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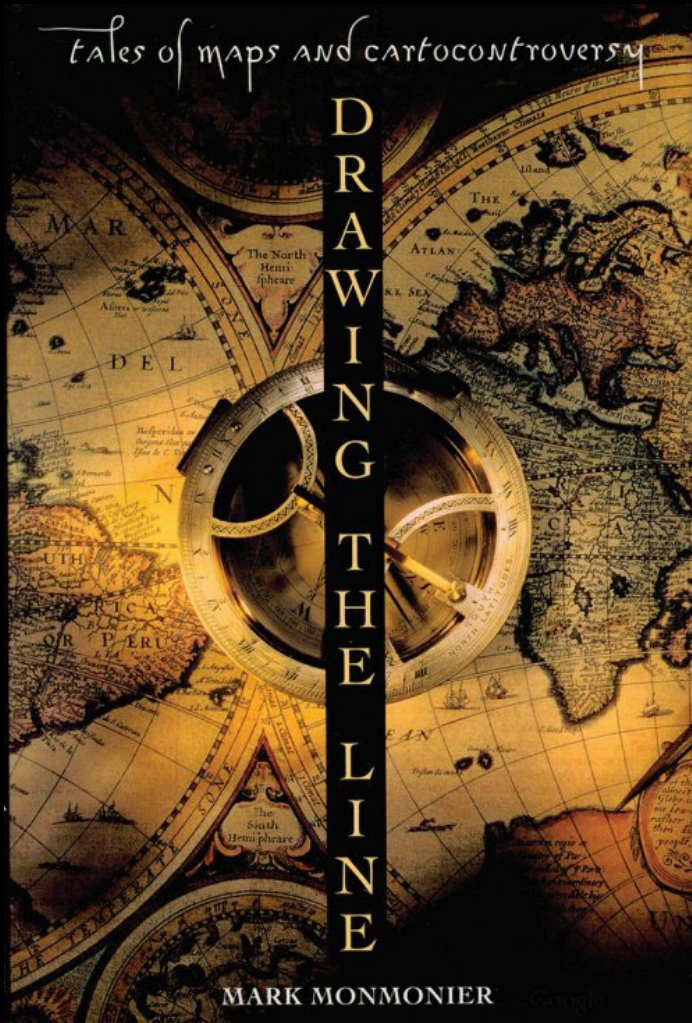
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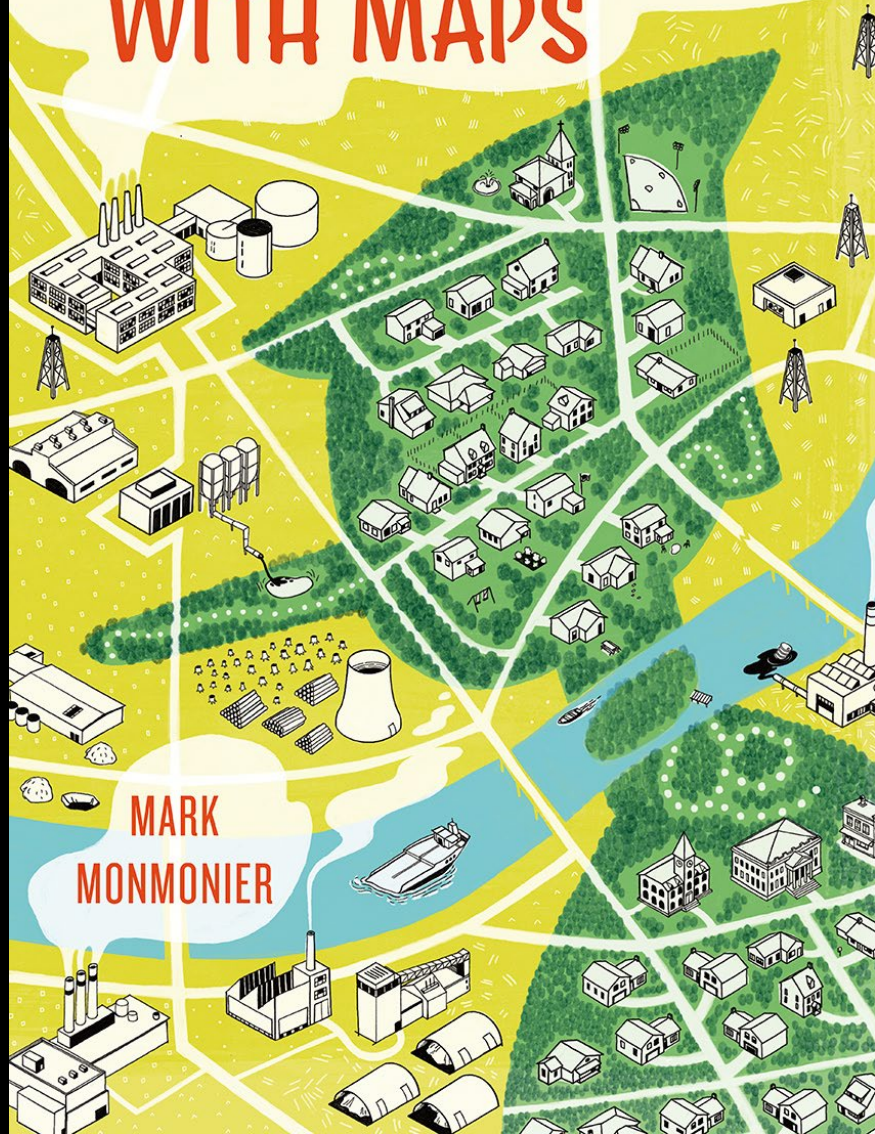


“Maps make good witnesses. In lawsuits over boundaries and land ownership, maps can testify with authority and conviction”

Mark Monmonier, *Drawing the Line: Tales of Maps and Cartocontroversy*

# HOW TO LIE WITH MAPS

3rd Edition



MARK  
MONMONIER

## ICJ 1986 Burkina Faso-Mali judgment

54. At the present stage of its reasoning the Chamber can confine itself to the statement of a principle. Whether in frontier delimitations or in international territorial conflicts, maps merely constitute information which varies in accuracy from case to case; of themselves, and by virtue solely of their existence, they cannot constitute a territorial title, that is, a document endowed by international law with intrinsic legal force for the purpose of establishing territorial rights. Of course, in some cases maps may acquire such legal force, but where this is so the legal force does not arise solely from their intrinsic merits: it is because such maps fall into the category of physical expressions of the will of the State or States concerned. This is the case, for example, when maps are annexed to an official text of which they form an integral part. Except in this clearly defined case, maps are only extrinsic evidence of varying reliability or unreliability which may be used, along with other evidence of a circumstantial kind, to establish or reconstitute the real facts.

