

# The Ghana-La Côte D'Ivoire maritime boundary dispute

Raymond Bagulo Bening<sup>1</sup>

## Abstract

*This article focuses on the evolution of ideas regarding the territorial waters and maritime boundaries of Ghana from the colonial era to the present. The land boundaries and the territorial waters of Ghana were defined, delimited and demarcated during the colonial period but the maritime boundaries are yet to be defined. A territorial dispute between Ghana and La Côte d'Ivoire since 2010 has led to the formation of Boundary Demarcation Commissions in the two countries to jointly define the maritime boundary.*

**Key words:** territorial, maritime, boundary dispute, demarcation.

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Email: [rbening2008@gmail.com](mailto:rbening2008@gmail.com)

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## **Introduction**

In an inaugural lecture of the Ghana Academy of Arts and Sciences on 13<sup>th</sup> November 2008, Raymond Bagulo Bening pointed out that although maps produced by the Survey Department of Ghana put the Tano Lagoon wholly in La Côte d'Ivoire, the eastern portion of the water body is a neutral territory. The original British and French boundaries follow the southern and northern banks of the lagoon respectively. Attention was also drawn to the need to partition the eastern portion of the Tano Lagoon and to define the maritime boundary between Ghana and La Côte d'Ivoire in view of the extensive oil exploration activities by both countries in their territorial seas (Bening, 2008). The Government of Ghana took no notice of these suggestions until La Côte d'Ivoire raised the issue of the maritime boundary with the UN in 2010.

The international boundaries of West African states were defined during the colonial period and were inherited by the new states on their attainment of political independence. While the land boundaries were generally delimited and demarcated, the colonial Powers accorded little attention to the determination of the maritime boundaries which are the projections of the land boundaries from the flag posts or the boundary points on the coastline into the Gulf of Guinea and the Atlantic Ocean. The African states also paid little heed to the need to define these boundaries until the commencement of the exploration and exploitation of offshore petroleum resources.

A brief clarification of the terms with specific connotations regarding the study of the evolution and functions of boundaries is necessary before we focus on our topic. A political boundary is a linear divide between sovereign states, dependent territories or sub-national administrative areas. The terms border, frontier and boundary are usually used interchangeably. Technically speaking, a border or frontier is a zone of transition while a boundary is a line.

International boundaries are the outcome of claims to large portions of the same expanse of land by two or more sovereign states for any reason. The resolution of the territorial claims usually involved negotiations and the process begins with the allocation of territory and the delimitation and demarcation of the boundary. Allocation is the initial political division and general assignment of territory where the geographical facts are not well known and make it difficult to select the site of a boundary. Delimitation means the selection and description of a boundary site and the depiction of the line on a map. Demarcation entails the identification of the boundary in the landscape and the construction and maintenance of monuments or other visible features to mark the line (Prescott, 1967: 30, 65).

Positional disputes concern (Prescott, 1967: 109) "the actual location of the boundary and usually involves a controversy over interpreting the delimitation or description of the boundary". Functional disputes relate to difference of opinion on the application of state functions at the boundary. The last category of boundary disputes arise over the possession and development of known natural resources. The ongoing disputes over maritime boundaries in Africa will complete the unfinished colonial partition of the continent by extending the land boundaries into the sea. The dispute between Ghana and La Côte d'Ivoire has been actualized and exacerbated because of the oil resources found in the adjoining territorial waters in 2007.

The so-called Ghana-La Côte d'Ivoire maritime boundary dispute, which erupted in 2010, is really a territorial dispute over the ownership of known natural resources in the territorial sea. There is no clearly defined and mutually accepted maritime boundary which is now in dispute. However, the starting point of the land boundary on the coastline gives an indication of the possible location of the maritime boundary. This is the first time that the legal process has been initiated by the two countries for the definition of their common maritime boundary.

This article discusses briefly the evolution of the ideas regarding the territorial sea and maritime boundaries from Ghana's viewpoint. It outlines some of the major principles of international law that would be applied in determining the maritime boundaries of Ghana with its immediate neighbours. The focus is mainly on the Ghana-La Côte d'Ivoire dispute over the offshore oilfields in the adjoining territorial waters which would culminate in the definitive determination of the boundary.

### **Definition of the International Boundaries of Ghana.**

The Ghana– La Côte d'Ivoire land boundary was first defined from the flag post on the coastline into the interior in the Anglo–French Agreement of 10 August 1889 (Hertslet, 1967: 732). The boundary was extended to latitude 9<sup>0</sup> North and delimited in the Agreement of 12 July 1893. The Anglo-French Agreement of July 1893 and the treaty map are the key factors in the determination of the maritime boundary between the two states according to International Law. The southern section of the map accompanying the treaty is shown in Figure 1. The final agreement on the colonial boundary, which was demarcated between 1901 and 1903 and accepted in 1906, retained the bifurcation on the eastern section of the Tano Lagoon (Hertslet, 1967: 754-755, 832-833).

Following the discovery of oil seeps in the vicinity of the north bank of the Tano Lagoon in 1915, the need to divide it was recognized. An officer in the Colonial Office in London pointed out that the boundaries on the eastern part of the lagoon were of a very unusual character as the status of the water body had not been exactly defined. There did not appear to be any other case in which a lagoon was left as a sort of no-man's land.

