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THE GENEALOGY OF CAMEROON'S COLONIAL DEBT NEGOTIATION

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Abstract

Negotiation is a process of communication and exchanges between at least two parties whose object concerns the organization of a relationship or the settlement of a problem between them. During the decolonisation, France and Cameroon decided to share the assets and liabilities located on the territory of Cameroon. This distribution, a consequence of negotiation, started before independence, was the way to peacefully settle questions of the State's debts. Alexander-Nahum Sack, jurist and specialist of the State's succession, thinks that negotiation is the appropriate way to peacefully settle financial issues such as infrastructure management and colonial debts during the territorial separation of the former colonial power from the former colony. This historical essay therefore intends to show that, instead of asking for cancellation, France and Cameroon authorities agreed for distribution after several negotiations. So, the imputation of the debt contracted by France in Cameroon on January 1, 1960, is the consequence of an agreement. It is within this framework that on April 16, 1957, the two parties set down in a first document which was to serve as a compass for subsequent meetings, the legal bases relating to the postcolonial management of foreign investments in Cameroon, while laying down the milestones for their future bilateral cooperation. Based on a variety of documentation, the aim is to show that France and Cameroon, after negotiations, have choosen the distribution of the existing assets and liabilities. France, like Cameroon, as well as international creditors, had an interest in agreeing. Cameroon had to negotiate, so as to make a good impression with Foreign Direct Investors and external creditors needed Cameroon's cooperation for the protection of localized investments on its territory. Even though those debts were incurred in the exclusive interest of Cameroon under French administration, it agreed to negotiate.

Key words: *Negotiation, State's Debt, State, France, Cameroon, international creditors*.

Introduction

Following the various ravages caused by the Covid-19 pandemic which all States without exception are facing, donors such as the International Monetary Fund and the World Bank were considering in mid-April 2020, under pressure from international civil society, the possibility of canceling part of the external debt of some twenty of the most affected Third World countries. On this subject, during a televised speech in April 2020, Emmanuel Macron called for a massive cancellation of the debt of the African countries most affected by covid19 (www.lemonde.fr, April 14 2020; www.france24.com, April 14 2020; www.financialafrik.com, 13 April 2020). This decision was reminiscent of that taken at the end of the First World War by the winners. In the 1980s and 2008, at the height of the global economic crisis, namely to wipe the slate clean of the economic and financial past of the "States wrongfully indebted" (Vienna convention and Debts, 1983).

If the creditors gave the impression of giving into the demands for outright cancellation, the reality on the ground was different. As in previous years, the debtor

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States decided by mutual agreement with the bilateral and multilateral creditors, after several exchanges and meetings, on a rescheduling instead of a direct cancellation. This is how France and Cameroon proceeded in 1956, choosing the path of distribution after negotiation. What justifies France's choice to negotiate with Cameroon? Why did Cameroon agree to negotiate with France? What do creditors gain by agreeing with the new State of Cameroon? The answers to those questions make it necessary to analyse, in turn, the progress and stages of the Franco-Cameroonian negotiations, and the contractual determinants of recourse to distribution instead of cancellation.

The progress and stages of the Franco-Cameroonian negotiations

Beginning in 1956, the negotiations took place in turn at the French government and National Assembly, at the Council of the Republic, at the Assembly of the French Union, in France, on the one hand, and at the Legislative Assembly of Cameroon, on the other hand.

The French negotiators's claims and interests

The French representatives, as Jacques Marette, insisted on the sharing of financial burdens, and the preservation of certain achievements and prerogatives in Cameroon due to the weak state of France's finances (Official Journal of French Republic, Parliamentary debates, from 1956 to 1959).

The distribution of financial charges between Cameroon and France

The French representatives of the Finance Committee had above all insisted on the transfer of part of the financial burden hitherto borne by the French to the Cameroonians. It is in this context that on March 21, 1956, Jean-Marie Louvel, then rapporteur for the opinion of the Finance Committee, apostrophes the French National Assembly in these terms: "Your committee, as was its role, focused mainly on the articles of the draft presenting a more particularly financial or economic." (Official Journal of French Republic, Parliamentary Debates, National Assembly, 1956). He adds by saying that: "the Finance Committee has studied in particular the articles which may have economic and financial repercussions and on which it has asked the Minister of Overseas France for additional information." If the finance commission recognizes the merits of article 3 of the bill which advocates the access of Cameroonian civil servants to the public service, nevertheless, it was concerned about the financial repercussions which would arise as a result of the application of the measures envisaged. Also, "It is this somewhat paradoxical situation that the Government, rightly, wants to remedy by establishing a precise distinction between State services and territorial services: State services, under the authority of the State and remaining in his charge; territorial services, coming under the authority of the territories and remaining at their expense" (Official Journal of French Republic, n 33, 1956).

