

# The maritime delimitation of Nigeria: a case study

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# *Disclaimer*

*The views expressed herein are those of the author and does not necessarily reflect the views of the National Boundary Commission.*

# *Introduction*

- ❖ Maritime delimitation is a theoretical division of the Earth's water surface areas using physiographic or geopolitical criteria that binds areas of exclusive national rights.
- ❖ Generally, the legal framework for maritime boundary delimitation is established by the United Nations Convention on the Law of the Sea (UNCLOS).

- ❖ The Federal Republic of Nigeria became a State Party to UNCLOS on the 14<sup>th</sup> of August in 1986 with a view to take full advantage of the rights awarded to Nigeria by the implementation of UNCLOS.
- ❖ Nigeria have over the years successfully delimited most of its maritime boundaries with her neighbours in the gulf of Guinea and made submissions for the extension of her continental shelf.

# Law of the Sea

- **The law of the Sea (LOS)** is a difficult and multifaceted branch of law; which comprises of the norms regulating the rights and obligations of States in the marine environment.
- Every coastal State has jurisdiction over the oceans and seas; the limits of which are defined by **international conventions** and their individual national regulations which must conform to the international law.
- The **LOS**, in its essence, divides the sea into zones and specifies the rights and duties of States and ships flying their flags (for navigation and rights of innocent passage) in those zones.
- The **delimitation of maritime boundaries** is a complex and multifaceted process with **legal** and **technical** aspects involving the determination of a maritime boundary in a situation where two or more coastal states are confronted with overlapping titles and/or titles.

# *Categories of maritime delimitation*

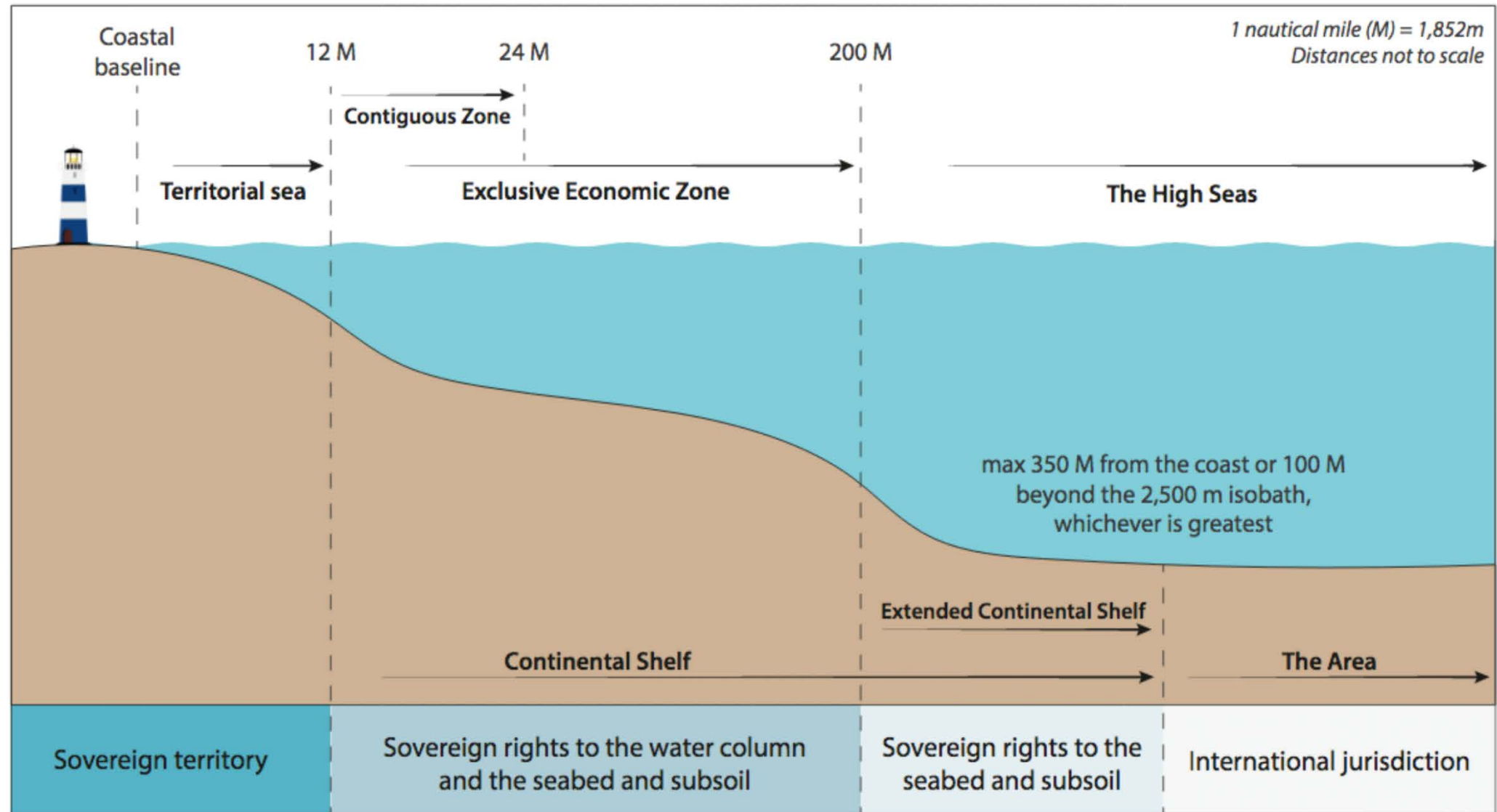
*The delimitation of the outer limits of maritime spaces (**zones**) under national jurisdictions.*

