

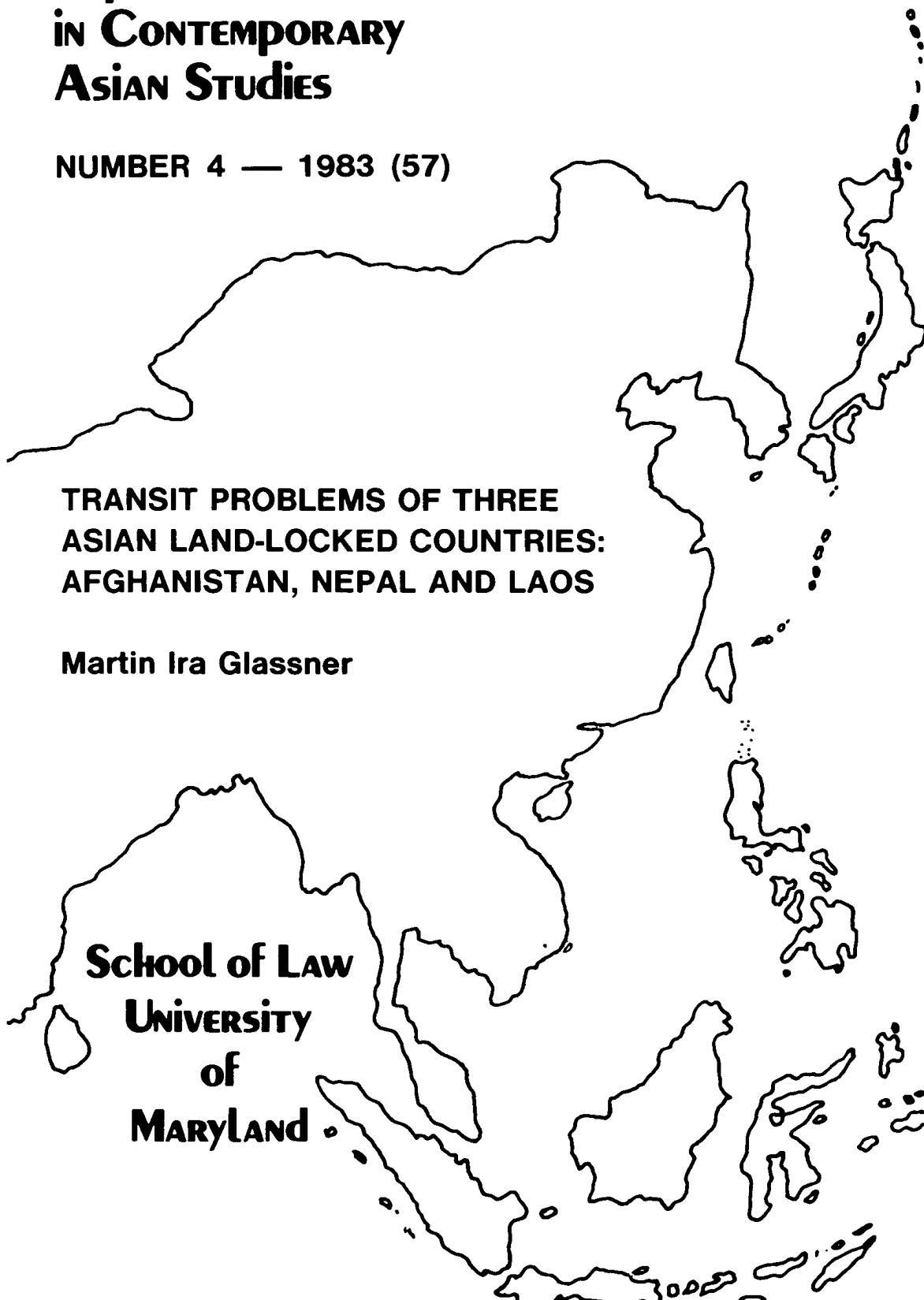
**OCCASIONAL PAPERS/
REPRINTS SERIES
IN CONTEMPORARY
ASIAN STUDIES**

NUMBER 4 — 1983 (57)

**TRANSIT PROBLEMS OF THREE
ASIAN LAND-LOCKED COUNTRIES:
AFGHANISTAN, NEPAL AND LAOS**

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UNIVERSITY
of
MARYLAND**



*Occasional Papers/Reprint Series
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All contributions (in English only) and communications should be sent to

Professor Hungdah Chiu, University of Maryland School of Law,
500 West Baltimore Street, Baltimore, Maryland 21201 USA.

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Subscription is US \$10.00 for 6 issues (regardless of the price of individual issues) in
the United States and Canada and \$12.00 for overseas. Check should be addressed to
OPRSCAS and sent to Professor Hungdah Chiu.

Price for single copy of this issue: US \$3.00

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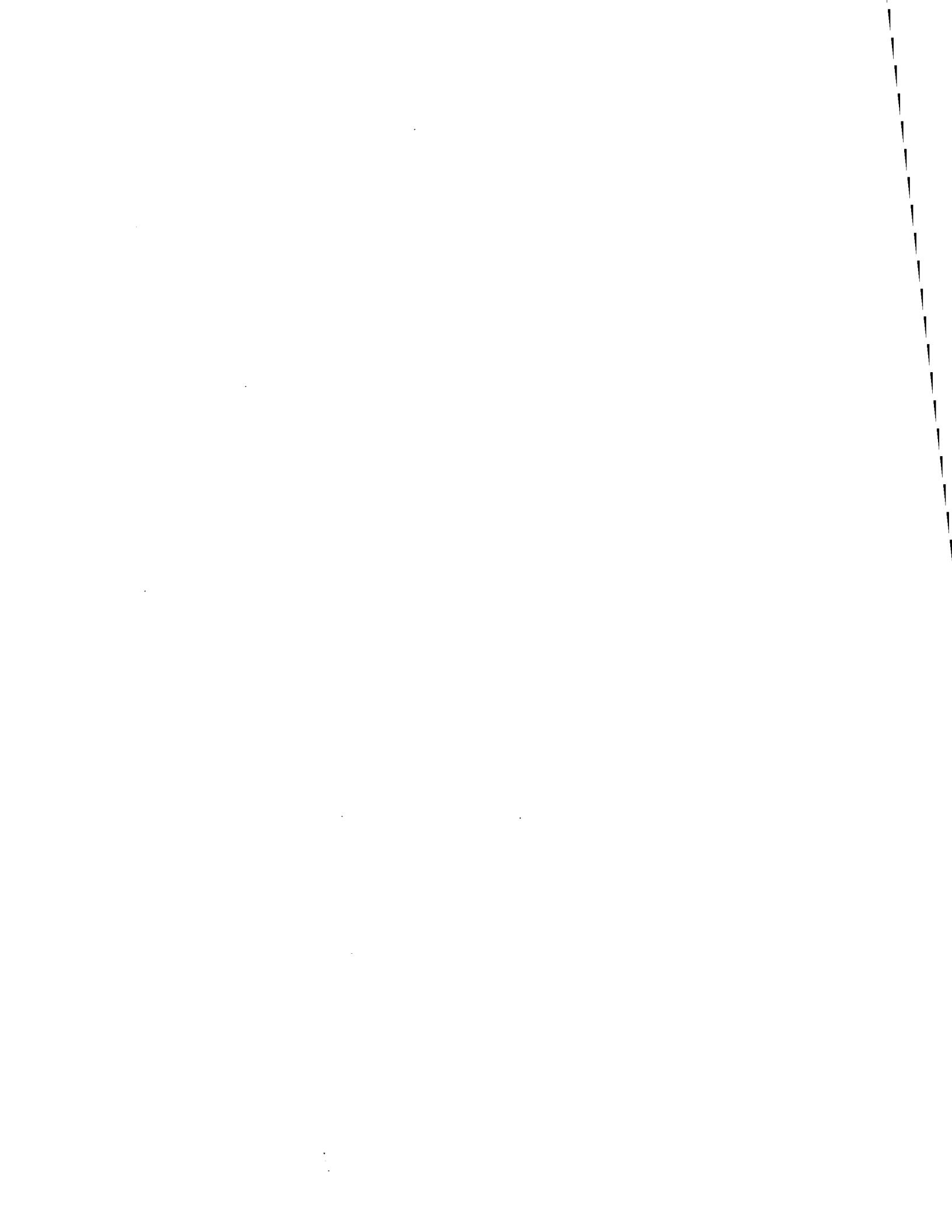
ISSN 0730-0107
ISBN 0-942182-56-1

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TRANSIT PROBLEMS OF THREE ASIAN LAND-LOCKED COUNTRIES: AFGHANISTAN, NEPAL AND LAOS

*Martin Ira Glassner**

1. INTRODUCTION

There are at present some thirty land-locked states in the world, depending on whether one counts such entities as Andorra and Vatican City as "states." Of them, fourteen, or nearly half, are in Africa, five are in Asia, two in South America and the rest in Europe. All but those in Europe are poor and sixteen are tallied among the "least developed" countries in the world by United Nations reckoning. The sixteen represent not only half of all the land-locked countries, but more than half of the twenty-nine least developed. These proportions are not coincidental.

