In addition to its borders with Equatorial Guinea, Gabon is also bordered by the Republic of Cameroon in the north, and by the Republic of Congo to the east and south. It has

⁸ Equatorial Guinea National Statistics Institute, *Statistical Yearbook of Equatorial Guinea* (2020), p. 6. MEG, Vol. VI, Annex 196.

⁹ Equatorial Guinea National Statistics Institute, *Equatorial Guinea in Figures* (2019), p. 8. MEG, Vol. VI, Annex 195. Equatorial Guinea National Statistics Institute, *Statistical Yearbook of Equatorial Guinea* (2020), p. 7. MEG, Vol. VI, Annex 196.

¹⁰ Equatorial Guinea National Statistics Institute, *Equatorial Guinea in Figures* (2019), p. 7. MEG, Vol. VI, Annex 195.

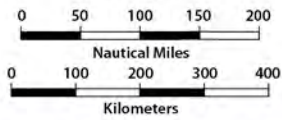
¹¹ Equatorial Guinea National Statistics Institute, *Statistical Yearbook of Equatorial Guinea* (2020), pp. 7-8. MEG, Vol. VI, Annex 196.

¹² Equatorial Guinea National Statistics Institute, *Statistical Yearbook of Equatorial Guinea* (2020), p. 7. MEG, Vol. VI, Annex 196.

¹³ “Gabon” *CIA World Factbook*, Central Intelligence Agency available at www.cia.gov/the-world-factbook/countries/gabon/ (9 September 2021), pp. 1-4. MEG, Vol. VII, Annex 244.

THE GEOGRAPHY OF THE REPUBLIC OF EQUATORIAL GUINEA AND THE GABONESE REPUBLIC

Mercator Projection, Datum: WGS-84
(Scale accurate at 0°)



Prepared by International Mapping

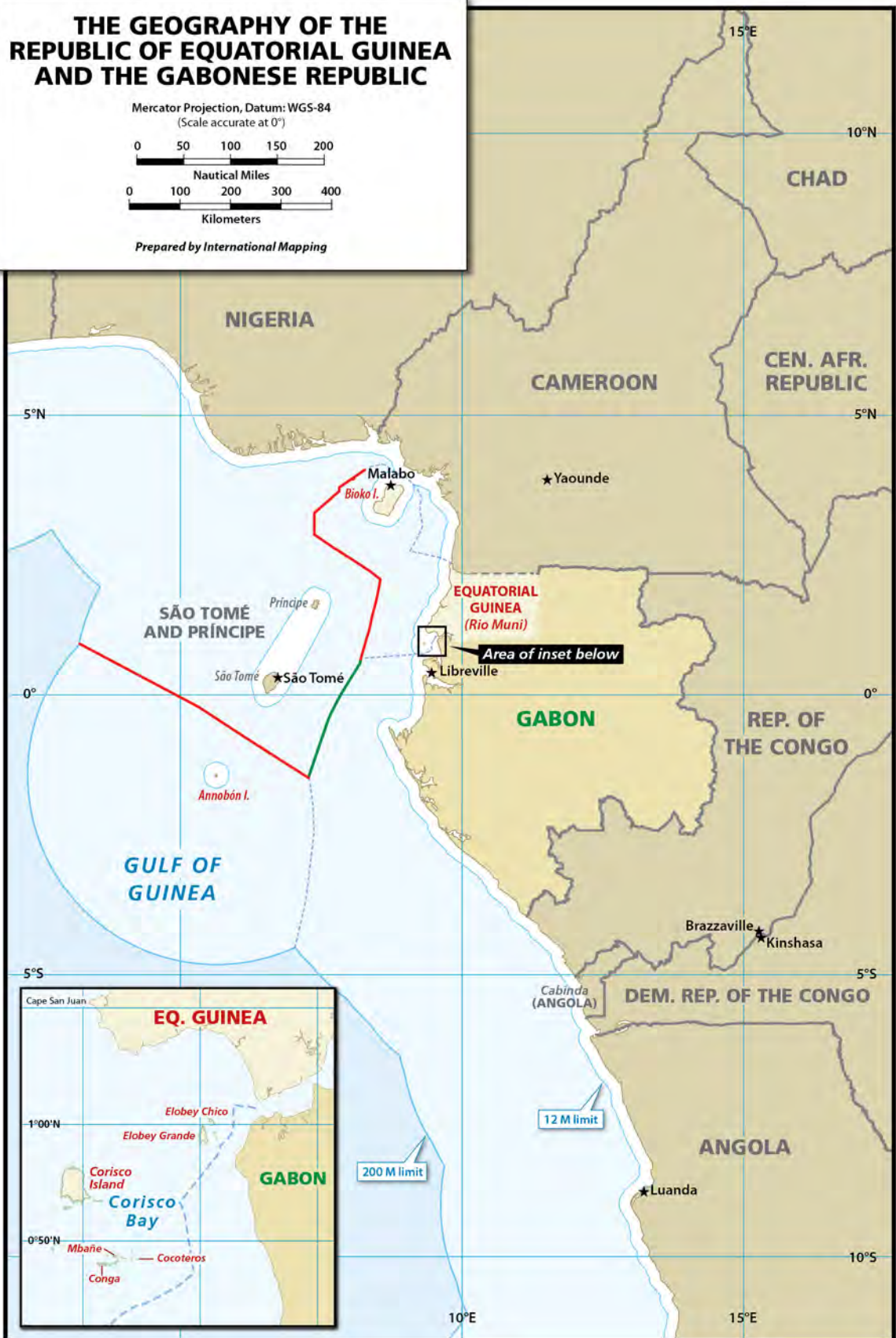


Figure 2.1

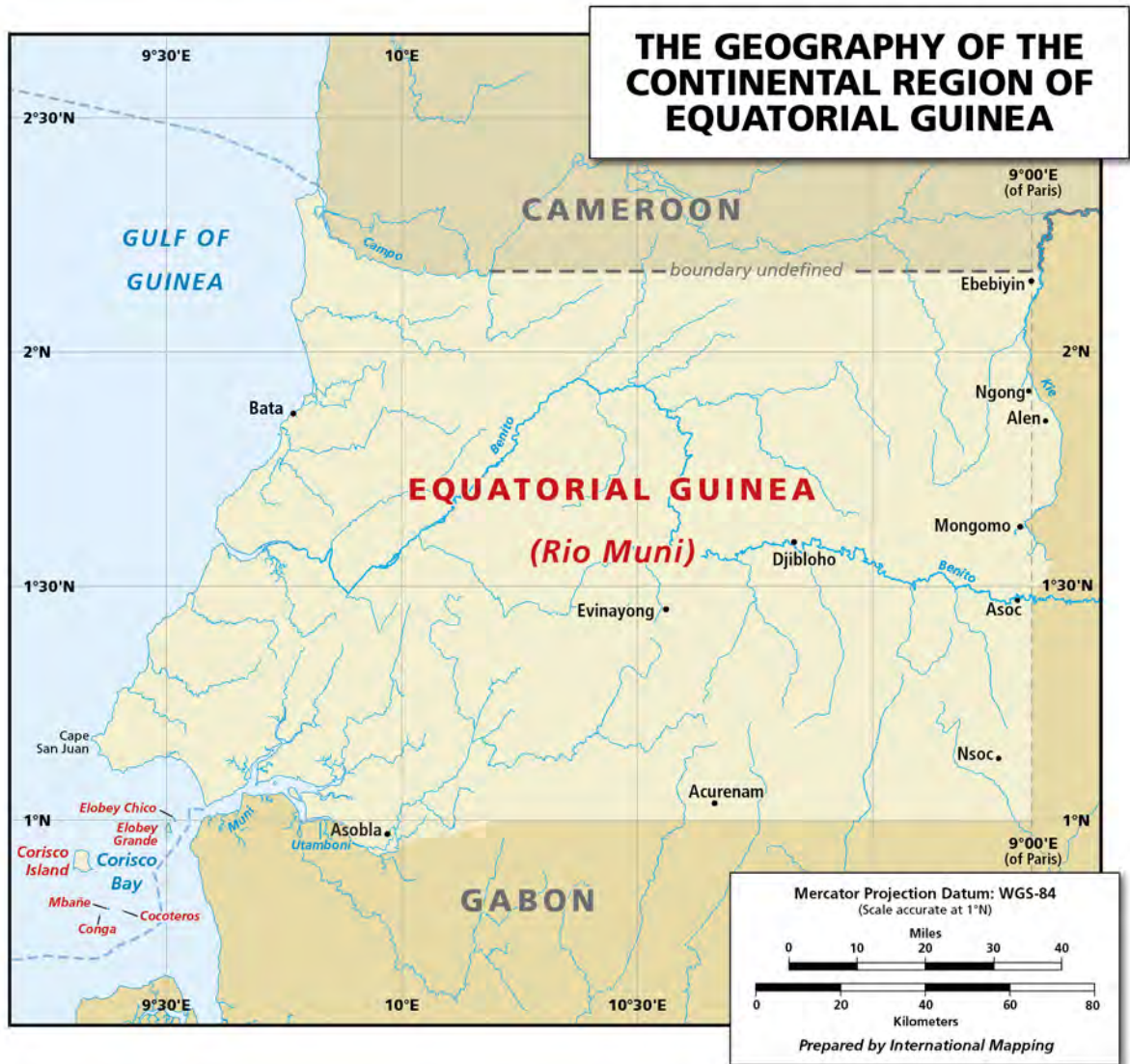


Figure 2.2

an estimated population as of summer 2021 of approximately 2,285,000.¹⁴ Its capital and largest city, Libreville, with a population as of 2021 of approximately 845,000,¹⁵ is located on the coast, some 25 km south of Corisco Bay. Its official language is French.¹⁶

2.6 The islands to which title is disputed by the Parties - Mbañe, Cocoteros and Conga - are located in Corisco Bay, as shown in **Figure 2.3** (following page 12). Corisco Island, which is not in dispute, is the largest feature in Corisco Bay. It is located some 16 nautical miles southwest of the mouth of the Rio Muni. It has a land area of approximately 14 square km. It has been continuously inhabited since before Europeans arrived in the region, and currently supports a permanent population of approximately 2,443.¹⁷ Corisco has significant infrastructure, including a commercial port and a free international airport. Title to it is not disputed. Nor is there a dispute over title to Elobey Grande, Elobey Chico or the islet of Leva, located 10, 11 and 1 nautical miles, respectively, from Corisco Island. As discussed in Chapters 3 and 6, Equatorial Guinea succeeded to all of the islands and islets of Corisco Bay upon its independence from Spain.

2.7 The disputed islets of Mbañe, Conga and Cocoteros lie between 5 and 6 nautical miles southeast of Corisco Island. These features, along with several low-tide elevations – Banco Laval in the west, Bancos del Este in the east and several unnamed low-tide elevations in between – sit atop Mbañe Bank, a submerged feature that is a geological continuation of the shallows surrounding

¹⁴ *Ibid.*, pp. 1-4.

¹⁵ *Ibid.*

¹⁶ *Ibid.*

¹⁷ Republic of Equatorial Guinea, Ministry of Planning and Economic Development, *General Census of Population and Housing: General Status of Population* (2002), p. 3. MEG, Vol. VI, Annex 194.

Corisco Island. Mbañe Bank ends in the south at a channel separating it from banks extending north from Gabon's mainland coast. All of these islets and low-tide elevations are closer to Corisco Island than they are to Gabon's coast. Corisco Island and the Corisco Dependencies are shown on **Figure 2.4** (following Figure 2.3).

2.8 Mbañe is the largest insular feature on Mbañe Bank, although with an area of only 0.5 square km at low tide and 0.07 square km at high tide, most of it is covered by substantial vegetation. Mbañe is the only feature on Mbañe Bank that has been consistently recognised as a named high-tide feature since at least 1800.¹⁸ On the earliest charts of the region, Mbañe was known as Corisco Islet.¹⁹ Mbañe has continued to appear as a named high-tide feature on subsequent charts. An early example is the *Carta Esférica de la Bahía de Corisco*, a large-scale Spanish nautical chart published in 1859 on the basis of survey work done between 1836 and 1838, on which Mbañe is labeled "I. Mbanya". An excerpt of this chart is shown at **Figure 2.5** (following Figure 2.4). Mbañe has been referred to at different times and on different sources as an island (isla) and as an islet (islote), but, like Leva just to the north, it is recognised as a named feature above water at high tide on all available charts and maps beginning in the mid-1800s. On most early charts Mbañe and Leva are the only named features in the bay other than Corisco Island and the Elobeys.²⁰

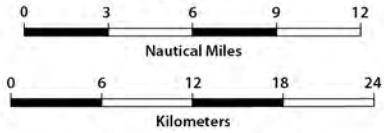
¹⁸ See, e.g., Figure 2.5 (Hydrographic Direction, Madrid, Spain, *Corisco Bay Spherical Chart* (1859)).

¹⁹ See Figure 3.1 (D. Tomas Lopez, Geographer of His Majesty's Domains, Spain, *Gulf of Guinea* (1778)).

²⁰ See, e.g., Figure 2.5 (Hydrographic Direction, Madrid, Spain, *Corisco Bay Spherical Chart* (1859)).

CORISCO BAY ISLANDS

Mercator Projection
Datum: WGS-84
(Scale accurate at 1°N)



Coastal Data: DMA chart 57181, 5th edition
(transformed from Gabon 1951 datum)

Prepared by International Mapping

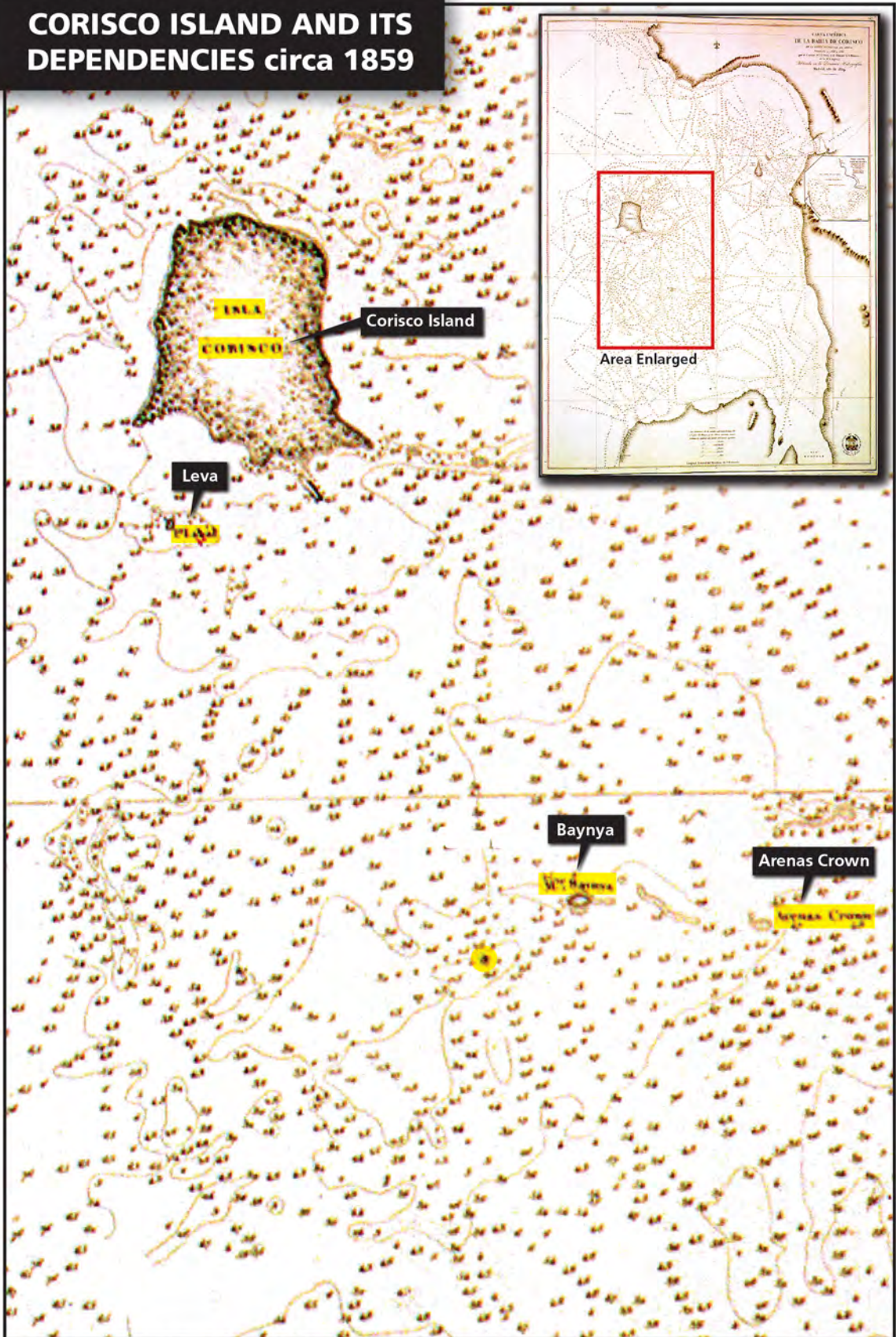


Figure 2.3



Figure 2.4

CORISCO ISLAND AND ITS DEPENDENCIES circa 1859



SOURCE: Hydrographic Direction, Madrid, Spain, *Corisco Bay Spherical Chart* (1859). Map excerpt, annotations added.

Figure 2.5

2.9 Mbañe has been intermittently inhabited by people originating from Corisco Island and has often been used by its fishermen. Given its small size, its proximity to Corisco, and its historic use by the inhabitants of Corisco, Mbañe is, and has historically been treated as a dependency of Corisco.²¹

2.10 Cocoteros sits to the east of Mbañe on the eastern edge of the Mbañe Bank. Cocoteros is approximately 0.1 square km at low tide and 0.003 square km at high tide in size and is uninhabited. On some charts, Mbañe and Cocoteros are connected at low tide by a 1.5 nautical mile-long, attenuated sand spit.²² But on most charts, Cocoteros is shown as a separate feature at the eastern end of a series of disconnected sand banks. Cocoteros has a small vegetated portion that is above water at high tide. On earlier charts, it was depicted as a low-tide elevation, sometimes called Crown Sands (Arenas Crown) (*see* Figure 2.5), but it was sometimes included in the group of low-tide elevations named Bancos del Este. In more recent charts, it is depicted as a sand cay and referred to as an “islet”. Historically, Cocoteros has been regarded as a dependency of Corisco Island, for the same reasons as Mbañe.

2.11 Conga is a rocky feature located approximately 1 nautical mile southwest of Mbañe. Conga is 1.6 square km at low tide and 0.003 square km at high tide in size, but is surrounded by an expansive sand bank that dries at low tide. Unlike Cocoteros, Conga appears on early charts as a high-tide feature, and this status has not changed (*see* Figure 2.5). It is not clear when Conga was first named,

²¹ *See Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening), Judgment, I.C.J. Reports 1992*, p. 351, para. 356 (“The small size of Meanguerita, its contiguity to the larger island, and the fact that it is uninhabited, allow its characterisation as a ‘dependency’ of Meanguera, in the sense that the Minquiers group was claimed to be a ‘dependency of the Channel Islands’ (I.C.J. Reports 1953, [p.47], p. 71).”).

²² U.S. National Imagery and Mapping Agency, *Bahía de Corisco*, 57181 6th ed. (1999). MEG, Vol. 2, Annex M3.

but early records indicate that Conga was also known as Mbañe Rocks. Conga is uninhabited and has sparse vegetation. It, too, has been regarded as a dependency of Corisco Island.

2.12 The land boundary of Equatorial Guinea and Gabon referred to in Article 1 of the Special Agreement was established between Spain and France prior to the independence of Gabon in 1960 and remained unchanged on the date of Equatorial Guinea's independence in 1968. As detailed in Chapter 3 below, this boundary is that described in Article 4 of the 1900 Convention as modified by Spain and France in accordance with Article 8 and Annex 1 of the 1900 Convention and international law. There are two geographic areas along the land boundary that are of particular relevance to the determination of the Legal Titles applicable between the Parties: the Utamboni River Area in the southwest and the Kie River Area in the northeast. These areas are depicted on **Figure 2.6** (following page 14).

2.13 The Utamboni River Area is centred around the Utamboni River and its tributaries in the south-western region of Rio Muni/north-western coastal region of Gabon on Corisco Bay and is depicted at **Figure 2.7** (following Figure 2.6). The western half of this area is low-lying while the eastern half is occupied by the Crystal Mountains, a range that runs north-south from Equatorial Guinea's Rio Muni region into Gabon. The Utamboni River rises in the Crystal Mountains in Rio Muni and then crosses the 1° north parallel twice before emptying into the Muni River near the coast on Corisco Bay.

2.14 The most significant population centres in this area are the Equatorial Guinea towns of Asobla, Mibonde-Elon and Midyobo. The data available to Equatorial Guinea indicates that there are no significant Gabonese towns in the Utamboni River Area.

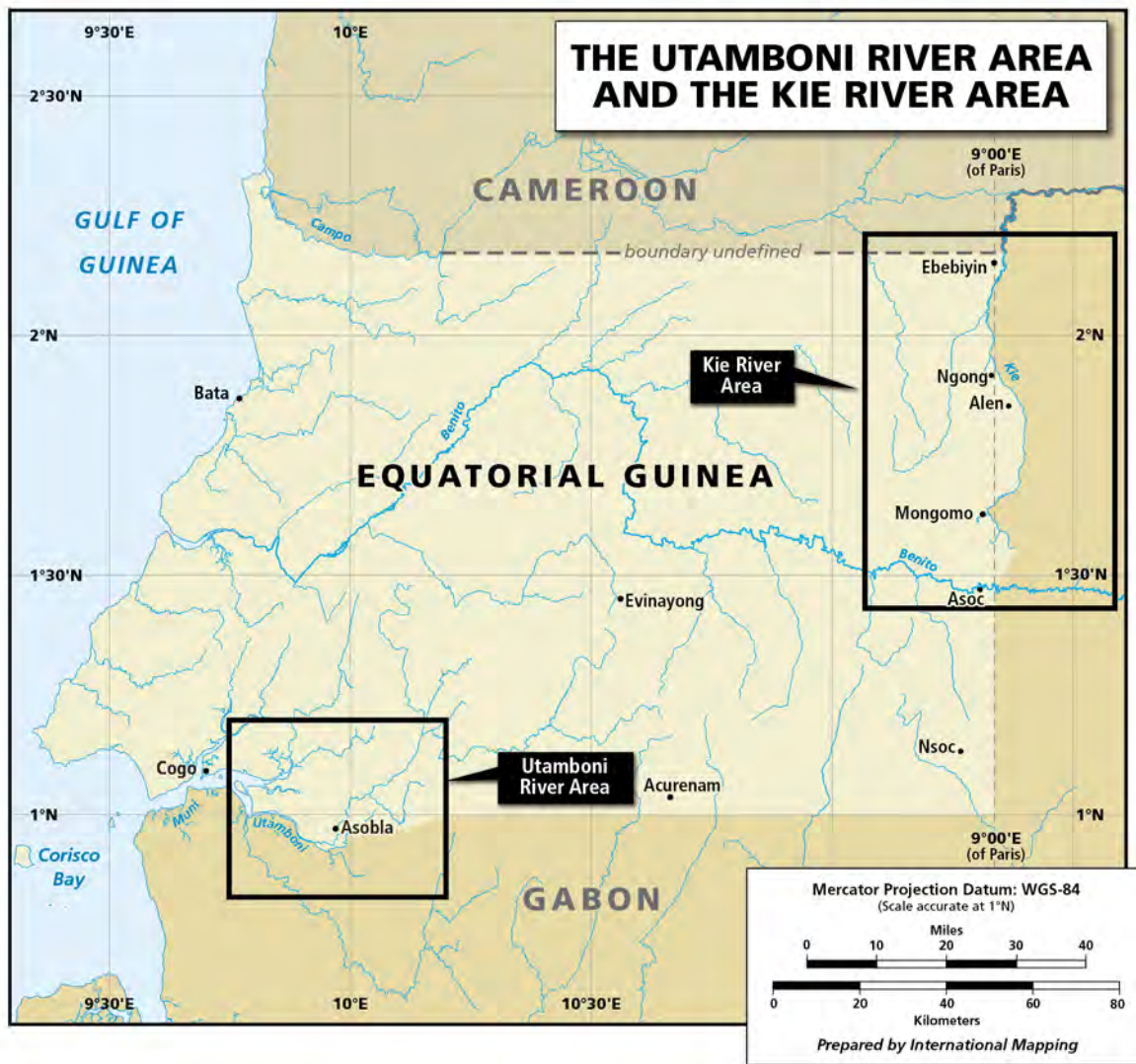


Figure 2.6



Figure 2.7

2.15 The Kie River Area is centred on the north-flowing Kie River in the north-eastern region of Rio Muni/north-western region of Gabon and is depicted at **Figure 2.8** (following page 16). The Kie, a tributary of the Ntem or Campo River in Cameroon, rises southeast of the city of Mongomo. The Kie flows north between Equatorial Guinea and Gabon before crossing the undefined boundary between Equatorial Guinea and Cameroon. North of this boundary, the Kie forms the boundary between Cameroon and Gabon pursuant to the 1908 French-German Treaty, which adopted natural features in place of the rectilinear boundaries described in the 1885 French-German Protocol. From its source to the Cameroon boundary, the Kie River crosses the meridian 9 degrees East of Paris at least four times.

2.16 As detailed in Chapter 3, there have long been a number of Spanish and Equatoguinean towns and villages along the western bank of the Kie River. The most important of these are Ebebiyin (currently the capital city of Kie-Ntem Province), Alen and Mongomo (currently capital city of Wele-Nzas Province). Since Spain began to develop them in the early 20th Century, Ebebiyin and Mongomo have grown from small villages, and later Spanish military posts, into major Equatorial Guinean cities bounded on the east by the Kie River. The nearest large Gabonese populations centres, Bitam and Oyem (currently the capital city of Gabon's Wele-Ntem Province) are some 20 to 25 kilometres east of the Kie.

[page intentionally left blank]



Figure 2.8

CHAPTER 3

THE COLONIAL HISTORY AND THE LEGAL TITLES ACQUIRED BY SPAIN AND FRANCE

3.1 This Chapter describes the history of Spain and France’s acquisition of territorial sovereignty, respectively, over the territories that today make up Equatorial Guinea and Gabon, including the continental territories of both States and Spain’s acquisition and exercise of sovereignty over the islands of Corisco Bay. It sets out the history of the region before 1900 (A); the 1900 Convention (B); and the territorial relationship between Spain and France, up to Gabon’s independence in 1960, and between Spain and Gabon from 1960 to Equatorial Guinea’s independence in 1968 (C).

I. The Period Before the 1900 Convention

3.2 Spain’s Legal Titles to the territory that is now Equatorial Guinea have their origins in the Treaty of El Pardo of 24 March 1778 (the “1778 Treaty”).²³ Portugal—in exchange for the island of Santa Catalina and the colony of Sacramento (both in South America)—ceded to Spain the islands of Fernando Póo (present day Bioko) and Annobón.²⁴ Portugal also ceded to Spain the right to engage in commerce in the Gulf of Guinea from Cape Formozo (situated at the mouth of the Niger River) to Cape López (south of the Gabon River). **Figure 3.1** (following page 18) is a contemporaneous map of the geography covered by the 1778 Treaty. Shortly after signing the 1778 Treaty, Spain took possession of

²³ Kingdom of Spain, *Negotiations with France to Sign a Border Treaty Between the Spanish and French Possessions on the West Coast of Africa, 1899-1900* No. 2 Report by the Political Section in Regard to the Foregoing Royal Order (22 November 1899), p. 5. MEG, Vol. IV, Annex 53.

²⁴ *Treaty of Amity, Guarantee, and Commerce between Portugal and Spain, Signed at El Pardo* (11 March 1778), Art. 13. MEG, Vol. III, Annex 1.

Fernando Pó and Annobon. It later took possession of the islands in Corisco Bay, where it established trading posts to engage in trade along the rivers flowing into Corisco Bay (the Muni River and the Mondah River) and along the Gabon River.²⁵ These islands included the Elobey Islands as well as Corisco and its dependencies, such as Mbañe. Spain also took possession of a short section of the mainland coast from south of the mouth of the Muni River to a point north of Cape San Juan.

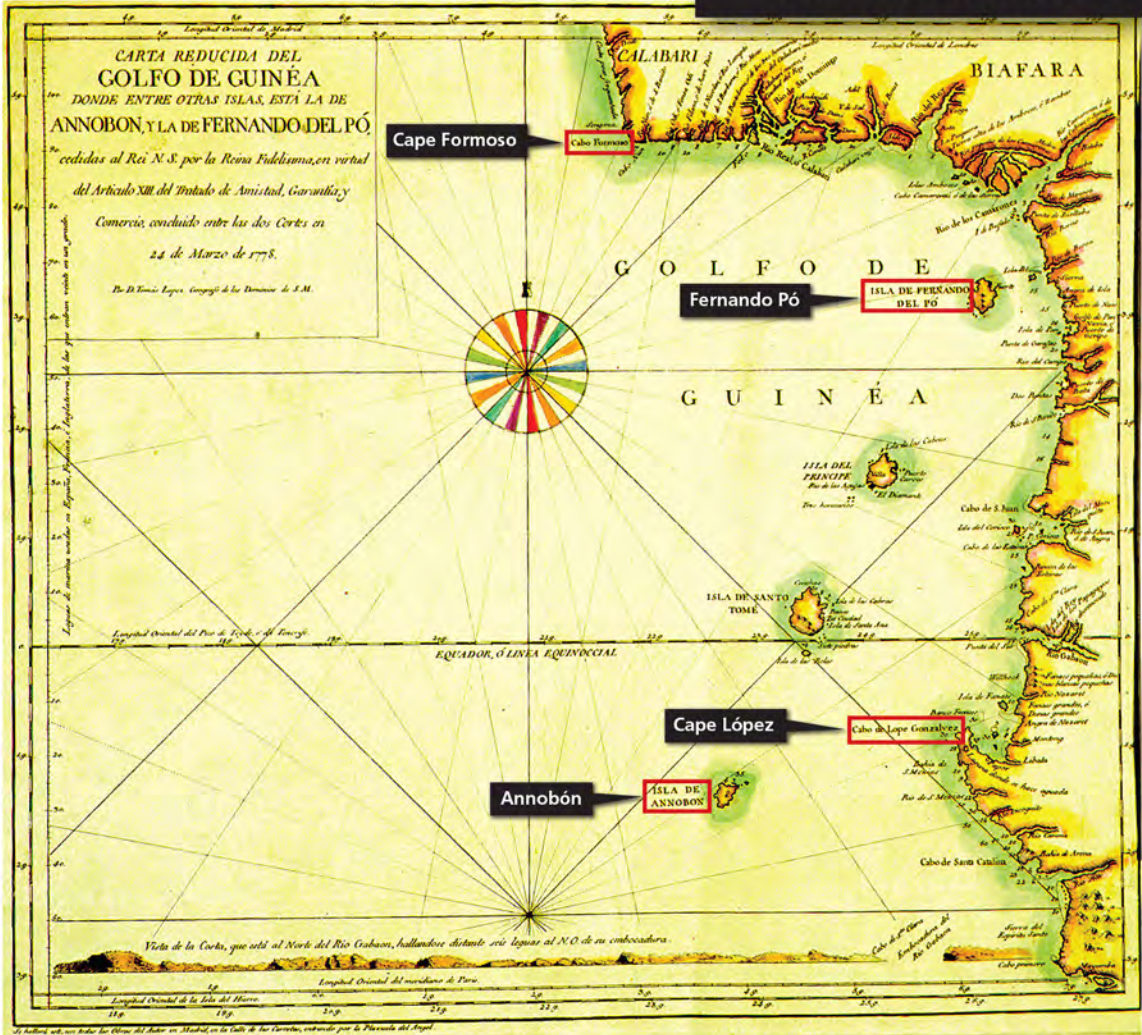
3.3 Historical references to Spain's title to the Corisco Dependencies begin in the 1840s. In 1841, an English warship destroyed a Spanish commercial installation on Corisco Island. Spain sent a naval expedition to Corisco in 1843 to reassert its sovereign control. The leader of that expedition, Captain Juan José de Lerena, issued a Declaration of Spanish Sovereignty for Corisco Island on 16 March 1843 ("Declaration of Corisco"), which stated in pertinent part that:

"Spaniards have been established on the island of Corisco for many years without any nation disputing their possession and rights, ... [and t]he entire population has shown its loyalty to Spain, proclaiming Queen Isabel as their ruler, ...

I DECLARE to Commanders of any nation's warships that may come to this island of Corisco: that; for the circumstances described and in the name of the Regent of the Kingdom ..., I declare it a Spanish island, an integral part of the monarchy. The display of any other nation's flag on her is prohibited. All her inhabitants and any foreigners who trade on her are subject and bound by the current laws governing the Spanish colonies and

²⁵ Kingdom of Spain, *Negotiations with France to Sign a Border Treaty Between the Spanish and French Possessions on the West Coast of Africa, 1899-1900* No. 2 Report by the Political Section in Regard to the Foregoing Royal Order (22 November 1899), pp. 5-6. MEG, Vol. IV, Annex 53.

THE GEOGRAPHY OF THE 1778 TREATY



SOURCE: D. Tomas Lopez, Geographer of His Majesty's Domains, Spain, Gulf of Guinea (1778). Annotations added.

Figure 3.1

those that the Kingdom's Parliament may enact in the future.”²⁶

3.4 The next day, as part of its colonial administration of Corisco and its dependencies, Spain named King Baldomero Boncoro as Pilot of Corisco Bay and Chief of the Southern Point of Corisco Island.²⁷

3.5 On 18 February 1846, Boncoro's successor, King I. Orejeck (Boncoro II) of Corisco Island, Elobey and their dependencies, signed a document called a “Record of Annexation” with the Inspector General of the Spanish Possessions in the Gulf of Guinea.²⁸ In that document, King I. Orejeck recognized that “the Island of Corisco, Elobey and their current dependencies are Spanish”, and he pledged obedience to the laws of Spain.²⁹ Pursuant to that document and the earlier Declaration of Corisco, the Spanish Inspector General issued a “Letter of Spanish Citizenship given to the inhabitants of Corisco”, affirming that Corisco “*and its dependencies*, among which is the islet of Elobey, are Spanish”, and that “the inhabitants of Corisco *and dependencies* enjoy the same protection as Spanish residents of the motherland”.³⁰

3.6 Spain's claim of Legal Title to the Island of Corisco and its dependencies was further asserted in a declaration of Spanish sovereign

²⁶ Kingdom of Spain, Royal Commissioner for the Islands Fernando Póo, Annobón and Corisco on the Coast of Africa, *Declaration of Corisco* (16 March 1843). MEG, Vol. V, Annex 110.

²⁷ Kingdom of Spain, *Original Documents on the Annexation to Spain of Corisco, Elobey and their Dependencies* (17 March 1843), p. 2. MEG, Vol. V, Annex 111.

²⁸ Kingdom of Spain, Ministry of State, *Record of Annexation* (18 February 1846). MEG, Vol. V, Annex 112.

²⁹ *Ibid.*, p. 2.

³⁰ Kingdom of Spain, Ministry of State, *Letter of Spanish Citizenship Given to the Inhabitants of Corisco, Elobey and their Dependencies* (18 February 1846), pp. 2-3 (emphasis added). MEG, Vol. IV, Annex 47.

possession signed on 21 July 1858 by Carlos Chacón, Governor General of the Islands of Fernando Poo, Annobon, Corisco and dependencies, during his expedition to Corisco.³¹ No European State challenged Spain's sovereignty.

3.7 By the late 1800s, the stretch of West African coast referred to in the 1778 Treaty between Spain and Portugal was occupied not only by Spain but also by Germany to the north and France to the south.³² As of 1884, all three colonial powers—Spain, France and Germany—maintained posts along parts of the coast between the German-held areas north of the Campo (Ntem) River and French-held areas south of Corisco Bay.

3.8 In 1885, Germany entered into a border treaty with France, ceding to France its possessions south of the line from the Atlantic coast formed by “the Campo river to the 10th meridian, and thence from the point of intersection, the parallel of latitude to the 15th meridian.”³³ The area south of German territory was also claimed by Spain.³⁴

3.9 The same year, France and Spain appointed a mixed commission to resolve the countries' competing territorial claims in West Africa. The mixed

³¹ The Spanish State, Ministry of State, *Letter Reaffirming Spanish Possession of the Island of Corisco* (21 July 1858). MEG, Vol. IV, Annex 48.

³² Kingdom of Spain, *Negotiations with France to Sign a Border Treaty Between the Spanish and French Possessions on the West Coast of Africa, 1899-1900* No. 2 Report by the Political Section in Regard to the Foregoing Royal Order (22 November 1899), p. 5. MEG, Vol. IV, Annex 53.

³³ US Department of State, *International Boundary Study No. 115, Cameroon – Gabon Boundary* (24 September 1971), p. 4. MEG, Vol. VI, Annex 158, *citing* Protocol relating to the German and French Possessions on the West African Coast. Signed at Berlin, December 24, 1885 [Ratifications exchanged at Berlin, July 28, 1886]. Edward Hertslet, *The Map of Africa by Treaty*, 3 vols. 3rd Edition (London: Harrison and Sons, 1909) (Vol. 2, p. 653-4).

³⁴ Kingdom of Spain, *Negotiations with France to Sign a Border Treaty Between the Spanish and French Possessions on the West Coast of Africa, 1899-1900* No. 2 Report by the Political Section in Regard to the Foregoing Royal Order (22 November 1899), pp. 7-8. MEG, Vol. IV, Annex 53.

commission met between 1886 and 1891. Its negotiations were referred to as the “Conference on the Delimitation in West Africa” (the “Conference”).

3.10 At the time of the Conference, Spain had claimed title to the African coast from the Campo (Ntem) River in the north to Cape Santa Clara in the south. From that coast Spain’s territorial claim extended inland to the meridian that ran 17° East of Greenwich. Spain claimed as the northern limit of its territory the limit with German territory, and as the southern limit “the dividing line between the waters of the Munda and the Gabon [rivers],”³⁵ thus creating a substantial area of overlapping claims between Spain and France. The territorial situation among Spain, France and Germany after 1885 can be seen on **Figure 3.2** (following page 22).

3.11 There was no dispute, however, in regard to Corisco Island or any of the islands or islets of Corisco Bay. France acknowledged that Spain had title to Corisco and its dependencies. At the Conference meeting on 17 December 1886, the French delegation presented a memorandum in response to arguments Spain made at prior meetings regarding the extent of the territories it acquired by virtue of Spain’s annexation of Corisco. In addressing the meaning of “dependencies of Corisco”, the French memorandum stated that “[t]he geographical dependencies of Corisco are: Laval [Leva] and the one called Baynia [Mbañe]”.³⁶ The following year, at another Conference meeting on

³⁵ *Ibid.*, p. 5.

³⁶ French-Spanish Commission, Conference on the Delimitation in West Africa, Archives of the French Ministry of Foreign Affairs, *Annex to Protocol No. 17* (24 December 1886), p. 2 (“Les dépendances géographiques de Corisco sont: Laval y celle nommée Baynia.”). MEG, Vol. III, Annex 11.

26 December 1887, the head of the French delegation, referring to Spain's 1843 Declaration of Corisco, stated:

“In effect, the [A]ct of 1843 is the one to which Spain owes the annexation of Corisco and of its natural dependencies, the islets of Laval [Leva] and Baynia [Mbañe], included in the zone of the territorial waters of that island.”³⁷

3.12 The mixed commission concluded its work at the final Conference meeting in July 1891, without resolving Spain and France's conflicting claims to the continental territory north of the Muni River.³⁸

3.13 Talks to resolve this dispute resumed in 1900. In the interim, additional documents and correspondence between Spain and France during the 1890s confirmed their shared understanding that Spain had Legal Title to Corisco Island, and to Mbañe as a dependency of Corisco. Spain received reports in November 1895 that France might be planning to occupy Mbañe. In response, the Spanish Governor General of Fernando Poo wrote to the Minister of Overseas Possessions in Madrid that Spain would be within its full rights to object to any French occupation of Mbañe based on Spain's “possession since time immemorial”. He also expressed the understanding that Mbañe did not fall within

³⁷ French-Spanish Commission, Conference on the Delimitation in West Africa, Archives of the French Ministry of Foreign Affairs, *Protocol No. 30* (16 September 1887), p. 13 (“En effet, l'acte de 1843 est celui auquel l'Espagne doit l'annexion de Corisco et de ses dépendances naturelles, les îlots Laval et Baynia, compris dans la zone des eaux territoriales de cette île.”). MEG, Vol. III, Annex 3.

³⁸ Kingdom of Spain, *Negotiations with France to Sign a Border Treaty Between the Spanish and French Possessions on the West Coast of Africa, 1899-1900* No. 2 Report by the Political Section in Regard to the Foregoing Royal Order (22 November 1899), p. 11. MEG, Vol. IV, Annex 53. There is no indication that any member of the mixed commission ever visited the territory of Guinea they were discussing or had any detailed knowledge of local circumstances.

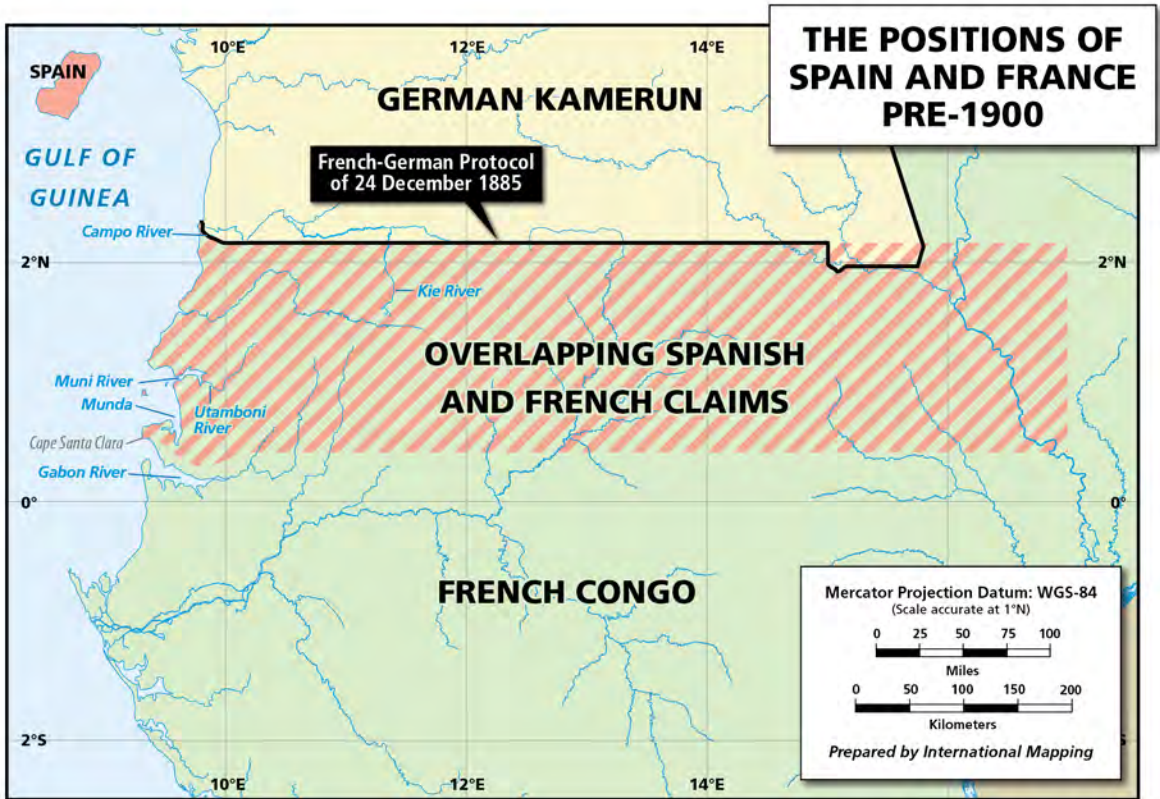


Figure 3.2

the territories in dispute between France and Spain.³⁹ The Spanish Governor General then travelled to the area to prevent the French from “setting foot” on Mbañe, and to defend Spain’s title to that island.⁴⁰

3.14 The Spanish Governor General also sent a letter to the General Commissar of the French Congo protesting certain French actions in Corisco Bay. With regard to Mbañe, the Governor General wrote:

“Furthermore, the fishermen from Corisco have brought to my attention that, upon traveling to the Embagna [Mbañe] Islet, located 6 miles southeast of Corisco Island, to conduct their fishing activity, they were ordered to leave by a French agent because France intends to establish a new post at that location. Since *Corisco belongs to Spain, Embagna [Mbañe] is a dependency attached thereto*. And while it cannot be conclusively established that the inhabitants of Corisco have a permanent residence in that area, *there is no question that the use they have been making of it since time immemorial amounts to a right of possession. And this is a right that Spain cannot relinquish, let alone acquiesce to its being supplanted by a French agent’s occupation, which would constitute a violation of the status quo.*”⁴¹

3.15 Significantly, the French General Commissar did not refute or contest the Spanish Governor General’s assertions of Spanish title to Mbañe. Rather, in his response of 4 February 1896, he simply denied the reports of a planned French occupation, stating that “[t]he information that [your letter]

³⁹ Kingdom of Spain, *Letter No. 367 from the Governor-General of Fernando Póo to the Minister of Overseas Possessions* (2[1] November 1895), p. 3. MEG, Vol. IV, Annex 49.

⁴⁰ Kingdom of Spain, Ministry of Overseas, *Visit from the Governor-General of Elobey* (1897). MEG, Vol. IV, Annex 52.

⁴¹ *Letter No. 368 from the Spanish Governor-General of Fernando Póo to the General Commissioner of the French Congo* (22 November 1895), pp. 1-2. MEG, Vol. IV, Annex 50.

mentions regarding establishing a post on an islet located 6 miles to the SE of Corisco is unfounded.”⁴²

3.16 Contemporaneous French source maps from that period further corroborate the colonial powers’ shared understanding that Mbañe belonged to Spain.⁴³ A map from the “*Atlas des Colonies Françaises*” of 1899, the relevant portion of which is depicted in **Figure 3.3** (following this page), indicates that Corisco and “Baynia [Mbañe]” are Spanish territories with the notation “(E)” for “Espagne”.⁴⁴ Another French map from 1900 identifies both the Island of Corisco and the Bay of Corisco together as a single unit belonging to Spain.⁴⁵

3.17 Thus, in the period before the Spanish-French 1900 Convention, both Spain and France recognized Spain’s Legal Title to the dependencies of Corisco by Spain’s effective occupation and possession “since time immemorial”. Both States acknowledged that the islet of Mbañe was a dependency of Corisco. The only disputed title between Spain and France was in regard to continental territory, not any of the islands.

⁴² *Letter No. 203 from the Commissioner-General of the Colonial Administration of the French Republic to the Governor-General of Fernando Póo and Dependencies of the Kingdom of Spain* (4 February 1896), p. 1 (“Les informations qu’elle mentionne au sujet de l’établissement d’un poste sur un îlot situé à 6 milles au S.E. de Corisco sont dénuées de fondement.”). MEG, Vol. IV, Annex 51.

⁴³ *Frontier Dispute (Burkina Faso/Mali), Judgment, I.C.J. Reports 1986*, p. 554, para. 56 (describing maps as providing “evidence of an auxiliary or confirmatory kind”).

⁴⁴ Figure 3.3 (Atlas of French Colonies, *Map of the Congo* (1899)).

⁴⁵ Atlas Larousse, French Colonies of Africa, 1900. MEG, Vol. II, Annex M1.



SOURCE: Atlas of French Colonies, *Map of the Congo* (1899).
Map excerpt, annotations added.

Figure 3.3

II. The 1900 Convention and the Legal Titles Recognized During the Remainder of the Colonial Period

3.18 In November 1899, Spain proposed to renew negotiations with France regarding the two States' African territories. France accepted the proposal in March 1900.⁴⁶

3.19 Three months later, on 27 June 1900, Spanish and French representatives signed the 1900 Convention, which entered into force on 27 March 1901.⁴⁷ The 1900 Convention acknowledged Spain's long-standing title to Corisco Island and the Elobey Islands.⁴⁸ It did not specifically mention the Corisco Dependencies, but like Spain's islands of Fernando Poo, Annobon and Corisco, their legal situation did not change with the signing of the 1900 Convention. By their subsequent conduct, Spain and France continued to manifest their understanding that Spain's title to Corisco Island included sovereignty over these dependencies. In regard to continental territory, the 1900 Convention settled the dispute between the two colonial powers on the West

⁴⁶ See Kingdom of Spain, *Negotiations with France to Sign a Border Treaty Between the Spanish and French Possessions on the West Coast of Africa, 1899-1900* No. 2 Report by the Political Section in Regard to the Foregoing Royal Order (22 November 1899), pp. 14-15, Ambassador of France to the President of Council of Ministers, 24 January 1900. MEG, Vol. IV, Annex 53; Kingdom of Spain, *Negotiations with France to Sign a Border Treaty Between the Spanish and French Possessions on the West Coast of Africa, 1899-1900* No. 2 Report by the Political Section in Regard to the Foregoing Royal Order (22 November 1899), pp. 15-16, President of Council of Ministers to Ambassador of France, 29 January 1900. MEG, Vol. IV, Annex 53. The two States agreed for the negotiations to take place in Paris. Kingdom of Spain, *Negotiations with France to Sign a Border Treaty Between the Spanish and French Possessions on the West Coast of Africa, 1899-1900* No. 2 Report by the Political Section in Regard to the Foregoing Royal Order (22 November 1899), p. 17, Ambassador of France to the President of Council of Ministers, 2 February 1900. MEG, Vol. IV, Annex 53.