*Examples: Territorial Sea, Contiguous Zone, and Exclusive Economic Zone (EEZ).*

*The delimitation of the international maritime **boundaries** between claimant states.*

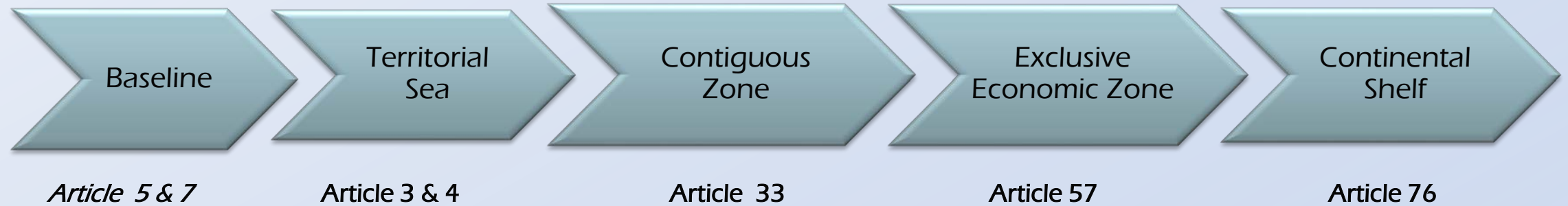
*Examples: Nigeria and Cameroon, Nigeria and Equatorial Guinea, Nigeria and Ghana boundaries.*

# Maritime zones defined by LOS



# The delimitation of maritime *Zones*

The LOS Convention divides the sea into a variety of maritime zones a coastal state may claim.

