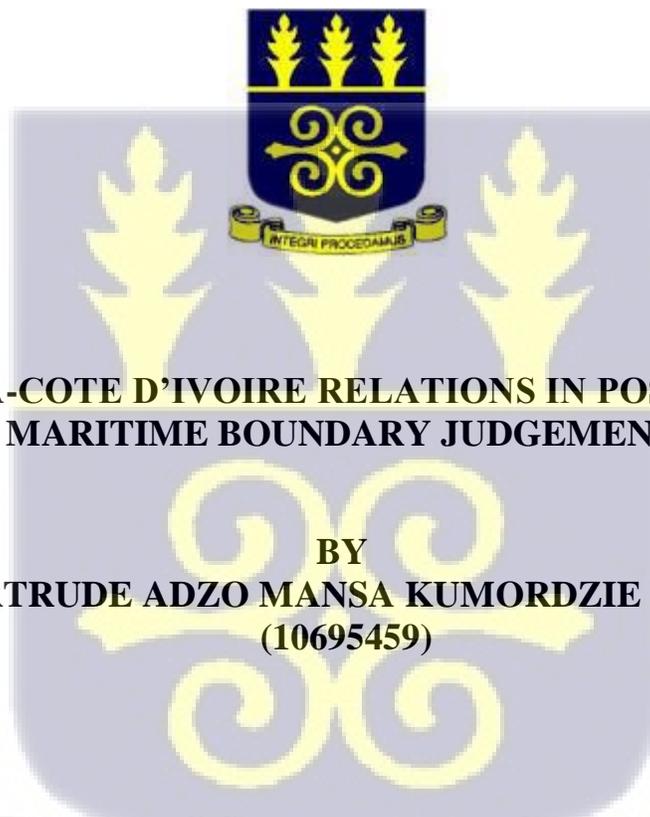


**LEGON CENTRE FOR INTERNATIONAL AFFAIRS  
AND DIPLOMACY (LECIAD)**

**UNIVERSITY OF GHANA**



**GHANA-COTE D'IVOIRE RELATIONS IN POST ITLOS  
MARITIME BOUNDARY JUDGEMENT**

**BY  
GERTRUDE ADZO MANSA KUMORDZIE NARH  
(10695459)**

**THIS DISSERTATION IS SUBMITTED TO THE UNIVERSITY  
OF GHANA, LEGON, IN PARTIAL FULFILLMENT OF  
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**LEGON**

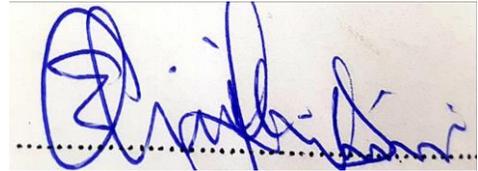
**JULY 2019**

## DECLARATION

I hereby declare that, this study is the result of an original research conducted by me under the supervision of Dr. Ken Ahorsu and all the sources, both primary and secondary sources, referred to in this study have been duly cited. This research has not been presented either in part or in whole for any other purpose.



**GERTRUDE ADZO MANSA KUMORDZIE NARH  
(STUDENT)**



**DR. KEN AHORSU  
(SUPERVISOR)**

**DATE: 4<sup>TH</sup> SEPTEMBER, 2020**

**DATE: 4<sup>TH</sup> SEPTEMBER, 2020**

## **DEDICATION**

*I dedicate this work to my family especially my mother, Selina A. Tordzro and father, Emmanuel*

*M. Kumordzie.*

## ACKNOWLEDGEMENTS

I wish to first and foremost thank the almighty God for his guidance and mercies in the course of this study. My sincere thanks go to my supervisor Dr. Ken Ahorsu for his advice, guidance and astounding capacity for long hours to read through the work.

To my husband Frederick and my son Jerrell, I hope to make it up to you all the time I stole from you to pursue this program.

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## LIST OF ABBREVIATIONS

AU	-	African Union
Bp	-	Boundary Pillar
BP	-	British Petroleum
CCC	-	Le Conseil du Café-Cacao
CLCS	-	Commission on the Limits of the Continental Shelf
CNRA	-	National Center of Agronomic Research
COCOBOD	-	Ghana Cocoa Board
CRIG	-	Cocoa Research Institute of Ghana
CS	-	Continental Shelf
CZ	-	Contiguous Zone
DRC	-	Democratic Republic of Congo
ECAS	-	European Conference on African Studies
ECJ	-	European Court of Justice
ECOWAS	-	Economic Community of West African States
ECPF	-	ECOWAS Conflict Prevention Framework
EEZ	-	Exclusive Economic Zone
GATT	-	General Agreement on Tariff
GIS	-	Geographic Information System
ICJ	-	International Court of Justice
IMF	-	International Monetary Fund
ITLOS	-	International Tribunal for the Law of the Sea
IW	-	International Waters

LOS	-	Law of Sea
MOU	-	Memorandum of Understanding
NBI	-	Nile Basin Initiative
NM	-	Nautical Miles
OAU	-	Organization of African Unity
PCA	-	Permanent Court of Arbitration
PCIJ	-	Permanent Court of International Justice
PGMs	-	Platinum group metals
PNDC	-	Provisional National Defence Council
SPA	-	Strategic Partnership Agreement
TEN	-	Tweneboa-Enyenra-Ntomme Fields
TS	-	Territorial Sea
UN	-	United Nations
UNCLOS	-	United Nations Convention on the Law of the Sea
WTO	-	World Trade Organisation
WWII	-	World War II

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## **ABSTRACT**

The continent of Africa and natural resources are two things that are always placed together, be it negatively or positively. The vast wealth in natural resources has brought the continent to its knees due to the sheer violence and instability it caused in years past. In contemporary times, there have been newer discoveries such as oil, gas, uranium and others but this has led to some natural-resource-based boundary conflicts among some African states. A case in point is the maritime boundary dispute between Ghana and Cote d'Ivoire. This study sought to assess how the International Tribunal for the Law of the Sea (ITLOS) judgement has been implemented by the two states and assesses their reactions and relations after the verdict has been given and its directives operationalized. The study uses a qualitative approach as it explores the field of natural resource-based conflicts in Africa and specifically delves into the ITLOS judgement on the Ghana-Cote d'Ivoire dispute. The research findings include the fact that the implementation process for the judgement's directives have been peaceful and this is related as normal state practice for countries that resort to the United Nations Convention on the Law of the Sea (UNCLOS) settlement bodies. It also finds that the implementation process of the judgement has led to an upsurge in cooperation between the two states in multiple sectors yielding significant mutual benefits and greatly improving bilateral relations. The research recommended that the two states should focus on implementing all the directives of the judgement and must seek to secure sustainable bilateral cooperation.

## CHAPTER ONE

### INTRODUCTION

#### 1.0 Background

Natural resources constitute a critical component of international relations. Contemporarily, natural resources in Africa have gained much currency for the wrong reasons. Natural resource endowment in Africa was metaphorically described as resource ‘curse,’ ‘blood diamonds’ and ‘paradox of plenty’ as the endowment and exploitation of natural resources became associated with civil strife, corruption, politics of exclusion, inequality, human rights abuse, gender-based violence, forced migration and internally displaced persons, environmental degradation and ecological conflicts (Badeeb et al, 2017).

Civil wars that ensued in Africa resulted in lawlessness with warlords and rogue companies exploited to create war economies by exploiting natural resources to finance and protract violence (Suleiman et al, 2017). The 1990s natural resource-related civil wars that became major concerns for world peace and security have since largely ceased. However, an emerging and increasing disturbing phenomenon in Africa is natural-resources-boundary-conflicts. In recent years, Africa has gained a geo-strategic importance as the source of such important natural resources such as gas, oil, iron ore, zinc and platinum group metals (PGMs), cobalt, Copper, manganese, bauxite, and uranium. The rapid development of Asian economies and the instability in the Gulf Region has given the need for Africa’s natural resources, and the unwillingness of the Western governments and corporations to surrender Africa to China, in particular; has led to a ‘new scramble’ for Africa (Schovin 2016).

The new scramble is happening at a time when African populations, especially the youth, are fast burgeoning whilst African economies are in decline and governments are ever more unable to meet the basic needs of their populations. On the other hand, the increasing discoveries of, or speculations of the existence natural resources on boundaries or in borderlands of African states are heightening tensions and increasing the possibility of inter-state violence. The rise in natural-resource-boundary-conflicts are due to the incorrectly and badly-delineated, colonially bequeathed borders, the stalling of African governments to right the colonial blunders, weak frontier supervision, swelling populations, and location of natural resources on boundaries (Fisher et al, 2018).

In East Africa alone, there are conflicts over the 2009 impasse concerning Kenya and Uganda over the proprietorship of the Migingo Island in Lake Victoria; the Somali secessionism, irredentism and border skirmishes with Kenya and Ethiopia and the amplified search for hydrocarbons in north-eastern Kenya and the Ogaden region of Ethiopia, both primarily inhabited by Somali-speakers, and the Ogaden National Liberation Front insurgency; the Ilemi Triangle and Migingo Island in Lake Victoria disputed over by Kenya, Sudan and Ethiopia; and the North and South Sudan boundary disputes in Abyei; the 2008 border standoff between Eritrea and Djibouti; and Tanzania-Malawi Lake Malawi disputes (Rossi, 2016; Galaty 2016; Cannon, 2016).

In Central Africa, there is intense apprehension between the Democratic Republic of Congo (DRC) and Angola over shifting of their common monuments: Uganda-D. R. Congo dispute over the oil-rich Lake Albert region, the Rwandan pillage of DRC's resources in 1998 and 2009. In

Southern Africa, Namibia and South Africa are quarrelling over the Orange River, this has been described as one of the oldest boundary disputes in the world; Botswana and Namibia are also having issues over the latter's exploitation of the Okavango River (Okonkwo, 2017).

In Western Africa, the 1974/1985 Mali-Burkina Agacher strip clashes; the Nigeria-Cameroon-Bakassi dispute; Mauritania-Senegal dispute; 2018 Ghana-Togo maritime border dispute, over offshore oil exploration activities; and Ghana-Côte d'Ivoire maritime border dispute; all indicate that natural-resource-border-disputes are on the increase in Africa. International boundaries, where the exploration and exploitation of natural resources are being carried out have become sources of frequent disputes over territorial and boundary disputes, and acrimonious relations between governments; and in Northern Africa, the Western Sahara-Morocco dispute. There are unresolved boundaries disputes of certain portions of the Namibia, Zimbabwe, Zambia Ghana-Togo borders (Ibid).

According to Boamah (2013), the increasing discovery and exploration of hydrocarbons in the Gulf of Guinea by the littoral states of the sub-region is potential a harbinger of natural-resource-boundary conflicts. The fact that all the littoral states of West Africa share the same continental shelf and are prospecting for oil, the rate of oil discovery, and their quest to extend their continental shelf deeper into the international waters for further oil exploration; portent natural-resource-boundary-conflicts as they demarcate national territorial seas and exclusive economic zones. The Ghana-Côte d'Ivoire maritime border dispute, which is the focus of this research, is one such conflict.

In 2007, Ghana discovered oil and gas resources in commercial quantities. Upon discovery, Cote d'Ivoire lodged a formal complaint to the United Nations in 2010 on an issue surrounding maritime dispute. It is the contention of Cote d'Ivoire that Ghana's producing Jubilee fields, the Deepwater Tano blocks and Tweneboa-Enyenra-Ntomme (TEN) Fields were stationed in their region, hence claiming ownership over that portion. The disputed maritime area is valued to contain around 2 billion barrels of oil reserves and 1.2 trillion cubic feet of gas. In April 2013, it was reported that Total had struck oil off Ivory Coast's maritime border and next to the disputed oilfields of Ghana. Although, the land boundaries between Ghana and Cote d'Ivoire were largely defined by the colonialists the maritime margins between the two countries were neither delimited nor demarcated (Benning, 2014; Boamah, 2013).

Ghana was of the view that hitherto all maritime commercial activities, including the gas and oil exploration, were carried out amicably by the two countries based on a mutually recognised 'gentleman agreement' common maritime boundary not formally delimited. Ghana tried to resolve the dispute through bilateral diplomacy. In recourse to the Economic Community of West African States (ECOWAS), Ghana realised ECOWAS lacked the powers of finality on the issues. On December 3, 2014, Ghana and Côte d'Ivoire endorsed a Special Agreement to submit jurisdiction of a Special Chamber of the International Tribunal for the Law of the Sea (ITLOS) after failing to resolve the impasse through formal bilateral negotiations.

On February 27, 2015, Côte d'Ivoire asked the Special Chamber of ITLOS to provisionally ban Ghana from all oil exploration and production activities in the disputed maritime area until the dispute is fully resolved by the end of 2017. Côte d'Ivoire requested that Ghana "Take all steps to

suspend all oil exploration and exploitation operations under way in the disputed area; Refrain from granting any new permit for oil exploration and exploitation in the disputed area; Take all steps necessary to prevent information resulting from past, present or future exploration operations in the disputed area conducted by Ghana, or with its authorization, from being used in any way whatsoever to the detriment of Côte d'Ivoire; And, generally, take all necessary steps to preserve the continental shelf, the waters super-adjacent to it, and its subsoil; and Suspend, and refrain from, any unilateral activity entailing a risk of prejudice to the rights of Côte d'Ivoire and from any unilateral action which could lead to aggravating the dispute.” Ghana asked the Special Chamber to basically “deny all of Côte d'Ivoire’s requests for provisional measures” (Yeboah, 2017; Egede & Apaalse, 2019)

The Special Chamber on September 23, 2017, unanimously judged that there was no implicit agreement between the Ghana and Côte d'Ivoire to “delimit their common maritime boundary, territorial sea, exclusive economic zone and continental shelf equally within and beyond 200 nm” (Judgement, ITLOS, 2017). It rejected Ghana’s claim that Ivory Coast is prohibited from objecting to the “customary equidistance boundary.” And that Ghana did not infringe on the sovereign rights of La Côte d'Ivoire. And delimited and demarcated the maritime boundary between Ghana and Côte d'Ivoire. This study seeks to examine Ghana-Côte d'Ivoire relations in post-ITLOS maritime boundary judgement.

### **Ghana-Cote d'Ivoire Relation before Maritime Boundary Dispute**

Undoubtedly, governments of both countries have pulled enough strings to maintain a healthy relationship over the years. However, it must be emphasized that to Ghana-Cote d'Ivoire bilateral

relationship has not always been rosy, and as akin to several bilateral relations within the West African enclave, it has experienced a fair share of gloomy tensions, ranging from political asylum through to maritime/border dispute among others.

The economic histories of Ghana and Cote d'Ivoire dates back to the era of independence and the historic economic wager as to whether the gradualist strategy followed by Houphouet-Boigny would provide a higher standard of living than the 'transformationalist' strategy of Nkrumah (Boansi & Denmark, 1999). In political declining Nkrumah's pan-African proposal, Boigny waged a bet between the two countries; Ghana and Cote d'Ivoire to ascertain after a decade, which of the two approaches will bolster economic gains. Boansi & Denmark maintains that a decade after Cote d'Ivoire emerged winners, an outcome predominantly shaped by the political instability following the overthrow of Nkrumah.

The Ghana-Cote d'Ivoire relations goes beyond the independence wager. As indicated above, despite the large volume of people and goods, which traverse the Ghana-Cote d'Ivoire border, relations between the two countries have not always been straightforward. There have been some scores of altercations. During the 1980s, tensions rose following Cote d'Ivoire's grant of asylum to political agitators sought by Ghanaian authorities. It was the contention of the PNDC government that Cote d'Ivoire allowed its territory to be used as a rallying point to pursue all manner of activities aimed at sabotaging Ghana (Owusu, 1994).

Owusu (1994) underscores that after a period of strained relationship, the agreement on the definition of the 640-kilometre border between the two countries, evinced a new era of cooperation

and unity. This forecast was however short-lived by the violence that erupted after the defeat of Cote d'Ivoire in a football match in Kumasi, Ghana. The aftermath of the sport event triggered incessant attacks on Ghanaian immigrants in Cote d'Ivoire. Owusu highlights that Ghanaian immigrants numbering over 40 faced their deaths as a result and about 10,000 Ghanaians were evacuated from Cote d'Ivoire, amidst looting of Ghanaian properties in Cote d'Ivoire.