## ICJ 1986 Burkina Faso-Mali judgment

55. The actual weight to be attributed to maps as evidence depends on a range of considerations. Some of these relate to the technical reliability of the maps. This has considerably increased, owing particularly to the progress achieved by aerial and satellite photography since the 1950s. But the only result is a more faithful rendering of nature by the map, and an increasingly accurate match between the two. Information derived from human intervention, such as the names of places and of geographical features (the toponymy) and the depiction of frontiers and other political boundaries, does not thereby become more reliable. Of course, the reliability of the toponymic information has also increased, although to a lesser degree, owing to verification on the ground; but in the opinion of cartographers, errors are still common in the representation of frontiers, especially when these are shown in border areas to which access is difficult.

## ICJ 1986 Burkina Faso-Mali judgment

56. Other considerations which determine the weight of maps as evidence relate to the neutrality of their sources towards the dispute in question and the parties to that dispute. Since relatively distant times, judicial decisions have treated maps with a considerable degree of caution: less so in more recent decisions, at least as regards the technical reliability of maps.

But even where the guarantees described above are present, maps can still have no greater legal value than that of corroborative evidence endorsing a conclusion at which a court has arrived by other means unconnected with the maps. In consequence, except when the maps are in the category of a physical expression of the will of the State, they cannot in themselves alone be treated as evidence of a frontier, since in that event they would form an irrebuttable presumption, tantamount in fact to legal title.

The only value they possess is as evidence of an auxiliary or confirmatory kind, and this also means that they cannot be given the character of a rebuttable or *juris tan tum* presumption such as to effect a reversal of the onus of proof.

# Maps as evidence in boundary disputes

“As the Court will be aware, all maps are not equal. Shakespeare wrote that some men are born great, some achieve greatness and some have greatness thrust upon them. Now whether this is true for men, it is certainly true for maps.

Some maps are born great – in particular, those annexed to treaties.

... Then there are maps that achieve greatness, because they are endorsed and put forward by States in the context of international relations as reflecting a boundary, and maybe they are accepted by other States as well...

... And then there are ...the miscellaneous maps, the maps that are none of the above, the maps that have no international endorsement at all. ... They are more or less reliable or more or less unreliable depictions, on some scale or another, of something or another. They may be privately published; they may be internal maps which have never been published at all. ... [Such maps] “merely constitute information which varies in accuracy from case to case; of themselves and by virtue solely of their existence, they cannot constitute a territorial title, that . . . a document endorsed by international law with intrinsic legal force for the purpose of establishing territorial rights [can do]...”.”



# The ICJ's view on maps as evidence

*Burkina Faso/Mali Judgment (1986), paragraphs 54-56*

- By virtue solely of their existence, maps cannot constitute a territorial title.
- Maps may acquire such legal force if they fall into the category of physical expressions of the will of the State or States concerned, e.g. when maps are annexed to an official text.
- Except in this clearly defined case, maps are “only extrinsic evidence of varying reliability or unreliability which may be used, along with other evidence of a circumstantial kind, to establish or reconstitute the real facts.”
- Some maps are born great, some achieve greatness and some have greatness thrust upon them (W. Shakespeare / J. Crawford)

# Treaty maps in boundary cases

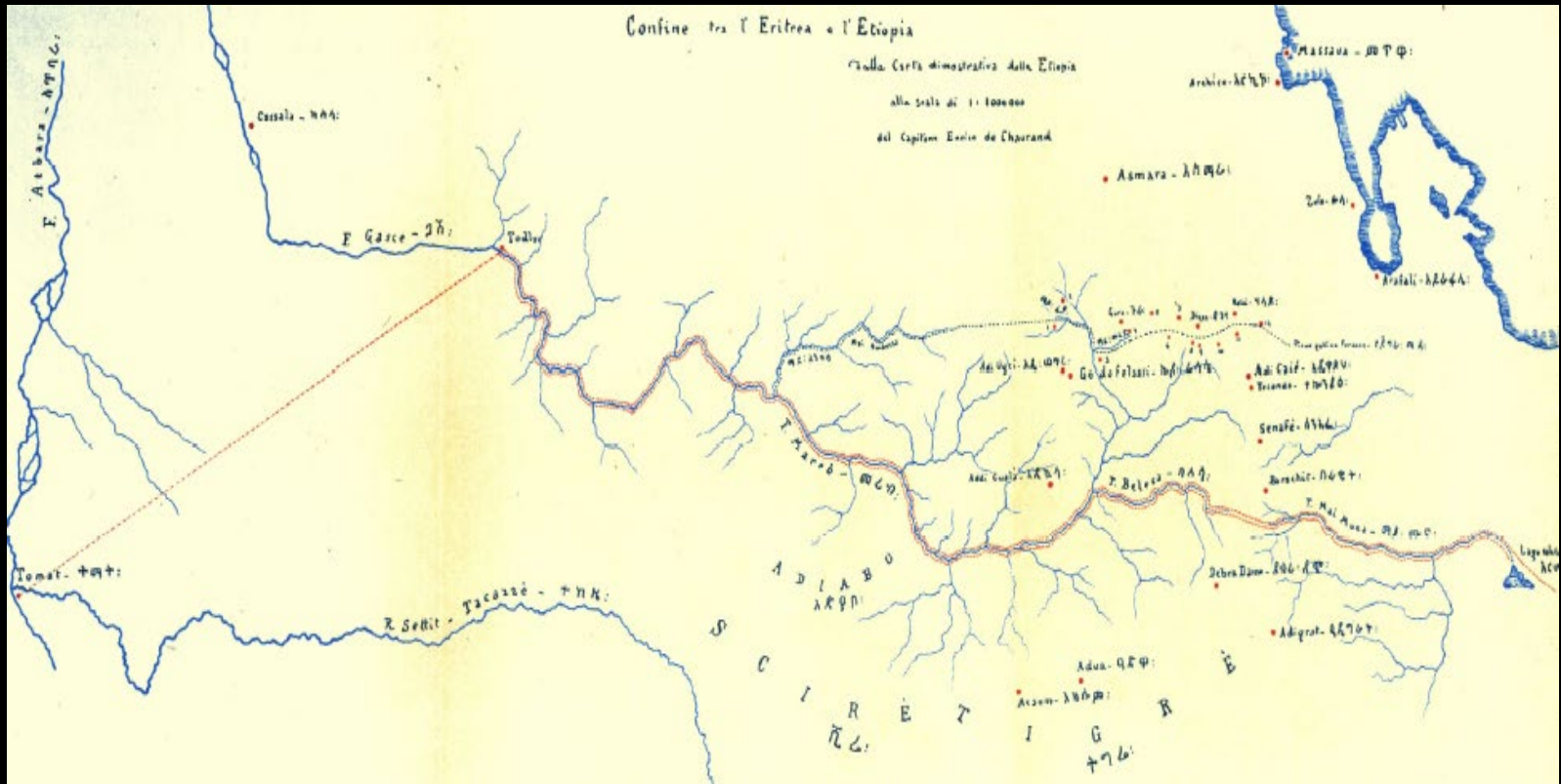
Boundary and territorial cases since 1945 involving maps attached to treaties or administrative acts:

- 1959 Frontier Lands case (Belgium-Netherlands)  
*1843 boundary commission maps retrospectively appended to 1841 treaty*
- 1966 Rann of Kutch arbitration (India-Pakistan)  
*Map B-44 attached to a 1914 Colonial administrative resolution (short section)*
- 1999 Kasikili/Sedudu island sovereignty case (Botswana-Namibia)  
*1890 Anglo-German treaty referred to an attached small scale map*
- 2002 Eritrea-Ethiopia boundary arbitration  
*Sketch map annexed to 1900 Abyssinian-Italian boundary treaty*
- 2002 Land and Maritime Boundary between Cameroon and Nigeria case  
*Maps annexed to Yaoundé II and Maroua Declarations*
- 2014 Bangladesh-India maritime boundary arbitration  
*Map annexed to the 1947 Radcliffe Award*

# A great map?

Map attached to Eritrea-Ethiopia boundary agreement 1900

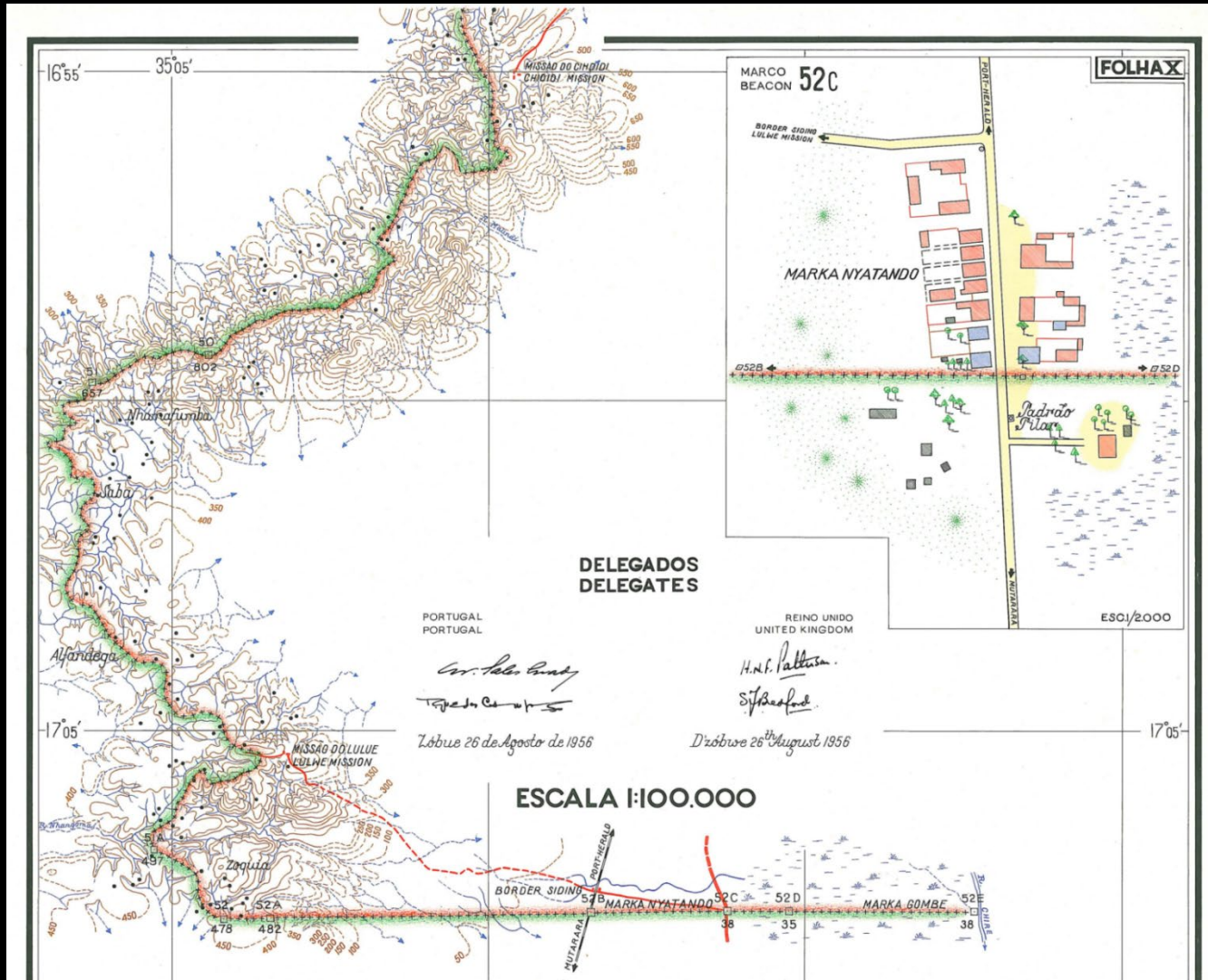
“The line Tomat-Todluc-Mareb-Belesa-Muna, traced on the map annexed, is recognized by the two Contracting Parties as the boundary between Eritrea and Ethiopia.”





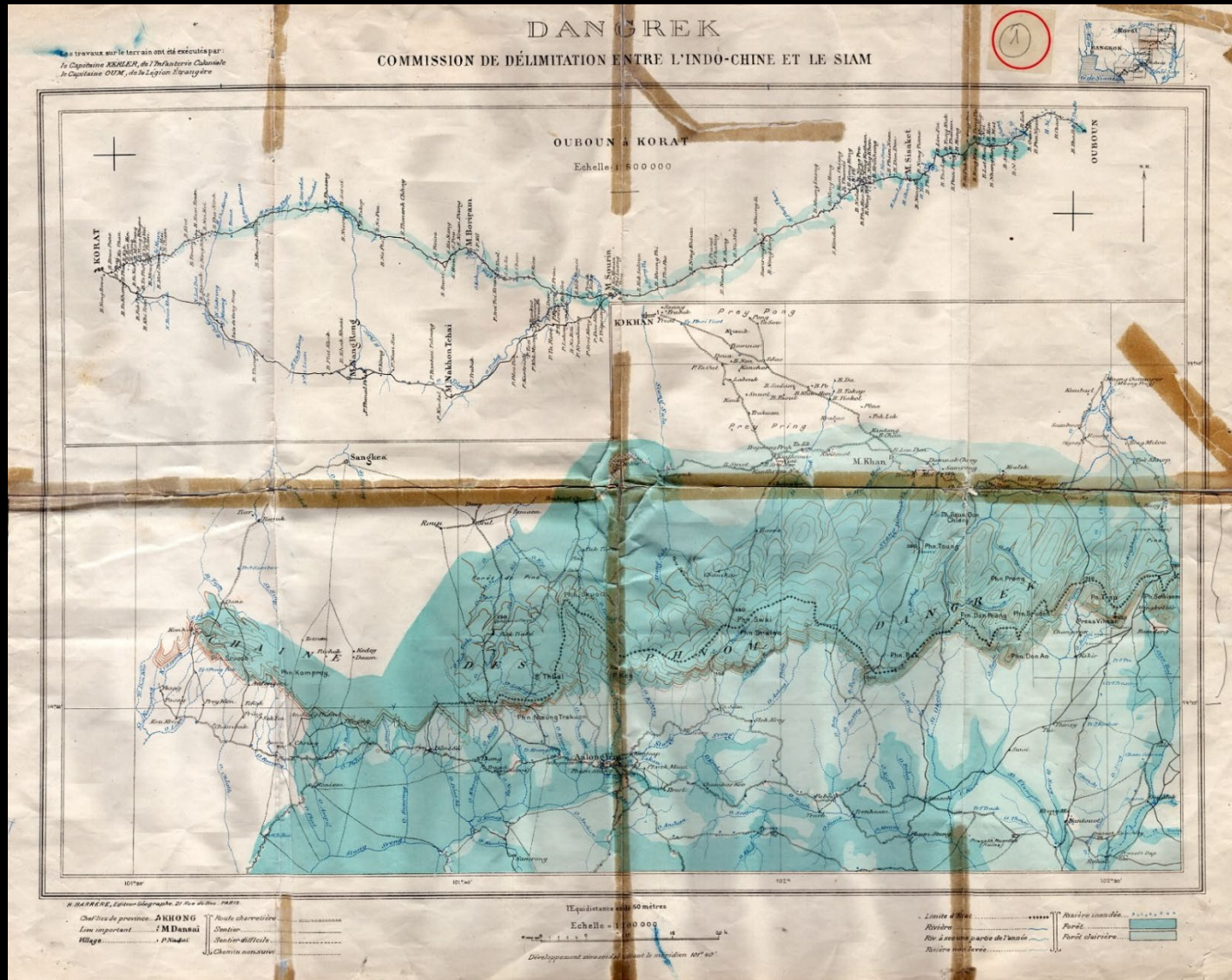
# A great map?