On March 23, 1956, the deputies recognized that the application for a single college in Cameroon would entail new financial burdens (Official Journal of French Republic, n°33, 1956: 958). It was on March 28, 1956 that the Commission for Overseas France of the Council of the Republic took up the case. Indeed, during the discussions, Mr. Paul Longuet, rapporteur for the Finance Committee, insisted on the financial repercussions of the transfer of powers on the metropolitan and Cameroonian budgets. With regard to the metropolitan budget, he said to this effect that: "The administrative reform provided for in article 3 will have indisputable repercussions, although difficult

to quantify, on our next metropolitan budgets" (Official Journal of French Republic, n°33, 1956: 960). He also warns ministers and senators about the risk of additional expenditure for the metropolitan budget because of the maintenance of the advantages guaranteed to French civil servants in place in Cameroon. He also added that special attention should also be paid to French and foreign capital which was reluctant to invest locally. The Minister for Overseas France was asked to take steps to reassure savings and likely to facilitate the investment of French capital.

During the parliamentarian session of June 7, 1956, if no distinction was not made between the State services (France) and the territorial services (Cameroon), a precision was nevertheless made about the distribution of the financial charges (Official Journal of French Republic, n°33, 1956: 955- 958) : "State services will be borne by the State budget, and territorial services by territorial budgets. In order to put it into perspective, speaking of the aims of the framework law, Gaston Defferre, Minister for France overseas, reminded the senators that: "The bill submitted to you is not intended to modify the volume of public investment, the importance of which you know, or to rectify its orientation, but to adapt a certain number of institutions already in place in order to increase their efficiency" (Official Journal of French Republic, n°33, 1956: 982). Although he acknowledged that the credits paid by the metropolis sometimes did not reach the populations concerned, he pointed out that this allowance represented "a heavy burden for metropolitan taxpayers. Moreover, the framework law sought greater financial involvement from Cameroon.

Even if it was rejected on April 4, 1957, the amendment of the deputy Maurice Plantier called for the preservation of French economic interests by the creation of a second assembly of economic preference in Cameroon. The majority of economic interests were in the hands of the French. Although elected to the single college, this second assembly would have included a large proportion of French people, who would thus have been able to give their opinion on economic or financial questions. The creation of this assembly would have given confidence to private capital, which would have invested more willingly (Official Journal of French Republic, Parliamentary debates, National Assembly, 1957). The change of sovereignty in Cameroon induced by the transfer of powers certainly risked discouraging the arrival of French private capital on the spot. Moreover, those who were already there threatened to leave Cameroon if nothing was done to protect them and their property.

Transmitted to the Council of the Republic on April 11, 1957 (returned to the Overseas France Commission), under Decision No. 594, the Council of the Republic adopting it in turn that same day (Decision No. 249), and also confirmed, after a serious debate, the decision of the National Assembly. However, it was adopted without modification by the Council of the Republic and transmitted to the National Assembly on April 12, 1957 (Decision n°640) which in turn voted it almost identically. On April 16, 1957, the amendment of Senator Fousson André on the enumeration of services and financial charges incumbent on France, will finally be integrated into the final decree proclaiming the status of Cameroon, yet rejected on April 11, 1957 [2].

[2]See Article 50 of the Statute of Cameroon. His amendment to article 49 tended to use for this text the wording adopted by the French Parliament for the other territories of the French Union (p. 1005).

In 1960 at the French National Assembly, some deputies and soldiers insisted for the maintening of the french controle on this Air and maritime infrastructures. Otherwise, France should ask for more compensatory measures. Similarly, collaboration with the new Cameroonian authorities proved necessary, in order to guarantee the payment of the financial charges due. For General Bourgund, rapporteur for the opinion of the National Defense and French Armed Forces Committee, if all the propositions voted on so far were generally satisfactory, the reading of the Franco-Cameroonian treaties on defense submitted for ratification to the French National Assembly, nevertheless revealed a major flaw (French National Assembly, 78th session, 2nd session of December 12, 1960 : 4535) . The communist deputies demanded a departure of France and an abandonment of French prerogatives in Cameroon, because the French hardline was costing the French taxpayer a little more. French finances would be better off if capital were repatriated to French soil, a place that was easy to control.

In short, everything had to be done to share between the French and Cameroonian budgets the financial charges that mortgage the assets transferred to Cameroonians. Let us analyze in the paragraph below the infrastructures as well as the costs inherent to them which remain the responsibility of France.

The control of French citizens, air and maritime infrastructures

Article 50 of the decree of April 16, 1957 (French National Assembly, 78th session, 2nd session of December 12, 1960 : 4535) provided that, constituted civil services and charges of the French Republic remained at the expense of the French budget : the high commissionership and his office, the heads of administrative districts and their deputies, the services of justice under French law, criminal justice and the judicial police, the administrative courts, the services maritime safety, maritime registration and port captaincies, the labor and social law inspectorate in its advisory role, aeronautical services of general interest and air safety, existing stations or to create the general radio-electric network, the submarine cable network and the radio-broadcasting service, the external affairs services (external relations, foreign exchange office, foreign trade services, customs control), financial control expenses of the French Republic, etc. Short, everything related to the French citizens and the French nationals in French Cameroon.