A location in the interior of a continent tends to isolate a country from the main world flows of goods, people and ideas. Interior countries lack the "window on the world" that a seaport provides. Once isolation was valued, for it provided some measure of security against a wide range of dangers from foreign invaders to hurricanes. Now, however, isolation is a clear disadvantage.

Even if there were no political, strategic or social handicaps to being land-locked, the economic consequences would be serious enough. First of all, sheer distance from the sea, which still carries most of the world's international commerce, means high transport costs. Compounding the problem of distance is the nature of the terrain: most land-locked states are separated from the sea by high mountains, steep ravines or escarpments, dense forests or long stretches of sparsely-populated country that neither produce nor consume very much.

Typically, partly because of topographic features, partly because of colonial transport policies and partly because of the poverty of most land-locked *and* transit states, the transport systems used by land-locked countries are inadequate in facilities, maintenance and management. Frequently there are serious imbalances in the direc-

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tion or seasonal flow of goods as well. Communications, essential to keep traffic flowing smoothly, often are inadequate or unreliable, making traffic management very difficult. Delays in transit, caused by these circumstances, not only increase direct costs such as insurance, storage, interest on loans, penalties and other charges, but also increase the risk — and the actuality — of loss, theft, damage and deterioration. Merchants at either end of a trading relationship can lose a great deal of money when delays in transit mean goods arrive too late to be useful or saleable. Construction projects can be delayed and machinery and vehicles immobilized, all for want of materials, equipment or parts that are lost, damaged or delayed in transit.

None of these problems is peculiar to land-locked countries; all are suffered by the interior districts of developing coastal states as well. What compounds these problems for the land-locked states is that between them and the sea is at least one international boundary, sometimes more. This means that the transit states can, and often do, impose complicated transit and customs formalities, excessive documentation and even, at times, higher charges for traffic in transit than for domestic traffic. Not only do goods in transit, therefore, have to endure cumbersome procedures and high costs at the ports, but also at the border, and this increases the time and cost of transit.

These and other problems can be reduced, though never eliminated entirely, if the land-locked state either has several alternate routes to the sea or is on excellent terms with its transit state or states. Happily, one or both of these conditions normally prevails in most land-locked States. There are, however, many examples of transit routes being deliberately blocked for varying periods and, despite transit agreements, interferences with transit — deliberate or accidental — always lurk in the background as real possibilities. Clearly, political as well as economic factors are important in determining the true significance of land-lockedness in individual cases.

In addition to political and economic factors, psychological factors may intensify the very real handicaps of having no seacoast. Seaports, the “windows on the world” mentioned previously, stimulate growth and change; their absence tends to promote isolationism and stagnation. Moreover, the educated elites, at least, of land-locked states *know* they are cut off from the sea, perhaps by a hostile neighbor, and may experience feelings of deprivation, resentment, even claustrophobia. These feelings can and do have an impact on both internal development policies and foreign relations.

2. REDUCING THE HANDICAPS OF LAND-LOCKEDNESS

The land-locked States of Europe no longer suffer these handicaps, partly because of more favorable political, economic and geographic factors, and partly because the problems have been slowly and sometimes painfully resolved during the past few centuries. Those in Africa, Asia and South America, however, must deal with them as they can. They are currently, it seems, simultaneously pursuing six overlapping and interrelated approaches:

- (a) International law
- (b) Bilateral negotiations
- (c) Internal development, especially transport
- (d) Improved transit facilities and alternate routes
- (e) Regional integration and cooperation
- (f) United Nations organs and specialized agencies

A brief explanation of each of these might be helpful.

(a) International Law

Gradually in early modern Europe, insistence on absolute territorial sovereignty, which had led to the imposition of tolls and restrictions on transit traffic, began to give way to a recognition of the advantages of a free flow of trade. During the nineteenth century principles of free transit became established to aid commerce and industry for the benefit of transit and land-locked states alike.

The League of Nations sponsored a series of conferences during the 1920's which produced both bilateral and multilateral treaties aimed at the facilitation of free transit. Of these, the most important were the Barcelona Convention and Statute on Freedom of Transit of 1921, and the Convention and Statute on the International Regime of Maritime Ports, signed at Geneva in 1923. Together they set minimum standards for the transit and other rights of all states, including those lacking coasts.

After World War II several important events and trends conjoined to improve access to the sea for land-locked states. For one thing, a relatively new concept emerged, that access to the sea is essential for the expansion of international trade and economic development. The achievement of independence by many former colonies in Asia and Africa stimulated increasing emphasis on this relationship, rather than on the traditional stress on "rights" and "duties" of states. Among the leaders in this renewed battle for a "free and secure access to the sea" (to borrow Woodrow Wilson's phrase referring to Poland and Serbia) and Afghanistan and Bolivia.

The first noteworthy fruit of their efforts was Article 3 of the Convention on the High Seas adopted by the first United Nations Conference on the Law of the Sea in 1958.

This represented progress, but was clearly not adequate, so pressure increased for a more definitive solution to the problem. As a result, the 1964 United Nations Conference on Trade and Development (UNCTAD) adopted eight principles on access to the sea and several recommendations, one of which led to the United Nations Convention on Transit Trade of Land-locked States, signed at New York in July 1965. This was the first multilateral treaty to deal specifically with the problem but, while it certainly gave a measure of "status" to it, it did not offer a solution. Its effectiveness is limited, moreover, by the fact that only a few transit states have ratified or acceded to it and only one of these (Nigeria) provides transit for a *developing* land-locked country.

The battle was continued on a broader front in the Third United Nations Conference on the Law of the Sea (UNCLOS III), 1973-1982. Here the land-locked countries joined forces with some so-called geographically disadvantaged states to form a group of 54 members within the Conference. They worked both for improved transit provisions in the evolving Convention on the Law of the Sea and for assurance of access to and benefits from the *resources* of the sea. They certainly did not make gains at UNCLOS III proportionate either to their needs or their efforts, but at least the transit provisions (Part X) of the Convention represent a slight net gain over the 1965 New York Convention.

International law, as it has developed so far, can provide a framework or background for the development of more specific rules and norms by land-locked and transit states and it can serve as a datum plane, a standard against which actual state practice in transit matters can be measured. It has not yet, however, assured land-locked countries of a guaranteed *right* of transit and is not likely to do so in the foreseeable future.

(b) Bilateral Negotiations

All multilateral conventions dealing with this subject insist that the "terms and modalities" (or similar phrasing) of transit arrangements must be negotiated bilaterally (or regionally) by the land-locked and transit countries. In these negotiations, the coastal state in most cases is larger, richer and more powerful than the interior state, and it is often difficult for the latter to win what it considers satisfactory transit arrangements. The coastal state, moreover, fre-

quently insists on including transit as just one more item in a trade treaty or in an even broader treaty of friendship. Such treaties are usually short-term, generally expiring after ten years, sometimes after five. Transit thus does not get the careful attention it deserves and can be restricted or even withdrawn upon the expiration of the agreement.

The land-locked state, then, finds that in order to obtain and retain the transit necessary for its economic development, it must remain on good terms with a transit state, regardless of political, social, cultural, military, economic or other disparities between them. Or it must have something of very great value to offer in exchange for adequate and assured transit, or it must bargain with consummate skill. These are very great burdens to place on a country which is very likely small, poor and weak. Nevertheless, because transit states do have something to gain from a relatively free flow of commerce, and because they are generally interested in maintaining world public order, transit trade of land-locked countries does move, however imperfectly, across the sovereign territory of coastal states under terms of bilateral agreements. But in nearly all cases these agreements can be greatly improved.

(c) Internal Development, Especially Transport

In all developing countries improvement of transport infrastructure and equipment has high priority. For the developing land-locked countries, in general, transport is essential for all the usual reasons and, in addition, for its value in reducing their isolation from the rest of the world. There is, furthermore, little to be gained from even ideal transit arrangements with coastal states if goods cannot move quickly and safely to and from the border within the interior state.

In addition to the basic road, rail and water transport facilities, the developing land-locked countries are working to improve cargo-handling and storage facilities, telecommunications, and the organization and administration of internal freight movement. Even where international trade is essential for basic economic health, procedures for clearing and forwarding may be antiquated and inhibiting and are being improved in many places. Air transport is important in most developing countries, including those without littorals, but rarely carries a high proportion of the freight moving either internally or in foreign commerce.

(d) Improved Transit Facilities and Alternate Routes

With the exceptions of the USSR and South Africa, all countries which provide transit for developing land-locked states are themselves poor and some, indeed, rank among the least developed. Their transport systems are often overburdened with their own traffic and transit traffic is an unwelcome additional burden. Seaports are congested, procedures impede rather than expedite movement, and traffic is interrupted by strikes and civil disturbances as well as by uncontrollable natural forces.

Land-locked countries are trying to resolve these problems by a variety of methods. In some cases, particularly as in parts of Africa where transit traffic provides a large share of the revenues of the transport systems of coastal states, they actually participate in the ownership and/or operation of the transport facilities. Elsewhere, they contribute to the improvement of these facilities, maintaining free zones in ports and transshipment points and, perhaps more important, trying to develop alternate transit routes, both within a single transit state and through several coastal counties.