In response to this catastrophe, a twenty-man joint commission was established to interrogate the happenings and underlying cause(s) for the attack and most importantly, to recommend compensation for victims and as well, outline measures to curb any possible occurrence of related events (ibid).

Relations between Ghana and Cote d'Ivoire aftermath the above listed events have improved significantly (ibid). According to Anning and other analysts in Accra, despite the political and economic convulsion encountered by both countries, the two remains one of the most resilient countries in the region. After the legendary wager over 60 years ago, Ghana-Cote d'Ivoire appear more drawn to cooperation than competition.

## **1.1 Statement of the Research Problem**

As stated above, the Special Tribunal of ITLOS's judgment, in the main, accepted Ghana's positions on the Ghana-Cote d'Ivoire impasse and acquitted Ghana of any wrongdoing in its (Ghana's) exploration and exploitation of oil and gas in the contested area. The judgement also prescribed with pragmatic specificity how the maritime boundary between the two countries, the extension of the continental shelf and exclusive economic zone (EEZ). The two countries have

accepted the ITLOS's judgment and resolution of the impasse and promised to implement the directives of the judgement. It means, in principle, the maritime border impasse between the two countries is ended.

From a public policy perspective, however, there is often a gulf between policy formulation and policy implementation (Lin, 2019; Padel & Das, 2011) and in the case of this research international judgement and the implementation of guidelines of the ruling. According to Lin (2019), the implementation of policies is saddled by intervening variables, which may determine its impact. He further argues that, if the policy is not properly channeled through the appropriate actors, it is most likely its delivery may not achieve the desired results or expectations. Padel & Das (2011) similarly underscores that the discrepancy in the formulation and implementation arises from the failure to analyze properly, the intervening variables at every stage of a 'development projet'. In the context of this paper, indeed, there are intervening variables such as the necessary political will, deployment of adequate material and human resources, institution building, and favorable international environment that often aid and ensure effective execution of policies and judgements.

From critical conflict resolution perspective, judgements are never 'neutral.' They are often influenced by the negotiator or judge's social context, which contains value systems, peculiar reading of past events, access to resources and institutional setup, which differ from a mediator to mediator. Conflict management is therefore essentially part of the conflict dynamics. This position is buttressed by Grant (2014) who highlights that mediation, more or less, "is voluntary and contractual, as a result, the disputants' adherence to any settlement is also voluntary and needs to be self-sustaining in order to endure." In the words of Carbonneau (2012), "enforcement is a

lifeblood of any adjudication” and that the significant role of binding, enforceable outcomes is quintessential to arbitration. The conversation on the voluntary nature of post-conflict arbitration resolutions is further exacerbated in an anarchical world of self-interest and self-help, where states often implement judgement with a bias that best protects their interest, albeit outcome and the provisions of the conflict management or judgment.

It is in the light of the above post-conflict management challenges that the research seeks to examine the operationalization of the ITLOS judgment and directives on the Ghana-Cote d’Ivoire maritime border impasse. It specifically studies the measures, processes, and challenges of implementing the ITLOS judgement; and the impact, if any; they have on post-ITLOS judgement Ghana-Côte d’Ivoire relations in the aftermath of the ITLOS judgement.

## **1.2 Research Questions**

- What is the nature of Ghana-Cote d’Ivoire relationship since independence and pre-ITLOS judgment?
- What entails the resolution processes during the boundary dispute within the bilateral and sub-regional context?
- How has the implementation of the ITLOS judgement affected the dispute and relations between the two countries?

## **1.3 Research Objectives**

- To examine the nature of the bilateral relationship between Ghana and Côte d’Ivoire since independence and more importantly before the maritime impasse and the ITLOS case.

- To hold discussions on the resolution processes surrounding the maritime dispute both bilaterally and at the sub regional level.
- To investigate whether the implementations of the judgement have transformed the relations between Ghana and Côte d'Ivoire and in what ways.

#### **1.4 Scope of Research**

This study's starting point is the maritime boundary dispute between Ghana and Côte d'Ivoire which was investigated by the ITLOS. This study looks at attempts made at the bilateral and the multilateral levels to settle the dispute and seeks to examine the provisions and implementation of ITLOS judgement and their impact on Ghana-Côte d'Ivoire relations since 2016.

#### **1.5 Rationale of the Study**

Currently, Africa is a geostrategic region because of the discovery of critical natural resources such as oil, gas and uranium just to mention a few, also, given the political instability in the Gulf region it has been suggested that Africa becomes the main source of energy in the near future. However, the proliferation of natural resource-based conflicts appears to undermine Africa's emerging geostrategic significance. It is for these reasons that African countries need to develop strategies and mechanisms for addressing natural resource-based conflicts amicably. Expanding cooperative regimes and developing international institutions that can shape and manage the emergence of natural resource disputes even as global pressures increase scarcity and demand is imperative to avoiding an outbreak of violent conflicts on the continent. Unsettled boundaries and undelimited zones especially in the maritime zones are an increasing source of tension as massive offshore discoveries along Africa's coasts continue to increase. This dissertation seeks to outline

the experience of Ghana and La Cote d'Ivoire in settling their dispute and expose what benefits or pitfalls can provide experience going forward on the viability or otherwise of such approaches. It also intends to show the role international regimes can play in not just the settlement of natural resource disputes but the totality of their effect on bilateral relations and the willing acceptance of their actions by these states. It is hoped that the findings of this research will help in finding workable and settled diplomatic approaches to resolving natural resource-based conflicts in Africa.

## **1.6 Theoretical Framework**

The theoretical framework for the study is the theory of Liberal Institutionalism. This theory takes its source from the Liberal class of International relations theories and Institutionalist theory. While this study covers issues to do with natural resource disputes and resolution, its main thrust has to do with the mechanisms of cooperation and coexistence that are available within the international system for resolving disputes of this nature and their effect on inter-state relations in the aftermath. This dissertation fits its analysis within the framework of liberal institutionalism which not unlike other major international relations theories is premised on concerned with relations between actors in an anarchic international system. However, unlike others, it is primarily centered on 3 core interconnected principles (Shiraev, 2014). These are:

- i. An emphasis on cooperation and collective benefits between actors in the international system
- ii. The role of supra-national organizations and other non-state actors in influencing and guiding state behavior and decision making

iii. The rejection of power politics/politics of interests as the sole purpose of international relations emphasizing instead shared values/ethics and collective interests as other guiding principles of state action in international relations.

iv.

The second and third principles are particularly salient with regard to this study. The role of international institutions in creating interdependence and shared value systems between states is believed to be a powerful tool in ensuring the peaceful resolution of differences. Institutions provide platforms for cooperation and mutual development in security, economic, political and other endeavors thus enhancing non-violent alternatives to differences (Allison, 2000; Caporaso and Jupille, 1999).

Prominent and pioneering liberal institutionalists such as Nye and Keohane contend that economic dependence, cooperative ties and interactions, a non-hierarchical structuring of issues, and the shared development of democratic institutions and principles motivate states towards diplomatic resolutions to disputes (Nye and Keohane, 1977). It thus advocates for an approach that emphasizes soft power and cooperation through the application of international legal frameworks, diplomatic settlements and global governance structures (Donahue and Nye, 2000).

The key advantage to this theory is that it expands the scope of potential actors that can influence relations between states beyond the states themselves to regimes and organizations that these states are willing to cede certain aspects of their sovereignty to in order to achieve particular results. Within the context of this dissertation, the United Nations and the United Nations Convention for the Law of the Sea (UNCLOS) and the International Tribunal for the Law of the Sea (ITLOS) are

all key actors within the context of the dispute and contribute along with other common ties and organizations to the trajectory of the diplomatic relations between the disputants and in the aftermath of the dispute. Keohane contends that such regimes which lay out norms, values and processes that regulate state behavior also impose obligations on states even though these are not directly enforceable (Evans, 2008). However, the interdependence and mutual benefits cooperation presents serves to motivate states to adhere to these principles with respect to settling their differences. Indeed, within this context, the existence of shared values presents a more reliable avenue and opportunity for states to settle disputes rather than resort to the use of force. States remain the most important actors but pursue their interests through cooperation rather than through security or militarized lenses. This is couched within the concept of absolute gains in cooperation which suggests that mutual benefits derived via cooperation trump independent pursuit of interests. Realist scholars however criticize liberal institutionalism as driving an economic agenda to the detriment of security/military issues and contend that institutions are themselves driven by powerful state interests and have failed to achieve the promise their proponents have proclaimed (Hoffman, 1999; Grieco, 1988). The Cold War is the most prominent example where global institutions were handicapped especially in the maintenance of global peace and security by the superpower contestations of the USA and USSR. However, institutionalists contend that these organizations provided the impetus for de-escalation of the Cold War and have subsequently led to an emphasis on multilateralism in dealing with global issue including security issues (Thakur and Weiss, 2009). Another criticism which liberal institutionalism shares with realism is a failure to fully appreciate the impact of domestic political actions on state action in the international sphere and a failure to incorporate the role of newer international actors on the global stage such as social movements like climate change activists and other advocacy groups which continue to

challenge global institutional structures and norms (Walker, 1998). Despite these criticisms, it provides a strong framework for analyzing the behavior of democratic states in the settlement of key disputes, their submission to and use of cooperative platforms and global governance structures, and the state of their diplomatic relations post-settlement.

## **1.7 Literature Review**

In defining sovereignty as “the supreme power of the state over the populace and territory, independent from any external authority”, Grievés (1967) also reiterates that this profound power is not without limitations. The author indicates that the emergence of technology, communication, industrialization and weapons have successfully penetrated what seemed an impenetrable definition on territorial integrity of states. Grievés also rehearses the important position of cooperation in the conversation surrounding state sovereignty, further highlighting that the spring-up of nation-states, coupled with the advent of blockade and ideological-political penetration have resulted in a greater degree of intervention in the domestic affairs of the state (ibid).

The most intriguing part of the literature points to what Grievés described as the ‘voluntary submission to restrictions’. Inspired by world development, states have elected, through agreements and treaties, to limit their sovereign prerogative due to some intervening variables. The author demonstrates that in the gray area in between the most sophisticated restrictions on sovereignty, sits the concept of supranationalism gaining much preponderance in the comity of nations. The general goal of the study is to define the position of national sovereignty in international tribunals and to evaluate the role of the international courts in integration beyond the nation state. In advancing arguments for the basis of ascribing a supranational character to

international tribunals, the author highlights that the nature of a court's power can be examined in three-folds: one, the expectations of the statesmen who created the court; the constitutional basis of the court, and thirdly, the practice of the court. In expanding these themes, Grievés maintained the opinion that, more of than not, the indicator of a court's power is found in the 'travaux préparatoires' and indicative of the milieu within which an international tribunal was founded.

Under the second theme, and for the purposes of this study, Grievés stipulations on the important role of the enforcement of the court's judgment is deeply appreciated. The author defines the problem underlying the conduct of international tribunal as the challenge as to whether the judgments are carried out. In lieu of this, he bemoaned a dual development impairing dispassionate enforcement of judgments; one on the avowed loyalty ascribed to a state and the other on growing prominence on the need to control extreme nationalism. In the end, the literature drums home on point – nation-states alone are the main actors in international relations – and that the ultimate political power still resides in that elusive concept of sovereignty.

Blutman (2019) in "Sovereignty, supranationalism and subsidiarity" describes the concept of sovereignty and state as symbiotic. The focus of the literature expands the argument that the process of globalization remains pivotal to the seeming decline of the Westphalia State as the sole international actor. It is the contention of the author that the increasing role of international organizations causes problems for the normative theories of sovereignty and whether or not, the transfer of rights is tantamount to a suppression of state sovereignty. The author answers in the negative, clinging to the reasoning espoused by Grievés above. Similarly, Blutman holds the view

that the transfer of rights in itself does not suffice to imply that the state has acquiesced its sovereign power to an international organization or a supranational entity.

The mainstay of analysis, particularly from Grievés and Blutman, hangs on the nature and scope of state sovereignty, following the emergence of supranational structures. Despite the profound demonstration of scholarship on the literature, the crucial question of how the concept of international organization or better still, supranationalism determines inter-states relations and behavior is left unaddressed and unanswered.

From this perspective, Bryne (2017) in “Sovereignty, supranationalism and soft power: The Holy See in International Relations” pour much ink in attempt to highlight how the Papacy, in practice embodies traits of a supranational structure and the enormous influence wielded in world politics. The gravamen of the debate hovers around the use of soft power to pursue international agenda. The author argues that with the recognition of the Holy See as a Permanent Observer at the UN General Assembly and more particularly, the Holy See’s diplomatic ties with the 182 countries, the most important highlight is that the global community is overseen and led in specific national contexts by Catholic bishops who are themselves members of a global ‘Catholic’ episcopacy under the authoritative leadership of the Supreme Pontiff of the Roman Catholic Church. The corollary effect is that the Holy See’s organic connections to local bishops amount to another avenue for participation in relation among states.

That notwithstanding the author led discussions on how the revered role of the Papacy have indeed played significant role in precipitating the downfall of communism in Poland; has intervened in

the deterrence of the use of Nuclear weapons as defense security mechanism in USA and facilitating the resumption of formal diplomatic relations between the USA and the Cuba. Evidently, the literature showcases how activities of supranational structure like the Papacy, have caused states to relate and behave in a certain manner. Brynes attempt to draw a direct link between supranational actors and the influence on inter-state relationship is highly commendable. However it is important to note that, the crux of the debate is skewed in furtherance of ascribing the importance of the soft power exercised by the Papacy in the gamut of international relations. This study will extend discussions not only from the recognition of international organizations, embodying traits of supranationalism, but will also focus on how the respect and recognition of same could bolster or amend the relations of one state to the other.

There is a vast literature, still being added to on the subject of boundary dispute in the context of Africa. Whereas much preponderance is given to the prospect of conflict following the deposit of natural within borderlands and the exploration and exploitation thereof, it bears stressing out that the one important phenomenon that perhaps, have gone missing in the conversation is colonial border-making and how that enormously contributed to the plethora of maritime and border-disputes in most African states.

Aghemelo and Igbhasebhor (2006) in “Colonialism as a source of boundary dispute and conflict among African states: The World Court Judgment on the Bakassi Peninsula and its Implication for Nigeria” logically argue that the current state of ambivalence that confronts most African nations especially that of boundary, is a fall out of colonization. To demonstrate this, the learned authors used the Nigeria and Cameroon’s dispute over Bakassi Peninsula as a case study. It is the

contention of the authors that, many a time, literature focuses on just boundary disputes but woefully fail to account for the criteria used as a guide in the settlement of disputes. Aghemelo and Ibhasebhor surmised this as the ‘unhappy legacy of colonialism’. The thrust of the study also enunciates information on how the actions and inactions of colonial powers precipitated the prevalent boundary dispute within the African region. In lieu of this, literature focused on detailed analysis of how colonialism remains the source of boundary dispute and conflict among African states with the Bakassi Peninsula, a classic example.

Aghemelo and Ibhasebhor argues that the political boundaries shared by most states were demarcated for purely economic and parochial interests. Authors further stipulate that the haphazard demarcations and delimitations were just an exercise in primary pursuit of grabbing as much African territory as possible and that the colonialists were not unduly concerned about the consequences of disrupting ethnic groups and undermining the indigenous political order.

Like Aghemelo and Ibhasebhor, Okumu (2010) expressed similar sentiments on the contribution of colonial powers to the prevailing woes surrounding border altercations. Okumu in “Resources and border disputes in East Africa” argues that the tendency of inter-state disputes in Eastern Africa may further heighten due to the rich deposits of natural resources in the borderlands. Nevertheless, the author reiterates that the ‘colonial boundary-making errors, undefined and unmarked borders, poor or lack of border management, poor governance and population bulge are the pre-cursors to the escalating nature of trans-boundary resource dispute.

Okumu underscores that the inability for governments to meet domestic needs and additionally, the unreliable foreign in-flows emboldened most government to furiously seek other sources of

income to meet the burgeoning demands of the society. Therefore, territories like the borderlands which were hitherto neglected became the cornerstone to stimulate economic growth. This action was rather influenced by rumors suggesting that the boundaries contain natural resources, has served in recent years to magnify disputes.