The Service of the Treasury of the State of Cameroon, that is the provinces, the communes and the public establishments depending on these communities, continue to be ensured by the Service of the Treasury of the French Republic, subject to a repayment by the budget of Cameroon equal to a quarter of the actual cost of operation of the said service. The Treasury of the French Republic could grant cash advances to Cameroon. These advances would be deducted from the appropriations opened respectively under article 70 of the law of March 31, 1932 and article 34 of the law of December 31, 1953. On December 31, 1958, the two parties made changes to the distribution made in 1957, by signing seven agreements. The convention which in our opinion deserves our attention is that relating to the management of international infrastructures such as meteorology, maritime and air traffic control.

To this end, the operating and equipment expenses of the meteorological service stay under the French budget. These are administrative and technical expenses within the framework of the administration and technical control of the said service

entrusted to France by the Cameroonian government. This service included, in addition to the direction and the installations of Douala belonging to this service, a network of stations of general interest. The payroll of all the people assigned to this service was henceforth covered by the French budget, such as those working in meteorological assistance to air and maritime navigation, in the preparation and dissemination of forecasts and analyses, in the preparation, concentration and dissemination of meteorological information for technical and scientific purposes.

The convention for technical cooperation in maritime subjects in its article 3, stipulated that: "maritime signaling installations of an international nature under the responsibility of the French services include the Kribi lighthouse and Buoy A of the access channel to the port of Douala. […] " (Archive National of Yaounde , Official Journal of the State under the Trusteeship of Cameroon, January 1, 1959: 8). The French government undertakes to have its buoy vessel, which will remain based in Douala, carry out the maintenance and operation of the local facilities under the Cameroonian services. It emerges from article 5 of the same agreement : "The additional budget for ports and inland waterways will ensure the payment of all the expenses of the French services of maritime interest. The French budget will transfer to it in return the costs to its charges the sums corresponding to the expenditure of personnel of State executives and of the beaconing services already covered by the French budget (pay of the captain and the chief engineer of the beacon), as well as the expenditure of material of the maritime signaling establishments international in character." (Archive National of Yaounde , Official Journal of the State under the Trusteeship of Cameroon, January 1, 1959: 9).

Picture 1: Kribi Lighthouse 2021

Source: Photo taken Guedem N. Christelle N., July 3, 2021.

In civil aeronautics, the French aeronautics service retained broad prerogatives, and the charges attached to them. Placed under the authority of the High Commissioner of the French Republic, he was responsible, among other things, for ensuring the equipment and operation of the Douala aerodrome as well as air navigation aids and the organizations and installations necessary for the air traffic control attached to it. It was to ensure, in agreement with the Cameroonian government, the creation, equipment and operation of all the installations which would appear necessary for the control of general air traffic. But the organization and control of international transport falls to it in particular.

The infrastructures, institutional and political powers transfer to Cameroonian

French and Cameroon governments have agreed that some administrative, institutional and political powers and some infrastructures located in Cameroon must be transfert to the local authorities.

Administrative, institutional and political powers

During all the parliamentary debates in France, the Cameroonian representatives had particularly insisted on the transfer of the management of the cameroonian affairs to Cameroonian such as the police, vote of local budget, the extension of the power of the deputies, in short, the management on of administrative infrastructure.

For example, Njoya Arouna's demands of June 7, 1956 focused on broad administrative decentralization and deconcentration, but above all the possibility of managing internal affairs and the economy, administering it to Cameroonian executives (Official Journal of French Republic , n°33, Friday June 8, 1956, parliamentary debates, Council of the Republic, meeting of June 7, 1956: 972) in the opinion of the deputy Sourou-Migan Apithy, the framework law aimed to establish the distinction between the services incumbent to France whose financial charges will weigh on its budget and the territorial services like those of Cameroon, whose charges will fall on its budget. In fact, according to him, it was important to know whether the Minister of Economic and Financial Affairs was going to agree to bring to the budget of France the financial burden corresponding to the functioning of the State services carrying out their activities in the overseas territories (Official Journal of French Republic, n°33, March 22, 1956, Parliamentary debates, National Assembly, 1st session of March 21, 1956).

During the same session, Pierre Kotouo demanded the creation of a government council identical to that of Togo, and of the single college in the Cameroonian assembly, while specifying that: "Cameroon if it rejects for the moment, in its largest majority, the idea of immediate independence, seeks, on the other hand, sometimes noisily, the possibility of participating directly in the management of its own affairs and of becoming a State, with its parliament, its government, its administration and its services [...]." (Official Journal of French Republic , n°33, March 22, 1956, Parliamentary debates, National Assembly, 1st session of March 21, 1956 : 989).

At the Assembly of the French Union, Alexandre Douala Manga Bell and Njoya Arouna had asked for an armistice. It was adopted by 67 votes for, 14 votes against and 8 abstentions 5 (Official journal of the debates of the Assembly of the French Union, session of March 21, 1957: 468-469). André Marie Mbida the transfer of police and

security powers to Cameroonians on March 21, 1957. The following month, André Marie Mbida during the first and second sessions of April 4, 1957 at the French National Assembly had again pleaded for the exclusion of immediate independence, the maintenance of international supervision, the delegation of urban police powers and rural areas, but above all the maintenance of French aid to Cameroon (Official Journal of French Republic, Parliamentary Debates, National Assembly, Verbatim Report of Sessions, Written Questions and Ministers' Answers to these Questions, 3rd Legislature, 158th Session, 1st and 2nd Session of Thursday April 4, 1957, n° 46, 1957:2029-2100). A week later, on April 11, 1957, at the Council of the Republic, Njoya Arouna, Pierre Kotouo and André Marie Mbida spoke in turn. Pierre Kotouo insisted on the establishment of institutions specific to Cameroon viewing the budget in place. Speaking to the Minister for France overseas, he affirmed: "I know that his major concern, like that of all Cameroonians aware of their duty, is to see the success of the institutions that we have decided today to give to this country[...]" (Official Journal of French Republic, Parliamentary Debates, Council of the Republic, 2nd session of April 11, 1957:1007).