Dependence on a single seaport and/or a single transport line renders a land-locked state vulnerable to interruption of transit, while alternate routes and ports spread both the risks and benefits while stimulating development in difference parts of both the land-locked and transit countries. Economic benefits and costs, however, vary greatly from place to place and even from time to time and must be carefully calculated.

(e) Regional Integration and Cooperation

Indisputably, the only way to eliminate completely the *transit* problems of land-locked states is to eliminate all international boundaries between them and the sea; that is, political integration with coastal states. This has not happened in recent times, however, and is unlikely to happen anywhere very soon. The next best way to resolve transit problems is through regional economic integration. This has been accomplished in varying degrees in East, West and South-Central Africa, and in South America. The best example of economic integration facilitating transit for a land-locked country was the East African Community until its demise in the mid-1970s. Even in this case, however, Uganda and non-member Rwanda experienced interruption of their transit traffic.

Various kinds and levels of economic cooperation not involving integration have also resulted in better transit for land-locked coun-

tries. The Asian Highway and the Latin American Railroad Association are examples of such cooperation. Some observers are postulating now that regionalism is, in fact, the most feasible and even the most desirable approach not only to transit problems but also to the *use* of the sea and exploitation of its resources by landlocked countries. That remains to be seen, but the benefits of regional cooperation in transit matters, even without integration, are already quite apparent, particularly in West Africa.

(f) United National Organs and Specialized Agencies

For more than a quarter of a century the United Nations has been increasingly active in taking and encouraging "special measures related to the particular needs of the land-locked developing countries," as the UN phrases it. UNCTAD has produced a number of valuable studies and recommendations concerning both transit facilities and procedures, and has provided technical assistance to a number of countries. It has a unit specializing in landlocked and certain other developing countries. The United Nations Development Programme has a special project to provide "Assistance to the Least Developed Land-locked Countries." It began operating in South Asia in 1975 and has more recently been extended to East, West and Southern Africa. The World Bank and the regional development banks have invested heavily in transport infrastructure.

The regional economic commissions have been especially active in different ways in helping the land-locked countries in their regions. The United Nations Economic and Social Commission for Asia and the Pacific (ESCAP), for example, sponsors an intergovernmental Special Body on Land-locked Countries, organized in 1972; the UN Economic Commission for Africa (ECA) has sponsored numerous meetings of transit and customs experts to recommend improvements in these areas; and UN Economic Commission for Latin America (CEPAL) has developed an Integrated Transit System for Bolivian goods in transit through the Chilean ports of Africa and Antofagasta.

In December 1976 the General Assembly established the United Nations Special Fund for Land-locked Developing Countries. It acts as an organ of the GA in collecting and disbursing voluntary contributions "in order to compensate the land-locked countries for their additional transport costs." To date the fund has been very small, but it has been able to finance the acquisition or construction of key bottleneck-breaking facilities and equipment for several countries in Africa and Asia. Finally, assistance to developing land-

locked countries is perennially on the agenda of the General Assembly; undoubtedly new initiatives to relieve their plight will be forthcoming in years to come.

Despite all of this activity by and on behalf of the World's land-locked countries, the fact remains that most of them remain small, poor and weak. The following case studies of Afghanistan, Nepal and Laos illustrate the complexities of their problems. They were chosen because of the five land-locked countries in Asia, they are the three with the greatest volume of transit trade (i.e., trade with countries other than their immediate neighbors), they are the only ones which participate actively in regional and sub-regional transport and related projects, and they are the ones for which most information is available. Mongolia and Bhutan are not only utterly dependent upon the Soviet Union and India respectively for transit, but are also economic and to a large extent political dependencies of their transit states. Thus they tend to be atypical and both Asian states and land-locked states.¹

3. AFGHANISTAN²

Afghanistan is a mountain country, straddling the mighty Hindu Kush, a range rising to more than 24,000 feet radiating westward for more than 700 miles from the great Pamir Knot of Central Asia. To the north and south of the Hindu Kush are lower parallel ranges and still further to the north and south, lowlands. Even within the lowlands, however, are other mountain ranges rising to

1. Much of the material in these case studies is drawn from the author's experience as advisor to His Majesty's Government of Nepal on negotiations with India for a new transit treaty in 1976 and as consultant to the United Nations Development Programme on Project RAS/72/077, which involved visiting Afghanistan, Nepal and Laos in 1979 and recommending improvements in this project to aid the least-developed land-locked countries of Asia. Much additional material is drawn from United Nations reports.

These are the principal sources of unattributed statistics and statements in the text which follows. In addition to these sources and those cited in these notes, many more may be useful to persons seeking additional information on the subject. The most complete guide extant is Martin Ira Glassner, *Bibliography on Land-locked States*, Alphen aan den Rijn, The Netherlands: Sijthoff and Noordhoff, 1980.

2. The present tense, as used in these three case studies, must be understood to mean the period 1978-1982 without taking into account major events, such as the Soviet occupation of Afghanistan in December 1979, which may have altered the situation. Generally speaking, less information is available for all three countries for more recent years than for the early part of this period. For a detailed case study of Afghanistan's transit problems, see Martin Ira Glassner, *Access to the Sea for Developing Land-locked States*, The Hague: Martinus Nijhoff, 1970. Much of the older material in this section comes from this study.

15,000 feet, bringing the mountainous area of the country to more than two-thirds of the total. While the plains and mountain valleys contain most of the economic activity of the country, the mountains dominate its history, geography and psychology.

The country is drained by many rivers and smaller streams, but only four are considered major ones. The most important, and the only one that is navigable, is the Amu Darya, known historically as the Oxus. This river rises high in the Pamirs, flows westward through northeastern Afghanistan and along the Soviet border, then northward through the Kara Kum Desert, eventually to empty into the Aral Sea. Below Bakhorak the Amu Darya is broad and meandering with many islands. The left, or Afghan, bank is low and subject to flooding; the right, or Soviet, bank is firmer and all of the sizable river towns are on the Soviet side.

The climate of Afghanistan may be described as generally dry but variable, since elevation and exposure, as well as the seasons, produce a wide variety of climates. The north is generally colder and drier than the south, the border area being, except in the eastern mountains, a true desert. In the south, from Kandahar westward well into Iran, is the Registan Desert, where temperatures sometimes go well over 100°F. For the most part, however, the country is cooler and, of course, quite cold in the mountains, Kabul, the capital, is in the better-watered eastern portion of the country, but because of its altitude (about 6,000 feet) still receives only 13.3 inches of precipitation per year.

Despite some rudimentary industrialization and some mining, mostly of coal, iron ore and natural gas, Afghanistan is still an agricultural country. Some three-quarters of the national income is derived from agriculture and only after usually poor harvests is it necessary to import food. The principal crops are wheat, cotton, sugar beets and cane, fruits and nuts. Livestock are also important, with chickens, camels and cattle raised in much of the country. By far the most important livestock, however, are the Karakul sheep, which produce both wool and from one to three million skins ("Persian lamb") a year for export.

Foreign trade has been growing in importance, particularly since 1954, when economic development programs began. Karakul has long been the most important export, but exports of fruits and nuts — fresh, dried and preserved — have been growing rapidly. Cotton, carpets and rugs, oil seeds, wool, hides and skins and sausage casings are all important traditional exports. Recently, the Soviet Union has been importing significant and growing quantities of

natural gas from Afghanistan and is expected to develop the rich Haji-gak iron ore deposits in the eastern mountains for her own supplies. Afghanistan's best customers, in order, are the Soviet Union, the United Kingdom, the United States, Pakistan, India, West Germany and Japan.

Imports, as might be expected, consist of a wide variety of capital and consumer goods and petroleum products, by far the most important import. The USSR supplies nearly all of Afghanistan's petroleum and sugar imports, while other important suppliers are India, Pakistan, Japan, West Germany. Czechoslovakia and the United States. To the commercial imports, however, must be added the inflow of aid goods.

(a) Afghan Transit Routes and Facilities

Afghanistan for millenia has been a crossroads of history, with traders, migrants and soldiers passing through in every direction — and often settling down to form part of the variegated population. The ancient Silk Road and Spice Road crossed the country and have recently been revived with modern technology. Not until the partition of India in 1947, however, had there been any problems with the flow of goods from, to and through the country.

Before the partition of India, relations between the two countries were governed by the Treaty for the Establishment of Neighborly Relations between the Government of Afghanistan and the British Government, dated 22 November 1921, and the Anglo-Afghan Trade Convention of June 1923. Neither dealt exclusively with transit, but both emphasized the principle of freedom of transit expressed in the Convention and Statute on Freedom of Transit, adopted at a League of Nations conference in Barcelona in 1921. The first treaty exempted most Afghan goods entering Indian ports from customs duties and specified customs clearance procedures. Routes between the ports and Afghanistan were also agreed upon, as well as procedures for inspection and sealing of goods in transit. The second treaty specified the transit routes and administrative procedures in more detail.

When partition was proposed, Afghanistan took the opportunity to suggest a separate sovereign state for the Pathans (closely related to the Pushtus of Afghanistan) of the Northwest Frontier Province. This idea was rejected by the Muslims of India and, after independence, by Pakistan as well. Afghanistan, however, continued to press for an independent Pushtunistan. Pakistan, in retaliation, began delaying Afghan transit traffic in various ways. Some goods

were damaged enroute to Afghanistan; some never arrived at all. The situation deteriorated as the Kashmir dispute intensified and by December 1949 Afghan transit traffic through Karachi had virtually halted.