⁴⁷ *Special Convention on the Delimitation of Spanish and French Possessions in Western Africa on Coasts of the Sahara and the Gulf of Guinea, between the Kingdom of Spain and The French Republic* (signed. 27 June 1900, ratified 27 March 1901). MEG, Vol. III, Annex 4.

⁴⁸ *Ibid.*, art. 7.

Coast of Africa by providing for the delimitation of their common land boundary, as discussed in more detail in Subsection 2 below. Article 4 of the Convention described the course of the land boundary between the Spanish territory of Río Muni and French Congo, as running along the thalweg of the Muni and Utamboni Rivers near the coast and then along the line of latitude 1 degree North (hereafter “1° North parallel”) until turning north to follow the line of longitude 9 degrees East of Paris (hereafter “9° East of Paris meridian”) to the boundary with German Kameroun. The 1900 Convention, in Article 8 and Annex 1, provided that the exact boundary would be demarcated by the two States’ commissioners or local delegates, authorizing them to modify the boundary to take into account natural features and human settlements.

A. REFERENCES TO THE CORISCO DEPENDENCIES IN THE HISTORICAL RECORD FROM 1900 TO 1960

3.20 While the Corisco Dependencies are very small features, they appear with relative frequency in the historical record after 1900. The former Royal Commissioner of the Spanish Possessions in West Africa visited Corisco Bay and reported that in 1907 the island of Mbañe was “inhabited by a family whose head of household is deputized with our authority.”⁴⁹

3.21 In 1908, letters and cables were exchanged among the Spanish Minister of State in Madrid, the Governor General of Spanish Guinea, and the Sub-Governor of Elobey and its dependencies, regarding the Corisco Dependencies. The Minister of State requested that local authorities in Spanish Guinea look into the veracity of rumours of a possible French occupation of

⁴⁹ D. Saavedra y Magdalena, *SPAIN IN WEST AFRICA (RIO DE ORO AND GUINEA)* (1910), p. 4. MEG, Vol. VII, Annex 222.

Mbañe. Both the Governor and Sub-Governor concluded that the rumours were not true and that Spanish sovereignty was “incontestable”.⁵⁰ Out of an abundance of caution, however, the Spanish Governor ordered the Sub-Governor to station Spanish guards on Mbañe and Leva:

“with regard to the islets of Mbañe and Leva, over which our sovereignty is indisputable ... proceed immediately to ensure that they be occupied and our glorious flag be raised upon them, for which purpose I send you with this steamer eight guards that will be based at the post on Corisco, to give service in the occupation of said islets, with a pair or sentinel of the eight individuals continuously stationed on each one, and the pairs will be relieved weekly.”⁵¹

3.22 In 1911, a Spanish official visited Corisco Island and other Spanish territories in Corisco Bay. The General Government of Fernando Póo and its Dependencies reported to the Minister of State that Spain continuously deployed officials on the Corisco Dependencies, writing:

“To the southeast of the island [Corisco] you can see the small islands of Bahia [Mbañe] where two people in charge of raising the Spanish flag in those locations live. They rotate constantly and they receive a small salary provided by the Subgovernor.”⁵²

⁵⁰ *Letter from the Sub-Governor of Elobey to the Governor of Spanish Territories of the Gulf of Guinea* (19 May 1908). MEG, Vol. IV, Annex 60; *Letter of the Minister of State of the Kingdom of Spain* (18 May 1908). MEG, Vol. IV, Annex 59.

⁵¹ *Letter of the Minister of State of the Kingdom of Spain* (18 May 1908), p. 2. MEG, Vol. IV, Annex 59.

⁵² *Report from Spanish Official of the Kingdom of Spain to the Minister of State* (18 November 1911), p. 46. MEG, Vol. IV, Annex 61.

3.23 This continuing deployment of Spanish officials on the Corisco Dependencies was also reported by the former Governor General of Spain's continental African territories: in his 1912 book he wrote that Mbañe was occupied "by an encampment of the Colonial Guard, the purpose of which is to exercise our sovereignty over it".⁵³

3.24 No further incidents regarding Mbañe or the other Corisco Dependencies appear in the historical record until December 1942, when the vessel *Pierre Loti* sank near Mbañe. In a June 1943 communication describing the possibility of raising the ship, a British official in Libreville recognized that the shipwreck was located adjacent to Spanish territory:

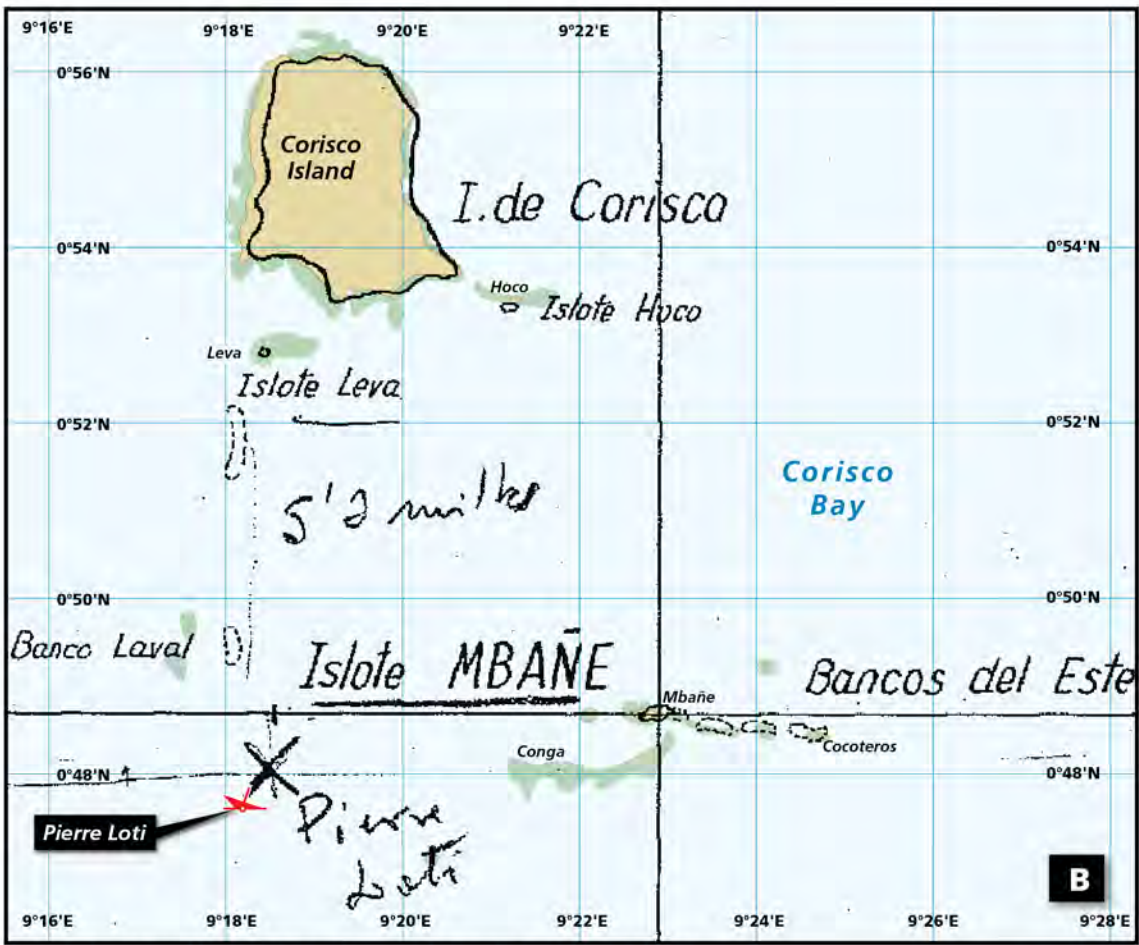
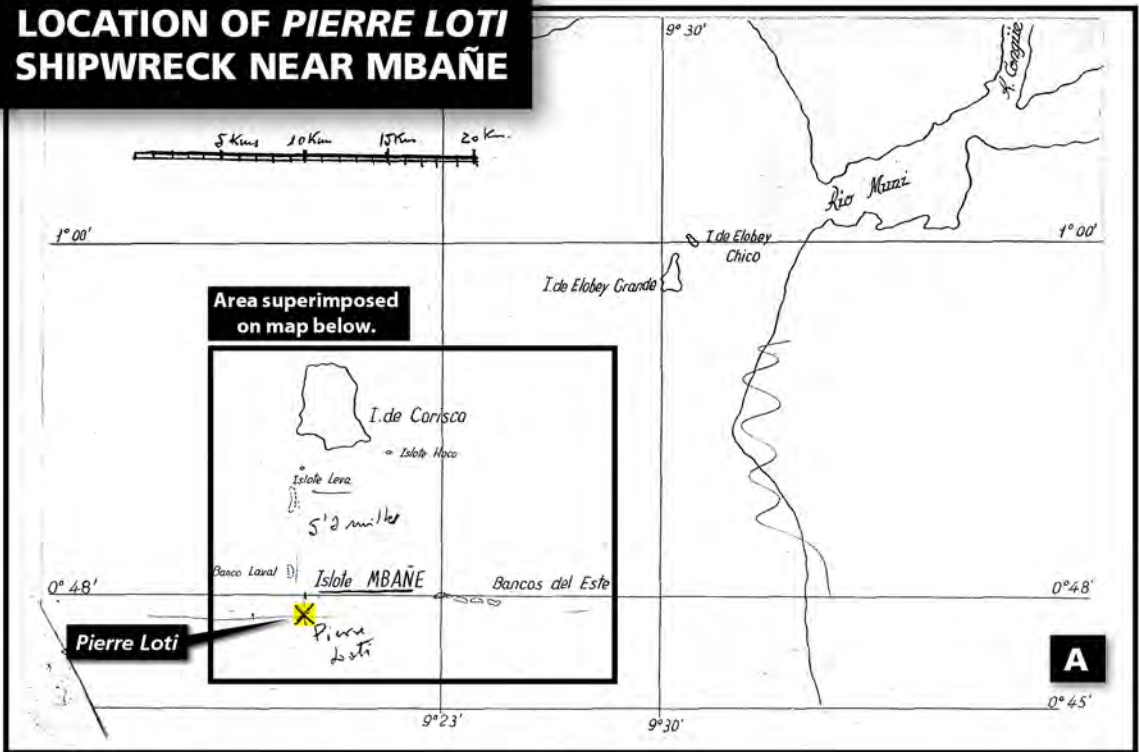
"The opinion of the people on the spot (Mackenzie and Binge) at Libreville, backed up by the opinion given by various 'Empire' tug masters who have recently visited the ship, and who have had considerable salvage experience, is that there is no possibility of getting the ship off, and that it is inadvisable to risk other vessels standing by in those waters which are adjacent to a Spanish colony."⁵⁴

3.25 In a communication dated 4 September 1954, the Spanish Ministry of the Navy concluded that the *Pierre Loti* was in Spanish waters, and attached a sketch map of the location of the vessel, in close proximity to Mbañe. **Figure 3.4** (following this page) shows this sketch map in Panel A and then shows in Panel B the image of the sketch maps superimposed on a geographically

⁵³ L. Ramos-Izquierdo y Vivar, GEOGRAPHICAL DESCRIPTION AND GOVERNMENT, ADMINISTRATION AND COLONIZATION OF THE SPANISH COLONIES OF THE GULF OF GUINEA (1912), p. 3. MEG, Vol. VII, Annex 223.

⁵⁴ The United Kingdom, Ministry of War Transport, *Report on Libreville and Port Gentil* (22 June 1943), p. 6. MEG, Vol. IV, Annex 80.

LOCATION OF PIERRE LOTI SHIPWRECK NEAR MBAÑE



SOURCE: Kingdom of Spain, Telegram No. 1001-2 from the Ministry of the Navy to the General Directorate of Morocco and Colonies (4 September 1954).

Figure 3.4

accurate rendition of this area of Corisco Bay.⁵⁵ The wreck of *Pierre Loti* has remained in place and has appeared on nautical charts ever since.

3.26 The next reference to the Corisco Dependencies in the historical record regards the construction of a beacon on Cocoteros in 1955. In 1953, the French Government requested permission from Spain to allow a French hydrographic ship named *Beautemps-Beaupré* to visit Spanish territory as part of its technical survey of Corisco Bay.⁵⁶ In 1954, Spain granted the French ship permission to place buoys and beacons in Spanish territory, provided that they were temporary and that the French gave prior notification to Spanish authorities.⁵⁷

3.27 On 17 February 1955, the Spanish Governor General wrote to the Director General of Morocco and Colonies in Madrid about a communication he received from the Spanish Sub-Governor of the Continental District.⁵⁸ The Governor General indicated that local civilians had reported that construction work was being carried out on Cocoteros.⁵⁹ The Governor General dispatched the Colonial Coast Guard to investigate.⁶⁰

⁵⁵ The Spanish State, *Telegram No. 1001-2 from the Ministry of the Navy to the General Directorate of Morocco and Colonies* (4 September 1954). MEG, Vol. IV, Annex 82.

⁵⁶ *Letter No. 223 from the Embassy of the Republic of France to the Spanish State to the Spanish Ministry of Foreign Affairs* (7 May 1953). MEG, Vol. IV, Annex 79.

⁵⁷ The Spanish State, *Letter No. 87 from the Ministry of Foreign Affairs to the Department of Morocco and Colonies* (24 February 1954). MEG, Vol. IV, Annex 81; *Letter from the Governor-General of the Spanish Territories of the Gulf of Guinea to the High Commissioner for French Equatorial Africa* (22 March 1955), para. 1. MEG, Vol. IV, Annex 93.

⁵⁸ The Spanish State, *Letter No. 20-R from the Governor General of Santa Isabel to the General Directorate of Morocco and Colonies* (17 February 1955). MEG, Vol. IV, Annex 83.

⁵⁹ *Ibid.*

⁶⁰ *Ibid.*

3.28 The Spanish Colonial Guard investigated and found that a group of 11 people under authority of officials in French Congo were building a navigation beacon on Cocoteros.⁶¹ The Spanish Governor General then informed officials in Madrid that the French had not received permission to construct the beacon as part of the authorizations given to *Beautemps-Beaupré* in 1954. In a telegram dated 19 February 1955 to the Director General of Morocco and Colonies in Madrid, the Spanish Governor General wrote:

“because it is deemed that work is being performed within Spanish jurisdiction, I am ordering that the Puerto Iradier⁶² Administrator meet with the French Coco-Beach⁶³ Administrator to demand clarification on why timely authorization was not requested.”⁶⁴

3.29 In a subsequent letter dated 22 February 1955, the Spanish Governor General informed the Director General in Madrid that the Spanish Territorial Administrator had, as ordered, met with the French Head of the District in Coco-Beach to discuss the matter. According to the Governor General’s letter, the French District Head indicated that he was not aware of the construction because it was being carried out by Naval authorities in Brazzaville.⁶⁵ In a 26 February 1955 coded telegram, the Spanish Director

⁶¹ *Ibid.*

⁶² Currently known as Cogo, Puerto Iradier was a port town on the Muni estuary in Rio Muni from which the Spanish colonial administration would operate.

⁶³ Cocobeach is a town in north-western Gabon on the south bank of the mouth of the Muni River, and was also the name of an administrative district during French colonial rule.

⁶⁴ The Spanish State, *Telegram No. 3 from the Governor of Spanish Territories of the Gulf of Guinea to the General Directorate of Morocco and Colonies* (19 February 1955), p. 2. MEG, Vol. IV, Annex 84.

⁶⁵ The Spanish State, *Letter from the Governor of Spanish Territories of the Gulf of Guinea to the General Directorate of Morocco and Colonies* (22 February 1955). MEG, Vol. IV, Annex 85.

General of Morocco and Colonies authorized the dispatch of Spanish forces to Mbañe.⁶⁶ On 28 February, a Spanish gun ship named *Canovas del Castillo* landed Spanish Colonial Guard forces on Mbañe, “without incident”.⁶⁷

3.30 Subsequently, on 8 March 1955, the Director General of Morocco and Colonies ordered the Spanish Governor General to take action to suspend the French construction of the beacon on Cocoteros.⁶⁸ Spain decided upon this course of action because the work appeared to exceed the prior authorization that had been given to the French, and because ordering the suspension of the work would most clearly affirm Spain’s title to Mbañe and Cocoteros.⁶⁹ On 12 March, the Spanish Governor General reported that he had directed the French Territorial Administrator to suspend the work, and that the latter went to Cocoteros in person to inform the head of the French construction crew that the construction should be stopped and the island evacuated. The head of the construction crew informed the French Territorial Administrator that he had just received orders from his superiors that a French tugboat would arrive on 14 March to collect the workers and the material, so that they could carry out the evacuation.⁷⁰

⁶⁶ The Spanish State, *Telegram No. 8 from the Department of Morocco and Colonies to the Ministry of Foreign Affairs* (26 February 1955). MEG, Vol. IV, Annex 86.

⁶⁷ The Spanish State, *Telegram No. 6 from the Governor of Spanish Territories of the Gulf of Guinea to the General Directorate of Morocco and Colonies* (28 February 1955). MEG, Vol. IV, Annex 87.

⁶⁸ The Spanish State, *Telegram No. []11 from the General Directorate of Morocco and Colonies to the Governor of Spanish Territories of the Gulf of Guinea* (8 March 1955). MEG, Vol. IV, Annex 88.

⁶⁹ The Spanish State, *Memo No. 436 to the Department of Morocco and Colonies* (10 March 1955) (“the work suspension measure ... is considered to be the most convenient to strengthen the Spanish point of view regarding the statement of our sovereignty over the aforementioned Islet of Mbañe and the sandbanks to the East of the Islet”). MEG, Vol. IV, Annex 90.

⁷⁰ The Spanish State, *Telegram No. 7 from the Governor of Spanish Territories of the Gulf of Guinea to the Director-General of Morocco and Colonies* (12 March 1955). MEG, Vol. IV, Annex 91.

3.31 That same day, the High Commissar for French Equatorial Africa sent a letter to the Spanish Governor General indicating his understanding that the commander of the Spanish gun ship *Canovas del Castillo* had been informed of the work and raised no objection.⁷¹ Noting this understanding, the letter sought permission for the work to be allowed to continue.⁷² In response, the Spanish Governor General reaffirmed Spain's sovereignty over Mbañe and Cocoteros, stated that the work was halted for exceeding the original authorization, and indicated that Spain would be willing to have the beacon on Cocoteros finished under Spanish authority.⁷³ On 17 March 1955, the Spanish Territorial Administrator reported that the order to evacuate the French workers from Cocoteros had been carried out.⁷⁴

3.32 A letter from the French Minister of Foreign Affairs to the Minister of Overseas France, dated 6 May 1955, makes clear that France recognized Spain's title to the Corisco Dependencies, and that France had no competing claim. The memorandum acknowledges:

“that the ‘Cocotier’ must be considered as following the fate of Baynia Island, of which it is a geographical dependency ...

⁷¹ *Letter from the High Commissioner for French Equatorial Africa to the Governor-General of the Spanish Territories of the Gulf of Guinea* (14 March 1955). MEG, Vol. IV, Annex 92.

⁷² *Ibid.*

⁷³ *Letter from the Governor-General of the Spanish Territories of the Gulf of Guinea to the High Commissioner for French Equatorial Africa* (22 March 1955). MEG, Vol. IV, Annex 93.

⁷⁴ The Spanish State, *Letter from the Governor-General of the Spanish Territories of the Gulf of Guinea to the General Directorate of Morocco and Colonies* (17 March 1955). MEG, Vol. IV, Annex 89.

Over the past fifty years, Baynia Island was occupied by the Spanish on several occasions, without protest or alternate occupation by us.

Baynia [Mbañe] Island is located within the six nautical mile-limit forming the boundary of Spanish territorial waters. ... [and that] the situation of the islet within Corisco's territorial waters places [France] in a disadvantageous basic legal position."⁷⁵

3.33 Subsequent reports indicate that the beacon was eventually constructed on Cocoteros and used by the French hydrographic ship in its survey of the area in 1955, both with Spain's permission. Several navigational charts show the location of the beacon, or its ruins, on Cocoteros. A map of Corisco Bay that was published in 1960 by the French Hydrographic Service credits surveys conducted in 1955 and 1957 by engineers on the vessel *Beautemps-Beaupré*.⁷⁶ A 1958 article in a French hydrographic journal lists the coordinates for the beacon on Cocoteros and specifies that the islet is Spanish.⁷⁷

3.34 Spain's legislation regarding its territories further reflects its Legal Title to the Corisco Dependencies. A 1958 draft law on the reorganization of the Spanish territories provided that the province of Guinea "shall include the continental territory by the same name, the islands of Fernando Póo, Corisco,

⁷⁵ The French Republic, *Letter from the Minister of Foreign Affairs to the Minister of Overseas France* (6 May 1955), pp. 3-4 ("l'îlot 'Cocotier' doit être considéré comme suivant le sort de l'île Baynia dont il est une dépendance géographique ... Que l'île Baynia a été à plusieurs reprises, au cours des cinquantes dernières années occupée alternée de notre part. Que l'île Baynia se trouve située à l'intérieur des six milles marins formant la limite des eaux territoriales espagnoles. ... De plus la situation de l'îlot à l'intérieur des eaux territoriales de Corisco nous place dans une position juridique de base désavantageuse."). MEG, Vol. IV, Annex 94.

⁷⁶ French Naval Hydrographic Service, Chart 6183, 1960. MEG, Vol. 2, Annex M2.

⁷⁷ The French Republic, Navy Hydrographic Department, *Lights and Fog Signals, English Channel and Eastern Atlantic Ocean*, [No. 212] (12 April 1958), p. 9. MEG, Vol. V, Annex 132.

Elobey Grande, Elobey Chico, and Annobón, and the islet of Mbañe.”⁷⁸ In a later draft of that law, the text “islet of Mbañe” was replaced with a reference to “adjacent islets”.⁷⁹ Changing the text from “islet of Mbañe” to “adjacent islets” ensured the inclusion of Cocoteros and Conga along with Mbañe. The next year, on 12 March 1959, the Spanish Head of State issued a decree reorganizing the districts in Spanish Guinea. The district of Rio Benito included “the coastline of Continental Guinea from the mouth of the Tubana River to the southern border of the territory, as well as the islands of Corisco and the Elobeyes, with the adjacent islets”.⁸⁰ The reference to “adjacent islets” was understood by other States to include the Corisco Dependencies. The United Kingdom, for example, understood that the reference to “adjacent islets” in the later version of the draft law included Mbañe.⁸¹

3.35 On 15 June 1959, Spain issued a regulation offering blocks for the exploration and exploitation of hydrocarbon resources in Spanish territory, including the Gulf of Guinea. One of the blocks included “Elobey and Corisco and their jurisdictional waters.”⁸² In November of the same year, Spain issued

⁷⁸ The Spanish State, *Bill on Terms for Reorganization of the Spanish Territories of Guinea* (4 March 1958). MEG, Vol. V, Annex 131; The Spanish State, *File D 474 Secret Document from the General Directorate of Morocco and African Provinces to the Governor General of Santa Isabel* (7 June 1958). MEG, Vol. IV, Annex 95.

⁷⁹ The Spanish State, *Bill of Terms for Administration and Governance of the Provinces of Guinea* (22 June 1958), Term Four. MEG, Vol. V, Annex 133.

⁸⁰ The Spanish State, *Official Journal of the Navy, (No. 65), Decrees 72-73* (12 March 1959). MEG, Vol. V, Annex 134.

⁸¹ The United Kingdom, *Letter No. 10132/14 from the Ministry of Foreign Affairs to the British Embassy to The Spanish State* (4 August 1959), p. 1 (“the Province of Rio Muni will comprise the territories of continental Guinea and the islands of Corisco, Elobey Grande, Elobey Chico, and Mbañe”). MEG, Vol. IV, Annex 96.

⁸² The Spanish State, *Decree 977/1959, of June 12, Approving the Regulation for Application of the Law on the Legal Regime for the Exploration and Exploitation of Hydrocarbons* (12 June 1959), p. 26. MEG, Vol. V, Annex 135.

an oil and gas concession based on this regulation to the Spanish Gulf Oil Company and the Compañía Española de Petróleos, S.A.U (“CEPSA”).⁸³ A map produced by Spanish Gulf Oil Co. in 1960, seen at **Figure 3.5** (following page 36), shows Corisco, Mbañe, and Conga as Spanish islands, as well as what appears to be an equidistance line maritime boundary with Gabon drawn using those islands as Spanish base points.⁸⁴ Neither France, before 1960, nor Gabon after its independence, protested this concession.

B. THE HISTORICAL RECORD REGARDING LEGAL TITLE TO CONTINENTAL TERRITORY FOLLOWING THE 1900 CONVENTION

3.36 The 1900 Convention settled the Spanish and French claims to possessions along the West Coast of Africa by providing for the delimitation of neighbouring Spanish and French territories in both Saharan and sub-Saharan Africa. Of relevance to the dispute before the Court, Article 4 of the 1900 Convention described the course of the agreed boundary between the Spanish territory of Río Muni and neighbouring French territory. As described, the line started in the Bay of Corisco at the intersection of the thalweg of the Muni River with a straight line drawn from Cocobeach to Punta Diéké. From there, the boundary followed the thalweg of the Muni River to the east and then that of the Utamboni River up to the latter’s first intersection with the parallel of latitude running 1° North, which it then followed eastward to the meridian running 9° East of Paris. There the line turned north and followed the meridian 9° East of Paris to

⁸³ H. D. Hedberg, “Summary of Wildcat Drilling in 1959” *Petroleum Developments in Africa* (1959). MEG, Vol. VII, Annex 227.

⁸⁴ Figure 3.5 (Spanish Gulf Oil Co., *Map Showing the Zone of Interest Near the Boundary between Spanish Guinea and Gabon* (1961)). *Circular No. 142* from the Ministry of Foreign Affairs of the State of Spain to the Ambassadors of the Spanish State to the Republic of Equatorial Guinea, to The Gabonese Republic, to The Ethiopian Empire, The French Republic, and the Permanent Representative at the United Nations (19 September 1972). MEG, Vol. VI, Annex 163.

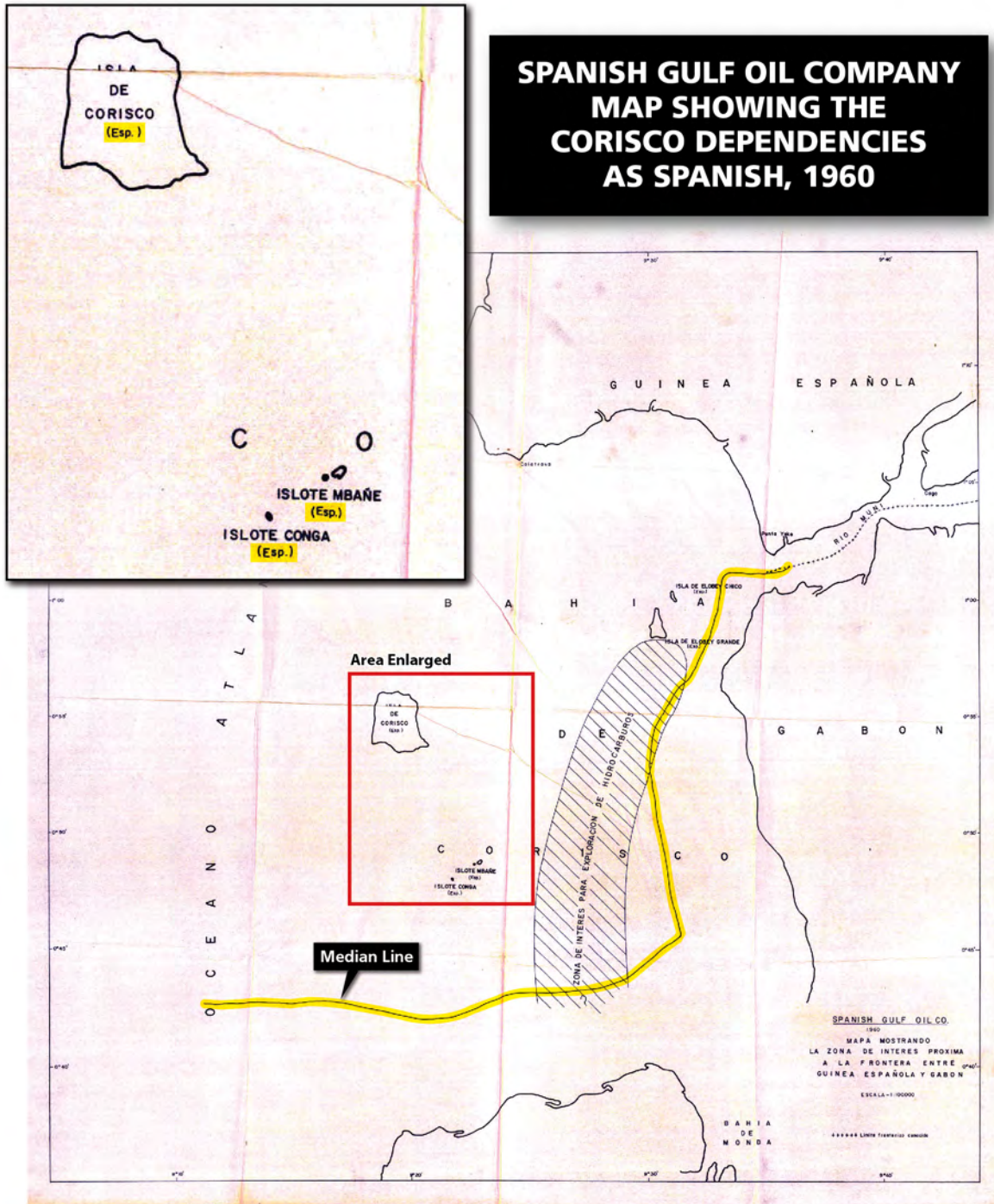
the southern boundary of the then German colony of Kamerun. The course of this boundary was depicted in Annex 3 to the 1900 Convention, which is reproduced below at **Figure 3.6** (following Figure 3.5).⁸⁵

3.37 At the time they executed the 1900 Convention, Spain and France had only a limited understanding of the geography of the area they were agreeing to divide between themselves. This lack of knowledge was reflected in the map at Annex 3 of the 1900 Convention at Figure 3.6. There is an absence of detailed information about the largely unexplored hinterland in the east. While the colonial powers were familiar with the courses of the Muni and Utamboni (“Outemboni” on the Annex 3 map) Rivers near the coast, they were less informed about the course and locations of rivers farther inland. For this reason, Annex 1 of the Convention recognized that the lines of demarcation on the maps annexed to the Convention were not “absolutely correct” and that further surveys in the field would be required:

“Although the lines of demarcation traced on the maps attached to this Convention (appendices numbers 2 and 3) are generally assumed to be accurate, these lines cannot be considered an absolutely correct representation until confirmed by new maps.”⁸⁶

⁸⁵ *Special Convention on the Delimitation of Spanish and French Possessions in Western Africa on Coasts of the Sahara and the Gulf of Guinea*, between the Kingdom of Spain and The French Republic (signed. 27 June 1900, ratified 27 March 1901), Art. 8 provides that “[t]he boundaries delimited by this Convention shall be recorded on the attached maps (appendices numbers 2 and 3) with the reservations made in appendix no. 1 to this Convention.” (“Les frontières déterminées par la présente Convention sont inscrites sous les réserves formulées dans l’annexe numéro 1 a la présente Convention, sur les cartes ci-jointes (annexes numéros 2 et 3).”). MEG, Vol. III, Annex 4. This is the only cartographic representation of the boundary described in Article 4 that is included in the 1900 Convention itself.

⁸⁶ *Special Convention on the Delimitation of Spanish and French Possessions in Western Africa on Coasts of the Sahara and the Gulf of Guinea*, between the Kingdom of Spain and The French Republic (signed. 27 June 1900, ratified 27 March 1901), Appendix 1 (“Bien que le tracé des lignes

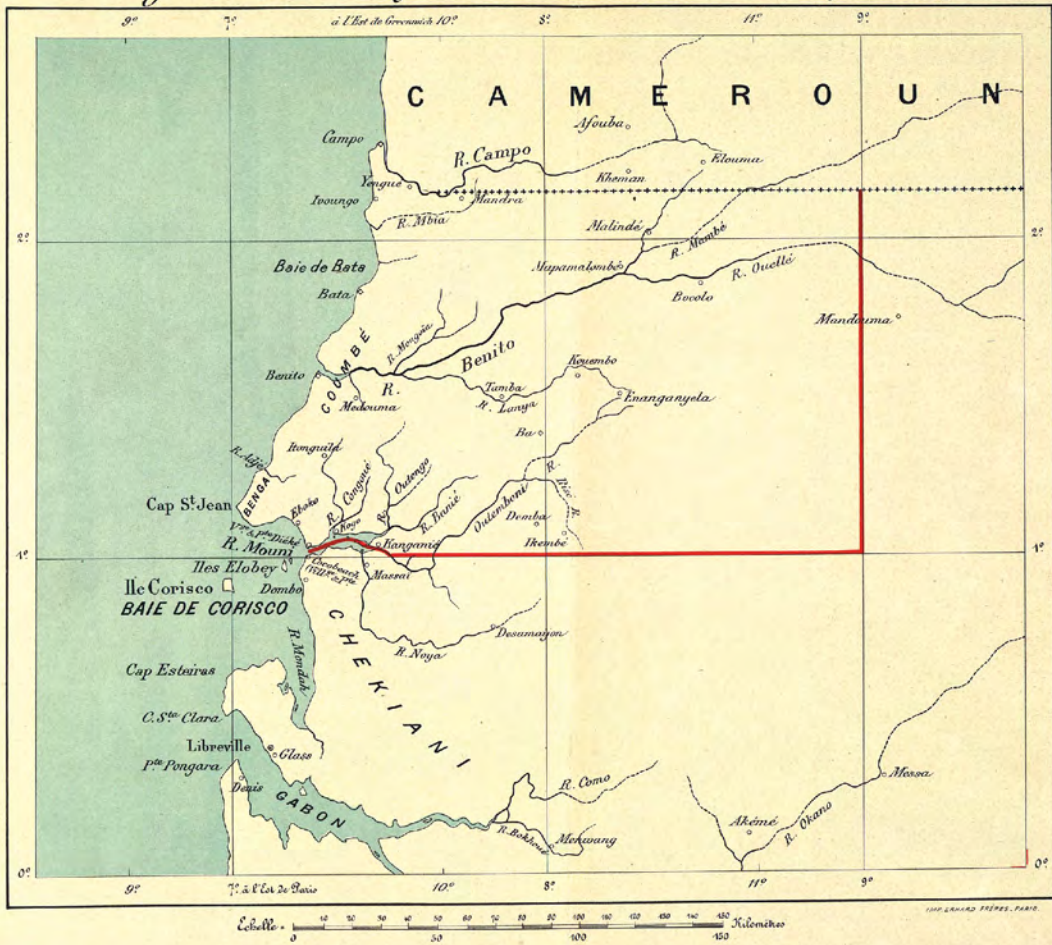


SOURCE: Spanish Gulf Oil Co., *Map Showing the Zone of Interest Near the Boundary between Spanish Guinea and Gabon (1960)*. Annotations added.

Figure 3.5

**ANNEX 3 TO THE
1900 CONVENTION**

*Annexe N°3 à la Convention franco-espagnole signée à Paris, le 27 Juin 1900.
Anejo N°3 al Convenio franco-español firmado en Paris el 27 de Junio de 1900.*



Deleau

F. de Lema y Castillo

SOURCE: Special Convention to determine the borders of Spanish and French possessions in Western Africa on the Sahara and Gulf of Guinea Coast, between The Kingdom of Spain and The Republic of France (signed 27 June 1900, ratified 27 March 1901).

Figure 3.6

3.38 To enable and facilitate any correction of the lines of delimitation that may have been required, the Convention provided for a streamlined process for modifying the boundaries described in Article 4, based on the work of commissioners or local officials. In this respect, Annex 1 provided:

“Therefore, it is agreed that the Commissioners or local Delegates of both Nations that are subsequently responsible for delimiting the boundaries on the ground of all or some of the boundaries, shall use as a basis the description of the boundaries as established in the Convention. At the same time, they may modify said lines of demarcation in order to delimit them more accurately and to rectify the position of the dividing lines of roads, rivers, cities, or villages indicated on the above-mentioned maps.”⁸⁷

3.39 Annex 1 further provided that:

“The changes or corrections proposed by mutual agreement by said Commissioners or Delegates shall be submitted to the respective Governments for approval.”⁸⁸

de démarcation sur les cartes annexes a la présente Convention (annexes numéros 2 et 3 soit supposé être généralement exact, il ne peut être considéré comme une représentation absolue, correcte de ces lignes, jusqu’à ce qu’il ait été confirmé par de nouveaux levés.”). MEG, Vol. III, Annex 4.

⁸⁷ *Special Convention on the Delimitation of Spanish and French Possessions in Western Africa on Coasts of the Sahara and the Gulf of Guinea*, between the Kingdom of Spain and The French Republic (signed. 27 June 1900, ratified 27 March 1901), Appendix 1 (“Il est donc convenu que les Commissaires ou Délégués locaux des deux Pays qui seront chargés, par la suite, de délimiter tout ou partie des frontières sur le terrain, devront se baser sur la description des frontières telle qu’elle est formulée dans la Convention. Il leur sera loisible, en même temps, de modifier les dites lignes de démarcation en vue de les déterminer avec une plus grande exactitude et de rectifier la position des lignes de partage des chemins ou rivières, ainsi que des villes ou villages indiqués dans les cartes susmentionnées.”). MEG, Vol. III, Annex 4.

⁸⁸ *Special Convention on the Delimitation of Spanish and French Possessions in Western Africa on Coasts of the Sahara and the Gulf of Guinea*, between the Kingdom of Spain and The French Republic (signed. 27 June 1900, ratified 27 March 1901), Appendix 1 (“Les changements ou

3.40 Article 8 of the Convention set out the parties' commitment to appoint Commissioners who would be responsible for delimiting the boundary on the ground, and for proposing the modifications referenced in Annex 1:

“Both Governments agree to designate Commissioners, within four months of exchanging ratifications, who shall be responsible for tracing on the ground the demarcation lines between the Spanish and French possessions, in accordance with and in the spirit of the provisions of the present Convention.”⁸⁹

3.41 By this provision, France and Spain subjected the straight lines described in Article 4 and drawn on the map included in Annex 3 to the reservations and corrective procedures made in Annex 1. Further, they agreed to designate, within four months from the date of the exchange of ratifications, their respective Commissioners who would be charged with drawing the demarcation lines on the ground reflecting the “spirit” of the Convention and proposing how the boundary described in Article 4 should be modified.

3.42 In keeping with these commitments, shortly after ratification, Spain and France undertook to delimit on the ground the boundary between Spanish Guinea and the French territories through the appointment of a binational

corrections proposes d'un commun accord par les dits Commissaires ou Délégués seront soumis à l'approbation des Gouvernements respectifs.”). MEG, Vol. III, Annex 4.

⁸⁹ *Special Convention on the Delimitation of Spanish and French Possessions in Western Africa on Coasts of the Sahara and the Gulf of Guinea*, between the Kingdom of Spain and The French Republic (signed. 27 June 1900, ratified 27 March 1901), Art. 8 (“Les deux Gouvernements s’engagent a designer, dans le délai de quatre mois à compter de la date de l’échange des ratifications, des Commissaires qui seront chargés de tracer sur les lieux les lignes de démarcation entre les possessions espagnoles et françaises, en conformité et suivant l’esprit des dispositions de la présente Convention.”). MEG, Vol. III, Annex 4.

commission, known as the Franco-Spanish Delimitation Commission (the “1901 Commission”).

3.43 The 1901 Commission was headed by the French Commissioner, M. Bonnel de Mézières, and the Spanish Commissioner, Don Eladio Lopez Vilches. By correspondence dated 19 June 1901, the French Minister of Colonies instructed M. Bonnel de Mézières that the Commissioners were “charged with making a delineation of the French-Spanish possessions in the Gulf of Guinea, in execution of the Agreement dated June 27, 1900.”⁹⁰ The Members of the 1901 Commission understood that their mandate under Annex 1 of the 1901 Convention was to propose a boundary “that they find best reflects the spirit of the treaty”.⁹¹

3.44 Based on this mandate, in 1903, the Commission finalized a complete boundary proposal describing a line that followed natural and man-made features, depicted on two maps, the locator inset of which is reproduced at **Figure 3.7** (following page 40).

3.45 The 1901 Commission started its work on 2 August 1901, by determining the location of the thalweg at the mouth of the Río Muni on the Atlantic coast, as per Article 4 of the 1900 Convention. From the mouth of the Río Muni, the Commissioners moved east and inland along the southern frontier

⁹⁰ *Letter from the French Minister of Colonies to the Administrator of the Franco-Spanish Delimitation Commission* (19 June 1901), p. 1 (“qui est chargée de procéder à une délimitation des possessions franco-espagnoles du golfe de Guinée, en exécution de la Convention du 27 Juin 1900 ...”). MEG, Vol. IV, Annex 55.

⁹¹ Franco-Spanish Delimitation Commission of the Gulf of Guinea, *Border Project: Southern Border* (1 January 1902), p. 1 (“la plus conforme à l’esprit de la Convention”). MEG, Vol. III, Annex 14.

of the Spanish territory of Río Muni and the northern frontier of French Congo.⁹² The first substantial modification they proposed was that the boundary should continue to follow the Utamboni Mitombé Rivers, rather than the 1° North line set out in Article 4 of the 1900 Convention:

“The [C]ommissioners propose as a natural border, in this segment, the waterline [of the Muni River] that is equidistant from the Spanish and French lands.

The border will continue, in the same fashion, along the Utamboni (Outemboni) River, becoming conjoined with the line situated equidistant between the two banks, up to the confluence of the Mitombé River, leaving the island of Yingué (D’Jimbué) under French dominion.

Starting from the confluence of the Mitombé River, the natural border will travel along the midline of its waters (defined as above) up to its source.”⁹³

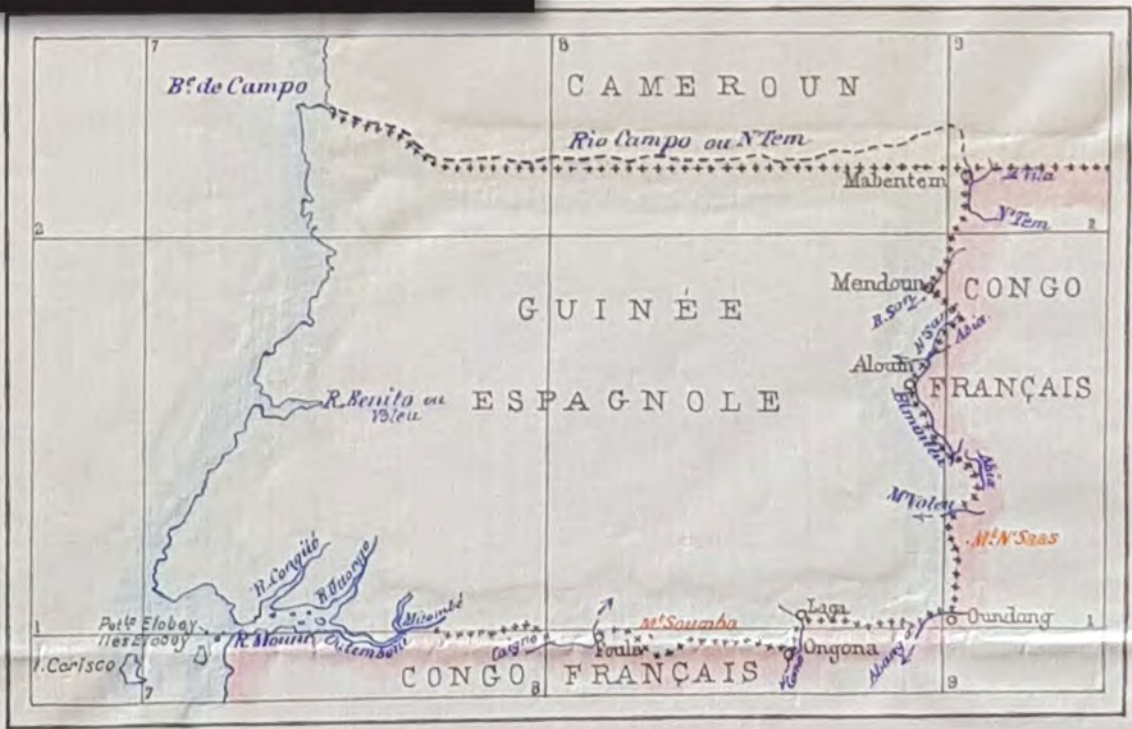
3.46 The 1901 Commission’s decision to follow the course of the Utamboni, Mitombe and Miang Rivers, instead of the line of 1° North, was one of many modifications to the boundary described in Article 4 of the Convention.⁹⁴ This modification was consistent with its effort to delimit the boundary in

⁹² *Itinerary Followed by the Commission for the Delimitation of the Gulf of Guinea* (1900), p. 2. MEG, Vol. III, Annex 12.

⁹³ Franco-Spanish Delimitation Commission of the Gulf of Guinea, *Border Project: Southern Border* (1 January 1902), pp. 3-4 (“Les Commissaires proposent d’adopter comme frontière naturelle la ligne des eaux qui passe à égale distance des terres françaises & espagnoles. La frontière suivra de même dans la rivière Utamboni (Outemboni) la ligne située à égale distance des rives, jusqu’au confluent de la rivière Mitombé en laissant à la France l’Ile de Yingué (D’Jimbué). A partir du confluent de la rivière Mitombé, la frontière naturelle remonterait la ligne moyenne de cette rivière (définie comme ci-dessus) jusqu’à sa source.”). MEG, Vol. III, Annex 14.

⁹⁴ The 1901 Commission also used the midpoint rather than the straight line drawn from Cocobeach to Punta Diéké as the land boundary terminus rather than the intersection of that straight line with the thalweg of the Muni River.

**1901 COMMISSION'S
PROPOSED BOUNDARY**



SOURCE: Carte de la Frontière entre le Congo Français et la Guinée Espagnole par la commission franco-espagnole de délimitation, 1903. Map excerpt.

Figure 3.7

accordance with the spirit of the Convention. The Utamboni River, explicitly mentioned in the 1900 Convention, is oriented generally parallel to the 1° North line in its relevant reach and crosses that line twice. An extension of the proposed boundary up the Utamboni River, which allowed both parties to access this important channel of transportation and communication, was in the interests of both of them, and reflected common practice in the delimitation of colonial boundaries in Africa. For the same reason, the Commission recommended that the boundary follow the Mitombe River—a tributary of the Utamboni River—which runs near the 1° North line in a generally east to west direction and crosses that line approximately 10 km from its confluence with the Utamboni River. The boundary proposed by the 1901 Commission in the Utamboni River Area based on the description in its report is rendered on a geographically accurate map at **Figure 3.8** following page 42.

3.47 During its work, the 1901 Commission identified several villages in the Utamboni River area as having either Spanish or French “nationality”. It assigned Spanish nationality to Assang and Mandung on the right (northern) banks of the Utamboni and Mitombe rivers, and to Anguma, Ebé and Mebé further east. It assigned French nationality to the villages of Mitombe on the left (southern) bank of the Mitombe River, and to the village of Masile east of the Mitombe.⁹⁵ Although not expressly named, the villages of Kangañe, Asobla and Umvan, also north of the Utamboni, fell within Spanish territory under the Commission’s proposal. Likewise, the villages of M’Beto and Ekododo located south of the Utamboni, although not expressly assigned French nationality, fell

⁹⁵ Franco-Spanish Delimitation Commission of the Gulf of Guinea, “Table of the Villages Recognized by the Delimitation Commission of Spanish Guinea with Names of Chiefs, Tribes, and Nationality According to the Border Project (Southern Border)” (2 January 1902). MEG, Vol. III, Annex 15

within French sovereignty as a result of the proposed boundary. These villages are shown on Figure 3.8 (following this page).

3.48 Further to the east, the 1901 Commission continued to mark its proposed boundary by reference to rivers, mountains, foot paths and villages. In the Commission's words:

“In this border project, the Commissioners used bodies of water as natural land features, preferring them to mountains Where there are no bodies of water, the Commission used indigenous paths that connect villages and also have a permanent nature and are well-known among the inhabitants.”⁹⁶

3.49 In practice, the Commission's delimitation largely followed rivers where a river was both considered to be in the vicinity of the 1° North line, or was generally oriented east-west.

3.50 When the 1901 Commission reached the area of what it believed to be the south-eastern corner of the Muni River, at what it thought was the intersection of the meridian 9° East of Paris with the parallel of latitude running 1° North, it turned north and generally followed what it believed to be the meridian until it intersected the northern boundary of Spain's Muni River with German Kamerun. The Commission again deviated from the description of the boundary in the 1900 Convention in order to draw it in conformity with natural and human-created features, instead of rigidly following a straight line. As it had

⁹⁶ Franco-Spanish Delimitation Commission of the Gulf of Guinea, *Border Project: Eastern Border* (1 January 1902), pp. 10-11 (“Dans ce projet de frontière, les Commissaires se sont servis des cours d'eau comme accidents naturels du sol, de préférence aux montagnes Lorsqu'il n'y a pas eu de cours d'eau, la Commission s'est servie des sentiers indigènes qui, reliant entre eux les villages, présentent également un caractère de permanence & de notoriété parmi les habitants.”). MEG, Vol. III, Annex 13.