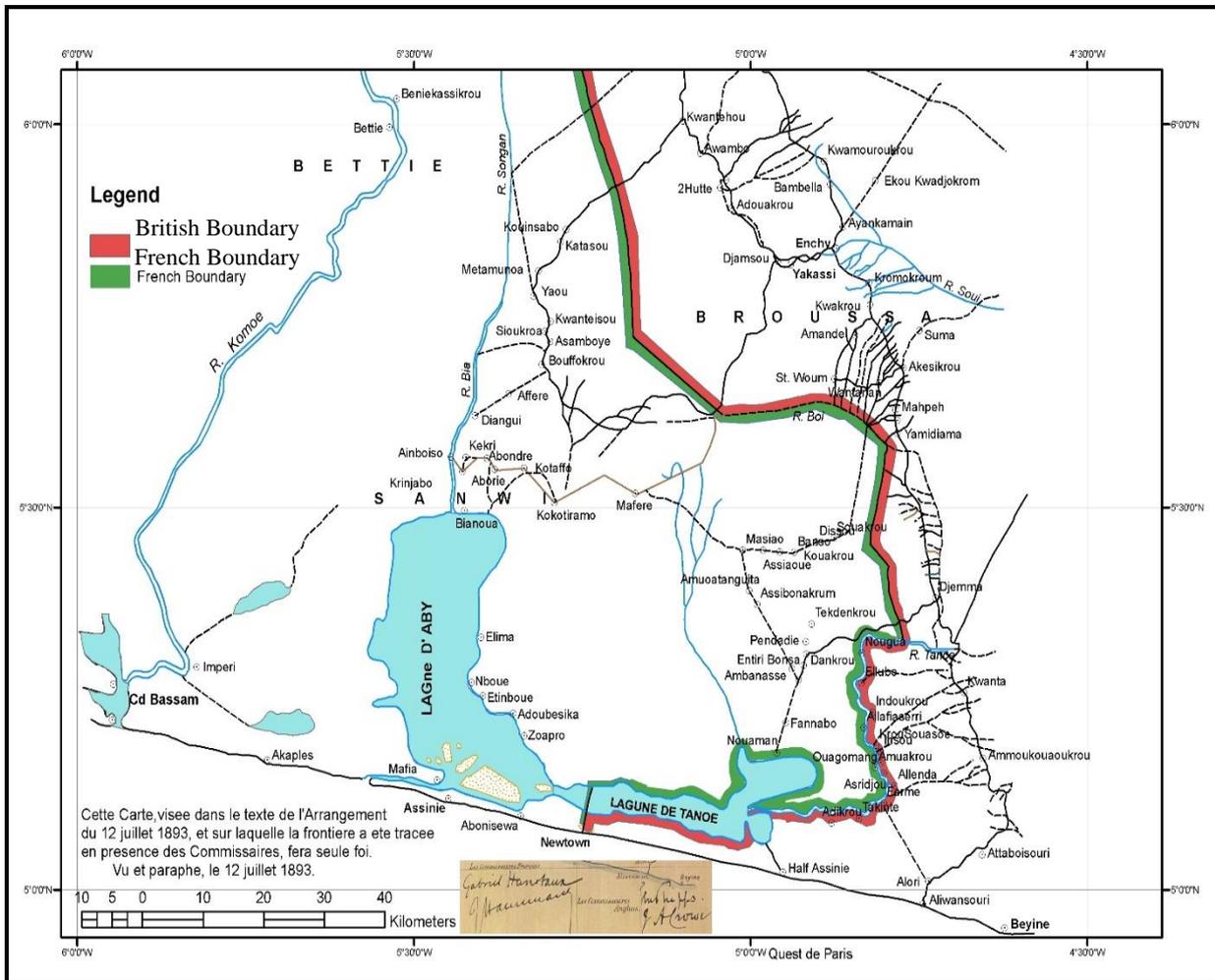
The Officer stated that (CO 96/ 559):

*The general principle of Lake Boundaries has been to assimilate them as ready as possible to river boundaries and where a "thalweg" is not available, to split up the water between various adjoining powers, provision however being made mutually for free navigation.*

The matter came up again just before Ghana achieved political independence but the issue was not resolved partly because heavy cloud cover prevented aircrafts from taking photographs of the lagoon.

The Ghana-Burkina Faso boundary was first defined and delimited in the Anglo-French Agreement of 12 June 1898. It was demarcated between 1901 and 1903 and the final agreement

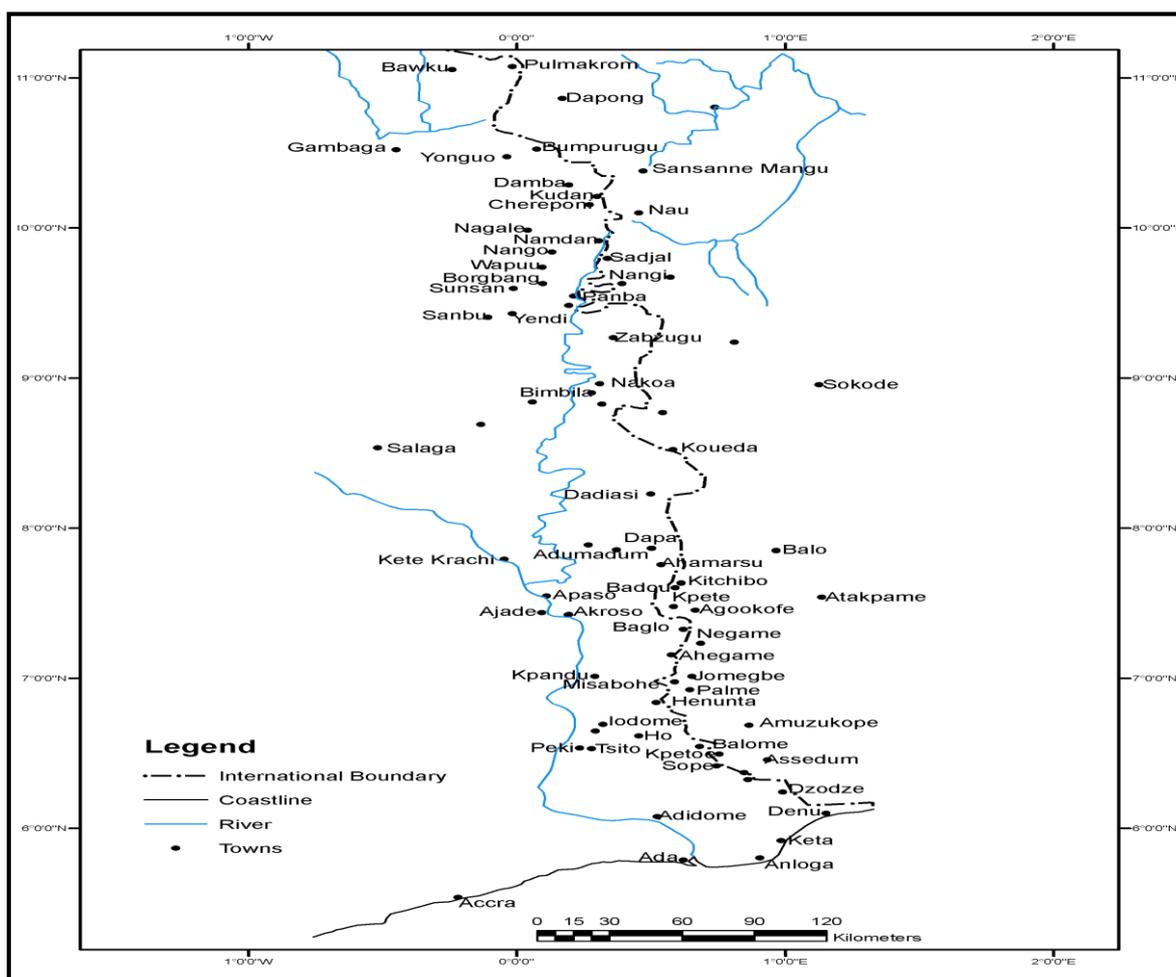
on the colonial boundary was accepted in 1906 (Bening, 1973: 229-261). The boundary has no direct bearing on the determination of the maritime boundaries as Ghana's northern neighbour is a land-locked state.