In reaction to this and other frustrations, the Afghans in July 1950 signed a four-year barter agreement, the first in its history, with the Soviet Union. It provided also for Soviet technical assistance to Afghanistan and free transit for Afghan goods through the USSR. Trade with the Soviet Union mushroomed from 1950 to 1955, while Afghan transit trade through Karachi also increased. By 1955 80 percent of Afghanistan's exports and 79 percent of her imports passed through Pakistan. In 1955, however, there were more riots over Pushtunistan and Pakistan again closed the border, this time for five months.

The Afghans reacted by beginning a search for a transit route through Iran and by asking the Soviets for a renewal of the 1950 transit agreement. The renewal, dated 28 June 1955, also provided for Soviet transit through Afghanistan and a massive increase in Soviet aid to the country.

Relations with Pakistan also improved (under American pressure) and on May 29, 1958 Pakistan and Afghanistan signed a transit agreement which provided for improved facilities for Afghan goods. This new display of good will, however, did not endure, for in August 1961 another dispute broke out between the two neighbors which again resulted in their common border being closed, this time until July 1963. During this period the Afghans signed a new agreement with the Soviets increasing Afghan transit facilities in the USSR (November 1961), and a first agreement with Iran granting Afghanistan some transit facilities in that country (January 1962). While the latter agreement does not appear to have been implemented, the former resulted in the diversion of all Afghan overland trade (except for U.S. aid goods) through the USSR.

Finally, on May 28, 1963, Afghanistan and Pakistan signed an agreement in Tehran re-establishing diplomatic relations and reopening the border. Trade and transit were to be resumed under terms of the 1958 agreement. Thereafter, relations with Pakistan improved while Afghanistan's economic development accelerated. The bulk of Afghan transit traffic had shifted, however, probably permanently, to the Soviet routes. In 1975, 70 percent went this way, while only about 20 percent passed through Pakistan, and in that year Afghanistan and the Soviet Union signed another transit agreement.

While the Pushtunistan issue involves primarily Afghanistan

and Pakistan, Iran is concerned with it also, especially when, as after the overthrow of Afghan monarchy in July 1973, the Afghan proposal includes part of Baluchistan as well. In order to calm the tension between them, Iran and Afghanistan sent official delegations to one another in 1974. They reached agreements on Iranian aid to Afghanistan, extension of the Iranian railroad network to Herat, Kandahar and Kabul and, in September 1974, a new five-year transit agreement. There were also discussions, as there had been in years past, of new road and rail routes between Afghanistan and Iranian ports, specifically Bandar Abbas and Chah Bahar, but none of these proposed facilities has yet been constructed.³

Afghan transit traffic does, however, flow through Iran. In 1978 the Afghan government, in a joint venture with a Dutch firm, created the Afghan International Transport Company (AITC) to operate trucks between Afghanistan and Europe. The company owns ten DAF tractor-trailers. They are generally used between Europe and Afghanistan, but some trips are made to Pakistan and some from point to point within Europe. They carry mostly carpets, rugs, handicrafts, antiques, dried fruits, seeds and other high-value goods to Europe and bring back machinery, equipment, spare parts, tires and tubes, electrical appliances and household goods, vehicles and textiles. The average trip from Kabul to Frankfurt or Milan takes 19 days, to Basle 19 days, to Rotterdam 20, and to London 21. These trips are made under a variety of bilateral agreements and under the 1959 Customs Convention on the International Transport of Goods under Cover of TIR Carnets, but are handicapped by limitations on various insurance and customs payment systems.⁴

The chaotic situation in Iran since 1979, including revolution and the war with Iraq, has restricted Afghan transit somewhat and increased costs considerably, especially in extortions all along the route (a problem even more serious in Turkey). The same is true for the incipient Afghan overland trade with the Arab countries along the Persian Gulf.⁵

3. For details on Afghan-Iranian relations, see Burrell, Robert M. and Alvin J. Cottrell, *Iran, Afghanistan, Pakistan: Tensions and Dilemmas*. Beverly Hills and London: Sage Publications, 1974 and Foot, Rosemary, "The Changing Pattern of Afghanistan's Relations with its Neighbors." *Asian Affairs*, Volume 11, No. 1, February 1980, pp. 55-62.

4. For more information on the formation and early operations of AITC, see the excellent article by John S. Gallagher, "Improving Transport to Expand Exports," *International Trade Forum*, Vol. 15, No. 2, April-June 1979, pp. 18-22. This article also contains valuable material on other aspects of Afghan transit problems.

5. Afghanistan has high hopes for expanded trade with the Gulf States, and the

Of Afghanistan's four neighbors, China alone offers no feasible overland transit route to and from the sea. Their common boundary at the eastern extremity of the Wakhan Corridor runs through about fifty miles of exceedingly difficult country. The corridor itself is useless as a transit route. It has only primitive roads which are impassible for any wheeled vehicles in winter, and besides, it leads nowhere. Not for some time, if ever, is China likely to provide useful overland transit to Afghanistan.

After the partition of India in 1947, both India and Pakistan continued the practice derived from the Anglo-Afghan Trade Convention of collecting customs duties on Afghan goods in transit and subjecting them to routine bureaucratic procedures, refunding the duties on goods transported over the established routes. This device, used to protect against diversion of both inbound and outbound goods, meant not only delays in the transit of goods, but delays of three to six months in the refunds of the duties. This situation was obviously inappropriate for Afghanistan, and in 1952 India and Afghanistan signed a Treaty of Friendship and Commerce which in Article 15 provided transit facilities for Afghanistan. These facilities have been detailed and revised in a number of subsequent agreements.

Transit across India is not very important, however. Far more important is Indo-Afghan trade, which involves transit across Pakistan, whether by road, rail or air. Since partition the railroad connecting Peshawar and the Afghan border with the Indian rail network at Amritsar has been used only intermittently because of political differences between India and Pakistan. Usually, though, the Afghans prefer to ship by truck since highway transport between Kabul and Amritsar takes only one-third as long as rail transport between Landi Khana and Amritsar and trucks on the Afghan portion. Goods do not have to be transshipped or inspected enroute. The trucks are sealed in Afghanistan or India and only the seals are inspected in Pakistan. The most important highway used in Afghan transit across Pakistan to and from India is the old Grand Trunk Road which runs from Peshawar through Lahore and Delhi to Calcutta. The routes across Pakistan, however, are used for seasonal fruit traffic only; all other Indian traffic goes through Karachi and any Afghan goods in transit through India use the port of Bombay.

UN, through its special project for the least developed land-locked States of Asia, is assisting these efforts. So far, however, the trade is very small, mostly in Afghan exports of carpets and rugs to Saudi Arabia, nuts to Kuwait, and a little fresh fruit to several countries. Most of this trade will probably have to use air transport.

While only about 20 percent of Afghan third party trade passed through Karachi in 1975, this figure may be misleading on two counts. First, most of Afghanistan's high bulk-low value imports use the Pakistan transit route, especially those from the Americas and Asia; and second, the volume appears to have risen considerably since 1975, though accurate statistics are lacking. Some exports go out through Karachi also, but not much and no statistics are available. Afghan transit trade, moreover, is not very important to the port of Karachi, amounting to about 1-2 percent of its total volume.

Pakistan Railways carries the bulk of Afghan intransit goods between Karachi and the railheads near the Afghan border, Chaman and Peshawar. There is a railroad between Peshawar and Landi Khana near the Khyber Pass, but because of the terrain and its poor condition it is little used. Goods are generally carried by truck between Peshawar and Afghanistan. The route from Jacobabad to Quetta to Chaman has excess capacity but it faces the same topographic problems as the Peshawar-Landi Khana route and unless extended through southern Afghanistan to Iran — as has been proposed — is unlikely to carry much more traffic than it does now. The Pakistani road system needs considerable improvement and the government severely restricts transit traffic by road, so the Karachi-Peshawar rail route remains Afghanistan's primary highway through Pakistan.

Most Afghan transit trade, especially exports, now moves over the Soviet rail system from three "ports" on the Soviet-Afghan border. This transit traffic in 1978 amounted to 26.5 percent of all goods crossing the border, the rest being trade between the two countries.⁶ The Soviet company Sojuzvneshttrans handles all transit to and from the border ports and accepts Afghan imports at European ports and at Soviet ports and railroad stations. Afghan exports through the Soviet Union consist largely of carpets, hides and skins, wool, furs, oil seeds and nuts. Imports include equipment, farm machinery, rolled steel, paper and cardboard.