The Cameroonians negociators also asked for the non interference in the "projet de loi" voted by the Legislative Assembly of Cameroon. They had insisted on respecting the project they were presenting in April 1957. They argued that it reflected the Cameroonians's wishes, because it was the result of the vote of their deputies. So, French parlementarian and government cannot modify it. Explaining the urgency of the vote of the statute on April 11, 1957, they said that they were not authorized to modify the project adopted by the Cameroonian assembly (Official Journal of French Republic, n°49, April 12, 1957, Parliamentary Debates, Council of the Republic, 2nd session of April 11, 1957: 1000). They also claimed that a modification would impose additional shuttles between the different powers, which Cameroonians could not tolerate. As representatives of the people and in the face of pressure from the UPC, they had to come back with what they had promised to the people.

With regard to the power of police and security, André Marie Mbida had always demanded its transfer to Cameroon, from January to April 1957. Supported by Léopold Sédar Senghor, he said the stability of the country was at stake. To this end, he said : "You cannot conceive of a government that cannot directly appeal to the police. We do not live in dangerous territory, but there will certainly be some members of metropolitan origin to try to create difficulties for the Cameroonian government. If the police are in the hands of the metropolitan authorities, what can the Cameroonian government do?" (Official Journal of French Republic, n°46, April 5, 1957, Parliamentary debates, National Assembly, 2nd session of April 4, 1957: 2057). Cameroonian deputies also asked for the total transfer of powers From January 28 to February 22, 1957.

Elected on December 23, 1956 to the single college, the Legislative Assembly of Cameroon gave her opinion on the institutional reforms prepared by the French government. On February 22, 1957, after multiple and long in-depth discussion sessions both in the Legal Commission (February 4, 1957-February 16, 1957) and in the plenary assembly, it adopted the draft statute, with a favorable opinion issued to a very strong majority, after having amended it. Sixty Councilors out of seventy, including the President of the Assembly, had adopted it. The other eight, represented by Paul Soppo

Priso, had disapproved and rejected it. Many amendments were proposed. There were more than fifty of them, the vast majority of which were retained in the final text (Gonidec, 1957: 610)

The powers concerned were: the voting of loans and projects to be financed, greater immunity and more salary benefits for Cameroonian MPs, the strengthening of the authority of the Cameroonian government. Thus, unlike Paris, which required less than two-thirds to force the government to resign, they instead proposed a two-thirds majority for the adoption of a motion of no confidence, in order to force the cabinet to resign.

In addition, the Cameroonian assembly demanded that the heads of administrative districts and their deputies be henceforth appointed after the agreement of the Cameroonian Prime Minister. At the request of the deputies, article 37 of the initial draft was deleted, which allowed the dissolution of the Council of Ministers of Cameroon by decree taken in the Council of Ministers of the French Republic. The exclusive granting of legislative competence to Cameroonian deputies, in legal, economic and financial matters is required. In addition, Cameroonians, as well as foreigners, were entitled, much more than the French, to both agricultural and mining concessions. A redefinition of the regulations regarding the granting of plots of Cameroonian land to settlers was passed.

On February 16, 1958, Ahmadou Ahidjo took over the negotiations as head of government. On June 12, 1958, a motion of the Legislative Assembly of Cameroon, adopted by thirty (30) votes against one (01), asked France to transfert all skills for the management of its internal affairs. On October 24, 1958, the Legislative Assembly voted a resolution proclaiming the will of the Cameroonian people to achieve full independence on January 1, 1960 and thus asking for the abrogation of the trusteeship of the UN This was following the vote of this resolution that the French Government informed the United Nations that France, in agreement with the Legislative Assembly and the Cameroonian Government, requested the lifting of the trusteeship regime as of January 1, 1960. On December 31, 1958, a series of conventions and treaties were signed by Ahidjo, to gradually transfer to the Cameroonian authorities the liabilities, but also the assets located in Cameroon. We can cite in this respect, decree n ° 57/501 of April 16, 1957 on the status of Cameroon, the Franco-Cameroonian convention on the exercise of reserved powers, transfers and intergovernmental cooperation of December 31, 1958 and the cooperation agreements of November 13, 1960. With regard to subsoil resources, the law of June 17, 1959 on state and land organization provided for this purpose, in its article 2 that "subsoil resources belong to the State of Cameroon."

Sum overall, the Cameroonian representatives, unlike the French representatives, had not addressed the problem of the financial burdens weighing on the heritage transferred within this bipartite assembly, for a global discussion.