**Fig. 1:** Southern Section of the Ghana-La Côte d'Ivoire Boundary 12 July 1893.

**Source:** Digitized from CO 879/37. African (West) No. 435. Gold Coast, *Further Correspondence Respecting the Assinie Boundary, Gaman and Neighbouring Territories*, Colonial Office, January 1894, p.89.

The Ghana-Togo boundary has its origins in the partition of the German Colony of Togo during the First World War. When the 1914 Provisional Anglo-French boundary in Togoland was redefined in 1919, the British ceded the coastline to the French who had demanded increased access to the sea. This was in exchange for more extensive territorial concessions by the French farther inland. The Anglo-French boundary of 1919 was delimited and demarcated between 1927 and 1929 with only minor alterations (Fig.2).



**Fig. 2.** Anglo-French Mandatory/Trusteeship Boundary in Togoland 1930-1957.

**Sources:** Adapted from Colonial Office (1952). *Report on Togoland 1951*, London: HMSO. The report of the demarcation and the original map were published in the *Gold Coast Gazette Extraordinary of 13 January 1931*.

The British Government accepted the mandate of the League of Nations over their portion of Togoland on 20 July 1922. The Anglo-French boundary that was demarcated between 1927 and 1929 was submitted to the League of Nations in a Joint Anglo-French Memorandum in 1930. It was this boundary that Ghana and the Republic of Togo acceded to after the United Nations, the successor to the League, approved the integration of the British Sphere of Togoland with the Gold Coast as the unitary state of Ghana on 6<sup>th</sup> March 1957. French Togoland became the Republic of Togo in 1960 (Bening, 1982: 192-209).

### The Evolution of the Territorial Sea

The British Forts and Settlements on the tract of the coast of West Africa known as the Gold Coast were proclaimed a Crown Colony in 1874, when the exact territorial extent and the nature of British jurisdiction were uncertain. British territorial jurisdiction was said to extend to either the ground on which the forts were actually located or the surrounding land and the sea within

a cannon-shot or five miles from the Castles. The Secretary of State for the Colonies, the Earl of Carnarvon, indicated in 1874 that (CO 879/6/56: 6):

*Her Majesty's territorial dominion of the Gold Coast is of narrow local range. It extends merely to the forts, or at most to so much of the lands immediately adjacent, as may be required for defensive, sanitary, or other purposes essential to the maintenance of the British position on the coast. All beyond that area is foreign territory.*

However, it was recognized that the rightful jurisdiction of Her Majesty had always extended over the open seas adjacent to the coasts of the United Kingdom and of all other parts of the dominions. British jurisdiction was said to extend (United Kingdom, 1878: Preamble) "to such a distance as is necessary for the defence and security of such dominions". However, no precise limit was specified until the late 1870s.

It was in 1878 that action was first taken (United Kingdom, 1878: Preamble) "to regulate the law relating to the trial of offences committed on the sea within a certain distance of the coasts of Her Majesty's dominions." The Territorial Waters Jurisdiction Act of 1878 provided for the prosecution of the offenders. The territorial waters, in this context, meant (United Kingdom, 1878: Section 7):

*such part of the sea adjacent to the coast of the United Kingdom, or the coast of some other part of Her Majesty's dominions, as is deemed by international law to be within the territorial sovereignty of Her Majesty; and for the purpose of any offence declared by this Act to be within the jurisdiction of the admiral, any part of the open sea within one marine league of the coast measured from low water mark shall be deemed to be open sea within the territorial waters of Her Majesty's dominions.*

In 1888, the Governor of the Gold Coast, Sir William Brandsford Griffith, drew attention to the legal and technical problems caused by the definition of the Gold Coast Colony as the forts and their immediate surroundings or lands actually acquired by the Government. There was doubt as to how far the lands surrounding the forts extended and as to whether the foreshore was British or not. He advised that (CO 96/192) "all the land between the coastline and a line three miles from, and parallel to, the coastline" should be proclaimed as British territory.

Although all the land boundaries of Ghana had been demarcated between 1903 and 1929 and the British Territorial Waters Act of 1878 was applied to the colonies, no maritime boundaries were defined for the dependent territories in West Africa before the attainment of independence by the emergent states. There was therefore very little material on maritime boundaries in the region until recently and some of such limits have now been determined.

The first legal instrument on the territorial sea specifically regarding the Gold Coast was the Fisheries Ordinance of 1945, which came into force on 1 July 1946. The country's territorial waters were defined as (Gold Coast, 1945: Section 21) "any part of the open sea within three nautical miles of the coast of the Gold Coast measured from the low water mark." When the

Gold Coast and British Togoland were politically united as Ghana in 1957, there was no change to the law.

The Minerals Act of 1962 provided that (Ghana, 1962: Section 1):

*the entire property and control of all minerals in, and under or upon, any lands in Ghana, all rivers, streams and water courses throughout Ghana and the lands covered by the territorial waters, are hereby declared to be vested in the President on behalf of the Republic of Ghana in trust for the people of Ghana.*

The territorial waters were interpreted to mean (Ghana, 1962: Section 12) “the territorial waters of Ghana below low water mark”. Thus, the earlier limit of 3 nautical miles was retained.

In 1963, the territorial waters and continental shelf of Ghana were defined for the purpose of protecting the marine resources and for other purposes. It was stipulated that the territorial waters (Ghana, 1963: Section 1) “shall extend to the limits of twelve nautical miles from low-water mark”. The President was empowered, in the public interest, to (Ghana, 1963: Section 1(2)):

*declare any part of the sea touching or adjoining the coast, and seaward of the outer limits of the territorial waters of the Republic to be an area over which the Government shall exercise any right of protection.*

The President could also (Ghana, 1963: Section 2):

*declare any area of the sea touching or adjoining the coast and within a distance of one hundred nautical miles from the outer limits of the territorial waters of the Republic to be a fishing conservation zone.*

The law provided for the specification of the conservation methods to be adopted in such areas.

The continental shelf was defined as (Ghana, 1963: Section 5 (1)):

*the sea-bed and subsoil of marine areas to a depth of one hundred fathoms contiguous to the coast and seaward of the area of land beneath the territorial waters of the Republic and all the resources of any such area including minerals and other inorganic as well as organic matter.*

The continental shelf seaward of the territorial waters was vested in the President on behalf of the Republic in trust for the people of Ghana.