As indicated above, Okumu aligns with the school of thought, which holds the colonial powers responsible for the inter-state border disputes. However, he expands literature to cover such areas and activities post-colonialism as a reckoning factor to the already exacerbated inter-state maritime and border disputes. Additionally, Okumu describes the boundary-making in Africa as a deliberate and elaborate process of the colonial powers and that the current borders in the region are cartographic feats of the colonial powers, with the utmost objective to enhance their imperial agenda. To buttress this point, Okumu demonstrates how the boundary-making process highlights the ignorance of the colonialist as far as the geography of Africa was concerned. The seeming ease in describing the topology on paper and the difficulty in demarcation and delimitation of the lands abound.

The two literature stated supra thoroughly discussed the subject on colonial border-making as an important factor precipitating recent border disputes, as most borders were left unmarked and not well demarcated. However, as admitted by Aghemelo and Ibhasebhor (2006) most literature fail to highlight the best guide in settlement. The authors highlight that, more often than, most of these settlement process leaves one party unhappy with the terms or better still, the verdict of the settlement. For purposes of this research work, it is the contention of the author that, the seeming missing ingredient in the scope of literature is not only the absence of a guide to settlement but

also, the absence of any focus of study which looks to the aftermath of these settlement process and how same may alter or otherwise the relationship between the parties involved in the resolution of the dispute. Furthermore, a cursory appraisal of Okumu's work also shows how skewed the analysis on border-dispute is somewhat skewed to the Eastern enclave of Africa. It must be noted however that, the gamut of border-dispute spans across the length and breadth of Africa, with West Africa inclusive. The pervasive and recurring nature of such dispute is well documented in this research.

In his article, 'What Do We Know About Natural Resources and Civil War?' Michael L. Ross "reviews 14 recent cross-national econometric studies, and many qualitative studies, that cast light on the relationship between natural resources and civil war" (Ross, 2004). His study establishes that there are four underlying regularities that establish links between natural resources and conflicts. "First, oil increases the likelihood of conflict, particularly separatist conflict; second, 'lootable' commodities like gemstones and drugs do not make conflict more likely to begin, but they tend to lengthen existing conflicts; third, there is no apparent link between legal agricultural commodities and civil war; and finally, the association between primary commodities – a broad category that includes both oil and agricultural goods – and the onset of civil war is not robust" (Ibid).

Ross subjects the four regularities noted above to critical theoretical and perspective analysis. He observes that there seem to be little agreement on the validity of resource-civil war correlation. This stems from the fact that attempts by various scholars to validate the findings of previous studies using same or similar methodologies have yielded contradictory conclusions. Ross argues

that the lack of similarity in findings could stem from non-measurable independent factors such as “weak rule of law and security of property rights”. Ross however, intimates that “despite these problems, a close look at both the qualitative and quantitative studies suggest four regularities—which could be characterized as two patterns and two conspicuous non-patterns” The first pattern is that oil exports are linked to the onset of conflict; the second is that ‘lootable’ commodities like gemstones and drugs are correlated with the duration of conflict” (Ibid). “The first non-pattern is that agricultural commodities seem to be uncorrelated with civil wars, and the second is that primary commodities – a category that includes oil, non-fuel minerals, and agricultural goods – is not robustly associated with the onset of civil war. Not every cross-national study fits these four regularities; still, they are the strongest findings to emerge so far from this rapidly” (Ibid). Ross conclusion that there is a strong link between oil and civil war and that oil production is associated with the onset of conflict especially separatist conflicts is relevant to this study. While not attempting to measure the non-measurable variables identified by Ross, it is important to acknowledge the fact that, Ghana has had relatively peaceful democracy. The rule of law has relatively have been strong. Cote d’Ivoire on the contrary has just emerged from an electoral civil war. These factors may play key roles in finding solution to the maritime disputes and how the relations between the two nations thereafter may be shaped.

It is worth noting that Ross also fails to recognize how history and the existence of mutually agreed bilateral and multilateral treaties and convention shapes resources conflicts. Ross’ conclusion of existence of a link between oil exploration and war will, therefore, be analyzed in the context of Ghana-Cote d’Ivoire maritime disputes recalling history and other indices relevant for the existence of the two nations to assess its applicability.

In 'Natural Resource and Territorial Conflict' Christopher Macaulay and Paul R. Hensel note that studies on inter States territorial disputes recognize natural resource as one of the drivers that pushes States to place due importance or claim to a particular territory (Macaulay& Hensel, 2014). They, however, observe that most of these studies "generally treated all resources as equivalent, though, with no distinction made between issues based on their value or renewability". On the contrary they argue that "natural resources show great variation in such characteristics, with important consequences for the management of territorial claims. For example, territorial claims involving non-renewable resources or resources with a direct military benefit (such as oil) are likely to produce a zero-sum game for disputants, resulting in more conflictual relations than contention over other types of resources" (Ibid). This suggests that the extent or the intensity of territorial claim which may lead to disputes depends on the value or the renewability or otherwise of a natural resource, the economic and strategic importance of such territory or resource and its overall implications for the power of a nations. Put differently, researches seem to converge at the point that the more valuable a territory is to the nations making counter claims, the higher the propensity for armed conflict. On this point Macaulay and Hensel point out that "while territories already possess inherent value, be it the exploitation of the populace, industry, commerce, a strategic position, or ethnic brethren, resources should enhance this value regardless of type" (Ibid).

Macaulay and Hensel proceed to establish the natural resource and territorial dispute causality by distinguishing between renewable and non-renewable resource. They argue that renewable resources are infinite and hence States may cooperate to exploit such resources when conflicts

abound. On the contrary, they note that non-renewable resources (e.g. oil) tend to scarce and finite in “nature, and disputes over territory with a non-renewable resource component more closely approximate a zero-sum game” (Ibid). These resources moreover tend to have high economic value. This value they argue “is derived from the fact that any gains by a competing state are inherently losses by the original state—for the finite nature of non-renewable resources means any lost are forgone gains, and gains for a potential adversary. Whatever the non-renewable resource is, it can be converted into military or economic advantage, threatening the state that might potentially lose the resource” (Ibid). It is deductive that the zero-sum nature of non-renewable resources makes settlements of counterclaims quite problematic.

It is worth noting that non-renewable resources may not always be characterized by zero-sum dynamics. States can still cooperate to exploit natural resources that are finite. This is particularly true where the two states are parties to bilateral and multilateral agreements. Example, the UNCLOS makes room for equity principles when maritime disputes over seabed resources arise. Again, Macaulay and Hensel fail to recognize that states are rational actors and may always do cost and benefit analysis. When the cost of arm conflict over a disputed territory is higher than peaceful negotiation, states may negotiate. Ghana and Cote d’Ivoire are for instance a test case for states willing to negotiate even though the resources involved are non-renewable. Therefore, while agreeing with Macaulay and Hensel that the type and nature of resources causing territorial claims by states may determine states’ outlook toward negotiation, states may not always choose armed conflict. Other factors such as existing bilateral and multilateral agreements as well as history may play important part in negotiation and options available for disputing states.

Sarah McLaughlin Mitchell and Brandon C. Prins in their work “Beyond Territorial Contiguity: Issues at Stake in Democratic Militarized Interstate Disputes” explores some of the major causes post-World War II of interstate disputes (Mitchell & Prins, 1999). Their study reveals four interesting conclusions. Firstly, they note that “a large proportion of militarized disputes between democracies in the post-WWII period involves fisheries, maritime boundaries and resources at sea; secondly, they argue that well-established democracies are able to remove territory as a contentious issue among them; thirdly, disputes between democracies have become less severe and shorter in duration over time and lastly, a majority of post-WWII militarized disputes between democracies are not resolved” (Ibid). It is worth noting that the first conclusion by Mitchell and Prins seems to concur with Macaulay and Hensel’s assertion that territorial disputes has risen to the fore of interstate relations. It is also suggestive that the most expensive sea resource in contemporary times is oil and hence maritime boundary disputes have arisen as a result of counterclaims over oil rich maritime areas.

Mitchell and Prins note that violation of maritime boundaries constitutes a particularly issue at the heart of many militarized disputes between democracies (Ibid). It is instructive to note therefore, that these trends of interstate disputes in the post-WWII international system are not fought in a vacuum. This concurs with Macaulay and Hensel’s finding that territorial disputes are caused by the economic or strategic importance of a territory to the states laying claim to it. This is particularly true when there is a natural resource with zero-sum characteristics (Macaulay & Hensel).

One other interesting point that must be made is the relation between the second and fourth conclusions reached by Mitchell and Prins. The questions that arise are that, if well-established democracies can remove territories as a contentious issue among them, then why the fourth conclusion that majority of post-WWII militarized disputes between democracies are not resolved, some of which are boundary disputes? Is it based on the second conclusion that Ghana and Cote d'Ivoire have not resorted to armed conflict and have thus resorted to arbitration? Or can one draw a conclusion that based on the fourth conclusion the arbitration process will be an exercise in futility? These gaps will be analyzed in the context of the Ghana-Cote d'Ivoire maritime disputes.

Introducing a different perspective to the subject matter of this study, Patrick Yin Mahama in his article "Ghana-Cote d'Ivoire Relations after the fall of Gbagbo: Challenges and Lessons" (Mahama, 2012) explores the relations that have existed between the two neighboring West African countries since the fall of the Gbagbo following his lack of concession to an electoral defeat in 2011. Mahama contends that "alignments of Ghana's National Democratic Congress and its leadership to Laurent Gbagbo and his Popular Front Party on one hand, and the association of the New Patriotic Party to Allasane Ouattara and his Rally of the Republicans on the other, has had many and difficult implications on the relations between the two West Africa neighbors" (Ibid). He observes that, this development has led to claim of ownership of some part of Ghana's oil finds by Cote d'Ivoire. It is deductive that the writer has introduced another non-measurable dynamic to the causes of territorial disputes, which is political affiliation and posturing. It is worth noting that whiles the oil finds may seem the most plausible cause of the maritime disputes between the two countries, a careful analysis may reveal that, political choices or posturing by Ghana might be the trigger of the dispute. This finding seems to contradict Macaulay and Hansel's study review

above. Macaulay and Hensel have argued that territorial disputes may be caused or protracted by the strategic importance of a territory to a nation, especially when the said territory harbors a non-renewable resource. Mahama's finding on the contrary suggests that the natural resource in themselves may not trigger territorial or boundary disputes, however, changes in states political decisions, postures or foreign policy may trigger boundary disputes. It is worth pointing out that Mahama's claim overemphasizes the role of political alignments of Ghana in the current Ghana-Cote d'Ivoire relations to the neglect of Cote d'Ivoire as a nation seeking to have a share in the oil finds to boost its economic and military power in the sub region.

Bening (2015) explores the development of ideas concerning the territorial waters and maritime margins of Ghana from the colonial period to today. He observes in his article 'The Ghana-La Côte D'Ivoire maritime boundary dispute' that "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 disagreement between Ghana and La Côte d'Ivoire, beginning in 2010, has resulted in the establishment of Boundary Demarcation Commissions in the two states to define collaboratively their maritime limits (Bening, 2015). Since independence, the two neighboring states have respected the traditional boundaries between them as well as the principle of *uti possidetis* adopted by the OAU and its predecessor the AU. Bening observes that one of the known boundary disputes, "arise over the possession and development of known natural resources". He further asserts that "the disputes between Ghana and La Cote d'Ivoire has been actualized and exacerbated because of the oil resources found in the adjoining territorial waters in 2007". This assertion underscore the new trend of boundary disputes over seabed resources mostly oil which has risen to the fore of international relation.

Bening's findings concur with Macaulay and Hensel's conclusion that non-renewable natural resources with zero sum dynamic has a higher probability to ignite interstate conflict. In the same vein, Bening's arguments contradict that of Mahama who attributes the eruption of the contention over the oil region Tano Lagoon area to political posturing of Ghana. While Mahama discounts oil finds as the driver of the dispute, Bening sees the discovery of oil as the cause of the tussle between the two nations.

It is clear from the preceding that the nature of the dispute between the two countries can lead to potentially disastrous outcomes for their bilateral relations. While these studies largely focus on the propensity for natural resource contestations to resist resolution and in many cases peaceful settlement, this study will seek to extend this focus to the aftermath of interventions successful or otherwise by international institutions/regimes and how they shape the bilateral relations of the parties involved.

## **1.8 Sources of Data and Research Methodology**

### **1.8.1 Research Methodology**

This research is sourced mainly from qualitative research methodology. In order to respond to the research questions and achieve the research objectives outlined earlier on, the study relies on qualitative methods in analyzing the data, specifically the content and thematic analysis using a deductive approach. This is particularly so as the focus of research relies heavily on semi-structured and non-numerical data. The use of the qualitative research approach is key as this method is more descriptive and the inference can be drawn easily from the data that is obtained. .

As an approach to a research study, qualitative methods are constructive and informative and throw more light on a phenomenon. As such, the method has helped in exploring natural resource-based conflicts in Africa. Semi – Structured interviews are conducted to support the secondary data gathered as they provide reliable, comparable qualitative data. Semi - structured interviews allows both the researcher and interviewee flexibility to go into details when the need be. The data derived from the interviews provide adequate information and opinions to support the research questions and is analyzed qualitatively in the form of content and thematic analyses. In the context of this research, a semi-structured data, like interviews from resource persons in the subject-area under review, will help explain the phenomenon surrounding the relationship between Ghana and Cote d’Ivoire post ITLOS judgment.

### **1.8.2 Research Design**

The specific research design employed is the case study method. The case study method has evolved over the years and represents a valuable strand of the qualitative research method. Case study design seek to explain an organization, an entity or a phenomenon. This research design is justified in the gamut of analysis employed in this research. In the context of this research, the study generally hovers around maritime-border dispute, using the Ghana-Cote d’Ivoire maritime dispute as case studies to explore the state of bilateral relations following the ITLOS judgment. This type of research design involves a deep dive and thorough understanding of the data collection methods as well as inferring from the data collected.

### **1.8.3 Study population and Sampling methodology**

As stated supra, the scope and objective of this research is the maritime boundary dispute between Ghana and Cote d’Ivoire, which was resolved by ITLOS. That notwithstanding, the study attempts

a review of the bilateral and multilateral levels involved in the dispute resolution process and more importantly, the impact the final verdict has on the two countries; Ghana and Cote d'Ivoire. In lieu of this, the study population focuses on persons within the political, economic and security circles of both states. These three areas represent significant foci for conducting bilateral relations between the two countries.

This research is sourced mainly from qualitative data, secondary in nature and complemented with some amount of primary data. The primary data is gathered from a purposive sample of diplomatic staff and government officials from both countries who have worked on the subject and international relations scholars who have either consulted or written on the bilateral relations between the two states and on the maritime dispute. These interviews were meant to supplement secondary data sources such as media reports and policy documentation such as bilateral agreements and post-ITLOS judgment implementation frameworks and agreements, which outline the various bilateral engagements between the two states in the crucial period under investigation. They also provided insight and explanations for policy actions by the concerned states especially in the post-ITLOS period and whether the implementations of the judgement have improved or worsened the relations between Ghana and Côte d'Ivoire. Other sources used include books, scholarly journals, reports, and official publications from the government of Ghana, the Ivorian government and the International Tribunal for the Law of the Sea.

The selection of key interviewees is done based on qualities and knowledge of the subject matter or experience regarding the subject matter. As such, considering the nature and objectives of the study to examine Ghana-Côte d'Ivoire relations in post-ITLOS maritime boundary judgement the

purposive or judgmental sampling technique is found suitable for this study. According to Tongco, purposive sampling technique refers to the careful selection of an informant due to the qualities that informant possesses to provide the information needed for the completion of a study (Tongco, 2007).

#### **1.8.4 Analysis and Discussion**

Data is aggregated into broad thematic segments that cover the area of diplomatic relations between two states focusing on economic/trade, political/regional cooperation, diplomatic and security sectors. Bilateral agreements signed or implemented by the two states in the period following the aftermath were all analyzed within these thematic segments as were the contributions provided by the key informant interviews.