Generally speaking, the Soviet transit route is efficient and flexible, though delays are often encountered because of shortages of

6. Garin, S. "Transit Route via USSR," in UNCTAD; ESCAP and Ministry of Commerce, *Seminar on Special Problems of Shipping and Receiving Goods in Afghanistan*. Kabul, June 1979. All the material on routes within the USSR comes from this source and from Kramarov, E. "Problems in the Transit Trade of Land-locked Developing Countries," *Foreign Trade* (Moscow) No.3, 1971, p. 50. Another useful article is Zhinkin, V., "Transit Traffic Across Soviet Territory," *Foreign Trade* No.1, 1972, pp. 48-49.

railway wagons, overloaded ports and other problems. And it is not cheap, nor is the system yet geared to the extensive use of containers, only about 4,000 being used in 1978. Soviet ports and stations used for Afghan trade with third parties depend on the origins and destinations of the goods. Generally, Odessa is used for trade with Marseilles; Zhdanov and Kerch for Italian ports; Leningrad for Britain and North America; Tallinn for Scandinavia; Klaipeda for West Germany; Chop for Czechoslovakia, Hungary, Austria and Western Europe; Brest for Poland, East Germany and Western Europe; Znjajka for Finland and Sweden; and Ungeny for Romania. Other ports and stations used are Riga, Ventspils, Kaliningrad and Viborg on the Baltic; Iljichevsk and Novorosisk on the Black Sea; Nakhoda, Vladivostok and Vostochni on the Pacific; and Termez and Kushka on the Afghan border.

The three transshipment points for Afghan goods transiting the Soviet Union are the Amu Darya ports of Sherkhan Bandar and Hairatan Bandar opposite Termez and the "dry port" of Torghundi, five kilometers from the Soviet town of Kushka. Hairatan handles somewhat more traffic than Sherkhan and nearly double the tonnage of Torghundi, the newest of the northern ports, established in 1973.⁷

Hairatan replaces the old port of Tashgozer, whose port was abandoned because of the unstable river bank. Hairatan is about 80 km. from Mazar-i-Sharif and 217 km. from Kabul. Eventually, however, it will be able to serve the southern provinces after a paved road to Herat is constructed. Goods are barged across the river to and from Termez, 12 km. away. A combination highway-railroad bridge connecting the ports was proposed many years ago and was in the planning stage before the Soviet invasion. Apparently the Soviets finally built it — primarily for their own use. Hairatan has quite inadequate transit facilities; nevertheless its traffic continues to grow as indicated by the representative figures below.

Traffic Through Hairatan Bandar (tons)

	<u>Imports</u>	<u>Exports</u>	<u>Total</u>
1973-74	57,702	56,523	116,225
1974-75	61,342	61,093	122,435
1977-78	100,555	72,540	173,095

7. Until 1978 all statistics relating to Afghanistan's foreign trade were conjectural. One of the major accomplishments of Project RAS/72/077 was to establish an information monitoring system at the three northern ports so that more recent figures represent reasonably accurate estimates.

Sherkhan Bandar, about 65 km. north of Kunduz and 404 km. from Kabul, has less favorable site than Hairatan because of great seasonal fluctuations in the water level. The riverbank has been paved, however, and barges can tie up alongside so goods can be transferred directly to and from trucks. It has five covered warehouses compared with two in Hairatan and both ports have sizable open — and unpaved — space for storage. Tugs tow open steel barges between Sherkhan and Termez, a distance of about 180 km., in about three to four days, depending on the current. The Soviets are responsible for the maintenance of the river — dredging, marking, lighting etc. The post serves Kabul and occasionally such distant places as Kandahar and Jalalabad.

Traffic Through Sherkhan Bandar (tons)

	<u>Imports</u>	<u>Exports</u>	<u>Total</u>
1972-73	65,441	46,329	111,770
1974-75	48,359	41,472	89,931
1977-78	79,983	43,565	123,549

Torghundi is connected to Herat by 113 km. of good highway. It is 681 km. from Kandahar and 1165 km. from Kabul. Through Mazar it serves the northern provinces effectively. The Soviet railway enters Afghanistan in one line and then branches out near Torghundi into sidings and shunting facilities. The Soviets are responsible for all railroad equipment and maintenance, rail movements and everything else connected with the railroad. The port has two covered and two open warehouses and ample open space. Like the other two ports, it has inadequate facilities and equipment, but unlike the others it has adequate manpower. Traffic through the port is erratic, but is gradually building up. Sample figures follow:

Traffic Flow through Torghundi (tons)

	<u>Imports</u>	<u>Exports</u>	<u>Total</u>
1974-75	47,692	22,464	70,156
1977-78	73,059	25,722	98,781

Interestingly, Torghundi is also a transshipment point for Pakistani transit traffic. This is handled by the Soviet company Afsotr. In 1977-78 this traffic amounted to 189 containers of imports and 2215 tons of exports.

Air transport, both domestic and international, is increasingly important to Afghanistan. It began in 1944, when the first office of civil air services was established and the first foreign planes began serving the country regularly, though there had been occasional

flights from the Soviet Union since 1927 and from Germany since 1937. Ariana Afghan Airlines, organized in January 1955, was reorganized in 1957, with 51 percent of it owned by the government and 49 percent by Pan American World Airlines, which managed it. In January 1971 Bakhtar Airlines took over its internal routes. Though still very modest, the growth of Afghan air transport is indicated by the figures for total international cargo loaded and unloaded at Kabul, in metric tons: 1969 — 3,382; 1974 — 5,100, compared with the 1978-79 total for Ariana alone of 5,161 metric tons.⁸

The number of foreign cities served, the distances flown and the frequency of flights have all increased significantly since 1974, as well as the volume and variety of goods carried. During the summer of 1979, according to Hamid, Ariana offered five flights a week to western Europe, two to the Soviet Union and four to India, of which two were all freight. The cargoes are essentially the same high value-low bulk goods recently being carried increasingly by truck: Karakul, carpets, dried fruits, electronics, spare parts, textiles, tea, spices, etc.

(b) Afghan Transit Problems

In 1967 and again in 1971 a French expert serving with the Afghan Ministry of Commerce did studies of the Afghan transit system. In 1971 he recommended the creation of a government body to handle all transit traffic, more rail transport and more use of containers, railroads from Chaman in Pakistan to Spin Boldak inside Afghanistan and across Iran to connect Afghanistan with Western Europe, a railroad bridge across the Amu Darya at Termez, a highway along the Helmand River and thence to Bandar Abbas in Iran where Afghanistan should have a free port, and a customs-free warehouse in Karachi.⁹ In the decade since then, some progress has been made, notably in the establishment of the AITC and the production of a large number of important studies by the UN project of assistance to the least developed land-locked countries of Asia, but the basic problems described in detail by Jacquemond, Ackermann, Thomas and other foreign experts remain.

8. The earlier figures are from Amid, Hamidullah and Gordon B. Schilz, *A Geography of Afghanistan*, Omaha: Center for Afghanistan Studies, University of Nebraska at Omaha, 1976, p. 144. The latest one is from A.A. Hamid's paper "Role of Air Transport in Afghanistan" read at the Kabul seminar cited in note 6.

9. Jacquemond, J.B. "Etude de Mesures propres à ameliorer les transports pour le commerce exterieur et assurer le desenclavement de l' Afghanistan," Kabul: Afghanistan, Ministry of Commerce, June 30, 1971.

Rail, road and port facilities in Iran are still inadequate to handle significant volumes of Afghan transit traffic efficiently and economically, there are too many people taking bribes to smooth the way through the country and the whole situation is exacerbated by civil commotion and the war with Iraq, conditions over which Afghanistan has no influence whatever. Afghan trucks are still not allowed to cross Pakistan into India, which means goods must be transshipped at least twice during a relatively short journey, and overland trade is essentially limited to fresh fruits exported from Afghanistan. Even the Soviet transit route, and best of all, has problems with sporadic shortages of wagons and delays in payments to Afghan exporters. The major difficulties, however, are still with the Pakistan transit route.

In the port of Karachi, Afghan goods are piled in the open with no security and no protection from the elements. They are moved about from place to place at the discretion of the port authorities, suffering damage with each move, and the Karachi Port Trust does not pay for lost or damaged goods. Railway wagons are chronically insufficient and Afghan goods incur high wharfage and demurrage charges waiting for them. Pakistan offered space for an Afghan warehouse, but it was distant from the water and outside the security area, so the Afghans rejected it. Clearing and forwarding are very complex procedures. Many documents, steps and signatures are necessary. One small mistake in a document can hold up a shipment for a month or longer. Imported goods frequently disappear from sealed wagons before they arrive at Chaman or Peshawar. Similar problems are found in these transshipment points and in addition there is the problem of obtaining trucks, whose availability fluctuates seasonally, for onward shipment to Afghanistan.

Exports suffer in the same way and in addition, they often arrive at the Karachi port after the ship on which they were booked has sailed and have to be stored until the arrival of another ship bound for their destination. Not only does this add to the monetary cost of the goods in their eventual market, but the cost in terms of reputation for reliable delivery is incalculable.

All of these delays, damages and disappearances increase considerably the cost of insurance, which has to be paid by the ultimate purchaser of the goods, whether in Afghanistan or elsewhere. Even air freight has problems, including lack of operating permission into many countries, high cost of fuel, storage of Kabul airport which has been described as "a nightmare for the airline community," cumbersome formalities and competition from trucks. especially when some

goods best sent overland are sent by air, creating backlogs for legitimate air cargoes.

