

3.0 LAND ACQUISITION I: LEGAL FRAMEWORK FOR LAND ACQUISITION, OCCUPATION, AND USE

3.1 INTRODUCTION

This Section describes the legal framework for obtaining free disposal of the lands necessary for the Land Easement and, later on, of the system easement for the Cameroon Transportation System (CTS).

Lands required for the construction, operation, and maintenance of the CTS shall either be allocated to the Project by the Republic of Cameroon or used by COTCO based on terms agreed to with the landowners or administrators, or Public Property lands which are subject to an authorization to occupy.

Lands required for the Project shall come from the Private Property of the State and Public Property lands, and shall form what is referred to as the Land Easement. This Land Easement shall be created by incorporating the requested land into the Private Property of the State after expropriation or de-allocation if necessary. For Public Property lands, an authorization to occupy shall be issued.

Although built and operated on lands belonging to the Private Property and Public Property of the State, the CTS is and shall remain COTCO's property; the latter shall be granted the following rights so that it can conduct its activities. A description of these rights shall be included in the Cameroonian Land Registry.

- Land use rights
- Right of user on lands allocated for the construction, operation, and maintenance of the CTS
- Free access rights on CTS facilities
- Usage rights on CTS facilities
- Right to protection perimeters around CTS facilities

In addition, within the Land Easement, COTCO shall be authorized to cut the timber needed for its activities, to alter as necessary and use water falls, and to use quarries.

The principles of land tenure and private ownership according to Cameroonian law will be briefly outlined to provide a basis for obtaining the lands and compensation procedures.

The state in Cameroon is the guardian of all lands. There are four types of land tenure in Cameroon:

- Private Property,
- Public Property of the State,
- Private Property of the State and other public bodies, and
- National Land.

Based on information obtained during the CLS, over 99 percent of the land within the Land Easement is National Land.

3.2 ACQUISITION OF LAND NEEDED FOR THE PROJECT

3.2.1 Private Property

Private ownership of land may be obtained by registering the land with the Land Registry to obtain a land title, which is referred to as "*Titre Foncier*." The land title is the official certification of ownership of the land. It is unassailable, inviolable, and final.

Lands which are privately owned under the definition given by the current legislation governing land tenure, consist of:

- Registered lands with a "*Titre Foncier*"
- Lands held by virtue of (i) a decree granting State land as compensation, (ii) a decree approving a sale by mutual consent, (iii) assignment of a parcel belonging to the Private Property of a regional administrative subdivision, or (iv) a decree granting, as an irrevocable concession, a parcel of the National Land, which is under development.

Those rights conferred by private ownership of the land are generally acquired from a private person, usually through sale, exchange, grant, or legacy. It may also result from acquisition of an allotment of the Private Property of the State.

Finally, a private person or a local community may also obtain a land title from a dependency of the National Land, so long as the provisions of the related laws and regulations are met.

In the case of the Project, privately owned lands shall be expropriated, compensated for, and incorporated into the Private Property of the State.

3.2.2 Private Property of the State and Other Public Bodies

Private Property of the State consists of, among others personal and real property acquired by the State either without consideration or for a valuable consideration according to the rules of expropriation for public utility and the common law.

Permanent or classified forests are part of the Private Property of the State or that of individual districts, unless otherwise provided by the duly approved land-allotment plan of the area.

Real property of the Public Property and National Land may, in some cases, be integrated into the Private Property of the State, by the transfer procedure and by incorporation, respectively. Real property belonging to private persons may also be integrated into the Private Property of the State by deed of expropriation, for public utility.

Real property of the Private Property of the State may be allocated to a public service or alienated by sale, assignment, or exchange.

In the case of the Project, lands belonging to the Private Property of the State will, if necessary, be freed from their current use and allocated to the Project. This provision is also applicable to land held by regional public authorities or other public entities.

3.2.3 National Land

National Land comprises lands that are not classified as either Public Property, Private Property of the State, or Private Property. They may be divided into two categories based on land occupation.