The study uses a discussion of pre-ITLOS bilateral relations at the start of Chapter 3 to set a baseline of the nature of bilateral relations between the two states, which sets the tone and context for analyzing the actions in the period following the ITLOS judgement and how the process has transformed relations and practice from that baseline.

#### **1.8.5 Limitation and De-Limitation of Study**

The study's main limitations have to do with the minimum resources in terms of time and finances that are available for a master's dissertation. This greatly restricted access to key informant sources within La Cote d'Ivoire, which were offset through engagement with Ivorian embassy officials in Accra, providing some essential information and public policy documentation relevant to the study. Against this background, it is important to highlight that the seeming inadequacy to

information from resource persons in the said subject-area in Cote d'Ivoire, makes the study somewhat skewed towards the Ghanaian context. This remains a significant limitation to the study. To mitigate the effect of this apparent bias, recourse is given to secondary academic literature sources to help fill in any other gaps necessitated by this limitation and to provide information from the Ivorian perspective in the bilateral relations with Ghana.

Additionally, on ethical grounds, it is worthy of mention that interviews were conducted, with interviewees been in the known for the purpose for which the information is retrieved.

## **1.9 Arrangement of Chapters**

Chapter one covers the Introduction to the study and Chapter two provides an Overview of Natural Resource Conflicts in Africa and the Ghana-Ivory Coast Maritime dispute and settlement. The next section, Chapter three is on the Ghana-Cote D'Ivoire Post ITLOS Judgment Relations and the concluding section, Chapter four gives a Summary of findings, Conclusions and Recommendations to the research.

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## CHAPTER TWO

### AN OVERVIEW OF NATURAL RESOURCE (BOUNDARY) CONFLICTS IN AFRICA

#### 2.0 Introduction

Natural resources are one of the most sought-after endowment of states and regions globally. For natural resources, when well managed contribute to the socio-economic development of peoples, communities, and regions. Countries such as Norway's development was largely jumpstarted by its oil resources. However, since the early 1990s, natural resource endowment has been associated with mainly with all things negative. Africa has experienced many conflicts, largely driven by abundance both within and between states. As stated earlier, intra-state conflicts over natural resources have generally subsided, however natural resource boundaries have been on the ascendency.

Africa's territorial boundaries, both within and between states, are proverbially, inherited from the colonial powers with little regard to pre-colonial socio-cultural relations. The permanency of these borders to today (with some exemptions) is, therefore, quite amazing, especially in the milieu of fast changing exigencies of socio-economic and political realities across the continent (ECAS, 2013). At the 2013 European Conference on African Studies (ECAS), the organizers, emphasized that the boundaries in Africa are generally contested. Neighboring states often with international boundaries straddling them, and interest groups, be they ethnic, religious or economic groups subsisting within states, often seeking to amend either national or international borders to gain access to natural resources. Thus, the inherited vague borders remain vastly prickly issue in and between many African countries today (Ibid).

This chapter reviews natural resource-based conflicts between states with emphasis on natural resource boundary conflicts. It opens with natural resource conflicts, generally, and narrows down on resource boundaries conflicts in Africa.

## **2.1 Resource-Based Conflicts**

At the end of the Cold War, civil wars or intra-state conflicts swept across the developing world and parts of former Eastern Europe. A marked feature of these intra-state conflicts in Africa was the seizure and exploitation of natural resources to finance the war enterprise. These wars were variously described as ‘new wars,’ characterized by predation and increased targeting of civilians as legitimate targets (Kaldor, 1999). The sheer violence, if not senseless violence, and lack of policy alternative on the issue of warlords resulted in a deluge of literature; largely a political economy of intra-state violence that saw the convergence political issues and policy anxieties. “Perhaps more than any single factor, [the] new focus on the economics of intra-state conflicts was prompted by an observable increase in the self-financing nature of combatant activities” (Ballantine and Sherman, 2003). With the end of the Cold War, the hitherto superpower support for both governments and rebels dried up. The absence of superpower support forced both governments and rebels to finance their war efforts from alternative sources. The need forced them to legally or illegally fund their war chest from the exploitation of natural resources, smuggling, drug trade and remittances from the diaspora. The efforts resulted in what has popularly been referred to as ‘war economies’ between networks of rogue businesses, arms traffickers, transnational organized crime groups, demagogue elites and shady governments with their efforts far out outreaching war zones to global goods markets and major financial centers (Duffield, 1999).

Given the intensity of violence against civilians and the important role natural resources was playing as a source of war finance, the phenomenon of 'resource wars' gained currency. Examples of natural resource wars proliferated. Charles Taylor of the Liberian Civil War exported rubber, timber, and diamonds to finance his war effort that subsequently spilled over into Sierra Leone (Ellis, 1999). However, the humanitarian crisis that natural resource based conflicts sparked were most obvious in Angola and the Democratic Republic of Congo, where the proceeds from diamonds, gold, oil and other valuable resources exploitation produced enormous profits for the rival rebel leaders but occasioned in abject poverty for their peoples. In a 'named and shame' well-honed tactics, the Belgian, Ukrainian, and Israeli corporations and arms traffickers, as well as the then sitting presidents of Togo and Burkina Faso were named and shamed for their participation in the trafficking of diamonds and weapons in abuse of UN sanctions (Global Witness, 1998).

Collier and Hoeffler made many propositions on the economic dimension of violence and civil wars, by arguing that civil wars are caused by greed and predation on a large scale. They argued that the grievance often used in explaining civil wars were a smokescreen and false consciousness, and that warlords embarked on wars when they judge they will do well economically in war (Collier & Hoeffler, 1998). The greed grievance divide became controversial for its disregard for political grievances. Despite, the controversy surrounding the greed thesis, its policy directives served the international community very well.

The resource wars generated war economies that differed from the mainstream clinical 'peace' and 'war' distinction. Many war economy theorists rubbished the conventional divide as irrational and counter-argued that war sometimes serve both political and economic functions for rebel fighters,

civilians, and external interest groups (Keen, 2004). Keen saw civil wars as the continuance of economics by other means; and there was more to natural resource war than winning; and that those that have invested in the violence have vested benefits in the violence's continuation; thereby, posing challenges to peace efforts (Ibid). As stated earlier, natural resource-based conflicts have largely ceased. An emerging phenomenon in Africa is natural resource boundary conflicts.

## **2.2 Natural Resource Boundary Conflicts in Sub-Saharan Africa**

Natural resource boundary conflicts in sub-Saharan are one of the main sources of conflict in the region. With the increase and spread of the adverse effects of climate change in terms of natural resource depletion, and unwieldy population growth natural resource boundary conflicts are most likely to increase on the continent. Worse still, is the increasingly discovery of strategic natural resources such as uranium, oil and gas. As the region becomes a geostrategic zone, natural resource boundary conflicts are most likely to proliferate.

The political boundaries of the region are derived from the 1884-1885 Berlin Conference. The Berlin Conference set the ground rules that eventually culminated in the states and their boundaries in Africa. Today territorial boundaries were inherited from the spectre of colonialism that occasioned modern states in Africa. These borders jointly partitioned Africa into several states spatial pattern of socio-development. It is obvious that the boundaries are arbitrary; yet the vast majority of them have been sustained by the Organization of African Union's recourse to the concept of *uti possidetis* governing territories under international law. Commentators have held that contemporary borders system mirrors a rational response by the colonialists and post-

independence African leaders (Griffiths, 1986). Nevertheless, political boundaries in the region have been anticipated, among other things, that their acknowledged natural and artificial features harbor fault lines of conflicts within the region. Numerous allusions are made in the extant literature on social change, state-building and the political modernization with respects to the natural and artificial qualities of these boundaries. Contemporary commercialization of land and other natural resources amid cumbersome population growth and climate change, as states earlier, have heightened competition and conflict over traditional systems of landholding, land use exclusion, and shared natural resources in Africa with repercussions for group identities (Peters, 2004).

### **2.2.1 The Nile Basin**

Since the colonial times, communities, regions and countries along the Nile Basin have been in recurrent conflict over the use of the Nile River, its water and fertile lands along the riverbanks. The river is renowned for its several uses such as irrigation, hydro-electric power generation, water supply, fishing, tourism, flood-control, water transport and the safety of public health. Like other African countries, the economies of states along the Nile Basin are mainly agricultural. As such, they are irrigation-based agricultural economies with the Nile as their main source of water for irrigation. The challenge is that the Nile runs through the Democratic Republic of Congo, Uganda, Rwanda, Burundi, Tanzania, Kenya, Ethiopia, Sudan and empties in the Mediterranean through Egypt. The Nile Basin and its Rift Valley acquired a lot of economic reputation, which has given rise to in series of conflicts in its tributary countries. In 1998, Boutros Boutros-Ghali conjectured that Egypt's next war was likely to be influenced by the Nile (Nunzio, 2013). Egypt is a desert country its agricultural sector, especially its famous cotton industry relies entirely on the Nile. The

conundrum is that the more the countries close to the source of Nile uses its water the less the volume that will be left to reach Egypt. Egypt has repeatedly warned other states in the Nile Basin that it will not hesitate to go to war with any country over the supply of the Nile water. Over the years, Egypt has had conflict with all the countries found in the Nile Basin over the usage of water (Ibid).

The Nile river's usage was regulated by a monitoring regime initiated in 1925 limiting the use of the Nile water by other states in order to leave most of the water for Egypt's use. Subsequent legal regimes have since been adopted for the use and regulation of the Nile Basin. The member countries have signed both bilateral agreements with Egypt's. In furtherance of the Nile Basin regional peace and security they formed the Nile Basin Initiative (NBI) to collaborate and work to peace in order to share mutually the resources of the Nile River. There, however, remained the thorny issue since all subsequent joint management of the Nile River's resources continue to revolve around the 1929 Nile Waters Agreement that guaranteed that the greater volume of water reach Egypt. From a more critical analytical perspective, all such agreements are tenuous. The recent decision by Ethiopia to renege on earlier agreements and construct the largest hydro dam in Africa despite threats from Egypt. The fear is that other countries in the Nile Basin may also renege on collaborative agreements and conflict may proliferate among the Nile Basin countries (Pearce, 2015).

### **2.2.2 Malawi-Tanzania Lake Nyasa (Malawi) Conflict**

Tanzania and Malawi have been embroiled in a border dispute over Lake Nyasa since 1964' the conflict between the two countries have been upped since the discovery of oil in the Lake Nyasa

now called Lake Malawi. The conflict threatens the peace, security and stability between the two countries, as well as their neighboring countries such as Mozambique. Boundary disputes largely leads to instability that often leads internecine violence. Given the dispute between the two countries, there is already a perceptibly low socio-economic and political synergy between the two countries for the mutual benefit of their people and may hinder the comprehensive and sustainable development of the East African sub-region.

The Tanzania-Malawi boundary crisis has its genesis in the contentious border demarcation around Lake Nyasa that was carried out by the Anglo-German Treaty of July 1, 1890. The east of the prickly valley is where Lake Malawi is located. The lake covers over three-quarters of Malawi's eastern borders (Cutter, 2006). The source of the conflict between the two countries is that Malawi claims the whole of the lake. The conflict is even reflected in the partisan naming of the Lake. Malawi choses to call it Lake Malawi in opposition to the extra traditional tag, Lake Nyasa (*The Columbia Encyclopaedia*, 2008). Malawi maintains that the boundary between Malawi and Tanzania is marked along its eastern border; while, Tanzania is of the view that the borderline between the two states should pass along the median (through the middle of Lake Malawi) that is similar to the international border straddling Tanzania and Mozambique. However, Tanzania's territorial claims on Malawi is more complex than claiming half of Lake Malawi. "The entire section of the boundary along the shoreline of Lake Nyasa is under dispute. Tanzania claims that from the mouth of River Songwe, the boundary should follow the lake's median line to a tripoint with Mozambique which should be on the median line" (Anderson, 2003).

Tanzania does not only lay claims to part of the lake but argues that since Malawi, Tanzania and Mozambique are all located on River Malawi, Mozambique also deserves to have a share in Lake Malawi. On the contrary, Malawi counters that the whole lake, except a certain part of the lake belongs to Mozambique. Thus, removing Tanzania from the lake ownership equation. With the certification that Lake Mawali harbors rich oil and gas deposits, the differences between Tanzania and Malawi has been heightened to feverish levels. The conflict has become manifest because of the contingent plans of Malawi to explore oil and gas in Lake Malawi, a name only recognized in Malawi and not Mozambique and Tanzania.

Tanzania has challenged Malawi's sole claim to Lake Nyasa and advised Malawi to cease prospecting for oil and gas in the Lake until the claims of ownership and border demarcations are settled. However, Malawi insists on the claim that it is the sole owner of the Lake Malawi. And Tanzania insists that the boundary between Malawi and Tanzania should be denoted by a line in the middle of the upper part of the lake. The varying claims of the two parties are premised in zero-sum situations with no median point of consensus. Tanzania's claim to half of the Lake is anchored on the international law, developed in the 1960s, on the regulation and equitable distribution of water bodies. Malawi backs its claim with the 1890 Heligoland Treaty, which conferred upon it, sole ownership of the lake Malawi, and the Anglo-Portuguese Treaty which was promulgated at the same time (Mlenga, 2013).

According to Ken Ahorsu (2009), Africa's development partners, often along partisan lines, and their Multinational Corporations are often parties to the natural resource boundary conflicts. They often stoke country differences for the parochial gains. In the case of the Tanzania-Malawi saga,

the leaders of the two countries had reached an amical settlement of the differences. However, the two countries relapsed into open conflict when Malawi gave out oil concessions to foreign companies for explorations. This situation is no different from other natural resource boundary conflict in Africa.

### **2.2.3 Great Lakes Region**

The Great Lakes Region is the most gifted natural resource sub-region in Africa but also one of the most tempestuous regions as well. There are numerous natural resource boundary conflicts, which are worsened by centuries old population movements and identity crisis. Uganda and the D. R. Congo have contested ownership of parts of the Lake Albert, which is endowed with gas and oil resources. There is a deluge of literature on the instability and violence in the Great Lakes regions because of its rich natural resources and the exploitation of the minerals.

The region owes its peculiarity from the rather numerous lakes that dote the Rift Valley in and around the East African Rift. The lakes consist of Lake Victoria the second largest freshwater lake in the world, and Lake Tanganyika, the world's second largest in volume and the second profoundest. The rest are Lake Nyasa or Malawi, Lake Turkana, Lake Albert, Lake Rukwa, Lake Mweru, Lake Kivu and Lake Edward (*New World Encyclopaedia*). The region is made up of the countries that surround the above-mentioned lakes: Rwanda, Burundi, Uganda and D. R. Congo. Boundaries between the countries have been contested because of groups straddling the boundaries and dispute over natural resource locations and exploitations.

In terms of highland, the region has comparatively low temperature highlands, high humidity and ample rainfall. The lowlands of the River Congo Basin are full of forests. However, the eastern and southern highlands of the Congo Basin are covered with savannas and grasslands. The region geographically was created, largely, by the tectonic movements. As a result, the region or rift valley is dotted with lakes that are sited in the various hollows that the tectonic activities formed.

As stated above, despite the rich endowment of the Great Lakes region, particularly, D. R. Congo, the natural resources have been the ‘curse’ of the region. The resources have largely benefitted the elites of the region, multinational corporations and the developed countries; and left the masses of the region with semi-permanent violence, instability and squalor. For instance, the 2015 IMF statistics, out of the 184 countries, ranked, the four key countries of the Great Lakes Region as of the particularly poorest countries of the world (Aridas & Pasquali, 2019).

### **2.3 Ghana-Cote d’Ivoire Maritime Boundary Dispute**

The significance of oil and gas discovery in commercial quantities to a country, region and the people, in terms of socio-economic development cannot be overstated. This concerns particularly, with Africa’s economic meltdown, especially for non-oil producing countries, plausibly, started off with the oil-shocks of the 1970s. As such, African countries, Ghana, inclusive have explored for gas and oil and aspire to find oil in commercial quantities within their territorial boundaries. Ghana first discovered oil in the early 1980s along the coast of Saltpond; but it was not of commercial significance. In 2007, after much search and exploration for oil, Ghana found oil in commercial extents in the Western Region of Ghana, specifically in the offshore waters of Cape Three very close Côte d’Ivoire. Soon after the discovery of oil and gas and the exploitation began, Ghana’s neighboring states, Togo, (Nigeria) and Côte d’Ivoire, began to make intersecting claims

to the maritime precinct around the oil discovery. Nigeria does not share land border with Ghana but in the course of extending its continental shelf, it will potentially share maritime border with Ghana.