Some infrastructures and public debts imputed to Cameroon

The exploitation of the archives of the Cameroonian National Assembly dated 1963 highlights the typology of public debts imputed to Cameroon due to the colonial public compagnies located in Cameroon, and because the shareholders were both cameroonian and french. It's about:

- the debts of the Republic of Cameroon in respect of its contribution to the expenses of the local section of FIDES, the last repayment of which ended in 1984;
- debts guaranteed by the colonial state of Cameroon (1931, 1932, 1933, 1934, 1935, 1936, 1937, 1947);
- borrowings by public enterprises from the CCFOM from 1949-1959, including December 24, 1949, June 21, 1951, May 27, 1952, August 14, 1952, January 16, 1953, January 16, 1953, December 4, 1954, September 5, 1955, 30 December 1955, June 2, 1956, September 16, 1958, and December 8, 1959;
- Loans and bonds for "Studies and works" for the years 1931, 1932, 1933 and 1934, the repayment of which ended in 1983;
- Miscellaneous loans contracted with the Caisse Centrale by the budget of the Republic of Cameroon;
- Loans contracted with the Caisse Centrale by various local authorities like mayors for the construction of rooms with participation from the budget of the Republic of Cameroon.

All these loans had been used on the territory of Cameroon. They were used to constitute the capital of public enterprises controlled by French colonial power, such as REGIFERCAM, ALUCAM, ENTRELEC, CREDICAM, CIMENCAM, enterprises with public capital. Some loans, the smallest parts), were used as grants in the fight against diseases and bulding of hospitals. So, despite independence, many companies remained the French properties, until the end of the existing concessions.

To conclude, with regard to the categories of debts imputed to Cameroon, but also to the various Franco-Cameroonian meetings, one could believe that the drafters of article 38 of the Vienna Convention of 1983 were inspired by the mode of distribution of debts adopted by France and Cameroon, which states that: "When the successor State is a newly independent State, no state debt of the predecessor State shall pass to the newly independent State, unless an agreement between them provides otherwise in view of the link between the State debt of the predecessor State connected with its activity in the territory to which the succession of States relates and the property, rights and interests which pass to the newly independent State." The Convention was adopted on 7 April 1983 and opened for signature on 8 April 1983 by the United Nations Conference on Succession of States in Respect of State Property, Archives and Debts. The Convention remained open for signature until June 30, 1984.

Basically, the State debts of the predecessor State cannot be transferred to the successor State, unless there is a link between the State debts of the predecessor State in relation to its activities in the successor State, and the property, rights and interests transferred to the successor State.

The contractual determinants of recourse to distribution

The choice of distribution was justified by the maintenance of old financial ties despite the independence of the former colony, but also by the advantages.

Maintaining of old financial ties on former French power despite Cameroon's independence

Despite Cameroon's independence, the original debtor and owner of colonial investments remains France, and the unamortized colonial debt remains insured by the heritage established in Cameroon.

France remains the main debtor and owner

For William Edward Hall, an English specialist in the law of the succession of States, debt falls into the category of personal obligations. The new State has nothing to do with the rights acquired and the obligations contracted by the old State. The old state has not, strictly speaking, disappeared (Hall, 1917: 93- 95). The scope of the obligation is limited solely to the debtor's relationship with the creditor. It is therefore a relative obligation, in the sense that the beneficiary, who is none other than the creditor, cannot avail himself of a kind of erga omnes enforceability of his corresponding right. In private law, only the debtor's patrimony, as it is composed at the time when the creditor undertakes to obtain the execution of the service from which he benefits, is liable for his debt. The relationship between a debtor and a creditor is personal, especially with regard to the external creditor. In the relationship of creditor to debtor, there is no doubt that personal considerations intervene which play an essential role in the formation of the contractual bond as well as in the performance of the obligation.

It should be specified that the debtor on the contract was not the State which became independent, because this new State was at the time of the contraction of the colonial loans, a territory under colonial domination. It was the power with the mandate to administer it that had been borrowed, because international creditors could not negotiate with a territory under colonial domination. And in case they happened to do so, he was required to have a guarantor who would pay the debt in the event of default by him, a dependent territory. In the case of Cameroon, for example, even if it was stated in the contract that he was the borrower, this detail mainly referred to the location of the investments, the territory that would benefit from them. As a result, even if the charges of the colonial debt fall on the Cameroon budget under French administration, in fact, it was on the budget of France that these charges of the colonial debt fall legally. Cameroon was an integral part of the French colonial empire, it was she who answered for all her actions at the international level. This is the reason why, as far as creditors are concerned, there cannot be an automatic debtor succession, unless there is an agreement between all the parties, but especially with the creditor. The jurist Alexander-Nahum Sack went in the same direction.

He indeed explained that the newly independent State, even if the colonial debt mortgages its financial resources, is not obliged to pay the said colonial debt, because it was not he who had borrowed it. Moreover, even if these loans had been used to finance projects on its territory, nothing obliges it, at least contractually, to repay these loans. Despite its change of status, the debtor continues to be the former colonial power; because of the contractual link which subsists between it and the creditors. Notwithstanding the fact that the colonial debt follows the territory on which it was originally encumbered, this does not automatically make him the new debtor. Until the accession to independence from the former colonial possession, it is the colonial power

that represents it on the international scene in all aspects of its life, and therefore within financial institutions, because the competence to borrow fell to him.