The continental shelf was redefined in 1968 to include (Ghana, 1968: Section 5):

- a) *the sea-bed and subsoil of sub marine areas to a depth of one hundred fathoms contiguous to the coast and seaward of the area of land beneath the territorial waters of the Republic,*

- b) *and such further parts lying beyond the said depth of one hundred fathoms of the seabed and the subsoil of the submarine areas whose natural resources are capable of exploitation and*
- c) *all the natural resources of all the areas specified in this definition including minerals and other inorganic and organic matter.*

In 1973, it was declared that (Ghana, 1973: Section 1) (1) “the territorial waters of the republic shall extend to the limits of thirty nautical miles from low-water mark”. The Government could declare (Ghana, 1973: Section 1(2):

*any part of the sea touching or adjoining the coast, and seaward of the outer limits of the territorial waters of the Republic to be an area over which the Government shall exercise any right of protection.*

The delimitation of the continental shelf and the fishing conservation zone in 1968 was retained. The measures to be taken for the conservation of the resources were to be specified by legislative instrument. The continental shelf was vested in the Government on behalf of and in trust for the people of Ghana (Ghana, 1973: Sections 2 and 3).

The issue of the territorial sea and maritime waters came to the fore when the emerging and developing countries began claiming control of large expanses of the oceans in order to safeguard their territorial integrity and marine resources. Discussions on the matter continued at various forums sponsored by the United Nations. The recommendations of the International Law Commission led to the 1958 Sea Convention which provided the basic framework for a more comprehensive agreement on the delineation of the territorial sea and maritime boundaries 24 years later (Churchill and Lowe, 1988: 59-86, 155).

The competing and diametrically opposed claims by the developed and the developing countries over the extension and the control of the territorial sea and maritime waters were mediated by the UN over several decades. The consultations led to compromises between the developing and the developed countries which demanded smaller territorial waters for each state. (Churchill and Lowe, 1988:58-86). The efforts culminated in the United Nations Convention on the Law of the Sea (UNCLOS) in 1982.

The Convention developed the principles embodied in a UN resolution of 17 December 1970 in which the General Assembly solemnly declared, *inter alia*, that (UN, 1982: Preamble):

*the area of the seabed and ocean floor and the subsoil thereof, beyond the limits of national jurisdiction, as well as its resources, are the common heritage of mankind, the exploration and exploitation of which shall be carried out for the benefit of mankind as a whole, irrespective of the geographical location of State.*

UNCLOS 1982 was aimed at codifying the law of the sea to promote the peaceful uses of the seas and oceans and the equitable and efficient utilization, conservation and preservation of marine resources. The achievement of these goals would ensure a just and sustainable international economic order.

The Convention stipulated that the sovereignty of a coastal state extends beyond its land boundaries and internal waters to the adjacent belt of the sea. It provided that (UN, 1982: Article 13):

*Every State has the right to establish the breadth of its territorial sea up to a limit not exceeding 12 nautical miles, measured from the baseline determined in accordance with the Convention.*

It was stated that (UN, 1982: Article 4) “The outer limit of the territorial sea is the line every point of which is at a distance from the nearest point of the baseline equal to the breadth of the territorial sea”. The Exclusive Economic Zone (EEZ) is (Churchill and Lowe, 1988: 133):

*a zone extending up to 200 miles from the baseline within which the coastal State enjoys extensive rights in relation to natural resources and other jurisdictional rights, and third States enjoy the freedoms of navigation overflight by aircraft and the laying of cables and pipelines.*

The normal baseline for measuring the breadth of the territorial sea (UN, 1982: Article 5) “is the low-water line along the coast as marked on the large-scale charts officially recognized by the coastal state”. Provision was made for islands situated on atolls or having fringing reefs, deeply indented or island-fringed coastlines or deltas, bays and mouths of rivers (UN, 1982: Articles 6, 7, 9, 10). The baselines or the limits derived there from and the lines of delimitation are to be shown on charts of a scale adequate for ascertaining their positions. Otherwise, a list of geographical co-ordinates or points specifying the geodetic data can be substituted.

The UN Convention on the Law of the Sea required any two neighbouring or adjacent states to negotiate the exact location of their common maritime boundary and to indicate the result on their maps and charts. It was provided that (UN, 1982: Article 16(2)):

*The coastal states shall give due publicity to such charts or list of geographical co-ordinate and shall deposit a copy of each such charts or list with the Secretary-General of the United Nations.*

The Government of Ghana ratified the Convention on 20 March 1983 and subsequently declared that (Ghana, 1986: Section 1 (1)):

*the breadth of the territorial sea of the Republic shall not exceed 12 nautical miles measured from the low waterline along the coast of the Republic as marked on large-scale official charts.*

The law adopted the UNCLOS 1982 definition of the outer limit of the territorial sea (Ghana, 1986: Section 1 (2)).

### **The Determination of Ghana’s Maritime Boundaries 1989–2014**

Ghana and its immediate neighbours have not implemented the provisions of UNCLOS 1982 regarding the definition and the delimitation of maritime boundaries. In the meantime, Ghana

and La Côte d'Ivoire started exploration for oil offshore in their territorial waters and in the Tano basin onshore.

Complaints about foreign fishing vessels illegally exploiting the rich marine resources of West Africa, particularly fish, have been long-standing. The 30-metre contour marks the boundary of the reserved zone for local canoe fishermen in Ghana. Foreign industrial vessels are forbidden from operating in this zone as they cause serious damage to small canoes and the nets the fishermen cast. The Ghana Navy has seized several foreign vessels fishing illegally in restricted Ghanaian territorial waters and handed them over to the Fisheries Commission for prosecution. The extension of the seaward limits of the territorial sea, maritime waters and continental shelf was aimed at conserving marine resources.

In 1986 Ghana declared 200 nautical miles as the Exclusive Economic Zone (EEZ) in accordance with UNCLOS 1982. The country now has authority over about 64,000 square nautical miles of sea area, almost one-third the total landmass of the nation. Ghana's EEZ abounds in both living and non-living resources. The waters of the Gulf of Guinea contain some of the richest fishery resources in the world. West Africa is a hot marine area for hydrocarbon exploration and production and the region could become a very significant oil region in the world. The sea also offers a medium for the conveyance of cargo between nations and up to 90 per cent of Ghana's international trade is moved by sea. The sea therefore contributes directly to the stability and economic prosperity of the country.

The infrastructural systems that span the maritime domain, including ports, oil and gas installations, ships, pipelines and cables, are national assets that need to be protected. The Ghana Navy has the primary responsibility for the protection and defence of the country's territorial waters. New challenges have complicated the maritime security environment. Some of these problems include drug trafficking, illegal, unregulated and unreported fishing, environmental pollution and smuggling. The reality is that these threats are increasing in quantum, actors and spectrum and it requires adequate resources, expertise and mutual support of the Air Force, the local fishermen and the inhabitants of the coastal settlements to combat them.