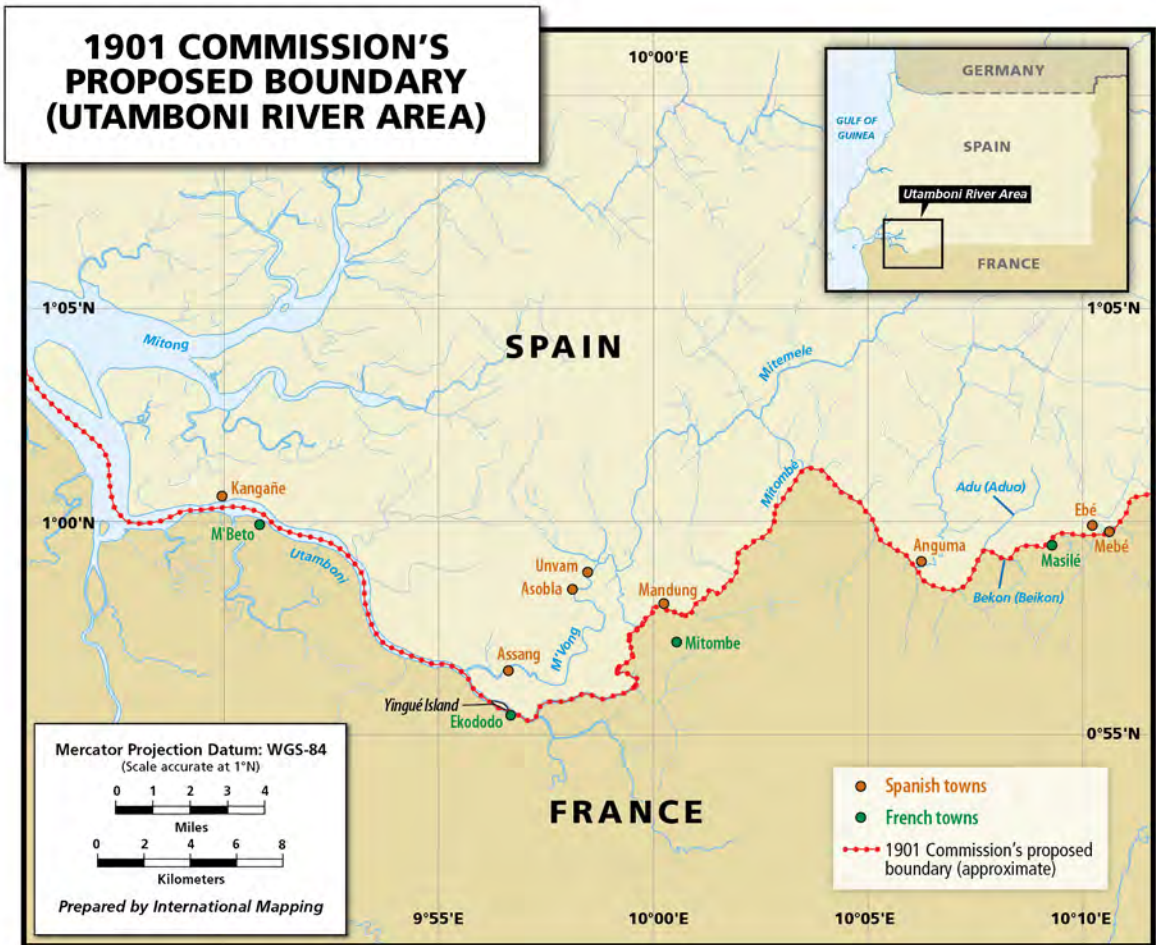


Figure 3.8

done along the southern boundary, the work of the Commission prioritized rivers to define the eastern boundary.

3.51 Despite its best efforts, however, the Commission's work was in part geographically inaccurate, and some of its proposed modifications were therefore ill-founded. By 1907, both France and Spain understood that as the Commission moved east from the Utamboni River and then north along what it believed to be the 9° East of Paris meridian described in Article 4 of the 1900 Convention, it essentially lost its way and, inadvertently, ended up far from the meridian.⁹⁷ The Commissioners' findings were thus increasingly inaccurate (by reference to the requirements of the 1900 Convention), as they travelled north through the eastern frontier area. By the time they reached the town of Mabentem, which, for the Commission, represented the approximate northeast corner of Spanish territory, they were, in fact, 80 kilometres west of the 9° East of Paris meridian. It turned out that the natural features they used to determine the boundary were not, in fact, the natural features in the vicinity of the actual 9° East of Paris meridian. They, therefore, never encountered the rivers that flowed along and in close proximity to that line, such as the Kie River, which flows along that meridian from its source near the town of Mongomo in Equatorial Guinea into to the boundary with Cameroon and beyond.

⁹⁷ See The French Republic, *Letter from the French Ministry of Colonies to Ministry of Foreign Affairs* (1907) (referring to a 50 km error in the demarcation work). MEG, Vol. IV, Annex 55 *bis*; Kingdom of Spain, *Letter from the Minister of State Concerning the Borders of Congo and Spanish Guinea* (20 April 1907) (noting enormous discrepancies in demarcation work so far, and stating that the German and French commissions deviated to the west of 9° East of Paris). MEG, Vol. IV, Annex 58; and Kingdom of Spain, *Letter from the Colonial Section of the Ministry of State* (20 April 1907) (discussing inconsistencies in the boundary expeditions and discounting d'Almonte's maps (used by the Spanish) as not verified astronomically and containing landmasses proven to be "pure invention"). MEG, Vol. IV, Annex 56.

3.52 Neither Spain nor France objected to the 1901 Commission’s use of natural features to demarcate the boundary. In fact, both colonial powers accepted the underlying premise that the boundary should take account of the area’s natural and human geography, while following the general direction indicated in the Convention. The problem was the Commission’s use of the wrong natural features—far removed from the boundary generally described in the 1900 Convention—in delimiting the boundary in the east up to German Kamerun, which marked the northern limit of the territory delimited between France and Spain at the time.

3.53 Thus, as described below, in the southwest, where the errors were relatively minor, the parties accepted in practice the modified boundary proposed by the Commission along the Utamboni, Mitombe and Miang rivers and its designation of the nationality of towns to the east to the Spanish town of Mebé. However, in the east, where the Commission’s errors were more significant, Spain and France ultimately rejected the Commission’s proposals. Instead, they eventually agreed to a boundary line in the northeast following the Kie River, which is much closer to the 9° East of Paris meridian and follows the same direction, from the river’s source southeast of Mongomo to its intersection the southern limit of Cameroon’s territory. The map at **Figure 3.9** (following this page) compares the boundary described in Article 4 of the 1900 Convention with the modifications in the southwest and northeast accepted by France and Spain in practice, which, while generally adhering to the terms of Article 4, departed from the prescribed straight lines to conform to the natural and human geography of the border areas.

C. THE LAND BOUNDARY IN THE SOUTHWEST

3.54 Following the report of the 1901 Commission, Spain administered the territory on its side of the boundary with France’s colonial possessions in the

**THE PARTIES' MODIFICATIONS
TO THE ARTICLE 4 LINES IN THE
UTAMBONI AND KIE RIVER AREAS**

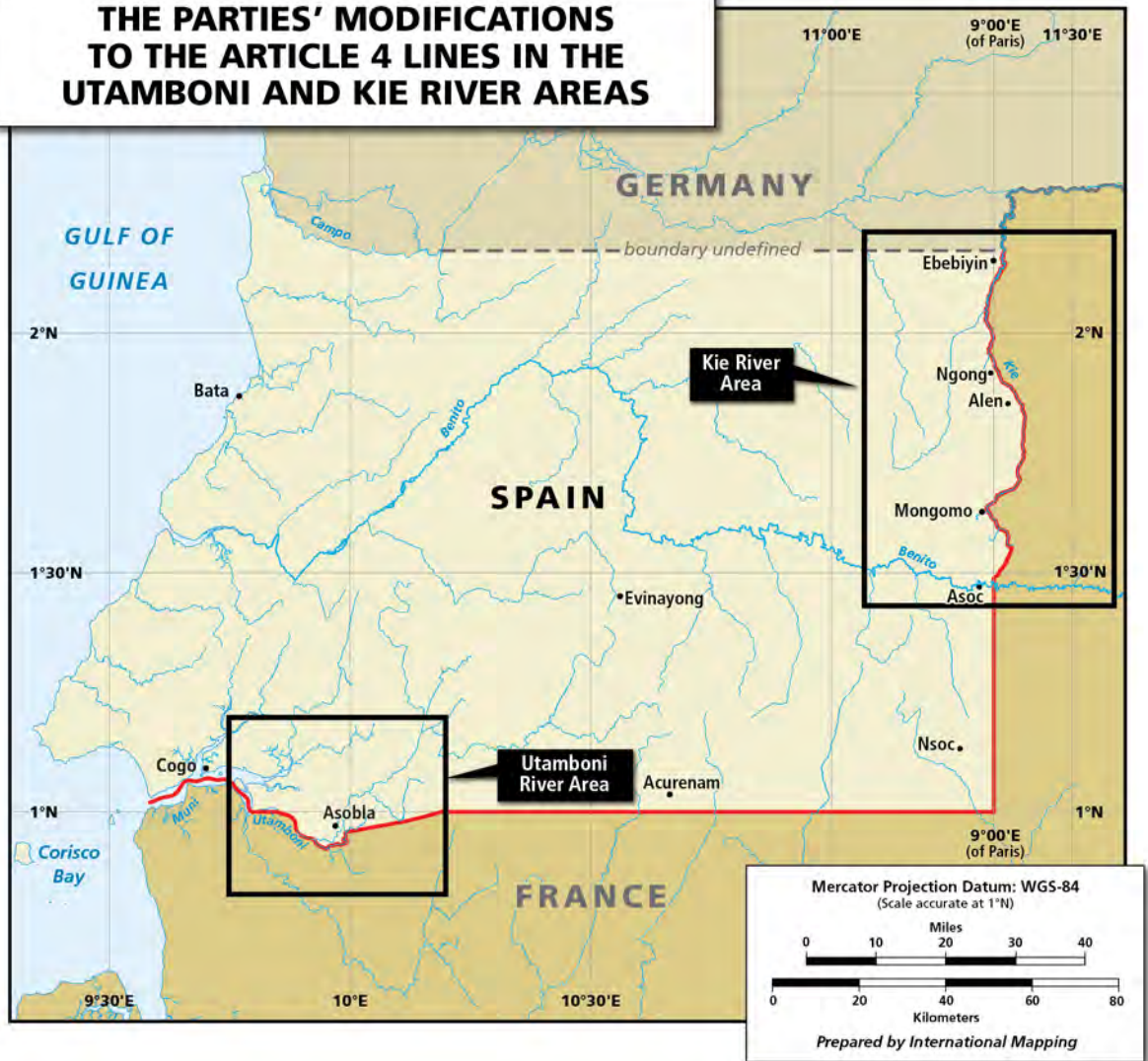


Figure 3.9

southwest as proposed by the 1901 Commission. Its administration was unchallenged by France, or by Germany, which briefly exercised sovereignty over French territory in this area.

3.55 In particular, Spain administered the land in the Utamboni River Area, including the principal towns of Asobla and Anguma. By 1905, Spain had established an outpost in Asobla and the Spanish head of the outpost acted as a judge.⁹⁸ By 1907, Asobla functioned as a Spanish customs post.⁹⁹ It also had significant services, infrastructure, and personnel, including a delegation (and housing for delegates), an infirmary staffed with medical professionals, a treasury administration, and a postal service.¹⁰⁰ Spain also maintained a police force in Asobla, collected taxes, and gave the town an allocated budget.¹⁰¹ Asobla was a particularly important outpost during the tenure of Governor Angel Barrera (1908-1927), as he used it as a key station for his inland tours of the country,

⁹⁸ Kingdom of Spain, *Royal Order on Justice, Powers of Government Representatives* (27 July 1905). MEG, Vol. V, Annex 113.

⁹⁹ A. Barrera, "What They are and What They Should be: the Spanish Possessions in the Gulf of Guinea" *General Marine Review*, Conference of the Royal Geographic Society (November 1907). MEG, Vol. IV, Annex 57; L. Martín y Peinador, "Geographical Studies: Morocco and Spanish Places, Algeria, Tunisia and Tripoli, Sahara and Spanish Sahara, Spanish Mainland and Island Guinea, Moroccan Problem" (1908), pp. 6-7. MEG, Vol. VII, Annex 221.

¹⁰⁰ A. Barrera, "What They are and What They Should be: the Spanish Possessions in the Gulf of Guinea" *General Marine Review*, Conference of the Royal Geographic Society (November 1907), p. 6. MEG, Vol. IV, Annex 57.

¹⁰¹ Royal Geographical Society, "Legislation and Provisions of the Central Administration", *Magazine of Colonial and Mercantile Geography*, Spain (1907), PDF pp. 2-3. MEG, Vol. VII, Annex 220.

returning by motorboat from Asobla to Elobey.¹⁰² Asobla also served as the seat of an administrative subdistrict within the district of Elobey.¹⁰³

3.56 France had full knowledge of Spain's administration of these settlements on the Spanish side of the boundary proposed by the 1901 Commission in the Utamboni River Area. The French members of the Franco-German Commission that had surveyed France's boundary with the German territory of Cameroon also informally surveyed France's border with Spain while returning from their 1905-1908 delimitation exercise. In his 1911 report on the expedition, Captain Cottés, the leader of the French component of the Franco-German Commission, reported on Spain's occupation of the Utamboni River Area.¹⁰⁴ He observed that Spain effectively occupied the right (*i.e.*, northern) bank of the Utamboni River,¹⁰⁵ which, being less swampy, was the easier bank from which to exert control over this key export route. He therefore suggested that it would be advantageous if France seized control of this area as it would allow France to control (and tax) trade more effectively than it could from the left bank at Ekodo and M'beto.¹⁰⁶ Despite this recommendation, France made no attempt to seize this Spanish territory, and took no action to challenge Spain's occupation or administration of the area.

¹⁰² L. Martín y Peinador, "Geographical Studies: Morocco and Spanish Places, Algeria, Tunisia and Tripoli, Sahara and Spanish Sahara, Spanish Mainland and Island Guinea, Moroccan Problem" (1908). MEG, Vol. VII, Annex 221.

¹⁰³ Spanish Territories of the Gulf of Guinea, *Decree on Territorial Division, Official Bulletin* (1 March 1907). MEG, Vol. V, Annex 114.

¹⁰⁴ The Cottés Mission to South Cameroon, *Presentation of Scientific Results, According to Works of Various Members of the French Section of the Commission for Delimitation Between the French Congo and Cameroon (Southern Border) and the Documents Studied at the Museum of Natural History* (1911). MEG, Vol. III, Annex 16.

¹⁰⁵ *Ibid.*, p. 29.

¹⁰⁶ *Ibid.*

3.57 From 1911 to about 1916, Germany administered the territory that fell on the French side of the boundary in this area,¹⁰⁷ by virtue of the Morocco-Congo Treaty of 4 November 1911. Under German administration, the territory was called “Neukamerun” – and was made a subdivision of the Kamerun colony. Germany recognized that the straight lines described in the 1900 Convention were “intangible lines not established on the ground,”¹⁰⁸ and agreed with Spain that they should be adjusted to follow “natural boundaries, preferably rivers and the most notable land features, where rivers do not exist.”¹⁰⁹

3.58 Thus, in 1914, a Spanish-German Commission (the “1914 Commission”) was tasked with demarcating the boundary in accordance with

¹⁰⁷ M. DeLancey, “Historical Dictionary of the Republic of Cameroon,” 3rd. Ed., AFRICAN HISTORICAL DICTIONARIES No. 81 (2000), p. 3 (“The New Kamerun territory remained part of German Kamerun until 1916. Following the defeat of the Germans in the Kamerun Campaign of World War I, the territory was returned to France as part of French Equatorial Africa”). MEG, Vol. VII, Annex 231.

¹⁰⁸ Kingdom of Spain, *Letter from the Minister of State to the Ambassador of Spain to the German Empire* (4 February 1914), p. 1. MEG, Vol. IV, Annex 62. See Vienna Convention on Succession of States in respect of Treaties, UNITED NATIONS TREATY SERIES, Vol. 1946, p. 3 (23 August 1978), Art. 11 (“A succession of States does not as such affect: (a) a boundary established by a treaty; or (b) obligations and rights established by a treaty and relating to the regime or a boundary.”). This is further evidenced by the fact that both Spain and France consistently affirmed the validity of the 1900 Convention after France succeeded back to the Neukamerun territory from 1919 up to the critical date. See *Letter No. 212 from the French Lieutenant Governor of Gabon to the Governor-General of Spanish Territories in the Gulf of Guinea* (16 August 1927), p. 2 (“Undoubtedly, the boundaries determined in the Convention concluded between France and Spain on June 29, 1900, have never been identified on land. But this lack of precision in our borders does not justify the incursions described above, into villages which clearly are subject to our Government.”). MEG, Vol. IV, Annex 76.

¹⁰⁹ Kingdom of Spain, *Letter from the Minister of State to the Ambassador of Spain to the German Empire* (4 February 1914), p. 2. MEG, Vol. IV, Annex 62.

natural features.¹¹⁰ Its surveys were intended to become the permanent boundaries “once approved by both the governments of Madrid and Berlin.”¹¹¹

3.59 During the 1914 Commission’s reconnaissance of the area, the lead German Commissioner, Dr. Olshausen, raised the question of Spanish control of Asobla and the apparent inconsistency with the boundary described by the text of Article 4 of the 1900 Convention, but it was ultimately decided to define the boundary in the Utamboni River Area in the manner employed by the 1901 Commission, that is, along natural boundaries, especially rivers, and by identifying the nationality of the towns in the area. The Commissioners traversed the Utamboni River Area and proceeded east. However, when they reached Acurenam, their work was interrupted by the start of World War I. Although they were unable to complete their task of delimiting a natural boundary for the entire territory, the Commission’s findings were sufficient to attribute certain towns in the area to Spain or Germany. **Figure 3.10** (following this page) depicts the towns in the Utamboni River Area that the 1914 Commission attributed, respectively, to Spain or Germany.

3.60 As can be seen in Figure 3.10, despite knowing that they were located south of the parallel of 1° North—the boundary described in Article 4 of the 1900 Convention—the 1914 Commission recognized that Assobla, N’sogodam, Anguma and Mebé were all located in Spanish territory, and that the town of Mitombe was in German (formerly French) territory.¹¹² Spain thus

¹¹⁰ The German Empire, *Report No. 4, Imperial German Muni Expedition, Dr. Olshausen* (16 June 1914). MEG, Vol. IV, Annex 63.

¹¹¹ Kingdom of Spain, *Letter from the Minister of State to the Ambassador of Spain to the German Empire* (4 February 1914), p. 3. MEG, Vol. IV, Annex 62.

¹¹² *Decree Signed by the German Empire and the Kingdom of Spain for the Delimitation Between Spanish Guinea and the Protectorate of Cameroon* (18 August 1914). MEG, Vol. V, Annex 115.

THE 1914 SPANISH-GERMAN COMMISSION IDENTIFIED SPANISH TOWNS

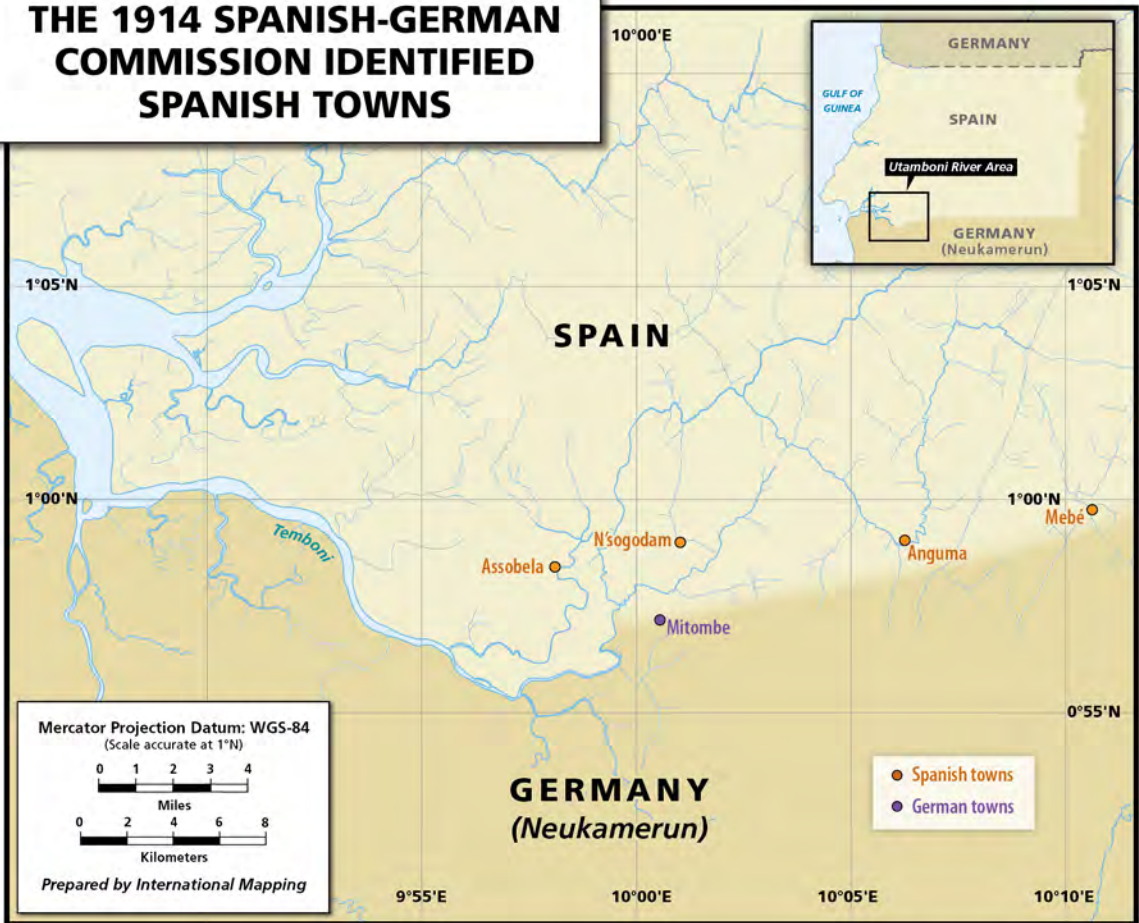


Figure 3.10

continued to administer its territory from Asobla during Germany's period of sovereignty in *Neukamerun*. It completed several construction works in the town, including a house for the post commander.¹¹³ A British Naval Intelligence Report from 1916 indicated that Spaniards were the only Europeans that resided in Asobla during this period.¹¹⁴ A United Kingdom Admiralty report covering the period of September 1914 to May 1916 reported that the Spanish military post in Asobla housed 1 sergeant and 40-50 soldiers.¹¹⁵ Germany never protested Spain's administration of the towns in the Utamboni River Area.

3.61 As World War I ended, the territories that constituted *Neukamerum* reverted to French administration. This did not affect the areas under Spanish administration. Spain continued to occupy and administer the Utamboni River Area, including the towns of Asobla and Anguma and others, without protest by France. As evidenced by the 1945 photograph below, Asobla became a town of some significance in this remote region.¹¹⁶

¹¹³ V. Rico, *Report Presented to the Courts by the Minister of State Concerning the Political and Economic Situation of the Spanish Possessions in West Africa in the Years 1916-1918* (1919). MEG, Vol. V, Annex 117.

¹¹⁴ C. Fuller, *Naval Intelligence Notes* (28 December 1916). MEG, Vol. V, Annex 116.

¹¹⁵ United Kingdom, Cameroon, *Final Report: Enclosures Sept 1914 to May 1916* (3 October 1915), p. 10. MEG, Vol. IV, Annex 64.

¹¹⁶ Image of Asobla, 1945. MEG, Vol. II, Annex P1.



Annex P1: Image of Asobla (1945)

3.62 A 1925 League of Nations report on tuberculosis and sleeping sickness in Equatorial Africa observed that these diseases were endemic in Asobla and Mbung. The League of Nations identified both towns as being in Spanish Continental Guinea and on “Spanish soil.”¹¹⁷ By 1927, the Spanish Colonial Guard operated a school in Asobla.¹¹⁸ A 1953 criminal law applicable to indigenous peoples in the Spanish Territories of the Gulf of Guinea confirmed that under the Spanish Royal Ordinance of 27 July 1905, government delegates in Asobla had “authority in matters of administration of justice, as municipal judges acting pursuant to the legal norms of the Colony.”¹¹⁹ Spain also continued

¹¹⁷ A. Balfour et. al, *New Report on Tuberculosis and Sleeping Sickness in Equatorial Africa*, League of Nations Health Organization (April 1925). MEG, Vol. VII, Annex 224.

¹¹⁸ G. Nerin, *Spain's Last Forest Cannibals, Missionaries, and Civil Guards Account of the Conquest of the Fang in Spanish Guinea 1914-1930* (2010), p. 103. MEG, Vol. VII, Annex 236.

¹¹⁹ F. Olesa Munido, “Criminal Law Applicable to Indigenous People in the Spanish Territories of the Gulf of Guinea”, INSTITUTE OF AFRICAN STUDIES, SUPERIOR COUNCIL OF SCIENTIFIC RESEARCH, Madrid (1953), note 33. MEG, Vol. VII, Annex 226.

to administer the town of Anguma which had been assigned Spanish nationality in 1901 and 1914.

3.63 In 1942, Spain conducted a census, including in the Cogo District of Rio Muni. Among other towns in the district, the census was taken in towns south of 1° North latitude, including the following in the Cogo District: Akanabor (Abaiñ), Anguma, Asobla, Echuba, Elon (Yesuk), Michobo (Esembus), Ngabe, Nniefala, Sugocham (Esembus), Teck and Tom.¹²⁰ The locations of those towns are shown in **Figure 3.11** (following page 52).

3.64 The 1942 census also indicates that there were people under Spanish Administration living in and around forestry concession called “Miang”. Those inhabitants were listed under “Miang (Explotación)”, which is indicated with this label on Figure 3.11 placed at the general location of that forestry activity.¹²¹

3.65 Spain’s 1950 census of the same district again lists many towns south of 1° North, including: Akanabor (Abé), Angume, Asobla, Bilinguala, Boo, Echuba, Elon, Enigabe, Michobo (Esembus), Ngambe, Nniefala, Sugocham, Tek and Tom.¹²² The locations of those towns are shown at **Figure 3.12** (following Figure 3.11). The census confirms that there were still people under Spanish administration living in and around the Miang forestry concession, which by then, had been transferred to the Spanish forestry company, Compania Vasco

¹²⁰ Spanish Territories of the Gulf of Guinea, *Statistical Summaries: Provinces of Fernando Poo and Rio Muni 1948-1949*, Statistical Office of the General Government (1950), pp. 4-11. MEG, Vol. V, Annex 127.

¹²¹ Spanish Territories of the Gulf of Guinea, *Statistical Summaries: Provinces of Fernando Poo and Rio Muni 1948-1949*, Statistical Office of the General Government (1950), p. 8. MEG, Vol. V, Annex 127.

¹²² *Ibid.*, pp. 45-56.

Africana S.A.¹²³ Those inhabitants were listed under “Miang (Vasco Africana)”, which is indicated with a label on Figure 3.12 placed at the general location of that forestry activity.¹²⁴ The location of the Vasco Africana concession is also labelled on a Spanish Army map from 1952 reproduced here at **Figure 3.13** (following Figure 3.12).

3.66 During the entire period from World War I to Gabon’s independence in 1960, there is no evidence to indicate that France ever protested Spain’s assertions of sovereignty and administrative activities in Asobla or the rest of the Utamboni River Area. Nor did France seek to undertake any sovereign or administrative activities of its own on the Spanish side of the boundary proposed by the 1901 Commission.

D. THE LAND BOUNDARY IN THE NORTHEAST

3.67 Just as Spain and France applied the 1900 Convention by delimiting the boundary in the southwest along natural features, such as the Utamboni River, and human made features rather than the parallel of latitude identified in the text, they adopted the same approach in the northeast. In particular, instead of delimiting the boundary along the meridian 9° East of Paris specified in the Convention, they followed the natural boundary formed by the Kie River for a significant portion of the boundary. This modification was

¹²³ Spanish Territories of the Gulf of Guinea, *Statistical Summaries: Provinces of Fernando Poo and Rio Muni 1958-1959*, Statistics Delegation of the General Government (1960), p. 8. MEG, Vol. V, Annex 137; Figure 3.13 (Geographic Service to the Spanish Army, *Topographic and Forestry Map of Guinea* (April 1952)); The Spanish State, *Order of January 7, 1957 on Forest Tracts: Announcing Tender of State Lands for Forestry Exploitation, Official Bulletin of April 15 1957, Reprinted in A. Fraile Roman, REGIONAL LEGISLATION* (7 January 1957), pp. 1-2. MEG, Vol. V, Annex 130.

¹²⁴ Figure 3.13 (Geographic Service to the Spanish Army, *Topographic and Forestry Map of Guinea* (April 1952)).

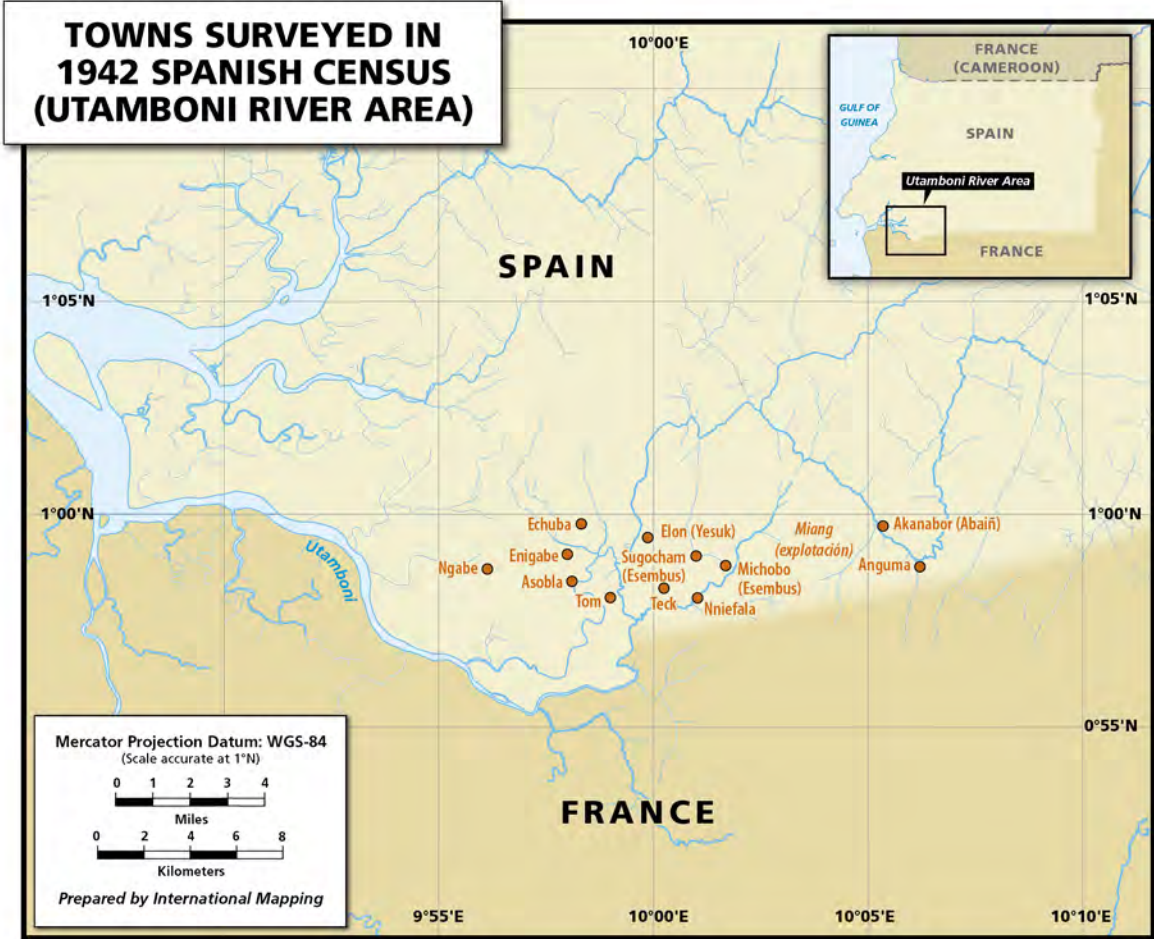


Figure 3.11

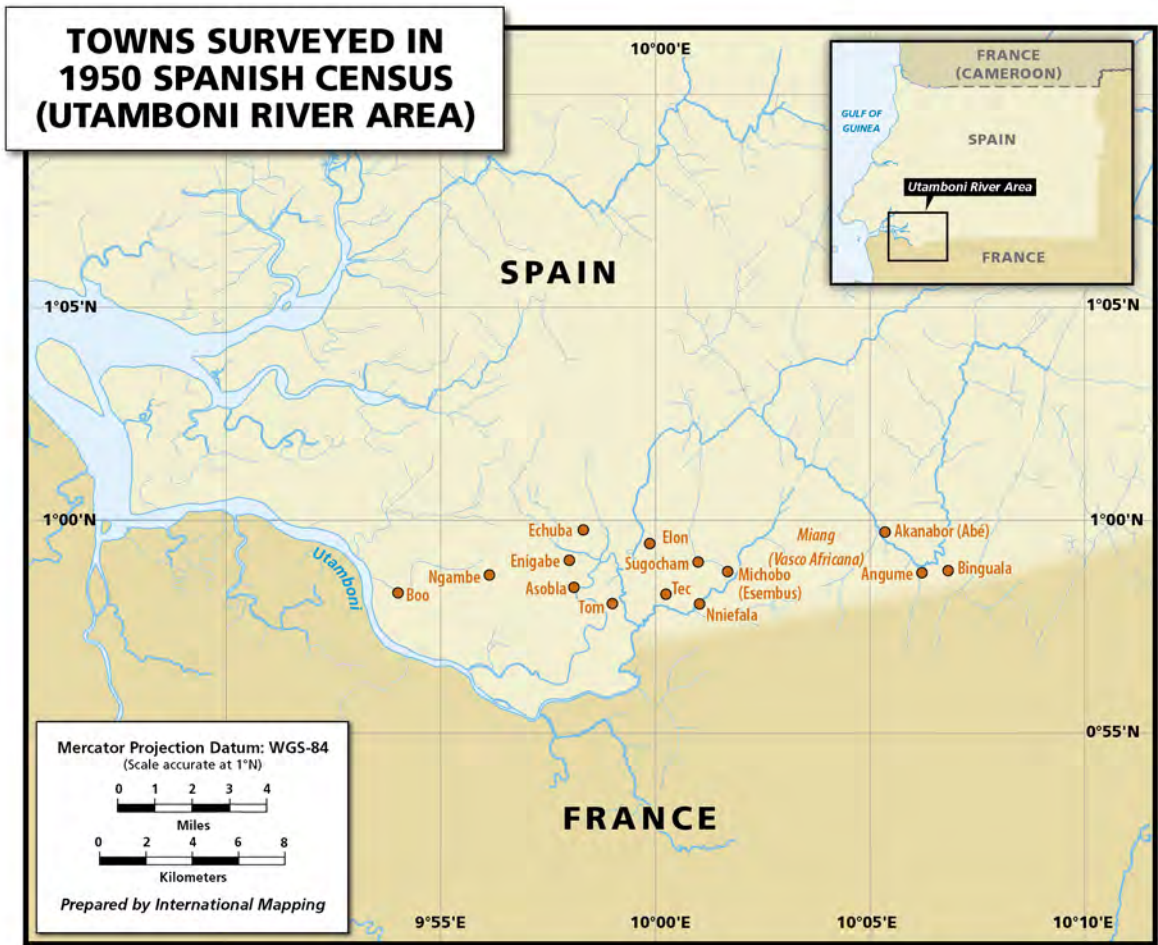
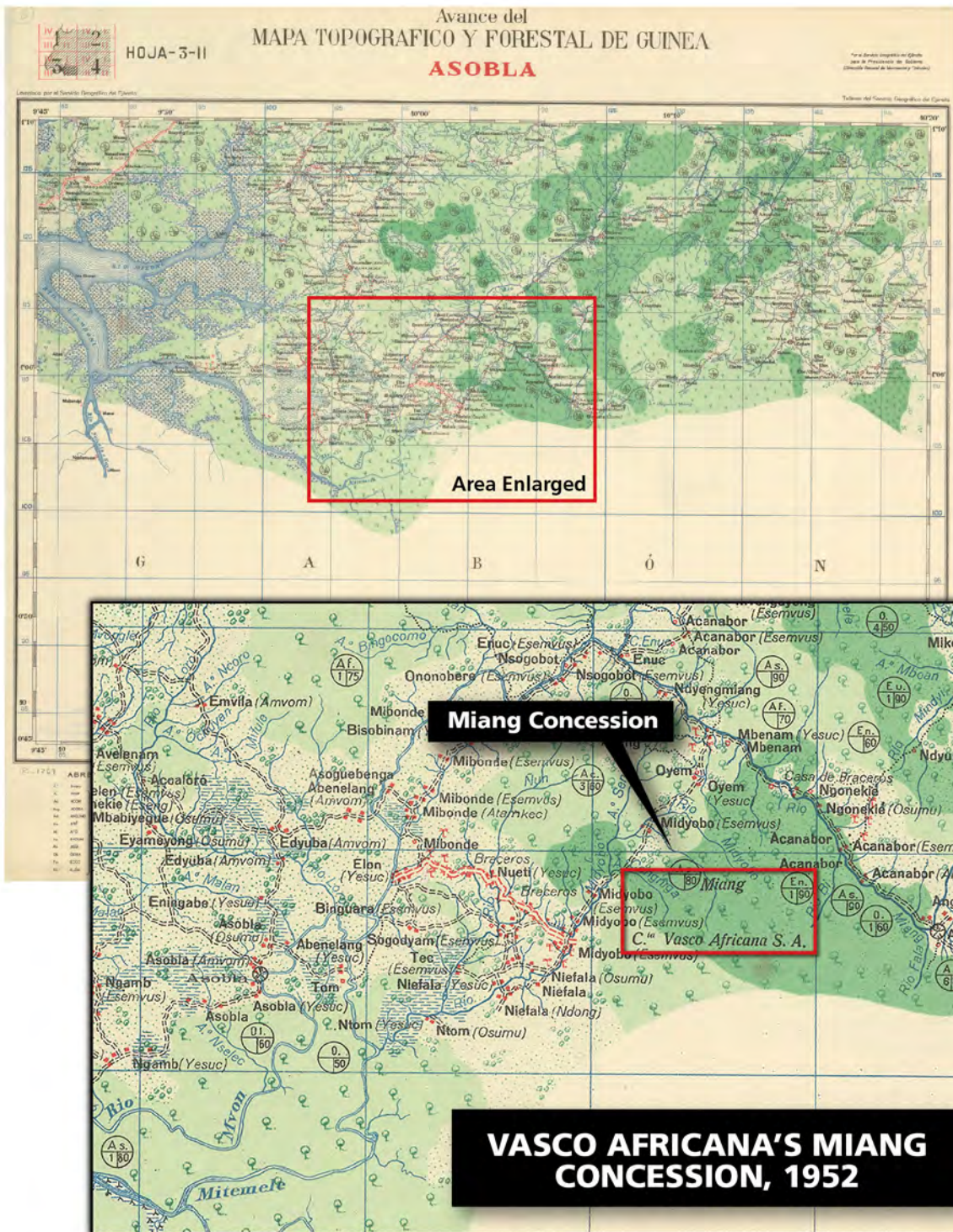


Figure 3.12



SOURCE: Geographic Service of the Spanish Army, *Topographic and Forestry Map of Guinea* (April 1952). Map excerpt, annotations added.

Figure 3.13

consistent with Article 8 and Annex 1 of the Convention, which authorized the Commissioners and local Delegates to agree to propose changes to the boundaries defined in Article 4, based on their work in the field. The 1901 Commission, because of technical issues, and the 1914 Commission, due to the outbreak of World War I, never reached the area of 9° East of Paris. Instead, modification of the eastern boundary was not accomplished until 1919, in an agreement between the Governor of French Equatorial Africa and the Governor of Spanish Guinea (“1919 Governors’ Agreement”).

3.68 The process leading to the 1919 Governors’ Agreement began with an expedition in 1912 by the Governor of Spanish Guinea, Angel Barrera, to delimit Spanish Guinea’s northern frontier with Kamerun.¹²⁵ Following this expedition, Governor Barrera and the German Governor of Kamerun proposed to their respective governments a “natural northern frontier” at the Campo (Ntem) River.¹²⁶ Governor Barrera then turned his attention to the eastern boundary of Rio Muni. There, in the northeast where it intersected with the boundary with Kamerun, a boundary along the Kie River would fit seamlessly with the 1908 Franco-German Convention, which established the Kie River as the southernmost part of the boundary between German Kamerun and French Congo.¹²⁷ Germany, upon considering Governor Barrera’s proposal, had suggested the two States come to a definitive delimitation of the boundary along

¹²⁵ *Letter from Spanish Governor General Regarding the Establishment of the French-German Demarcation* (27 January 1920), pp. 4-5. MEG, Vol. IV, Annex 69.

¹²⁶ *Ibid.*, p. 5.

¹²⁷ *Convention between Germany and France to Define Precisely the Boundary Lines between the Kamerun and the French Congo Signed at Berlin* (signed 18 April 1908, ratified on 28 July 1908), Art. 1 (“The border between Cameroon and the French Congo shall follow, beginning from Spanish Guinea (El Muni) (meridian 11° 20' local Greenwich, 9° local Paris): the river Kyé (Kje), from the inlet of the Mwese (Mwezeu) until it opens into the Ntem (Campo) ...”). MEG, Vol. III, Annex 5.

the Kie River. But, as he later explained to his French counterpart Governor Estèbe, Governor Barrera was unable to accept the German proposal because of concerns that doing so might violate Spain's neutrality during World War I.¹²⁸

3.69 In November 1917, Governor Barrera wrote to Governor Estèbe, proposing that the Kie River serve as the provisional boundary between the Spanish and French territories in the east.¹²⁹ Understanding that “only a delineation based on natural borders” would resolve the border issue,¹³⁰ the French Ministry of Foreign Affairs authorized Governor Estèbe to accept the proposal on France's behalf.¹³¹ Governor Estèbe duly relayed France's approval on 24 January 1919, stating that “[i]t is now agreed that the new border ... shall be determined by the course of the N'KYE stream from 2° 10' 20" north latitude up to the stream's origin.”¹³² In his letter, Governor Estèbe requested that Governor Barrera communicate to him “whether we are in complete agreement

¹²⁸ *Letter from the Governor-General of Spanish Territories of Africa to the Governor of French Gabon* (22 November 1917), p. 2. MEG, Vol. IV, Annex 65.

¹²⁹ *Ibid.*, pp. 2-3.

¹³⁰ *Letter from French Minister of Colonies to Minister of Foreign Affairs* (24 November 1919), p. 2 (“qu'une délimitation basée sur des frontières naturelles”). MEG, Vol. IV, Annex 68.

¹³¹ *Letter from French Minister of Colonies to Minister of Foreign Affairs* (24 November 1919), p. 3 (“[U]pon your notice to that effect, on November 21, 1918, I authorized the Governor General of French Equatorial Africa to accept a provisional arrangement, proposed by the Iberian authorities, that sets the line of delineation between the two possessions as starting from the 2° 10' 20" latitude north of the course of the Kié up to the source of that river.”) (“sur votre avis conforme, j'ai autorisé le 21 Novembre 1918 le Gouverneur Général de l'Afrique équatoriale française à accepter un règlement provisoire, proposé par les autorités ibériques qui fixe comme ligne de démarcation entre les deux possessions à partir du 2° 10' 20" de latitude nord le cours de la Kié jusqu'à la source de cette rivière.”). MEG, Vol. IV, Annex 68.

¹³² *Letter No. [13] from the Governor-General of French Equatorial Africa to the Governor-General of the Spanish Territories of the Gulf of Guinea* (24 January 1919), p. 1. MEG, Vol. IV, Annex 66. France also hoped that by so modifying the eastern boundary in Spain's favor, the Spanish Government would “grant, freely, equitable satisfaction” to the Colonial Exploration Society, a French private company that France had erroneously granted concessions to in Spanish territory. *Letter from French Minister of Colonies to Minister of Foreign Affairs* (24 November 1919), p. 2 (“à accorder, spontanément aussi, des satisfactions équitables”). MEG, Vol. IV, Annex 68.

regarding the provisional adoption of these new borders and, if so, to transmit such instructions as you deem necessary to your occupation personnel.”¹³³ In May 1919, the Spanish Governor affirmed the agreement, writing:

“Regarding your letter no. 63 dated January 24, I wish to tell you that I am completely in agreement with Your Excellency regarding the provisional adoption of considering as part of the eastern border of Spanish territory the course of the river N’kye from the parallel 2°-10’-20” north to the source of said river.”¹³⁴

3.70 Thus, with the approval of their respective Governments, the two colonial Governors came to an agreement to adopt the Kie River as the boundary in the east between Spanish Guinea and French Equatorial Africa, as illustrated in **Figure 3.14** (following page 56).

3.71 Consistent with the 1919 Governors’ Agreement, Spain administered the area west of the Kie River, including those areas east of the meridian 9° East of Paris. Likewise, France administered the area east of the Kie River, including those areas west of the 9° East line. In particular, Spain’s administration of this area included the village that is now the Equatoguinean city of Ebebiyin, which is located, in part, east of the meridian 9° East of Paris, but west of the Kie River.

3.72 In 1920, Governor Barrera took his first tour of the Spanish territories after World War I, during which he prepared a plan to proceed with

¹³³ *Letter No. [73 from the Governor-General of French Equatorial Africa to the Governor-General of the Spanish Territories of the Gulf of Guinea (24 January 1919). MEG, Vol. IV, Annex 66.*

¹³⁴ *Letter from Spanish Governor General of Spanish Guinea to His Excellency the French Governor General of French Equatorial Africa (1 May 1919), p. 7 (emphasis added). MEG, Vol. IV, Annex 67.*

the definitive settlement of Rio Muni by identifying the localities where military detachments should be established along the eastern border.¹³⁵ At the beginning of 1921, Governor Barrera decided to place a new military post at the extreme northeast part of the country, at Akonangui.¹³⁶

3.73 Soon thereafter, the French protested the Akonangui military post, claiming that it was situated to the north in French Cameroon.¹³⁷ The Akonangui military post was also east of the meridian 9° East of Paris. France, however, did not protest that the post was too far east, since it was in the area between the meridian 9° East of Paris the Kie River that belonged to Spain under the 1919 Governors' Agreement. Spain did not accept the French protest regarding the northern location of the post. However, "in the interest of good relations ... with the French authorities of Cameroon", Spain informed France that it would relocate the post further south.¹³⁸ In September 1922, Spain moved the Akonangui military post to Ebebiyin, which, as stated above, was in part east of the 9° East of Paris meridian.¹³⁹ The new military post was officially inaugurated

¹³⁵ G. Nerin, *Spain's Last Forest Cannibals, Missionaries, and Civil Guards Account of the Conquest of the Fang in Spanish Guinea 1914-1930* (2010), p. 46. MEG, Vol. VII, Annex 236.

¹³⁶ *Ibid.*, p. 47.

¹³⁷ *Letter from French Commissioner Governor of Colonies to the Cameroon Territories to the French Minister of Colonies* (27 July 1921). MEG, Vol. IV, Annex 71; *Letter from Spanish Minister of State to the French Ambassador* (24 November 1921). MEG, Vol. IV, Annex 72.

¹³⁸ Kingdom of Spain, *Letter from the Captain of the Ebolouwa District to the Governor-General of Spanish Territories of the Gulf of Guinea* (23 September 1922). MEG, Vol. IV, Annex 74; *Letter from Spanish Minister of State to the French Ambassador* (24 November 1921). MEG, Vol. IV, Annex 72.

¹³⁹ Kingdom of Spain, *Letter from the Captain of the Ebolouwa District to the Governor-General of Spanish Territories of the Gulf of Guinea* (23 September 1922). MEG, Vol. IV, Annex 74. Kingdom of Spain, *Letter from the Governor-General of Spanish Territories of the Gulf of Guinea to the Advising Secretary-General* (24 September 1922). MEG, Vol. IV, Annex 75; Kingdom of Spain, *Letter No. 884 Attachment from the Governor-General of Santa Isabel to the Office of the Secretary* (20 June 1922). MEG, Vol. IV, Annex 73.