Some progress is being made in resolving some of these problems. The UN project discussed earlier has made many valuable studies which can aid in planning improvements in transit facilities and procedures. It has helped Afghanistan negotiate favorable transit agreements with Bulgaria and Switzerland and was slated to do the same with other European countries. It has identified the needs for and helped channel \$70,000 from the United Nations Special Fund for Land-locked Developing Countries to Torghundi for desperately needed equipment. It has established a Transit Traffic Information Monitoring System in Chaman, Peshawar and Karachi. It has made recommendations which, if implemented, could relieve Afghanistan's transit plight. But few of them are likely to be implemented without Pakistan's cooperation, which is unlikely to be forthcoming very soon for several reasons.

Pakistan insists that transit is strictly a bilateral matter, to be worked out between the land-locked state and the transit state, with no participation by any third party, including the United Nations. Pakistan is also wary of dealings with Afghanistan because of the Pushtunistan issue and the real possibility of her own dismemberment. Finally, Pakistan is herself a poor country and really cannot afford to provide all of the facilities and equipment necessary to improve Afghanistan's transit situation dramatically. A large measure of mutual good will and cooperation will be necessary to accomplish this goal but, considering the Soviet occupation of Afghanistan, that now seems more distant than ever.

4. NEPAL

Nepal, like Afghanistan, is dominated by mountains, but the mountains — the Himalayas — lie in the north, along the China border, rather than in the center as in Afghanistan. The middle zone in Nepal, where most of the people live, is called "the hills," though these hills frequently reach nearly 2,800 meters in altitude. The southernmost belt is called the Terai and is part of the Ganges plain. The country is drained by many rivers, most of them flowing out of the Himalayas generally southward and into the Ganges. The entire country is subject to the monsoon, but climate varies greatly with altitude. The Terai was once covered with a heavy subtropical forest, interspersed with malarial swamps, but as soon as malaria was eradicated from the region in the 1950's through American aid, set-

tlers moved in from the north and south, cleared most of the forests, and planted rice, jute and other crops.

Nepal is still almost entirely an agricultural country. Some light industries are located in the northern outskirts of Kathmandu, and Biratnager, in the Terai near the Indian border, is slated to be the country's principal industrial center, but total industrial production is still very small. Despite some extensive geological surveys, to date no extensive deposits of commercially useful minerals have been found. Unless some are found and can be conveniently exploited, Nepal is likely to remain largely agricultural and her vast hydroelectric power resources will be tapped primarily for export.

Foreign trade statistics are usually grouped into three categories, those with India, with Tibet and with overseas, or third countries. Of these the trade with India is overwhelmingly important. Nepal has traditionally been essentially an economic appendage of India, and one of her major foreign policy objectives in the last two decades has been to reduce this dependence and diversify her markets and sources of supply. These efforts have achieved considerable success. During the 1970's particularly there was a notable drop in the proportion of Indian trade in Nepal's total foreign trade, from 74.9 percent of her exports and 67.7 percent of her imports in 1975-76 to only 43.5 percent of exports and 58.1 percent of imports in 1977-78.¹⁰ As overseas trade has become steadily more important to Nepal, so have her transit arrangements.

Nepal is not only land-locked, she is also, as is frequently noted by Nepalese, "India-locked." Her only other neighbor, China, has never been and is not likely to be an important transit state for Nepal because of the Himalayas and the great distance between Nepal and the Pacific Ocean through China. For a number of years there have been many proposals for a regular air service between Kathmandu and Beijing and Hong Kong, but none has been initiated yet. So India is the sole provider of transit for Nepal.

Prior to 1950, Nepal had virtually no trade with countries other than India and, to a small degree, with Tibet. Thus, there was no need for transit arrangements. Then in July 1950, India and Nepal signed a Treaty of Trade and Commerce of which Articles 1, 2, and 4 dealt with transit. Article 1 read, "The Government of India rec-

10. *Nepal Overseas Trade Statistics 1977-78*. Kathmandu: Trade Promotion Centre, 1978, p. 168. Trade with Tibet, mostly Nepalese rice for Tibetan wool and Chinese consumer goods, remained rather constant during this period at about 2.8 percent of Nepal's exports and 9.5 percent of imports.

ognizes in favour of the Government of Nepal full and unrestricted right of commercial transit of all goods and manufacturers through the territory and ports of India as provided in Articles 2, 3 and 4 below." At the first glance, this seemed to be a very generous provision, and, indeed, it was insofar as it recognized that Nepal had a full and unrestricted right of transit through India, but this right was limited to commercial transit, did not cover persons or baggage, and was further restricted by the phrasing of Articles 2 and 4.

Though many important aspects of any transit arrangement were entirely omitted from the treaty, it might have been adequate for a while if interpreted and administered liberally by India, but for Article 5. This article required Nepal to levy both import and export duties on goods traded with third countries at rates not lower than those of India for the same goods. In addition, Nepalese exports to India were required to bear export duties high enough to prevent their being sold in India at prices lower than those of domestic goods which bore high taxes. Thus, Nepal was prohibited from competing effectively with Indian products, either within India or Nepal, or in foreign markets. The growth of Nepalese industry was stifled even as the overthrow of the century-old autocratic rule by prime ministers of the Rana family opened the country for the first time to economic development and foreign trade. Nepal was thus unable to take full advantage of even the limited transit rights granted by the 1950 treaty.

The next decade saw many changes in Nepal, India, and the legal status of land-locked states in the world. By 1960, it was clear to both countries that the 1950 treaty was inadequate and a new, more elaborate, treaty was negotiated and signed in September, 1960. The treaty was supplemented by a protocol and memorandum, signed simultaneously with the treaty, which detailed the procedures to be used in moving Nepalese goods in transit through India.

The 1960 Treaty of Trade and Transit, while to some extent freeing Nepal's foreign trade from its linkage to India's international trade policies, was nevertheless based on India's policy at the time of working toward a common market of the two countries. Transit was not mentioned at all in the preamble, and only four articles of the fourteen dealt with transit between Nepal and third countries through India. These provided for limited freedom of transit through each other's territory, a definition of "traffic in transit" limiting it to goods (including baggage), exemption of traffic in transit from customs duties, and a commitment that "traffic in transit shall

not be subjected to unnecessary delays or restrictions" if the protocol was complied with.

One important improvement of the 1960 treaty over the 1950 treaty was that it provided for a special shed in the port of Calcutta for the temporary storage of Nepalese goods in transit. Another was that it permitted the stationing of Nepalese Customs Liaison Officers in Calcutta and Barauni, the major trans-shipment point between Indian broad gauge and meter gauge railways. These advances were, however, wiped out by the requirement that importers and exporters post "a bond with suitable guarantee" that the goods will not be diverted enroute. While this provision was reciprocal, it applied in practice only to businessmen in Nepal as a device to prevent Nepalese imports and exports from finding their way into the Indian market, where many of these products were extremely costly or prohibited altogether. Requiring the buyer or seller to guarantee delivery of goods over which he had no control while in transit, mostly via Indian Railways, was strange enough, but setting the bond as high as six hundred percent of the value of the goods simply made it impossible for many importers to operate. It took three years of intensive negotiations for Nepal to win abolition of this bond system.

The memorandum accompanying the 1960 treaty detailed elaborate procedures for handling imports and exports in transit. The principal weaknesses in these procedures, aside from the bonding system, were: inspection and sealing of individual packages in a shipment by customs; Indian use of the Nepalese import and export licenses as devices to prevent smuggling; and the application of the same elaborate procedures to goods moving in transit by air as by land.

During the next several years, a number of modifications were made in the procedures and facilities to ease some of the difficulties in moving Nepal's transit traffic. Nepal's transit through India, however, continued to be restricted in various ways in order to aid in the enforcement of India's restrictive import policy. Indian attitudes toward Nepal, moreover, were also made evident as India graciously or grudgingly, on various occasions, made concessions to Nepal on small but important matters.

The 1960 treaty was renewed in 1965 for another five years. Negotiations for a new treaty began in 1970 and dragged on well past the expiration date of the 1960 treaty, October 31, 1970. They finally culminated in a new treaty signed on August 13, 1971, to come into force on the 15th. In the eleven years that had passed between the

two treaties, conditions had changed even more radically than in the previous decade.

Nepal's Export Exchange Entitlement Scheme (EEE), introduced in 1961 to stimulate exports of Nepalese goods which could not compete in price in world markets, was successful to some degree in increasing exports but had the more important effect of sharply increasing imports, particularly of luxury goods, some of which found their way into India. This made free and unrestricted transit more necessary for Nepal and more of a threat to India. New technologies, acceleration of Nepal's economic development, changing India-Nepal-China relationships, and Nepal's continuing economic dependence on India were some of the other factors that contributed to the protracted negotiations. The result was a treaty that differed substantially from its predecessors.

The Preamble to the 1971 Treaty of Trade and Transit still stressed bilateral trade and mentioned transit only in passing.

Article VIII stated, "The Contracting Parties shall accord to 'traffic in transit' freedom of transit across their respective territories through routes mutually agreed upon." This was a vague enough commitment but preceded a second paragraph providing, especially to India, a gigantic loophole: "Each Contracting Party shall have the right to take all indispensable measures to ensure that such freedom, accorded by it on its territory, does not in any way infringe its legitimate interests of any kind."