### **The Definition of the Ghana-La Côte d'Ivoire Maritime Boundary.**

Clearly defined maritime boundaries are vital to securing the interests of countries in the peaceful exploitation of offshore natural resources. The first indication of what Ghana probably perceived as an approximate maritime boundary with La Côte d'Ivoire was given in response to the concerns of the Firms Foreign exploring for oil in the territorial sea.

In 1989 the Government of Canada demanded assurances concerning the drilling concessions granted by Ghana offshore near the border with La Côte d'Ivoire. The Foreign Firms prospecting for oil in the area wanted to know whether the common maritime boundary had been demarcated and whether there were any territorial disputes in their operational areas (Ghana, 1989a). Although a maritime boundary had not been defined, there was no dispute

since the delimitation of the entire international boundary had been referred to a Joint Commission. The Acting Director of Surveys, Alhaji Iddrisu Abu, pointed out that (Ghana, 1989b):

*It has not been possible for me to ascertain the location of the drilling areas to be able to determine how near the boundary it (sic) is likely to be, so as to advise whether or not its location is likely to raise the question of BOUNDARIES.*

The United Nations Convention on the Law of the Sea provides that (UN, 1982: Article 15):

*Where the coast of two States are opposite or adjacent to each other, neither of the two States is entitled, failing agreement between them to the contrary, to extend its territorial sea beyond the median line every point of which is equidistant from the nearest points on the baselines from which the breadth of the territorial seas of each of the two States is measured. The above provision does not apply however where it is necessary by reason of historic title or other special circumstances to delimit the territorial seas of the two States in a way which is at variance there with .*

The UNCLOS provision regarding the determination of maritime boundaries was adopted virtually word for word from Article 12 of the 1958 Territorial Sea Convention which was based on the recommendations of the International Law Commission (Churchill and Lowe, 1988: 155). The Acting Director of Surveys advised that (Ghana, 1989b):

*it will be preferable and safer to work up to Median line  $03^{\circ} 22' 00''$  West since by median line method Ghana's boundary is not likely to go beyond  $03^{\circ} 22' 42''$  if the area of operations lies less than 100nm of the Coast of Ghana.*

La Côte d'Ivoire started exploiting offshore petroleum resources in the territorial sea near the land boundary with Ghana a few years before the latter also made discoveries of large oil and gas deposits in the same area. These developments made the definition of a common maritime boundary imperative. The Management of the Ghana National Petroleum Corporation (GNPC) issued an extensive statement and a map (Fig. 3) on oil and gas exploration in the national dailies in 2008 (GNPC, 2008a: 15-18; GNPC, 2008b:31-32, 41-42). The advertisement was repeated on several occasions in the two daily newspapers.

In May 2009 the Government in Accra made a submission to the United Nations seeking an extension of the territorial sea only to realise that its western neighbour had submitted a similar request (Markwei, 2010:1). La Côte d'Ivoire requested the UN to assist the two countries to define their maritime boundary. In 2010 public attention was drawn to an imminent maritime boundary dispute by reports on various Ghanaian radio stations and in the print and electronic media.

A report in a Ghanaian newspaper claimed that (Citifm, 2010: 24):

*A major crude oil-induced border dispute could break out between Ghana and neighbouring Côte d'Ivoire if immediate steps are not taken to enter into appropriate*

negotiations to redefine the international boundary between the two West African nations.

It was alleged that La Côte d'Ivoire had laid claims to portions of Ghana's huge oil wealth offshore.

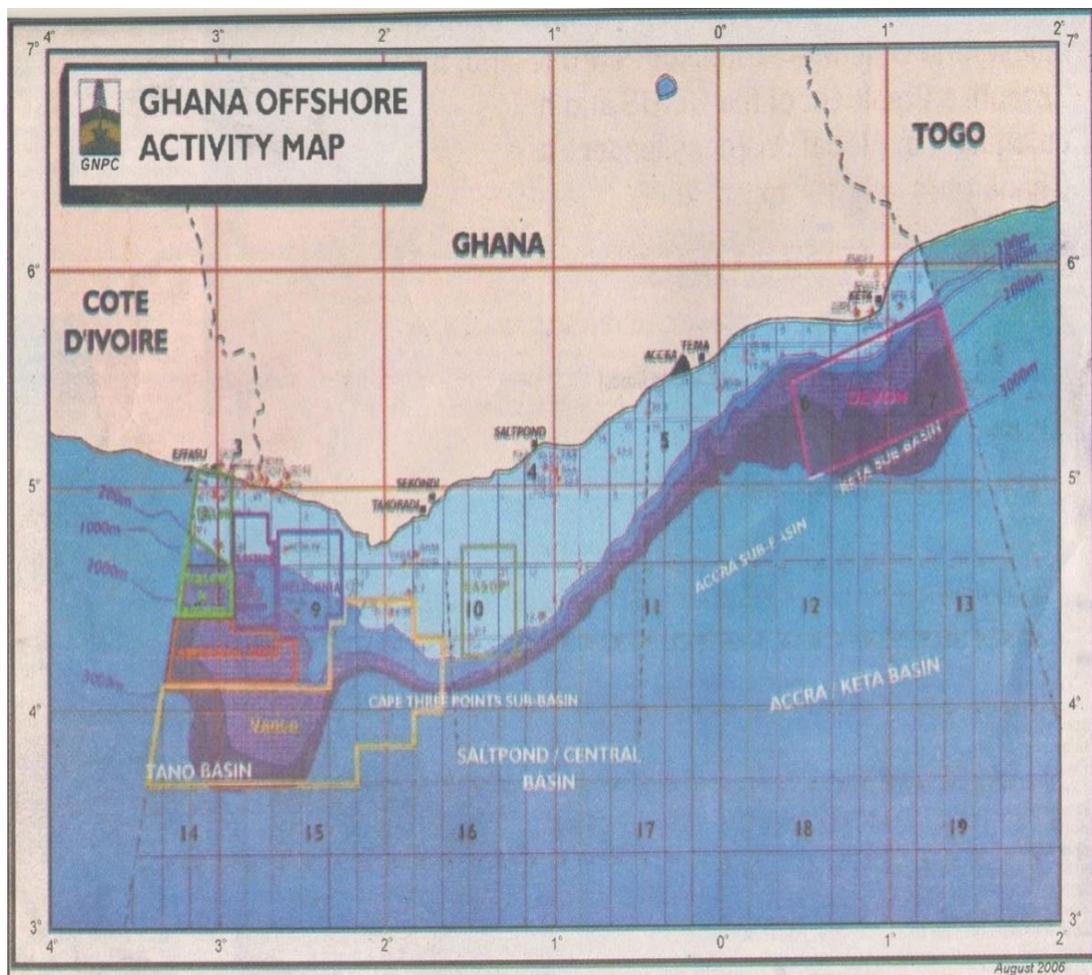


Fig.3. (GNPC 2008). Ghana Offshore Activity Map 2008.