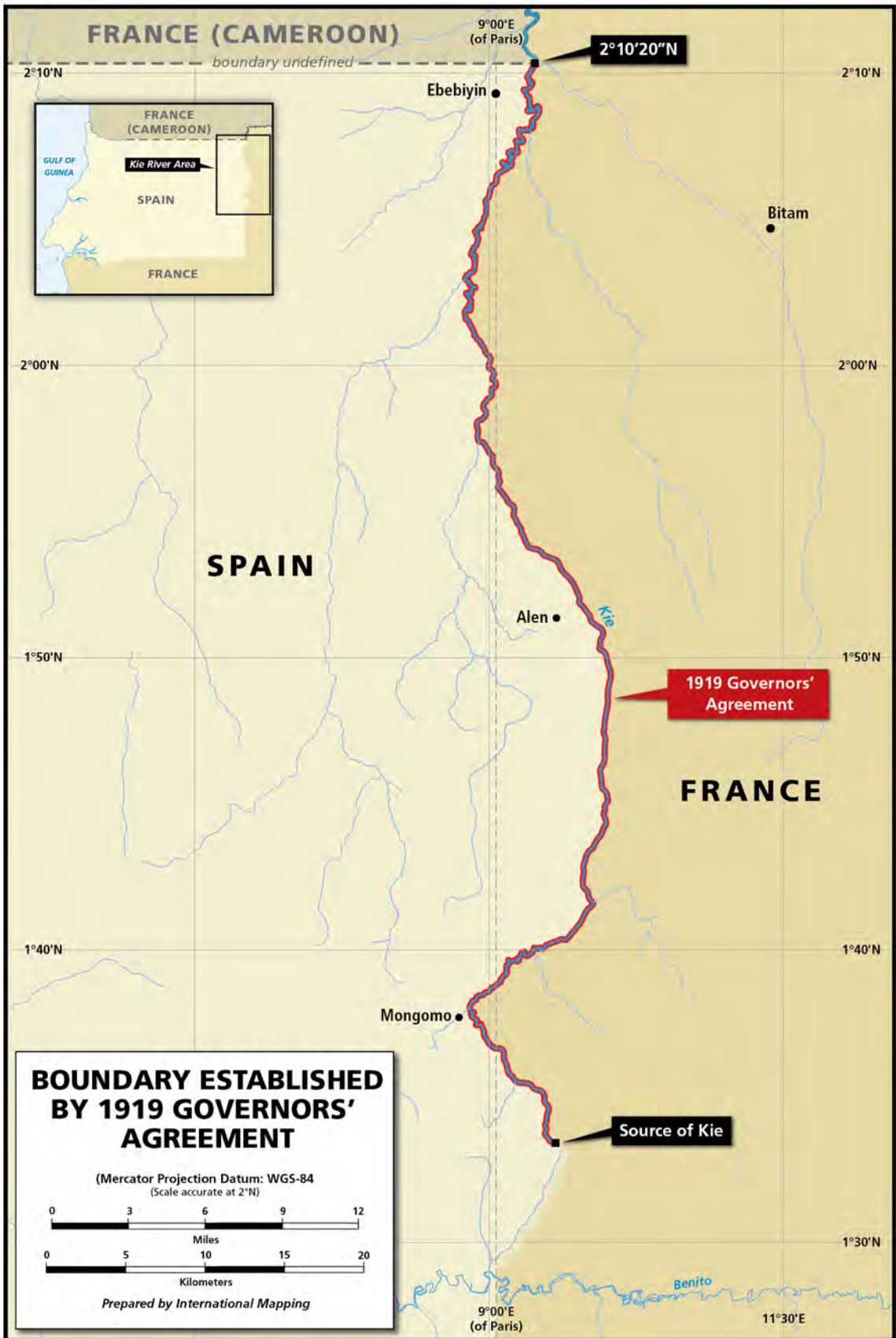


Figure 3.14

in October 1922.¹⁴⁰ Sixty-two buildings were built at the new site and several villages were relocated there with no protest from the French authorities.

3.74 In December 1920, before the Spanish military post was moved to Ebebiyin, Governor Barrera instructed the Head Military Officer at Akonangui to build a road along the eastern boundary of Spanish Guinea, as defined in the 1919 Governors' Agreement. Governor Barrera's road instructions included a detailed list of nearly 70 villages that would lie along the road.¹⁴¹ This list covered the territory starting in the north with Akonangui and Ebebiyin, located "on the left [west] bank of the Kye".¹⁴² The route of Governor's Baerra's proposed road and the locations of many of the villages on his list are depicted at **Figure 3.15** (following page 58). Work on this road began after the military post was moved from Akongagui to Ebebiyin in 1922. This effort occurred under the administration of Governor Nuñez de Prado, Governor-General of the Spanish possessions in Guinea from 1925-1931, and was led on the ground by Captain Thomas Buiza.¹⁴³

3.75 In June 1926, Captain Buiza established military detachments at Alen and Mongomo. The new posts were commanded by soldiers from the Spanish Colonial Guard.¹⁴⁴ **Figure 3.16** (following Figure 3.15) shows the Spanish military posts along the Kie River Road in 1926.

¹⁴⁰ G. Nerin, *Spain's Last Forest Cannibals, Missionaries, and Civil Guards Account of the Conquest of the Fang in Spanish Guinea 1914-1930* (2010), p. 61. MEG, Vol. VII, Annex 236.

¹⁴¹ Kingdom of Spain, *Letter No. 527 from the Spanish Governor-General* (8 December 1920). MEG, Vol. IV, Annex 70.

¹⁴² *Ibid.*, p. 3.

¹⁴³ G. Nerin, *Spain's Last Forest Cannibals, Missionaries, and Civil Guards Account of the Conquest of the Fang in Spanish Guinea 1914-1930* (2010), p. 96. MEG, Vol. VII, Annex 236.

¹⁴⁴ *Ibid.*, p. 98.

3.76 Spain maintained the Kie River road connecting Ebebiyin with Alen and Mongomo until Equatorial Guinea's independence in 1968.¹⁴⁵ On 27 November 1938, for example, the Spanish Public Works Department published a report on projects completed since March 1938. The report described several public works along the eastern boundary, including the maintenance of the Kie River road and the construction of wooden bridges along the road.¹⁴⁶ From 1949 to 1955, Spain made further significant improvements to the road. **Figure 3.17** (following Figure 3.16) shows the location of bridges and other large structures installed during this period and the location of a substantial road straightening project at kilometre 52.

3.77 Due to the construction of the road and other public works, Ebebiyin steadily grew in size and population. By 1927, the Colonial Guard administered a school in Ebebiyin.¹⁴⁷ In the 1930s, Spain constructed several public works in Ebebiyin, including a colonial guard encampment, a hospital, and an indigenous settlement.¹⁴⁸ In 1935, Spain constructed a post office in Ebebiyin which it outfitted with a radio-telegraph station.¹⁴⁹

¹⁴⁵ Republic of Spain, *Order No. 328: Report on the Public Works Service of the Spanish Territories of the Gulf of Guinea* (1933), pp. 91-92, 177-178. MEG, Vol. V, Annex 121.

¹⁴⁶ *Ibid.*

¹⁴⁷ G. Nerin, *Spain's Last Forest Cannibals, Missionaries, and Civil Guards Account of the Conquest of the Fang in Spanish Guinea 1914-1930* (2010), p. 103. MEG, Vol. VII, Annex 236.

¹⁴⁸ Republic of Spain, *Letter from the AT of Ebebiyin to the Governor-General of Spanish Territories of the Gulf of Guinea* (27 November 1938). MEG, Vol. IV, Annex 77. On 9 June 1939, the Lead Engineer to the Spanish Governor General proposed a 100,000 peseta budget for work on the Ebebiyin-Mongomo road. See The Spanish State, *Letter from the Lead Engineer to the Governor-General of Spanish Territories of the Gulf of Guinea* (9 June 1939). MEG, Vol. IV, Annex 78.

¹⁴⁹ The French Republic, *Synthesis of Information on: Spanish Guinea & German Acts in Cameroon under British Mandate*, Historical Archives of the Ministry of Defense, File R2 (1 August 1937), p. 14. MEG, Vol. V, Annex 123.

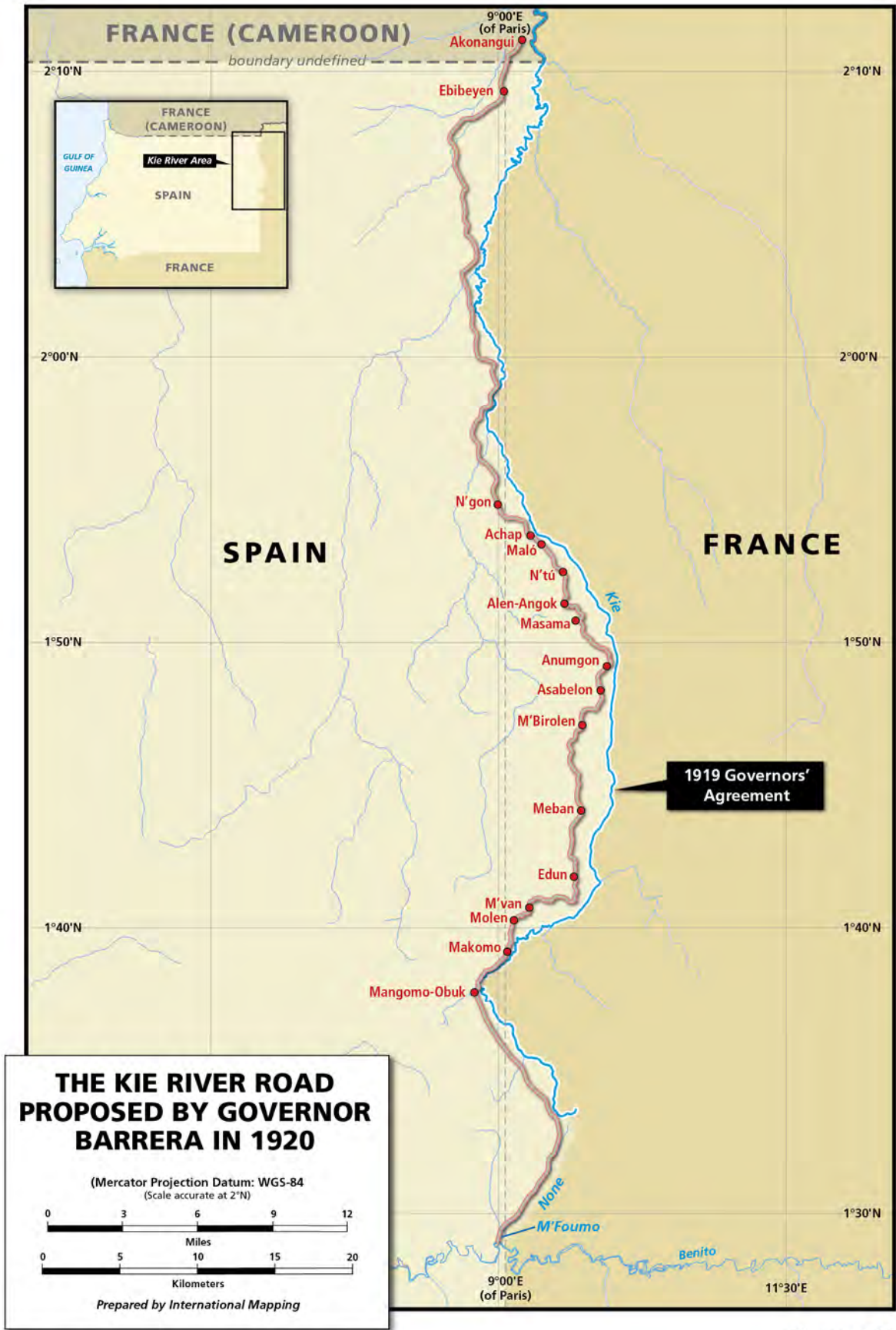


Figure 3.15



Figure 3.16



Figure 3.17

3.78 In 1948, Spain established primary and elementary schools in Ebebiyin.¹⁵⁰ It also built schools in Alen and Mongomo, along the Kie River road.¹⁵¹ Spain also administered a Leprosy Centre in Ebebiyin, which provided care for 332 patients in 1948 and admitted 120 new patients in 1949.¹⁵² During this same period, Spain regulated the sale of products obtained at indigenous farms by administering indigenous markets in Alen and Ebebiyin, including cacao, coffee, yucca, and other goods.¹⁵³

3.79 In 1942, the Spanish authorities conducted a census, including in the Ebebiyin District of Rio Muni. Spain collected census information for several towns east of the meridian 9° East of Paris, along the Kie River, including the following: Achap (Angok), Alen (Angok), Anongono, Ayabilon, Bibe, Edum, Ekok, Ete-Ete, Malen (Nkoye), Masama (Esaben), Mban, Mbang (Onvang), Mbayop (Esatuk), Mbiralem, Mboman, Mibang, Molo, Nfula, Ngomete, Nkoete, Nkombe, Ntu, Oveng (Esaben) and San Carlos.¹⁵⁴ The locations of those towns are shown at **Figure 3.18** (following page 60).

3.80 Spain again took a census in 1950 in the Ebebiyin District as well as in the newly-created Mongomo District of Rio Muni. The census listed towns east of the meridian 9° East of Paris along the Kie River, including the following

¹⁵⁰ “Territorial Demarcations - School Districts 1949-1959” *Official Gazette of the Spanish Territories in the Gulf of Guinea* (15 November 1952), p. 2. MEG, Vol. V, Annex 128.

¹⁵¹ Spanish Territories of the Gulf of Guinea, *Official Gazette of the Gulf of Guinea Territories* (15 March 1948), p. 3. MEG, Vol. VII, Annex 225.

¹⁵² Spanish Territories of the Gulf of Guinea, *Statistical Summaries: Provinces of Fernando Poo and Rio Muni 1948-1949*, Statistical Office of the General Government (1950), pp. 32-33. MEG, Vol. V, Annex 127.

¹⁵³ *Ibid.*, pp. 23-30.

¹⁵⁴ Spanish Territories of the Gulf of Guinea, *Statistical Summaries: Provinces of Fernando Poo and Rio Muni 1948-1949*, Statistical Office of the General Government (1950), pp. 12-21. MEG, Vol. V, Annex 127.

in the Ebebiyin District: Adyap (Angok), Alen (Angok), Anungon, Ayabilon, Bibeñ, Etete, Masama (Esabaiñ), Mbiralem, Mbomang, Melo, Nfua, Ngomete, Nkoekie and Ntu.¹⁵⁵ The following towns in the Mongomo District located east of that meridian were also included in the 1950 census: Edum, Ekok, Mokom, Malen, Mbam, Mbayop, Mibang (Esaguong), Nvan (Omvang), Oveng and San Carlos.¹⁵⁶ The locations of those towns are shown at **Figure 3.19** (following Figure 3.18)

3.81 French military intelligence from the 1930s and 1940s demonstrates that France was aware of Spain's administration of these settlements. In a military report covering 1934-1937, France noted that Spain administered a military post in Ebebiyin with 1 lieutenant and 8 guards.¹⁵⁷ A later 1940 French military report noted that Spain had administered telephone and radio telegraphic equipment in the villages of Ebebiyin and Alen.¹⁵⁸ The military report also recognized that Spain administered an airfield in Ebebiyin.¹⁵⁹

3.82 Ebebiyin subsequently experienced more than a decade of active growth. During this period, Spain granted a series of land concessions in or near Ebebiyin,¹⁶⁰ promoted the establishment of new settlements along the Kie River

¹⁵⁵ *Ibid.*, pp. 35-44.

¹⁵⁶ *Ibid.*, pp. 45-56.

¹⁵⁷ C. Cottez, *Spanish Guinea 1934-1937, Historical Archives, Ministry of Arms* (October 1934). MEG, Vol. V, Annex 122.

¹⁵⁸ The French Republic, *Documentation Plan of the Spanish Territories of the Gulf of Guinea, Ministry of Arms* (19 March 1940), p. 10. MEG, Vol. V, Annex 124.

¹⁵⁹ *Ibid*; see also The French Republic, *Summary of Intelligence on: Spanish Guinea & German Acts in Cameroon under British Mandate*, Historical Archives of the Ministry of Defense, File R2 (1 August 1937), p. 14. MEG, Vol. V, Annex 123.

¹⁶⁰ Spanish Territories in the Gulf of Guinea, *Official Gazette of the Spanish Territories in the Gulf of Guinea No. 2*, Santa Isabel (15 January 1954), p. 1 (including an Edict of the Directorate of Colonization for the concession of a 30 hectare plot of land, requested under the Law of 12.23.1948,



Figure 3.18



Figure 3.19

road from Ebebiyin to Mongomo,¹⁶¹ and undertook various infrastructure projects in this area.¹⁶² Today, the centre of Ebebiyin lies on the meridian 9° East of Paris. The entire eastern half of the city is east of that meridian and is bounded by the Kie River on the east. This can be observed in the modern satellite image of the city at **Figure 3.30** (following Figure 3.29).

3.83 France never protested these Spanish activities east of 9° East of Paris, but west of—and within—the boundary set out in the 1919 Governor’s Agreement, which followed the Kie River. Nor did France ever administer any of the territory west of the Kie River boundary.

by Mr. Antonio Longueira Sánchez in Spanish Continental Guinea in the place called Enigakugu, 51 km from the Bata-Ebebiyin road and the Edict of the Directorate of Colonization for the concession of a 30 hectares land, requested under the Law of 12.23.1948, by Mr. Miguel del Pino Hernandez in the Spanish Continental Guinea, road from Ebebiyin to Mongomo, at a distance of approximately 600 to 100 meters between the villages of Abang and Esong, with the following limits). MEG, Vol. V, Annex 129; The Spanish State, *Legal Notices, Official Bulletin of 15 November 1960* (15 November 1960) (including an Edict of the Agronomic Section for the concession of a land of 4 hectares, requested under Law 05.04.1948, by Mr. Enrique Eyegue, located in the place of this province called Engong (Efac), of the district of Ebebiyín), p. 1. MEG, Vol. V, Annex 136; Edict of the Agronomic Service of Rio Muni for the concession of a land of 1-97-87 hectares, requested under the Law of 05.04.1948, by Mr. Martin Esono Ndongo, located in the place of this province called San Carlos, of the district of Mongomo de Guadalupe, with the Ebebiyin road constituting part of the outer limits of the concession).

¹⁶¹ Spanish Territories of the Gulf of Guinea, *Summaries of the Years 1942 and 1943*, Statistical Office of the General Government (1945) (General Government of the Spanish Territories of the Gulf of Guinea. Statistics Office. Report on the transactions of Cocoa, Coffee, Cassava in the different territorial demarcations between the years 1942 - 1943. Among the localities included in the territorial demarcation of Ebebiyín are the following: Alen, Billabillan, Ebebiyín and Mongomo). MEG, Vol. V, Annex 125; Spanish Territories of the Gulf of Guinea, *Summaries of the Years 1944 and 1945*, Statistical Office of the General Government (1947) (Report on the existing population and buildings built in the localities and settlements of Akurenan and Nsok territorial districts in 1942. Report on the transactions of Cocoa, Coffee, Cassava and rubber in the different territorial demarcations between the years 1944 - 1945. Among the localities included in the territorial demarcation of Ebebiyín are the following: Alen, Biyabiyán, Ebebiyín and Mongomo). MEG, Vol. V, Annex 126.

¹⁶² Spanish Equatorial Provinces of Fernando Póo and Rio Muni, *Official Gazette of the Gulf of Guinea Territories* (15 November 1963) (describes a fencing project for the Ebebiyin cemetery project and a water supply project). MEG, Vol. V, Annex 139.

3.84 While the 1919 Governors' Agreement established the Kie River as a provisional boundary, the agreement and the boundary it established did not have a date on which they terminated, and they remained in force throughout the colonial period. As discussed in Chapter 6 below, Spain's *infra legem effectivités* under the Governors' Agreement and France's acquiescence in those activities made the once provisional boundary permanent by the time of Gabon's independence in 1960.

III. The Status of the Colonial Powers' Legal Titles to Islands and Continental Territory upon Gabon's Independence in 1960, and Equatorial Guinea's Independence in 1968

A. THE STATUS OF THE ISLANDS IN CORISCO BAY

3.85 The historical record shows that, after Gabon became an independent State on 17 August 1960, and until Equatorial Guinea achieved independence on 12 October 1968, Spain continued to exercise sovereignty over Corisco Island and the Corisco Dependencies without any protest from France, through August 1960, or by Gabon thereafter.

3.86 In a Resolution dated 21 October 1961, the Governor General of Spanish Guinea officially demarcated Corisco to include the island itself as well as "the islets of Mbanye [Mbañe], Leva, Hoko."¹⁶³ In its Basic Law of 1963, Spain combined the provinces of Fernando Póo and Río Muní to form a single entity called Equatorial Guinea.¹⁶⁴ That law and further revisions to it on 15

¹⁶³ The Spanish State, *Official Bulletin of 15 November 1961* (15 November 1961). MEG, Vol. V, Annex 138.

¹⁶⁴ The Spanish State, *Law 191/1963, on Bases on the Autonomous Regime of Equatorial Guinea* (30 December 1963), Base 1. MEG, Vol. V, Annex 140.

October 1966 provided that the territory of Rio Muni included the continental region and “the islands of Corisco, Elobey Grande, Elobey Chico and the adjacent islets.”¹⁶⁵

3.87 Internal Spanish memoranda in the years immediately after Gabon’s independence similarly reflect Spain’s sovereignty over these islands and islets. On 12 July 1966, the Spanish Ministry of Industry issued a confidential report relating to the delimitation of the waters of Corisco Bay that treated Mbañe and Cocoteros as Spanish territories, with no suggestion of any competing claim from Gabon.¹⁶⁶ **Figure 3.20** (following page 64) shows the map attached to the Ministry of Industry report illustrating Spain’s position on the delimitation of waters of Corisco Bay, including the construction lines emanating from Spanish basepoints on Conga and Cocoteros and Gabonese basepoints on the Gabonese mainland.

3.88 On 26 July 1966, the Legal Adviser’s Office of the Spanish Foreign Ministry issued a similar memorandum regarding the maritime boundary with Gabon. This document recommended that Spain “reserv[e] its rights, not only on the mainland, islands, islets, and permanent elevations; but on the corresponding territorial sea, with a breadth of six miles from the low water

¹⁶⁵The Spanish State, *Law Regarding the Separation and Legal System of Fernando Póo and Rio Muni* (15 October 1966), Art. 1. MEG, Vol. V, Annex 143.

¹⁶⁶ The Spanish State, Ministry of Industry, *Confidential Report: Delimitation of Gabon’s Territorial Waters* (12 July 1966). MEG, Vol. IV, Annex 103.

mark”.¹⁶⁷ The Spanish Ministry of the Navy issued a similar memorandum on 23 July 1966.¹⁶⁸

3.89 On 17 October 1967, the Spanish Hydrographic Commission issued a memorandum on the delimitation of the maritime boundary with Gabon. Like the prior Spanish Ministry of Industry report, it assessed the boundary on the understanding that Gabon had no island territory in the area and made no reference to any Gabonese claims over the Corisco Dependencies. The memorandum stated:

“The red line roughly represents the division of the Spanish and Gabonese waters that would result from applying the median line approach, using as a base: (1) for Gabon, the low water line derived of its coasts and the baseline that Gabon established in Mondah Bay and (2) for Spain, the low water lines of the continental coasts, islands and islets.”¹⁶⁹

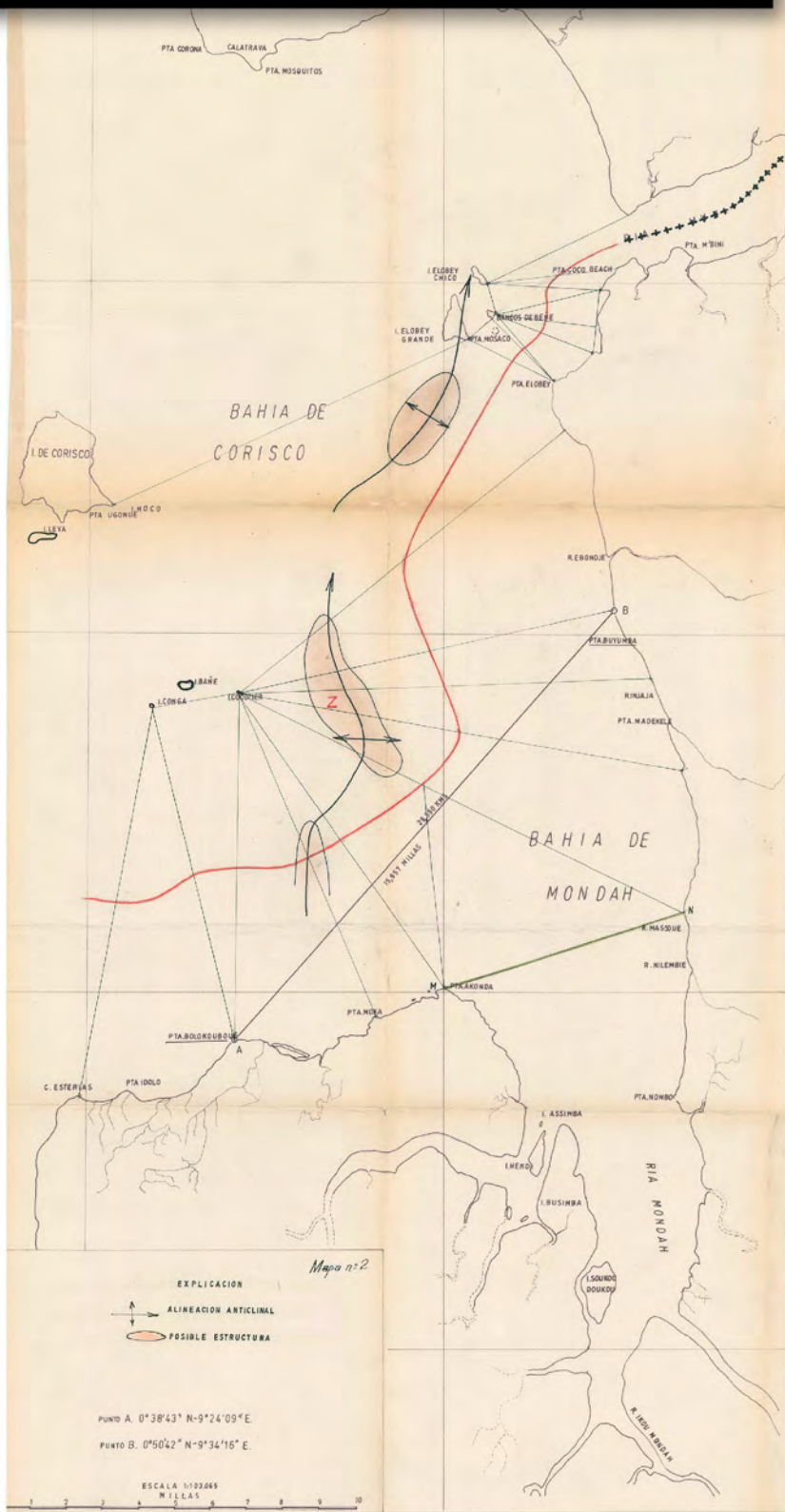
3.90 None of these internal Spanish memoranda makes any reference to a dispute with France or Gabon over Mbañe, Conga, or Cocoteros, and Gabon did not dispute Spain’s Legal Title to the Corisco Dependencies during the last eight years of Spanish sovereignty.

¹⁶⁷ The Spanish State, Ministry of Foreign Affairs, *Gabon's Extension of Mondah Bay Territorial Waters* (26 July 1966), p. 4. MEG, Vol. IV, Annex 104.

¹⁶⁸ The Spanish State, *Letter No. 454 from the Ministry of the Navy to the Undersecretary of the Ministry of Foreign Affairs* (23 July 1966). MEG, Vol. IV, Annex 105.

¹⁶⁹ The Spanish State, *Letter No. 159 from the Hydrographic Division, Maritime Department of Cadiz to the Technical Secretary-General of the General Commissariat of the Republic of Equatorial Guinea* (17 October 1967), para. 1.5. MEG, Vol. IV, Annex 108.

SPANISH MAP USING CORISCO DEPENDENCIES AS SPANISH BASEPOINTS FOR MEDIAN LINE, 1966



SOURCE: Kingdom of Spain, Ministry of Industry, Confidential Report: Determination of Gabon territorial waters (12 July 1966).

Figure 3.20

3.91 Gabon’s Constitution upon independence did not include any reference to the islands in Corisco Bay.¹⁷⁰ When the French Representative to the UN Security Council provided a detailed description of Gabon before the Council voted to admit it to the United Nations, he made no mention of any Gabonese islands.¹⁷¹ And when President Léon M’ba proclaimed Gabon’s independence, he cited only the 1839 Treaty of Alliance between France and King Denis in reference to the land of Gabon.¹⁷² Unlike Spain’s 1843 Declaration of Corisco and 1846 Record of Annexation with King Orejeck of Corisco, France’s treaty did not include any islands.¹⁷³

3.92 Gabon’s oil concession activity after independence was also consistent with Spanish sovereignty and Gabon’s lack of a claim to any islands.¹⁷⁴ As illustrated by the map at **Figure 3.21** (following page 66), the Libreville permit area applied for in 1964 by Compagnie Shell de Recherche et d’Exploitation au Gabon (“Shell” or “COSREG”)¹⁷⁵ was bounded on the north

¹⁷⁰ The Gabonese Republic, *Constitution*, “Preamble” (14 November 1960). MEG, Vol. VI, Annex 180.

¹⁷¹ UN Security Council, *890th Meeting held in New York*, Security Council Official Records (23 August 1960). MEG, Vol. III, Annex 17.

¹⁷² UN Security Council, *890th Meeting held in New York*, Security Council Official Records (23 August 1960), para. 178. MEG, Vol. III, Annex 17.

¹⁷³ *Treaty between France and King Denis of Gabon (Senegal), signed in Gabon* (9 February 1839). MEG, Vol. III, Annex 2.

¹⁷⁴ The geographic patterns of oil concessions can indicate a State’s understanding of territorial title. *Land and Maritime Boundary Between Cameroon And Nigeria (Cameroon v. Nigeria: Equatorial Guinea Intervening)*, Judgment, I. C. J. Reports 2002, p. 303, para. 215 (“this common understanding of the Parties is also reflected by the geographic pattern of the oil concessions granted by the two Parties”).

¹⁷⁵ COSREG was the operating company representing Royal Dutch/Shell Group’s exploration interests in Gabon at the time. *Aide-Memoire on “Royal Dutch/Shell Group Exploration Venture in Gabon”* for the Ambassador of the United Kingdom to the Republic of the Congo (16 April 1965). MEG, Vol. IV, Annex 102.

by what is clearly an equidistance line using Spanish base points on the Corisco Dependencies. The map was attached to an *aide-mémoire* prepared by the British Ambassador in Brazzaville in April 1965.¹⁷⁶

3.93 A year later, on 27 September 1966, Gabon issued a decree creating the closing line across Mondah Bay—referred to in the Spanish report noted above—that served as the outer limit of its internal waters and as the base line from which the breadth of its territorial sea was measured. Significantly, Gabon did *not* claim Mbañe, Cocoteros, or Conga as territory that generated territorial waters. This closing line can be seen here on **Figure 3.22** (following Figure 3.21).

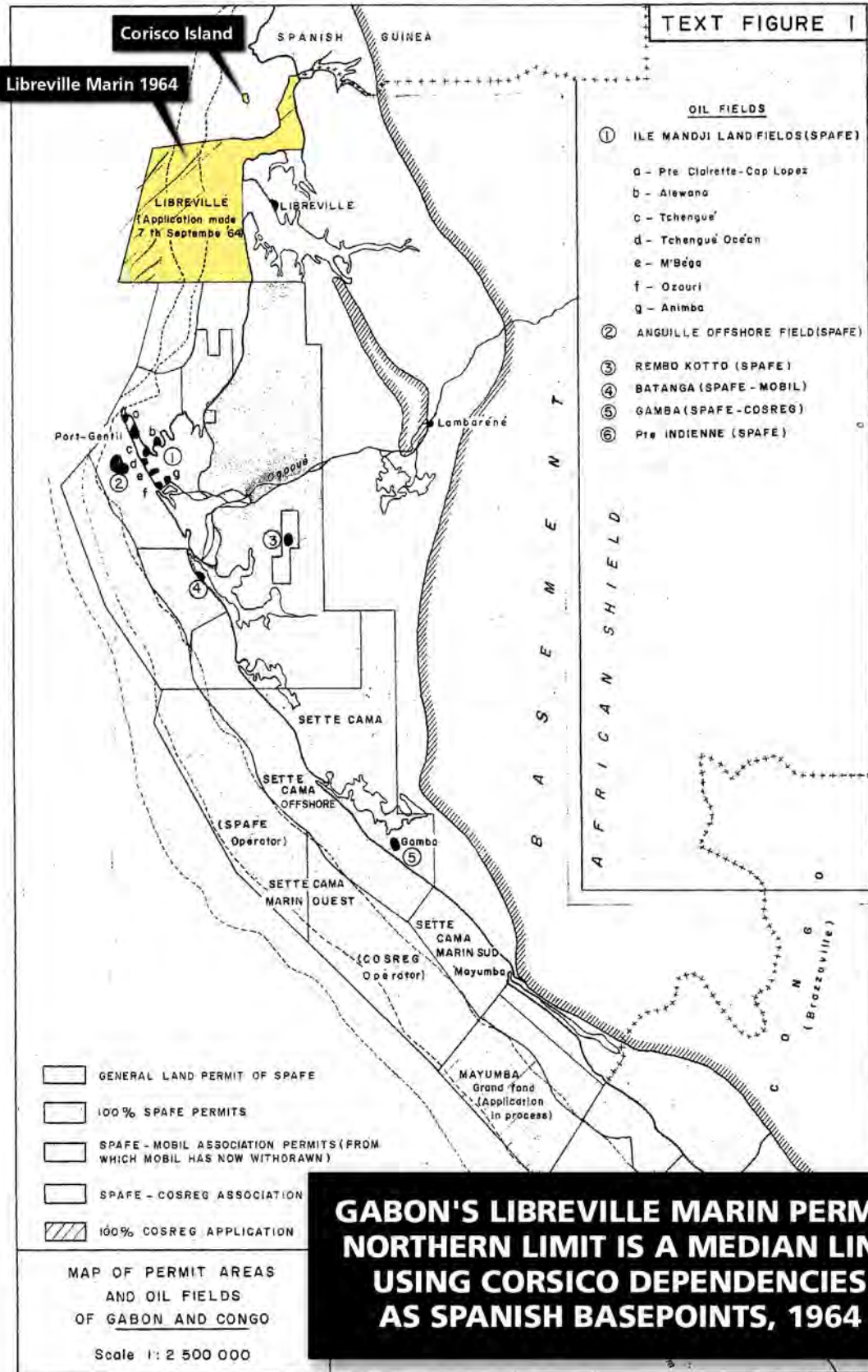
3.94 In response to Gabon’s Mondah Bay closing line decree, the Spanish Embassy in Libreville sent a note to Gabon reserving Spain’s rights and proposing negotiations.¹⁷⁷ There was no evidence of a dispute over Spain’s islands in Corisco Bay, but rather an understanding that Gabon intended to delimit its maritime boundary using basepoints on its continental territory on the mainland and its new Mondah Bay closing line.

3.95 An airgram dated 26 February 1967 from the Embassy of the United States in Libreville to the U.S. Department of State confirmed this, describing the extent of Gabon’s claims as follows:

“Gabon has apparently decided to declare Mondah Bay (an arm of the sea north and east of Libreville) as an interior body of water. In addition, the

¹⁷⁶ *Aide-Memoire on “Royal Dutch/Shell Group Exploration Venture in Gabon”* for the Ambassador of the United Kingdom to the Republic of the Congo (16 April 1965). MEG, Vol. IV, Annex 102.

¹⁷⁷ The Spanish State, Ministry of Foreign Affairs, *Informational Note: Delimitation of Gabon and Equatorial Guinea’s Territorial Waters* (14 November 1967). MEG, Vol. V, Annex 145.



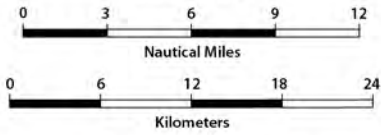
SOURCE: Aide-Memoire on "Royal Dutch/Shell Group Exploration Venture in Gabon" for the Ambassador of the United Kingdom to the Republic of the Congo (16 April 1965). Annotations added.

Draw N° 465

Figure 3.21

GABON'S 1966 MONDAH BAY CLOSING LINE

Mercator Projection
Datum: WGS-84
(Scale accurate at 1°N)



Coastal Data: DMA chart 57181, 5th edition
(transformed from Gabon 1951 datum)

Prepared by International Mapping



Figure 3.22

Gabonese Government is submitting a proposal to the Spanish Government concerning a precise definition of the line determining the territorial waters of Gabon and of Equatorial Guinea on Gabon's northern border. ... Gabonese territorial waters are defined as all those portions of the ocean within twelve miles of the Gabonese coast except in cases where this claim overlaps areas which are within twelve miles of the coastal or island possessions of Equatorial Guinea. In the latter case, lines have been drawn on a detailed map between the various Spanish-held islands and the closest points on the adjacent Gabonese mainland. Points midway along these lines have been connected. The resulting line constitutes the Gabonese proposed boundary between the territorial waters of Gabon and Equatorial Guinea."¹⁷⁸

3.96 Gabon's proposal as described here used the same methodology as that used by Spain's Ministry of Industry in its report and would have resulted in a similar line to the one depicted in the Ministry's map at Figure 3.20 (following page 64).

3.97 Another airgram from the U.S. Embassy in Libreville, dated 28 May 1967, confirmed the understanding of the United States regarding Gabon's territorial claims up to that date. That airgram recounted information provided to the U.S. Embassy by representatives of the Gulf Oil Company, who were told by Gabonese officials that Gabon might change its position and claim for the first

¹⁷⁸ *Airgram No. A-93 from the Embassy of the United States of America to the Gabonese Republic to the US Department of State (26 February 1967). MEG, Vol. IV, Annex 106.*

time “several offshore sand bars, uninhabited reefs and islets as Gabonese territory”.¹⁷⁹ The 28 May 1967 airgram stated in pertinent part:

“On one of their recent trips to Gabon to complete negotiations for concessions on offshore petroleum exploration, representatives of Gulf Oil Company, Manuel RIGO and Norman LEWIS, were informed by Gabonese officials that *Gabon is altering its earlier liberal considerations concerning the boundary between the territorial waters of Gabon and Rio Muni (Equatorial Guinea)*. Gabon had earlier considered accepting a boundary connecting the midpoints on lines drawn from the Spanish-held islands to points on the Gabonese mainland. (See reference airgram). *The Gabonese Government, the Gulf representatives were told, is now going to claim several offshore sand bars, uninhabited reefs and islets as Gabonese territory* and, consequently, request that the boundary should be determined by joining the midpoints of lines connecting points on the islands claimed by Spain with points on the bars, reefs and islets claimed by Gabon. *The Gabonese officials reportedly confided to the Gulf men that the earlier proposal had been reconsidered since it would have brought the boundary of the territorial waters of Equatorial Guinea far to the south of the land frontier and, consequently, too far south to the acceptable by the Gabonese.*

COMMENT: The possibility that there may be offshore petroleum deposits in the border area could well have been a key factor in influencing Gabon to seek to expand its claim. Three oil companies, Gulf, Shell, and the Société des Petroles d’Afrique (S.P.A.F.E.), are currently actively seeking to obtain

¹⁷⁹ *Airgram No. A-137 from the Embassy of the United States of America to the Gabonese Republic to the US Department of State (28 May 1967)*. MEG, Vol. IV, Annex 107.

concessions for petroleum exploration in the offshore areas west and north of Libreville.”¹⁸⁰

3.98 Although this document indicates that Gabon began contemplating the assertion of a claim to certain of the Corisco Dependencies as early as 1967, it had not at the time made any such claim. It did not do so until 1972, four years after Equatorial Guinea’s independence. Until then, Gabon’s actions reflected an unambiguous and full recognition of Spain’s Legal Title to these insular features. For example, on 2 August 1967, Gabon issued an oil concession, the *Permis Marin de Libreville* (“Libreville Marin”), to Gulf Oil Company and Shell. Like the area to which COSREG applied in 1964, the northern limit of the Libreville Marin concession area as issued in 1967 corresponded to a median line between Gabon’s mainland and Spain’s island possessions, including Mbañe, Cocoteros, and Conga. The area of this concession is shown on **Figure 3.23** (following page 70).¹⁸¹ Gabon maintained the same northern limit of its Libreville Marin concession when, after a scheduled relinquishment, it reissued the permit area to Gulf and Shell for a period of five years starting 2 August 1969.¹⁸² Based on the coordinates and surface area provided in the decree reissuing the 1967 permit, the shape of the reissued concession area is shown at **Figure 3.24** (following Figure 3.23).

¹⁸⁰ *Ibid.*

¹⁸¹ The Gabonese Republic, *Official Gazette No. 20*, “Mining Property, Forests, Estates and Land Conservation” (15 September 1967), p. 3. MEG, Vol. VI, Annex 181. This interpretation of the northern limit of the Libreville Marin concession is corroborated by a contemporaneous map produced by the concessionaire and attached to a subsequent airgram dated 18 June 1968 from the U.S. Embassy in Libreville analyzing petroleum activities in Gabon. *See also Airgram from the Embassy of the United States to the Gabonese Republic to the US Department of State* (18 June 1968). MEG, Vol. VI, Annex 149.

¹⁸² The Gabonese Republic, *Decree No. 670/PR-MMERH-DMG* (24 September 1969). MEG, Vol. VI, Annex 183.

3.99 Other oil companies operating in Corisco Bay under license from Gabon regarded Spain as sovereign over the Corisco Dependencies. On 22 and 28 December 1967, the Director General of the Gulf Oil Company of Gabon sent letters to the Spanish Ambassador in Libreville requesting permission for the company Western Geophysical to operate on the “islands of Corisco and the rocks of Conga”,¹⁸³ identified as “Spanish Guinea islands”,¹⁸⁴ when conducting a seismic survey of the area. The Spanish authorities granted the request, and company representatives conducted their work on the islands.¹⁸⁵

3.100 France, the former colonial sovereign of Gabon’s territory, also continued to recognize Spain’s sovereignty over the Corisco Dependencies, as reflected in a 1968 map produced by the French National Geographic Institute that labelled the islands of Corisco and Mbañe as belonging to Equatorial Guinea.¹⁸⁶ This map is reproduced at **Figure 3.25** (following Figure 3.24).

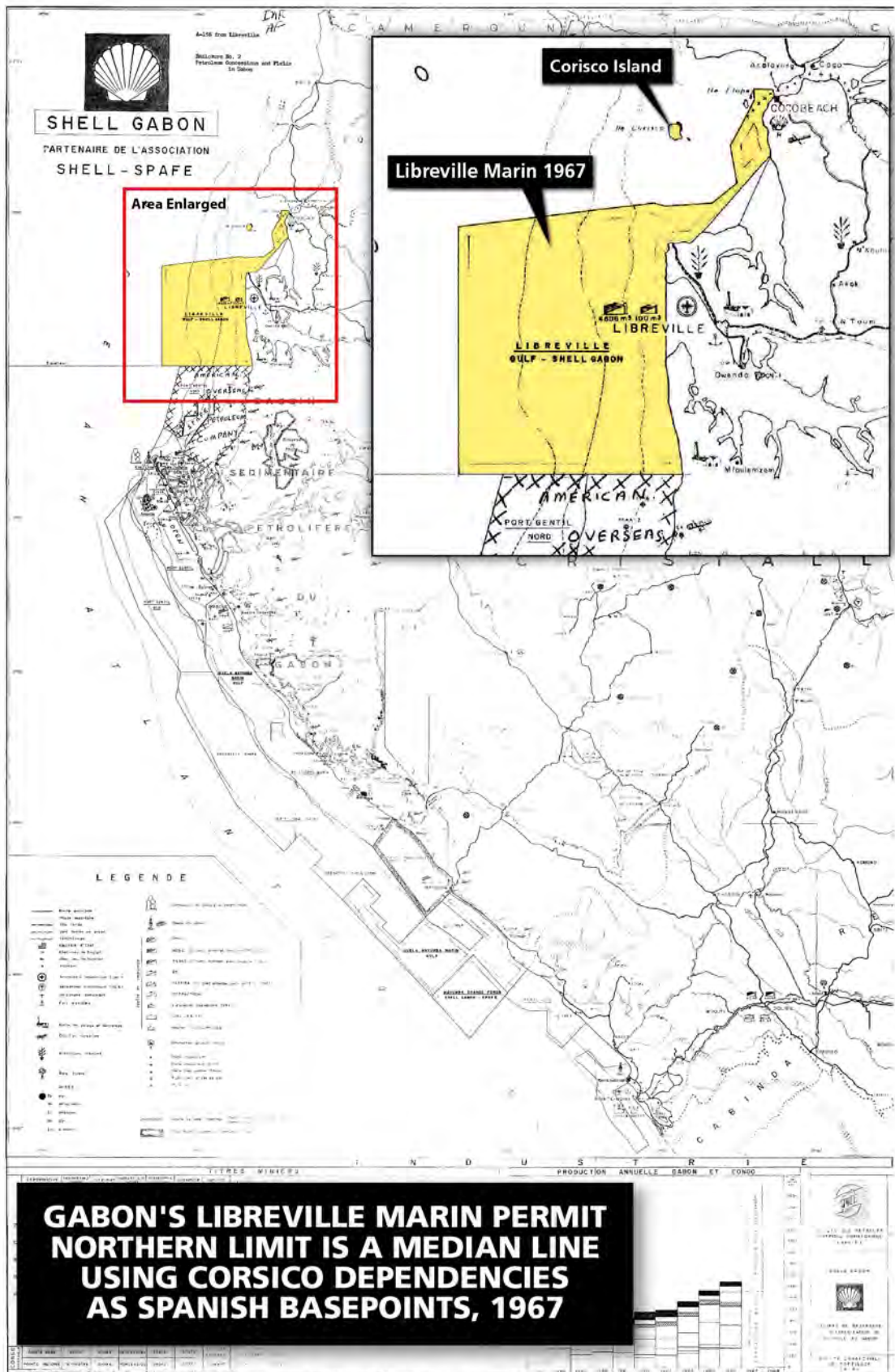
3.101 In sum, at the time of Equatorial Guinea’s independence on 12 October 1968, Spain’s Legal Title over Corisco Island and its dependencies was recognized by Gabon, France and the international community. There was no hint of a claim by France or Gabon to Mbañe, Cocoteros, or Conga. Nor had Gabon or France engaged in any sovereign acts on these insular features. Spain, in contrast, had continuously administered these features since the mid-19th century.

¹⁸³ Gulf Oil Company of Gabon, *Letter from Mr. Rigo de Righi to the Ambassador of Spain* (22 December 1967). MEG, Vol. VI, Annex 147.

¹⁸⁴ Gulf Oil Company of Gabon, *Letter from Mr. Rigo de Righi to the Ambassador of Spain* (28 December 1967). MEG, Vol. VI, Annex 148.

¹⁸⁵ Kingdom of Spain, *Letter No. 408R* from the Commissioner General of Equatorial Guinea, Santa Isabel to the Commissioner-General, Bata (11 May 1968). MEG, Vol. IV, Annex 109.

¹⁸⁶ Figure 3.25 (France, National Geographic Institute – Paris, *Libreville, Gabonese Republic* (1968)).



SOURCE: *Airgram* from the Embassy of the United States to the Gabonese Republic to the United States Department of State, Enclosure No. 2, Shell Gabon, Petroleum Concessions and Fields in Gabon (18 June 1968). Annotations added.