## Malawi-Mozambique demarcation map 1956



# A map which achieved greatness

## Cambodia-Thailand 'Annex 1' map



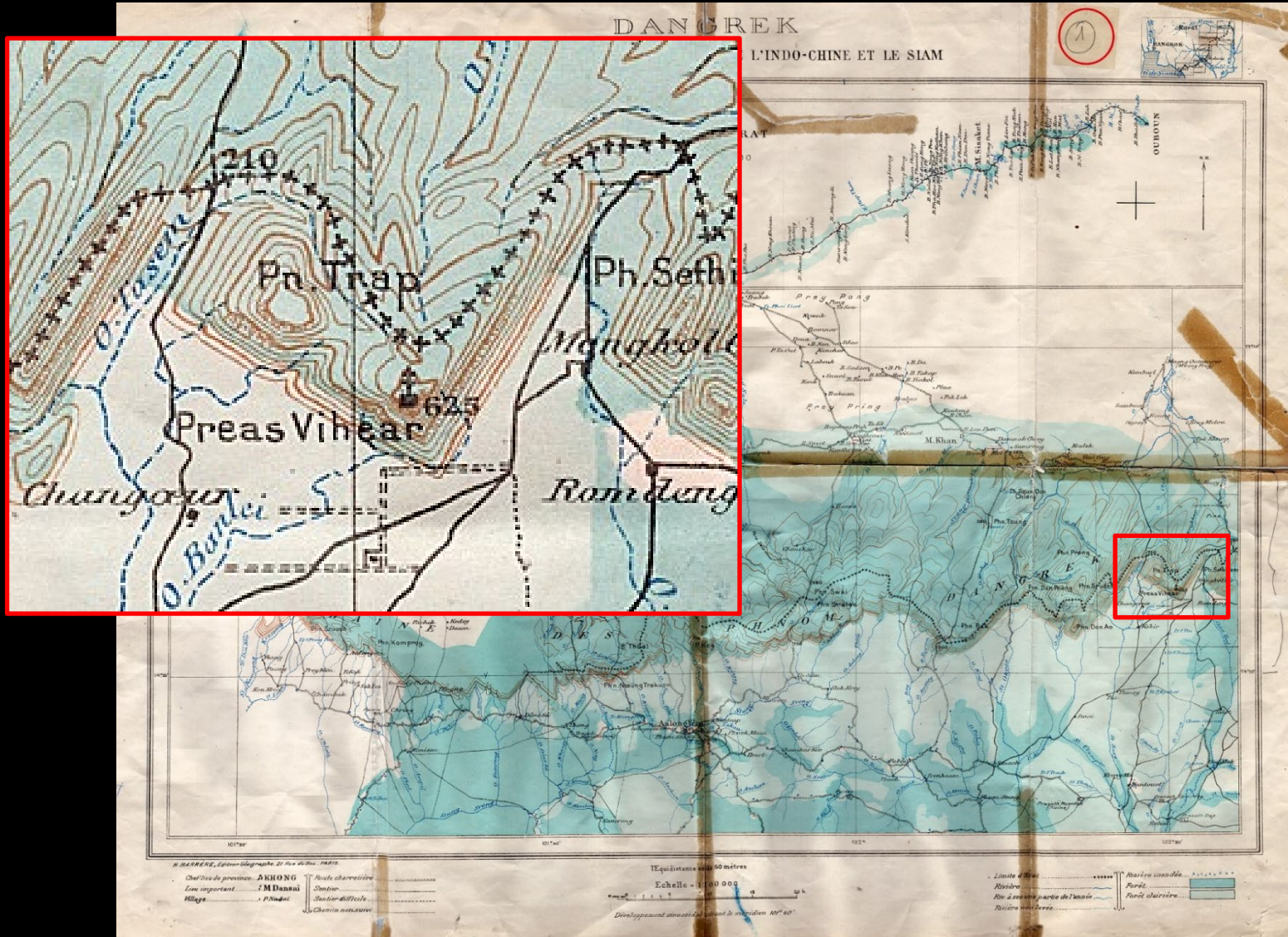
# A map which achieved greatness

## Cambodia-Thailand 'Annex 1' map



# A map which achieved greatness

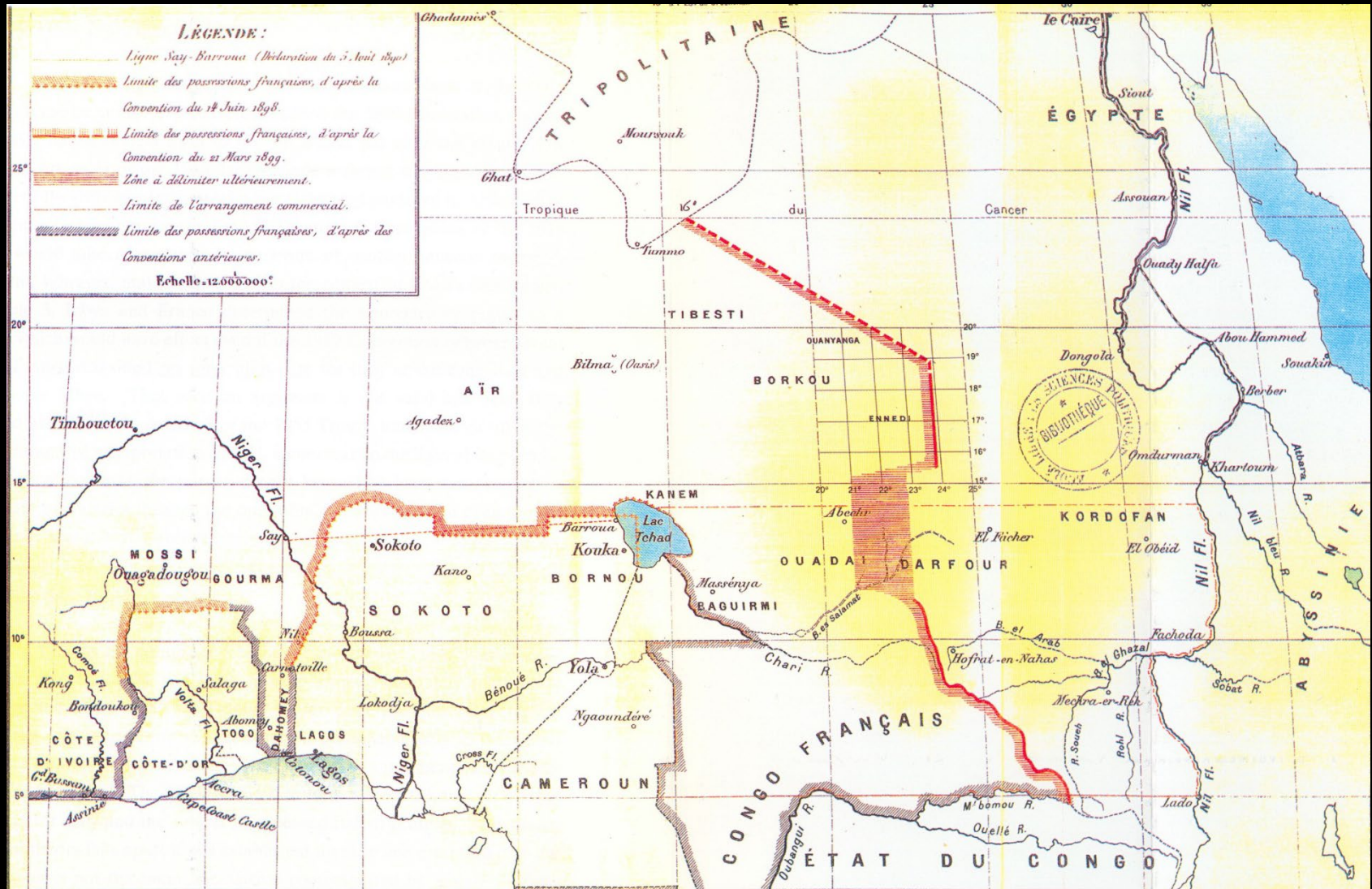
## Cambodia-Thailand 'Annex 1' map





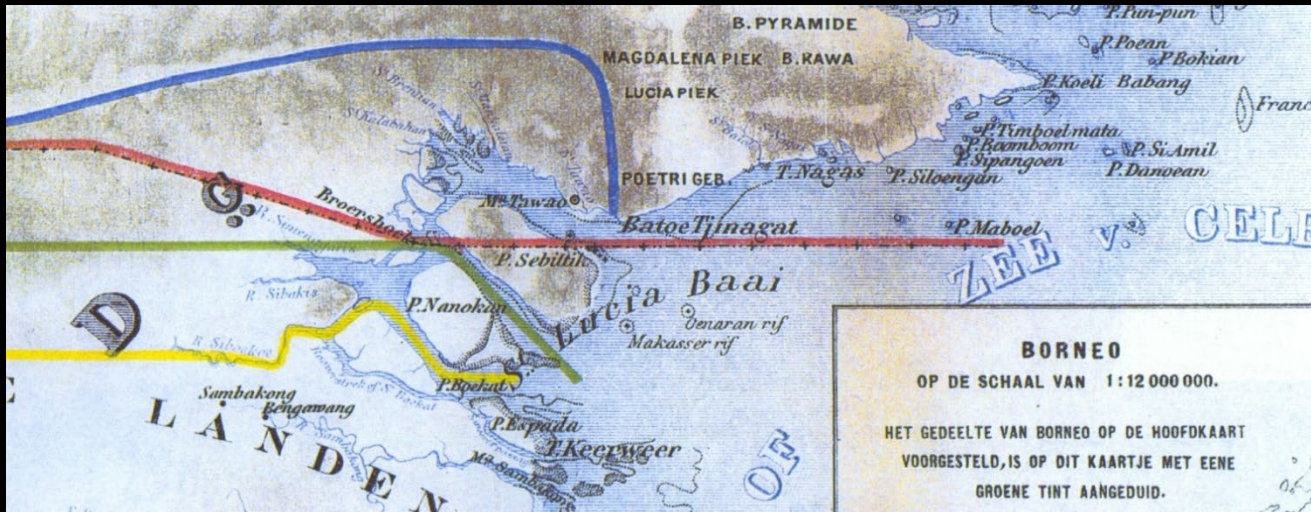
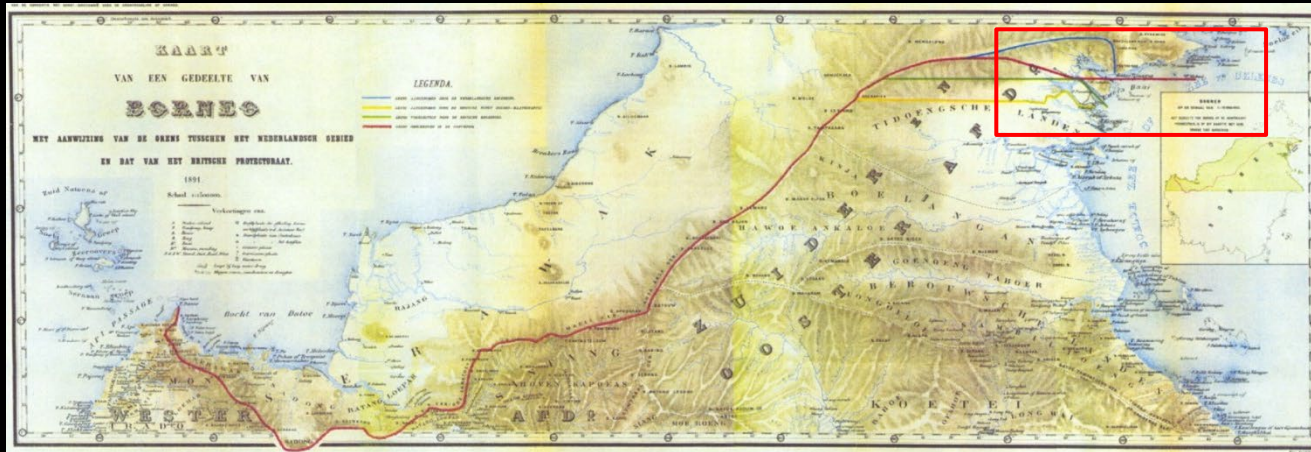
# A map which achieved greatness

## The French *Livre Jaune* map (Libya-Chad)



# A map which didn't quite achieve greatness

## Anglo-Dutch boundary map, 1891 (Indonesia-Malaysia)



## Non-treaty maps

“The effect of a map that is not part of a treaty will vary according to its provenance, its scale and cartographic quality, its consistency with other maps, the use made of it by the parties, the degree of publicity accorded to it and the extent to which, if at all, it was adopted or acquiesced in by the parties adversely affected by it, or the extent to which it is contrary to the interests of the party that produced it.