Source: After *The Ghanaian Times*, 14 February 2008, p. 15; *Daily Graphic*, 24 July 2008, p. 31.

The Ghanaian Minister of Lands and Forestry, Collins Dauda, indicated that (Citifm, 2010: 24) “the Government was doing everything possible to avoid a fully blown international dispute with the nation’s western neighbour”. He indicated that “in respect of the land, we have determined the boundaries but we have not done so with regard to the sea”. The minister said that the government would initiate action to define and delimit the maritime boundaries with Togo, Benin and Nigeria (Markwei, 2010: 1). This must have been a reference to regional co-operation as Ghana cannot share a maritime boundary with Benin or Nigeria.

As La Côte d'Ivoire had constituted a national boundary commission to negotiate its maritime boundaries, Ghana initiated action to establish a similar body under a certificate of urgency. As both countries had indicated their desire to extend their territorial seas and define the maritime boundary under the UN Convention on the Law of the Sea, The Minister was

confident that (Citifm, 2010: 24) “the matter would be resolved without any conflict owing to the good relations between the two countries”.

La Côte d’Ivoire has also demarcated the operational zones for offshore oil exploration and five blocks for concessions overlap portions of Ghana’s offshore concessions. The Ivorian claims transcend the point on the coastline which marks the beginning of the land boundary between the two states. The rival claims of La Côte d’Ivoire are shown in Figure 4.

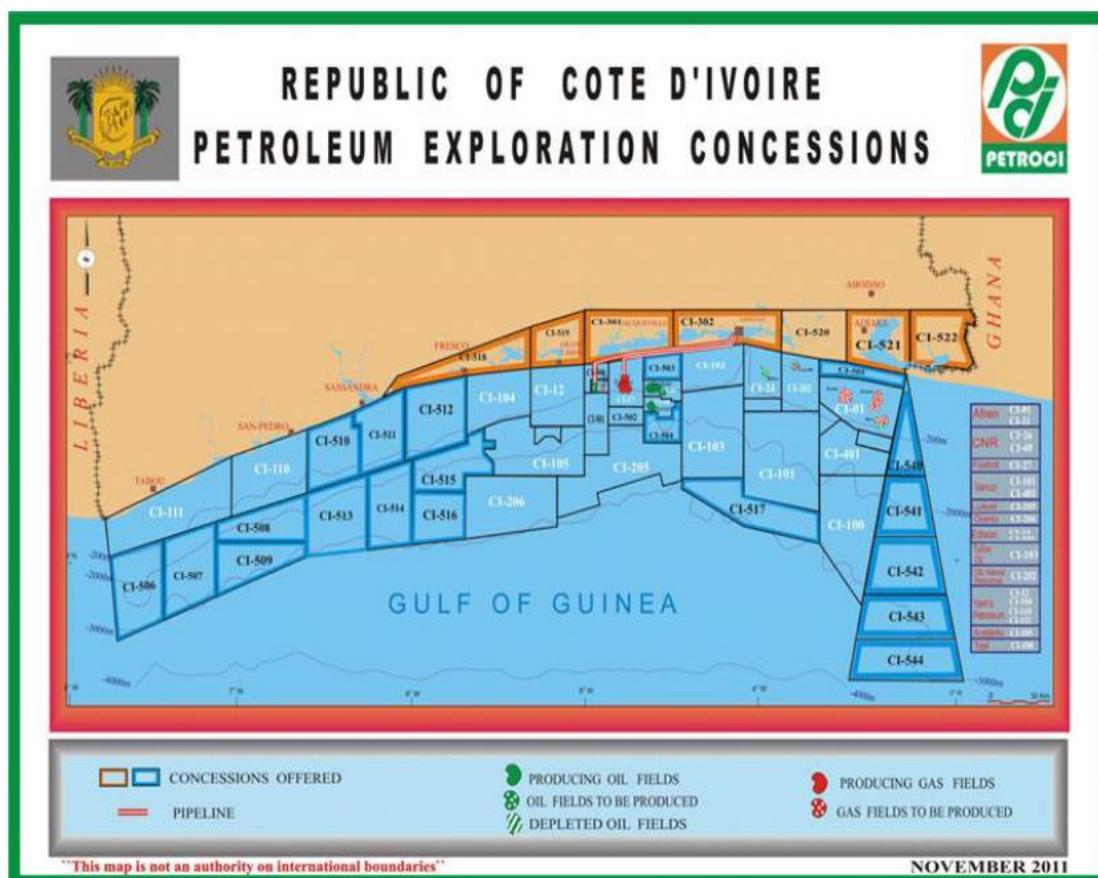


Fig 4. Republic of Côte D’Ivoire Petroleum Exploration Concessions.

Source: Dubere, Alfonse (2011). “Ghana-Ivorian border dispute grows”, [www.newsbase.com](http://www.newsbase.com), p. 2. Accessed on 6 October 2013.

There are assertions that France is behind the claims of its former colony and that the incumbent Ivorian President, Alassanne Ouattara, initiated the territorial dispute as a retaliation for Ghana’s support for his rival, Laurent Gbagbo, following the recent disputed presidential election ( *The Insight*, 2011:1, 11). President J. E. A. Mills had explained that Ghana would not contribute troops to the ECOWAS Force in order to enforce the outcome of the presidential elections in La Côte d’Ivoire as this would not be in the interest of Ghanaians since several ethnic communities lie astride the international boundary. Beside, the country did not have the capacity to do so at the time as Ghanaian soldiers were overstretched in UN operations in several countries (Mingle, 2011: 1, 24).

The Government was concerned about the crisis across the boundary as over one million Ghanaians lived in the Ivory Coast. The President felt that military intervention to remove the incumbent, Laurent Gbagbo, would rather escalate the violence. Ghanaians should rather mind

their own business because (Mingle, 2011: 24). "It is not for us to choose a leader for Côte d'Ivoire". He dispelled allegations that Ghana was covertly sending arms to Laurent Gbagbo and emphasized that "we have our problems to solve and we don't want to be saddled with the problems of Côte d'Ivoire".