Figure 3.23

**GABON'S LIBREVILLE MARIN PERMIT
NORTHERN LIMIT IS A MEDIAN LINE
USING CORSICO DEPENDENCIES AS
EQUATOGUINEAN BASEPOINTS, 1969**

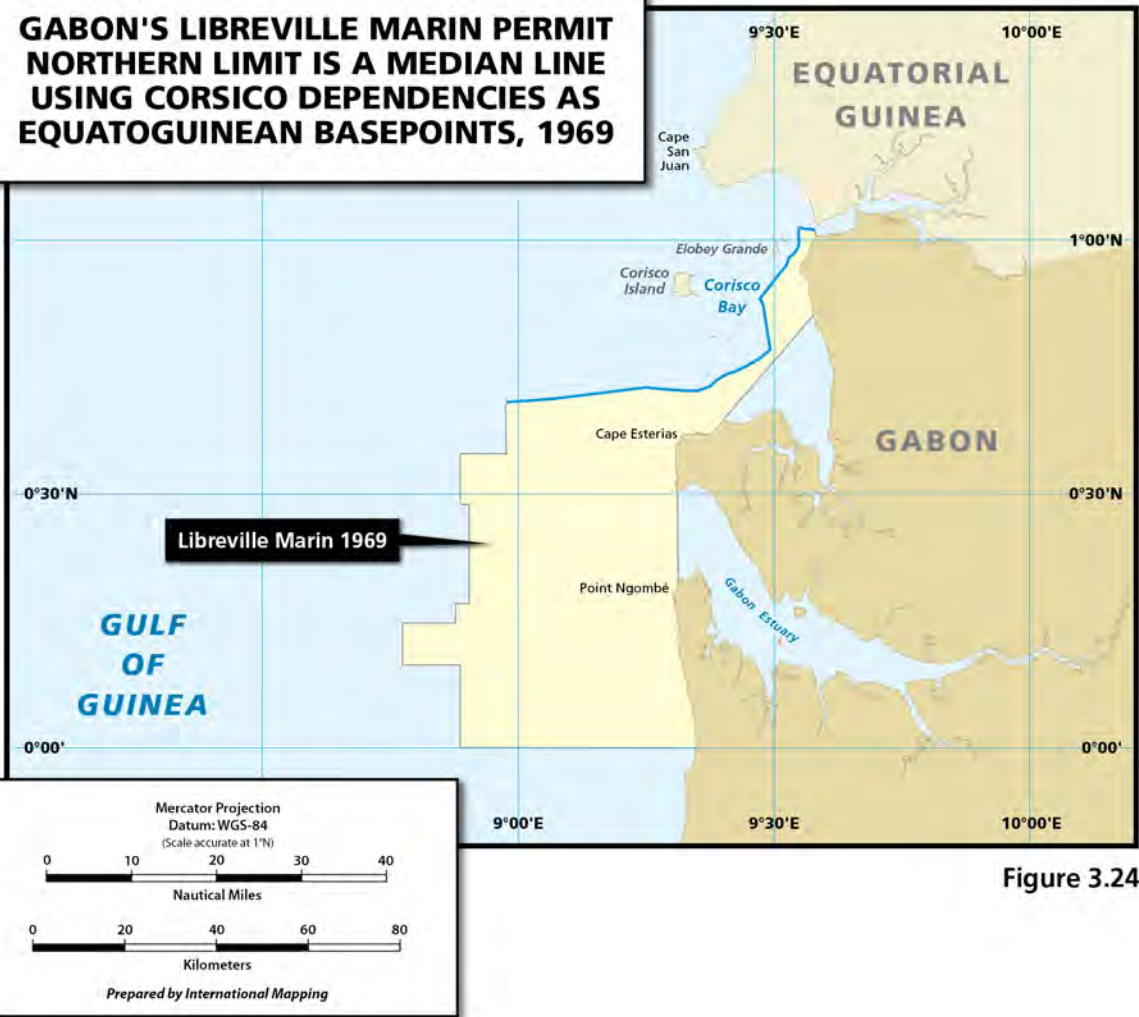
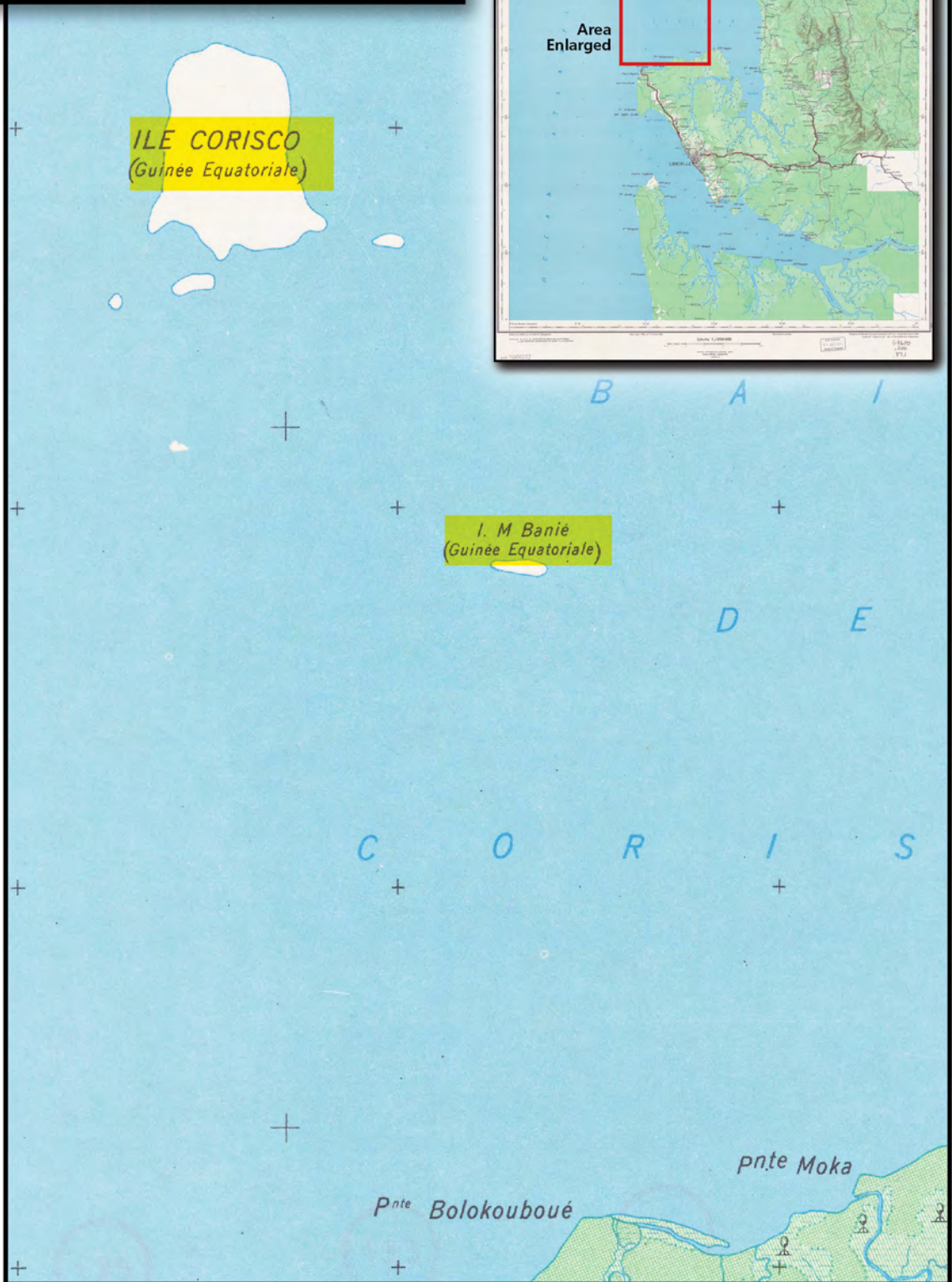


Figure 3.24

**OFFICIAL FRENCH MAP
SHOWING THE CORISCO
DEPENDENCIES AS
EQUATOGUINEAN, 1968**



SOURCE: France, National Geographic Institute – Paris, *Libreville, Gabonese Republic* (1968). Map excerpt, annotations added.

Figure 3.25

B. THE STATUS OF THE CONTINENTAL LAND TERRITORY

3.102 In the south, Spain continued to administer the Utamboni River Area after Gabon's independence in 1960 through Equatorial Guinea's independence in 1968. Gabon, like France before it, accepted Spanish sovereignty within those limits, as reflected in the 1966 Spanish-Gabonese Agreement regarding Transboundary Circulation and Exchanges between Río Muni and Gabon (the "1966 Agreement").¹⁸⁷

3.103 In December 1963, Gabon invited Spain to negotiate a treaty that would become the 1966 Agreement.¹⁸⁸ In 1964, Spain's Ambassador to Gabon reported to the Spanish Minister of Foreign Affairs that the proposed agreement "represents a recognition of boundaries".¹⁸⁹ The Agreement was signed by Spain and Gabon on 11 June 1966 but appears not to have entered into force.¹⁹⁰

3.104 Article 1 of the 1966 Agreement defines, for the purposes of the treaty, a "border zone" with a width of 10 km on either side of the land boundary between the parties. Article 1 also provides that each party would provide the other with a note containing a list of population centres located in its territory

¹⁸⁷ The Spanish State Parliament, *Agreement Between the Spanish State and The Gabonese Republic Concerning Circulation and Border Exchange Between Rio Muni and Gabon*, Official Gazette No. 931 (4 October 1966) (as presented to Spain's Parliament for ratification). MEG, Vol. III, Annex 7.

¹⁸⁸ *Note Verbale from Embassy of Gabon in Spain to Ministry of Foreign Affairs of Spain* (10 December 1963). MEG, Vol. IV, Annex 97.

¹⁸⁹ The Spanish State, *Letter No. 109 from the Embassy of the Kingdom of Spain to the Republic of Gabon to the Spanish Ministry of Foreign Affairs* (30 May 1964), p. 1. MEG, Vol. IV, Annex 98.

¹⁹⁰ The Spanish State, *Letter No. 303 from the Embassy of the Kingdom of Spain to the Republic of Gabon to the Spanish Ministry of Foreign Affairs* (13 June 1966). MEG, Vol. IV, Annex 101. See *Case Concerning Maritime Delimitation And Territorial Questions Between Qatar And Bahrain (Qatar v. Bahrain)*, Judgment, *I.C.J. Reports 2001*, p. 40, para. 89 ("The Court observes that signed but unratified treaties may constitute an accurate expression of the understanding of the parties at the time of signature.").

within this border region.¹⁹¹ In the Utamboni River Area, with the exception of two villages on Gabon's list, the exchange of notes reflects the territorial situation existing at the independence of Gabon in 1960 based on the 1900 Convention, the proposal of the 1901 Commission and the subsequent practice of Spain and France.¹⁹² Equatorial Guinea could find no evidence of actual administration of these two towns by Gabon (or France before it). Spain and Gabon also agreed on the locations of border crossings along their entire land boundary.¹⁹³ The border crossing points were defined by reference to one town on each side of the border. Spain proposed two crossings in the Utamboni River Area: one between the Spanish town of Niefala and the Gabonese town of Avloa, and the other between the Spanish town of Asobla and an unspecified the Gabonese town.¹⁹⁴ Gabon proposed that there not be any border crossings in the Utamboni River Area due to a lack of resources to administer them, but it did not object to Spain's identification of the towns in Spain's territory.¹⁹⁵ The location of the villages listed in the Utamboni River Area in the notes exchanged between Gabon and

¹⁹¹ The Spanish State Parliament, *Agreement Between the Spanish State and The Gabonese Republic Concerning Circulation and Border Exchange Between Rio Muni and Gabon*, Official Gazette No. 931 (4 October 1966), Art. 1. MEG, Vol. III, Annex 7.

¹⁹² See Convention between The Spanish State and The Gabonese Republic Concerning Cross-Border Exchanges and Movement Between Rio Muni and Gabon, *Appendix 2 Concerning the Towns or Urban Areas to be Included in the 10 KM Zone Referred to in the Convention* (1966) (Spain's list of towns in border zone). MEG, Vol. III, Annex 8; The Spanish State, *Letter No. 223 from the Ambassador of Spain in Rio Muni to the Spanish Ministry of Foreign Affairs* (6 May 1965) (attaching letter from Gabon's Vice President annexing Gabon's list of towns in border zone). MEG, Vol. IV, Annex 99.

¹⁹³ The Spanish State, *Letter No. 383 from the Presidency of the Government to the Spanish Ministry of Foreign Affairs* (20 October 1965) (agreeing to Gabon's list of border crossings). MEG, Vol. IV, Annex 100.

¹⁹⁴ The Spanish State, General Directorate of African Territories and Provinces, *Study of the Border Between Gabon and Rio Muni – Crossing Points* (1965). MEG, Vol. III, Annex 6.

¹⁹⁵ The Spanish State, *Letter No. 223 from the Ambassador of Spain in Rio Muni to the Spanish Ministry of Foreign Affairs* (6 May 1965) (attaching letter from Gabon's Vice President explaining its lack of resources and annexing Gabon's proposed border crossings). MEG, Vol. IV, Annex 99.

Spain as well as the Spain’s proposed border crossings are depicted in **Figure 3.26** (following page 74). The towns in on Spain’s list are shown in orange and those on the list provided by Gabon are shown in green.

3.105 In 1964, Spain established a provisional reserve of land with bituminous indications in the Rio Muni province, entrusting the Spanish National Institute of Industry with research work there.¹⁹⁶ The reserve area covered the coastal area of Rio Muni from the Campo (Ntem) River in the north to the border with Gabon in the south. The eastern limit of the reserve connected a series of specified points the southernmost of which was the town of Anguma in the Utamboni River Area. From Anguma, the reserve limit “descend[s] southward along the meridian until meeting the boundary line with Gabon, continuing along it westward, until reaching the sea...”¹⁹⁷ The relevant part of the bitumen reserve is depicted following Figure 3.26 at **Figure 3.27**. Spain also continued to administer an elementary school in Asobla as late as in 1967—just one year before Equatorial Guinea’s independence.¹⁹⁸

3.106 Gabon did not protest Spain’s exercise of sovereignty at Asobla or Anguma, or in any other part of the Utamboni River Area that constituted

¹⁹⁶ The Spanish State, *Order of 7 January 1964 Establishing the Provisional Reserve of Land with Bituminous Indications in the Río Muni Province, Entrusting the National Institute of Industry with Research Work*, Official Gazette (15 February 1964), p. 1. MEG, Vol. V, Annex 141.

¹⁹⁷ The Spanish State, *Order of 7 January 1964 Establishing the Provisional Reserve of Land with Bituminous Indications in the Río Muni Province, Entrusting the National Institute of Industry with Research Work*, Official Gazette (15 February 1964), p. 1. MEG, Vol. V, Annex 141.

¹⁹⁸ Equatorial Guinea, *Order Approving the Amendment of Remunerations of the Employees of Equatorial Guinea Employed by the Office of the Commissioner-General* (7 February 1967). MEG, Vol. V, Annex 144; Equatorial Guinea, *Government Officials: Assistant Teachers for the Elementary Teaching Service (“Official Bulletin”)* (1 March 1964), p. 162. MEG, Vol. V, Annex 142.

Spanish territory in accordance with the proposal of the 1901 Commission and the practice of the colonial States.

3.107 Nor did Gabon challenge Spanish sovereignty in the north and east, in the areas between the Kie River boundary established in the 1919 Governors' Agreement and the meridian 9° East of Paris. Spain's continued public acts affirming its title continued almost immediately after Gabon's independence. In 1961, the year after Gabon's independence, Spain submitted a report to the United Nations Committee on Information from Non-Self-Governing Territories describing its territory in colonial Equatorial Guinea, stating that the "Kie, forms a natural boundary with Gabon."¹⁹⁹

3.108 In implementing the 1966 Agreement described above, Spain and Gabon exchanged notes identifying their respective population centres within 10 km of the border in the Kie River Area, as they did for the Utamboni River Area. Among the more than 100 villages located in the Ebebiyin and Mongomo districts, Spain identified many that were located to the east of the meridian 9° East of Paris and west of the Kie River boundary established in the 1919 Governor's Agreement. In the Ebebiyin district, Ebebiyin, Ngong, Adyap, Melo, Nfua, Alen (Campamento), Masaman, Anuguong, Acoelon and Mbiralen, among others, were all on Spain's list of towns within Rio Muni. In the Mongomo district, Ngomete, Edum, Mban, Melen, Macomo and Mongomo, among others, were also on this list. This last, important Spanish (and now Equatoguinean) city, included for reference, is west of the meridian 9° East of Paris because the Kie River, established as the boundary in the 1919 Governor's Agreement, flows to

¹⁹⁹ UN General Assembly, *Report of the Committee on Information from Non-Governing Territories, Official Records: Sixteenth Session Supplement No. 15 (A/4785)*, New York (1 September 1961). MEG, Vol. III, Annex 18.

SPANISH AND GABONESE VILLAGES AND BORDER CROSSINGS, 1966 (UTAMBONI RIVER AREA)



Figure 3.26

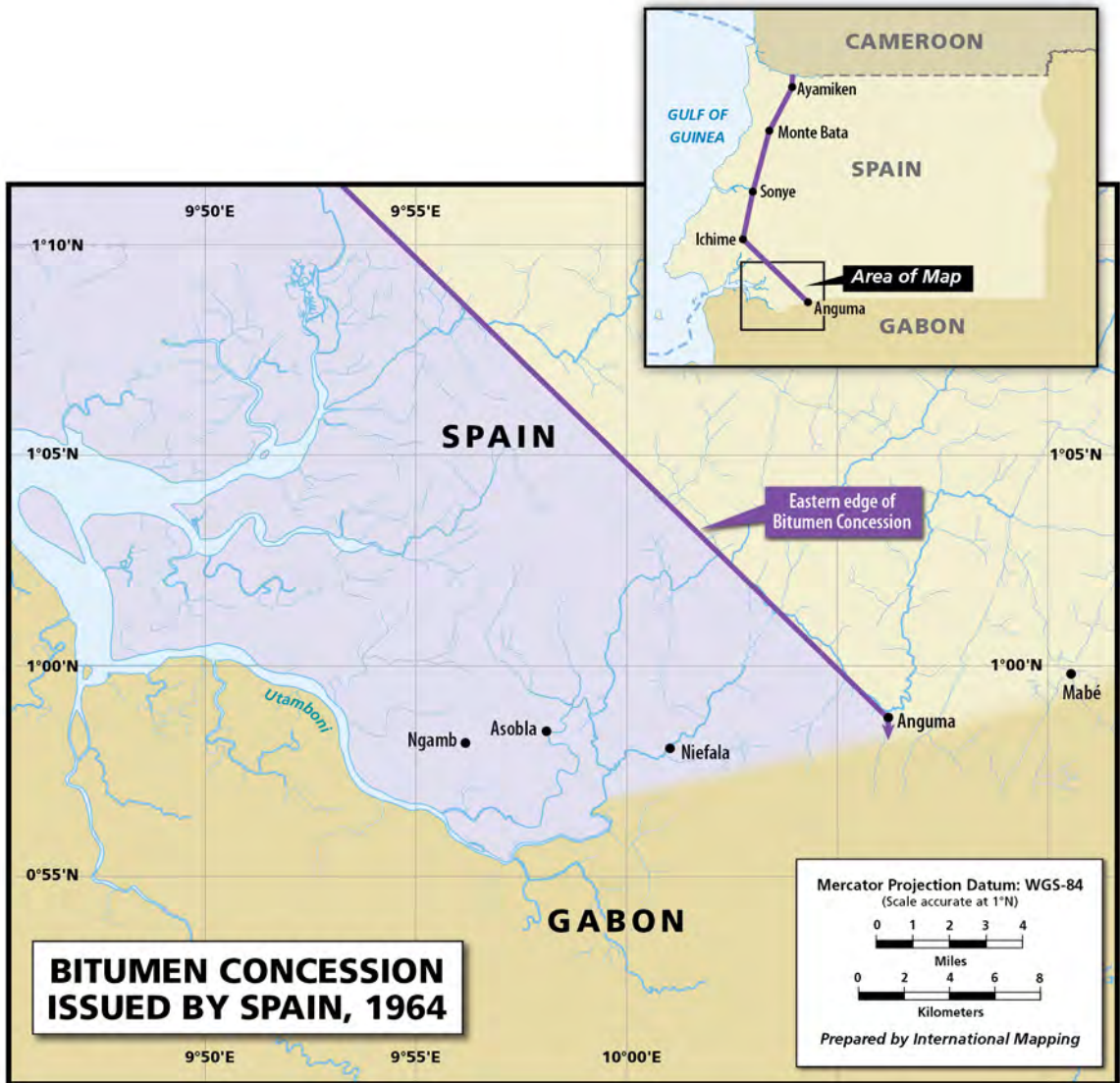


Figure 3.27

the west of that meridian at this point. Spain also proposed nine of these Spanish localities to be the towns in Spanish territory that defined the location of border crossing points on the Kie River. Gabon, in its own proposal on border crossings, which was agreed to by the parties, affirmed that the towns of Ebebiyin, Ngong, Alen, Anunguon, Ngomete, Mibang and Mongomo were in Spanish territory.²⁰⁰ The locations of these Spanish towns, the border crossings, and the towns on Gabon's list of towns in its territory in this area are depicted at **Figure 3.28** (following page 76).

3.109 After its independence, Equatorial Guinea continued to administer the Kie River Area. While Gabon's position had not been consistent over the years it recently has recognized the colonial boundary using the Kie River as the limit between the two States. In 2011, Equatorial Guinea completed the construction of two bridges over the Kie River connecting its cities of Ebebiyin and Mongomo with Gabon. It installed border posts on its side of the bridges. The bridges were a part of a series of intended infrastructure projects along the eastern boundary as formed by the Kie River.²⁰¹ Not only did Gabon not object to the construction of these bridges, Gabonese President Ali Bongo Ondimba officially attended the inauguration. On 4 August 2011, a Gabonese publication reported that President Ali Bongo of Gabon and President Teodoro

²⁰⁰ *Letter from the Director General of African Cities and Provinces (Presidency of the Government of Spain) to the Director General of African Affairs (Spanish Ministry of Foreign Affairs), attaching Annex I to Act No. 3 Concerning the Obligatory Boundary Crossings Proposed by the Commission on the Common Boundary Between the Republic of Gabon and Equatorial Guinea (19 October 1965).* MEG, Vol. III, Annex 9.

²⁰¹ *News Article, "Inauguration of the Friendship Bridges Between Gabon and Equatorial Guinea", La Lettre d'Information, Official Bulletin of the Presidency of the Gabonese Republic No. 3 (August 2011).* MEG, Vol. VII, Annex 239.

Obiang Nguema Mbasogo of Equatorial Guinea attended the inauguration of “the bridge over the Kye River, a natural boundary between the two countries.”²⁰²

3.110 Soon after the inauguration of the bridge, President Bongo was interviewed for the publication *Jeune Afrique*. When asked about border disagreements with Equatorial Guinea, President Bongo stated:

“President Obiang and I were at the end of July at the border of our countries to inaugurate two bridges which will increase our trade and facilitate the movement of people. What better symbol of agreement than building a bridge?”²⁰³

3.111 **Figure 3.29** (following Figure 3.28) shows the location of these two bridges on a map of the entire Kie River Area. **Figure 3.30** (following Figure 3.29) shows a satellite image of the city of Ebebiyin from 2020, with the meridian 9° East of Paris running down the centre of the city and the international bridge across the Kie River inaugurated by the Presidents in 2011 on the eastern edge of the city. **Figure 3.31** (following Figure 3.30) is a satellite image of the Equatorial Guinea city of Mongomo that shows the other international bridge across the Kie River, also inaugurated by the Presidents in 2011, on the eastern edge of that city. The Kie River established by Spain and France as the international boundary between their colonial territories, thus, continues to be the boundary today.

²⁰² *News Article*, “Ali Bongo in Equatorial Guinea for Bridge Inauguration”, *Bongo Must Go* (4 August 2011), p. 1 (“Le président gabonais Ali Bongo Ondimba s’est rendu jeudi en Guinée-Equatoriale pour inaugurer, avec son homologue Equato-guinéen Teodoro Obiang Nguema Mbasogo, le pont sur la rivière Kyé, *frontière naturelle entre les deux pays*”) (emphasis added). MEG, Vol. VII, Annex 237; *News Article*, “Inauguration of Two Bridges”, Office of Press and Information of the Republic of Equatorial Guinea (6 August 2011). MEG, Vol. VII, Annex 238.

²⁰³ *News Article*, Ali Bongo Ondimba: “Not Everyone Has Understood that Gabon has Changed”, *Jeune Afrique* (6 September 2011). MEG, Vol. VII, Annex 240.



Figure 3.28



Figure 3.29



Figure 3.30



Figure 3.31

CHAPTER 4 THE ORIGIN OF THE PARTIES' DISPUTE

4.1 As the historical record of the colonial period makes clear, at the time of Gabon's independence in 1960, there were no sovereignty or territorial disputes between Spain and France; and at the time of Equatorial Guinea's independence in 1968, there were no such disputes between Spain and Gabon. At both times, the States concerned accepted Spanish sovereignty over Corisco Island and its dependencies in Corisco Bay; and they accepted that the land boundary between Equatorial Guinea and Gabon in the Utamboni River Area and Kie River Area followed these two rivers and the location of towns in close proximity to the 1° North parallel of latitude, rather than along those straight lines themselves, consistent with the recommendations of the 1901 Commission established under the 1900 Convention and the 1919 Governors' Agreement. The territorial relationship existing at independence can be seen on Figure 1.1 above (following page 8).

4.2 However, beneath the surface, by the late 1960s Gabon's attitude following independence was beginning to change, especially in regard to the islands of Corisco Bay, when it perceived that the offshore area might have rich hydrocarbon potential and considered expanding the reach of its maritime jurisdiction. As the United States Embassy in Libreville observed in 1967: "The possibility that there may be offshore petroleum deposits in the border area could well have been a key factor in influencing Gabon to seek to expand its claim."²⁰⁴

²⁰⁴ *Airgram No. A-137* from the Embassy of the United States of America to The Gabonese Republic to the US Department of State (28 May 1967), p. 1. MEG, Vol. IV, Annex 107.

4.3 In 1970, two years after Equatorial Guinea's independence, Gabon unilaterally expanded the northern limits of its Libreville Marin concession, awarded to Shell and Gulf in 1967, beyond the median line between its coast and the then Spanish-held Corisco Bay islands and islets, by 1,500 square km. This encroached on Equatorial Guinea's territorial sea.²⁰⁵ The Gabonese measure affected Equatorial Guinea's exploration permits granted to Continental Oil, Gulf and CEPESA.²⁰⁶ Approximately 50 to 60 percent of the southernmost block of the Equatorial Guinea permit now fell within maritime space claimed for the first time by Gabon.²⁰⁷

4.4 This act was followed, on 12 August 1970, by a decree issued by Gabon's Council of Ministers, extending Gabon's territorial waters from 12 nautical miles to 25 nautical miles.²⁰⁸ Gabon informed the UN Secretary-General of its decree a few days later, on 20 August 1970,²⁰⁹ and enacted another presidential order on 5 October 1970 confirming the extension.²¹⁰ The US, the UK,

²⁰⁵ The Gabonese Republic, *Decree 689/70* (14 May 1970). MEG, Vol. VI, Annex 184.

²⁰⁶ *Letter from the Spanish Embassy in Santa Isabel* (22 June 1970), p. 1. MEG, Vol. VI, Annex 151; Republic of Equatorial Guinea, *Memo No. 26R from the Ministry of Industries and Mines to the President* (12 June 1970), p. 1. MEG, Vol. VI, Annex 185.

²⁰⁷ *Airgram from the American Embassy in Santa Isabel to the Department of State* (16 June 1970), p. 1. MEG, Vol. VI, Annex 150.

²⁰⁸ *Telegram from the US Embassy in Libreville to the US Department of State* (13 August 1970), p. 1. MEG, Vol. VI, Annex 152; *Letter from the Ambassador of Spain in Libreville to the Spanish Ministry of Foreign Affairs* (18 August 1970), p. 1. MEG, Vol. VI, Annex 153.

²⁰⁹ *Cable from UN to Permanent Missions* (14 September 1970), enclosing *Communication from Mr. Manadou D'Niaye, Charge d'Affaires of the Republic of Gabon to the Secretary-General of the United Nations Announcing the Extension of Gabonese Territorial Waters by Presidential Decree* (20 August 1970), p. 1. MEG, Vol. III, Annex 22; *Airgram from the US Department of State regarding Protest of Gabon's Extension of Territorial Waters* (12 November 1970), p. 1. MEG, Vol. VI, Annex 156.

²¹⁰ The Gabonese Republic, *Order No. 55-70-PR-MTAC* (5 October 1970), p. 1. MEG, Vol. VI, Annex 187.

the Netherlands, the USSR, Equatorial Guinea and other States objected and refused to recognise Gabon's purported extension of its territorial sea.²¹¹

4.5 On 24 September 1970, Equatorial Guinea issued Decree 17/1970, which established "the jurisdictional waters and the Zone of influence of the Bay of Corisco and the adjacent islets, in the South of the province of Rio Muni".²¹² This decree referred to Equatorial Guinea's sovereignty over Mbañe, Cocoteros, and Conga and established the equidistance line as the boundary between these islands and Gabon, as reflected in the practice of both States prior to 1970 described in Chapter 3 above.

4.6 In 1971, Equatorial Guinea issued oil exploration concessions based on decree 17/1970 to CONOCO-Gulf and CEPSA.²¹³ Gabon sent a protest note to Equatorial Guinea on 28 August 1971 challenging Equatorial Guinea's use of equidistance to claim "those islands' maximum possible ocean territory", since this "impinge[d] on our continental plateau".²¹⁴

²¹¹ *Telegram from the US Embassy in Libreville to the US Department of State* (13 August 1970), p. 1. MEG, Vol. VI, Annex 152; *Letter from the Permanent Mission of the Netherlands to the United Nations to the UN Secretary-General* (14 October 1970), p. 1. MEG, Vol. III, Annex 24; *Airgram from US Embassy in Libreville to US Department of State* (28 November 1970), p. 1. MEG, Vol. VI, Annex 157; Permanent Mission of the Republic of Equatorial Guinea to the United Nations, *Statement Before the United Nations Security Council by His Excellency Mr. Jesus Alfonso Oyono Alogo* (September 1972), p. 3. MEG, Vol. III, Annex 28.

²¹² Republic of Equatorial Guinea, *Presidential Decree No. 17/1970* (24 September 1970), p. 1. MEG, Vol. VI, Annex 186.

²¹³ *Letter No. 002967 from the Ministry of Foreign Affairs of The Gabonese Republic to the Ministry of Foreign Affairs of the Republic of Equatorial Guinea* (28 August 1971), p. 1. MEG, Vol. VI, Annex 154.

²¹⁴ *Ibid.*

4.7 On 5 January 1972, Gabon issued Decree 1/72/PR, further extending its territorial sea from 25 to 30 nautical miles.²¹⁵ Gabon's increasingly aggressive claims to the waters of Corisco Bay led the Parties to meet in Libreville, between 25 and 29 March 1972, to attempt to reach an accommodation. It was during these meetings that Gabon first raised a claim to the Corisco Dependencies. Unexpectedly, and to Equatorial Guinea's considerable surprise, it asserted a claim to all the islands in Corisco Bay, other than Corisco, Elobey Grande and Elobey Chico.²¹⁶ The meetings ended without agreement on their dispute.²¹⁷ However, the Parties did agree that: (1) the 1900 Convention should form the basis of their boundary negotiations; (2) the Parties would come to an agreement on their maritime boundary after a bilateral commission of experts drafted technical and legal reports to guide them in the delimitation of their maritime boundary; and (3) meanwhile, no Party should take unilateral actions in the disputed area.²¹⁸

4.8 Notwithstanding this agreement, on 16 July 1972 Gabon issued Ordonnance No. 58/72 unilaterally extending its territorial sea – for the third time

²¹⁵ *Airgram No. A-011 from the Embassy of the United States to the Gabonese Republic to the US Department of State (8 February 1972)*, p. 1. MEG, Vol. VI, Annex 159; *Letter from the Permanent Representative of The Gabonese Republic to the United Nations to the UN Secretary-General (1 March 1972)*, p. 3. MEG, Vol. III, Annex 25.

²¹⁶ *Report Prepared by the Gabon-Equatorial Guinea Joint Commission After the Meeting in Libreville from March 25 to 29, 1972*, Libreville (25-29 March 1972), pp. 1, 5-6. MEG, Vol. VII, Annex 199; *Minutes Drawn up by the Gabonese-Equatoguinean Delegation Following the Meeting in Libreville from March 25-29, 1972*, Libreville (29 March 1972), p. 3. MEG, Vol. VII, Annex 197.

²¹⁷ *Minutes of the Joint Gabon-Equatorial Guinea Commission's Meeting in Libreville (25-29 March 1972)*, p. 1. MEG, Vol. VII, Annex 198; *Minutes Drawn up by the Gabonese-Equatoguinean Delegation Following the Meeting in Libreville from March 25-29, 1972*, Libreville (29 March 1972), p. 1. MEG, Vol. VII, Annex 197; *Memorandum of Conversation between Chargé d'Affaires of the Embassy of The French Republic to The Gabonese Republic and US Embassy Official (5 April 1972)*, pp. 1-3. MEG, Vol. VI, Annex 160.

²¹⁸ *Minutes of the Joint Gabon-Equatorial Guinea Commission's Meeting in Libreville (25-29 March 1972)*, pp. 3, 8, points 2.1, 8.2. MEG, Vol. VII, Annex 198.

in less than two years – from 30 nautical miles to 100 nautical miles.²¹⁹ Equatorial Guinea protested Gabon's action,²²⁰ as did the United States²²¹ and the Kingdom of the Netherlands.²²²

4.9 The following month, on or about 26 August 1972, Gabonese military forces seized and occupied the islet of Mbañe,²²³ capturing and beating four soldiers from the Equatoguinean National Guard, and detaining and torturing 24 Equatoguinean fishermen who were present on the islet.²²⁴ Gabon then stationed warships in the Rio Muni estuary and sank several Equatoguinean vessels that supplied and connected Corisco Island and its dependencies to the Equatorial

²¹⁹ *Letter from the Ambassador of The Gabonese Republic to the United Nations to the UN Secretary-General* (28 August 1972), p. 1. MEG, Vol. VI, Annex 161; *The Gabonese Republic, Ordonnance No. 58/72 Extending the Outer Limit of Gabon's Territorial Waters to 100 Nautical Miles* (16 July 1972), p. 3, art. 1. MEG, Vol. VI, Annex 188; *Telegram No. 546 from the Embassy of the United States to The Gabonese Republic to the US Department of State* (2 September 1972), p. 1. MEG, Vol. VI, Annex 162.

²²⁰ *The Gabonese Republic, Ordonnance No. 58/72 Extending the Outer Limit of Gabon's Territorial Waters to 100 Nautical Miles* (16 July 1972), p. 3. MEG, Vol. VI, Annex 188; *Letter from the Permanent Mission of the Republic of Equatorial Guinea to the United Nations to the Permanent Missions and Offices of Permanent Observers to the United Nations* (5 September 1972). MEG, Vol. III, Annex 26.

²²¹ *Telegram No. 190230 from the US Department of State to the Embassies of the United States of America to The Gabonese Republic, the United Kingdom, The French Republic, the Union of Soviet Socialist Republics, Japan, the United Nations, and The United Republic of Cameroon* (18 October 1972), p. 1. MEG, Vol. VI, Annex 170.

²²² *Telegram No. 282 from the Embassy of the United States of America to the Kingdom of the Netherlands to the US Department of State* (26 October 1972). MEG, Vol. VI, Annex 171.

²²³ *Telegram No. 644 from the Embassy of the United States of America to The Gabonese Republic to the US Department of State* (11 September 1972), p. 1. MEG, Vol. VI, Annex 165.

²²⁴ *Permanent Mission of the Republic of Equatorial Guinea to the United Nations, Statement Before the United Nations Security Council by His Excellency Mr. Jesus Alfonso Oyono Alogo* (September 1972), p. 9. MEG, Vol. III, Annex 28; *Telegram from Equatorial Guinea's Minister of Foreign Affairs to the Permanent Representative of the Republic of Equatorial Guinea to the United Nations* (11 September 1972). MEG, Vol. VI, Annex 164.

Guinea mainland, killing the crews.²²⁵ Gabon maintained its warships in Equatorial Guinea's Rio Muni estuary, and continued to sink any vessel that attempted to approach the islands that were suddenly in dispute.²²⁶

4.10 On 11 September 1972, Equatorial Guinea complained about Gabon's actions to the United Nations Security Council, asserting that Gabon's occupation of Mbañe was a violation of Equatorial Guinea's territorial sovereignty.²²⁷ To avoid Security Council action, Gabon agreed to seek resolution of the dispute at the regional level under the auspices of the Organisation of African Unity ("OAU").²²⁸ The first meeting under OAU auspices was hosted by the Presidents of Congo and Zaire (as it was then known) and was held in Kinshasa on 17 September 1972. Presidents Francisco Macias Nguema of Equatorial Guinea and Albert Bernard Bongo of Gabon (who later changed his name to Omar Bongo Ondimba) agreed to "settle their dispute within the African context and by peaceful means".²²⁹ The four Heads of State further agreed to establish a Commission

²²⁵ *Telegram from* Equatorial Guinea's Minister of Foreign Affairs *to* the Permanent Representative of the Republic of Equatorial Guinea to the United Nations (11 September 1972). MEG, Vol. VI, Annex 164; *Memorandum from* the Ministry of Foreign Affairs of Spain summarizing President Macias' September 8th Speech to the Diplomatic Corps (15 September 1972), p. 1. MEG, Vol. VI, Annex 173.

²²⁶ *Memorandum from* the Ministry of Foreign Affairs of Spain summarizing President Macias' September 8th Speech to the Diplomatic Corps (15 September 1972). MEG, Vol. VI, Annex 173.

²²⁷ *Note Verbale from* the Permanent Mission of the Republic of Equatorial Guinea *to* the United Nations to the UN Secretary General (11 September 1972). MEG, Vol. III, Annex 27; Permanent Mission of the Republic of Equatorial Guinea to the United Nations, *Statement Before the United Nations Security Council by His Excellency Mr. Jesus Alfonso Oyono Alogo* (September 1972). MEG, Vol. III, Annex 28.

²²⁸ *Routine Telegram No. 434 from* Kinshasa (15 September 1972). MEG, Vol. VI, Annex 167; *Letter from* Gabon *to* Secretary of the United Nations (13 September 1972). MEG, Vol. VI, Annex 166.

²²⁹ Conference of the Heads of State and Government of Central and East Africa, Dar es Salaam, 7-9 September 1972, *Joint Communiqué on the Work of the Conference on Settlement of the Dispute Between Equatorial Guinea and Gabon*, as recorded by the Embassy of the United States to the Republic of Zaire (18 September 1972). MEG, Vol. VII, Annex 200.

composed of representatives of their respective governments to consider all aspects of the problem.²³⁰ Following the Kinshasa meeting, the Commission requested assistance from the Governments of France and Spain in the form of information relevant to the dispute.²³¹

4.11 When President Bongo returned to Libreville, he reported that the mediators had requested that he withdraw his troops from Mbañe, pending resolution of the dispute. President Bongo refused, and proclaimed: “I am there and I am staying there.”²³² On 10 October 1972, the Gabonese President visited Mbañe and declared that if alleged “Equatorial Guinean threats ... did not cease, he would give orders to Gabonese armed forces to occupy all islands facing Gabonese coast”. In addition, on 3 November 1972, Gabon proclaimed a 50 nautical mile fishing zone on top of its claimed 100 nautical miles of territorial sea.²³³

4.12 The OAU Commission’s work ended in Brazzaville on 13 November 1972 with the Presidents of Equatorial Guinea and Gabon signing a Joint Communiqué in which they agreed to “the neutralization of the disputed zone in the Corisco Bay” and to the delimitation of their maritime boundaries by an *ad hoc*

²³⁰ *Ibid.*

²³¹ *Circular No. 142* from the Ministry of Foreign Affairs of the State of Spain to the Ambassadors of the Spanish State to the Republic of Equatorial Guinea, to The Gabonese Republic, to The Ethiopian Empire, The French Republic, and the Permanent Representative at the United Nations (19 September 1972). MEG, Vol. VI, Annex 163.

²³² *Telegram from US Embassy in Libreville to US Department of State* (19 September 1972), p. 2. MEG, Vol. VI, Annex 168; *Letter from the Embassy of Spain in Abidjan to the Minister of Foreign Affairs in Madrid* (30 September 1972). MEG, Vol. VI, Annex 169; News Article, “Dateline Africa: Gabon Frontier Dispute Settled,” *West Africa* (29 September 1972). MEG, Vol. VII, Annex 229; “Gabon-Equatorial Guinea: Next Meeting on 30 September,” *Fraternité Matin: Le Grand Quotidien Ivoirien* (20 September 1972). MEG, Vol. VII, Annex 228.

²³³ *Telegram from US Embassy in Libreville to US Department of State*, “Gabon’s November,” (5 December 1972). MEG, Vol. VI, Annex 172.

OAU commission (the “Brazzaville Communiqué”).²³⁴ However, Gabon continued to maintain its occupation of Mbañe,²³⁵ and the contemplated delimitation never occurred. Gabonese troops have remained on Mbañe ever since.

The Parties’ Presidents met again, in Bata, in September 1974. As related in the following Chapter, it was only in 2003, twenty-nine years after this meeting, that Gabon claimed for the first time that the 1974 meeting had resulted in an agreement that fully resolved all disputed issues, including the assignment of sovereignty over Mbañe to Gabon. Equatorial Guinea rejected Gabon’s claim the first time it was ever raised, and at all times subsequently. No such document appears in the archives of Equatorial Guinea and the text provided by Gabon is contrary to Article 7 of the 1973 Constitution of Equatorial Guinea. The text was never published or registered with any international organization in the years following its alleged signature and Gabon never submitted it to the internal ratification process required by its constitution then in force. As detailed below, Equatorial Guinea and Gabon acted in the following decades as if there was not agreement on the matters allegedly addressed in the document presented by Gabon and continued to negotiate to resolve the dispute.

²³⁴ Conference of the Heads of State and Government of Central and East Africa, Second Session, *Final Communiqué Regarding the Dispute Between Equatorial Guinea and Gabon* (13 November 1972), p. 2. MEG, Vol. VII, Annex 201.

²³⁵ *Telegram No. 526* from the Embassy of the United States of America to The Gabonese Republic to the US Department of State (3 June 1973). MEG, Vol. VI, Annex 174.

CHAPTER 5

EFFORTS TO RESOLVE THE BOUNDARY AND TERRITORIAL DISPUTE FROM 1979 TO 2016

5.1 Equatorial Guinea's President Macias was removed from power in 1979. With a new Government in place in Equatorial Guinea, the Parties resumed negotiations to resolve their post-independence disputes regarding sovereignty over the Corisco Dependencies and the delimitation of their land and maritime boundaries.²³⁶ These negotiations carried on for nearly four decades and included a 12-year period of mediation under the auspices of the Secretary-General of the United Nations. The process ended in 2016 without resolution of the sovereignty and boundary disputes, but Equatorial Guinea and Gabon were able to conclude the Special Agreement signed by the Parties' respective Presidents on 15 November 2016, by which the dispute identified in that Agreement was submitted to the Court.²³⁷

I. 1979-1984: Bilateral Negotiation Efforts to Establish a Joint Development Zone

5.2 Within a month of the change of Government in Equatorial Guinea in 1979, the Parties began negotiations with the goal of establishing a joint oil and gas development zone in Corisco Bay, pending the full resolution of their

²³⁶ *Minutes of the Second Session of the Ad Hoc Commission on the Review of the Oil Cooperation Agreement Between the Republic of Equatorial Guinea and The Gabonese Republic*, Malabo (10–13 September 1984), pp. 3-5. MEG, Vol. VII, Annex 205.

²³⁷ *Special Agreement Between the Gabonese Republic and the Republic of Equatorial Guinea* (15 November 2016).

disputes.²³⁸ On 13 November 1979, the two Presidents, Teodoro Obiang Nguema Mbasogo of Equatorial Guinea and Omar Bongo Ondimba of Gabon, concluded a Petroleum Cooperation Agreement to create such a joint development zone.²³⁹

5.3 In July 1980, Gabon proposed to extend the Petroleum Cooperation Agreement, but Equatorial Guinea refused.²⁴⁰ The following year, on 26 September 1981, the Parties formed an *ad hoc* commission,²⁴¹ which met in Libreville in March 1982 to revise the Petroleum Cooperation Agreement,²⁴² but the Parties disagreed on the area that would be covered by the joint development zone.²⁴³

5.4 On 13 September 1984, the Parties' *ad hoc* commission met again to attempt to agree on the joint development zone.²⁴⁴ Gabon proposed an area that it considered the area "best suited for joint development, regardless of any

²³⁸ *Minutes of the Second Session of the Ad Hoc Commission on the Review of the Oil Cooperation Agreement Between the Republic of Equatorial Guinea and The Gabonese Republic*, Malabo, (10-13 September 1984), pp. 3-4. MEG, Vol. VII, Annex 205.

²³⁹ *Ibid*; *Minutes from the Joint Gabon/Equatorial Guinea Grand Commission Meeting* (26-30 July 1980), p. 5. MEG, Vol. VII, Annex 202.

²⁴⁰ *Minutes from the Joint Gabon/Equatorial Guinea Grand Commission Meeting* (26-30 July 1980), pp. 3-4. MEG, Vol. VII, Annex 202.

²⁴¹ *Minutes of the Joint Commission on the Revision of the Petroleum Cooperation Agreement Between the Republic of Equatorial Guinea and The Gabonese Republic*, Libreville (26 September 1981). MEG, Vol. VII, Annex 203; *The Gabonese Republic, Spanish Minutes of the Ad Hoc Commission on the Revision of the Petroleum Cooperation Agreement between the Republic of Equatorial Guinea and The Gabonese Republic*, Libreville (16-18 March 1982). MEG, Vol. VII, Annex 204.

²⁴² *Minutes of the Joint Commission on the Revision of the Petroleum Cooperation Agreement Between the Republic of Equatorial Guinea and The Gabonese Republic*, Libreville (26 September 1981), p. 1. MEG, Vol. VII, Annex 203.

²⁴³ *Ibid.*, p. 4; *see also* *The Gabonese Republic, Spanish Minutes of the Ad Hoc Commission on the Revision of the Petroleum Cooperation Agreement between the Republic of Equatorial Guinea and The Gabonese Republic*, Libreville (16-18 March 1982). MEG, Vol. VII, Annex 204.

²⁴⁴ *Minutes of the Second Session of the Ad Hoc Commission on the Review of the Oil Cooperation Agreement Between the Republic of Equatorial Guinea and The Gabonese Republic*, Malabo (10-13 September 1984), p. 1. MEG, Vol. VII, Annex 205.

determination of maritime boundaries between the two countries, which [...] will be made in due time by other competent entities.”²⁴⁵ Gabon also considered that this area was “best suited for joint development” due to the “overlapping sovereignty in these waters” resulting from “general principles of law defined by the 1982 United Nations Convention on the Law of the Sea.”²⁴⁶

5.5 Equatorial Guinea proposed an area farther to the south that overlapped in part with Gabon’s proposed area.²⁴⁷ It explained that it “relie[s] on Article 7 of the Constitution of Equatorial Guinea—which determines that the National Territory of the Republic of Equatorial Guinea is, with respect to its maritime portion, comprised of the islands of BOKO, CORISCO, ANNOBON, ELOBEY GRANDE, ELOBEY CHICO, and the adjacent islets—and on the recent 1982 Jamaica Convention on the Law of the Sea”²⁴⁸

5.6 In response, Gabon, also invoking UNCLOS, rejected the joint development zone proposed by Equatorial Guinea. Gabon stated that “the general principles of law defined by the 1982 United Nations Convention on the Law of the Sea and invoked by the Equatoguinean Party to reaffirm its sovereignty over the zone proposed by the Gabonese Party are the same principles upon which the

²⁴⁵ *Ibid.*

²⁴⁶ *Minutes of the Second Session of the Ad Hoc Commission on the Review of the Oil Cooperation Agreement Between the Republic of Equatorial Guinea and The Gabonese Republic*, Malabo (10–13 September 1984), pp. 3-5. MEG, Vol. VII, Annex 205.

²⁴⁷ *Ibid.*, p. 4.

²⁴⁸ *Ibid.*

Gabonese claims are based, which gives rise to overlapping sovereignty.”²⁴⁹ The meeting ended without agreement.²⁵⁰

5.7 Having failed to agree on a joint development zone, after 1984, the Parties changed the focus of their negotiations and sought to conclude a treaty resolving their island sovereignty dispute and the delimitation of their maritime and land boundaries.

II. 1985-2001: Bilateral Negotiations to Resolve the Sovereignty and Boundary Disputes

5.8 From 10 to 16 November 1985, the Equatorial Guinea-Gabon *ad hoc* Commission on the delimitation of the maritime boundary in Corisco Bay met in Bata. It did so on the basis that the dispute was outstanding, and there was no hint of a suggestion that it had been resolved. The Equatoguinean delegation stated in its letter to the Gabonese delegation that one of the goals of the meeting was to delimit the territorial sea in the Corisco Bay and resolve the dispute over Mbañe, Conga, Leva, Hoco, and Cocoterros.²⁵¹ Equatorial Guinea affirmed that it “ha[d] always understood, and still understands, that the islands of Corisco, Elobey Grande, Elobey Chico, the islets of Mbañe, Conga, Hoco, Leva, and Cocoterros are

²⁴⁹ *Minutes of the Second Session of the Ad Hoc Commission on the Review of the Oil Cooperation Agreement Between the Republic of Equatorial Guinea and The Gabonese Republic*, Malabo (10-13 September 1984), p. 5. MEG, Vol. VII, Annex 205.

²⁵⁰ *Ibid.*

²⁵¹ The Delegation of the Republic of Equatorial Guinea, *Opening Address to the Delegation of The Gabonese Republic During the First Meeting of the Gabonese - Equatoguinean Ad-Hoc Commission* (4 November 1984), p. 1. MEG, Vol. VII, Annex 206.

an integral part of the Territory of the Equatoguinean State, ... [t]aking into consideration historical reasons dating back to” the 19th Century.²⁵²

5.9 Gabon rejected Equatorial Guinea’s assertions and argued that Mbañe and the islets of Leva, Hoco, Conga, and Cocoterros were an integral part of Gabonese territory.²⁵³ It did not assert, however, that Equatorial Guinea had ever recognised or agreed to its claim.

5.10 The Parties agreed on “a series of principles and basic criteria to be used in the negotiations between the Parties. According to the Act signed on 16 November 1985, these were:

- (a) The principle of acceptance of the boundaries inherited from the former colonial powers, particularly the 1900 Convention;
- (b) The principle of applying international treaties regarding the law of the sea ratified by the Parties, notably UNCLOS; and
- (c) Respect for the sovereignty of each State over its own national territory.²⁵⁴

²⁵² *Ibid.*, pp. 1-2.

²⁵³ *Minutes of the Guinean-Gabonese Ad Hoc Commission on the Delimitation of the Maritime Boundary in Corisco Bay*, Bata (10–16 November 1985), p. 5. MEG, Vol. VII, Annex 207; Republic of Equatorial Guinea, *French Minutes of the Gabon-Equatorial Guinea Ad Hoc Commission Responsible for the Delimitation of the Maritime Boundary in the Bay of Corisco Between the Republic of Gabon and the Republic of Equatorial Guinea*, Bata (10–16 November 1985), p. 4. MEG, Vol. VII, Annex 208.