A map that is known to have been used in negotiations may have a special importance. A map that emanates from third parties (albeit depending on the circumstances), or is on so small a scale that its import becomes a matter for speculation rather than precise observation, is unlikely to have great legal or evidentiary value. But a map produced by an official government agency of a party, on a scale sufficient to enable its portrayal of the disputed boundary area to be identifiable, which is generally available for purchase or examination, whether in the country of origin or elsewhere, and acted upon, or not reacted to, by the adversely affected party, can be expected to have significant legal consequences.”

*Eritrea-Ethiopia Boundary Commission, 13 April 2002 decision, paras. 3.21-22*

## Non-treaty maps

“...it cannot be the case that non-agreed maps, produced, acted upon or adopted unilaterally by a Party, even if they have no conclusive weight or effect themselves, must, merely on account of their unilateral provenance, be regarded as devoid of all value.”

*1977 Beagle Channel arbitral award, para. 141*

“Since the Tribunal has arrived at its legal conclusions about the status of the islands on the basis of the diplomatic record and agreements entered into between 1923 and 1939, the map evidence – whilst supportive of and consistent with the conclusions reached – is not itself determinative. Were there no other evidence in the record concerning the attitude or intentions of Italy, this evidence would be of greater importance.”

*Eritrea-Yemen arbitral award, Phase I, para. 375*

## Map consistency

“...in light of the uncertainty and inconsistency of the cartographic material submitted to it, the Court considers itself unable to draw conclusions from the map evidence produced in this case.”

*Kasikili/Sedudu (Botswana/Namibia) ICJ judgment, para. 87.*

“...in considering the general significance of map evidence, if that evidence is uncertain and inconsistent, its value will be reduced in relation to the endorsement of a conclusion arrived at by other means...”

*Eritrea-Ethiopia Boundary Commission, 13 April 2002 decision, para. 3.25.*

# The Eritrea-Ethiopia ‘classical signature’

“The Commission has taken into account the many maps presented to it in evidence, but has only given weight in relation to this sector to maps produced by the Parties themselves in the period prior to 1935. It has noted that three early Italian maps show the Ethiopian claim line, as does one Ethiopian map of 1923. However, all the other relevant maps show the Eritrean claim line in accordance with what has, in the present proceedings, come to be called the ‘classical’ or ‘traditional’ signature characterized by a straight line from the confluence of the Tomsa with the Setit (Point 6) to Point 9 at an angle of about 28° from true north. **There is no record of any timely Ethiopian objection to these maps and there is, moreover, a consistent record of Ethiopian maps showing the same boundary. These maps amount to subsequent conduct or practice of the Parties evidencing their mutual acceptance of a boundary corresponding to the Eritrean claim line.**”

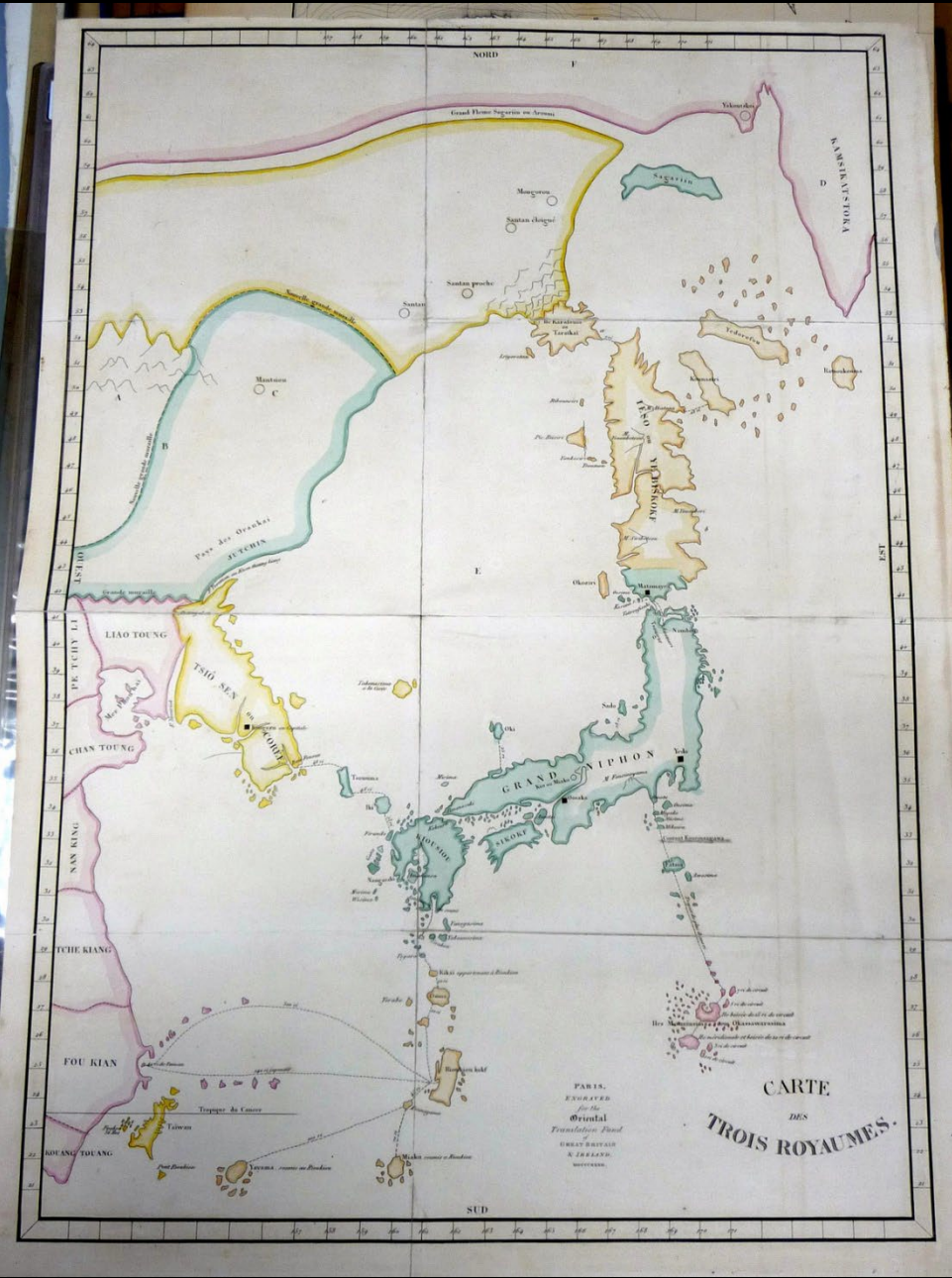
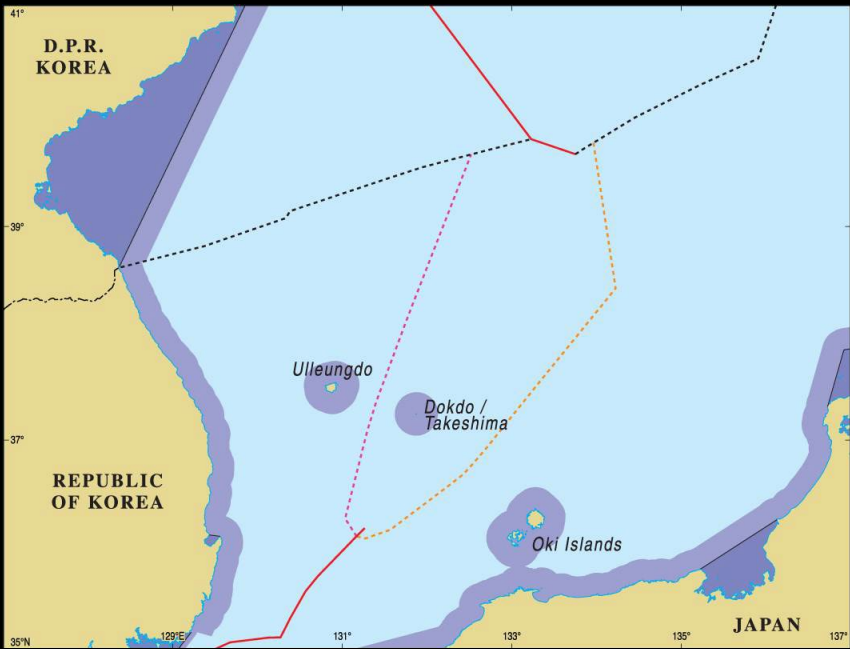