The five extreme eastern Ivorian concession blocks appear to ignore the fact that the eastern Tano lagoon is a neutral territory and that the boundary point on the coastline is at New Town. In April 2011 Kosmos stated that (Dubere, 2011: 2):

*Uncertainty remains with regard to the outcome of the boundary demarcation between Ghana and Côte d'Ivoire and we do not know if the maritime boundary would change.*

The representatives of the two countries had met earlier in February 2009 and the Ivorian delegation declared that (Markwei, 2010: 4) "they would no longer abide by the common maritime boundary they had all agreed on". The median line had been respected in granting exploration rights to companies and either country could cross the line to collect data but prior permission was sought. Collins Dauda assured Ghanaians that there was no cause for alarm as there is a scientific way of determining maritime boundaries and the UN can deal with the issue.

There was the need to create a stable environment for the operation of investors in view of the huge costs and risks involved in the oil industry. A security analyst at the Kofi Annan International Peace Keeping Centre, Dr. Kwesi Aning, advised the government to take a firm stance in the negotiations over the looming oil dispute and desist from using the humanitarian approach. He further asserted that (*Citifm*, 2010: 24) "the Ivorians were better structured and co-ordinated and that made them miles ahead of Ghana as far as the struggle for the demarcation is concerned".

Aning cautioned that (*Citifm*, 2010: 24):

*The Ivorians have a rational choice attitude to this, they have made their calculations and they are willing to push this demand as far as possible to get what they want and I think it's crucial that this bill is passed under the certificate of urgency and hopefully, the team that will be put together should be a bi-partisan group of technical experts with the requisite knowledge to ensure that this issue does not become a problem.*

Apparently, the Ivorian Government had made claims to parts of the Djata oil fields and the Ghana government had to establish a legal basis for negotiations over the issue. It was noted that (Adu-Gyamrah and Nkrumah, 2010; 3):

*There is a particular urgency with regard to the delimitation of maritime boundaries. The delimitation of Ghana's maritime boundaries involves fundamental issues of national and regional security. Undelimited maritime boundaries placed Ghana's offshore natural resources at risk from aggressive claims from neighbouring countries.*

At a meeting in Accra in April 2010, the Ivorian Interior Minister, Desire Tagro, made it clear that the task before the inter-ministerial committee was not about oil but centred on discussions

aimed at an amicable delimitation of a common maritime boundary. He appealed to the media to facilitate the process instead of sensationalising the issue to destroy the hard-won trust, friendship and brotherhood between the two countries. The Ivorian minister noted that the prevailing cordial relations (Salia, 2010:49) “had been qualitatively built and had to be guarded because it had become the envy of many countries”.

The meeting was expected to develop a road map for the negotiations so that Ghana could respond to the Ivorian proposal at the second meeting of the representatives of the two countries in Accra. Désire Tagro was hopeful that the negotiations would take place without the media stirring up unnecessary passions to destroy the relations between the two countries. La Côte d’Ivoire was also expected to respond to the proposals made by Ghana, so that an agenda and date would be set for the next meeting. The two Presidents were expected to meet at Yamoussoukro to take a detailed and dispassionate look at the boundary issue (Salia, 2010: 49).

Kofi Afenu, the Country Manager of Vanco Ghana Limited, the exploration firm which operates the Djata Oilfield, dismissed suggestions that the concession was at the centre of a possible Ghana-La Côte d’Ivoire boundary dispute. He asserted that La Côte d’Ivoire that the Djata field was more than 200 miles from the boundary line and that the authorities in Abidjan were seeking negotiations over the Jubilee Oilfield owned by Kosmos (Salia, 2010: 49).

The Country Manager of Vanco observed that (Salia, 2010: 49):

*the media may have blown the issue out of proportion or perhaps the Minister sent the wrong impression to Ghanaians that the Ivory Coast is demanding a portion of Ghana’s oilfields.*

The Company stressed that La Côte d’Ivoire was only seeking negotiations to determine the maritime boundary between the two countries and that a map of the area in contention showed that no part of Ghana’s oilfields was in danger of being seized.

In 2012, The Chief Executive Officer of the Ghana National Petroleum Corporation, Nana Boakye Asafu-Adjaye, asserted that La Côte d’Ivoire’s (Yeboah, 2012:24):

*claims of ownership of some of Ghana’s oilfields... do not have merit and so will not disturb the country’s oil production in any way.... the boundaries between Ghana and Cote d’Ivoire have been very clear and undisputed and any new claims to the contrary would have to be proven with facts.*

The land boundaries of adjacent states are extended into the sea to determine their maritime boundaries. The early cases of the delimitation of maritime boundaries were complex processes which did not offer any precise principles for general application. Each case had its own unique characteristics which had to be taken into account. Previous practice and decisions, at best, point to the kind of factors to be considered and the approach to be adopted.

The normal practice in the delimitation of maritime boundaries between opposite states has been the adoption of (Churchill and Lowe, 1988: 154) “the median line, equidistant from the

nearest points of the opposing States' shores, as the boundary". States have sometimes agreed upon "the centre line of the main deep-water channel passing between their shores".

The delimitation of the maritime boundaries of adjacent states has also shown little consistency and several approaches have emerged (Churchill and Lowe, 1988:154):

*[1] the equidistance principle, drawing a median line outwards from the boundary on the shore....*

*[2] a line drawn perpendicular to the general direction of the coast....*

*[3] the line of latitude passing through the point where the land boundaries meet the sea....*

*[4] special circumstances such as the presence of offshore islands or the general configuration of the coast, or claims to water areas based on historic title will demand the adaptation of some other boundary line by the states concerned....*

*[5] a set of boundaries by reference to geographical coordinates for the sake of certainty and simplicity, and such determinations almost inevitably demand some departure from the exact median line or other criterion.*

Considerations of equity are increasingly emerging in the delimitations of maritime boundaries.

### **The Ghana Boundary Commission**

The high value of the offshore oil deposits in the adjoining territorial sea of Ghana and La Côte d'Ivoire necessitated a decisive and methodical strategy to delimit the boundary. The Memorandum to the Ghana Boundary Commission Bill proposed that a commission should be set up to (Ghana, 2010a: ii):

*ensure the proper development and consistent application of Ghana's policies regarding maritime boundary delimitation. It will also ensure the development of a team of experts to engage in negotiations and provide continuity in the process.*

The Parliament of Ghana passed the Boundary Commission Bill under a certificate of urgency and it received the presidential assent on 22 March 2010. The Ghana Boundary Commission is (Ghana, 2010b: Preamble) "to undertake negotiations to determine and demarcate Ghana's land boundaries and delimit Ghana's maritime boundaries and to provide for related purposes".