²⁵⁴ *Minutes of the Guinean-Gabonese Ad Hoc Commission on the Delimitation of the Maritime Boundary in Corisco Bay*, Bata (10–16 November 1985), pp. 4-5. MEG, Vol. VII, Annex 207; Republic of Equatorial Guinea, *French Minutes of the Gabon-Equatorial Guinea Ad Hoc Commission Responsible for the Delimitation of the Maritime Boundary in the Bay of Corisco Between the Republic of Gabon and the Republic of Equatorial Guinea*, Bata (10–16 November 1985), pp. 4–5. MEG, Vol. VII, Annex 208.

5.11 From 17 to 19 January 1993, the *ad hoc* Equatorial Guinea-Gabon Boundary Commission met in Libreville.²⁵⁵ Once again they reached no agreement on their land and maritime boundaries, and the dispute over the islands persisted.²⁵⁶ The maritime boundary negotiations failed because of the ongoing dispute over Mbañe, Cocoteros and Conga. Equatorial Guinea affirmed that “Mbañe ... is part of Equatoguinean territory,” while “[t]he Gabonese party reaffirmed that Mbañe, Conga, and Cocoteros belong to Gabon.”²⁵⁷ Nevertheless, Gabon stated that it was “willing to negotiate towards delimitation of the maritime boundary between the two countries”,²⁵⁸ and the Parties agreed to continue negotiations.²⁵⁹

5.12 As regards the land boundary, the Parties discussed specific settlements in the Utamboni River Area and the Kie River Area, and whether they fell within Gabon or Equatorial Guinea.²⁶⁰ In these discussions, they referred to the 1900 Convention and the 1901 Commission’s delimitation of the boundary as the legal instruments for their respective legal titles.²⁶¹ However, in regard to the boundary in the Utamboni River Area, Gabon claimed for the first time that “[t]he boundary as it appears on the map of Equatorial Guinea does not respect the delimitation defined by the Franco-Spanish Convention of June 27, 1900 for delimitation of French and Spanish possessions on the coast of the Gulf of

²⁵⁵ *Report of the Border Sub-Commission of the Ad Hoc Commission on the Gabon-Equatorial Guinea Boundaries* (20 January 1993), p. 1. MEG, Vol. VII, Annex 210.

²⁵⁶ *Ibid.*, pp. 5-6.

²⁵⁷ *Ibid.*, p. 6.

²⁵⁸ *Ibid.*, p. 6, Item 2.3.

²⁵⁹ *Ibid.*, p. 6.

²⁶⁰ *Ibid.*, p. 2; *French Report of the Border Sub-Commission of the Ad-Hoc Border Commission Gabon-Equatorial Guinea* (20 January 1993). MEG, Vol. VII, Annex 209.

²⁶¹ *Report of the Border Sub-Commission of the Ad Hoc Commission on the Gabon-Equatorial Guinea Boundaries* (20 January 1993), pp. 3-4. MEG, Vol. VII, Annex 210.

Guinea.”²⁶² Equatorial Guinea challenged Gabon’s assertion, by referring to the maps of both Parties and the work of the 1901 Commission.²⁶³

5.13 At the conclusion of the January 1993 meetings, the Parties issued a joint communiqué using terms nearly identical to those of the 1985 joint Act. They

“reaffirmed a certain number of principles and criteria that must be used as a basis for the delimitation of common borders between the two countries, which are: [r]espect for the borders inherited from colonisation in accordance with the provisions of the Franco-Spanish Convention of 1900; [r]espect for the international conventions to which they are signatories, especially the Convention on the Law of the Sea; [and] respect for the sovereignty and territorial integrity of each State.”²⁶⁴

5.14 On 6 March 1999, Equatorial Guinea adopted Decree No./1/1999 claiming an equidistance line as the boundary with Gabon. Equatorial Guinea drew the line using base points on Mbañe, Cocoteros and Conga.²⁶⁵ On 13 September 1999, Gabon protested Decree N/1/1999, claiming, based on its domestic legislation, that “the Mbañe-Conga-Cocotiers zone belongs to Gabon in accordance with the base lines as fixed by Decree No. 2066/PR dated December 4, 1992, as properly communicated to the Equatoguinean Party on the occasion of [the] meeting of the Ad Hoc Gabon-Equatorial Guinea Boundary Commission in Libreville on January 17 to 20, 1993.”²⁶⁶

²⁶² *Ibid.*

²⁶³ *Ibid.*

²⁶⁴ Republic of Equatorial Guinea, *Report of the Border Sub-Commission Following the Meetings of the Ad Hoc Border Commission Gabon-Equatorial Guinea* (20 January 1993), p. 2. MEG, Vol. VII, Annex 211.

²⁶⁵ Republic of Equatorial Guinea, *Decree No. 1/1999 Designating the Median Line as the Maritime Boundary of the Republic of Equatorial Guinea* (6 March 1999). MEG, Vol. VI, Annex 193.

²⁶⁶ *Note Verbale* from the Embassy of The Gabonese Republic to the Republic of Equatorial Guinea to the Ministry of External Affairs, International Cooperation, and Francophony of the Republic of

5.15 On 21 December 2000, the Equatoguinean Minister of Foreign Affairs sent a diplomatic note to the Gabonese Minister of Foreign Affairs protesting Gabon's petroleum exploration and exploitation license to Shell for the blocks identified as "Mbañe" and "Mbañe West."²⁶⁷ Equatorial Guinea emphasised that the "permits encroach upon the maritime area under the state sovereignty of the Republic of Equatorial Guinea"²⁶⁸ and that it would not recognise Gabon's unilateral acts. It urged Gabon to continue negotiations to resolve the sovereignty dispute and delimit the maritime boundary.²⁶⁹

5.16 The Parties met again in Libreville from 29 to 31 January 2001 under the auspices of the *ad hoc* Equatorial Guinea-Gabon Boundary Commission.²⁷⁰ The head of the Gabonese delegation opened the session by stating that the Parties should

"work while respecting the texts that govern the legal framework of the work, namely:

- The French-Spanish Convention of June 27, 1900;
- The United Nations Charter;

Equatorial Guinea (13 September 1999), pp. 1-2 ("la zone Mbanie-Conga-Cocotiers conformément aux lignes de base tel que fixées par le décret no. 2066/PR du 04 décembre 1992 régulièrement communiqué à la Partie Equatoguinéenne lors de la Commission ad hoc des Frontières Gabon-Guinée Equatoriale réunie à Libreville du 17 au 20 janvier 1993."). MEG, Vol. VI, Annex 178.

²⁶⁷ *Note Verbale from the Ministry of External Affairs, International Cooperation, and Francophonie of the Republic of Equatorial Guinea to the Second Vice-Prime Minister of The Gabonese Republic* (21 December 2000), p. 1. MEG, Vol. VI, Annex 179.

²⁶⁸ *Ibid.*

²⁶⁹ *Ibid.*, p. 2.

²⁷⁰ The Gabonese Republic, *Minutes of the Ad Hoc Border Committee*, Libreville (31 January 2001). MEG, Vol. VII, Annex 212.

- The Charter of the Organization of African Unity;
- The International Convention on the Law of the Sea.”²⁷¹

5.17 Gabon further affirmed that the two States should follow the principle of respect for boundaries inherited at the moment of independence.²⁷² The Parties agreed to continue negotiations on the land boundary at the next bilateral meeting. As regards the maritime boundary, the Parties also agreed to develop proposals for their next meeting.²⁷³

A. 2003: CONTINUATION OF BILATERAL NEGOTIATIONS AND GABON’S INTRODUCTION OF AN AGREEMENT ALLEGEDLY REACHED IN 1974

5.18 The Equatorial Guinea-Gabon *ad hoc* Boundary Commission next met on 23 May 2003.²⁷⁴ The agreed agenda for the meeting was to continue their work to resolve their dispute, with particular focus on the delimitation of the maritime boundary and a possible joint development zone. However, at that meeting, Gabon for the first time invoked what it claimed to be a “Convention [demarcating] the land and maritime [boundaries] of Equatorial Guinea and Gabon,

²⁷¹ *Ibid.*, p. 2 (“de travailler dans le respect des textes qui régissent le cadre juridique des travaux, à savoir: La Convention Franco-Espagnole du 27 juin 1900; La Charte des Nations-Unies ; La Charte de l’Organisation de l’Unité Africaine ; La Convention Internationale sur le Droit de la Mer.”); *see also* E.M. Yolla, *Foreign Policy of Gabon*, Etudes Africaines (2003), p. 7. MEG, Vol. VII, Annex 233.

²⁷² The Gabonese Republic, *Minutes of the Ad Hoc Border Committee*, Libreville (31 January 2001), p. 4. MEG, Vol. VII, Annex 212; *see also* “Gabon/Guinée Équatoriale: Frontières: Litiges Bientôt Réglés”, *La Lettre Afrique Expansion* (12 February 2001). MEG, Vol. VII, Annex 232.

²⁷³ The Gabonese Republic, *Minutes of the Ad Hoc Border Committee*, Libreville (31 January 2001), p. 5. MEG, Vol. VII, Annex 212.

²⁷⁴ Republic of Equatorial Guinea, *Minutes of the Ad-hoc Border Commission Equatorial Guinea-Gabon*, Malabo (23 May 2003), p. 5. MEG, Vol. VII, Annex 213.

signed in Bata on 12 September 1974” (the “Document presented in 2003”).²⁷⁵ In support of its position, it presented a photocopy of the alleged “Convention”, the quality of which was so poor that parts of the text were illegible. The document was entirely unauthenticated. According to Gabon, this was an agreement between the two Parties that applied to their ongoing sovereignty and boundary dispute.

5.19 The members of the Equatorial Guinea delegation—which was chaired by Mr. Pastor Micha Ondo Bile, Minister of Foreign Affairs and President of the National Borders Commission—were taken completely by surprise, and responded that they had never seen or heard of such a document, and had no inkling of its existence. As previously noted, Gabon had never invoked or relied on it, or made mention of its existence, at any time since negotiations resumed in 1979, or at any time earlier. Equatorial Guinea’s representatives pointed this out, leading them to question Gabon’s good faith.²⁷⁶

5.20 The Equatoguinean representatives requested that Gabon produce the original Spanish and French versions of the alleged “Convention” for authentication, noting that since the document was allegedly signed in Bata, the originals should appear on the official stationery of Equatorial Guinea.²⁷⁷ Gabon responded that it did not have an original of the document it presented.²⁷⁸ Equatorial Guinea questioned the legitimacy of the document, and insisted that Gabon produce an original, authenticated version of the document. Gabon did not do so then, and has never done so since. The meeting ended with the Parties

²⁷⁵ *Ibid.*

²⁷⁶ *Ibid.*, pp. 5-6.

²⁷⁷ *Ibid.*, p. 6.

²⁷⁸ *Ibid.*, p. 6; *See also Letter from the President of The Gabonese Republic, HE Albert Bernardo Bongo to the Embassy of The French Republic to The Gabonese Republic (28 October 1974)*. MEG, Vol. VI, Annex 176.

agreeing to continue negotiations in Libreville within 30 days. In so doing, they “reaffirmed their determination to find a solution ... to establish a joint exploitation zone and to continue with the negotiations underway for the delimitation of the maritime border between the two brother countries.”²⁷⁹ The *ad hoc* Boundary Commission, however, did not reconvene again, however.

5.21 By July 2003, after three decades of effort, the Parties concluded that their disputes over the Corisco Bay islands and the maritime and land boundaries could not be resolved by direct bilateral negotiations. On 11 July 2003, they agreed to call upon the United Nations Secretary-General help them resolve these disputes by mediation.²⁸⁰

B. THE UNITED NATIONS MEDIATION TO RESOLVE THE DISPUTES FROM 2003 TO 2016

5.22 In accordance with the Parties’ agreement, the Secretary-General appointed Mr Yves Fortier as Mediator.²⁸¹ Mediation sessions were held in 2003, and on January 19, 2004.²⁸² As UN News reported, the Parties “signed a communiqué outlining several procedural steps to be taken in future talks on sovereignty over the oil-rich islands of Mbanié, Cocotiers and Congas in the Corisco Bay.”²⁸³

²⁷⁹ Republic of Equatorial Guinea, *Minutes of the Ad-hoc Border Commission Equatorial Guinea-Gabon*, Malabo (23 May 2003), p. 9. MEG, Vol. VII, Annex 213.

²⁸⁰ *Letter from the United Nations Secretary-General to His Excellency the President of the Republic of Equatorial Guinea* (6 August 2003). MEG, Vol. III, Annex 29.

²⁸¹ “Gabon and Equatorial Guinea Set Terms of UN Mediation Over Disputed Islands”, *UN News* (20 January 2004). MEG, Vol. III, Annex 30.

²⁸² *Ibid.*

²⁸³ *Ibid.*

5.23 In July 2004, Presidents Bongo of Gabon and Obiang of Equatorial Guinea signed an Agreement in Addis Ababa regarding the settlement of the sovereignty and maritime boundary disputes that would, according to Secretary-General Kofi Annan, “lead to joint exploration of the island in dispute, while they continue the demarcation of their border”.²⁸⁴ The Parties agreed to “negotiate the creation of a Joint Development Zone in order to share the exploited resources while continuing to try to resolve the disputed boundary”.²⁸⁵ They also “pledged to end their often violent dispute over the ownership of an island called Mbanie and the waters around it. Mr. Bongo said he was optimistic the rival territorial claims will be settled soon”.²⁸⁶ According to a press article, “[t]he two West African leaders told journalists afterwards that in a bid to fight poverty in their countries, they had put aside their simmering disagreement over the Corisco Bay islands.”²⁸⁷ “The leaders said mediation would continue to delimit and then demarcate the territory.”²⁸⁸

5.24 Secretary-General Annan reported that in Addis Ababa he

“hosted a mini-summit at which the Presidents of Equatorial Guinea and Gabon became the second set of neighbours to reach agreement through negotiations rather than the use of the gun. As you know, they’ve had a border dispute on an island with oil resources, and they agreed to exploit it

²⁸⁴ “Secretary-General Commends Leaders of Gabon, Equatorial Guinea for Agreement to Peacefully Resolve Border Dispute”, *UN News* (6 July 2004). MEG, Vol. III, Annex 35.

²⁸⁵ “Secretary-General's Activities in Ethiopia 3 - 7 July”, *UN News* (8 July 2004). MEG, Vol. III, Annex 33.

²⁸⁶ “Border Agreement Creates Model for Other African Nations”, *Voice of America* (29 October 2009). MEG, Vol. III, Annex 41.

²⁸⁷ “Neighbours to Explore Jointly for Oil in Disputed Waters”, *The New Humanitarian* (7 July 2004). MEG, Vol. VII, Annex 234.

²⁸⁸ *Ibid.*

jointly and continue to work on the border problem.”²⁸⁹

5.25 Despite this agreement between the two Presidents, the Parties were unable to reach an agreement on the definition of the area for joint development. Instead, they decided in February 2006 “to embark immediately on negotiating the final delimitation of their maritime and land borders and settling the issue of sovereignty over the islands of Mbanié, Cocotier and Conga. For that purpose, they agreed to draw up a timetable for the purpose of settling the major outstanding issues before the end of this year.”²⁹⁰

5.26 However, in late 2006, this phase of the mediation ended without an agreement settling any of the disputes. In light of the Parties’ inability to reach an agreement, they agreed to submit the matter to the Court.²⁹¹

5.27 In June 2008, the Parties began a new phase of mediations in order to negotiate a *compromis* submitting their dispute to the Court.²⁹² In July 2008, Equatorial Guinea and Gabon issued a joint statement indicating that they had made substantial progress towards referring the dispute to the Court.²⁹³ On 17 September

²⁸⁹ “Transcript of Press Conference by Secretary-General Kofi Annan at United Nations Headquarters, 21 July 2004”, *United Nations Information Service* (22 July 2004). MEG, Vol. III, Annex 34.

²⁹⁰ “Summit Communique Congratulates Presidents of Gabon, Equatorial Guinea for Progress Towards Peaceful Settlement of Border Dispute”, *UN News* (28 February 2006), p. 2. MEG, Vol. III, Annex 38; J. Geslin, “The Island of Contention”, *Jeune Afrique* (7 March 2006). MEG, Vol. VII, Annex 235.

²⁹¹ See *Note from United Nations Under-Secretary-General L. Pascoe, Background for the Deputy Secretary-General’s Meeting with Joint Equatorial Guinea and Gabon Senior Delegations, New York on 18 March 2010* (15 March 2010). MEG, Vol. III, Annex 42.

²⁹² *Ibid.*

²⁹³ “Former UN Legal Chief to Mediate Dispute Between Equatorial Guinea, Gabon”, *UN News* (17 September 2008). MEG, Vol. III, Annex 39.

2008, Secretary-General Ban Ki-moon appointed Nicolas Michel of Switzerland as his Special Advisor and Mediator to assist in resolving the continuing disputes between Equatorial Guinea and Gabon.²⁹⁴

5.28 Between 2009 and 2016, the Parties continued, within the context of the mediation, their efforts to reach a special agreement to bring the case before the Court, but had difficulty agreeing on the definition of subject matter of the dispute to submit to the Court.²⁹⁵

5.29 In 2016, the Parties finally reached agreement to submit their dispute to the Court. The Special Agreement was signed by their respective Presidents on 15 November 2016.²⁹⁶

²⁹⁴ *Ibid.*

²⁹⁵ See Note from United Nations Under-Secretary-General L. Pascoe, *Background for the Deputy Secretary-General's Meeting with Joint Equatorial Guinea and Gabon Senior Delegations, New York on 18 March 2010* (15 March 2010). MEG, Vol. III, Annex 42.

²⁹⁶ *Special Agreement between the Gabonese Republic and the Republic of Equatorial Guinea* (15 November 2016).

CHAPTER 6
THE LEGAL TITLES THAT HAVE THE FORCE OF LAW BETWEEN
THE PARTIES CONCERNING SOVEREIGNTY OF MBAÑE,
COCOTEROS AND CONGA AND THE DELIMITATION OF THEIR
COMMON LAND AND MARITIME BOUNDARIES

I. The Legal Titles of Equatorial Guinea and of Gabon to Insular and Continental Territory Were Acquired by Succession to the Legal Titles Held by Spain and France

6.1 Equatorial Guinea holds Legal Titles to its territory as the successor State to Spain's Legal Titles existing on the date of Equatorial Guinea's independence. Equally, Gabon holds its Legal Titles to its territory as the successor State to France's Legal Titles existing on the date of Gabon's independence. Acquisition of legal title to territory through succession is not controversial. It is the basis of the territorial sovereignty of all States that have become independent from colonial powers as well as other new States that have become territorial sovereigns by succession under international law.

6.2 Succession to legal title to territory by newly independent States is closely tied to the principle of respect for territorial boundaries existing at independence. As the ICJ Chamber in *Burkina Faso v. Mali* emphasized:

“There is no doubt that the obligation to respect pre-existing international frontiers in the event of a State succession derives from a general rule of international law, whether or not the rule is expressed in the formula *uti possidetis*.”²⁹⁷

“The purpose of this principle is to ensure that the independence and territorial stability of new States is not endangered by frontier challenges following

²⁹⁷ *Frontier Dispute (Burkina Faso/Mali), Judgment, I.C.J. Reports 1986*, p. 554, para. 24.

the withdrawal of the colonial State or administering power.”²⁹⁸

6.3 Respect for the territorial boundaries existing at the moment of succession has been given specific application in the context of the decolonization of Africa. As the Chamber in *Burkina Faso v. Mali* emphasized:

“At first sight this principle conflicts outright with another one, the right of peoples to self-determination. In fact, however, the maintenance of the territorial status quo in Africa is often seen as the wisest course, to preserve what has been achieved by peoples who have struggled for their independence, and to avoid a disruption which would deprive the continent of the gains achieved by much sacrifice. The essential requirement of stability in order to survive, to develop and gradually to consolidate their independence in all fields, has induced African States judiciously to consent to the respecting of colonial frontiers, and to take account of it in the interpretation of the principle of self-determination of peoples.”²⁹⁹

6.4 Thus, African States, in particular, agreed to “a norm that determines the boundaries between decolonized States on the basis of territorial, administrative, or international divisions established during colonial rule”.³⁰⁰

²⁹⁸*Frontier Dispute (Burkina Faso/Mali), Judgment, I.C.J. Reports 1986*, p. 554, para. 20. This is even true where the respective successor State would not otherwise succeed to the treaties of its predecessor State. It is also in line with the general interest of the international community in the stability and inviolability of boundaries. A. Zimmermann & J. Devaney, “State Succession in Treaties” *Max Planck Encyclopedia of Public International Law* (last updated July 2019), para. 16. MEG, Vol. VII, Annex 243.

²⁹⁹ *Frontier Dispute (Burkina Faso/Mali), Judgment, I.C.J. Reports 1986*, p. 554, paras. 25, 63.

³⁰⁰G. Nesi, “*Utī Possidetis* Doctrine” *MAX PLANCK ENCYCLOPEDIAS OF INTERNATIONAL LAW* (February 2018), para. 4. MEG, Vol. VII, Annex 241.

6.5 At the inaugural summit conference of the Organisation of African Unity (“OAU”) held in Addis Ababa in May 1963, delegates urged a maintenance of the status quo rather than a readjustment of the borders of the newly formed African States. As one commentator observed: “the vast majority of delegates to this conference emphasized that whatever might be the moral and historical argument for a readjustment of national boundaries, practical attempts to reshape the map of Africa at the present day might well prove disastrous.”³⁰¹ As a result, in the OAU’s constitutive instrument, the OAU Charter, which established the organisation on 25 May 1963, the 32 signatories (including Gabon) pledged their “[r]espect for the sovereignty and territorial integrity of each State and for its inalienable right to independent existence.”³⁰²

6.6 A year after the creation of the OAU, the African Heads of State (including that of Gabon) met in Cairo from 17-21 July 1964 and adopted the “Border Disputes Among African States” resolution (the “Cairo Resolution”). The Cairo Resolution defined and stressed the principle of respect for territorial boundaries as set out in the OAU Charter:

“Recalling further that all Member States have pledged, under Article IV of the Charter of African Unity, to respect scrupulously all principles laid down in paragraph 3 of Article III of the Charter of the Organization of African Unity:

³⁰¹See A. Oye Cukwurah, “The Organization of African Unity and African Territorial and Boundary Problems: 1963-1973”, 13 *The Indian Journal of International Law* (1973), p. 4, quoting A.C. McEwan, *International Boundaries of East Africa*, pp. 23-24. MEG, Vol. VII, Annex 230.

³⁰²See Organisation of African Unity, *Charter* (25 May 1963), Art. 3, para. 3. Its successor organization, the African Union (“AU”), later adopted similar language. See The African Union, *Constitutive Act of the African Union* (11 July 2000), Art. 3 (“The objectives of the Union shall be to ... (b) defend the sovereignty, territorial integrity and independence of its Member States ...”). MEG, Vol. III, Annex 45.

(1) Solemnly reaffirms the strict respect of by All Member States of the Organization for the principles laid down in paragraph 3 of Article III of the Charter of the Organization of African Unity;

(2) Solemnly declares that all Member States pledge themselves *to respect the borders existing on their achievement of national independence.*³⁰³

6.7 As a Chamber of the Court has underscored, these affirmations did not seek to “consecrate a new principle” but rather to “recognize and confirm” an existing one as a rule binding under international law and of general application.³⁰⁴

6.8 In accordance with this rule of international law, Equatorial Guinea and Gabon succeeded to the territories and boundaries of Spain and France, respectively, upon attaining independence (Gabon on 17 August 1960, Equatorial Guinea on 12 October 1968).³⁰⁵ Further, both Gabon and Equatorial Guinea became

³⁰³Organisation of African Unity, *Resolutions Adopted by the First Ordinary Session of the Assembly of Heads of State and Government Held in Cairo, UAR* (17-21 July 1964), p. 17 (emphasis added). MEG, Vol. III, Annex 44.

³⁰⁴*Frontier Dispute (Burkina Faso/Mali), Judgment, I.C.J. Reports 1986*, p. 554, para. 24 (“Hence the numerous solemn affirmations of the intangibility of the frontiers existing at the time of the independence of African States, whether made by senior African statesmen or by organs of the Organization of African Unity itself, are evidently declaratory rather than constitutive: they recognize and confirm an existing principle, and do not seek to consecrate a new principle or the extension to Africa of a rule previously applied only in another continent.”).

³⁰⁵In the case of Equatorial Guinea, the UN participated in the steps leading to Equatorial Guinea’s independence and supervised both the referendum that took place in Spanish Guinea on 11 August 1968 and the general elections for president of the Republic of Equatorial Guinea that took place on 2 October 1968. The UN mission certified that the elections were free and democratic. UN General Assembly Special Committee on Decolonisation, *Report of the Special Committee on the Situation with Regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples*, UN Doc. A/7200/Rev.1, Annexes to Agenda Item 23 (November 1967). MEG, Vol. III, Annex 20. Through Decree No. 2467/1968 of 9 October 1968, Spain recognised that “[t]he electoral results promulgated by the Electoral Commission of Guinea on October 2 of the current year” and declared “the territory of Equatorial Guinea ... to be independent as of twelve o’ clock noon on October 12 of the current year.” The Spanish State, *Decree 2467/1968 of October 9, Granting Independence to Equatorial Guinea*, Official Gazette

Members of the OAU – Gabon joined on 25 March 1963, and Equatorial Guinea on 12 October 1968. The Parties are thus bound by the principle of respect for territorial boundaries existing at independence. Both States reaffirmed the legal force of the principle of respect for borders existing at independence when they became parties to the Constitutive Act of the African Union, which in Article 4 makes this one of the fundamental principles of the Union, with Equatorial Guinea becoming a party to that instrument on 26 December 2000 and Gabon on May 2001.

6.9 Accordingly, the Legal Titles of Equatorial Guinea and of Gabon that have the force of law in the relations between them, in so far as they concern the sovereignty over the islands of Mbañe, Cocoteros, and Conga and the delimitation of their common maritime and land boundaries, are those Legal Titles existing at the moments of their respective independence.

II. Legal Title to the Islands and Islets of Corisco Bay at Independence

6.10 As the colonial sovereign, Spain acquired and maintained the Legal Title to the Islands of Corisco Bay, including the Corisco Dependencies of Mbañe, Cocoteros, and Conga, and Equatorial Guinea succeeded to that Legal Title upon its independence in 1968. Because France had no Legal Title to these islands at the time of Gabon’s independence, or at any time previously, Gabon did not and could not acquire any such title to this territory when it became an independent State. For reference, Figure 2.4 depicts the Corisco Dependencies.

No. 245 (9 October 1968). MEG, Vol. V, Annex 146. The Decree No. 2467/1968 ordered a formal ceremony to “transfer powers to the President Elect of the Republic of Equatorial Guinea”. *Ibid.*

A. SPAIN ACQUIRED LEGAL TITLE TO THE CORISCO DEPENDENCIES IN 1843 AND RETAINED IT UNTIL EQUATORIAL GUINEA'S INDEPENDENCE IN 1968

6.11 The “concept of title” encompasses “any evidence which may establish the existence of a right, and the actual source of that right”.³⁰⁶ The Court has recognized that in the colonial period, occupation of territory was “an original means of peaceably acquiring sovereignty over territory otherwise than by cession or succession”,³⁰⁷ and that “agreements with local rulers, whether or not considered as an actual ‘cession’ of the territory, were regarded as derivative roots of title”.³⁰⁸

6.12 Spain’s Legal Title to the Corisco Dependencies consisted of the cession of rights from Portugal in the 1778 Treaty of El Pardo and Spain’s original peaceful occupation of the Corisco Dependencies beginning in 1843. Spain documented this title by the 1843 Declaration of Corisco, the Record of Annexation signed with King Orejeck of Corisco in 1846, the Letter of Spanish Citizenship to the Inhabitants of Corisco, also in 1846, and the 1858 Charter Reaffirming Spanish Possession of the Island of Corisco, all described in Chapter 3 above.³⁰⁹ Throughout the remainder of the nineteenth century, Spain continued peacefully to exercise its rights as sovereign over the Corisco Dependencies. In 1886 and 1887, France – the only other State with a potential interest in Corisco Bay – France, expressly recognized Spain’s title to Corisco Island and its dependencies, including the island of Mbañe, based on Spain’s original possession in 1843.³¹⁰

³⁰⁶*Frontier Dispute (Burkina Faso/Mali), Judgment, I.C.J. Reports 1986*, p. 554, para. 18. *See, similarly, Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening), Judgment, I.C.J. Reports 1992*, p. 351, para. 45.

³⁰⁷ *Western Sahara, Advisory Opinion, I.C.J. Reports 1975*, p. 12, para. 79.

³⁰⁸ *Ibid.*, para. 80.

³⁰⁹ *See, supra*, paras. 3.3-3.6, 3.90.

³¹⁰ *Protocol No. 30, Session between The Kingdom of Spain and The French Republic (16 September 1887)*. MEG, Vol. III, Annex 3.

Thus, by the time of the signing of the 1900 Convention, Spain's Legal Title to the Corisco Dependencies was unchallenged.

6.13 Spain's sovereignty over the Islands of Corisco Bay was therefore not in dispute during the negotiations that resulted in the Convention of 1900.³¹¹ There is no indication that France withdrew its recognition of Spanish sovereignty over the Corisco Dependencies, or that it asserted any new claim of its own to them. The 1900 Convention thus did not affect Spain's existing title to the Corisco Dependencies.

6.14 Nor did anything change after the conclusion of the 1900 Convention. Spain continued to hold title to Corisco Island and the Corisco Dependencies and to exercise sovereignty based on its original Legal Title without any competing claim or protest from France, or Germany during the brief period it administered the territory south of Spain on the coast of Corisco Bay. This is evidenced by Spain's uncontested occupation of Mbañe with members of its Colonial Guard for many years starting in 1908³¹² and the incident regarding the placement of a navigation signal on Cocoteros in 1954 and 1955, when Spain ordered French nationals to cease work and abandon Cocoteros, and the French complied. At this time, just five years before Gabon's independence, Spain again sent the Colonial Guard to Mbañe, without protest from France.³¹³ Spain's treatment of Mbañe and the other islets adjacent to Corisco in its territorial legislation in 1958 and 1959, as well as its issuance of oil and gas exploration licenses during this period, provide

³¹¹ The French Republic, *Letter from the Ministry of Foreign Affairs to the Minister of Colonies* (13 March 1900). MEG, Vol. IV, Annex 54.

³¹² *See, supra*, para. 3.21.

³¹³ *See, supra*, para. 3.29.

further confirmation of its Legal Title on the eve of Gabon's independence in 1960.³¹⁴

6.15 The situation remained stable after Gabon's independence. Between 1960 and Equatorial Guinea's independence in 1968, the territorial legislation of Spain, the maritime legislation of Gabon, and the oil and gas licencing practices of Spain and Gabon, all reflected Spain's 120-year-old undisputed title to the Corisco Dependencies.³¹⁵

6.16 It is thus well established that Spain held Legal Title to the Corisco Dependencies from 1843 to 1968.

B. EQUATORIAL GUINEA SUCCEEDED TO SPAIN'S LEGAL TITLE TO THE CORISCO DEPENDENCIES

6.17 Under the international law rules of State succession, Equatorial Guinea succeeded to Spain's Legal Title with respect to all of its colonial territory as a unified whole, which included Corisco Island and the Corisco Dependencies.

6.18 This is reflected in the UN's supervision of the decolonization process. As the date of Equatorial Guinea's independence approached, Spain's territorial legislation preserved the specific reference to the Corisco Dependencies, continuing to use the formulation "the Islands of Corisco, Elobey Grande, Elobey Chico and the adjacent islets" developed in its 1958 and 1959 legislation.³¹⁶ This description of Equatorial Guinea's future territory as including the "adjacent islets" of Corisco Bay was incorporated into UN General Assembly Resolution 2230

³¹⁴ See, *supra*, paras. 3.34-3.35.

³¹⁵ See, *supra*, paras. 3.84-3.100.

³¹⁶ See, *supra*, para. 3.34.

(1966), in which the General Assembly recalled “the declaration by the administering Power [Spain] of its intention to grant independence to Equatorial Guinea as a single entity” and requested Spain:

“to ensure that the Territory accedes to independence as a single political and territorial unit and that no step is taken which would jeopardize the territorial integrity of Equatorial Guinea.”³¹⁷

6.19 The following year the General Assembly reiterated “its request to the administering Power [Spain] to ensure that the Territory accedes to independence as a single political and territorial entity”.³¹⁸ The UN Special Committee on Decolonisation also affirmed “that Equatorial Guinea should accede to independence as a single political and territorial entity”, and declared:

“that any action which shall disrupt the territorial unity and integrity of the Territory will be contrary to the provisions of the Declaration contained in resolution 1514 (XV) and the Charter of the United Nations”.³¹⁹

6.20 Two months prior to Equatorial Guinea’s independence on 12 October 1968, its Constitution was approved by public referendum. Article 1

³¹⁷ United Nations General Assembly, *Resolution 2230 (XXI) Question of Equatorial Guinea* (20 December 1966), p. 2, para. 5. MEG, Vol. III, Annex 19.

³¹⁸ United Nations General Assembly, *Resolution 2355 (XXII) Question of Equatorial Guinea* (19 December 1967), para. 4. MEG, Vol. III, Annex 21.

³¹⁹ UN General Assembly Special Committee on Decolonisation, *Report of the Special Committee on the Situation with Regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples*, UN Doc. A/7200/Rev.1, Annexes to Agenda Item 23, *Resolution adopted by the Special Committee at its 594th meeting on 1 April 1968* (1968), p. 189. MEG, Vol. III, Annex 20. See also *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965, Advisory Opinion, I.C.J. Reports 2019*, p. 95, para. 152 (Resolution 1514 (XV) “has a declaratory character with regard to the right to self-determination as a customary norm”).

continued to use the phrase “adjacent islets” to refer to the Corisco Dependencies and provided that:

“The Republic of Equatorial Guinea, comprised of the provinces of Río Muni and Fernando Póo, is a sovereign and indivisible social and democratic State.

The province of Río Muni includes, in addition to the territory by this name, *the islands of Corisco, Elobey Grande, and Elobey Chico and adjacent islets.*”³²⁰

6.21 In light of Spain’s Legal Title discussed above, reflected in the consistent references to the adjacent islets of Corisco Bay in the territorial description of the territory that would become Equatorial Guinea, the indivisible territory to which Equatorial Guinea succeeded included the islets of Mbañe, Cocoteros and Conga.

6.22 Following independence, Equatorial Guinea acted on and affirmed its Legal Title. Equatorial Guinea’s Decree No. 17/1970 of 24 September 1970 specifically referred to Mbañe, Cocoteros, and Conga as part of its territory and, consistent with Gabon’s Libreville Marin Concession at the time, shown at Figures 3.23 and 3.24 (following page 70), claimed the median line as the maritime boundary between these islands and Gabon.³²¹ Equatorial Guinea sent this decree to the UN Secretary-General, stating that it set “the limits of the territorial waters of Guinea surrounding the Elobey Islands, Corisco and the Mbañe, Conga and

³²⁰ Republic of Equatorial Guinea, *Constitution of 1968* (11 August 1968), Art. 1 (emphasis added). MEG, Vol. VI, Annex 182.

³²¹ Republic of Equatorial Guinea, *Presidential Decree No. 17/1970* (24 September 1970). MEG, Vol. VI, Annex 186.

Cocoteros Islets, which are an integral part of the national territory of Guinea”.³²² The UN circulated this communication to all Permanent Missions, including Gabon, on 13 October 1970.³²³ Equatorial Guinea is unaware of any protest made by Gabon.

6.23 In 1971, Equatorial Guinea issued oil exploration concessions based on Decree No. 17/1970 to CONOCO-Gulf and Compañía Española de Petróleos S.A.U (“CEPSA”).³²⁴ Gabon sent a protest note to Equatorial Guinea on 28 August 1971 regarding this concession, but did not contest Equatorial Guinea’s sovereignty over the Corisco Dependencies or assert a claim to them. To the contrary, it noted that the Decree highlights that Mbañe, Cocoteros, and Conga “belong to the Republic of Equatorial Guinea”, and protested only Equatorial Guinea’s use of equidistance to benefit from “these islets [generating] the maximum breadth possible of territorial sea”, since this “encroach[ed] upon our continental shelf”.³²⁵

6.24 Seven months later, however, Gabon completely reversed its position. During bilateral negotiations on a maritime boundary held in Libreville between 25 and 29 March 1972, Gabon, for the first time, asserted a claim to all the islands

³²² *Cable from the UN to Permanent Missions (13 October 1970), enclosing Letter from Equatorial Guinea to UN Secretary-General (8 October 1970)*. MEG, Vol. III, Annex 23.

³²³ *Ibid*; The United States, *Airgram A-1798 from the US Mission to the United Nations to the US Department of State (21 October 1970)*. MEG, Vol. VI, Annex 155.

³²⁴ *Letter No. 002967 from the Ministry of Foreign Affairs of the Gabonese Republic to the Ministry of Foreign Affairs of the Republic of Equatorial Guinea (28 August 1971)*. MEG, Vol. VI, Annex 154.

³²⁵ *Ibid*.

in Corisco Bay other than Corisco and the Elobeys.³²⁶ Five months after that, Gabon sent its military forces to Mbañe to seize this territory.

C. GABON’S ACTIONS SINCE THE DISPUTE CRYSTALIZED IN MARCH 1972 DO NOT AFFECT EQUATORIAL GUINEA’S LEGAL TITLE TO THE CORISCO DEPENDENCIES

6.25 Because the dispute over the Corisco Dependencies crystallized in March 1972, Gabon’s actions after that date—including the unlawful use of force to occupy Mbañe in August 1972—have no effect on the Legal Title Equatorial Guinea acquired by succession at independence. The Court has made clear that

“the date upon which the dispute crystallized is of significance. Its significance lies in distinguishing between those acts *à titre de souverain* occurring prior to the date when the dispute crystallized, which should be taken into consideration for the purpose of establishing or ascertaining sovereignty, and those acts occurring after that date”³²⁷

6.26 Unilateral acts that occur after the date on which a dispute crystallizes “are in general meaningless for that purpose, having been carried out by a State which, already having claims to assert in a legal dispute, could have taken those actions strictly with the aim of buttressing those claims”.³²⁸ Since Gabon’s actions were “undertaken for the purpose of improving [its] legal position”, none of its

³²⁶ *Report Prepared by the Gabon-Equatorial Guinea Joint Commission After the Meeting in Libreville from March 25 to 29, 1972*, Libreville (25-29 March 1972), pp. 6-7. MEG, Vol. VII, Annex 199; *Minutes Drawn up by the Gabonese-Equatoguinean Delegation Following the Meeting in Libreville from March 25-29, 1972*, Libreville (29 March 1972). MEG, Vol. VII, Annex 197.

³²⁷ *Territorial and Maritime Dispute (Nicaragua v. Colombia)*, Judgment, I.C.J. Reports 2012, p. 624, para. 67.

³²⁸ *Territorial and Maritime Dispute between Nicaragua and Honduras in the Caribbean Sea (Nicaragua v. Honduras)*, Judgment, I.C.J. Reports 2007, p. 659, para. 117.

actions since March 1972 can be considered by the Court in determining which State possesses title to the Corisco Dependencies.³²⁹

III. Legal Titles to Continental Land Territory

6.27 Upon independence, Gabon and Equatorial Guinea succeeded to the Legal Titles held by France and Spain, respectively, in regard to their continental land territory, just as Equatorial Guinea succeeded to Spain's titles in respect of the Corisco Bay islands and islets. Regarding both continental and insular territory, State succession is the principal and direct source of the Legal Titles held by both Parties to these proceedings.

6.28 The question is: to what continental territory did each of the Parties succeed when they achieved independence? This requires a determination of the land to which France and Spain held Legal Title at the time Gabon and Equatorial Guinea became independent.

6.29 The Parties agree that the 1900 Convention is a source of their respective Legal Titles to continental territory. As detailed in Chapter 3, Article 4 of that Convention described the land boundary between the French and Spanish colonial possessions abutting the Gulf of Guinea as extending east along the thalweg of the Muni River, and then along the thalweg of the Utamboni River, and then along the 1° North parallel of latitude, until reaching the 9° East of Paris

³²⁹ *Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia/Malaysia)*, Judgment, *I.C.J. Reports 2002*, p. 625, para. 135 (the Court “cannot take into consideration acts having taken place after the date on which the dispute between the Parties crystallized unless such acts are a normal continuation of prior acts and are not undertaken for the purpose of improving the legal position of the Party which relies on them.”).

meridian; from there, the boundary was described as proceeding north along the 9° East of Paris meridian until the border with the German colony of Kamerun.

6.30 However, the colonial powers recognized that they had inadequate knowledge of the land they were delimiting, and provided for modification of the boundary in Article 8 and Annex 1 of the Convention. To that end, they empowered a bilateral Commission, established by Annex I to the Convention, and local Delegates, to demarcate the boundary and recommend changes of a practical nature, in the “spirit” of the Convention, with reference to the actual physical geography and human presence in the uncharted interior. As described in Chapter 3, the 1901 Commission (referred to as such because it was created and began working in that year), upon conducting its work in the field, determined that the boundary should be delimited primarily along natural and recognizable geographical features, such as rivers, instead of an abstract parallel of latitude, and recommended that the boundary be adjusted in conformity with this determination.

6.31 The historical record, set out in Chapter 3, demonstrates that both France and Spain, in practice, accepted the 1901 Commission’s recommendations, and modified the boundary in the southwest where it followed the Utamboni River and other rivers instead of strictly following the 1° North parallel of latitude. The record also demonstrates that France, Germany and Spain accepted the principle that the boundary should follow the natural and clearly identifiable human-made features and continued to adjust the lines described in Article 4 of the 1900 Convention on this basis in the Utamboni River Area by reference to specific towns under the sovereignty of the relevant States. Similarly, in the northeast, the Delegates of Spain and France—their Colonial Governors—reached an agreement, in 1919, that the boundary should follow the Kie River, rather than the 9° East of Paris meridian.

6.32 Pursuant to these agreements and understandings, Spain regularly and continuously carried out *infra legem effectivités* on its side of the modified boundaries, as sovereign over the Muni River Area of Spanish Guinea, without protest from France. France, correspondingly, generally limited its exercise of sovereignty to the land falling on its side of the modified boundaries. This situation persisted throughout the colonial period, until Gabon's independence in 1960, and Equatorial Guinea's independence in 1968. Accordingly, for Equatorial Guinea, the Legal Title to which it succeeded from Spain included the land territory that Spain exclusively administered, as sovereign, as of 1968.

6.33 While Article 4 of the 1900 Convention is a source of Spain's Legal Title, it is thus not the only source. Other sources of Spain's title include the modifications proposed by the 1901 Commission and the adjustments to the boundary agreed by parties' colonial Governors, both in accordance with the provisions of the Convention, which were accepted in practice by the parties, as well as the *infra legem effectivités* carried out by Spain, without protest by France, or by Gabon after 1960, in territory lying south of the 1° North parallel and east of the 9° East of Paris meridian.

6.34 A map showing the agreed modifications in these two areas can be seen at Figure 3.9 (following page 44).

A. THE LEGAL TITLES OF SPAIN AND FRANCE TO THE LAND TERRITORY IN THE UTAMBONI RIVER AREA

6.35 As recounted in more detail in Chapter 3, in the Utamboni River Area the 1901 Commission, after a mission to survey the territory on the ground to demarcate the boundary, proposed that it follow the Utamboni River, the Mitombe River and the Miang River, even though their courses deviate from the 1° North parallel of latitude. East of these rivers, the relevant parties to the 1900 Convention

continued to modify the boundary in accordance with the terms of the 1900 Convention. In 1914, local Delegates of Spain and Germany, which had temporarily replaced France as the sovereign in this area, agreed that certain towns fell under the sovereignty of each country. In accordance with the proposal of the 1901 Commission and the work of the 1914 Commission, Spain administered this territory until Equatorial Guinea's independence in 1968 without protest from France, until 1960, or from Gabon after that date. Thus for some 67 years, without interruption or challenge, Spain implemented and gave effect to the 1901 Commission's proposal and subsequent modifications of the boundary line described in Article 4 of the 1900 Convention in the Utamboni River Area by carrying out extensive *infra legem effectivités* on its side of the modified boundary. These included, *inter alia*:

- By 1905, Spain had established an outpost in Asobla and the Spanish head of the outpost exercised judicial functions.³³⁰
- By 1907, Asobla functioned as a Spanish customs post.³³¹ It also had significant services, infrastructure, and personnel, including a Government delegation (and housing for delegates), an infirmary staffed with medical professionals, a treasury administration, and a

³³⁰Kingdom of Spain, *Royal Order on Justice, Powers of Government Representatives* (27 July 1905). MEG, Vol. V, Annex 113.

³³¹A. Barrera, "What They are and What They Should be: the Spanish Possessions in the Gulf of Guinea" *General Marine Review*, Conference of the Royal Geographic Society (November 1907), pp. 6-7. MEG, Vol. IV, Annex 57; B. Rodriguez, "Geographical Studies: Morocco and Spanish Places, Algeria, Tunisia and Tripoli, Sahara and Spanish Sahara, Spanish Mainland and Island Guinea, Moroccan Problem" (1908). MEG, Vol. VII, Annex 221.

postal service.³³² Additionally, Spain administered a police force in Asobla, collected taxes, and gave the town an allocated budget.³³³

- Asobla also served as the seat of an administrative subdistrict within the district of Elobey, starting in 1907.³³⁴
- In 1925 a League of Nations report on tuberculosis and sleeping sickness in Equatorial Africa noted that these diseases are endemic in Asobla and Mbung, identifying both towns as being in Spanish Continental Guinea and on “Spanish soil”.³³⁵
- By 1927, the Spanish Colonial Guard administered a school in Asobla.³³⁶
- In 1953, Spain promulgated a law setting out the legal rights of the indigenous population of Spanish Guinea, with specific reference to the town of Asobla.³³⁷

³³² A. Barrera, “What They are and What They Should be: the Spanish Possessions in the Gulf of Guinea” *General Marine Review*, Conference of the Royal Geographic Society (November 1907), pp. 6, 12, 16. MEG, Vol. IV, Annex 57.

³³³ Royal Geographical Society, “Legislation and provisions of the Central Administration”, *Magazine of Colonial and Mercantile Geography*, Spain (1907), pp. 2-3. MEG, Vol. VII, Annex 220.

³³⁴ Spanish Territories of the Gulf of Guinea, *Decree on Territorial Division, Official Bulletin* (1 March 1907). MEG, Vol. V, Annex 114.

³³⁵ A. Balfour et al, *Further Report on Tuberculosis and Sleeping-Sickness in Equatorial Africa*, League of Nations Health Organization (April 1925). MEG, Vol. VII, Annex 224.

³³⁶ G. Nerin, *Spain's Last Forest: Cannibals, Missionaries, and Civil Guards Account of the Conquest of the Fang in Spanish Guinea 1914-1930* (2010), p. 103. MEG, Vol. VII, Annex 236.

³³⁷ F. Olesa Munido, “Criminal Law Applicable to Indigenous People in the Spanish Territories of the Gulf of Guinea”, INSTITUTE OF AFRICAN STUDIES, SUPERIOR COUNCIL OF SCIENTIFIC RESEARCH, Madrid (1953). MEG, Vol. VII, Annex 226.

- In 1966, pursuant to the *Spanish-Gabonese Agreement regarding Transboundary Circulation and Exchanges between Río Muni and Gabon* (the “1966 Agreement”), Spain and Gabon exchanged lists of towns and villages on their respective sides of the Utamboni River, which both States recognized as the border in that area.
- During the colonial period France, then Germany (when it became Spain’s sovereign neighbour in 1911 for a brief period) and then France again (from World War I to 1960) never objected to Spain’s administration of the Utamboni River Area in accordance with the proposal of the 1901 Commission. France, and later Gabon, had full knowledge of Spain’s administration of the Utamboni River Area, and neither asserted a claim to that territory prior to Equatorial Guinea’s independence in 1968.

B. THE LEGAL TITLES OF SPAIN AND FRANCE TO THE LAND TERRITORY IN THE KIE RIVER AREA

6.36 Spain and France also modified the boundary in the Kie River Area, as set out in detail in Chapter 3. In 1919, their local Delegates – the Governor of Spanish Guinea and the Governor General of French Equatorial Africa – concluded an agreement by which the northern half of the eastern boundary between Spanish Muni River and France’s colonial territory would provisionally be the Kie River, rather than the 9° East of Paris meridian specified in Article 4 of the 1900 Convention. Prior to its execution, this Governors’ Agreement was proposed by

each Governor to his respective sovereign, and Spain and France both approved it.³³⁸

6.37 Spain immediately began to administer the Kie River Area and, again, Spain carried out extensive *infra legem effectivités* on its side of the modified boundary continuously, regularly and without protest by France or Gabon between 1919 and 1968. Among other unchallenged acts of administration:

- In 1922, Spain established a military post in Ebebiyin.³³⁹ By 1927, the Colonial Guard administered a school in Ebebiyin.³⁴⁰ In the 1930s, Spain constructed several public works in Ebebiyin, including a colonial guard encampment, a hospital, and maintained an indigenous settlement.³⁴¹ And in 1948, Spain established schools in Ebebiyin.³⁴²
- Ebebiyin also became an administrative district.³⁴³
- The main intersection in Ebebiyin lies on the 9° East of Paris meridian. Thus, the entire eastern half of the city is east of 9° East of Paris

³³⁸ See, *supra*, paras. 3.67-3.69.

