

# The Atlantic coast of Cameroon and the land-locked States of Central Africa: evolution and challenges regarding access to the sea

By

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# Preliminary Aspects

- Definitions (Conventions, Doctrine)
  - *A land-locked State (LLS) or State without access to the sea (SWA) = State with no sea or maritime coast.*  
See: Art. 124 (a) of the UNCLOS; Art. 1 (a) of the New York Convention on transit trade of Land-locked States;  
See also Kishor UPRETY, Land-locked States and access to the sea (Towards a universal Law), Kathmandu, Nepal Law Society, 1989, p.4
  - Notion of Enclave



# Preliminary Aspects

- A Transit State: a State with or without no sea-coast, situated between a land-locked State and the sea, through whose territory traffic in transit passes (Art. 124 (b) UNCLOS; art.1 (c) New York Convention);
- Right of access: *Au sens étroit, le droit d'accès à la mer, c'est le droit pour un Etat – ou plus exactement pour des biens ou des personnes relevant de cet Etat – de traverser, pour atteindre la mer, le territoire d'un autre Etat qui fait écran entre elle et lui. Au sens large, c'est en outre le droit d'utiliser la mer dans les mêmes conditions que les Etats riverains ou sous toutes les formes qu'il peut comporter (droit au pavillon, navigation, pêche...). See Claude PALAZZOLI, R.G.D.I.P., Juil-sept. 1966, p. 675*

# Preliminary Aspects

- States without access to the sea in the world

ETATS SANS LITTORAL (1993)

AFRIQUE	AMERIQUE	ASIE	EUROPE
1. Botswana	1. Bolivie	1. Afghanistan	1. Autriche
2. Burkina-Faso	2. Paraguay	2. Arménie *	2. Biélorussie
3. Burundi		3. Azerbaïdjan *	3. Hongrie
4. Ethiopie ****		4. Bhoutan	4. Liechtenstein
5. Lesotho **		5. Kazakhstan *	5. Luxembourg
6. Malawi		6. Kirghizistan *	6. Macédoine *
7. Mali		7. Laos	7. Moldavie *
8. Niger		8. Mongolie	8. République Slovaque **
9. Ouganda		9. Népal	9. République Tchèque **
10. République Centrafricaine		10. Ouzbekistan *	10. Saint Marin ***
11. Rwanda		11. Tadjikistan *	11. Saint-Siège ***
12. Swaziland		12. Turkménistan *	12. Suisse
13. Tchad			13. Andorre
14. Zambie			14. Serbie ?
15. Zimbabwe			

\* Etat ayant accédé à l'indépendance en 1991-1992.  
 \*\* Etat ayant accédé à l'indépendance en 1993.  
 \*\*\* Etat entièrement enclavé dans le territoire d'un autre Etat.  
 \*\*\*\* Etat devenu enclavé à la suite de l'accession à l'indépendance d'un autre Etat (Erythrée, 1993).

Source: Paul TAVERNIER, « Les nouveaux Etats sans littoral d'Europe et d'Asie et l'accès à la mer », in R.G.D.I.P., 1993/3, p. 742



# Preliminary Aspects

- Map of Location



# Preliminary Aspects

- **Key issue:** sovereignty of the transit State (national law domain, unilateral decisions.....) as an obstacle to the right of access to the sea granted to land-locked States; influence of other powerful actors (multinational firms) intervening in the process.
- Analysis of this main issue through the case of Chad and Central African Republic, the two land-locked States of Central Africa
- Theoretical approach: positivism/relativism



# I. The Cameroonian access corridors and the opening up of land-locked States of Central Africa

## A. Legal Framework of Chad and CAR transit through Cameroon

### 1- Sources of right of access of Chad and CAR to Douala maritime port

- *International Convention: the 1965 New York Convention;*
- *Sub-regional Instruments: UDEAC/CEMAC Provisions;*
- *Bilateral Agreements: Chad/Cameroon, Cameroon/RCA, 1999*
- *Cameroonian national decisions*

## 2- The exercise of right of access: the principles of facilitation and freedom of transit

- *Means of communication and transportation: road (road vehicles), railways (train);*
- *Two main corridors and specified itinerary: Douala-Bangui/Douala-N'djamena;*
- *Use and facilities in Douala maritime port:*

a) Technical aspects



## b) Administrative formalities: the principle of simplification

- On the land Freight management structures (freight distribution between conveyors of involved countries); Corridors:
  - 65% *for Chadian conveyors and 35% for Cameroonian conveyors;*
  - 60% *for CAR conveyors and 40% for Cameroonian conveyors;*
  - *Exception with international donation and direct purchases of States*
- At the Douala maritime port: the roles of the FAL Comitee and the GUCE (minimize transit costs, reduce delays, accelerate the treatment of files, expeditious methods, etc.) ;