However, the former colony may become the secondary debtor in the event of written deeds of transfer between the former colonial power and it, with if possible a change of names, and consequently, a formal acceptance by the latter to pay the unamortized colonial debt. This had to be done with the consent of the creditors, who had the free choice to accept or refuse it. A precarious financial situation of the new debtor, namely the new independent State, could lead them to refuse the agreement. In any case, an acceptance of the agreement does not relieve the original debtor of its previous financial responsibilities, which ultimately remains the principal debtor. This is an integral part of the security clauses. In this regard, the French Civil Code provides, in the case of assignments of debts, that "A debtor may, with the agreement of the creditor, assign his debt. The transfer must be recorded in writing, on pain of nullity. The creditor, if he has given his agreement in advance to the assignment and has not intervened therein, may only be opposed to it or rely on it from the day on which it was notified to him or as soon as he has taken note. If the creditor expressly agrees, the original debtor is discharged for the future. This means that the execution of an assignment of debt depends not only on the solvency of the debtor, but also on various considerations related to his good faith. It is therefore understandable that a creditor is repelled by a change of debtor.

In the case of bilateral debts as international debts, that is to say those due to nationals French nationals and (French publics and private compagnies) and international creditors, the assent of the creditor to any arrangement between the initial debtor and the secondary debtor is required and necessary. In the case of Cameroon, the context of independence was going to weigh on the choices of the creditor. For example, the situation of political instability which has prevailed since 1955 in Cameroon could lead him to refuse the transfer of debtor, judging that the Cameroonian government is very busy overcoming the upecist rebellion. In addition, this climate of instability could be harmful to the profitability of said investments, and therefore requires the experience of the original debtor, which is France. In addition, the inexperience of the new administrators in the administration and management of investments such as the port of Douala, companies such as the Electric Companies of Cameroon, the Aluminum of Cameroon, was a risk factor for the reimbursement, in the event of novation in matters of debtor. Thus, it may be that on the basis of all these threats to the security of its investments, the creditor refuses any modification of the debtor, or else requires security mechanisms. If it is recognized by all that the territory which has become independent will be burdened with the State debt automatically, the payment is not made automatically as we will see later.

In addition, in French Cameroon, the primary borrower was above all a French national, who had contracted debts with banking establishments for the realization of a project of public interest located in Cameroon. These debts were guaranteed by France, which had to in case of default of its national, evade him from the bankers. It was therefore in a way the colonial power that borrowed. Independence could not alter this contractual situation.

Furthermore, the impact of the nationality of the creditors on the settlement of the colonial debt should not be overlooked. A distinction must be made between debts owed to creditors other than the predecessor State and its nationals, and debts owed to the latter. With regard to the debts owed to the predecessor State or to its nationals, we find ourselves in the presence of bilateral relations which are often regulated by conventions the execution of which takes place in a climate of cooperation which can attenuate the rigor of the obligations imposed at the expense of the successor State. On the other hand, debts owed to third States or their nationals posed delicate problems of tripartite relations. The creditor of his debts could moreover recognize as debtor only the predecessor State, which raises the problem of contractual liability. The debt devolution agreement concluded between the successor and predecessor States is not opposable to the creditor third State. No novation of the obligation by change of debtor can take place without the consent of the creditor (United Nations, Yearbook of the International Law Commission, "Succession of States in matters other than treaties", vol. II, 1968: 112) .

Moreover, the colonial debt was a set of private law obligations. It was therefore not possible for the primary debtor to be substituted automatically, following a political or territorial transformation, although it follows the fate of the territory which detaches itself from the primitive state to become independent.

The unamortized colonial debt remains insured by the assets located in Cameroon

For various reasons, the independence of the former colonial possession does not entail the ipso-facto disappearance of the unamortized colonial debt which encumbers its territory, in spite of its change of status. Here's why:

During the colonial period, the unamortized debt already burdened the colonial territory, that is to say that financial charges emanating from this colonial debt weighed on the colonial heritage of the borrower. The colonial power, which was the debtor, had in a way mortgaged its colonial territory. This situation could not therefore change automatically following the independence of the former colony. The jurist Sack explained in more detailed terms what he meant by the expression "the debt encumbers the territory of the debtor State": For him, it is the financial resources of the State (resources under private law – State domains and enterprises – and resources subject to public law – taxes, monopolies, etc.) within the limits of the determined territory which are encumbered.

Thus, the colonial patrimony consisted not only of the estates and other properties and property of the State, but also and above all of the financial means of the colonial State, coming under the jurisdiction of the government, which was exercised within the limits of this clearly defined colonial territory.