³³⁹ G. Nerin, *Spain's Last Forest Cannibals, Missionaries, and Civil Guards Account of the Conquest of the Fang in Spanish Guinea 1914-1930* (2010), p. 61. MEG, Vol. VII, Annex 236.

³⁴⁰ *Ibid.*, p. 103.

³⁴¹ Republic of Spain, *Letter from the AT of Ebebiyin to the Governor-General of Spanish Territories of the Gulf of Guinea* (27 November 1938). MEG, Vol. IV, Annex 77. On 9 June 1939, the Lead Engineer to the Spanish Governor General proposed a 100,000 peseta budget for work on the Ebebiyin-Mongomo road. See The Spanish State, *Letter from the Lead Engineer to the Governor-General of Spanish Territories of the Gulf of Guinea* (9 June 1939). MEG, Vol. IV, Annex 78.

³⁴² "Territorial Demarcations - School Districts 1949-1959", *Official Gazette of the Spanish Territories in the Gulf of Guinea* (15 November 1952), p. 2. MEG, Vol. V, Annex 128.

³⁴³ See, *supra*, para. 3.78.

meridian and is bounded in the east by the Kie River. (See Figure 3.30, following Figure 3.29 after page 76).

- From 1926 until Equatorial Guinea's independence in 1968, Spain constructed and maintained the Kie River road from Ebebiyin to Mongomo, most of which was east of the 9° East of Paris meridian, along the course of the Kie River.
- Spain administered all of the towns along the Kie River road, on its side of the river, constructing and maintaining military detachments and schools at Alen and Mongomo.³⁴⁴

6.38 Thus, Spain established Legal Title to the Kie River Area in accordance with the 1900 Convention and its *infra legem efectivités* from 1901 to 1968. France, by its conduct, as well as the 1919 Governors' Agreement, recognized Spain's title and established its own title on its side of the boundary defined by the Kie River. The situation did not change after Gabon became independent in 1960.

6.39 Nor did it change after Equatorial Guinea's independence in 1968. Since then, Equatorial Guinea has continued to administer the Kie River Area. In July 2011, for example, Equatorial Guinea completed the construction of the second of two bridges over the Kie River that connect the cities of Ebebiyin and Mongomo with Gabon and installed border posts on its side of the bridges (see Figure 3.29, Figure 3.30 and Figure 3.31, all following page 76). There was no protest from Gabon. To the contrary, on 4 August 2011, a Gabonese publication

³⁴⁴ Spanish Territories of the Gulf of Guinea, Official Gazette of the Gulf of Guinea Territories (15 March 1948). MEG, Vol. VII, Annex 225.

reported that Presidents Bongo and Obiang attended the inauguration of “the bridge over the Kye River, a natural boundary between the two countries.”³⁴⁵ Soon after the inauguration of the bridge, President Bongo, in response to a question about border disagreements with Equatorial Guinea, stated:

“President Obiang and I were at the end of July at the border of our countries to inaugurate two bridges which will increase our trade and facilitate the movement of people. What better symbol of agreement than building a bridge?”³⁴⁶

6.40 The record thus makes clear that the boundary described in Article 4 of the 1900 Convention was modified, in practice, in both the Utamboni River Area and the Kie River Area on the basis of proposals by Commissioners and local Delegates (the colonial Governors), who were acting in accordance with Article 8 and Annex 1 of the 1900 Convention, and by Spain’s unchallenged acts of administration—its *infra legem effectivités*—on its side of the modified boundary. As the Court has made clear, a State may obtain title over land territory if it engages in such *effectivités* and the other State acquiesces.³⁴⁷ This is particularly the case when, as here, the underlying conventional title envisaged mutually agreeable

³⁴⁵*News Article*, “Ali Bongo in Equatorial Guinea for Bridge Inauguration”, *Bongo Must Go* (4 August 2011), p. 1 (“Le président gabonais Ali Bongo Ondimba s’est rendu jeudi en Guinée-Equatoriale pour inaugurer, avec son homologue Equato-guinéen Teodoro Obiang Nguema Mbasogo, le pont sur la rivière Kyé, frontière naturelle entre les deux pays”). MEG, Vol. VII, Annex 237; *News Article*, “Inauguration of Two Bridges”, Office of Press and Information of the Republic of Equatorial Guinea (6 August 2011). MEG, Vol. VII, Annex 238.

³⁴⁶*News Article*, Ali Bongo Ondimba: “Not Everyone Has Understood that Gabon has Changed”, *Jeune Afrique* (6 September 2011), pp. 7-8 (“Le président Obiang et moi-même étions fin juillet à la frontière de nos pays pour inaugurer deux ponts qui vont augmenter nos échanges commerciaux et faciliter la circulation des personnes. Existe-t-il meilleur symbole d’entente que la construction d’un pont?”). MEG, Vol. VII, Annex 240.

³⁴⁷ *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria: Equatorial Guinea intervening)*, Judgment, I. C. J. Reports 2002, paras. 68-70; *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening)*, Judgment, I.C.J. Reports 1992, p. 351, paras. 67, 80.

territorial adjustments on the ground. Thus, the *effectivités* carried out by Spain until 1968, and by Equatorial Guinea subsequently, themselves constitute (or contribute to) sources of Legal Title to the land territory in the Utamboni River Area and the Kie River Area falling on the Spanish/Equatoguinean side of the modified boundary. Likewise, the *effectivités* that France and Gabon carried out, without protest by Spain or Equatorial Guinea, on the French/Gabonese side of the modified boundary described in this Memorial constitute sources of Legal Title to the land territory on that side of the border.

IV. The Legal Titles in the Sea Adjacent to the Parties' Coasts

6.41 The Parties have never agreed on a boundary delimiting their respective maritime entitlements in the Gulf of Guinea, including Corisco Bay. Nor did their colonial predecessors. Under well-established principles of international law, reflected in the 1982 UN Convention on the Law of the Sea (the “Law of the Sea Convention” or “UNCLOS”), to which Equatorial Guinea and Gabon are State Parties, maritime entitlements derive from coastal land territory, including islands. The sea follows the land. As the Court explained in *Territorial and Maritime Dispute (Nicaragua v. Colombia)*, in regard to entitlement to an exclusive economic zone (“EEZ”) and a continental shelf, but which is equally applicable to a territorial sea:

“It is well established that ‘[t]he title of a State to the continental shelf and to the exclusive economic zone is based on the principle that the land dominates the sea through the projection of the coasts or the coastal fronts’ (*Maritime Delimitation in the Black Sea (Romania v. Ukraine)*), *Judgment, I.C.J. Reports 2009*, p. 89, para. 77). As the Court stated in the *North Sea Continental Shelf (Federal Republic of Germany/Denmark; Federal Republic of Germany/Netherlands)* cases, ‘the land is the legal

source of the power which a State may exercise over territorial extensions to seaward'. Similarly, in the *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)* case, the Court observed that 'the coast of the territory of the State is the decisive factor for title to submarine areas adjacent to it.'"³⁴⁸

6.42 As a consequence, the Legal Titles to maritime areas in Corisco Bay and the Gulf of Guinea emanate from the titles to insular and continental land territory identified and described in the previous sections of this Chapter. Fortunately, the Parties do not appear to be in dispute over titles to the land territory on the continental coast; their dispute pertains to title to land in the interior and insular features. Thus, it is agreed that the land boundary terminus on the coast is as specified in the 1900 Convention between Spain and France, Article 4 of which provides:

"The boundary between the Spanish and French possessions on the Gulf of Guinea shall begin at the point where the thalweg of the Muni River intersects a straight line traced from the Coco Beach point to the point Diéké point."³⁴⁹

6.43 The division of maritime space between Equatorial Guinea and Gabon necessarily begins at that point.

6.44 Also undisputed is Equatorial Guinea's title to the principal islands of Corisco Bay: Corisco Island, Elobey Grande and Elobey Chico. The 1900

³⁴⁸*Territorial and Maritime Dispute (Nicaragua v. Colombia)*, Judgment, I.C.J. Reports 2012, p. 624, para. 140. See also *Continental Shelf (Libyan Arab Jamahira/Malta)*, Judgment, I.C.J. Reports 1985, p. 3, para. 49 ("The juridical link between the State's territorial sovereignty and its rights to certain adjacent maritime expanses is established by means of its coast.").

³⁴⁹*Special Convention on the Delimitation of Spanish and French Possessions in Western Africa on Coasts of the Sahara and the Gulf of Guinea*, between the Kingdom of Spain and The French Republic (signed. 27 June 1900, ratified 27 March 1901), Art. IV. MEG, Vol. III, Annex 4.

Convention, in Article 7, recognizes Spain's pre-existing title to these islands. Neither France nor Gabon has ever claimed them, or challenged Spanish sovereignty over them, or Equatorial Guinea's succession to Spain's title. France also recognized Spain's sovereignty over the smaller feature of Leva, which Gabon does not appear to have claimed; thus it appears that Equatorial Guinea's succession to Spanish sovereignty over Leva is also undisputed.

6.45 In respect of the three other smaller feature — Mbañe, Cocoteros and Conga, collectively known as the Corisco Dependencies—the historical record detailed in Chapter 3 establishes Spain's Legal Title and Equatorial Guinea's succession to that title upon independence.

6.46 Four years after Equatorial Guinea's independence, in 1972, Gabon, for the first time, asserted a claim to Mbañe, and, later that year, seized it from Equatorial Guinea by military force. Gabonese forces have remained on Mbañe ever since, in support of Gabon's claim. In Equatorial Guinea's view, neither France nor Gabon has ever had legal title to any of the insular features in Corisco Bay, including Mbañe. As indicated, no such claim of title was made prior to Equatorial Guinea's independence in 1968, and Gabon's seizure of Mbañe in 1972 does not constitute a basis for legal title under well-established principles of international law.

6.47 Accordingly, Legal Title to the maritime areas adjacent to the relevant continental coasts of Equatorial Guinea and Gabon, and the islands of Corisco Bay, must be based on UNCLOS, and the principle that the land dominates the sea expressed in the Court's jurisprudence under that Convention. Title thus extends from the continental territory of each Party on its side of the land boundary terminus at the point fixed by the 1900 Convention and from all of the Corisco Bay islands and islets that are part of Equatorial Guinea.

A. EQUATORIAL GUINEA'S MARITIME ZONE LEGISLATION

6.48 Equatorial Guinea ratified the Law of the Sea Convention on 21 July 1997. Even before ratifying UNCLOS, in 1984 it enacted legislation establishing limits of its maritime zones in accordance with the terms of the Convention. In particular, Act No. 15/1984 provides for a 12 nautical miles territorial sea and a 200 nautical miles exclusive economic zone measured from Equatorial Guinea's normal coastal baselines.³⁵⁰

6.49 Equatorial Guinea's 1984 legislation limits the breadth of the territorial sea and exclusive economic zone in areas adjacent to, or opposite, another State to an equidistance line with that other State's coast.³⁵¹ On 6 March 1999, Equatorial Guinea promulgated legislation providing the coordinates for those limits,³⁵² as illustrated in **Figure 6.1** (following page 124).³⁵³

6.50 On 7 May 2009, in accordance with Article 76(8) of the Convention, Equatorial Guinea submitted, to the Commission on the Limits of the Continental Shelf, its Preliminary Information indicative of the outer limits of the continental

³⁵⁰Republic of Equatorial Guinea, *Act No. 15/1984 on the Territorial Sea and Exclusive Economic Zone of the Republic of Equatorial Guinea* (12 November 1984), Arts. 2 & 10. MEG, Vol. VI, Annex 191. See also United Nations Division for Ocean Affairs and the Law of the Sea, *United Nations Convention on the Law of the Sea* (10 December 1982), Art. 5.

³⁵¹Republic of Equatorial Guinea, *Act No. 15/1984 on the Territorial Sea and Exclusive Economic Zone of the Republic of Equatorial Guinea* (12 November 1984), Arts. 2 & 10. MEG, Vol. VI, Annex 191.

³⁵²Republic of Equatorial Guinea, *Decree No. 1/1999 Designating the Median Line as the Maritime Boundary of the Republic of Equatorial Guinea* (6 March 1999). MEG, Vol. VI, Annex 193.

³⁵³On 26 June 1999, Equatorial Guinea and São Tomé and Príncipe signed an agreement delimiting their maritime boundary along a median line between opposite coasts and thereby limiting the seaward extent of Equatorial Guinea's maritime area off its territory in Corisco Bay and Rio Muni. See The Republic of Equatorial Guinea, *Treaty Regarding the Delimitation of the Maritime Boundary Between the Republic of Equatorial Guinea and the Democratic Republic of São Tomé and Príncipe* (26 June 1999). MEG, Vol. III, Annex 10.

shelf beyond 200 nautical miles.³⁵⁴ This claim pertains only to areas beyond 200 nautical miles from the Island of Annobon and does not overlap with any claim made by Gabon.

B. GABON'S MARITIME ZONE LEGISLATION

6.51 Gabon ratified UNCLOS on 11 March 1998. Prior to ratification, in 1984, Gabon issued legislation establishing a 200 nautical miles of EEZ.³⁵⁵ In 1992, it withdrew its claim to a 100 M territorial sea when it promulgated a decree establishing a 12 M territorial sea, consistent with UNCLOS, and reaffirming its 200 nautical miles of EEZ.³⁵⁶

6.52 The 1992 decree also established straight baselines from which Gabon purports to measure its maritime zones in and beyond Corisco Bay.³⁵⁷ Those baselines unlawfully use the islet of Mbañe as a base point and are not drawn in accordance with Article 7 of the Convention. Gabon's straight baseline claim and is depicted in **Figure 6.2** (following Figure 6.1).

6.53 On 10 April 2012, in accordance with Article 76(8) of the Convention, Gabon submitted its information on the outer limits of the continental

³⁵⁴ United Nations Convention on the Law of the Sea 1982, *Preliminary Information Presented by the Republic of Equatorial Guinea on the Outer Limits of the Continental Shelf* (7 May 2009), para. 3. MEG, Vol. III, Annex 40.

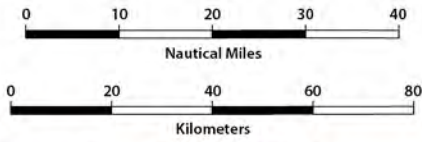
³⁵⁵ The Gabonese Republic, *Act No. 9/84 Establishing an Exclusive Economic Zone of 200 Nautical Miles* (9 July 1984). MEG, Vol. VI, Annex 190.

³⁵⁶ The Gabonese Republic, *Decree 002066/PR/MHCUCDM* (4 December 1992). MEG, Vol. VI, Annex 192.

³⁵⁷ *Ibid.*

EQUATORIAL GUINEA'S 1999 MARITIME BOUNDARY CLAIM

Mercator Projection
Datum: WGS-84
(Scale accurate at 1°N)



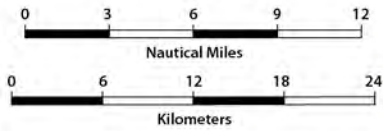
Prepared by International Mapping



Figure 6.1

GABON'S 1992 STRAIGHT BASELINES

Mercator Projection
Datum: WGS-84
(Scale accurate at 1°N)



Coastal Data: DMA chart 57181, 5th edition
(transformed from Gabon 1951 datum)

Prepared by International Mapping



Figure 6.2

shelf beyond 200 nautical miles.³⁵⁸ This claim does not overlap with any claim made by Equatorial Guinea.

6.54 To the extent that the Parties' maritime claims overlap, in the absence of an agreement, the delimitation of their respective areas is to be carried out in accordance with the principles set forth in UNCLOS Articles 15, 74 and 83, and the body of maritime delimitation jurisprudence of the Court in interpreting and applying those principles. Delimitation is dependent upon a determination of the legal titles to the relevant continental and insular coasts.

³⁵⁸ The Gabonese Republic, *Submission Made by the Gabonese Republic for the Extension of its Continental Shelf Beyond 200 Nautical Miles Pursuant to Article 76 of the United Nations Convention on the Law of the Sea* (10 April 2012). MEG, Vol. III, Annex 43.

[page intentionally left blank]

CHAPTER 7
THE ALLEGED 1974 CONVENTION THAT GABON FIRST PRODUCED
AND INVOKED IN 2003 DOES NOT ESTABLISH LEGAL TITLE OR
HAVE THE FORCE OF LAW IN THE RELATIONS BETWEEN THE
PARTIES

7.1 As described in Chapter 5, on 23 May 2003, unexpectedly and without prior notice, Gabon presented to Equatorial Guinea for the first time a copy of a document that it claimed was agreed in 1974 (hereinafter the “Document presented in 2003”).³⁵⁹ Gabon described the document presented in 2003 as a copy of a convention signed by Presidents Macias of Equatorial Guinea and Bongo of Gabon that allegedly resolved the Parties’ disputes over the delimitation of the land boundary, the delimitation of the maritime boundary, and sovereignty over the islet of Mbañe. The claim presented on the basis of the document was entirely inconsistent with the fact that the two States had just spent more than two decades negotiating these three disputes on the basis that no agreement had previously been reached as to any of them.

7.2 Gabon did not then, and has never, presented the original document. Indeed, when Gabon suddenly produced the document in 2003, it could only furnish poor-quality photocopies of French and Spanish versions, and the Spanish copy was incomplete and materially different in its contents from the French one. When Equatorial Guinea asked Gabon to present originals, Gabon admitted that it did not possess them.³⁶⁰

³⁵⁹ Republic of Equatorial Guinea, *Minutes of the Ad-hoc Commission on Equatorial Guinea-Gabon Borders*, Malabo (23 May 2003), p. 5. MEG, Vol. VII, Annex 213.

³⁶⁰ *Ibid.*, pp. 6, 8.

7.3 The following year, when Gabon presented two photocopies for registration by the United Nations Treaty Section of the Office of Legal Affairs, the Treaty Section deemed them illegible and requested clearer copies.³⁶¹ Gabon was unable to present better photocopies of the originals, since it did not have them. Instead, it apparently typed up new and legible versions of the alleged document, and submitted these.

7.4 The photocopy and newly-typed Spanish versions contained material differences. First, the Spanish photocopy is cut off on the final page and does not contain the full signatures or the names of the persons signing the text. The retyped version adds a signature line and the names of the alleged signatories. It also adds to the Spanish version a *nota bene* that appears after the signature line on the French version but does not appear on the first Spanish photocopy.³⁶²

7.5 Second, the retyped version submitted to the Treaty Section changed the text of Article 4 regarding the maritime boundary as compared to the photocopy. For the Elobey Islands, the Article 4 of the Spanish photocopy has the text “1.3 miles to the west,” while the retyped Spanish version has “1.5 miles to the

³⁶¹ *Letter from the Assistant Secretary-General of the United Nations to the Permanent Representative of the Republic of Equatorial Guinea to the United Nations* (22 March 2004), p. 1. MEG, Vol. III, Annex 32; *see also Letter from the Director of the UN Division for Ocean Affairs and Law of the Sea to HE the Permanent Representative of the Republic of Guinea Equatorial* (13 April 2005), p. 1. MEG, Vol. III, Annex 37.

³⁶² The Republic of Equatorial Guinea and The Gabonese Republic, *Convention Delimiting the Land and Maritime Boundaries of Equatorial Guinea and Gabon* (12 September 1974) (Spanish-language photocopy), p. 2. MEG, Vol. VII, Annex 217; The Republic of Equatorial Guinea and The Gabonese Republic, *Convention Delimiting the Land and Maritime Boundaries of Equatorial Guinea and Gabon* (12 September 1974) (Retyped Spanish-language version, as published in the UNTS), p. 3. MEG, Vol. VII, Annex 216; The Republic of Equatorial Guinea and The Gabonese Republic, *Convention Delimiting the Land and Maritime Boundaries of Equatorial Guinea and Gabon* (12 September 1974) (French-language photocopy), p. 3. MEG, Vol. VII, Annex 215.

coast”.³⁶³ For Corisco Island, the photocopy has the text “6 miles to the west”, whereas the re-typed version has “6 miles to the coast”.

7.6 Equatorial Guinea has no information as to the circumstances in which the retyped versions were prepared, by whom or when, or under whose control. Nevertheless, the indications are that the re-typed versions were created in 2004.³⁶⁴

7.7 Neither Equatorial Guinea nor the United Nations has ever been presented with the original French or Spanish version of this alleged convention. To the extent that Gabon seeks to rely on the Document presented in 2003 before the Court, it has the burden, at the outset, to prove its authenticity. As the Court held in *Pulp Mills on the River Uruguay (Argentina v. Uruguay)* “in accordance with the well-established principle of *onus probandi incumbit actori*, it is the duty of the party which asserts certain facts to establish the existence of such facts”.³⁶⁵

³⁶³ The Republic of Equatorial Guinea and The Gabonese Republic, *Convention Delimiting the Land and Maritime Boundaries of Equatorial Guinea and Gabon* (12 September 1974) (Spanish-language photocopy), Art. 4, p. 2. MEG, Vol. VII, Annex 217; The Republic of Equatorial Guinea and The Gabonese Republic, *Convention Delimiting the Land and Maritime Boundaries of Equatorial Guinea and Gabon* (12 September 1974) (Retyped Spanish-language version, as published in the UNTS), Art. 4, p. 3. MEG, Vol. VII, Annex 216.

³⁶⁴ *Letter from the Assistant Secretary-General of the United Nations to the Permanent Representative of the Republic of Equatorial Guinea to the United Nations* (22 March 2004), p. 1. MEG, Vol. III, Annex 32.

³⁶⁵ *Case Concerning Pulp Mills on the River Uruguay (Argentina v. Uruguay)*, *Judgment*, *I.C.J. Reports 2010*, p. 14, para. 162. *See also*, *Case Concerning Military and Paramilitary Activities In and Against Nicaragua (Nicaragua v. United States of America)*, *Judgment*, *I.C.J. Reports 1984*, p. 392, para. 101 (“it is the litigant seeking to establish a fact who bears the burden of proving it”); *Case Concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, *Judgment*, *I.C.J. Reports 2007*, p. 43, para. 204 (“On the burden or onus of proof, it is well established in general that the applicant must establish its case and that a party asserting a fact must establish it.”); *Maritime Delimitation in the Black Sea (Romania v. Ukraine)*, *Judgment*, *I.C.J. Reports 2009*, p. 61, para. 68 (“As the Court has said on a number of occasions, the party asserting a fact as a basis of its claim must establish it.”); *Case Concerning Ahmadou Sadio Diallo (Republic of Guinea v. Democratic*

The asserted existence of an international agreement, and the authenticity of any document proffered as such, are facts that must be proven by Gabon.³⁶⁶

7.8 Beyond the question of its authenticity, the evidence indicates that the Document presented in 2003 does not have, and was never understood or treated as having, the force of law in the relations between the Parties with regard to the delimitation of their common maritime and land boundaries or sovereignty over the islands of Mbañe, Cocoteros and Conga, within the meaning of Article 1 of the Special Agreement.³⁶⁷ This evidence may be summarized as follows.

7.9 During decades of negotiations over the matters the Document presented in 2003 is alleged to have settled, the document was entirely absent from

Republic of the Congo), *Judgment*, *I.C.J. Reports 2012*, p. 324, para. 15 (“as a general rule, it is for the party which alleges a fact in support of its claims to prove the existence of that fact”).

³⁶⁶ *Case Concerning Military and Paramilitary Activities In and Against Nicaragua (Nicaragua v. United States of America)*, *Judgment*, *I.C.J. Reports 1984*, p. 392, para. 101 (“[A]ny judgment on the merits in the present case will be limited to upholding such submissions of the Parties as have been supported by sufficient proof of relevant facts, and are regarded by the Court as sound in law. ... [I]t is the litigant seeking to establish a fact who bears the burden of proving it; and in cases where evidence may not be forthcoming, a submission may in the judgment be rejected as unproved.”). *See also Case Concerning Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, *Judgment*, *I.C.J. Reports 2005*, p. 168, paras. 91, 123, 128-130.

³⁶⁷ In 2003, when Gabon first presented a photocopy it alleges is a treaty from 1974, Equatorial Guinea questioned its authenticity and protested that Gabon could not, under established international law principles, invoke an “agreement”, for the first time, thirty years after its alleged conclusion, during which time no reference whatsoever was made to it by either party. The conduct and declarations made by Gabon over thirty years of negotiations clearly and consistently evinced an acceptance by Gabon that there was no agreement in force between the parties, and that Gabon did not consider an agreement to be in place. Equatorial Guinea relied on Gabon’s conduct to that effect, and adopted a position that was based on the positions taken over many decades by Gabon. An estoppel may be inferred from the conduct of Gabon: *See North Sea Continental Shelf Cases (Federal Republic of Germany/Denmark; Federal Republic of Germany/Netherlands)*, *Judgment*, *I.C.J. Reports 1969*, p. 3, para. 30; *Case Concerning Military and Paramilitary Activities In and Against Nicaragua (Nicaragua v. United States of America)*, *Judgment*, *I.C.J. Reports 1984*, p. 392, para. 51.

the relations between the Parties. In this regard, bilateral negotiations to settle the very same issues that were purportedly settled by that document took place from 1979 through 2003. Throughout this period, Gabon's Head of State was His Excellency Omar Bongo Ondimba, the purported signatory of the document on behalf of Gabon. Yet, Gabon never mentioned the document or the existence of a convention on the boundary and sovereignty issues that the Parties were negotiating during this 24-year period.

7.10 By its text, the Document provides for future agreements and specific steps to delimit the land and maritime boundaries, suggesting that, even if authentic, *quod non*, it did not purport to reflect a final agreement between the Parties.

7.11 Equatorial Guinea and Gabon never took any of the steps necessary to complete the alleged convention, to conclude the additional agreements that were called for, or to implement any of the material terms found in the text of the Document presented in 2003.

7.12 The alleged document has a date of 12 September 1974, at which time Gabon's constitution required that treaties affecting territory be submitted to a vote of the people and approved by the parliament in the form of a law. Between 1974 and 2003, Gabon did not submit the alleged convention to these or any other constitutional proceedings, contradicting its pretension such a convention had been concluded.

7.13 It is thus clear that the Parties—and Gabon in particular—for nearly thirty years proceeded on the basis that no agreement having the force of law and resolving their disputes had been concluded in 1974. Then, in 2003, Gabon suddenly asserted that all of the disputes that were regarded as unresolved and under negotiation with Equatorial Guinea were actually fully and finally resolved

by a treaty signed three decades earlier. According to Gabon, this newly unearthed document upended the territorial and boundary relationship existing between France and Spain, which the parties inherited at independence, by transferring sovereignty over the island of Mbañe from Equatorial Guinea to Gabon —shortly after Gabon had illegally occupied it— and delimiting the land and maritime boundaries in a manner that enshrined Gabon’s new, post-independence claims.

7.14 Equatorial Guinea maintains that, due to the grave importance of establishing boundaries and the central importance of state sovereignty over territory, international law does not allow such sweeping effects on land and maritime boundaries, and sovereignty over islands, to be given to an instrument having the nature of the Document presented in 2003, even assuming, *quod non*, that it is authentic. As the Court noted in *Territorial and Maritime Dispute between Nicaragua and Honduras*: “[t]he establishment of a permanent [] boundary is a matter of grave importance and agreement is not easily presumed.”³⁶⁸ Similarly, the Court has held that “[s]tate sovereignty over territory and [] the stability and certainty of that sovereignty” are of “central importance in international law and relations”.³⁶⁹

I. The Document Presented in 2003 by its Terms is Not a Final Treaty

7.15 The Document presented in 2003 is not, on its face, a definitive settlement of the disputes between the Parties. It contains material provisions requiring the Parties to take further steps to resolve certain outstanding territorial

³⁶⁸ *Territorial and Maritime Dispute between Nicaragua and Honduras in the Caribbean Sea (Nicaragua v. Honduras)*, Judgment, *I.C.J. Reports 2007*, p. 659, paras. 87, 253.

³⁶⁹ *Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore)*, Judgment, *I.C.J. Reports 2008*, p. 12, para. 122.

issues and conclusively establish their boundaries.³⁷⁰ None of these steps were ever taken, as Gabon is bound to recognise.

7.16 First, while Article 4 contains a definition of the maritime boundary,³⁷¹ the *nota bene* appearing after the signatures on the French version provides that the two Heads of State were to “subsequently proceed with a new drafting of Article 4 in order to bring it into conformity with the 1900 Convention”.³⁷² In the Spanish version, the part of the signature page where the *nota bene* appears on the French version has been cut off, so it is not possible to know what might have been written there.³⁷³ There is a partially legible, handwritten note in the left margin of the Spanish version which seems to refer to the 1900 Convention, but most of this note is also cut off.³⁷⁴ In any event, whatever else might have been included on the Spanish text, the reservation on the French text makes clear that there was no final agreement on the course of the maritime boundary.

7.17 With regard to the land boundary, Article 1 purports to define its general course in terms that are taken almost word for word from the 1900 Convention, referring to the 1° North parallel and the 9° East of Paris meridian.³⁷⁵

³⁷⁰ The Republic of Equatorial Guinea and The Gabonese Republic, *Convention Delimiting the Land and Maritime Boundaries of Equatorial Guinea and Gabon* (12 September 1974) (French-language photocopy). MEG, Vol. VII, Annex 215.

³⁷¹ *Ibid.*, p. 2, art. 4.

³⁷² *Ibid.*, p. 3.

³⁷³ The Republic of Equatorial Guinea and The Gabonese Republic, *Convention Delimiting the Land and Maritime Boundaries of Equatorial Guinea and Gabon* (12 September 1974) (Spanish-language photocopy), p. 2. MEG, Vol. VII, Annex 217.

³⁷⁴ *Ibid.*

³⁷⁵ The Republic of Equatorial Guinea and The Gabonese Republic, *Convention Delimiting the Land and Maritime Boundaries of Equatorial Guinea and Gabon* (12 September 1974) (French-language photocopy), p. 1, art. 1. MEG, Vol. VII, Annex 215.

Article 2 sets out, in general terms, exceptions to the lines referred to in Article 1 by which Equatorial Guinea purportedly “cede[s]” to Gabon the portion of the district of Medouneu located north of the 1°N line of latitude and Gabon “cedes” to Equatorial Guinea a part of the territory east of the 9° East line situated around the Ngong and Alen settlements.³⁷⁶

7.18 The precise locations and sizes of the areas “ceded” by each party to the other, and the means of application of the text are left to be determined by future agreement. Article 7 provides that “Protocols *shall be made* ... to determine the *surface area and exact limits* of land area ceded to the Gabonese Republic and that ceded to the Republic of Equatorial Guinea, and ... to *specify the terms and conditions of the application* of the present Convention.”³⁷⁷ The Parties never completed these necessary steps to determine the territories “ceded” by each party and the resulting course of the land boundary.

7.19 Article 8 similarly requires the precise boundary to be subsequently defined by representatives of Gabon and Equatorial Guinea. It provides that “the materialization of the boundaries shall done by a team composed of representatives of both countries, in equal number, with the aid or participation, as needed, of technicians and observers from the Organization of African Unity or any other international body, chosen by mutual agreement”.³⁷⁸ No subsequent definition was ever effected pursuant to Article 8.

7.20 Thus, the Document presented in 2003, on its face, does not constitute a final treaty. At most, it would appear to be an agreement to continue to seek a

³⁷⁶ *Ibid.*, p. 3, art. 2.

³⁷⁷ *Ibid.*, p. 3, art. 7.

³⁷⁸ *Ibid.*, p. 3, art. 8.

final agreement. Therefore, even assuming the Document presented in 2003 is authentic (*quod non*), it does not possess the force of law “in so far as [it] concern[s] the delimitation of their common maritime and land boundaries and sovereignty over the islands of Mbanié/Mbañe, Cocotiers/Cocoteros and Conga” within the meaning of Article 1 of the Special Agreement.

II. The Parties Did Not Take the Actions that Would Have Been Necessary to Implement the Terms of the Document Presented in 2003

7.21 After the date that appears in the French and Spanish versions’ text, 12 September 1974, the Parties took none of the steps that would have been required under its terms. As noted, the *note bene* at the end of the French photocopy states that the Heads of State would “proceed with a new drafting of Article 4”, which addresses the course of the maritime boundary. This never happened. Similarly, Articles 7 and 8 required further agreement to determine the territories “ceded” by each party and the course of the land boundary and the formation of a team with members from both Parties and, as needed, the participation of technicians and observers from the Organization for African Unity to materialize the boundary. None of this happened either.

7.22 Gabon alleges that the Document is a boundary and territory treaty that has the force of law between the Parties, but no such treaty was ever submitted to Gabon’s required constitutional ratification process. Gabon’s constitution in force when the Document presented in 2003 was allegedly concluded provided that “no cessation, no exchange, no addition of territory shall be valid without the consent of the Gabonese people called upon to decide by referendum, after consultation with the populations concerned” and that “treaties ... that entail cessation, exchange or addition of territory ... shall take effect only after having

been properly ratified” and “may be ratified only by virtue of a law”.³⁷⁹ The Court has recognized that constitutional provisions of such nature are of fundamental importance.³⁸⁰ Yet, it cannot be disputed that Gabon failed to comply with these provisions. It took none of the steps necessary to ratify the Document presented in 2003 that would have been constitutionally required if it had understood it had entered into an agreement determining or changing national boundaries and territorial sovereignty.

7.23 Nor did Gabon take any of the required steps on the international level. The UN Charter requires that States register treaties with the UN Secretariat “as soon as possible”.³⁸¹ Gabon did not seek to register the document with the United Nations “as soon as possible”; instead, it waited for thirty years after its alleged signature before doing so, in 2004. While the failure to register a treaty does not deprive it of the force of law (assuming, *quod non*, that it had such force to begin with), the fact that the Parties never registered a boundary and sovereignty treaty for three decades after it was allegedly signed offers a clear indication that the party tendering the document had not previously understood it – assuming that it even existed – to be in the nature of a treaty that had the force of law between the Parties.

³⁷⁹ The Gabonese Republic, *Constitution of The Gabonese Republic* (29 July 1972), p. 3, Art. 52. MEG, Vol. VI, Annex 189.

³⁸⁰ *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria: Equatorial Guinea intervening)*, Judgment, I. C. J. Reports 2002, p. 303, para. 265.

³⁸¹ *Charter of the United Nations*, Article 102 (1945).

III. The Parties Continued their Efforts to Settle Their Sovereignty and Boundary Disputes Based on Other Legal Titles and made no Reference to the Document Presented in 2003

7.24 President Macias' tenure in Equatorial Guinea ended on 3 August 1979, five years after the alleged conclusion of the Document presented in 2003. As noted, during these five years, the Parties did not undertake any of the steps indicated in its text to complete or implement its terms. After the new Government was established in Equatorial Guinea, the Parties continued negotiations to settle the same boundary and sovereignty disputes that Gabon now alleges were fully and finally settled in 1974.³⁸² The objective of these negotiations was not to interpret or apply the Document presented in 2003, which was never brought up by Gabon. To the contrary, the Parties engaged in intensive bilateral negotiations from 1979 to 2003 on all the issues allegedly addressed by the Document presented in 2003 without ever so much as mentioning it. The objective of the negotiations was to resolve the Parties' differences regarding sovereignty over the Corisco Dependencies and the delimitation of the land and maritime boundaries, which, by the very fact of these lengthy negotiations, they both understood to remain unresolved.

7.25 Beginning in 1979, the Parties attempted to reach what would have amounted to a provisional agreement of a practical nature pending the delimitation of their maritime boundary under UNCLOS Articles 74 and 83.³⁸³ They negotiated for several years in an effort to conclude an oil cooperation agreement with a joint development zone that included the maritime area adjacent to Mbañe, Cocoteros

³⁸² *Minutes of the Second Session of the Ad Hoc Commission on the Review of the Oil Cooperation Agreement Between the Republic of Equatorial Guinea and The Gabonese Republic*, Malabo (10-13 September 1984), pp. 3-5. MEG, Vol. VII, Annex 205.

³⁸³ *Ibid.*

and Conga.³⁸⁴ The object of the negotiations later expanded to the dispute over title to the Corisco Dependencies, and the course of the continental land boundary.³⁸⁵ Gabon and Equatorial Guinea conducted these negotiations bilaterally between November 1979 and May 2003. They consistently invoked, relied on, and affirmed the principle of respect for boundaries inherited from their colonial predecessors, the applicability of the 1900 Convention and subsequent modifications, and UNCLOS as the legal bases to resolve their disputes and determine their titles.³⁸⁶ Indeed, in 2001, the Parties agreed that they should follow the principle of respect for pre-existing boundaries and that “the Franco-Spanish Convention of June 27, 1990, the UN Charter, the Charter of the Organization of African Unity, and the UN Convention on the Law of the Sea” were “all legal and historical instruments necessary for the equitable delimitation of their border”.³⁸⁷ Not once during this period of more than 24 years of negotiations did either Party invoke, refer to or hint at the existence of the Document presented in 2003, let alone assert it as a basis for its claims of title.

³⁸⁴ *Ibid.*

³⁸⁵ *Report of the Border Sub-Commission of the Ad Hoc Commission on the Gabon-Equatorial Guinea Boundaries* (20 January 1993). MEG, Vol. VII, Annex 210.

³⁸⁶ *Minutes of the Second Session of the Ad Hoc Commission on the Review of the Oil Cooperation Agreement Between the Republic of Equatorial Guinea and The Gabonese Republic*, Malabo (10-13 September 1984), pp. 3-5. MEG, Vol. VII, Annex 205; *The Delegation of the Republic of Equatorial Guinea, Opening Address to the Delegation of The Gabonese Republic During the First Meeting of the Gabonese - Equatoguinean Ad-Hoc Commission* (4 November 1984), pp. 1-2. MEG, Vol. VII, Annex 206; *Report of the Border Sub-Commission of the Ad Hoc Commission on the Gabon-Equatorial Guinea Boundaries* (20 January 1993), pp. 3-5. MEG, Vol. VII, Annex 210.

³⁸⁷ The Gabonese Republic, *Minutes of the Ad Hoc Border Committee*, Libreville (31 January 2001), p. 2. MEG, Vol. VII, Annex 212.

IV. The Document Presented in 2003 Did Not Acquire the Force of Law between the Parties after 2003

7.26 When Gabon presented the Document in 2003 at a meeting of the *ad hoc* Boundary Commission, Equatorial Guinea responded that it “refutes and denies the existence of the hypothetical convention and ... denies the existence of that convention as well as its validity”.³⁸⁸ Equatorial Guinea emphasized that during the negotiations between the two States from 1979 to 2003, Gabon never presented or mentioned such a document.³⁸⁹ Equatorial Guinea demanded that Gabon produce the original Spanish and French documents for authentication. Gabon admitted that it did not have originals, in either language.³⁹⁰

7.27 In a letter to the UN Secretary-General, the Minister of Foreign Affairs of Equatorial Guinea protested Gabon’s efforts to have the Document presented in 2003 registered with the Treaty Section of the United Nations.³⁹¹ The protest contested the authenticity of the Document. The UN responded, however, that authenticity must be determined by a tribunal and reiterated that a certified copy is the only requirement for registration.³⁹² Without possessing the original

³⁸⁸Republic of Equatorial Guinea, *Minutes of the Ad-hoc Commission on Equatorial Guinea-Gabon Borders*, Malabo (23 May 2003), p. 5. MEG, Vol. VII, Annex 213.

³⁸⁹*Ibid.*, pp. 5-6

³⁹⁰*Ibid.*, pp. 6, 8.

³⁹¹ *Letter from* the Ministry of Foreign Affairs of the Republic of Equatorial Guinea to the Secretary-General of the United Nations (10 March 2004). MEG, Vol. III, Annex 31; *see also Letter No. 179/05 from* the Permanent Mission of the Republic of Equatorial Guinea to the United Nations to the Director of the United Nations Division of Ocean Affairs and Law of the Sea (11 March 2005). MEG, Vol. III, Annex 36.

³⁹² *Letter from* the Assistant Secretary-General of the United Nations to the Permanent Representative of the Republic of Equatorial Guinea to the United Nations (22 March 2004), p. 1. MEG, Vol. III, Annex 32; *see also Letter from* the Director of the UN Division for Ocean Affairs and Law of the Sea to H.E. the Permanent Representative of the Republic of Guinea Equatorial (13 April 2005), pp. 3-4. MEG, Vol. III, Annex 37.

version or knowing whether it exists, Gabon itself certified that the retyped version it submitted was a true and accurate copy of the original.³⁹³ Moreover, in its submission to the UN, Gabon incorrectly represented that the parties had no reservations or objections regarding the Document presented in 2003, despite the fact that Equatorial Guinea contested its authenticity from the moment Gabon sought to introduce it.³⁹⁴

7.28 On 18 March 2004, the UN formally recorded Equatorial Guinea's objection to the registration of the Document presented in 2003.³⁹⁵ Equatorial Guinea put forth a second objection on 7 April 2004, indicating that the copies submitted for registration were altered by Gabon as compared with the original version Gabon had tendered:

“Gabon had submitted to the Secretariat photocopies certified by the Gabonese Ministry of Foreign Affairs as being true copies of the originals. However, no originals exist, and Gabon never informed the Secretariat that it had anything in its possession beyond the photocopies it had supplied. When the Secretariat rejected these photocopies because they were illegible and because the French and Spanish texts did not match, Gabon prepared and

³⁹³ *Letter from the Director of the UN Division for Ocean Affairs and Law of the Sea to HE the Permanent Representative of the Republic of Guinea Equatorial* (13 April 2005), p. 4. MEG, Vol. III, Annex 37; Republic of Equatorial Guinea, *Minutes of the Ad-hoc Border Commission Equatorial Guinea-Gabon*, Malabo (23 May 2003), p. 8. MEG, Vol. VII, Annex 213.

³⁹⁴ *Letter from the Assistant Secretary-General of the United Nations to the Permanent Representative of the Republic of Equatorial Guinea to the United Nations* (22 March 2004), p. 1. MEG, Vol. III, Annex 32.

³⁹⁵ Republic of Equatorial Guinea, *Objection to the Authenticity of the Convention Before the United Nations*, on the “Convention Demarcating the Land and Maritime Frontiers of Equatorial Guinea and Gabon, Bata, 12 September 1974” (18 March 2004). MEG, Vol. VII, Annex 218; *Letter from the Assistant Secretary-General of the United Nations to the Permanent Representative of the Republic of Equatorial Guinea to the United Nations* (22 March 2004), p. 3. MEG, Vol. III, Annex 32.

sent to the Secretariat new, typed texts. ... Where the Spanish-language photocopy and the French-language photocopy differed, Gabon changed the Spanish-language typed text, even adding words which had not been in the photocopy, to make it match the French-language text.”³⁹⁶

7.29 Notwithstanding these objections, the UN registered the Document on 25 March 2005.³⁹⁷ However, UN registration “does not confer on the instrument the status of a treaty or international agreement if it does not already possess that status”.³⁹⁸ The Document presented in 2003 did not possess that status when registered and has not subsequently acquired it. The Document presented in 2003, therefore, does not constitute a valid Legal Title on which either Party may base its claims.

³⁹⁶ Republic of Equatorial Guinea, *Second Objection Before the United Nations*, on the “Convention Demarcating the Land and Maritime Frontiers of Equatorial Guinea and Gabon, Bata, 12 September 1974” (7 April 2004), p. 7. MEG, Vol. VII, Annex 219.

³⁹⁷ Letter from the Director of the UN Division for Ocean Affairs and Law of the Sea to HE the Permanent Representative of the Republic of Guinea Equatorial (13 April 2005), p. 5. MEG, Vol. III, Annex 37; The Republic of Equatorial Guinea and The Gabonese Republic, *Convention Delimiting the Land and Maritime Boundaries of Equatorial Guinea and Gabon* (12 September 1974) (Retyped Spanish-language version, as published in the UNTS). MEG, Vol. VII, Annex 216; The Republic of Equatorial Guinea and The Gabonese Republic, *Convention Delimiting the Land and Maritime Boundaries of Equatorial Guinea and Gabon* (12 September 1974) (Retyped French-language version, as published in the UNTS Vol.2248). MEG, Vol. VII, Annex 214.

³⁹⁸ *Letter from* the Assistant Secretary-General of the United Nations *to* the Permanent Representative of the Republic of Equatorial Guinea to the United Nations (22 March 2004), p. 3 (*citing to* UN Treaty Handbook Section 5.3.1, p. 27) (emphasis omitted). MEG, Vol. III, Annex 32.

[page intentionally left blank]

SUBMISSIONS

Reserving its right to supplement or amend its requests, the Republic of Equatorial Guinea requests the Court to adjudge and declare:

The only legal titles, treaties and international conventions that have the force of law in the relations between the Gabonese Republic and the Republic of Equatorial Guinea in so far as they concern the delimitation of their common maritime and land boundaries and sovereignty over the islands of Mbanié/Mbañe, Cocotiers/Cocoteros and Conga are:

- A. With Respect to the Delimitation of the Land Boundary,
1. by State succession, the special Convention on the delimitation of French and Spanish possessions in West Africa, on the coasts of the Sahara and the Gulf of Guinea, signed in Paris on 27 June 1900 (the “1900 Convention”), as applied by France and Spain until the independence of Gabon on 17 August 1960 and as continued to be applied by Gabon and Spain until the independence of Equatorial Guinea on 12 October 1968,
 2. the legal title of the Republic of Equatorial Guinea as the successor State to Spain to all titles to territory, including territorial limits, held by Spain based on modifications to the boundary described in Article 4 of the 1900 Convention in accordance with the terms of the 1900 Convention and international law prior to 12 October 1968, the date of the Republic of Equatorial Guinea’s independence, and
 3. the legal title of the Gabonese Republic as the successor State to France to all the titles to territory, including territorial limits, held by France based on modifications to the boundary described in

Article 4 of the 1900 Convention in accordance with the terms of the 1900 Convention and international law prior to on 17 August 1960, the date of the Gabonese Republic's independence;

B. With Respect to the Sovereignty over the Islands of Mbanié/Mbañe, Cocotiers/Cocoteros and Conga,

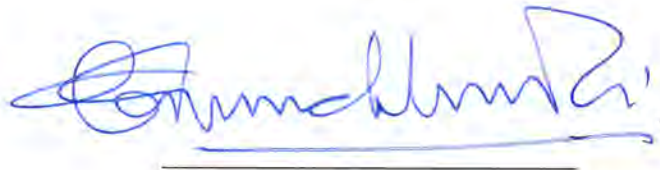
1. by State succession of Equatorial Guinea to Spain's Legal Title held by Spain on 12 October 1968 over Mbanié/Mbañe, Cocotiers/Cocoteros and Conga founded on 1) the general session of rights from Portugal in the 1778 Treaty of El Pardo, 2) Spain's 1843 Declaration of Spanish Sovereignty for Corisco Island, 3) Spain's 1846 Record of Annexation signed with King I. Oregek of Corisco Island, 4) Spain's 1846 Charter of Spanish Citizenship Given to the Inhabitants of Corisco, Elobey and their Dependencies, and 4) Spain's uncontested effective and public sovereign occupation of these islands from 1843 until Equatorial Guinea's independence in 1968.

C. With Respect to the Entitlement to Maritime Areas, and their Delimitations, considering the Respective Territories of the Parties as Determined under (A) and (B),

1. the 1900 Convention in so far as it established the terminus of the land boundary in Corisco Bay, and recognized Spain's sovereignty over Corisco Island, Elobey Grande and Elobey Chico; and
2. the United Nations Convention on the Law of the Sea signed on 10 December 1982 at Montego Bay, and
3. customary international law in so far as it establishes that a State's title and entitlement to maritime areas derives from its title to land territory.

The Republic of Equatorial Guinea reserves the right to supplement or amend these submissions in light of further pleadings and as necessary.

Respectfully submitted,



H.E. Mr. Carmelo NVONO-NCÁ

Extraordinary and Plenipotentiary Ambassador of the Republic of Equatorial Guinea to the Kingdom of Belgium, the Kingdom of the Netherlands, the Kingdom of Denmark and the Grand Duchy of Luxembourg

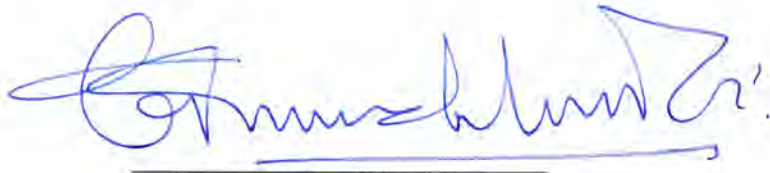
AGENT OF THE REPUBLIC OF EQUATORIAL GUINEA

5 OCTOBER 2021

[page intentionally left blank]

CERTIFICATION

I certify that the Annexes are true copies of the documents referred to and that the translations provided are authentic and accurate.