➤ *Facilitation Instruments for transportation in transit*

- *Customs documents: D15, transit Title (Cameroon's Side)  
Movement order (Chad, CAR Sides)*

- *Road documents: Vignette, Safe-conduct, Consignment note*

*customs+road documents= free traffic towards and from the sea*



c) Financial and customs Measures: The principle of exoneration of customs duties and transit taxes

*Submission of the UDEAC/CEMAC Zone to the customs control of the Douala port. However, preferential taxes granted:*

- *A reduction of 50% on loading and unloading taxes;*
- *A reduction of 25% on handling costs for importation and 50% for exportation;*
- *A reduction of 75% on goods staying in warehouses*

*d) The process of transit: The principle of unrestrictive and uninterrupted transit*

(Decision of The Cameroonian Ministry of Finances n°03/001/CF/MINFI/dd of the 2nd of January 2003 relating to the procedure of goods in transit in Cameroon)

*e) Settlement of Disputes*

- The role of technical joint commissions;
- Political mechanisms



## B. Assessment of the process of access to the maritime coast of Cameroon of Central African land-locked States

1- Progressive process : due to obvious will of transit State Authorities and maritime port reforms

- *promptly treatment of transit files;*
- *expeditious methods in import/export operations;*
- *The limitation of control points and the precision of check-points: prohibition of physical control of goods in transit except when seals are broken;*
- *deletion of restrictive measures of former conventions: case of transportation of CAR log (only by railways in the past)*

## 2- Limitations

- *Limitations deriving from the bilateral Agreements signed: the superficial and incomplete treatment of transit issue;*
- *Limitations coming from international convention on transit trade of landlocked countries: the right to take all necessary measures granted to transit States; reciprocity issue;*
- *Technical joint commissions: limited mechanisms (no real power of decision)*



### 3- Challenges

#### ➤ **infrastructure problems**

- *limited Road network ;*
- *Extension of Railways ;*
- *modernize Douala maritime port with new equipments: E.g  
Provide the port with an X-Ray Scanner with high Energy for the  
treatment of goods and lorries in transit*

## ➤ Harmonization of transit System

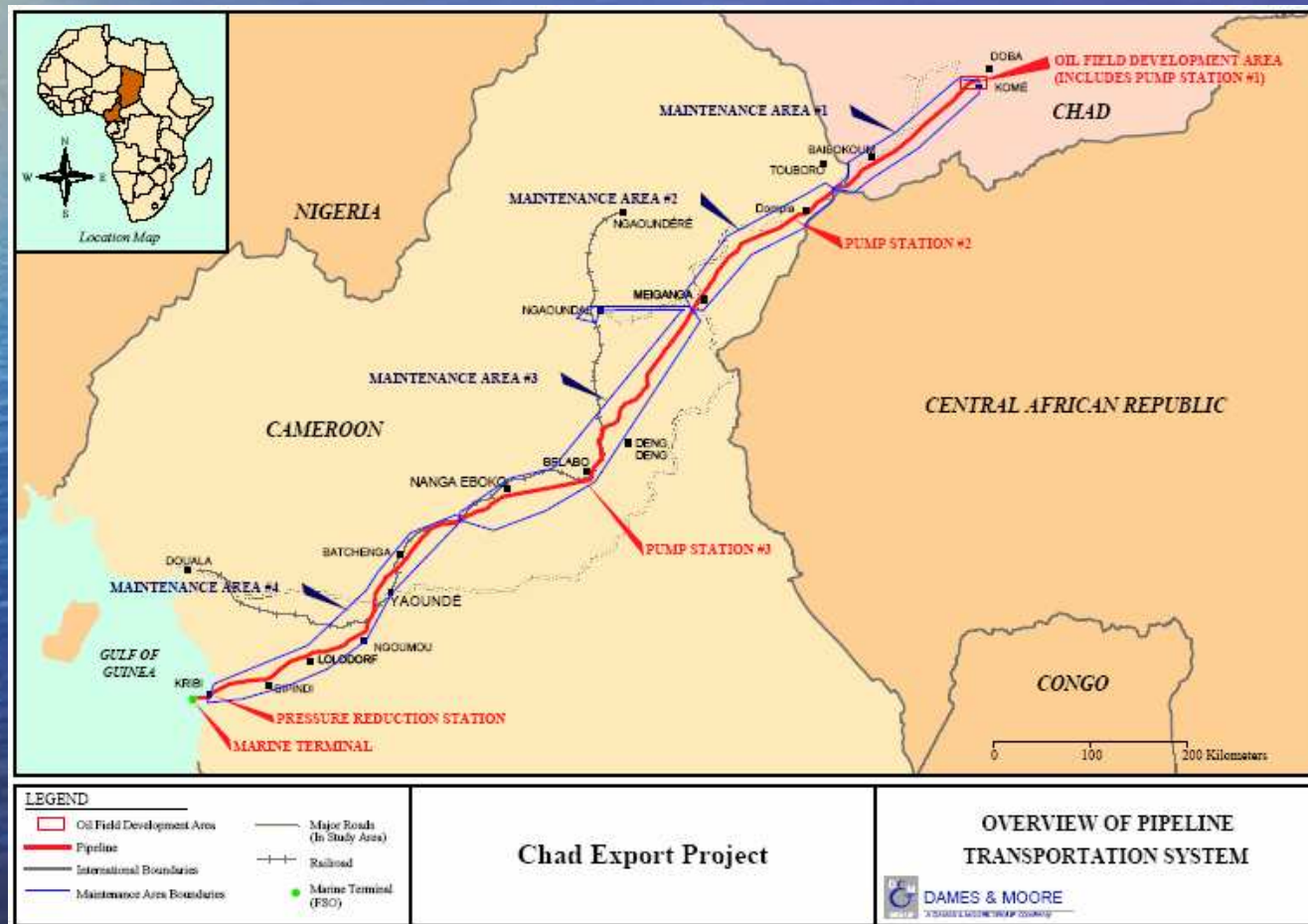
- *To standardize transit documents;*
- *Computerize the whole transit system*
- *Neutralization and Denunciation of abuses deriving from the transit practice*
  - \* disloyal controls ;*
  - \* illegal duties or taxes*