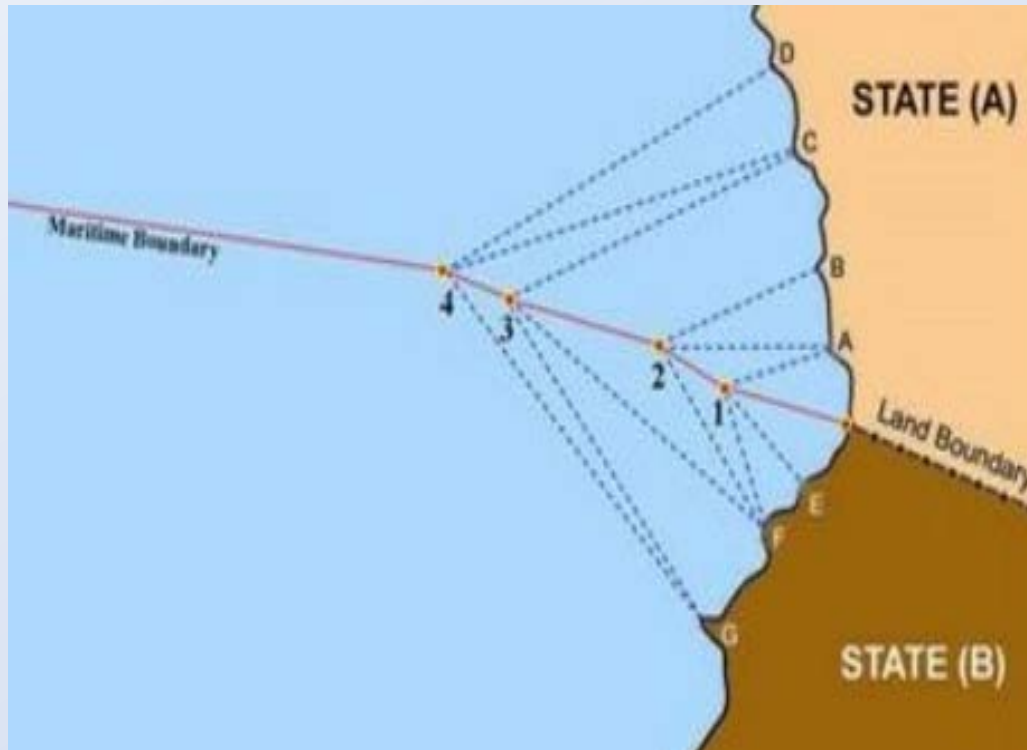


## ❖ High Seas & The Area

- ❖ Each zone grants specific rights to the coastal state and carries certain obligations to the foreign states and vessels such as the Right of Innocent Passage.
- ❖ Maritime zones and boundaries form the outermost limits of coastal States and their accurate delineation and cartographic portrayal is a matter of national priority



# Maritime Boundary Delimitation



## **Definition:**

***It is the process of drawing the maritime boundaries amongst or between States, in the form of a line or polygon, with the guidance of the relevant UNCLOS provisions and other international maritime jurisdictions.***

# *Causes of Maritime Boundary Disputes*

## ➤ Overlapping entitlements to maritime rights and jurisdiction;

Maritime boundary dispute occurs mostly due to the overlapping claims between adjacent or opposite states for 12 nautical miles (territorial seas), 200 nautical miles (EEZs), and continental shelves which may extend beyond 200 nautical miles. An example is Nigeria and Sao Tome and Principe.

## ➤ Disputed sovereignty over the island;

Two countries can claim the same island (e.g. arbitration case Eritrea v. Yemen). Japan and China claim to have sovereignty over the Senkaku/Diaoyu/Diaoyutai Islands. The sovereignty over the Falkland Islands (Spanish: Islas Malvinas) is disputed by Argentina and the United Kingdom

## ➤ Disputed sovereignty on the same area of the mainland;

Examples of these is the Bakassi peninsula dispute between Cameroon and Nigeria (ICJ, 1994).

## *Resolving Maritime Boundary Disputes*

- *Article 33 of the UN Charter* provides for the peaceful settlement of disputes through the parties' own choice. These means always include *negotiation*.
- If negotiations are not successful, recourse may be had to *conciliation*, *good offices*, (e.g. the UN Secretary-General), *arbitration* (ad hoc or according to annexe VII UNCLOS or judicial settlement (ICJ/ITLOS)).
- *customary international law*.

# *Arrangements For Resolving Maritime Boundary Disputes*

## *a) Definitive arrangements*

- Deciding upon a definitive boundary in a treaty or agreement or a decision of an international court or tribunal should resolve all aspects of a maritime boundary dispute

## *b) Provisional arrangements*

- Provisional arrangements of a practical nature pending final delimitation of the EEZ and continental shelf. Example (i) provisional boundaries, (ii) special areas, and (iii) joint development.