H.E. Mr. Carmelo NVONO-NCÁ

Extraordinary and Plenipotentiary Ambassador of the Republic of Equatorial Guinea to the Kingdom of Belgium, the Kingdom of the Netherlands, the Kingdom of Denmark and the Grand Duchy of Luxembourg

AGENT OF THE REPUBLIC OF EQUATORIAL GUINEA

5 OCTOBER 2021

VOLUME I

FIGURES

All maps are for illustrative purposes only

Figure 1.1	Spain's Territory as of 12 October 1968	following page 8
Figure 2.1	The Geography of the Republic of Equatorial Guinea and the Gabonese Republic	following page 10
Figure 2.2	The Geography of the Continental Region of Equatorial Guinea	following Figure 2.1
Figure 2.3	Corisco Bay Islands	following page 12
Figure 2.4	Corisco Island and Its Dependencies	following Figure 2.3
Figure 2.5	Corisco Island and Its Dependencies circa 1859	following Figure 2.4
Figure 2.6	The Utamboni River Area and the Kie River Area	following Figure 2.5
Figure 2.7	The Utamboni River Area	following Figure 2.6
Figure 2.8	The Kie River Area	following page 16
Figure 3.1	The Geography of the 1778 Treaty	following page 18
Figure 3.2	The Positions of Spain and France Pre-1900	following page 22
Figure 3.3	French Source Map Showing the Corisco Dependencies as Spanish, 1899	following page 24
Figure 3.4	Location of Pierre Loti Shipwreck Near Mbañe	following page 28
Figure 3.5	Spanish Gulf Oil Company Map Showing the Corisco Dependencies as Spanish, 1960	following page 36
Figure 3.6	Annex 3 to the 1900 Convention	following Figure 3.5
Figure 3.7	1901 Commission's Proposed Boundary	following page 40

Figure 3.8	1901 Commission's Proposed Boundary (Utamboni River Area)	following page 42
Figure 3.9	The Parties' Modifications to the Article 4 Lines in the Utamboni and Kie River Areas	following page 44
Figure 3.10	The 1914 Spanish-German Commission Identified Spanish Towns	following page 48
Figure 3.11	Towns Surveyed in 1942 Spanish Census (Utamboni River Area)	following page 52
Figure 3.12	Towns Surveyed in 1950 Spanish Census (Utamboni River Area)	following Figure 3.11
Figure 3.13	Vasco Africana's Miang Concession, 1952	following Figure 3.12
Figure 3.14	Boundary Established by 1919 Governors' Agreement	following page 56
Figure 3.15	The Kie River Road Proposed by Governor Barrera in 1920	following page 58
Figure 3.16	Spanish Military Posts on Kie River Road, 1926	following Figure 3.15
Figure 3.17	Engineering Structures Installed on Kie River Road, 1949-1955	following Figure 3.16
Figure 3.18	Towns Surveyed in 1942 Spanish Census (Kie River Area)	following page 60
Figure 3.19	Towns Surveyed in 1950 Spanish Census (Kie River Area)	following Figure 3.18
Figure 3.20	Spanish Map Using Corisco Dependencies as Spanish Basepoints for Median Line, 1966	following page 64
Figure 3.21	Gabon's Libreville Marin Permit Northern Limit is a Median Line Using Corisco Dependencies as Spanish Basepoints, 1964	following page 66
Figure 3.22	Gabon's 1966 Monday Bay Close Line	following Figure 3.21

Figure 3.23	Gabon's Libreville Marin Permit Northern Limit is a Median Line Using Corisco Dependencies as Spanish Basepoints, 1967	following page 70
Figure 3.24	Gabon's Libreville Marin Permit Northern Limit is a Median Line Using Corisco Dependencies as Equatoguinean Basepoints, 1969	following Figure 3.23
Figure 3.25	Official French Map Showing the Corisco Dependencies as Equatoguinean, 1968	following Figure 3.24
Figure 3.26	Spanish and Gabonese Villages and Border Crossings, 1966 (Utamboni River Area)	following page 74
Figure 3.27	Bitumen Concession Issued by Spain, 1964	following Figure 3.26
Figure 3.28	Spanish and Gabonese Villages and Border Crossings, 1966 (Kie River Area)	following page 76
Figure 3.29	International Kie River Bridges, Inaugurated 4 August 2011	following Figure 3.28
Figure 3.30	Ebebiyin, Equatorial Guinea, 2020	following Figure 3.29
Figure 3.31	Mongomo, Equatorial Guinea, 2020	following Figure 3.30
Figure 6.1	Equatorial Guinea's 1999 Maritime Boundary Claim	following page 124
Figure 6.2	Gabon's 1992 Straight Baselines	following Figure 6.1

VOLUME II

FIGURES

All maps are for illustrative purposes only

- Figure 1.1 Spain's Territory as of 12 October 1968
- Figure 2.1 The Geography of the Republic of Equatorial Guinea and the Gabonese Republic
- Figure 2.2 The Geography of the Continental Region of Equatorial Guinea
- Figure 2.3 Corisco Bay Islands
- Figure 2.4 Corisco Island and Its Dependencies
- Figure 2.5 Corisco Island and Its Dependencies circa 1859
- Figure 2.6 The Utamboni River Area and the Kie River Area
- Figure 2.7 The Utamboni River Area
- Figure 2.8 The Kie River Area
- Figure 3.1 The Geography of the 1778 Treaty
- Figure 3.2 The Positions of Spain and France Pre-1900
- Figure 3.3 French Source Map Showing the Corisco Dependencies as Spanish, 1899
- Figure 3.4 Location of Pierre Loti Shipwreck Near Mbañe
- Figure 3.5 Spanish Gulf Oil Company Map Showing the Corisco Dependencies as Spanish, 1960
- Figure 3.6 Annex 3 to the 1900 Convention
- Figure 3.7 1901 Commission's Proposed Boundary

- Figure 3.8 1901 Commission's Proposed Boundary (Utamboni River Area)
- Figure 3.9 The Parties' Modifications to the Article 4 Lines in the Utamboni and Kie River Areas
- Figure 3.10 The 1914 Spanish-German Commission Identified Spanish Towns
- Figure 3.11 Towns Surveyed in 1942 Spanish Census (Utamboni River Area)
- Figure 3.12 Towns Surveyed in 1950 Spanish Census (Utamboni River Area)
- Figure 3.13 Vasco Africana's Miang Concession, 1952
- Figure 3.14 Boundary Established by 1919 Governors' Agreement
- Figure 3.15 The Kie River Road Proposed by Governor Barrera in 1920
- Figure 3.16 Spanish Military Posts on Kie River Road, 1926
- Figure 3.17 Engineering Structures Installed on Kie River Road, 1949-1955
- Figure 3.18 Towns Surveyed in 1942 Spanish Census (Kie River Area)
- Figure 3.19 Towns Surveyed in 1950 Spanish Census (Kie River Area)
- Figure 3.20 Spanish Map Using Corisco Dependencies as Spanish Basepoints for Median Line, 1966
- Figure 3.21 Gabon's Libreville Marin Permit Northern Limit is a Median Line Using Corisco Dependencies as Spanish Basepoints, 1964
- Figure 3.22 Gabon's 1966 Monday Bay Close Line
- Figure 3.23 Gabon's Libreville Marin Permit Northern Limit is a Median Line Using Corisco Dependencies as Spanish Basepoints, 1967
- Figure 3.24 Gabon's Libreville Marin Permit Northern Limit is a Median Line Using Corisco Dependencies as Equatoguinean Basepoints, 1969
- Figure 3.25 Official French Map Showing the Corisco Dependencies as Equatoguinean, 1968
- Figure 3.26 Spanish and Gabonese Villages and Border Crossings, 1966 (Utamboni River Area)

- Figure 3.27 Bitumen Concession Issued by Spain, 1964
- Figure 3.28 Spanish and Gabonese Villages and Border Crossings, 1966 (Kie River Area)
- Figure 3.29 International Kie River Bridges, Inaugurated 4 August 2011
- Figure 3.30 Ebebiyin, Equatorial Guinea, 2020
- Figure 3.31 Mongomo, Equatorial Guinea, 2020
- Figure 6.1 Equatorial Guinea's 1999 Maritime Boundary Claim
- Figure 6.2 Gabon's 1992 Straight Baselines

MAPS

- Annex M1 Atlas Larousse, French Colonies of Africa, 1900
- Annex M2 French Naval Hydrographic Service, Chart 6183, 1960
- Annex M3 U.S. National Imagery and Mapping Agency, *Bahía de Corisco*, 57181 6th ed. (1999)

PHOTOGRAPH

- Annex P1 Image of Asobla, 1945

VOLUME III

ANNEXES

INTERNATIONAL TREATIES & INSTRUMENTS

- Annex 1 *Treaty of Amity, Guarantee, and Commerce Between Portugal and Spain, Signed at El Pardo (11 March 1778)*
- Annex 2 *Treaty Between France and King Denis of Gabon of Senegal, signed in Gabon (9 February 1839)*
- Annex 3 *Protocol No. 30, Session between The Kingdom of Spain and The French Republic (16 September 1887) (excerpt)*
- Annex 4 *Special Convention on the Delimitation of Spanish and French Possessions in Western Africa on Coasts of the Sahara and the Gulf of Guinea, between the Kingdom of Spain and The French Republic (signed. 27 June 1900, ratified 27 March 1901)*
- Annex 5 *Convention between Germany and France to Define Precisely the Boundary Lines between the Kamerun and the French Congo Signed at Berlin (signed 18 April 1908, ratified on 28 July 1908)*
- Annex 6 *The Spanish State, General Directorate of African Territories and Provinces, Study of the Border Between Gabon and Rio Muni – Crossing Points (1965)*
- Annex 7 *The Spanish State Parliament, Agreement Between the Spanish State and The Gabonese Republic Concerning Circulation and Border Exchange Between Rio Muni and Gabon, Official Gazette No. 931 (4 October 1966)*
- Annex 8 *Convention between The Spanish State and The Gabonese Republic Concerning Cross-Border Exchanges and Movement Between Rio Muni and Gabon, Appendix 2 Concerning the Towns or Urban Areas to be Included in the 10 KM Zone Referred to in the Convention (1966) (Spain's list of towns in border zone)*

- Annex 9 *Letter from the Director General of African Cities and Provinces (Presidency of the Government of Spain) to the Director General of African Affairs (Spanish Ministry of Foreign Affairs), attaching Annex I to Act No. 3 Concerning the Obligatory Boundary Crossings Proposed by the Commission on the Common Boundary Between the Republic of Gabon and Equatorial Guinea (19 October 1965) (excerpt)*
- Annex 10 *The Republic of Equatorial Guinea, Treaty Regarding the Delimitation of the Maritime Boundary Between the Republic of Equatorial Guinea and the Democratic Republic of Sao Tome and Principe (26 June 1999)*

DELIMITATION COMMISSION DOCUMENTS

- Annex 11 *French-Spanish Commission, Conference on the Delimitation in West Africa, Archives of the French Ministry of Foreign Affairs, Annex to Protocol No. 17 (24 December 1886) (excerpt)*
- Annex 12 *Itinerary Followed by the Commission for the Delimitation of the Gulf of Guinea (1901)*
- Annex 13 *Franco-Spanish Delimitation Commission of the Gulf of Guinea, Border Project: Eastern Border (1 January 1902)*
- Annex 14 *Franco-Spanish Delimitation Commission of the Gulf of Guinea, Border Project: Southern Border (1 January 1902)*
- Annex 15 *Franco-Spanish Delimitation Commission of the Gulf of Guinea, "Table of the Villages Recognized by the Delimitation Commission of Spanish Guinea with Names of Chiefs, Tribes, and Nationality According to the Border Project (Southern Border)" (2 January 1902)*
- Annex 16 *The Cottes Mission to South Cameroon, Presentation of Scientific Results, According to Works of Various Members of the French Section of the Commission for Delimitation Between the French Congo and Cameroon (Southern Border) and the Documents Studied at the Museum of Natural History (1911) (excerpt)*

UNITED NATIONS DOCUMENTS AND COMMUNICATIONS

- Annex 17 UN Security Council, *890th Meeting held in New York*, Security Council Official Records (23 August 1960) (excerpt)
- Annex 18 UN General Assembly, *Report of the Committee on Information from Non-Governing Territories, Official Records: Sixteenth Session Supplement No. 15 (A/4785)*, New York (1 September 1961) (excerpt)
- Annex 19 United Nations General Assembly, *Resolution 2230 (XXI) Question of Equatorial Guinea* (20 December 1966)
- Annex 20 UN General Assembly Special Committee on Decolonization, *Report of the Special Committee on the Situation with Regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples*, UN Doc. A/7200/Rev.1, Annexes to Agenda Item 23 (November 1967) (excerpt)
- Annex 21 United Nations General Assembly, *Resolution 2355 (XXII) Question of Equatorial Guinea* (19 December 1967)
- Annex 22 *Cable from UN to Permanent Missions* (14 September 1970), enclosing *Communication from Mr. Manadou D’Niaye, Charge d’Affaires of the Republic of Gabon to the Secretary-General of the United Nations Announcing the Extension of Gabonese Territorial Waters by Presidential Decree* (20 August 1970)
- Annex 23 *Cable from the UN to Permanent Missions* (13 October 1970), enclosing *Letter from Equatorial Guinea to UN Secretary-General* (8 October 1970)
- Annex 24 *Letter from the Permanent Mission of the Netherlands to the United Nations to the UN Secretary-General* (14 October 1970)
- Annex 25 *Letter from the Permanent Representative of The Gabonese Republic to the United Nations to the UN Secretary-General* (1 March 1972)
- Annex 26 *Letter from the Permanent Mission of the Republic of Equatorial Guinea to the United Nations to the Permanent Missions and Offices of Permanent Observers to the United Nations* (5 September 1972)

- Annex 27 *Note Verbale from the Permanent Mission of the Republic of Equatorial Guinea to the United Nations to the UN Secretary General (11 September 1972)*
- Annex 28 *Permanent Mission of the Republic of Equatorial Guinea to the United Nations, Statement Before the United Nations Security Council by His Excellency Mr. Jesus Alfonso Oyono Alogo (September 1972) (excerpt)*
- Annex 29 *Letter from the United Nations Secretary-General to His Excellency the President of the Republic of Equatorial Guinea (6 August 2003)*
- Annex 30 *“Gabon and Equatorial Guinea Set Terms of UN Mediation Over Disputed Islands”, UN News (20 January 2004)*
- Annex 31 *Letter from the Ministry of Foreign Affairs of the Republic of Equatorial Guinea to the Secretary-General of the United Nations (10 March 2004)*
- Annex 32 *Letter from the Assistant Secretary-General of the United Nations to the Permanent Representative of the Republic of Equatorial Guinea to the United Nations (22 March 2004)*
- Annex 33 *“Secretary-General’s Activities in Ethiopia 3 - 7 July”, UN News (8 July 2004)*
- Annex 34 *“Transcript of Press Conference by Secretary-General Kofi Annan at United Nations Headquarters, 21 July 2004”, United Nations Information Service (22 July 2004)*
- Annex 35 *“Secretary-General Commends Leaders of Gabon, Equatorial Guinea for Agreement to Peacefully Resolve Border Dispute”, UN News (6 July 2004)*
- Annex 36 *Letter No. 179/05 from the Permanent Mission of the Republic of Equatorial Guinea to the United Nations to the Director of the United Nations Division of Ocean Affairs and Law of the Sea (11 March 2005)*
- Annex 37 *Letter from the Director of the UN Division for Ocean Affairs and Law of the Sea to HE the Permanent Representative of the Republic of Guinea Equatorial (13 April 2005)*
- Annex 38 *“Summit Communique Congratulates Presidents of Gabon, Equatorial Guinea for Progress Towards Peaceful Settlement of Border Dispute”, UN News (28 February 2006)*

- Annex 39 “Former UN Legal Chief to Mediate Dispute Between Equatorial Guinea, Gabon”, *UN News* (17 September 2008)
- Annex 40 United Nations Convention on the Law of the Sea 1982, *Preliminary Information Presented by the Republic of Equatorial Guinea on the Outer Limits of the Continental Shelf* (7 May 2009)
- Annex 41 “Border Agreement Creates Model for Other African Nations”, *Voice of America* (29 October 2009)
- Annex 42 *Note from United Nations Under-Secretary-General L. Pascoe, Background for the Deputy Secretary-General’s Meeting with Joint Equatorial Guinea and Gabon Senior Delegations, New York on 18 March 2010* (15 March 2010)
- Annex 43 The Gabonese Republic, *Submission Made by the Gabonese Republic for the Extension of its Continental Shelf Beyond 200 Nautical Miles Pursuant to Article 76 of the United Nations Convention on the Law of the Sea* (10 April 2012)

ORGANISATION OF AFRICAN UNITY & AFRICAN UNION DOCUMENTS AND COMMUNICATIONS

- Annex 44 Organisation of African Unity, *Resolutions Adopted by the First Ordinary Session of the Assembly of Heads of State and Government Held in Cairo, UAR* (17-21 July 1964) (excerpt)
- Annex 45 The African Union, *Constitutive Act of the African Union* (11 July 2000) (excerpt)
- Annex 46 African Union, “Report of the Chairperson of the Commission on Conflict Situations in Africa”, *Executive Council, Fifth Ordinary Session 25 June - 3 July 2004, Addis Ababa, Ethiopia, EX.CL/106 (V)* (3 July 2004)

VOLUME IV

ANNEXES

HISTORICAL CORRESPONDENCE & OFFICIAL DOCUMENTS OF SPAIN, FRANCE AND THIRD STATES

- Annex 47 Kingdom of Spain, Ministry of State, *Letter of Spanish Citizenship Given to the Inhabitants of Corisco, Elobey and their Dependencies* (18 February 1846)
- Annex 48 The Spanish State, Ministry of State, *Letter Reaffirming Spanish Possession of the Island of Corisco* (20 July 1958)
- Annex 49 Kingdom of Spain, *Letter No. 367 from the Governor-General of Fernando Póo to the Minister of Overseas Possessions* (2[1] November 1895) (excerpt)
- Annex 50 *Letter No. 368 from the Spanish Governor-General of Fernando Póo to the Commissioner-General of the French Congo* (22 November 1895)
- Annex 51 *Letter No. 203 from the Commissioner-General of the Colonial Administration of The French Republic to the Governor-General of Fernando Póo and Dependencies of The Kingdom of Spain* (4 February 1896)
- Annex 52 Kingdom of Spain, Ministry of Overseas, *Visit from the Governor-General of Elobey* (1897) (excerpt)
- Annex 53 Kingdom of Spain, *Negotiations with France to Sign a Border Treaty Between the Spanish and French Possessions on the West Coast of Africa, 1899-1900* No. 2 Report by the Political Section in Regard to the Foregoing Royal Order (22 November 1899) (excerpt)
- Annex 54 The French Republic, *Letter from the Ministry of Foreign Affairs to the Minister of Colonies* (13 March 1900)
- Annex 55 *Letter from the French Minister of Colonies to the Administrator of the Franco-Spanish Delimitation Commission* (19 June 1901)

- Annex 55 bis The French Republic, *Letter from the French Ministry of Colonies to Ministry of Foreign Affairs* (1 December 1906)
- Annex 56 Kingdom of Spain, *Letter from the Colonial Section of the Ministry of State* (20 April 1907)
- Annex 57 A. Barrera, "What They are and What They Should be: the Spanish Possessions in the Gulf of Guinea" *General Marine Review*, Conference of the Royal Geographic Society (November 1907) (excerpt)
- Annex 58 Kingdom of Spain, *Letter from the Minister of State Concerning the Borders of Congo and Spanish Guinea* (20 April 1907)
- Annex 59 *Letter of the Minister of State of the Kingdom of Spain* (18 May 1908)
- Annex 60 *Letter from the Sub-Governor of Elobey to the Governor of Spanish Territories of the Gulf of Guinea* (12 May 1908)
- Annex 61 *Report from Spanish Official of the Kingdom of Spain to the Minister of State* (18 November 1911) (excerpt)
- Annex 62 Kingdom of Spain, *Letter from the Minister of State to the Ambassador of Spain to the German Empire* (4 February 1914)
- Annex 63 The German Empire, *Report No. 4, Imperial German Muni Expedition, Dr. Olshausen* (16 June 1914)
- Annex 64 United Kingdom, *Cameroon, Final Report: Enclosures Sept 1914 to May 1916* (3 October 1915)
- Annex 65 *Letter from the Governor-General of Spanish Territories of Africa to the Governor of French Gabon* (22 November 1917)
- Annex 66 *Letter No. [1]3 from the Governor-General of French Equatorial Africa to the Governor-General of the Spanish Territories of the Gulf of Guinea* (24 January 1919)
- Annex 67 *Letter from Spanish Governor General of Spanish Guinea to His Excellency the French Governor General of French Equatorial Africa* (1 May 1919)
- Annex 68 *Letter from French Minister of Colonies to Minister of Foreign Affairs* (24 November 1919)

- Annex 69 *Letter from Spanish Governor General Regarding the Establishment of the French-German Demarcation (27 January 1920)*
- Annex 70 *Kingdom of Spain, Letter No. 527 from the Spanish Governor-General (8 December 1920)*
- Annex 71 *Letter from French Commissioner Governor of Colonies to the Cameroon Territories to the French Minister of Colonies (27 July 1921)*
- Annex 72 *Letter from Spanish Minister of State to the French Ambassador (24 November 1921)*
- Annex 73 *Kingdom of Spain, Letter No. 884 Attachment from the Governor-General of Santa Isabel to the Office of the Secretary (20 June 1922)*
- Annex 74 *Kingdom of Spain, Letter from the Captain of the Ebolouwa District to the Governor-General of Spanish Territories of the Gulf of Guinea (23 September 1922)*
- Annex 75 *Kingdom of Spain, Letter from the Governor-General of Spanish Territories of the Gulf of Guinea to the Advising Secretary-General (24 September 1922)*
- Annex 76 *Letter No. 212 from the French Lieutenant Governor of Gabon to the Governor-General of Spanish Territories in the Gulf of Guinea (16 August 1927)*
- Annex 77 *Republic of Spain, Letter from the AT of Ebebeyin to the Governor-General of Spanish Territories of the Gulf of Guinea (27 November 1938)*
- Annex 78 *The Spanish State, Letter from the Lead Engineer to the Governor-General of Spanish Territories of the Gulf of Guinea (9 June 1939)*
- Annex 79 *Letter No. 223 from the Embassy of the Republic of France to the Spanish State to the Spanish Ministry of Foreign Affairs (7 May 1953)*
- Annex 80 *The United Kingdom, Ministry of War Transport, Report on Libreville and Port Gentil (22 June 1943)*
- Annex 81 *The Spanish State, Letter No. 87 from the Ministry of Foreign Affairs to the Department of Morocco and Colonies (24 February 1954)*

- Annex 82 The Spanish State, *Telegram No. 1001-2 from the Ministry of the Navy to the General Directorate of Morocco and Colonies* (4 September 1954)
- Annex 83 The Spanish State, *Letter No. 20-R from the Governor General of Santa Isabel to the General Directorate of Morocco and Colonies* (17 February 1955)
- Annex 84 The Spanish State, *Telegram No. 3 from the Governor of Spanish Territories of the Gulf of Guinea to the General Directorate of Morocco and Colonies* (19 February 1955)
- Annex 85 The Spanish State, *Letter from the Governor of Spanish Territories of the Gulf of Guinea to the General Directorate of Morocco and Colonies* (22 February 1955)
- Annex 86 The Spanish State, *Telegram No. 8 from the Department of Morocco and Colonies to the Ministry of Foreign Affairs* (26 February 1955)
- Annex 87 The Spanish State, *Telegram No. 6 from the Governor of Spanish Territories of the Gulf of Guinea to the General Directorate of Morocco and Colonies* (28 February 1955)
- Annex 88 The Spanish State, *Telegram No. []11 from the General Directorate of Morocco and Colonies to the Governor of Spanish Territories of the Gulf of Guinea* (8 March 1955)
- Annex 89 The Spanish State, *Letter from the Governor-General of the Spanish Territories of the Gulf of Guinea to the General Directorate of Morocco and Colonies* (17 March 1955)
- Annex 90 The Spanish State, *Memo No. 436 to the Department of Morocco and Colonies* (10 March 1955)
- Annex 91 The Spanish State, *Telegram No. 7 from the Governor of Spanish Territories of the Gulf of Guinea to the Director-General of Morocco and Colonies* (12 March 1955)
- Annex 92 *Letter from the High Commissioner for French Equatorial Africa to the Governor-General of the Spanish Territories of the Gulf of Guinea* (14 March 1955)
- Annex 93 *Letter from the Governor-General of the Spanish Territories of the Gulf of Guinea to the High Commissioner for French Equatorial Africa* (22 March 1955)

- Annex 94 The French Republic, *Letter from the Minister of Foreign Affairs to the Minister of Overseas France* (6 May 1955)
- Annex 95 The Spanish State, *File D 474 Secret Document from the General Directorate of Morocco and African Provinces to the Governor General of Santa Isabel* (7 June 1958)
- Annex 96 The United Kingdom, *Letter No. 10132/14 from the Ministry of Foreign Affairs to the British Embassy to The Spanish State* (4 August 1959)
- Annex 97 *Note Verbale from Embassy of Gabon in Spain to Ministry of Foreign Affairs of Spain* (10 December 1963)
- Annex 98 The Spanish State, *Letter No. 109 from the Embassy of the Kingdom of Spain to the Republic of Gabon to the Spanish Ministry of Foreign Affairs* (30 May 1964)
- Annex 99 The Spanish State, *Letter No. 223 from the Ambassador of Spain in Rio Muni to the Spanish Ministry of Foreign Affairs* (6 May 1965)
- Annex 100 The Spanish State, *Letter No. 383 from the Presidency of the Government to the Spanish Ministry of Foreign Affairs* (20 October 1965) (agreeing to Gabon's list of border crossings)
- Annex 101 The Spanish State, *Letter No. 303 from the Embassy of the Kingdom of Spain to the Republic of Gabon to the Spanish Ministry of Foreign Affairs* (13 June 1966)
- Annex 102 *Aide-Memoire on "Royal Dutch/Shell Group Exploration Venture in Gabon" for the Ambassador of the United Kingdom to the Republic of the Congo* (16 April 1965)
- Annex 103 The Spanish State, Ministry of Industry, *Confidential Report: Delimitation of Gabon's Territorial Waters* (12 July 1966)
- Annex 104 The Spanish State, Ministry of Foreign Affairs, *Gabon's Extension of Mondah Bay Territorial Waters* (26 July 1966)
- Annex 105 The Spanish State, *Letter No. 454 from the Ministry of the Navy to the Undersecretary of the Ministry of Foreign Affairs* (23 July 1966)
- Annex 106 *Airgram No. A-93 from the Embassy of the United States of America to The Gabonese Republic to the US Department of State* (26 February 1967)

- Annex 107 *Airgram No. A-137 from the Embassy of the United States of America to The Gabonese Republic to the US Department of State (28 May 1967)*
- Annex 108 The Spanish State, *Letter No. 159 from the Hydrographic Division, Maritime Department of Cadiz to the Technical Secretary-General of the General Commissariat of Equatorial Guinea (17 October 1967)*
- Annex 109 Kingdom of Spain, *Letter No. 408R from the Commissioner-General of Equatorial Guinea, Santa Isabel to the Commissioner-General, Bata (11 May 1968)*

VOLUME V

ANNEXES

COLONIAL LEGISLATION, CENSUS AND OFFICIAL REPORTS OF SPAIN AND FRANCE

- Annex 110 Kingdom of Spain, Royal Commissioner for the Islands Fernando Póo, Annobón and Corisco on the Coast of Africa, *Declaration of Corisco* (16 March 1843)
- Annex 111 Kingdom of Spain, *Original Documents on the Annexation to Spain of Corisco, Elobey and their Dependencies* (17 March 1843)
- Annex 112 Kingdom of Spain, Ministry of State, *Record of Annexation* (18 February 1846)
- Annex 113 Kingdom of Spain, *Royal Order on Justice, Powers of Government Representatives* (27 July 1905)
- Annex 114 Spanish Territories of the Gulf of Guinea, *Decree on Territorial Division, Official Bulletin* (1 March 1907)
- Annex 115 *Decree Signed by the German Empire and the Kingdom of Spain for the Delimitation Between Spanish Guinea and the Protectorate of Cameroon* (18 August 1914)
- Annex 116 C. Fuller, *Naval Intelligence Notes* (28 December 1916)
- Annex 117 V. Rico, *Report presented to the Courts by the Minister of State Concerning the Political and Economic Situation of the Spanish Possessions in West Africa in the Years 1916-1918* (1919)
- Annex 118 Kingdom of Spain, *Royal Order on Property "Prohibitions regarding Forestry Exploitation"* (1 March 1926)
- Annex 119 Kingdom of Spain, *Royal Decree on Property "Confirmation of Rights"* (5 May 1926)
- Annex 120 [Intentionally Left Blank]

- Annex 121 Republic of Spain, *Order No. 328: Report on the Public Works Service of the Spanish Territories of the Gulf of Guinea* (1933) (excerpt)
- Annex 122 C. Cottez, *Spanish Guinea 1934-1937, Historical Archives, Ministry of Arms* (October 1934) (excerpt)
- Annex 123 The French Republic, *Synthesis of Information on: Spanish Guinea & German Acts in Cameroon under British Mandate*, Historical Archives of the Ministry of Defense, File R2 (1 August 1937) (excerpt)
- Annex 124 The French Republic, *Documentation Plan of the Spanish Territories of the Gulf of Guinea, Ministry of Arms* (16 February 1940) (excerpt)
- Annex 125 Spanish Territories of the Gulf of Guinea, *Summaries of the Years 1942 and 1943*, Statistical Office of the General Government (1945) (excerpt)
- Annex 126 Spanish Territories of the Gulf of Guinea, *Summaries of the Years 1944 and 1945*, Statistical Office of the General Government (1947) (excerpt)
- Annex 127 Spanish Territories of the Gulf of Guinea, *Statistical Summaries: Provinces of Fernando Poo and Rio Muni 1948-1949*, Statistical Office of the General Government (1950) (excerpt)
- Annex 128 “Territorial Demarcations - School Districts 1949-1959”, *Official Gazette of the Spanish Territories in the Gulf of Guinea* (15 November 1952)
- Annex 129 Spanish Territories in the Gulf of Guinea, *Official Gazette of the Spanish Territories in the Gulf of Guinea No. 2*, Santa Isabel (15 January 1954)
- Annex 130 The Spanish State, *Order of 7 January 1957 on Forest Tracts: Announcing Tender of State Lands for Forestry Exploitation, Official Bulletin of 15 April 1957, Reprinted in A. Fraile Roman, REGIONAL LEGISLATION* (7 January 1957)
- Annex 131 The Spanish State, *Bill on Terms for Reorganization of the Spanish Territories of Guinea* (4 March 1958)
- Annex 132 The French Republic, Navy Hydrographic Department, *Lights and Fog Signals, English Channel and Eastern Atlantic Ocean, [No. 212]* (12 April 1958)
- Annex 133 The Spanish State, *Bill of Terms for Administration and Governance of the Provinces of Guinea* (22 June 1958)

- Annex 134 The Spanish State, *Official Journal of the Navy*, (No. 65), Decrees 72-73 (12 March 1959)
- Annex 135 The Spanish State, *Decree 977/1959, of June 12, Approving the Regulation for Application of the Law on the Legal Regime for the Exploration and Exploitation of Hydrocarbons* (12 June 1959) (excerpt)
- Annex 136 The Spanish State, *Legal Notices, Official Bulletin of 15 November 1960* (15 November 1960)
- Annex 137 Spanish Territories of the Gulf of Guinea, *Statistical Summaries: Provinces of Fernando Poo and Rio Muni 1958-1959*, Statistics Delegation of the General Government (1960)
- Annex 138 The Spanish State, *Official Bulletin of 15 November 1961* (15 November 1961)
- Annex 139 Spanish Equatorial Provinces of Fernando Póo and Rio Muni, *Official Gazette of the Gulf of Guinea Territories* (15 November 1963)
- Annex 140 The Spanish State, *Law 191/1963, on Bases on the Autonomous Regime of Equatorial Guinea* (30 December 1963)
- Annex 141 The Spanish State, *Order of 7 January 1964 Establishing the Provisional Reserve of Land with Bituminous Indications in the Río Muni Province, Entrusting the National Institute of Industry with Research Work*, *Official Gazette* (7 January 1964)
- Annex 142 Equatorial Guinea, *Government Officials: Assistant Teachers for the Elementary Teaching Service ("Official Bulletin")* (1 March 1964)
- Annex 143 The Spanish State, *Law Regarding the Separation and Legal System of Fernando Póo and Rio Muni* (15 October 1966)
- Annex 144 Equatorial Guinea, *Order Approving the Amendment of Remunerations of the Employees of Equatorial Guinea Employed by the Office of the Commissioner-General* (7 February 1967)
- Annex 145 The Spanish State, Ministry of Foreign Affairs, *Informational Note: Delimitation of Gabon and Equatorial Guinea's Territorial Waters* (14 November 1967)
- Annex 146 The Spanish State, *Decree 2467/1968 of October 9, Granting Independence to Equatorial Guinea*, *Official Gazette No. 245* (9 October 1968)

VOLUME VI

ANNEXES

CORRESPONDENCE & OFFICIAL DOCUMENTS OF EQUATORIAL GUINEA, GABON AND THIRD STATES FOLLOWING THE PARTIES' INDEPENDENCE

- Annex 147 Gulf Oil Company of Gabon, *Letter from Mr. Rigo de Righi to the Ambassador of Spain* (22 December 1967)
- Annex 148 Gulf Oil Company of Gabon, *Letter from Mr. Rigo de Righi to the Ambassador of Spain* (28 December 1967)
- Annex 149 *Airgram from the Embassy of the United States to the Gabonese Republic to the US Department of State* (18 June 1968)
- Annex 150 *Airgram from the American Embassy in Santa Isabel to the Department of State* (16 June 1970)
- Annex 151 *Letter from the Spanish Embassy in Santa Isabel* (22 June 1970)
- Annex 152 *Telegram from the US Embassy in Libreville to the US Department of State* (13 August 1970)
- Annex 153 *Letter from the Ambassador of Spain in Libreville to the Spanish Ministry of Foreign Affairs* (18 August 1970)
- Annex 154 *Letter No. 002967 from the Ministry of Foreign Affairs of The Gabonese Republic to the Ministry of Foreign Affairs of the Republic of Equatorial Guinea* (28 August 1971)
- Annex 155 The United States, *Airgram A-1798 from the US Mission to the United Nations to the US Department of State* (21 October 1970)
- Annex 156 *Airgram from the US Department of State regarding Protest of Gabon's Extension of Territorial Waters* (12 November 1970)
- Annex 157 *Airgram from US Embassy in Libreville to US Department of State* (28 November 1970)

- Annex 158 US Department of State, *International Boundary Study No. 115, Cameroon – Gabon Boundary* (24 September 1971)
- Annex 159 *Airgram No. A-011 from the Embassy of the United States to the Gabonese Republic to the US Department of State* (8 February 1972)
- Annex 160 *Memorandum of Conversation between Chargé d’Affaires of the Embassy of The French Republic to The Gabonese Republic and US Embassy official* (5 April 1972)
- Annex 161 *Letter from the Ambassador of The Gabonese Republic to the United Nations to the UN Secretary-General* (28 August 1972)
- Annex 162 *Telegram No. 546 from the Embassy of the United States to The Gabonese Republic to the US Department of State* (2 September 1972)
- Annex 163 *Circular No. 142 from the Ministry of Foreign Affairs of the State of Spain to the Ambassadors of the Spanish State to the Republic of Equatorial Guinea, to The Gabonese Republic, to The Ethiopian Empire, The French Republic, and the Permanent Representative at the United Nations* (19 September 1972)
- Annex 164 *Telegram from Equatorial Guinea’s Minister of Foreign Affairs to the Permanent Representative of the Republic of Equatorial Guinea to the United Nations* (11 September 1972)
- Annex 165 *Telegram No. 644 from the Embassy of the United States of America to The Gabonese Republic to the US Department of State* (11 September 1972)
- Annex 166 *Letter from Gabon to Secretary of the United Nations* (13 September 1972)
- Annex 167 *Routine Telegram No. 434 from Kinshasa* (15 September 1972)
- Annex 168 *Telegram from US Embassy in Libreville to US Department of State* (19 September 1972)
- Annex 169 *Letter from the Embassy of Spain in Abidjan to the Minister of Foreign Affairs in Madrid* (30 September 1972)

- Annex 170 *Telegram No. 190230 from the US Department of State to the Embassies of the United States of America to The Gabonese Republic, the United Kingdom, The French Republic, the Union of Soviet Socialist Republics, Japan, the United Nations, and The United Republic of Cameroon (18 October 1972)*
- Annex 171 *Telegram No. 282 from the Embassy of the United States of America to the Kingdom of the Netherlands to the US Department of State (26 October 1972)*
- Annex 172 *Telegram from US Embassy in Libreville to US Department of State, "Gabon's November," (5 December 1972)*
- Annex 173 *Memorandum from the Ministry of Foreign Affairs of Spain summarizing President Macias' September 8th Speech to the Diplomatic Corps (15 September 1972)*
- Annex 174 *Telegram No. 526 from the Embassy of the United States of America to The Gabonese Republic to the US Department of State (3 June 1973)*
- Annex 175 *Telegram from Embassy of the United Kingdom to The United Republic of Cameroon to the British Mission to the United States and Chanceries of Yauonde, Addis Ababa and Kinshasa (16 July 1974)*
- Annex 176 *Letter from the President of The Gabonese Republic, HE Albert Bernardo Bongo to the Embassy of The French Republic to The Gabonese Republic (28 October 1974)*
- Annex 177 *Letter from the Embassy of The Gabonese Republic to the United Kingdom to the Secretary of State for External Affairs and the Commonwealth, United Kingdom (28 June 1990)*
- Annex 178 *Note Verbale from the Embassy of The Gabonese Republic to the Republic of Equatorial Guinea to the Ministry of External Affairs, International Cooperation, and Francophony of the Republic of Equatorial Guinea (13 September 1999)*
- Annex 179 *Note Verbale from the Ministry of External Affairs, International Cooperation, and Francophonie of the Republic of Equatorial Guinea to the Second Vice-Prime Minister of The Gabonese Republic (21 December 2000)*

LEGISLATION, CENSUS & OFFICIAL REPORTS OF EQUATORIAL GUINEA AND GABON FOLLOWING INDEPENDENCE

- Annex 180 The Gabonese Republic, *Constitution* “Preamble” (14 Novembre 1960) (excerpt)
- Annex 181 The Gabonese Republic, *Official Gazette No. 20*, “Mining Property, Forests, Estates and Land Conservation” (15 September 1967)
- Annex 182 Republic of Equatorial Guinea, *Constitution of 1968* (11 August 1968) (excerpt)
- Annex 183 The Gabonese Republic, *Decree No. 670/PR-MMERH-DMG* (24 September 1969)
- Annex 184 The Gabonese Republic, *Decree 689/70* (14 May 1970)
- Annex 185 Republic of Equatorial Guinea, *Memo No. 26R from the Ministry of Industries and Mines to the President* (12 June 1970)
- Annex 186 Republic of Equatorial Guinea, *Presidential Decree No. 17/1970* (24 September 1970)
- Annex 187 The Gabonese Republic, *Order No. 55-70-PR-MTAC* (5 October 1970)
- Annex 188 The Gabonese Republic, *Ordinance No. 58/72 Extending the Outer Limit of Gabon’s Territorial Waters to 100 Nautical Miles* (16 July 1972)
- Annex 189 The Gabonese Republic, *Constitution of The Gabonese Republic* (29 July 1972)
- Annex 190 The Gabonese Republic, *Act No. 9/84 Establishing an Exclusive Economic Zone of 200 Nautical Miles* (9 July 1984)
- Annex 191 Republic of Equatorial Guinea, *Act No. 15/1984 on the Territorial Sea and Exclusive Economic Zone of the Republic of Equatorial Guinea* (12 November 1984)
- Annex 192 The Gabonese Republic, *Decree 002066/PR/MHCUCDM* (4 December 1992)

- Annex 193 Republic of Equatorial Guinea, *Decree No. 1/1999 Designating the Median Line as the Maritime Boundary of the Republic of Equatorial Guinea* (6 March 1999)
- Annex 194 Republic of Equatorial Guinea, Ministry of Planning and Economic Development, *General Census of Population and Housing: General Status of Population* (2002) (excerpt)
- Annex 195 Equatorial Guinea National Statistics Institute, *Equatorial Guinea in Figures* (2019) (excerpt)
- Annex 196 Equatorial Guinea National Statistics Institute, *Statistical Yearbook of Equatorial Guinea* (2020) (excerpt)

VOLUME VII

ANNEXES

NEGOTIATION & MEDIATION DOCUMENTS

- Annex 197 *Minutes Drawn up by the Gabonese-EquatoGuinean Delegation Following the Meeting in Libreville from March 25-29, 1971[2], Libreville (29 March 197[2])*
- Annex 198 *Minutes of the Joint Gabon-Equatorial Guinea Commission's Meeting in Libreville (25-29 March 1972)*
- Annex 199 *Report Prepared by the Gabon-Equatorial Guinea Joint Commission After the Meeting in Libreville from March 25 to 29, 1972, Libreville (25-29 March 1972)*
- Annex 200 *Conference of the Heads of State and Government of Central and East Africa, Dar es Salaam, 7-9 September 1972, Joint Communiqué on the Work of the Conference on Settlement of the Dispute Between Equatorial Guinea and Gabon, as recorded by the Embassy of the United States to the Republic of Zaire (18 September 1972)*
- Annex 201 *Conference of the Heads of State and Government of Central and East Africa, Second Session, Final Communiqué Regarding the Dispute Between Equatorial Guinea and Gabon (13 November 1972)*
- Annex 202 *Minutes from the Joint Gabon/Equatorial Guinea Grand Commission Meeting (July 26-30 1980)*
- Annex 203 *Minutes of the Joint Commission on the Revision of the Petroleum Cooperation Agreement Between the Republic of Equatorial Guinea and The Gabonese Republic, Libreville (26 September 1981)*
- Annex 204 *The Gabonese Republic, Spanish Minutes of the Ad Hoc Commission on the Revision of the Petroleum Cooperation Agreement between the Republic of Equatorial Guinea and The Gabonese Republic, Libreville (16 – 18 March 1982)*

- Annex 205 *Minutes of the Second Session of the Ad Hoc Commission on the Review of the Oil Cooperation Agreement Between the Republic of Equatorial Guinea and The Gabonese Republic, Malabo (10-13 September 1984)*
- Annex 206 *The Delegation of the Republic of Equatorial Guinea, Opening Address to the Delegation of The Gabonese Republic During the First Meeting of the Gabonese - Equatoguinean Ad-Hoc Commission (4 November 1984)*
- Annex 207 *Minutes of the Guinean-Gabonese Ad Hoc Commission on the Delimitation of the Maritime Boundary in Corisco Bay, Bata (10-16 November 1985)*
- Annex 208 *Republic of Equatorial Guinea, French Minutes of the Gabon-Equatorial Guinea Ad Hoc Commission Responsible for the Delimitation of the Maritime Boundary in the Bay of Corisco Between the Republic of Gabon and the Republic of Equatorial Guinea, Bata (10 – 16 November 1985)*
- Annex 209 *French Report of the Border Sub-Commission of the Ad-Hoc Border Commission Gabon-Equatorial Guinea (20 January 1993)*
- Annex 210 *Report of the Border Subcommittee of the Ad Hoc Commission on the Gabon-Equatorial Guinea Boundaries (20 January 1993)*
- Annex 211 *Republic of Equatorial Guinea, Report of the Border Sub-Commission Following the Meetings of the Ad hoc Border Commission Gabon-Equatorial Guinea (20 January 1993)*
- Annex 212 *The Gabonese Republic, Minutes of the Ad Hoc Border Committee, Libreville (31 January 2001) (excerpt)*
- Annex 213 *Republic of Equatorial Guinea, Minutes of the Ad-hoc Commission on Equatorial Guinea-Gabon Borders, Malabo (23 May 2003)*

VERSIONS OF THE DOCUMENT PRESENTED BY GABON IN 2003 & EQUATORIAL GUINEA'S OBJECTIONS

- Annex 214 The Republic of Equatorial Guinea and The Gabonese Republic, *Convention Delimiting the Land and Maritime Boundaries of Equatorial Guinea and Gabon* (12 September 1974) (Retyped French-language version, as published in the UNTS Vol.2248)
- Annex 215 The Republic of Equatorial Guinea and The Gabonese Republic, *Convention Delimiting the Land and Maritime Boundaries of Equatorial Guinea and Gabon* (12 September 1974) (French-language photocopy)
- Annex 216 The Republic of Equatorial Guinea and The Gabonese Republic, *Convention Delimiting the Land and Maritime Boundaries of Equatorial Guinea and Gabon* (12 September 1974) (Retyped Spanish-language version, as published in the UNTS)
- Annex 217 The Republic of Equatorial Guinea and The Gabonese Republic, *Convention Delimiting the Land and Maritime Boundaries of Equatorial Guinea and Gabon* (12 September 1974) (Spanish-language photocopy)
- Annex 218 Republic of Equatorial Guinea, *Objection to the Authenticity of the Convention Before the United Nations*, on the "Convention Demarcating the Land and Maritime Frontiers of Equatorial Guinea and Gabon, Bata, 12 September 1974" (18 March 2004)
- Annex 219 Republic of Equatorial Guinea, *Second Objection Before the United Nations*, on the "Convention Demarcating the Land and Maritime Frontiers of Equatorial Guinea and Gabon, Bata, 12 September 1974" (7 April 2004)

ACADEMIC ARTICLES & PRESS RELEASES

- Annex 220 Royal Geographical Society, "Legislation and provisions of the Central Administration", *MAGAZINE OF COLONIAL AND MERCANTILE GEOGRAPHY*, Spain (1906)
- Annex 221 L. Martín y Peinador, "Geographical Studies: Morocco and Spanish Places, Algeria, Tunisia and Tripoli, Sahara and Spanish Sahara, Spanish Mainland and Island Guinea, Moroccan Problem" (1908) (excerpt)
- Annex 222 D. Saavedra y Magdalena, *SPAIN IN WEST AFRICA (RIO DE ORO AND GUINEA)* (1910)
- Annex 223 L. Ramos-Izquierdo y Vivar, *GEOGRAPHICAL DESCRIPTION AND GOVERNMENT, ADMINISTRATION AND COLONIZATION OF THE SPANISH COLONIES OF THE GULF OF GUINEA* (1912)
- Annex 224 A. Balfour et. al, *Further Report on Tuberculosis and Sleeping-Sickness in Equatorial Africa*, League of Nations Health Organization (April 1925)
- Annex 225 Spanish Territories of the Gulf of Guinea, Official Gazette of the Gulf of Guinea Territories (15 March 1948)
- Annex 226 F.F. Olesa Munido, "Criminal Law Applicable to Indigenous People in the Spanish Territories of the Gulf of Guinea", *INSTITUTE OF AFRICAN STUDIES, SUPERIOR COUNCIL OF SCIENTIFIC RESEARCH, Madrid* (1953)
- Annex 227 H. D. Hedberg, "Summary of Wildcat Drilling in 1959" *Petroleum Developments in Africa* (1959)
- Annex 228 "Gabon-Equatorial Guinea: Next Meeting on 30 September," *Fraternité Matin: Le Grand Quotidien Ivoirien* (20 September 1972)
- Annex 229 News Article, "Dateline Africa: Gabon Frontier Dispute Settled," *West Africa* (29 September 1972)
- Annex 230 A. Oye Cukwurah, "The Organization of African Unity and African Territorial and Boundary Problems: 1963-1973", 13 *The Indian Journal of International Law* (1973)
- Annex 231 M. DeLancey, "Historical Dictionary of the Republic of Cameroon," 3rd. Ed., *AFRICAN HISTORICAL DICTIONARIES* No. 81 (2000)

- Annex 232 “Gabon/Guinée Équatoriale: Frontières: Litiges Bientôt Réglés” *La Lettre Afrique Expansion* (12 February 2001)
- Annex 233 E.M. Yolla, *Foreign Policy of Gabon*, Etudes Africaines (2003)
- Annex 234 “Neighbours to Explore Jointly for Oil in Disputed Waters”, *The New Humanitarian* (7 July 2004)
- Annex 235 J. Geslin, “The Island of Contention”, *Jeune Afrique* (7 March 2006)
- Annex 236 G. Nerin, *Spain’s Last Forest Cannibals, Missionaries, and Civil Guards Account of the Conquest of the Fang in Spanish Guinea 1914-1930* (2010) (excerpt)
- Annex 237 *News Article*, “Ali Bongo in Equatorial Guinea for Bridge Inauguration”, *Bongo Must Go* (4 August 2011)
- Annex 238 *News Article*, “Inauguration of Two Bridges”, Office of Press and Information of the Republic of Equatorial Guinea (6 August 2011)
- Annex 239 *News Article*, “Inauguration of the Friendship Bridges Between Gabon and Equatorial Guinea”, La Lettre d’Information, Official Bulletin of the Presidency of the Gabonese Republic No. 3 (August 2011)
- Annex 240 *News Article*, Ali Bongo Ondimba: “Not Everyone Has Understood that Gabon has Changed”, *Jeune Afrique* (6 September 2011)
- Annex 241 G. Nesi, “Uti Possidetis Doctrine” MAX PLANCK ENCYCLOPEDIA OF INTERNATIONAL LAW (February 2018)
- Annex 242 J.C. Guerra Velasco, “Forest Science, Technical Practices, Timber Policy and Colonial Context in Equatorial Guinea (1929-1968),” SCRIPTA NOVA, Vol. XXIII. No. 613 (1 May 2019) (excerpt)
- Annex 243 A. Zimmermann & J. Devaney, “State Succession in Treaties” *Max Planck Encyclopedia of Public International Law* (last updated July 2019)
- Annex 244 “Gabon” *CIA World Factbook*, Central Intelligence Agency available at www.cia.gov/the-world-factbook/countries/gabon/ (9 September 2021) (excerpt)