This is the reason why, unless there is a written agreement notified to the creditor, and hoping for his cooperation and approval for the transfer, he is not yet the owner of the public enterprises, ports and airports which are on the territory on which it was formed. And therefore, it does not yet have international recognition

Mortgage debts, for example, encumber a specific asset, the terms of which have been agreed upon by the debtor and the creditor during the negotiation of the loan. The change of status of the territory cannot put an end to the mortgage or automatically modify the agreement that prevailed. This is why this property will

continue to be subject to a mortgage despite the disappearance of the former sovereignty. The mortgage will end only with the total payment of the debt for which it constitutes security; and with the agreement of the creditor of course.

Before the dismemberment, the unamortized debt encumbered the territory of the debtor State. In the event of erection of the ceded territory into an independent territory, the unamortized debt follows this territory previously belonging to the colonizing State. In the event of dismemberment, the newly independent State could therefore not automatically inherit State debts, because it was backed by assets belonging to specific legal and physical persons. In the case of Cameroon, almost all the companies belonged to the French State, to French and European nationals. Let us quote for example the Regifercam, the Waters of Douala, the ports and airports, the forestry exploitations of a certain surface, the mining exploitations and the banking establishments like CREDICAM and UNIBACAM.

Thus, the taking of the reins of power by the Cameroonians did not change the fact that France continued to have a right of inspection over the financial resources of the said investments allowing it to honor its debts vis-à-vis the creditors. Cameroon, in return, did not have real sovereign management power within the companies created during colonization. At the very least, he shared it with France. Moreover, an investor such as the IBRD, the USA or those of the European common market would find it difficult to negotiate directly with the new independent State without the prior agreement of the former guardian; or he could be reluctant to negotiate directly with the new Cameroonian authorities, because he does not know them. This is the reason for an agreement between France and the new authorities of Cameroon.

The risks of a refusal to negotiate

The refusal to negotiate exposed Cameroon to a mortgage of future financial aid and the risk of relocalisation of foreign companies outside Cameroon .

The mortgage of future external assistance

When Cameroon gained independence, the new government faced economic and financial problems. He badly needed to resort to international capital. Henceforth, the leitmotif that guided Cameroon's domestic and foreign policy was the quest for funding from whatever source, often even to the detriment of the future consequences on the economic future of the young State (Collections of presidential speeches, 1957-1968: 197).

Ahidjo recognized the need to extend aid from France, when he declared that: […] We are overwhelmed with operating expenses, in particular personnel expenses, while our investment budget is notoriously poor. *Cameroon for its industrialization needed private capital, French assistance, its capital.* By force of circumstance, he was therefore obliged to postpone indefinitely the severance of relations with France, which had until then provided him with the support of FIDES. It was necessary to think of an association with this one, to quickly remedy the situation.

The aid that Cameroon received as a territory associated with France and within the framework of the common market was not negligible. It generally focused on clearly defined sectors : public health, education, agriculture. For the year 1959, Cameroon had received nearly 2 billion CFA francs. Alongside this financial assistance, there were the advantages offered by the common market for Cameroonian products. On this subject, Ahmadou Ahidjo underlined that Cameroon had an advantage in joining the Common

Market because it made it possible to sell products which, if they were launched on the world market, would encounter very tough competition. In addition, France and other Common Market countries grant a preferential tariff to Cameroonian products. This is why a sudden break with France undoubtedly risks further complicating Cameroon's already precarious economic environment.

Pure and simple nationalization of French companies could lead to sanctions as in Guinea in 1958. Until 1960, almost all of Cameroon's exports were directed to France and the French Community, but only 28% of imports came from France. Only the Commonwealth could at that time, it seems, take the place of France, without any restriction or prohibition. Communist parliamentarians had decried this economic agreement which they considered an injustice with regard to French industries, and particularly French farmers located in France. France was paying for this shortfall with a massive outflow of its currencies, which would have been more useful to it if it had bought better quality products from the European Union and the United States a scheme which was almost impossible given the reciprocity agreements which bound the European States. Despite the advocated free trade, there was a policy of quotas (French National Assembly, 3rd session of November 9, 1961, case n°11991, October 4, 1961: 492).

Furthermore, Article 16 of the economic cooperation treaty signed between France and the Cameroonian Republic provided for the entry of goods originating in and coming from Cameroon into France free of duty. Ahidjo needed this opening of the European space to sell Cameroonian production which he intended to boost, especially since France was buying Cameroonian exports at prices which were higher than other European countries. Communist parliamentarians had decried this economic agreement which they considered an injustice with regard to French industries, and particularly French farmers located in France. France was paying for this shortfall with a massive outflow of its currencies, which would have been more useful to it if it had bought better quality products from the European Union and the United States. As a result of reciprocity, European markets would automatically be open to it. In short, what can a so-called sovereign state really do without finance. In the midst of negotiations on the amounts of financial damages to be attributed to Germany, we have seen the American bankers Lodge, Morgan, Dawn bend American and European policies. To avoid a paralysis of international exchanges, but above all to avoid the wrath of the latter in search of funding for reconstruction, France, Great Britain, Belgium and Italy, etc. were forced to comply with the wishes of their creditors.