- There are, on the one hand, lands occupied with houses, farmlands, and plantations, grazing lands, and paths. The occupation of this type of land must be manifested through an effective human presence and conspicuous improvement.
- There are, on the other hand, land free of any effective occupation.

Mines are the property of the Nation. Certain types of forests may also form part of the National Land.

Lands ranked as National Lands may be allocated by temporary grant or lease.

Cameroonian law recognizes the right of communities having customary rules, and their members, to continue to occupy and use National Land that they had developed before Ordinance 74/1 of July 6, 1974 took effect on August 5, 1974.

In the case of the Project, National Land shall be freed from its current use, compensated for, and incorporated into the Private Property of the State.

3.2.4 Public Property

Public Property of the State is inalienable, imprescriptible, and non-attachable. Land occupation or land use rights and parking permits may be granted by the Administration on such lands, as temporary and basically revocable rights.

The Public Property of the State consists of all personal and real property which, by nature or intended purpose, is made available either for direct use by the public or for use by State agencies. The Public Property of the State shall be divided into Natural Public Property and Artificial Public Property.

Natural Public Property includes public property on sea, rivers, and land; the airspace; soil and subsoil of the territorial sea; waterways, marshlands, lakes, ponds; as well as the subsoil below and the airspace above the territory of the State and the territorial sea.

Artificial Public Property includes main motorways, national and provincial highways, divisional roads, tracks, railways, commercial ports, military ports, telegraph and telephone lines, and their respective easements, alluvia, monuments, market places, graveyards, concessions of the traditional chiefdoms and related assets, more particularly in provinces where these concessions are considered as an undivided and joint estate of the community to which the chief has only user rights.

Any type of real property can be integrated by decree into the Artificial Public Property. Such a decree of classification constitutes an expropriation deed.

Bona fide owners and occupants who hold rights on such classified lands are entitled to compensation as in the case of outright expropriation.

Bona fide owners and occupants who hold rights on dependencies of public land prior to the date of August 5, 1974 shall not be dispossessed unless the public interest so requires and only after compensation has been paid.

An authorization shall be issued for the occupation of Public Property lands by the Project.

3.3 TYPES OF LAND OCCUPATION

In addition to the rules and laws relative to land tenure, the occupation of the lands needed for the Project shall be governed by the law establishing the Transportation of Hydrocarbons from foreign states (T.P.L.), its implementing decree, and the Convention of Establishment of COTCO.

Lands required for the Project shall be occupied either temporarily or permanently.

3.3.1 Land Easement

The works related to the construction, exploitation, and maintenance of the Cameroon Transportation System shall be declared for public purpose by order of the Minister in Charge of Lands.

The decree establishing the Authorization of Pipeline Transportation (ATP) shall grant to COTCO occupation rights as well as rights to use the lands of the easement.

The Land Easement portion belonging to the Private Property of the State will be allocated to the Project by decree, for the construction, operation, and maintenance of the Cameroon Transportation System. An authorization to occupy will be issued for Public Property lands required for the Project.

The decree allocates the easement lands to the Project on a temporary basis. Once the certificate of conformity is issued, an amendment decree shall limit COTCO's usage rights on the Land Easement to that which is needed for the Cameroon Transportation System.

After Project construction is completed, almost all land required temporarily would be reclaimed and allocated to other uses, subject to the restrictions provided by law. The Republic of Cameroon is in favor of making this land available to pre-construction users. The majority of this land will then be available without restrictions.

In the case of offshore concessions, land occupation shall result from an agreement between the concession holder and COTCO, with the participation of the Republic of Cameroon. COTCO shall negotiate with concession holders the terms and conditions for freeing said land, including compensation for which COTCO shall be responsible.

For lands allocated to the Project, where agro-industrial or mining concessions have been granted in the required form and by the qualified authorities before the attribution of the ATP, based on a request filed before the filing date of the ATP request. COTCO with the participation of the Republic of Cameroon, shall negotiate with the affected concession holders the terms and conditions for freeing said land, including compensation appertaining thereto, which shall be paid by COTCO.