Ghana is a littoral state found few degrees north of the Equator within the West African sub-region. It is bordered to the north by Burkina Faso (548km). It shares a 668km land boundary with Côte d'Ivoire to the West; and shares an 877 km land boundary with Togo to the east. To the south of Ghana is the Gulf of Guinea and the Atlantic Ocean. According to Boamah (2013), “the existing maritime claims of Ghana are as follows: territorial sea of 12 nautical miles (22.2 km; 13.8 miles), contiguous zone 24 nautical miles (44.4 km; 27.6), continental shelf 200 nautical miles (370.4 km; 230 miles), exclusive economic zone 200 nautical miles (370.4 km; 230 miles)” (Boamah, 2013). Upon Ghana’s application to extend its continental shelf to cover the seabed yonder the site of the oil finds; Nigeria and Côte d'Ivoire issued competing claims to spread their continental shelf as well. Thus, Ghana’s maritime border to the West was contended by Côte d'Ivoire, and its border to the east was contended by Togo, Benin and Nigeria. The latent conflict arose as a result of the regime of laws and measures governing the submission for the extension of the continental shelf as provided in the 1982 United Nations Convention on the Law of the Sea (the Convention of the Sea or UNCLOS) and the rules of United Nations Commission on the Limits of the Continental Shelf. Ghana, Nigeria, and Côte d'Ivoire put in their application for the extension of their continental shelf beyond the 200 nautical miles on April 28, May 7 and May 8, 2009, respectively. Earlier, on February 24, 2009, ECOWAS in anticipation of a probable maritime border dispute involving Ghana, Nigeria, Togo, Benin and Côte d'Ivoire agreed, “issues of the limit of adjacent/opposite boundaries shall continue to be discussed in a spirit of cooperation to arrive at a

definite delimitation even after the presentation of the preliminary information/submission. Member states would therefore write ‘no objection’ note to the submission of their neighbors” (Boamah, 2013).

Despite ECOWAS’s efforts to prevent the discovery of gas and natural resources by the littoral states of West Africa in the Gulf of Guinea becoming source of natural resource boundary conflicts, Ghana- Côte d’Ivoire maritime boundary disagreement broke out in 2010. While, the dispute was framed as maritime territorial boundary dispute, the dispute essentially concerned the possession of discovered natural resources in the Atlantic. Ghana’s three oil fields, the Tweneboa, Enyira and Ntome (TEN) oil fields found in this maritime space close to the Ivorian boundary became the subject issue of the maritime dispute between the two countries. Ivory Coast claimed it had allodial rights to the territory where Ghana was prospecting for oil and gas.

Hitherto, there was not evidently defined and mutually recognized maritime boundary between the two countries; and, the legal dispute initiated and engendered a series of diplomatic between the two countries towards the demarcation of their common maritime boundary. The emphasis was mainly on the stated the offshore oil fields in the contiguous territorial waters, which would end in the conclusive definition of the boundary. The vibrant Ghanaian media was agog with the news that Côte d’Ivoire had laid claims to parts of Ghana’s vast oil wealth in the Atlantic (Citifm, 2010: 24).

Representatives of Ghana and Côte d’Ivoire met in February 2009, and the Ivorian representatives stated, “they would no longer abide by the common maritime boundary they had all agreed on”

(Markwei, 2010: 4)). In April 2010, the Ivorian Interior Minister, Desire Tagro, in Accra, made said that the challenge before the inter-ministerial committee did not concern oil but focused on deliberations meant to find a harmonious demarcation of a mutual maritime boundary. “He appealed to the media to facilitate the process instead of sensationalizing the issue to destroy the hard-won trust, friendship and brotherhood between the two countries that had been qualitatively built and had to be guarded because it had become the envy of many countries” (Salia, 2010:49). The meeting was expected developed a blueprint for the negotiations. The Presidents were expected to meet at Yamoussoukro to take a thorough look at the boundary dispute (Salia, 2010: 49).

In 2010, as a result of a twist of events, Côte d’Ivoire called on the UN to help in defining the maritime border. In April 2011, Kosmos became restless and publicly said ambiguity remains with respect to the outcome of the borderline delineation between Ghana and Côte d’Ivoire. And that no one is certain if the sea boundary would change or remain the same. Kosmos submission echoed the uncertainty the border dispute was causing investors. The uncertain and unstable environment was a source of major worry to investors because of the huge costs and risks that characterized investment in the oil and gas industry. This was especially so, when it was not very clear where Côte d’Ivoire’s maritime territorial claims end (Salia, 2010: 49). Côte d’Ivoire countered and sought to salvage the deteriorating bilateral relations between Ghana and Côte d’Ivoire and shore up investor confidence in the sub-region by arguing that the media blew the matter out of proportion and that the Ghanaian government erroneously created the impression to Ghanaians that Côte d’Ivoire was claiming portions of Ghana’s oilfields. And asserted that Côte d’Ivoire was

only seeking negotiations to determine the maritime boundary between Ghana and Côte d'Ivoire and that none of Ghana's oilfields were being claimed (Salia, 2010: 49).

The high price that the offshore oil reserves in the contiguous territorial sea of Ghana and La Côte d'Ivoire commands necessitated and jumpstarted Ghana to seek a comprehensive and methodical, comprehensive, and conclusive strategy to delimit its boundaries with its neighbors by founding the Ghana Boundary Commission. The Commission Bill was proposed to guarantee the appropriate development and reliable application of Ghana's policies concerning maritime border demarcation (Ghana, 2010a: ii). It will also warrant the advance of a team of specialists to participate in dialogues and offer continuity in the procedure. The Ghana's legislatures passed the Boundary Commission Bill under a permit of exigency and was granted the presidential acceptance on March 22, 2010. The Ghana Boundary Commission is "to undertake negotiations to determine and demarcate Ghana's land boundaries and delimit Ghana's maritime boundaries and to provide for related purposes" (Ghana, 2010b: Preamble).

The mandate of the Commission is to "regulate and delineate Ghana's land boundaries and demarcate Ghana's maritime boundaries in accord with recognized principles of international law; b) guard and protect the interests of the Republic of Ghana in defining and delineating land boundaries and demarcating maritime boundaries; c) approve global best practice on the delineation and definition of boundaries; d) encourage a more effective management of the boundary demarcation and delimitation process; and e) ensure deliberation of the full array of Ghanaian interests affected by the location of boundaries, The Commission is authorized to confer with bordering countries about the national boundaries and to carry out the physical delineation

and survey of land borders and the demarcation of maritime borders” (Ghana, 2010b: Section 2: a).

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

Dr Godwin Dzokoto, Lecturer at the Faculty of Law, University of Ghana explained the preceding situation and the reasons for Ghana’s passing of the Commission Bill as:

*In 2008, Côte d’Ivoire made claims over maritime areas that legally and customarily were under Ghanaian territory and jurisdiction. This occurred just days after the American exploration firm Vanco discovered oil in Dzata-1 deep water well. Côte d’Ivoire petitioned the UN to complete the demarcation of the Ivorian maritime boundary with Ghana. Both countries submitted routine documents to the UN Commission of the Limits of the Continental Shelf in April/May 2009. He added that in March 2010, the competent Ghanaian authorities passed the Ghana boundary Commission bill, to establish a commission with the purpose of undertaking negotiations in order to determine the country’s land and maritime boundary (Dzokoto, 2019).*

In 2014, Ghana in order to protect its territorial integrity and avoid a diplomatic tiff began adjudication procedures under UNCLOS 1982 “seeking a declaration that it has not encroached on Côte d’Ivoire’s territorial waters in the exploration of oil” (Baneseh, 2014a: 3). The arbitration at the International Tribunal on the Law of the Sea (ITLOS) was consequent upon the fiasco of

negotiations between the two states, ECOWAS's inability to settle the dispute with finality, and the persistent receipt of menacing letters from multinational Ivorian oil companies operating in the area in dispute. Both parties then agreed to defer the dispute to a distinct chamber in the International Tribunal for the Law of the Sea (ITLOS) instituted under Article 15(2) of the Statute of Tribunal under Annex VI. The Tribunal, with the concurrence of the two parties, constituted the Chamber.

After the Chamber was formed, Ivory Coast asked for the instruction of provisional measures against Ghana in accord with Article 290(1) of the UNCLOS. The Chamber, having listened to both states held that it had prima facie authority over the dispute; and went on to recommend inter alia, that Ghana should take all essential measures to guarantee that no fresh drilling takes place in the uncertain maritime areas; and that, Ghana should take all required steps to avoid measured undisclosed from being used to the loss of Ivory Coast information on earlier, continuing or upcoming activities in the disputed area.

Ghana, the country that instituted the action, based its initial basis to demarcate the boundary on an equidistance-based single maritime boundary in the territorial sea, EEZ, continental shelf inside 200 M, and the same to persist on the identical azimuth as the boundary within 200 M to the limit of national jurisdiction. Ghana, also, took the view that the held equidistance-based single maritime boundary is jointly recognized, approved, and utilized by Ivory Coast and there was a 'tacit agreement' between the states where the latter was prohibited from protesting. Ghana laid entitlement to and began to develop all the deposits to the east of an equidistance line that it long regarded the de facto boundary between the two parties. Côte d'Ivoire contested Ghana's claims

and warned to sue international oil companies prospecting in the disputed seas. In early 2015, the two parties decided to defer to the binding resolution of the dispute by ITLOS.

Poku (2019) sums up these preceding events to Ghana seeking arbitration at ITLOS when he opines that:

*After ten rounds of bilateral negotiations, the two countries could not reach an agreement on the boundary. Côte d' Ivoire had been writing to Ghana's contractors (Tullow Ghana, Kosmos, Hess etc.) to stop and cease operations in blocks that were given to them by Ghana. The Ivorians claimed that the TEN field, which had been recently discovered, belonged to them when Tullow was about to go into the production phase, but this claim had not been made during periods when wells were being drilled and non-significant discoveries or dry wells were occurring. Hence, the need for the provisional arrangement before the case was even heard. This was done to secure the countries investment and not to stall operations (Poku, 2019).*

### **2.3.1 Ghana's Position**

Ghana presented the case that both parties, in allotting licenses for offshore mineral resource activities, had mutually acknowledged and applied an equidistance-based boundary in the 12-NM territorial sea and their Exclusive Economic Zone (EEZ) and continental shelf within 200 NM from their coasts for more than a half century. Ghana also appealed that the countries' 2009 submissions to the Commission on the Limits of the Continental Shelf (CLCS) pointed to their tacit agreement regarding the boundary beyond 200 NM (*asil.org*).

In Ghana's opinion, “the starting point for the demarcation of the allegedly agreed maritime boundary was the common land boundary terminus at border post 55 (BP55). The geographic

coordinates of BP55 had been agreed upon by the two countries nine months before Ghana filed the case against Côte d'Ivoire” (Ibid).

Ghana differed with Côte d'Ivoire over the issue of the disputed area possesses geographical circumstances capable of influencing the equidistance-based boundary advocated by it. Ghana presented that, if the Special Chamber disallowed its submission that there was indeed an agreed boundary, the provisional equidistance line to be sketched by the arbitrators should be fashioned on a 10-kilometer segment on Ghana's shore. This was to be adjusted to the west because of the oil explorations of both countries. In Ghana's view, those undertakings, taking the form of oil concession agreements and limits, legislative instruments, maps, and statements by public officials over a fifty-year period, reflect a *modus vivendi* regarding an equidistance boundary between the parties. The resultant boundary matches with the western limit of Ghana's offshore oil blocks. Ghana also asked the Special Chamber to rule that the parties' boundary beyond 200 NM follows an extended equidistance boundary along the same azimuth as the boundary within 200 NM, to the limit of national jurisdiction (Ibid).

### **2.3.2 Côte d'Ivoire's Position**

Côte d'Ivoire repudiated the claim that existed an explicitly approved or "customary" boundary involving the two parties. It disallowed Ghana's dependence on oil actions in the disputed area and requested the adjudicators to judge that the maritime boundary straddling Ghana and Côte d'Ivoire follows the 168.7° azimuth line, which both parties accepted begins at BP55 and spreads to the external limit of the continental shelf. Côte d'Ivoire depend on the angle bisector technique to

demarcate the boundary. Like the equidistance method, the bisector technique is a geometry-based method for demarcating boundaries (Ibid).

Côte d'Ivoire give in to the application of the bisector scheme was suitable in this case considering the limited number of base points and their setting on what it presented as a wobbly coastline that is not illustrative of the overall littoral landscape. It outlined the alignment of the states' shorelines and the condition that the base points (typically, low-water line points) employed for the creation of the provisional equidistance line are all located on Jomoro on a minor slice of the countries' coastlines. Jomoro is a thin strip of Ghanaian land obstructing the seaward protuberance of a section of Ivorian land.

Côte d'Ivoire equally contested that the outline of the thin littoral section employed for the creation of the equidistance line promoted by Ghana would produce a cut-off for its naval area and that the subsequent line was conflicting to the aim of attaining an "equitable solution," the result dictated by UNCLOS for boundaries in oceanic areas lying beyond the territorial sea (Ibid). Ivory Coast continued that this line could be taken based on either a bisector method or modified equidistance using the equidistance/relevant situations method favoured by Ghana.

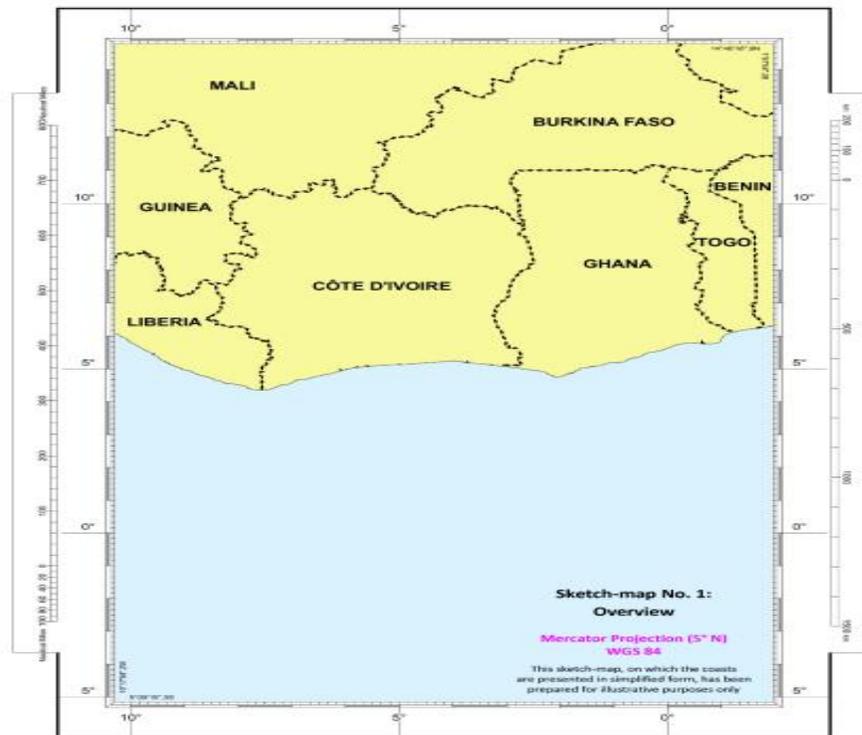
## **2.4 The Judgement**

On 23<sup>rd</sup> September, 2017, in Hamburg, Germany, "the International Tribunal of the Law of the Sea (ITLOS) delivered its judgement on the dispute concerning the delimitation of the Maritime boundary between Ghana and Ivory Coast in the Atlantic Ocean" (Judgement, ITLOS, 2017). The

maritime area the Special Chamber was dealing with lay in the Atlantic Ocean as shown in figure one (below) and the two states involved in the case are adjacent states.