# *Methods of **Delimitating** Maritime Boundaries*

- To resolve issues of overlapping claims, **the relevant rules of international law** can be found in the UN Convention on the Law of the Sea (UNCLOS), **state practice and jurisprudence**.
- Other methods, however, are the result of analyses of boundaries determined by **international courts and tribunals**.
- Some of the methodologies used are applied by national organizations worldwide in routine delineation operations.

# Internal Recognition of the Maritime Zones in Nigeria's National Law,

- ✓ Nigeria first passed legislation to recognize the Territorial Sea in 1967, and this has been subsequently amended twice (1971, 1998).
- ✓ The current legislation is the Territorial Waters (Amendment) Decree 1998 (now Act), - reduced the claimed territorial sea from 30 nautical miles to 12 nautical miles, as permitted by UNCLOS.
- ✓ Nigeria also legislated for an Exclusive Economic Zone (EEZ) in 1978, following emerging customary international law. The result was the Exclusive Economic Zone Decree No. 28 of 5 October 1978 (now Act), which claimed 200 nautical miles.
- ✓ The Petroleum Decree No.51 of 1969 (now Act) also provides for the continental shelf.

# Internal Recognition of the Maritime Zones in National Law, Cont'd

- ✓ Nigeria is now implementing the Maritime Zones in accordance with the UNCLOS to its fullest extent.
- ✓ This has culminated in a Maritime Zones Bill, which seeks to repeal and consolidate national legislation on maritime zones.
- ✓ The bill is titled **Nigerian Maritime Zones (Enactment) Bill 2020**. It will enact the Maritime Zones Act to provide for all the Maritime Limits of Nigeria.
- ✓ It will be a single new piece of comprehensive national legislation encompassing the rights of Nigeria to maritime spaces under its national jurisdiction.

