



THE LONDON INTERNATIONAL BOUNDARY CONFERENCE

PANEL 1: RECENT DEVELOPMENTS IN LAND BOUNDARY AND TERRITORIAL SOVEREIGNTY DISPUTES

This panel will provide an overview of recent developments in sovereignty disputes over land territory. The panel will give delegates an overview of two different but complementary perspectives: that of a legal practitioner and that of a geographer. It will take us on a tour of land boundary and territorial sovereignty disputes in all corners of the globe, from West Africa to the Middle East, South East Asia, and beyond. It will also highlight some of the principal legal and evidentiary challenges faced in resolving those disputes.

Judge Stephen M. Schwebel

Judge Stephen M. Schwebel is chairing this session.

Richard Schofield

Delimitation in a historical geographic perspective

While continuing study of boundary delimitation may be seen as essentially “old hat” from the viewpoint of contemporary geographical research agendas, confusion still pertains as to what the term connotes and what it comprised when applied in regional and temporal contexts. The presentation will examine the operations of the 1991-1993 United Nations Iraq-Kuwait Boundary Demarcation Commission and the PCA’s 2009 Abyei (Government of Sudan v SPLM/A) award in highlighting the problematic posed by vague and ambiguous imperial boundary definition, at both the international and provincial scale.

Pierre-Emmanuel Dupont

Trends and prospects in the settlement of territorial disputes in West Africa

The African continent is one of the areas where the most challenging work on border issues remains to be effected, since it is estimated that at present only 35% of African land boundaries have been subject to delimitation and demarcation. Recently, several factors have contributed to a better understanding from concerned States and stakeholders of the urgent need for a completion of the delimitation process, among them the persistence of potentially disruptive border disputes, and the negative impact of imprecise boundaries on cross-border cooperation and trade. The same observations apply to the region formed by the former French colonial territories in West Africa, on which this presentation will focus.



THE LONDON INTERNATIONAL BOUNDARY CONFERENCE

The presentation will start with a review of the delimitations effected in the region to date, either by judicial means through submission of cases to the International Court of Justice or by diplomatic negotiations. This review will extend to issues of compliance and implementation on the ground. It will analyse the region-specific features related to the delimitation of frontiers inherited from the colonial period, and the way States involved (and the ICJ) have dealt with these peculiarities.

The presentation will then turn to an assessment of the prospects for a more integrated approach to boundary delimitation, developed since 2007 in the framework of the Conference of African Ministers in charge of Border Issues and of the African Union Border Programme (AUBP). That approach implies capacity building in the field of delimitation and boundary management, and it incorporates a systematic inventory of African borders still to be delimited based on a questionnaire sent to States. The presentation will evaluate the relevance in that respect of the draft African Union Convention on Cross-Border Cooperation (the Niamey Convention). In this context, it will identify challenges facing the delimitation work, such as the significant financial costs implied, and will mention the involvement of external actors such as the United Nations and various States in support of the objectives of the AUBP.

Hon. Davis R. Robinson

Proof of Sovereignty and the Role of Archives

The history of the Middle East and other parts of the world is often crafted on the basis of the national archives of certain early colonial powers such as the United Kingdom. The British archives, both governmental and private, are immense and are in most instances readily accessible to the public in an organised and user-friendly manner. Other nation States, due to lack of resources or other concerns, may have reams of pertinent materials but either have not assembled them in a readily useable framework or simply do not make sensitive records available to the public (no matter how antiquated they may be). The United Kingdom and the United States, for example, follow a 30-year rule for the declassification of most governmental materials, but other States do not have comparable systems. Because the proof of *effectivités*, the indicia of effective occupation or other exercise of jurisdiction, is fundamental to sovereignty claims, this disparity in the state of valuable records around the globe takes on increasing significance in this digital world.

Loretta Malintoppi

Disputes over sovereignty of islands – recent case law



THE LONDON INTERNATIONAL BOUNDARY CONFERENCE

International case law shows that it is not uncommon for courts or arbitral tribunals seized of the question of sovereignty over islands to be asked also to delimit the parties' maritime zones. This was the case in the *Yemen-Eritrea* arbitration; the *Qatar-Bahrain* and *Nigeria-Cameroon* disputes and most recently in the *Nicaragua-Colombia* dispute before the ICJ, where the presence of islands had a considerable impact on the maritime delimitation.

One notable exception was the *Malaysia-Singapore* case (2008), where the Parties did not ask the ICJ to draw any consequences from its finding on sovereignty over the island of Pedra Branca for the delimitation of maritime zones. As a result, the Court only adjudicated the sovereignty issue, leaving the delimitation of maritime boundaries to be determined by the parties through bilateral negotiations or third party adjudication. However, the Court found that sovereignty over South Ledge, a low tide elevation, depended on the maritime delimitation between the Parties.

Disputes over sovereignty to islands are often resolved on the basis of many of the same modes of acquisition of territory under public international law: by treaty, through the doctrine of *uti possidetis juris* and through the conduct of the administrative authorities (i.e. the deployment of *effectivités*). International case law shows that sovereignty on the basis of historic titles is also a possibility.

In the presence of competing claims, the effective exercise of jurisdiction over the disputed island will be of paramount importance for the attribution of sovereignty. Examples of the relevant acts include legislative and law enforcement measures as well as regulation of economic activities including, *inter alia*, economic licenses, the maintenance of lighthouses, naval patrols and search and rescue operations.

Although States are often captivated by the cartographic evidence in sovereignty disputes, the jurisprudence shows that maps are treated with caution when it comes to the attribution of sovereignty, unless they represent evidence of admissions against the interests of one of the parties.