The objects of the Commission are to (Ghana, 2010b: Section 2):

*a) determine and demarcate Ghana's land boundaries and delimit Ghana's maritime boundaries in accordance with accepted principles of international law;*

*b) protect and secure the interests of the Republic of Ghana in determining and demarcating land boundaries and delimiting maritime boundaries;*

*c) adopt international best practice on the demarcation and delimitation of boundaries;*

*d) promote a more effective management of the boundary demarcation and delimitation process; and*

*e) ensure consideration of the full range of Ghanaian interests affected by the placement of boundaries*

The Commission is empowered to negotiate with neighbouring countries concerning the national boundaries and to undertake the physical demarcation and survey of land boundaries and the delimitation of maritime boundaries. The Commission shall advise the Government on the most appropriate strategy for the negotiation of a land or a maritime boundary through negotiations and on the determination of cross-border matters among communities (Ghana, 2010b: Section 3).

The Ghana Boundary Commission has the responsibility to (Ghana, 2010b: Section 3(f)) “advise the Government on International Conventions in relation to the country’s borders and the signing and ratification of treaties related to land and maritime boundaries”. The Commission shall also (Ghana, 2010b: 3 (g)) “address issues regarding the use of natural resources that straddle the land and maritime boundaries and perform other functions ancillary to its mandate”.

In a move to protect the territorial integrity of Ghana and avoid a diplomatic spat, the Government in Accra initiated arbitration proceedings under UNCLOS 1982 (Baneseh, 2014a: 3) “seeking a declaration that it has not encroached on Côte d’Ivoire’s territorial waters in the exploration of oil”. The action at the International Tribunal on the Law of the Sea (ITLOS) followed the failure of negotiations between the two countries and the continued receipt of threatening letters from oil companies in La Côte d’Ivoire which are operating in the disputed area.

## **Conclusion**

The land boundaries of Ghana were defined and demarcated during the colonial era except the bifurcated boundary on the banks of the eastern Tano Lagoon. However, *The Atlas of Africa*, published by Jeune Afrique in 1973, depicts a divided Tano Lagoon (Chil-bonnardel, 1973: 163,169). The Ghana- La Côte d’Ivoire boundary redemarcation commission was aware of the problem of the bifurcated boundary on the Lagoon in 1971 but decided not to raise the issue. The author of this article has not come across any sources to support the purported partition of the eastern portion of the Tano Lagoon.

Since independence, the Ghana–Burkina Faso and Ghana–La Côte d’Ivoire boundaries have been redemarcated. The Ghanaian team on the Ghana–La Côte d’Ivoire Boundary Redemarcation Commission recognized the problem on the Tano Lagoon in 1971 but decided not to raise it because of the difficulties anticipated in the partition of the Lagoon ( BRG, 1/4/5: 4). The definition of the boundary on the lagoon and the determination of the maritime boundary should be undertaken as one exercise.

Some Ghanaian academics and researchers took a very keen interest in the immediate resolution of the conflict. A document on the determination of the maritime boundary was prepared under the auspices of the Council for Scientific and Industrial Research (CSIR). The participants enthusiastically demonstrated clearly that the country has the local intellectual capacity to tackle the problem and possibly to resolve it. The effort was probably not noticed by the politicians and policy makers.

A Ghanaian political geographer and an authority on African boundaries, Raymond Bagulo Bening, submitted a memorandum to the Parliamentary Select Committees on Land and Forestry and on Mining and Energy in 2010 but no acknowledgement of receipt has been received. His manuscript on Ghana's national boundaries and vicinal relations, which was submitted to the Minister of Foreign Affairs and NEPAD, Alhaji Mohammed Mumuni, on specific request, has been referred to Ghana's foreign partners, officials of the Ministry and the Ghana Boundary Commission without the permission of the author. A written demand for the return of the manuscript has been ignored by the Ministry.

The public interest in the dispute necessitated an explanation of the principles applicable in determining maritime boundaries on a Metro TV programme, "Good-Evening Ghana", on 10<sup>th</sup> July 2012. However, public statements by Ghanaian politicians and some opinion leaders insist that all the oil fields discovered by companies operating in Ghana belong to Ghana.

In a discourse on "The Big Questions in Geography" emphasis was placed on the need to articulate the major issues in the discipline that (Cutter *et.al.* 2002: 305) "will capture the attention of the public, the media and policy makers". The question was asked why research findings by geographers and other scholars on major issues are often not reported. The authors intimated that this situation was partly due to the fact that (Cutter, *et.al.* 2005: 305) "works by geographers related to policy often emerge without attribution to the researchers of origin". They concluded that (Cutter, *et.al.* 2002: 305):

*If the reports successfully influence policy, the decision makers who actuate the policy take credit for the process, rather than the original investigators who made the recommendations.*

The definition of maritime boundaries is motivated mainly by expediency and the spirit of compromise. Generalisation is difficult because of the peculiar circumstances of each case and many approaches have emerged under the UNCLOS 1982. Churchill and Lowe (1988:153) have concluded that:

*it is extremely difficult to offer any precise account of the principles of delimitations, such as might be applied in future to disputed boundaries. Quite apart from the inherent vagueness of the principles, each delimitation involves a situation which has its own unique characteristics which will have to be taken into account: previous practice and decisions will at best point to the kind of factors to be considered and approach to be adopted, and will not permit the deduction of a precise boundary line which must be applied.*

Several maritime boundaries between West African states have been defined in recent years. The most famous is the Bakassi Peninsular between Nigeria and Cameroun which ended at the International Court of Justice at The Hague. In the case of Guinea and Guinea Bissau, the tribunal decided that (Churchill and Lowe, 1988: 154-155) “all delimitations had to be measured against the single goal of producing an equitable solution in the circumstances of each case”.

After the collapse of the negotiations on the maritime boundary, Ghana’s Minister of Justice, Mrs Marrietta Brew Appiah-Oppong, indicated that (Baneseh, 2014b:16):

*Ghana’s legal team would be led by herself, her attorneys, all relevant government departments as well as distinguished and highly experienced international lawyers and technical consultants.*

The universities and the national research organizations were not mentioned.

The Minister of Justice claimed that “the disputed boundary had been in existence since 1950. The stance of the Ghanaian Government is that (Baneseh, 2014b:16, 69) the maritime boundary is to be defined by an equidistant line. The rival claims had “generated uncertainty about the location of the maritime boundary and uncertainty on the part of both domestic and foreign partners regarding their rights and responsibilities” The Minister was confident that the outcome at ITOLO would be favourable to Ghana and that the excellent relations with Côte d’Ivoire would be maintained.

While the citizens of the two countries wait anxiously for the outcome of the negotiations, sanity should prevail in order to facilitate the peaceful resolution of the territorial dispute and the definitive determination of the maritime boundary in accordance with international law. Until then, politicians, government officials and the general public should be circumspect in their utterances.

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