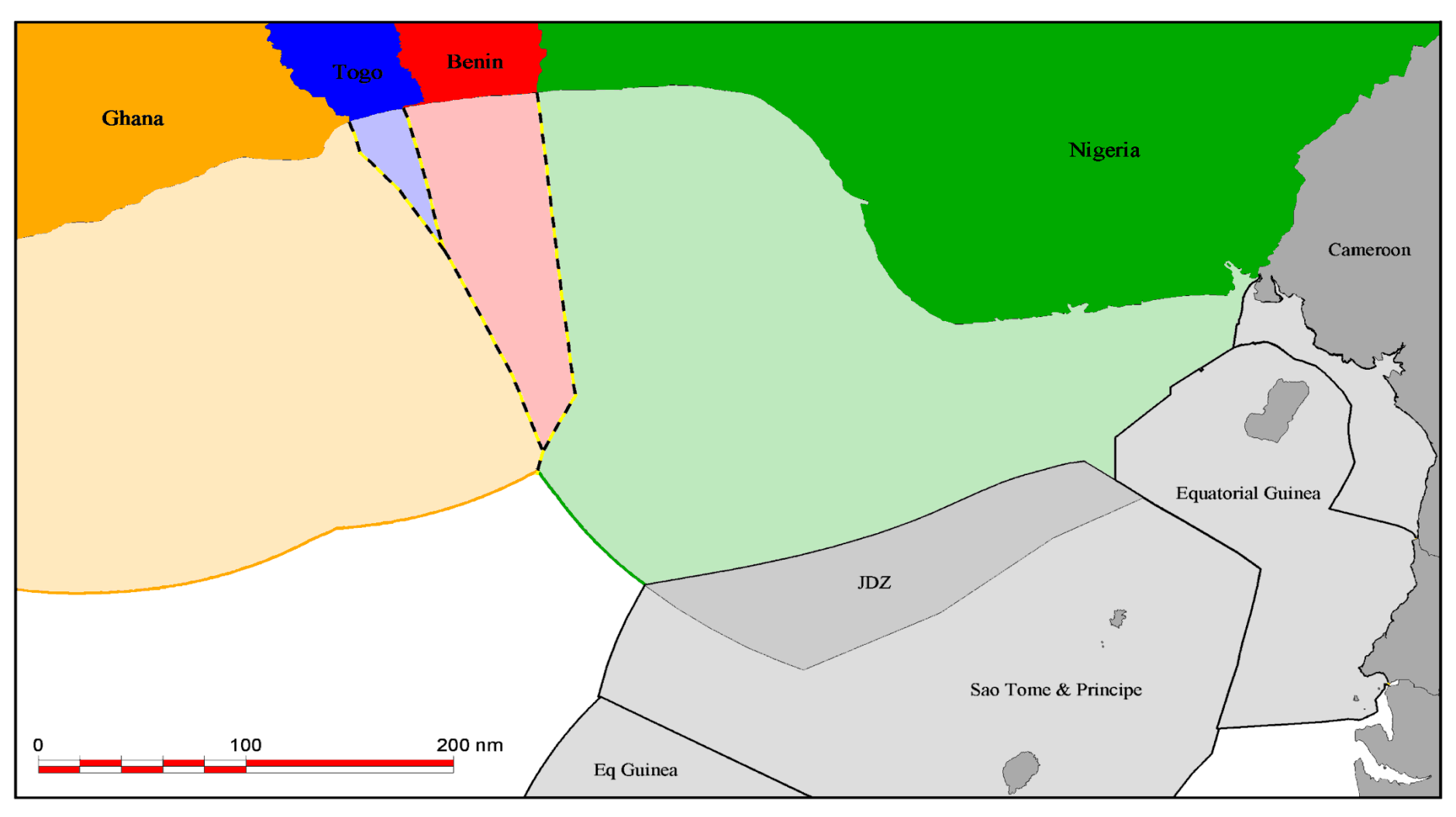


# *Nigeria's Maritime Boundaries*

- *Nigeria and Sao Tome and Principe* – Provisional boundary arrangement in the form of Joint Developmental Zone (JDZ). Signed on 21<sup>st</sup> of February 2001.
- *Nigeria and Benin* – Boundary has been delineated with the Treaty signed on the 4 August 2006.
- *Nigeria and Ghana* – Negotiations are currently ongoing.
- *Nigeria and Equatorial Guinea* – Negotiations are ongoing for the extension of the Boundary to the tripartite point between Nigeria, EQ. Guinea & Cameroon
- *Nigeria and Cameroon* – The boundary between both States have been delineated following the judicial rulings of the ICJ, (Boundary Treaty signed).