For the first time in a treaty, India, in Article XI, agreed to provide more than one transit facility for Nepal, but only "warehouses or sheds for the storage of transit cargo awaiting customs clearance before onward transmission," only "at point or points of entry or exit" and "subject to relevant laws and regulations prevailing in India."

Article XII virtually reproduced Article X of the 1960 treaty, saying that "traffic in transit shall not be subject to avoidable delays or restrictions" except in case of failure to comply with the procedures laid down in the protocol.

Article XIV denied freedom of transit to goods imported from one party by the other and re-exported to third countries. It went on to commit each party to prevent certain kinds of re-exports altogether.

Article XV, for the first time, granted "merchant ships, sailing under the flag of Nepal," with certain qualifications, most-favored-nation treatment in Indian ports and harbors.

The protocol was much more detailed than that of 1960. It

specified both the sheds and open space in Calcutta port made available for Nepal's transit cargo and the general terms of the leases for them. It gave Nepal for the first time authority to own and/or operate trucks and barges in the port area, and, also for the first time, authorized transit goods to move by road. Another important addition was the establishment of a Joint Review Committee (JRC) to deal with problems which might arise in implementing the treaty. Nepal, however, was restricted to using Calcutta as the sole seaport for her traffic in transit and eleven towns near the Nepal border as entry and exit points. There was also a number of other restrictions on the free flow of transit traffic and a long list of procedures designed to prevent smuggling.¹¹

Since the 1971 treaty was due to expire in 1976, the Government of Nepal began preparing to negotiate a new treaty. The Indian position was that the existing treaty was quite satisfactory and should be renewed with only minor technical changes. Nepal, however, was very unhappy with it and determined to strive for the best possible transit and trade arrangements. Negotiations began in the summer of 1976, just before the expiration of the 1971 treaty. On Nepalese insistence, this treaty was extended indefinitely while negotiations continued on and off for nearly two years. Finally, on March 17, 1978, Nepalese patience and negotiating skill paid off as the new Janata government, which had replaced that of Indira Gandhi, reached agreement with Nepal.

The 1978 arrangements represent a distinct advance for Nepal at all three levels, those of principles, facilities and procedures for traffic in transit. First, Nepal won her point that transit and bilateral trade are entirely separate matters and should be covered in separate treaties. In addition, the problem of smuggling, which had long vexed Nepal-India relations, was covered in a third agreement "to control unauthorized trade." Transit was further distinguished from trade by giving the transit treaty a duration of seven years with an optional seven-year renewal, while the other two had durations of only five years plus a possible renewal for five more years. This was a very significant concession by India.

The terms of the treaty are virtually identical to the transit provisions of the 1971 treaty, but the accompanying protocol (which deals with transit facilities) and memorandum (which spells out

11. The foregoing material on Nepal's trade and transit treaties is drawn from Glassner, Martin Ira, "Transit Rights for Land-locked States and the Special Case of Nepal," *World Affairs*, Vol. 140, No. 4, Spring 1978, pp. 307-310.

transit procedures) are more favorable to Nepal than the documents they replace. Furthermore, exchange of letters between the parties which accompany the three main documents provide for Nepalese transit across the Naxalbari corridor for the first time in order to permit implementation of the 1976 Nepal-Bangladesh transit treaty which for the first time offers Nepal transit routes and ports other than Calcutta. Another exchange of letters agrees to establishment of an Inter-Governmental Committee "consisting of the senior representatives of the two Governments to promote trade, facilitate transit and control unauthorised trade between the two countries . . ." to meet every six months. While it would have been better to have two or three separate committees, this is still a better arrangement for resolving differences between the parties than the previous one.

(a) Nepal's Transit Routes and Facilities

Of all Indian seaports which could be useful to Nepal in trading with third countries, India permits her to use only Calcutta. There she has the use of space in three warehouses, none of which is really adequate. One, in fact, the only one on the water, had been unsuitable for years because of its poor condition and was recently abandoned. She has also the use of about 4300 square meters of open space. Recently she was offered space in the new port of Haldia, some 20 miles down the Hooghly River from Calcutta, but turned it down because it was far from the water. Nevertheless, Haldia is a modern port designed to accommodate large ships than Calcutta and to handle containers and bulk cargo. Some Nepalese cargoes have used Haldia and its use by Nepal is likely to increase slowly in the near future. It has one major drawback, however, which at least for the present makes it less attractive than it might be for Nepal. It is under the control of the Calcutta Port Trust and therefore subject to the same inefficiencies, strikes and charges as in Calcutta.

Besides insufficient and deteriorated storage space in Calcutta port, Nepal traffic in transit suffers long delays because of shortages of railway wagons, cumbersome procedures involving much paperwork and many signatures, and very restrictive labor regulations. The only time in memory when Nepalese goods move expeditiously through Calcutta and to and from Nepal was during the "emergency" declared by Indira Gandhi during the late 1970s. Few would want that system reinstated, but it did demonstrate how rapidly intransit cargoes can be moved if the transit state is willing.

One of the characteristics of the Indian Railways is that they use

several different gauges. Generally speaking, the railroads between Calcutta and the Ganges are broad gauge (5'4"), while north of the river meter gauge predominates. This means that rail shipments moving between Nepal and Calcutta must be transshipped, adding hazards of delay, damage and pilferage enroute as well as at the port and the border. Indian Railways is currently engaged in a gradual conversion of the meter-gauge tracks to broad gauge and perhaps by 1990 the tracks most commonly used by Nepalese transit traffic will be converted. Meanwhile, Barauni is the major transshipment point, with Gorakhpur and Katihar being other important ones.

Currently the Indian railway system serves 19 points on the Nepal border, of which 13 are approved under the 1978 transit treaty for Nepal's third country traffic. Two others, Kakarbhitta/Naxalbari in India's sensitive Naxalbari corridor connecting Assam to the rest of the country, and Pashupatinagar/Sukhiapokhari, continue to be used on an *ad hoc* basis until the Indian Government decides whether to make them permanent. Of these points, Jogbani, near Biratnagar, handles most of Nepal's exports, consisting largely of agricultural products, primarily jute and jute products, and some imports, mostly fertilizers, cement and some capital and consumer goods for local regional markets. Raxaul, opposite the Nepalese town of Birgunj, handles most of Nepal's imports, especially high-value goods going to the main population center of the Kathmandu valley and elsewhere in the country.

Only one rail line is currently in use in Nepal, the narrow gauge line from Jayanagar in India to Janakpur.¹² There have been numerous proposals to revive the Birgunj-Amelekganj line, abandoned in 1968, and to extend various Indian lines into Nepal, but so far none has actually been implemented.¹³ Generally, goods are carried between points in Nepal and the Indian railheads and stations by Nepalese trucks.

Nepalese trucks are also permitted to carry transit cargoes between Nepal and Calcutta, under conditions spelled out in the proto-

12. This line was constructed in 1935-38 and most of its rolling stock dates from that time. It is the only means of transportation in the area and in 1976 reached a level of one million passengers and about 32,000 tons of freight per year. The line is very badly in need of rehabilitation.

13. The Nepal Transport Corporation operates a narrow gauge railway which provides irregular service (two-three times per week) between Raxaul and Birgunj; it does not service the Nepal customs area along the highway and separate customs inspections take place at the Birgunj railway station. It is a high-cost, low-volume operation and may well be abandoned soon.

col and memorandum attached to the 1978 transit treaty. Nepal also uses — but does not own — warehouses and other storage facilities at some of the transshipment points.

Nepal's international air transport is growing impressively, but most of it is passenger traffic, chiefly tourists. In 1979 air cargo amounted to only 1 percent of third country trade by volume and about 15 percent of its value. Exports constituted about 25 percent of total air cargoes and the proportion was rising. Most imports by air come from Asia (primarily Japan and Hong Kong), while exports by air go primarily to Europe and America. Only a very small portion of air cargoes is carried by aircraft of the Royal Nepal Airlines Corporation. RNAC does not offer regular cargo service and cargo space is only made available when there is an insufficient passenger load. Thai International and other foreign airlines carry the bulk of air cargo.

It seems unlikely that in the near future air transport will become a major factor in Nepal's third country trade, despite the recommendations of many foreign experts. The problems are simply too great for a very poor country with many other priorities. There has long been insufficient storage space at Tribhuvan Airport, Kathmandu's air facility. Customs and handling procedures are cumbersome. There is no equipment (lighting, instrumentation, etc.) for night takeoffs and landings, air cargo rates are very high and Nepal has insufficient agreements with other countries for landing rights, interline transfers and so on. As the growing tourist trade stimulates demand for Nepalese handicrafts, rugs and carpets, spices and other high-value products, and as growing Nepalese incomes permit the purchase of imported luxury goods, (in addition, of course, to luxury goods re-exported to India as part of the traditional "unrecorded trade"), air transport of freight should become more attractive and many of the problems listed here should receive higher priorities and be resolved without great difficulty.