Risk of a relocation of foreign companies outside Cameroon

When negotiations are taking place, there are no less than two hundred foreign companies established in Cameroon, such as agro-industrial, commercial, mining and energy companies (The Directory of Colonial Companies, 1953: 1-976). A massive and sudden departure could complete the disorganization of the country's shaky economy. About three hundred companies supported hundreds of thousands of Cameroonians and the taxes generated represented approximately more than half of the Cameroonian tax authorities. But if they closed, trade would be paralyzed, unemployment would increase, prices would skyrocket (www.entreprises-coloniales.fr , , online on January 19, 2014, last modification on December 28, 2015).

As agricultural concessions, we had for example: Banaramie in Penja (mainly banana growing), Les Plantations Collinet de Monsieur Collinet (Sangmelima), Compagnie Française du Cameroun (Bonepoupa), Plantations of SPROA, Plantations of the Société des Palmeraies de la Ferme Suisse (SPFS) and its own oil mill, Les Cafés du Cameroun (operation of two agricultural concessions), IRHO Plantations (oil mills in Dibombari and Edéa), peanut oil mills in Bertoua and Pitoa. Others combine agriculture with forestry. Examples include the African Forestry and Agricultural Society (SAFA), Les Bois du Cameroun (LBC), the Agricultural and Forestry Company of Cameroon (CAFC), the Central African Society for Trade and Industry (SOCACI), the National Society of Cameroon, and the African Forest Industries Company (CIFA).

In the field of energy, the figurehead is Compagnie camerounaise de l'Aluminium Péchiney-Ugine (ALUCAM), which is controlled and directed by the French aluminum and chemicals circles. It was set up with a capital of 5 billion CFA francs together with a low-interest loan of 3 billion CFA francs by the Caisse Centrale de Cooperation Economique. If in 1959 Cameroon held only 2.99% of shares in ALUCAM, it had 8% at the beginning of the 1970s. The French State, represented by the Caisse Centrale de Coopération Economique (CCCE) owned 15%, private capital including Pechiney 51%, Ugine 12%, COMAL (Cameroonian Aluminum Company) 12%, and Sadacem 2%. The following years saw a new distribution of shares: Pechiney: 48%, Ugine: 12%, Cobea: 10%, and COMAL 30%.On the side of ENELCAM, the Cameroonian State had been able to buy back 41% of the shares, very far from the 12% of 1959. The French Republic, represented by the CCCE 47%, and EDF 5%, continued to be the majority shareholder. ALUCAM came last with 6%.

Serepca (Société de Recherches et d'Exploitation des Pétroles du Cameroun), born in September 1951, became Elf-Serepca in 1965, resulting in a redistribution of shares: Petroleum Research Office 64.70%, Central Fund for Economic Cooperation 19.57%, Federal Republic of Cameroon 10.73%, Finarep and Cofirep 5% Crédit du Cameroun (CREDICAM), a bank based in Douala, was a State company established by a decree of May 25, 1949, with a capital of 100 million CFA francs subscribed by the territory of Cameroon. In 1961, it became Banque Camerounaise de Développement (BCD), when it took over from Crédit du Cameroun, and its capital was increased from 600 million CFA francs to 1,000 million CFA francs. The distribution of shares was 61% in the federal government, 31% in the Central Fund for Economic Cooperation (CCCE) and 8% in the Central Bank. In 1963, the capital of the BCD was increased to 1,500 million CFA francs, and the Bremer Landes bank took a very small stake (10 million CFA francs). At the end of the 1960s, the Federal Republic of Cameroon held the largest share with 75.5%, followed by the Caisse Centrale de Cooperation Economic with 15.5%, the Central Bank holding 8%, and the Bremer Landesbank with 1.0%. Apart from its share capital, BCD had three main sources of funding for its operations: central bank rediscounts, foreign loans and deposits. Foreign loans, which were the BCD's main source of long-term funds, came from the Caisse centrale and the Kreditanstalt.

In view of the above, a denunciation of the imputed debt was not at all possible for Cameroon. Sharing the management of said coveted infrastructures was always preferable with the former colonial power.

Conclusion

The choice of negotiating a distribution instead of cancellation by Cameroon, a former colony, and France, a former colonial power, is based on several parameters, the most important of which was the desire to maintain the confidence of international creditors. This agreement resulted in written acts specifying the transfer of part of the colonial public heritage (assets and liabilities) to the new Cameroonian authorities. These legal provisions thus marked very clearly the desire of the two States to remove any ambiguity as to the future management of the colonial debt, of the colonial heritage to which the Independent State of Cameroon had succeeded. These two States had to protect international investments for the well-being of their respective populations, but also for international peace. The reality behind the debts imputed to Cameroon was that all the parties involved in the succession of colonial debts had negotiated for the reimbursement of these and the protection of the infrastructures born from them. It is the confirmation of an interdependence between States and providers of funds, an interdependence which contributes to their collective security. It would therefore be suicidal for the States, the main applicants and beneficiaries of the huge funds available to these financial players, as well as for the external creditors, who have to make a profit, not to agree in the event of a territorial modification or change of sovereignty, for the reimbursement of the debt contracted by the predecessor State. It is true that at the time when the negotiations are being held, Cameroon is not an independent state, and the freedom to act of Cameroonian negotiators can be questioned; but this cannot hide the fact that the postcolonial management of colonial investments was the consequence of multiple bilateral discussions.

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