# Maps as evidence of repute

## Qatar v Bahrain

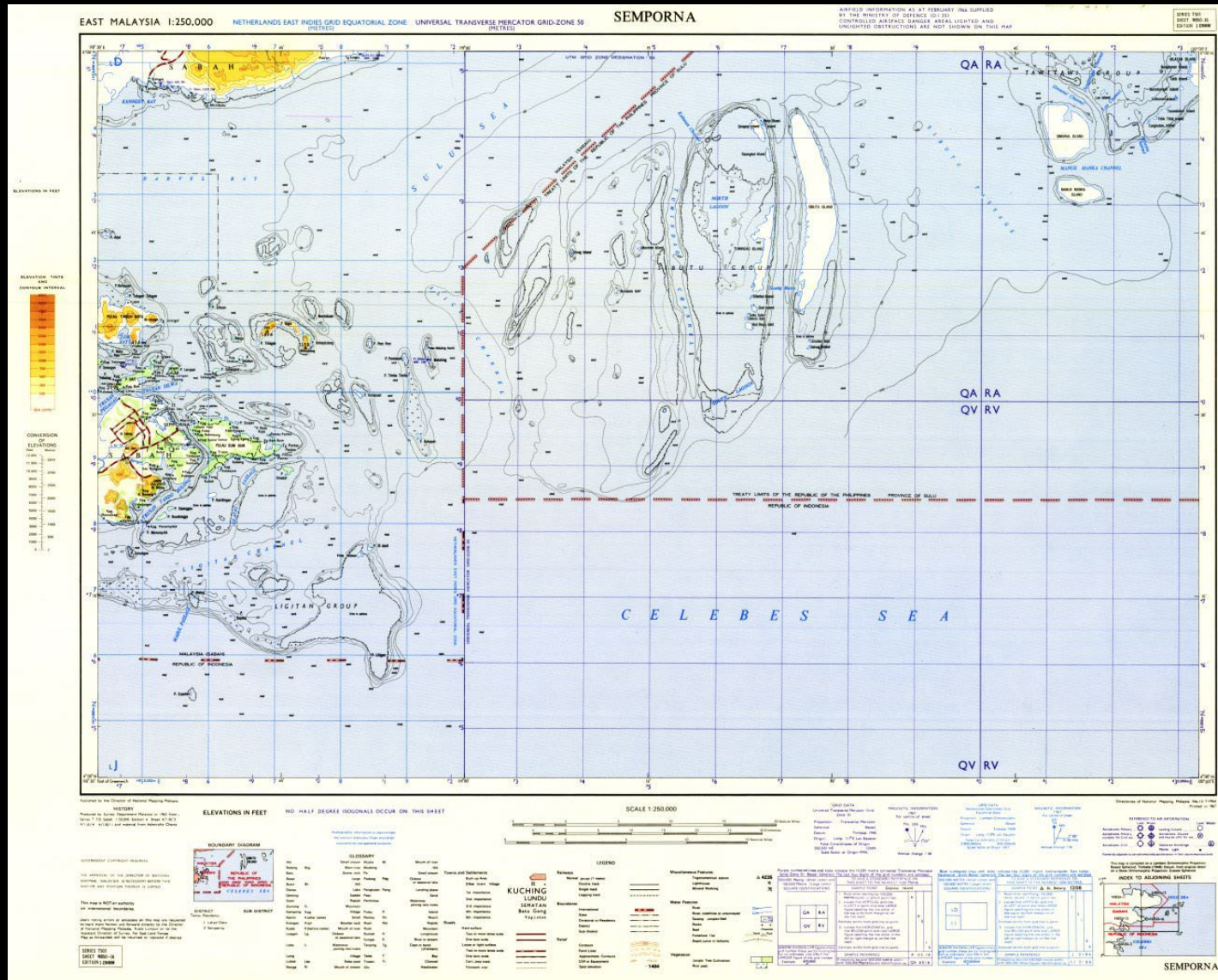


# Maps as evidence of repute Dokdo/Takeshima (Korea/Japan)

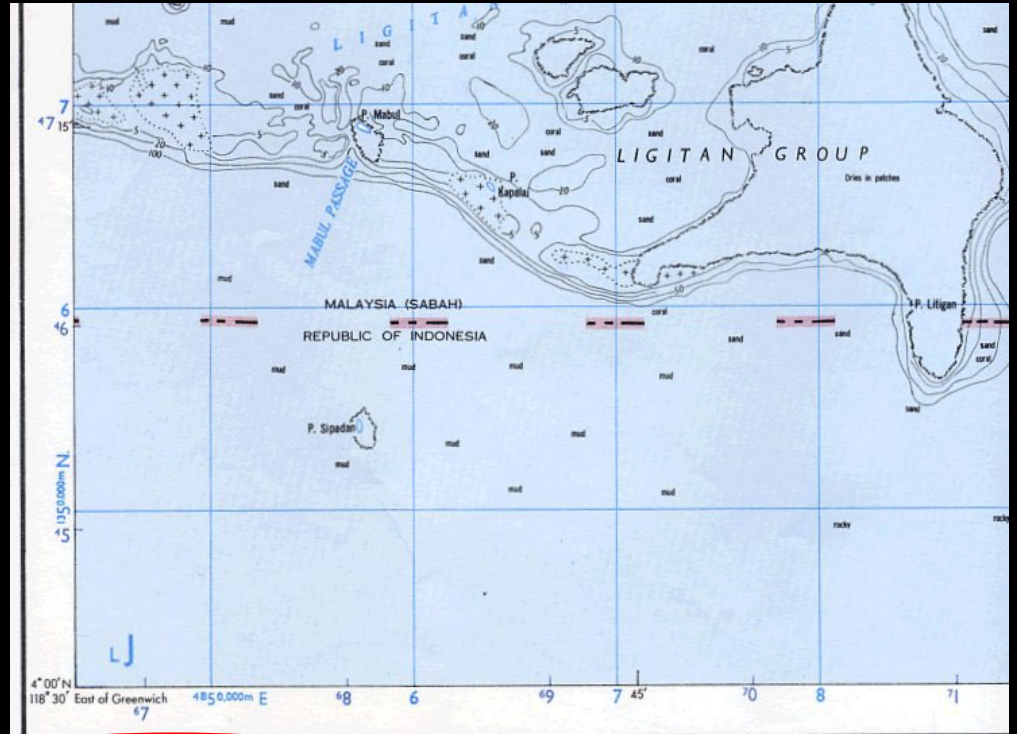
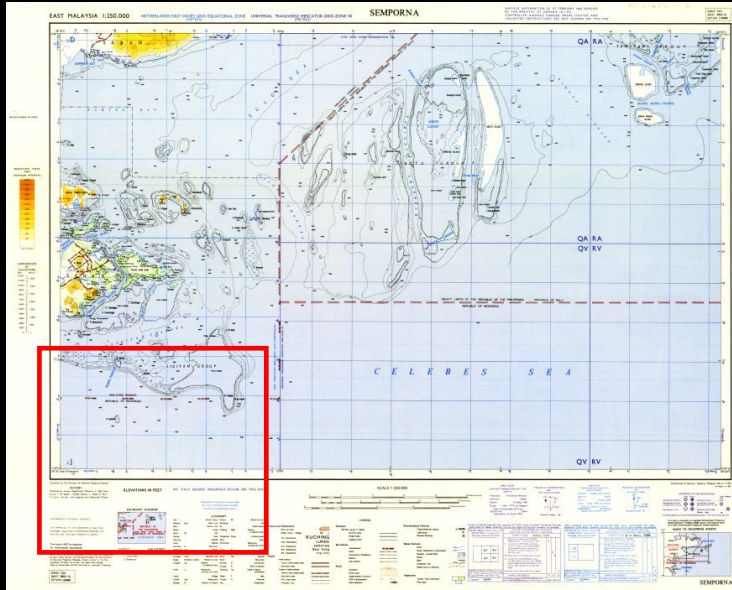




# Maps as admissions against interest Indonesia/Malaysia



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Published by the Director of National Mapping, Malaysia.

**HISTORY**  
Produced by Survey Department Malaysia in 1965 from Series T 735 Sabah 1:50,000 Edition 4 Sheet 4/118/3 4/118/4 4/118/11 and material from Admiralty Charts

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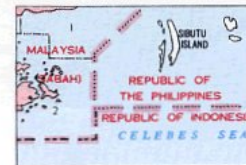
This map is NOT an authority on international boundaries.

ELEVATIONS IN FEET

NO HALF DEGREE ISOGONALS OCCUR

Hydrographic information is approximate the relevant Admiralty Chart should be consulted for navigational purposes

BOUNDARY DIAGRAM



DISTRICT SUB-DISTRICT

GLOSSARY	
Alo	Small stream Muara M
Batang	Main river Mudong
Batu	Stone, rock Pa
Basar	Large Padang Pdg
Bukit	Hill
Danau	Lake Pangkalan Pang
Genting	Saddle Pear
Gum	Rapids Permintas
Gunong	Mountain
Kampung	Village Pulau P

## Map disclaimers

“3.27 The Commission is of the view that such disclaimers do not automatically deprive a map of all evidential value. The map still stands as an indication that, at the time and place the map was made, a cartographer took a particular view of the features appearing on the map. The disclaimer is merely an indication that the body making the map (or its Government) is not to be treated as having accorded legal recognition to the boundaries marked thereon or to the title to territory of the States concerned as indicated by the marked boundary.

3.28 As regards the State adversely affected by the map, a disclaimer cannot be assumed to relieve it of the need that might otherwise exist for it to protest against the representation of the feature in question. Nor does the disclaimer (whatever may be its legal effect on the content of the map) neutralize the fact that that State itself published the map in question.”

*Eritrea-Ethiopia Boundary Commission, 13 April 2002 decision*

# Influential non-treaty maps

- **Beagle Channel arbitration (1977)**  
Admiralty charts 786 , 1373 and other used for negotiating 1881 Argentina-Chile treaty.
- **ICJ Qatar-Bahrain Judgment (2001)**  
Maps attached to 1947 correspondence to clarify 1939 British government decision (Janan island).