The overall verdict given by the tribunal unanimously ruled that Ghana had not violated the sovereign rights of the Ivory Coast. The tribunal endorsed Ghana's arguments for the use of the equidistance method of measurements to determine the maritime boundaries between the two countries (Africa and Regional Integration Bureau, 2018). The verdict of the Tribunal also confirmed "Ghana's ownership of the three oil and gas fields already in production; these are the Jubilee, Tweneboa, Enyena and Ntomme (TEN) oil fields. This meant that exploration in these fields and other prospective fields could resume after more than 2 years of suspended activity due to the ITLOS injunction pending final judgement" (Abayena, 2019). The decision comprised of substantial issues that are broadly categorized under the subjects of the jurisdiction of the Special Chamber, the alleged existence of tacit agreement, estoppel and the method of delimitation and the responsibility of Ghana for authorizing oil and gas exploration within the disputed area (Bankes, 2017).

**Figure 2. 1: Map Showing the Boundaries of Ghana and Côte d’ Ivoire Delimitation zones**



Source: ITLOS, Judgment on the Dispute Concerning Delimitation of the Maritime Boundary Between Ghana and Côte d’ Ivoire in the Atlantic Ocean (September 2017).

## **2.5 The Main Items of the Judgements**

### **2.5.1 The Jurisdiction of the Special Chamber**

On the jurisdiction to delimit the maritime boundary between the disputing parties, the Tribunal decided that it had subject matter jurisdiction because the case had to do with the interpretation and application of provisions (articles 15, 74, 76, and 83) of the Law of the Sea Convention (LOSC). This decision was taken although “Ghana had withdrawn an earlier declaration under article 298(1) of LOSC (indicating that it did not accept compulsory and binding dispute resolution with respect to maritime delimitation)” (Bankes, 2017, p.2). The Chamber deferred until later in

the judgement inquiries on its jurisdiction over the continental shelf beyond 200 nm and that over state responsibility (Ibid).

### **2.5.2 Tacit Agreement**

It was agreed by both parties, Ghana and Ivory Coast, that there was no explicit formal delimitation agreement between them (Apaalse & Egede, 2019). Yet Ghana argued that a “customary equidistance boundary”, beginning from the land boundary terminus at BP 55, has existed from 1957 to 2009 that served as an unspoken agreement to cover the issue of an agreed maritime boundary between the two states (Judgement, ITLOS, 2017). For this reason, the Ghanaian team submitted that the case was not one of a maritime delimitation case but in fact one to affirm a boundary that has always existed, one that “parties themselves have long agreed and delimited in practice and in consequence” (Ibid. p.34). Ghana’s claims were made on the grounds of “concession agreements, presidential decrees, legislation, correspondence, maps, public statements, representations to international organizations and oil companies and the cooperative practice of both States” (Ibid).

For the Ivory Coast, the determination was to delimit the maritime boundary the two states share as there was no formal or tacit agreement on the delimitation boundary. Accordingly, the Ivory Coast disagreed with Ghana’s stance to establish a tacit agreement on a common maritime boundary. The Ivorian team pointed to the fact that it has unfailingly demonstrated a desire to attain a pact on the maritime boundary and it has repeatedly opposed the oil practices of Ghana as this interfered with such an agreement. To prove its stance, the absence of a tacit agreement, the Ivorian team relied on claims of events in 1988 and 1992 as well as bilateral negotiations of 2008

and 2014 (Ibid, p.35). For instance, in 2014, the joint commission attempts to arrive at a method of demarcation proved unfruitful; the Ivoirians rejected the use of Ghana's equidistance line method (Africa and Regional Integration Bureau, 2018).

Pertaining to the tacit agreement, the Special Chamber concluded unanimously that none exists between Ghana and Ivory Coast to "delimit their territorial sea, exclusive economic zone and continental shelf both within and beyond 200 nm" (Judgement, ITLOS, 2017; p.71) The Special Chamber asserts that Ghana's evidence presented to support a tacit legal agreement is not compelling enough. Thus, several initiatives Ghana cited including, the decree of 29 July 1957 and the Presidential Decree 70-618 were seen to fall short of this persuasive factor. Also, the 1977 Law of Côte d'Ivoire, which Ghana claimed recognized the principle of equidistance as the most appropriate method of delimitation of the maritime boundary the two states shared, was not accepted. The Special Chamber cited that article 8 of this law only states that the equidistance line may be used "if necessary" but does not expressly state the necessity for the use of this method of delimitation of the shared boundary (Ibid., p.68). Essentially, the Special Chamber, concerning the existence of a tacit agreement, the oil concessions map, legislation and other decrees Ghana presented could not convincingly define the maritime boundary. The bilateral exchanges, between 1988 and 2014 showed that no tacit agreement had been reached between the two neighboring states (Cannon, Maxwell & de Brugiere, 2017).

### **2.5.3 Estoppel**

Another area of consideration was Ghana's claims that "by its acts, Côte d'Ivoire is estopped from objecting to a boundary based on equidistance, and on the customary equidistance line as the

maritime boundary.” Ghana asserted that Ivory Coast’s actions satisfied three preconditions that make a situation of estoppel possible. These preconditions are the “conduct by one state creating the appearance of a particular situation...the good faith reliance by the other state on such conduct...and a resulting detriment to the latter state” (Judgement, ITLOS, 2017; p.71). Among other reasons, Ghana’s argument in terms of an estoppel was due to the \$630 million it had invested in the TEN Fields and the severe economic damage the state would suffer if Ivory Coast abandoned the customary equidistance boundary. The Ivorian Team argued that estoppel is not often applied in public international law and Ghana had failed to meet the prerequisites for estoppel to apply. The Special Chamber agreed that the Ivory Coast “had not demonstrated by its words, conduct or silence, that it agreed to the maritime boundary based on equidistance” (Ibid) and that Ghana had failed to show that an agreement to the equidistant maritime boundary existed neither could it meet the requirements for estoppel. The Chamber also specified that Ghana’s arguments of estoppel were fundamentally based on the same arguments used to establish a case of tacit agreement (Cannon, Maxwell & de Brugiére, 2017).

#### **2.5.4 Delimitation of the Maritime Boundary**

In terms of delimiting their territorial seas, both parties made varying requests. Ghana requested that the delimitation be based on the application of the equidistance methodology as cited by article 15 of UNCLOS. This article reiterates that the equidistance principle will apply with the exception of a situation “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 therewith” (Cannon, Maxwell & de Brugiére, 2017). On the other hand, Ivory Coast raised the angle bisector methodology for the delimitation of the territorial sea, exclusive economic zones and continental

shelves within and beyond 200 nm. Essentially, the Ivorian team based its arguments on special circumstances, which are the concavity of the Ivorian coast and the instability of the coastline. Given these arguments, the Special Chamber observed that indeed the delimitation of the territorial sea is governed by article 15 of the UNCLOS. It also concluded that since Ivory Coast had been unable to provide adequate evidence of the claimed special circumstances, the equidistance method should be used in the delimitation of the maritime boundary (Ibid).

The Special Chamber stated that the parties agreed that the equidistance methodology consists of three phases in line with international jurisprudence. First, the construction of a provisional equidistance boundary line. Second, the Special Chamber considered whether the line should be adjusted in consideration of applicable circumstances. The Chamber rejected all the relevant circumstances both sides proposed and there maintained the provisional line. Third, the line was assessed to avoid major disproportionality in maritime space for both sides, but the chamber concluded that this was not the case (Ibid).

Accordingly, as shown in figure 2 (below), the Special Chamber unanimously decided that the “single maritime boundary for the territorial sea, the exclusive economic zone and the continental shelf within and beyond 200nm starts at BP 55+ with the coordinates 05° 05’ 23.2” N, 03° 06’ 21.2” W in WGS 84 as a geodetic datum and is defined by turning points A, B, C, D, E, F with the following coordinates and connected by geodetic lines” (ITLOS/ Press 264):

A: 05° 01’ 03.7” N, 03° 07’ 18.3” W

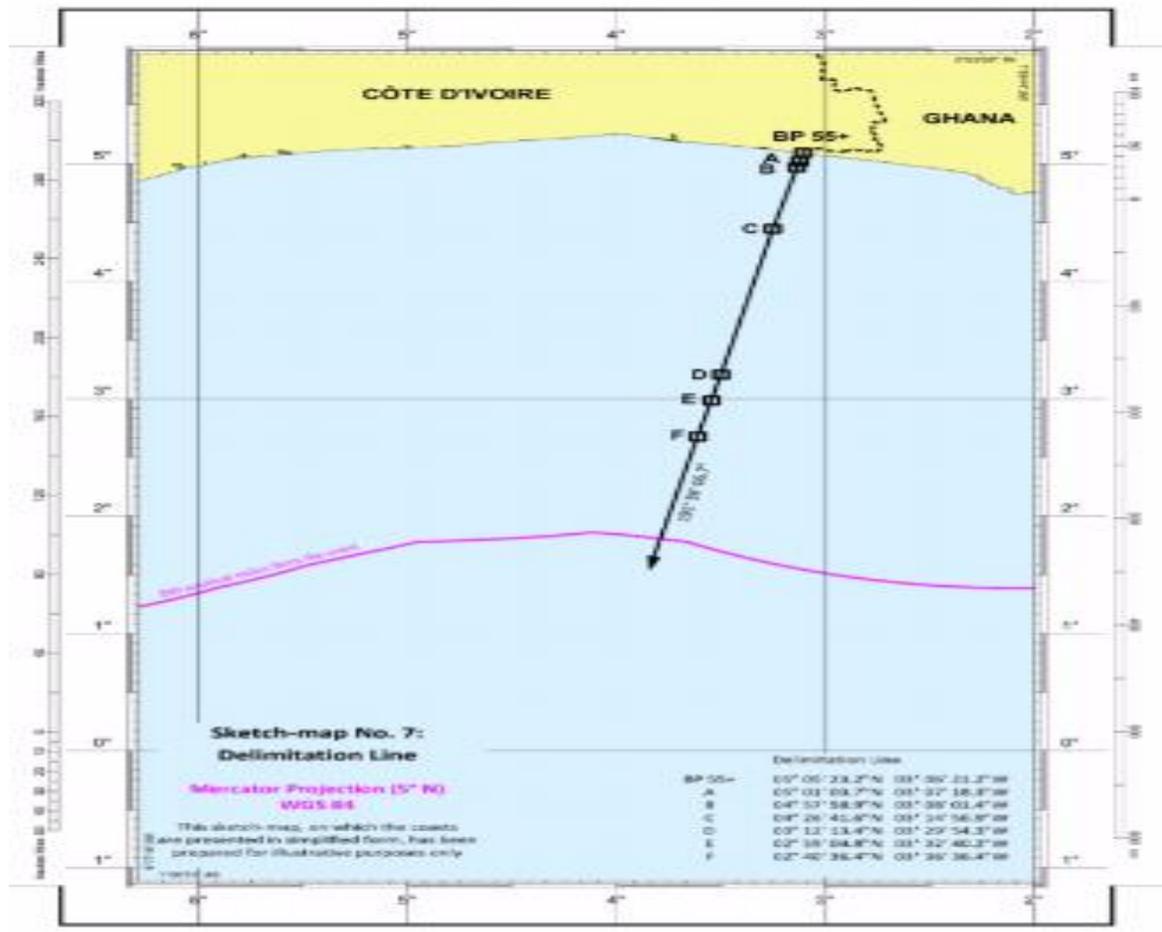
B: 04° 57’ 58.9” N, 03° 08’ 01.4” W

C: 04° 26’ 41.6” N, 03° 14’ 56.9” W

D: 03° 12' 13.4" N, 03° 29' 54.3" W

E: 02° 40' 36.4" N, 03° 36' 36.4" W"

**Figure 2. 2: Single Maritime Border between Ghana and Côte d'Ivoire**



Source: ITLOS, Judgement on the Dispute Concerning Delimitation of the Maritime Boundary Between Ghana and Côte d' Ivoire in the Atlantic Ocean, (September 2017).

### 2.5.5 International Responsibility of Ghana

Another issue the special chamber addressed was the international responsibility of Ghana. The Chamber unanimously decided that it had the jurisdiction to decide on the claim of Côte d'Ivoire against Ghana on the alleged international responsibility of the latter.

The Ivorian team submitted that Ghana's activities in the disputed part of the continental shelf were against international law, the convention and the Order for the Prescription of Provisional measures of 25 April 2015. Ivory Coast made these claims based on the three criteria. The first was the claim that Ghana had violated Côte d'Ivoire's sovereignty by engaging in hydrocarbon activities in the region over which the latter claims assertions. This was based on the fact that "the rights pertaining to the exploitation of the continental shelf are exclusive rights, those rights exist *ispo facto* and *ab initio* and the delimitation by the Special Chamber does not create such rights, but merely clarifies their [geographic] scope" (Cannon, Maxwell & de Brugiere, 2017). The second criterion is the violation of article 83 of the UNCLOS; and lastly the claims that Ghana had acted in contradiction to the Order given by the Special Chamber as of 25 April 2015 (Judgement, ITLOS, 2017; p.151). Ghana responded to these claims by submitting that the contentions raised by Ivory Coast were unsubstantiated as Ghana had complied with both international law and the directive of the Special Chamber if 25 April 2015.

The Special Chamber agreed with the notion carried by both parties that the sovereign rights over continental shelves are exclusive in nature. However, the Chamber opposed both states in terms of the shared idea that the judgement of the Chamber is declaratory but rather stated that the decision on delimitation is constitutive in nature. In this light, the maritime explorations carried out by a state in parts of the continental shelf given to another state by international judgement cannot be considered as in violation of the latter if, the explorations were done prior to the judgement or if the area in question was under claims of good faith by both states. Thus, the Chamber opined that assuming Ghana carried out its hydrocarbon activities in Ivorian-attributed areas following the

delimitation; this would still not constitute a violation of the sovereign rights Ivory Coast. Yet, the Chamber concluded that Ghana had carried out its hydrocarbon activities in the area attributed to it.

In terms of the claims that Ghana had violated article 83 of the Convention, the Chamber concluded that Ghana was not in violation since the negotiations on the maritime boundary were done in good faith between the parties. Also, in terms of the 25 April 2015 provisional order, the Chamber is of the view that Ghana had complied since the state had suspended activities in the disputed area. For example, there was no new drilling in this area. However, the Chamber stated that it would have preferred if this had been carried out earlier when Ivory Coast tasked it to suspend its hydrocarbon activities (Judgement, ITLOS, 2017; p.172).

## **2.6 Conclusion**

This chapter covered a cursory overview of what natural resource-based boundary conflicts are and examined what they entail by analyzing various sub-Saharan African conflicts that fall under this description. It then proceeds into the main area of study, to examine the antecedent events to the Ghana- Côte d'Ivoire maritime boundary dispute, which provides the necessary background for detailing the arbitration at UNCLOS and its outcomes. The Ramifications of the UNCLOS decision and its impact on bilateral relations between the two countries is explored and analyzed in Chapter 3.

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## CHAPTER THREE

### GHANA-IVORY COAST POST- ITLOS JUDGEMENT RELATIONS

#### 3.0 Introduction

This chapter deals with the final judgement of the ITLOS case and highlights the key outcomes regarding bilateral relations between both states. It situates this by establishing a baseline via a brief summary of bilateral relations prior to the dispute and then outlines the post- ITLOS reactions of the two states and analyzes what effect the settlement has had if any on bilateral relations between the states. It also attempts to provide some explanations for the post-ITLOS reactions of both states with the help of key informant interviews, literature, policy documents and media reports.

#### 3.1 Pre-ITLOS Bilateral Relations

Ghana and La Cote d'Ivoire have a shared history with prominent ethnic groups which straddle the border sharing a common ancestry and language such as the Baoule and Ashanti in the middle belt regions of both countries and the Nzema on the coast. These ethnic relations have led to cross-border participation in festivals and key events with Influential Chiefs and politicians making public shows of shared ancestry, culture and history (Abidjan.net, 2018; Ghanaweb, 2018). Formally though diplomatic relations between these nations begun after La Cote d'Ivoire's independence in 1960. Prior to this, Kwame Nkrumah had after Ghana's independence in 1957 approached Ivorian leader Felix Houphouet-Boigny to impress on him to advocate for a complete severance of colonial ties with France which the latter rejected proposing instead to achieve

independence within a framework of close ties to a French metropole (Smith & Mieu, 2016). This set the tone for the trajectory that both countries took post-independence with La Cote D'Ivoire being largely stable over the intervening decades while Ghana went through periods of instability driven by intermittent coup d'états (Ibid). While relations were relatively warm during this period, there were often periods of tensions stemming from mutual suspicions that the other were providing aid to dissidents and being used as launch pads to foment unrest (Berry and US Library of Congress, 1995). For example, in 1984, the then PNDC military junta of Ghana accused their neighbor of harboring dissidents and political refugees wanted for political crimes (Ibid).