If an amicable agreement cannot be reached, COTCO can either request that the Republic of Cameroon expropriate the land at COTCO's expense or modify the pipeline route or the sites of ancillary facilities so as to avoid these concessions.

For lands where forestry concession have been granted, the Republic of Cameroon, will take all necessary measures to make available these lands which will be needed for the Land Easement.

All deeds to grant or allocate such concessions shall be modified by the Republic of Cameroon to take into account COTCO's rights.

In all cases, the affected lands will, if necessary be incorporated into the Private Property of the State and be included in the Land Easement.

3.3.2 Temporary Authorization to Occupy

Such an authorization to occupy shall affect private lands and National Land, Private Property of the State and Public Property which are located outside the Easement and for which a procedure for temporary occupation can be implemented in accordance with applicable regulations.

3.3.2.1 Temporary Occupation of Privately Owned Lands

Procedure to Request an Authorization

For privately owned lands outside of the Land Easement, there will be negotiations between COTCO and the owners to reach an amicable agreement regarding the use of the land for construction, operation, or maintenance of the CTS or for access thereto.

If no amicable agreement can be reached and when COTCO's request is deemed justified, COTCO can be authorized to occupy the land temporarily in exchange for adequate compensation. In this case, COTCO shall address a request for temporary occupation to the Minister in Charge of Mines, containing the following:

- A note describing the activities to be conducted and explaining the reasons why the requested land is needed to carry out its activities;
- Proof that negotiations with the land owner(s) have failed;
- Proposed length of occupation and compensation;
- A map showing the coordinates of the requested land.

Granting Authorization

The authorization for temporary occupation shall be granted by a decree issued by the Minister in Charge of Lands (MINUH), based on a favorable recommendation from the Minister in Charge of Mines (MINMEE). The said decree shall note the validity of the request, state the parties rights and obligations, particularly restrictions on granted rights provided that such restrictions are compatible with a normal execution of planned activities, and authorize temporary occupation of the land for a period of less than one year. A temporary occupation procedure can not be initiated if the requested period of occupation is more than one year.

The authorization for temporary occupation does not grant COTCO freehold on the land.

3.3.2.2 Temporary Occupation Of The National Land, Public Property, And Private Property Of The State

Temporary occupation of lands in the National Land, Public Property, or Private Property of the State, located outside the Land Easement, can be authorized under the same conditions described in *Procedure to Request an Authorization*, except that for this type of temporary occupation, compensation is aimed at improvements made by third parties on the land. The latter cannot take any action or perform any work that is likely to hinder construction activities.

3.3.3 System Easement

After construction of the pipeline is completed, COTCO will apply to the Republic of Cameroon for a 10 to 15 m wide system easement over the pipeline. Almost all of this land retained by COTCO, as part of the permanent pipeline system easement will be reclaimed. The Republic of Cameroon is in favor of making this land available to pre-construction users, but with restrictions against some actions, such as constructing houses and planting large trees.

3.3.4 Infrastructure

In the case of infrastructure improvements and construction (roads, bridges, port and airport facilities, as well as landing strips, either existing or to be constructed in the Republic of Cameroon, which will be used for the Project and which are located outside the Land Easement), the Republic of Cameroon shall provide COTCO, in a timely manner and according to the terms defined below, with all easements, authorizations, and permits necessary to carry out such improvements or construction:

- a) Existing road easement, regulation size, created in accordance with Ordinance No. 77/2 of January 10, 1977, which supplements the provisions of Ordinance No. 74/2 of July 6, 1974 (legislation governing State land);
- b) Regulation-size easements needed for the construction of new road sections, and for road realignments and detours near agglomerations;
- c) Additional easements needed for creating detours to keep traffic out of the main road easements, easements needed for construction-site facilities and borrow pits, as well as easements needed for access to these areas.

The eviction, expropriation, release and compensation in respect of the easements defined in paragraphs a) and b) above shall be for the account of the Republic of Cameroon.

The easements referred to in paragraph c) above shall be the object of a temporary occupation. The Republic of Cameroon shall ensure the actual eviction and release of these easements.

Costs, compensation, and payments relating to this temporary occupation shall be for the account of COTCO.