**4- corridors management Comitee: solution? Which power?**



## II. The Specific regime of access to the Atlantic coast of Cameroon through pipeline

### Chad-Cameroon Pipeline route





# Hydrocarbons Floating Terminal in the Atlantic coast of Cameroon (6 miles far from the Kribi coast)





## Devastated forests for the construction of pipeline



A. Short historical view of the Chad-Cameroon oil pipeline

B. Legal sources of access to the cameroonian coast through the pipeline

*1- The UNCLOS of 10 december 1982 ;*

*2- The Convention on transit trade of land-locked States of 8 july 1965 ;*

*3-The Outline Agreement of 31 January, 1995 between the Consortium, Chad and Cameroon ;*

*4- The bilateral Agreement of 8 february, 1996 ;*

*5- The Establishment Convention of 20 March, 1998 between Cameroon and COTCO ;*

*6-The Law n°96/14 of 5 August, 1996 concerning Hydrocarbons originating from third countries ;*

## C. The guarantees to the Chadian right of access to the Cameroonian coast

1- On conventional domain

2- On institutional domain: creation of a joint commission in charge of the implementation of the 1996 bilateral Agreement

- *The balance between the recognition of the right of access and the sovereign rights of Cameroon ;*
- *The intangibility of the rights of the parties during the exploitation of the pipeline (Comparison with the Bolivia/Chile case)*

3- Settlement of disputes: political mechanism and arbitration



## D. Implementation of hydrocarbons transit process through the Cameroonian territory

*1- Technical aspects: the principle of cooperation*

*2- Administrative procedures:*

- *The principle of simplified documentation for the transportation*
- *Cases of delay in traffic transit known until now= 0*

*3- Fiscal and customs procedures*


- *free, during the construction of pipeline*
- *taxes for operating Companies during exploitation*

*4- The effective presence of Chadian inspectors in Cameroon for hydrocarbons exportation operations: Check if chadian hydrocarbons are subject to quantitative restrictions (Capacity of pipe = 225. 000 b/day)*

*Untill Sept. 30, 2006 =175 millions of barils transported, about 754 millions USD for Chad*

*No Restriction known untill today*

*« Interesting example of cooperation in the field of law of access in Africa », K. UPRETY, The transit regime for land-locked States, World Bank, 2006, p. 122, note 502*



***The key issue of pipeline as means of  
transportation and investment : the  
difficult coexistence of legal  
instruments***



## E. Restrictive Scope of Chadian right of access through pipeline

1- For oil companies involved, pipeline = opportunity for affairs

oil market share:

- *EXXON-MOBIL CORPORATION = 40%*
- *PETRONAS CARIGALI = 35%*
- *CHEVRON PETROLEUM = 25%*



## 2- The conception of pipeline in the cameroonian political speech and legal instruments: source of prosperity and industrial activity

*Activities regarding construction, exploitation and maintenance of pipeline = oil activities = commercial activities*