# *Overview of Nigeria's Maritime Boundaries*



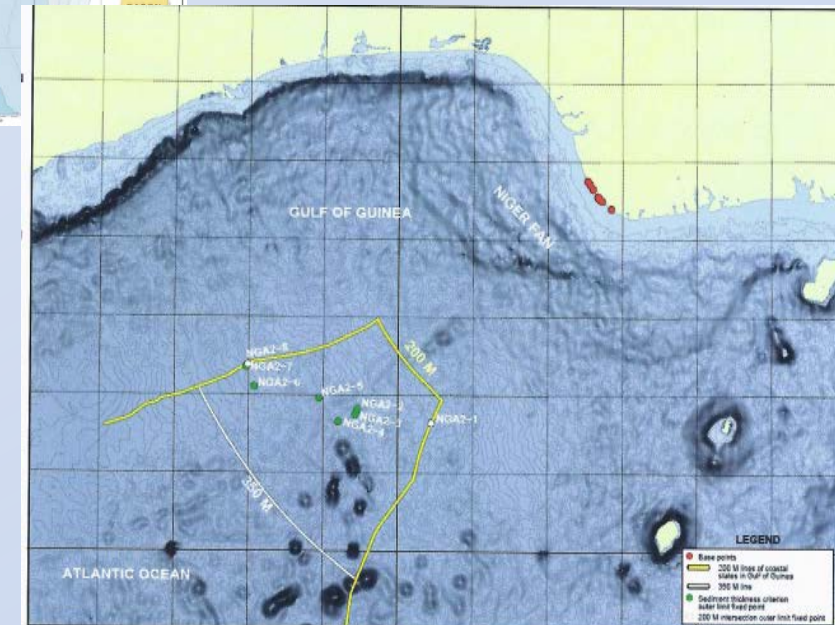
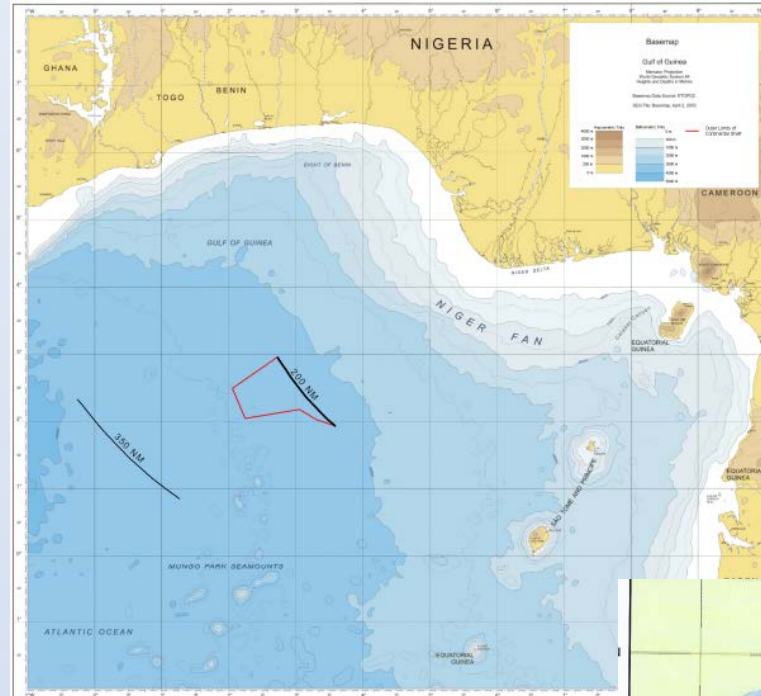
# *Nigeria Extended Continental Shelf*

On 7 May 2009,

- The Federal Republic of Nigeria made her Submissions to the Commission on the Limits of the Continental Shelf, (CLCS) in accordance with Article 76, paragraph 8, of the UNCLOS, on the proposed limits to their extended continental shelf.

On 18 November 2016,

- Nigeria transmitted to the CLCS, through the Secretary-General, an amendment to its submission, which is to be considered in conjunction with the submission made on 7 May 2009.
- Consideration of the submission by a subcommission establish for that purpose is ongoing.



# *Summary: Nigeria's Maritime Zones and Boundaries*

- *Nigeria's Maritime Zone is made up of the Territorial Sea, Exclusive Economic Zone (EEZ), and the Continental Shelf.*
- *The recent bill titled "Nigerian Maritime Zones (Enactment) Bill 2020" will be a single new piece of comprehensive national legislation encompassing the rights of Nigeria to maritime spaces under its national jurisdiction*
- *Nigeria shares five (5) maritime boundaries in the Gulf of Guinea with Equatorial Guinea, Cameroon, Sao Tome and Principe, Benin, and Ghana.*
- *While some boundaries have been delineated, negotiations are ongoing in the Nigeria-Ghana, Nigeria-Equatorial Guinea (extension) maritime boundaries.*
- *Nigeria's experience with its maritime neighbours suggests a border management outfit and the pursuit of a scientific research-oriented conflicts management approach would appear to be necessary.*



# *Conclusion*

- ❖ Maritime boundary disputes have a negative effect on maintaining international relation between or among states and inhibits the sustainable development of the maritime area.
- ❖ Delimitating the Maritime Boundaries will bring economic growth, effective management of the coastal and ocean environment, and provide the cornerstone for maritime spatial planning.
- ❖ There is a need for industry stakeholders to synergize/collaborate to improve data acquisition and sharing, enhance the technical capacity and advance the decision-making in the marine environs.
- ❖ Cooperation on maritime issues at Regional and State levels is very important in contributing to the maintenance of peace, security and economic well-being for all the nations of the world.

**THANK YOU**