Cocoa smuggling was another area of tension between both states with different producer prices at different times spurring smuggling of cocoa beans from the side with lower prices and the attendant loss of foreign exchange earnings (Annan, 2019). The unstable nature of relations between the two states continued until it experienced a marked improvement in the late 1980s when after several years of stalled talks, the joint border re-demarcation commission emerged with an agreement that defined the 640 km long land border between the countries. Another major dent in bilateral relations was soon to occur in 1993, when the elimination of popular Ivorian football club Asec Mimosas from a continental football tournament in Kumasi by Ghana's Asante Kotoko led to severe attacks on Ghanaian immigrants resident in La Cote d'Ivoire leading to multiple deaths, the destruction of over 1000 commercial and domestic properties, and the displacement of over 40,000 Ghanaians some of whom had sought refuge in embassies and others who had to be removed via emergency evacuations from La Cote d'Ivoire (Berry and US Library of Congress, 1995). Ghana served as a haven for refugees during the Ivorian Civil War and post-election crisis. However following the removal of Laurent Gbagbo as Ivorian President in 2012,

Ghana's President John Atta-Mills who allegedly had a warm personal relationship with the former refused to get involved in efforts by ECOWAS to apply diplomatic and military pressure to force the acceptance of the election results by the incumbent government (Mahama, 2012). This action appeared to have led to frigid relations between the two countries following the induction of Allasane Ouattara to the Ivorian presidency with regular accusations that Ghana was serving as a launch pad for destabilizing actions by dissidents and mercenaries living in the latter. This led to several unilateral closures of the border and a spike in the levels of mutual distrust and suspicion (Ibid). A United Nations expert panel reported that exiled supporters of ex-President Laurent Gbagbo were headquartered in Ghana and attempting to overthrow the Ivorian government using mercenaries from Ghana and Liberia. Indeed, Ghana reported the discovery of several caches of illegal arms and arrested several Ivorian ex-combatants and officials including General Dogbo Ble and Justin Kone both former high-ranking Ivorian officials and key allies of Gbagbo (Ibid). It was against this backdrop of border closures and dark accusations that the issue of the maritime boundary cropped up in 2010 especially with several new discoveries announced by Ghana on its western side of the Gulf of Guinea (Bening 2014). Several diplomatic engagements and meetings (numbering more than ten) had failed to produce any satisfactory outcome leading to La Cote d'Ivoire submitting a complaint to the UN and both countries subsequently submitting themselves to an arbitration by the special chamber of the ITLOS (Ibid).

Amid all these disturbances in the diplomatic relations of both nations, there have been no direct armed confrontations between the two states. Indeed, Ghana and La Cote d'Ivoire have consistently resorted to joint commissions and diplomatic engagements to settle their issues stretching as far back as to the disturbances in 1994 which were investigated by a joint commission

set up by both governments and mediated by Togo to their most recent decision to submit to international arbitration to settle the maritime dispute despite the high stakes involved. In the following sections, the period following the ITLOS decision has been characterized by very friendly relations that has seen an upsurge in cooperation between the two states especially in the economic, trade and security sectors.

### **3.2 ITLOS Reactions- Summary**

Godwin Dzokoto (2019) (Lecturer at the Faculty of Law, University of Ghana) opines, “the provisions of the judgement did not give any room for Côte d’Ivoire to request for an appeal or any other redress in the court of law thus it leaves them with no choice but to collaborate to implement and execute the ruling.” This only means that the judgement is completely done, and Côte d’Ivoire had no choice but to cooperate since the Tribunal had arrived at its final decision. Further, Poku (2019) asserts that both parties welcome the ruling in good faith; Ghana – the magnanimous winner and Côte d’Ivoire - the good sport willing to abide by the court’s ruling. Ivory Coast’s compliance with the Chamber’s decision is partly due to the notion of state practice. Characteristically, state practice over the decades has shown that a vast majority of the judgements given by UNCLOS dispute settlement bodies have been complied with and implemented by small and great states alike (Phan, 2019).

According to the Director- Legal of the Consular Bureau of Ghana’s foreign ministry (MFARI), Audrey Abayena, “after the Judgement was passed in September 2017, the two parties [have] agreed to abide by the ITLOS ruling. For this reason, the team from Côte d’Ivoire has since travelled to Ghana for meetings with their Ghanaian counterparts in Ghana to decipher ways to

implement the ruling” (Abayena, 2019). Ambassador Albert Francis Yankey (2019), the Chief Director of the MFARI, reiterates, “The same spirit of brotherliness with which the maritime dispute between Ghana and Côte d’Ivoire was handled is expressed in their commitment to ensure the smooth implementation of the ruling by the Special Chamber.”

### **3.3 Bilateral Efforts Made to Implement the Judgement**

#### **3.3.1 Strategic Partnership Agreement (SPA)**

In October 2017, the two countries, through their Heads of State, Presidents Nana Addo Dankwa Akufo-Addo and Alasane Ouattara, signed a Strategic Partnership Agreement. The agreement seeks to deepen relations between the two states and move beyond the conventional tools of cooperation and announced that a joint committee would be created to oversee the execution of the ITLOS judgement (Yeboah, 2017). The Strategic Partnership Agreement, in Article 1, identifies Defence and Security; Cocoa and Cashew Economy and other strategic crops; Mining, Energy and Environment; Transport; Economic Policies and Maritime Cooperation as the strategic areas of cooperation between the two states (Strategic Partnership Agreement, 2017). In terms of Maritime Cooperation, the two governments:

*“Confirmed their commitment to implementing the ruling of ITLOS; committed to develop practical arrangements for the joint exploitation and management of trans-boundary oil and gas and other resources. As well as work to achieve stronger cooperation in the areas of oil research, hydrocarbon exploration, development and management, and sharing of information. [Further] the two governments [aim] to strengthen cooperation in the development of their fishery resources and to take the necessary measures to harmonize and revitalize the*

*fisheries agreements between the two countries. [Also] the two governments commit to strengthen their cooperation in combatting illegal fishing” (Strategic Partnership Agreement, 2017).*

Also, as part of the agreement, the two states agreed to create the necessary institutional framework to boost their bilateral relations. These are the Conference of Heads of States, which is responsible for guiding and promoting the execution of the common strategic policies laid down by the agreement; a Joint Implementation and Monitoring Committee, made up of their Ministers of Foreign Affairs, to implement the decisions of the Conference; the National Implementation and Monitoring Committee of each country to implement the decisions of the Conference at the national level and a technical committee that will be responsible for preparing the meetings of the National Implementation and Monitoring Committee (Strategic Partnership Agreement, 2017). Despite its aims and objectives, the Strategic Partnership Agreement remains in a limbo since it is yet to be ratified by both states in their respective parliaments. This means that, at this stage, the SPA remains a proposal.

### **3.3.2 First Ghana/ Côte d’Ivoire ITLOS Implementation Meeting**

In efforts to execute the ruling, Ghana and Côte d’Ivoire each government constituted an Implementation Committee, a negotiation committee was set up to engage each other to find a lasting solution (Poku, 2019). Ghana’s committee was made up of 16 members and chaired by the Senior Minister, Hon. Yaw Osafo- Maafo. The implementation team was made up of the Minister for Foreign Affairs & Regional Integration, Hon. Shirley Ayorkor Botchway, the Minister for Justice & Attorney General, Hon. Gloria Akuffo, the Minister for Lands and Natural Resources,

Hon. Peter Amewu, the Chief Director of the Ministry of Energy, Lawrence Apaalse, Rear Admiral Beick-Baffour of the Ghana Armed Forces- Navy, Mr. Isaac Larbi of the Survey and Mapping Division (Office of the Senior Minister- Press release, 2018). The Ivorian implementation team was led by the Ivorian Minister for Petroleum and Energy, Mr. Adama Toungara and made up of officials from the energy sector (Abbey, 2018).

For Ghana, the implementation stage of the ITLOS decision is very critical. This is because it “assures the investor community of the security of their investment and ensures that oil concession blocks can be given right up to the line” (Poku, 2019). Further, it places the country (Ghana) into proper contact with influential investors and attract them to the deep-water environments for new discoveries to increase the country’s oil output and create revenue for the state (Ibid).

On 14<sup>th</sup> and 15<sup>th</sup> May 2018, at Abidjan, Ghana’s implementation team met with their Ivorian counterparts to inform them of its intention to officially deposit the coordinates and special maps and charts defined by the Special Chamber of ITLOS with the relevant United Nations agencies. The meeting also aimed at coming to an agreement on the modalities for the implementation of the judgement. Thus, they came to an agreement that they would continue to collaborate within the framework of the Strategic Partnership Agreement. According to Audrey Abayena (2019), The two parties also approved the need to cooperate in the areas of “piracy, crime, fishing, seismic surveys/research and joint exploitation of resources in the overlapping areas.” This means that cooperation between the two states could enhance maritime security, particularly in the areas of illicit bunkering, piracy and hot pursuit as well as ensure the safety and peaceful co-existence of fisher folks (Office of the Senior Minister- Press release, 2018).

Ivory Coast also submitted a Draft Framework Agreement “for cooperation in hydrocarbons and other resources on the maritime boundary between the two countries based on the ITLOS decision” (Ibid). The Ivorian side also submitted two maps, entitled “Côte d’Ivoire de Mohamé (Côte d’Ivoire) à Half Assini (Ghana)” at the scale of one in Hundred Thousand (1/100,000) and “Côte d’Ivoire de Nanakrou (Liberia) à Dix Cove (Ghana), at a scale of one in One Million (1/1,000,000) (Final Communiqué for the first meeting, 2018).

For the Ghanaian side, the first round of meetings with the Ivorians were fruitful. However a subtle observation made was the fact that “the Ivorian side was more interested in engaging the Ghanaian side on cooperation of hydrocarbons on the maritime boundary within the context of the Strategic Partnership Agreement, rather than the objective of the process towards the implementation of the ITLOS decision which was of more interest to the Ghanaian side” (Abayena, 2019).

### **3.3.3 Second Ghana/ Côte d’Ivoire ITLOS Implementation Meeting**

A follow-up meeting to the May 2018 meeting in Abidjan was held on 9<sup>th</sup> August 2018 in Accra. The two parties had agreed that the Technical Teams would work together to validate the plotting of the ITLOS coordinates provided by Côte d’Ivoire in the last meeting. Both countries’ technical teams in the second meeting agreed that Côte d’Ivoire had the official digital version of the map and after plotting together, produced a map that shows the maritime boundary, 200 nm to the Exclusive Economic Zone (EEZ). The experts from the two parties confirmed the agreement reached, and categorically stated that they had 98% confidence in the results achieved using the ArcGIS software for plotting. They related that the results were so certain that they could be

reproduced anywhere else and reflected a true reflection of the ITLOS decision (Minutes of the 2<sup>nd</sup> Meeting, 2018).

The second item discussed was the Framework Agreement on Cooperation between Ghana and Côte d'Ivoire. The head of Ghana's Technical Team, Lawrence Apaalse outlined Ghana's position on the issue; Ghana highly believes that the Strategic Partnership Agreement signed by the two states is comprehensive and broad enough as the underlying framework for cooperation. Further, Ghana believed that the most pressing issue was the settlement on a common boundary, which will in turn make it easy for them to build cooperation in other areas. The Ghanaian team reiterated that the implementation committee did not have the mandate to consider the framework (Ambassador Yankey, 2019). This issue of hydrocarbons is a possible conflictual area that two countries are yet to agree on; Côte d'Ivoire seems more interested in the oil and gas resources that may straddle the boundary. This is obviously a big jump in logic as no hydrocarbons have been confirmed to straddle the boundary line (Poku, 2019).

Although the Ivorian Team saw the need to prepare for future discoveries since both countries are still young in their petroleum exploits, they stated that it understood Ghana's argument. Côte d'Ivoire's position was that since a compromise had been reached on the maps, it was important to widen this cooperation beyond maritime resources but they saw it prudent to defer the consideration of the framework for another day at a future meeting and within the bounds of the Strategic Partnership Agreement (Minutes of the 2<sup>nd</sup> Meeting, 2018).

### **3.4 Other Areas of Cooperation**

Beyond the dispute on the implementation of the ITLOS Judgement, the two states have engaged each other to collaborate in several other areas. These areas of cooperation are signified by efforts made in terms of the cocoa sector and three other Memoranda of Understanding (MOU) that were signed on 17 October 2017. These MOUs relate to Geological and Mineral cooperation, Industrial cooperation and “Establishment of the Ministerial Committee and the Joint Technical sub-Committee for the Monitoring of Pollution from the Illegal Mining Activities in the Bia and Tano River Basins” shared by the two states (Ambassador Yankey, 2019). The following section will carry out an analysis of the achievements or progress made in these sectors of cooperation that lie outside the boundary of the ITLOS ruling in order to assess whether the relations between the two states have changed.

#### **3.4.1 The Cocoa Sector**

Ghana and Ivory Coast produce about 60% of the world’s cocoa but both countries have fallen to the mercy of fluctuations of cocoa prices on the international market and this tends to have a negative impact on the revenues of farmers or cocoa producers in the two states and that of the states themselves. In 2015, a period when the global chocolate market was worth \$100 billion the major producers of the raw material, Ghana and Côte d’Ivoire, only made some \$5.75 billion. This meant that the two states, and particularly the farmers involved, only earned 5.75% of the global value chain of the industry (ghanaweb.com, 2017).

The Strategic Partnership Agreement, signed in October 2017, covers the cocoa industry as a strategic area of cooperation. It states that in order for the two governments to gain better control

of the international price of the commodity there is a need for their two cocoa institutions (and governments) (*Le Conseil du Café-Cacao* (CCC) for Côte d'Ivoire and COCOBOD for Ghana) to adopt common policies concerning marketing, storage, processing and promoting local consumption of cocoa. It also highlighted the need for the two states to undertake a common strategy to arrive at a harmonized and consolidated price for farmers and to eradicate cocoa smuggling (Strategic Partnership Agreement, 2017).

According to Ambassador Yankey (2019), there have been other bilateral agreements that can be traced from the increased cooperation between the two states. Amplified cooperation between the two states in other sectors, particularly concerning the maritime boundary, has facilitated further cooperation in the cocoa industry as well. Accordingly, the two states signed, in March 2018, the **Abidjan Declaration**, a common strategy dedicated to find a sustainable solution to the pricing of cocoa for both countries. On September 10 and 11, 2018, the two states adopted a comprehensive implementation plan to lay out specific actions they would take to achieve their common goal in this industry.

Ambassador Yankey (2019) listed the details of the Implementation Plan to include: “the agreement to conduct a study to determine the floor price of cocoa; to constitute a joint committee for the promotion of cocoa consumption in both countries and across the West African sub-region; to work further towards the adoption of strategies for the implementation of ISO Sustainable and Traceable Cocoa Standard.” The two states further agreed to have concurrent openings of their cocoa seasons and the announcements of producer prices. In terms of “production and research, Ghana and Côte d'Ivoire decided to forge closer collaboration between the Cocoa Research

Institute of Ghana (CRIG) and National Center of Agronomic Research (CNRA) in Côte d'Ivoire. [Also, they agreed to work] towards the adoption of good practices for adaptation and mitigation of the adverse effects of climate change which can affect cocoa yield” (Yankey, 2019).

As a result of their cooperation, in June 2019 the two states, as the largest producers of the crop, suspended the sale of cocoa, deciding not to sell for less than \$2600 a tonne for the 2020/2021 season. This was a joint decision taken by both the Ghanaian and Ivorian government to suspend the sale of cocoa until they are able to sell at better prices and to provide better incomes for farmers who are the source of a multibillion-dollar global industry (Miner, 2019). On 11<sup>th</sup> and 12<sup>th</sup> June 2019, at a two-day meeting in Accra, representatives of Ghana and Ivory Coast agreed on the floor price mechanism in principle. Then on 3 July 2019, the Technical Teams of both states met in Abidjan met to work out an implementation procedure to realize the goal of improving producer revenue from the global value chain (Breakthrough cocoa pricing, *bftonline.com*, 2019).