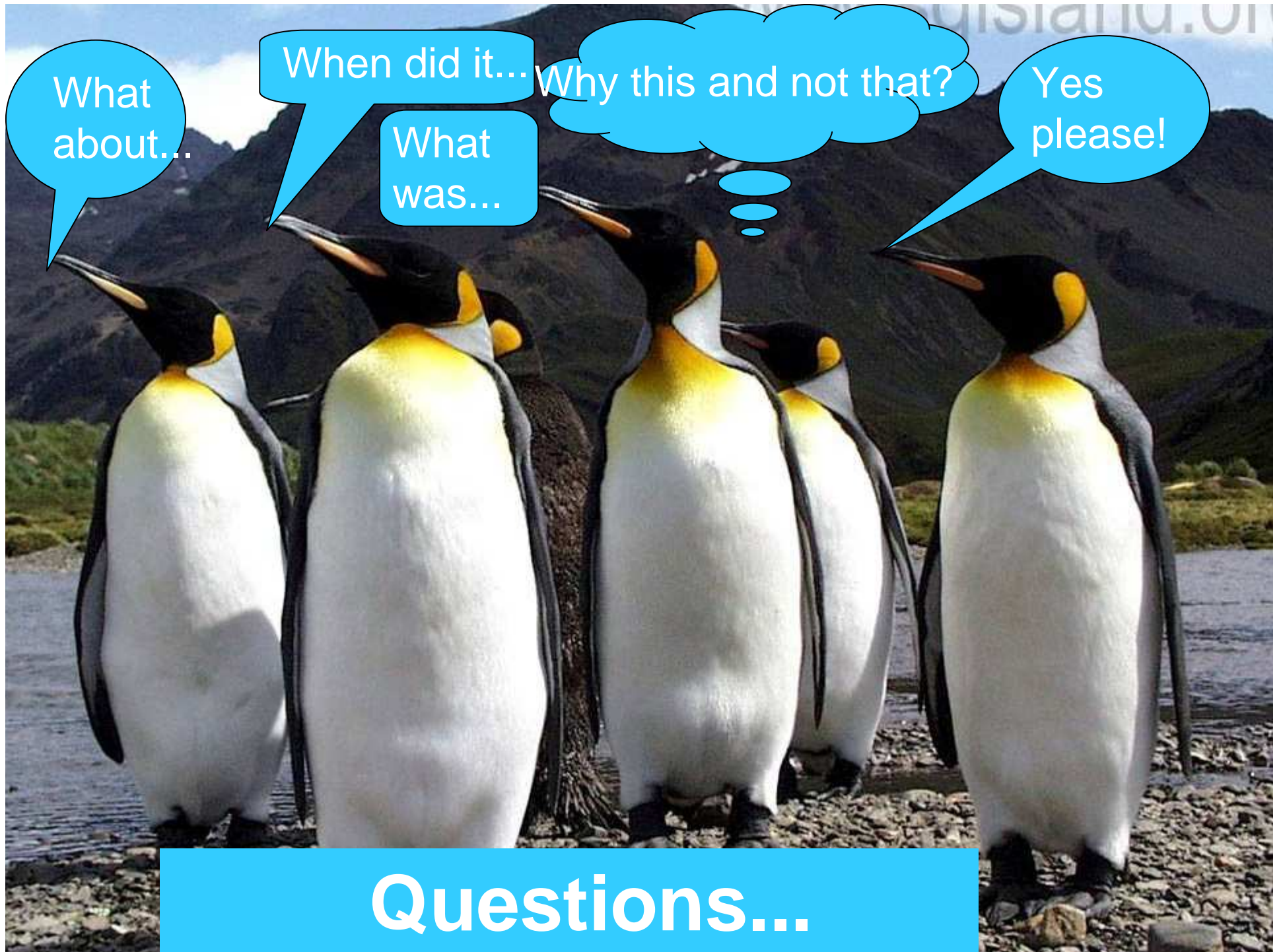
### 3- Limitations of the right of access through pipeline

- *Extension of rights granted to the transit State ;*
- *The right to renounce to the exploitation of pipeline granted to oil firms ;*
- *The influence of World bank: control of Chadian pipeline revenue*
- *The environmental issue : a sword of Damocles on pipeline*
- *spillage of Chadian hydrocarbons in the Kribi Atlantic coast: January 15, 2007 ;*
- *Risks of sabotage*



# Conclusion:

- *The access of Central African landlocked States to the Atlantic coast of Cameroon is subject to and will still depend for a long time not only on the influence of this transit State, but also on the one of transnational actors involved in this process ;*
- *The biggest danger of this access for the future, as far as pipeline especially concerned, will be less the sovereignty of Cameroon than attitude of other actors (transnational Corporations) and factors (environmental issue);*
- *At last, a cameroonian marine policy should be elaborated in anticipation of the possible request by Central African landlocked States of the exercise of their maritime rights.*



What about...

When did it...

What was...

Why this and not that?

Yes please!

Questions...