- **ICJ Cameroon-Nigeria Judgment (2002)**  
Kohom river section – 1929-30 Thompson-Marchand Declaration interpreted by ICJ using a 1926 sketch map (from travaux préparatoires).  
Hambere range – 1955 1:50,000 IGN map.
- **ICJ Benin-Niger Judgment (2005)**  
1967-70 NEDECO survey and IGN maps.

## Maps as evidence: conclusions

- Judicial bodies are generally sceptical about the evidentiary value of maps which are not “physical expressions of the will of the State or States concerned”.
- Non-treaty maps can become such physical expressions through their treatment by the States, but maps published by state bodies which appear to be admissions against interest rarely fall into this category.
- In the absence of any other evidence of title / boundary alignment, even maps which are not considered physical expressions of the will of the States can have evidentiary value – but even minor *effectivités* are likely to trump map evidence.
- The value of map evidence also depends on the legal arguments being made.

# Research resources

- Government archives
  - National
  - Local
  - Imperial / colonial
  - Survey and hydrographic departments
- International organisation archives, e.g. United Nations
- National and academic libraries
- University collections, e.g. Durham Sudan Archive
- Learned society collections, e.g. Royal Geographical Society
- Business archives, e.g. oil & gas companies
- Personal archives
- *World Directory of Map Collections* (2000, ed. O. Loiseaux)
  - 714 collections in 121 countries

# Practical aspects of map research

- Access to collections / archives
- Organisation of maps in archives
- Preservation / physical condition
- Copying
  - technical challenges
  - cost
  - copyright issues

# UK National Archives





# XXXXXX Survey Department archive



# Practical aspects of map research

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# Map research is about more than just the map

- What was the purpose the map?
- Who produced it for whom?
- What source material was used to compile the map?
- Were there multiple versions? Were they all the same?
- How widely was it distributed?
- Did anyone comment on the map?
- What are the strengths and weaknesses of the map in the context of the dispute?
- Remember metadata and marginalia

Title, series, sheet no., publisher, publication date, edition, dates of revisions, scale, other marginal information, archive reference no. etc.



# Thank you!



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