In a meeting in Abidjan, in July 2019, attended by representatives of leading chocolate companies like Hershey's, Mars Inc., Touton, Mondelez International etc., the two states initially failed to reach an agreement with these companies. However, by June 12, these top producers had accepted the \$2600 floor price as they came to an understanding that producers of the raw material must be remunerated properly (*reuters.com*, 2019). The new price is reflective of better cooperation in the cocoa industry than ever before. For instance, in the 2016/2017 season, the price of a tonne of cocoa was \$2950 but in the next season, the 2017/2018 season, the price of cocoa sharply dropped to \$2080. Thus, the previous situation was reflective of fluctuations in prices that this upsurge in

cooperation between the two states have tried to address for their mutual benefit (*bftonline.com*, 2019).

### **3.4.2 MOU for the Monitoring of Pollution from the Illegal Mining Activities**

In efforts to sanitize two major water bodies, the Tano and Bia River Basins that they share, Ghana and Ivory Coast signed, in October 2017 an MOU for the establishment of the ministerial committee and the joint technical sub-committee for the monitoring of pollution from the illegal mining activities. The ministerial committee is an ad hoc committee with the mandate to “ensure implementation of the planned actions; approve the proposals and recommendations from the technical experts’ sub-committee; seek the financial and material resources necessary for the functioning of the Technical experts subcommittee; ensure the achievement of the objectives assigned to the Technical experts subcommittee; put in place information, communication and education strategies to prevent activities that pollute the shared water bodies; and report to the respective governments on the progress made in the fight against pollution from illegal mining activities” (MOU for Illegal Mining Activities, 2017).

The total catchment area of the Tano River is 15, 000 km<sup>2</sup> with Ghana holding about 93% of the area whilst Côte d’Ivoire holds 7% of this area. The Bia River also flows through Côte d’Ivoire and the two rivers are a great source of water supply for the Ivorians, especially the Bianouan people in Eastern Ivory Coast who depend on the rivers for their daily livelihoods. According to Ivorian news reports, the contamination of the Bia River is because there were groups of miners panning for Gold in the Ghanaian village of Dadieso and have used different chemicals in search of this gold. As a result, the Bianouns are unable to carry out their day-to-day activities safely.

Thus, because the two waterbodies have been polluted by illegal mining activities around the Ghanaian parts of the Basin, the two states are cooperating to fight the menace. For instance, Ghana has deployed 400 security personnel to help fight the issue in these areas (Dogbevi, 2017).

### **3.5 General Diplomatic Relations**

Today, the collaborations between Ghana and Côte d'Ivoire have been fruitful and positive as the two adjacent states continue to live in harmony. Yet still, Abayena (2019) believes that Ghana needs to be strategic because the Ivory Coast have been adamant in certain areas of collaboration such as the comprehensive Strategic Partnership Agreement and its absolute realization in all its outlined sectors. In tandem with this, Poku (2019) reiterates that for Ghana, the idea behind the is to have a comprehensive agreement, under the Strategic Partnership Agreement, while Côte d'Ivoire has sought to prioritize specific sectors which it considers as the most pressing concerns leading to a slight stall in the implementation phase of these agreements.

Although the SPA has been signed, by both presidents, little progress has been made on its collective actualization (Poku, 2019). It basically stands at the proposal stage. This situation illustrates vividly the gulf that exist, in some cases, between policy formulation and policy implementation. Egonmwamn (quoted in Ahmed & Dantata, 2016), highlights the various reasons why a policy might be implemented or not implemented or even stalled. First, the content of the policy, whereby the implementation process is influenced by the interest of either party in the content of the programme that seeks to introduce social, economic or political change. Typically, the state that is threatened by the policy will find this hard to support. Second, is the context of the policy. Since a policy involves different actors at different levels that possess varying interests in

the programme, it is possible that “the power base and strategies of actors involved in implementation can influence the course of implementation” (Ahmed & Dantata, 2016). Applying this to the SPA between Ghana and Ivory Coast, it is evident that even greater cooperation is required to transform the policy into action by emphasizing the mutual benefits inherent in the agreement and satisfying the concerns of multiple stakeholders in the process.

The diplomatic trajectory of both states in the aftermath of the ITLOS verdict despite the appearance of there being a winner and a loser challenges realist assertion that global governance institutions do not serve a key role in modifying state behavior and encouraging cooperation and mutually beneficial action. The magnanimous acceptance of the verdict and the very rapid upsurge in cooperation and friendly relations between both states are an indication that shared values and principles that guide the current international system are as relevant as ever in guiding state behavior. In the two years since the verdict was delivered, Ghana and La Cote d’Ivoire have succeeded where they had previously failed to cooperate despite over seven decades of cocoa production to join forces to negotiate a fair and stable price for the commodity. They have gone on to taking concrete steps towards joint protection of the maritime economic resources within the Gulf of Guinea and even the mining and management of inland resources along their border. Two high level diplomatic visits characterized by mass publicity and great fanfare have served to improve local sentiment and mutual respect between citizens (insert presidential visits). I argue that the nature of the process and the semblance of fair and equitable treatment rather than spur competition as others would suggest has rather led to an unprecedented upsurge in cooperation between the two states towards the achievement of absolute gains through mutual benefits. It has laid the ground for the identification of areas of mutual benefit and encouraged both states to take

diplomatic and cooperative measures to resolve other matters of concern such as their previous detrimental competition as the world's leading cocoa producers which has now evolved into a cooperative union/cocoa cartel.

### **3.6 Conclusion**

This section of the study has detailed the judgment of the special tribunal, providing the reasons why certain verdicts were made concerning the main areas of the judgement. It also captured Post-ITLOS events, the means of implementation of the verdict by all parties as well as assessed how the judgement has affected cooperation between the two states by carrying out a brief evaluation of overall reactions and the state of the relationship between Ghana and Ivory Coast. It points out that the judgement has positively enhanced relations between the states by lessening competitiveness and unilateral pursuit of interests and spurred rapid cooperation and stronger trade, economic and security ties.

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## **CHAPTER FOUR**

### **SUMMARY OF FINDINGS, CONCLUSIONS AND RECOMMENDATIONS**

#### **4.0 Introduction**

This chapter highlights the summary of findings, gives recommendations to the study and a conclusion as a summative evaluation of the study.

#### **4.1 Summary of Findings**

Natural resources have always possessed notoriety especially on the Africa continent as they have led to civil wars, in the 1990s particularly, when warlords and rogue entities exploited these resources as a means of funding for their activities that disrupt the peace in these states. In recent times, these natural-resource-caused civil wars to have given way to natural-resources- boundary- conflicts. This situation coupled with a combination of greater importance of Africa's natural resources for rising Asian states (e.g. China) and the relentlessness of Western states to cede control over Africa to other states has caused a new scramble for Africa.

Beyond the new scramble for Africa, is the rise of inter-state boundary conflicts due to the discovery or speculation of natural resources around colonially drawn boundaries that continue to exist today. Some examples of inter-state boundary conflicts are the Nile Basin conflict with Egypt, Rwanda, Burundi, Tanzania, Kenya, Ethiopia and Sudan; the Malawi-Tanzania conflict over Lake Malawi; and the conflicts in the Great lakes' region involving Rwanda, Burundi, Uganda and D.R. Congo. This study focused on the Ghana- Côte d'Ivoire maritime boundary

dispute, which is a more recent illustration of the contemporary trend of natural-resources-boundary-conflicts. The study made a few findings that are detailed below.

Ghana and Ivory Coast, like all other littoral states in the West African sub-region that share the same continental shelf and are searching for oil, thus, are on a mission to spread their continental shelf deeper into international waters for additional exploration. This is where the Ghana- Côte d'Ivoire maritime border dispute stems from - a race for a natural resource, oil, which spells great revenue and profits for the states involved. The disputed area between the two states was valued to contain approximately 2 billion barrels of oil reserves and 1.2 trillion cubic feet of gas.

Ghana discovered its oil, in commercial quantities, in 2007 and soon after when exploration began, neighbouring states (Togo, Nigeria and Côte d'Ivoire) began to lay intersecting claims on Ghana's maritime zone and fundamentally its oil. For instance, when Ghana applied to extend its continental shelf beyond the site of discovery, Nigeria, a state that does not share land boundaries with Ghana, and Côte d'Ivoire issued competing claims to extend their continental shelf. These conflicting claims led to the Ghana- Côte d'Ivoire maritime border dispute as Ivory Coast claimed rights over Ghana's oil discovery site.

Both countries therefore sought arbitration under Annex VII of the UN Convention on the Law of the Sea (UNCLOS) at the International Tribunal on the Law of the Sea (ITLOS), especially after attempts to negotiate bilaterally had failed. The case began in 2014 and lasted for a duration of approximately 3 years as the final judgement was delivered in September 2017. The verdict given stated, among other things, that the Chamber unanimously:

- Agreed that Ghana had not violated the sovereign rights of Ivory Coast.
- Rejected Ghana's claims that a customary tacit agreement existed between the two parties and that the equidistance principle has been respected and applied for at least fifty years. It also stated that Ghana had failed to meet the requirements needed to establish estoppel.
- Agreed that "the single maritime boundary for the territorial sea, exclusive economic zone and the continental shelf within and beyond 200 nm starts at BP 55+ with the coordinates 05° 05' 23.2" N, 03° 06' 21.2" W in WGS 84 as a geodetic datum" (*joyonline.com*, 2017).
- Decided that it had the requisite jurisdiction to determine the claim of Ivory Coast against Ghana in terms of Ghana's international responsibility
- Observes that Ghana did not violate article 83, paragraphs 1 and 3 of the UNCLOS and neither did it go against the provisional measures given by the Chamber in the Order of 25 April 2015.

The study found that since the judgment given by the Special Chamber was complete it meant that the Ivorians could not appeal the ruling and thus left them with the sole option of cooperation. The way the judgement was given tied both parties, especially the loser – Ivory Coast – to actualizing the ruling with no room to seek a redress. For this reason, the study finds that beyond the judgement a spirit of brotherliness existed between the two parties. Another reason that accounts for compliance on the part of both states, especially Ivory Coast is that it has become a norm - state practice - for countries involved in disputes decided on by UNCLOS settlement bodies to comply with the judgments received.

In terms of bilateral efforts made towards the implementation of the Judgement, the study emphasizes some major efforts taken by the states under study. First, was the Strategic Partnership Agreement (SPA) and three other Memoranda of Understanding (MOUs), signed by the two Heads of State in October 2017. Also, at this meeting, two leaders agreed to set up a joint committee to implement the ruling. The SPA aims at expanding Ghana-Ivorian relations beyond the conventional tools of cooperation and covers several areas such as Defence and Security; Cocoa and Cashew Economy and other strategic crops; Mining, Energy and Environment; Transport; Economic Policies and Maritime Cooperation. Although it is a comprehensive agreement, the SPA has not been ratified in both parliaments of the two countries thus the study determines that it remains a proposal unless ratified and actively pursued in all cooperation areas.

The study recognizes that to specifically implement the judgement two meetings have been held so far and both have been quite fruitful. The first meeting saw the implementation committees of both sides convening primarily for Ghana to inform Ivory Coast of the intention to officially provide coordinates and maps to the relevant UN agencies. They agreed to cooperate through the SPA as well. The second meeting was when an agreement was reached to allow the two technical teams work together to validate the plotting of ITLOS coordinates provided by Ivory Coast, which was carried out successfully.

The study also finds that cooperation between both states has moved into other sectors and is reaping positive results. The signing of the Abidjan Declaration has resulted in much needed positive changes in the cocoa sectors of both states. A decision to suspend the sale of cocoa until a better price, \$2600 a tonne, is attained has been realized as the floor price of cocoa from both countries. What this means is that states have demanded what is due them from producers in a

multi-million-dollar industry. Also, it means farmers can receive better proceeds and states can increase their cocoa sector revenues.

It also finds that overall, diplomatic relations between the two states appeared to have entered a new significant phase of cooperation that appears to have put paid to the mutual suspicion and cautious approach of past decades. It has spurred new behaviors regarding how bilateral relations between the two states are approached which has served to boost an atmosphere of mutual respect and good neighborliness.

## **4.2 Conclusions**

Overall, Ghana and Côte d'Ivoire have complied since the judgment was passed in September 2017 and there has been continued peaceful co-existence between the citizens and governments of Ghana and Ivory Coast. This is because there exist some essential variables such as the necessary political will, deployment of adequate material and human resources, institution building, and favorable international environment. This therefore makes the resort to arbitration quite a viable option as compared to conflicts and violence as an effort to solve natural-resource-boundary conflicts. There has been significant progress made in the implementation process with very few drawbacks in terms of Post-judgment bilateral relations. Both states are realist entities that seek to realize specific national interests and this impacts on the development and momentum of bilateral relations between the two states. For Ghana, its post-ITLOS relations with Ivory Coast are to assure the investor community of the security of their investments and the assurance of expansions in oil exploration. It has provided an impetus for both states to expand the areas of cooperation into previously uncharted zones for their mutual benefit.

### 4.3 Recommendations

- Although both states are generally collaborating peacefully and diplomatically on the social, economic and political aspects of their relationship, it is noteworthy for both states to recognize that there is the need to avoid heavy political interference in future relations. To do this the implementation processes should be brought down to the grassroots for more technocrats to engage in specific areas as they have the knowledge and expertise needed without any political leanings whatsoever.
- Also, having received the judgement, the two states must ensure they fully implement its directives to ensure peace and security within the countries and the sub-region.
- Both states must target creating a relationship underpinned by the desire for sustainable cooperation. This means that there must be increased people-to-people exchanges, which is possible, if both states work towards investing in the areas of sport, culture, education, tourism etc. at the bilateral level. In this same vein, Ghanaians need to help enhance cooperation by taking French language studies, which is already included in the Ghanaian school curriculums, with utmost seriousness.
- In terms of cooperation in the cocoa industry, the two states must strive to continue to maintain the new status quo created through increased collaboration and the fact that they pose a united front as producers of high-quality cocoa. If this united front is maintained and sustained it will go a long way to create more revenue from cocoa yields, farmers in the two countries could be earning more if officials of the two countries presented a united front to counteract the prices of cocoa dictated by companies in the Western countries.
- For the two states, it is necessary that they work at wholly implementing the Strategic Partnership Agreement by first ratifying it on both sides. This would essentially pave the

way for the two neighboring states to present a united front to address other areas beyond just the maritime boundary or specific sectors like the cocoa industry.

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## APPENDIX

### INTERVIEW GUIDE

#### GHANA COTE D'IVOIRE RELATIONS IN POST ITLOS MARITIME BOUNDARY JUDGEMENT

1. Since the early 1990s natural resources-based conflict has become a major issue in Africa, what is your view?
2. What are the dynamics of natural resources conflict now?
3. The literature now appears that the emphasis is no longer on natural resources but natural resources boundary conflict why?
4. Judgment has been passed on Ghana /Côte d'Ivoire conflict, what are the reasons?
5. What are the main issues of contentions between Ghana and Côte d'Ivoire?
6. What measure(s) did both countries take to resolve the boundary dispute?
7. What are the main provisions of the ITLOS judgement?
8. Has the implementation of the judgement improved or worsen the relations between the two countries?
9. Has it clarified the main thronging issues or conflictual points between Ghana and Côte d'Ivoire?
10. How do you foresee the future of the two parties?
11. How clear has the judgment been in addressing the concerns of the parties?
12. What has been the response of both parties to the judgment?
13. How have they operationalized the judgement provisions?
14. Have the two countries made any palpable effort in addressing their grievances?
15. Are there some issues that are left unaddressed that will cause problems in the future?
16. Is there anything that the two parties have not judge but are conflictual?
17. Are there any bilateral agreement between the two countries that would make they relapse into conflict or will deepen their resolve or amicably settle their differences?
18. Please, do you have something else to say?