Another possible transit option for Nepal is river transport. A number of studies over the last twenty years or so have revealed that river transport within Nepal is infeasible because the larger rivers in the Terai are very shallow with constantly shifting beds. Transport on the Ganges, however, is rapidly becoming more practical. Imminent completion of a lock canal around the Farakka Barrage should permit the Indian government to implement its plans for barge traffic between Calcutta and Varanasi, with possible extension up the Gandak River. This inland waterway route could be cheaper by as much as about 50 percent per ton mile than for railway freight, considering

potential savings in time, theft and damages. Nepalese trucks could carry goods between Nepal and various river ports, thus bypassing the railroads entirely. Under the protocol to the 1978 Treaty of Transit, Nepal has the right to own and/or operate barges within the Calcutta Port area; she could negotiate for similar rights on the Ganges. This would enable her, especially in conjunction with LASH vessels, to transfer cargoes directly from ship to river to truck to Nepal and vice versa, thus avoiding most of the problems of Calcutta as well as of the Indian Railways.

One more transit facility should be mentioned. There is a 42 km. ropeway between Kathmandu and Hetaura over a much more direct route than the Tribhuvan Rajmarg, the tortuous highway built by the Indian Army in the 1950s to connect Kathmandu with India at Birgunj. Each of its carriers has a capacity of 1.21 cubic meters or 544 kilos, and the system was designed to carry nearly 28 metric tons of goods per hour in each direction for 20 hours per day, 350 days per year, or about 152,000 tons per year in each direction. Its practical capacity, however, is only about 70,000 tons per year and in 1967-67 it actually averaged only 35,000 tpy. The poor performance was due to technical problems, insufficient carriers, insufficient traffic and insufficient storage space in Kathmandu, resulting in erratic use — sometimes over burdened, sometimes unused. During the late 1970s it was improved considerably and is not functioning better. Under consideration is its extension south to Amelekgunj or even Birgunj. Alternatively, the Raxaul-Amelekgunj railway might be refurbished, reopened and extended to Hetaura. In either case, there would be a direct rail-ropeway link, eliminating the truck haul between them. Some consideration is also being given to constructing other ropeways elsewhere in Nepal and even between Nepal and Bangladesh across the Naxalbari corridor.

Various studies over the years have recommended that Nepal's traffic in transit use other Indian seaports besides Calcutta. There are good rail connections between Bombay and western Nepal, for example, and the new port of Paradip south of Calcutta is connected by broad-gauge lines all the way to the excellent new rail junction of New Jalpaiguri near the Bangladesh border and an easy truck journey to eastern Nepal. India had steadfastly refused, however, to permit Nepal to use any other seaport and she is confined to Calcutta. Nepal has therefore turned to Chittagong in Bangladesh as an alternative port.

Bangladesh has been quite cooperative in this matter and in 1976 signed a most favorable transit treaty with Nepal. The treaty

could not be implemented, however, until India granted permission for Nepal transit cargoes going to or from Bangladesh to cross Indian territory and use Indian border crossing points. This was effected by a protocol to the Nepal-India Treaty of Transit in March 1978 and a memorandum of understanding between India and Bangladesh in August 1978. Transit shipments actually began in March 1979, crossing the border between Radhikapur, India and Birol, Bangladesh. At present the best route is via all-meter-gauge railways between Chittagong and Jogbani, but this route is both long and beset by many problems.

For one thing, the entire transportation system of East Pakistan was devastated during the war which led to the creation of Bangladesh in 1971, and it has still not recovered. There is a shortage of railway rolling stock, insufficient bridges over the numerous rivers and there is a sporadic congestion in Chittagong port. There is, moreover, no procedure for passing required documents from Bangladesh authorities at Birol to Indian customs in Radhikapur only six miles away, so that they must go from Birol to Chittagong to Kathmandu to Biratnagar to Radhikapur, a journey which takes about a month. Meanwhile, the wagons are detained at Radhikapur incurring huge demurrage charges. Other procedural impediments and India's refusal to permit road transit through this security area between Nepal and Bangladesh add to the delays and costs enroute.

Chittagong port itself is much better for Nepal's traffic in transit than Calcutta ports, since port charges are lower, handling is more efficient and customs formalities less cumbersome than at Calcutta. Nepal currently uses three sheds in Chittagong port, one of them in poor condition, and the port authorities are constructing a large warehouse exclusively for Nepalese goods. The distance between Chittagong and Jogbani, however, is 428 km. longer than from Calcutta to Jogbani, the journey across Bangladesh to Radhikapur takes 7-10 days, and the freight rates are higher than on the Indian Railways. Because of these factors, Chittagong has been little used for Nepalese exports and primarily for infrequent imports of cement, fertilizers, grains and other bulk cargoes. There are a number of possible alternatives to this all-meter-gauge route between Chittagong and Nepal, including various combinations of broad-and meter-gauge railroads, waterways and trucks. The most attractive alternative is to use the port of Chalna south of Dacca rather than Chittagong. There are difficulties here, however, because of silting in the port, inadequate lighting for night navigation and high port charges. Most important, however, is the lack of roads and railways

at Chalna. Rail and road connections with Khulna upstream are planned and when completed Chalna might be an excellent transit port for Nepal. One other uncertainty remains, however; India has not yet granted permission for Nepal to use the most feasible border crossing point, at Haldibari south of Jalpaiguri. As with the Chit-tagong route, there are other possible routes to and from Chalna, but they have not yet been studied in detail. No matter which routes through Bangladesh prove technically and economically feasible, however, all will require the full cooperation of India, which is not certain to be forthcoming.

(b) Nepal's Transit Problems

A number of Nepal's problems with air and waterway transit and with the Bangladesh route have already been discussed, though a great deal more detail could be added. Here we shall concentrate on a resumé of the problems with the Calcutta-Nepal road and rail transit and what is being done to resolve them.

First, it should be stated that Nepalese transit through Calcutta has considerably improved overall during the past half dozen years, particularly since the entry into force of the 1978 transit treaty. Second, some of the problems of inadequate facilities and equipment stem from India's own economic conditions and are endured by her own shippers as well as those of Nepal. Third, some of the restrictions and complex documentation and cumbersome procedures insisted upon by India stem from a legitimate desire to reduce smuggling from Nepal to India of imported goods (as well as rice, timber, jute and other Nepalese products) across their open border and to reduce "deflection" of imports before they reach the Nepalese border. Fourth, as noted earlier, there is a serious imbalance in the direction of Nepal's imports and exports which makes it difficult and costly to have sufficient railway wagons where and when they are needed and to find sufficient return cargoes for both wagons and trucks. Finally, some of Nepal's transit problems are of her own making since the government is not yet fully committed to industrialization, export expansion or improved transit and so there are inadequate facilities, cumbersome procedures, and lack of coordination and planning in transit matters within Nepal.

SELECTED DATA ON INDIAN RAILWAYS

serving Nepal Border Points 1979

Gateway	Nearest Rly Stn.	Distance between Station and			Class I Railway Tariff to Calcutta Indian Rupee per ton	Tons	Third Country Exports Imports (1978-79)	
		Nepal Customs km	Calcutta km	Routing via			\$000	\$000
1. Kanchanpur	Banbasa	4	1282	Philibit-Shahjahanpur	231.0	n.a.	n.a.	166
2. Dhangadi	Gauri Phanta*	1	1251	Lucknow	227.7	2,850	1043	345
3. Rajapur	Tikonia	3½	1151	Gonda - Barauni	214.1	included in Dhangadi		
4. Nepalgunj	Nepalgunj Road*	1½	1089	Gonda - Barauni	202.8	4,368	2135	2248
5. Koilabas	Jarwa*	5	985	Gorakhpur - Barauni	187.9	n.a.	n.a.	435
6. Krishnanagar	Barhni	½	947	Gorakhpur - Barauni	180.5	500	165	198
7. Bhairawa	Nautanwa*	8½	892	Gorakhpur - Barauni	173.0	1424	441	6644
8. Birgunj	Raxaul	1	717	Darbhangha - Darauni	142.2	9576	10229	73274
9. Jaleswar	Sitamahri	30	641	Sagauli - Barauni	134.3	4334	1396	367
10. Janakpur	Jayanager*	29	641	Darbhangha - Barauni	134.3	3316**	1886**	33
11. Setubhand	Forbesgunj	48	516	Katihar	113.9	12067	3964	—
12. Biratnagar	Jogbani	appr. 200m	530	Katihar	115.3	62770	30679	7185
13. Bhadrapur	Galgalia	4	543	Barsoi	118.6	5920	2184	—
14. Kakarvitta (Mechi)	Naxalbari	3	564	Barsoi	121.7	13931	5456	29

Source: Data compiled by UNCTAD/ESCAP Team

*Indicate branch line terminal

**Does not include exports via Siraha

Notes: *All stations provide daily service

*Import/export data represent gateway totals which include truck as well as railway traffic; for imports, conversion to tonnage will be completed at a later date.

*Stations 1 to 10 are served by North eastern Railway; Stations 11 to 14 by Northeast Frontier Ry.

*Distance by truck Raxaul - Calcutta is 868 km and the tariff per ton is IC 250

*Distance by truck Biratnagar - Calcutta is 580 km and the tariff per ton is IC 180

*Bullock carts are frequently used for transport between Nepal customs and railway stations when the distance does not exceed 10 km.

Nepal's third country exports, like those of most developing countries, consist largely of agricultural products and handicrafts. In 1977-78, over one-third of the value of Nepal's exports came from raw jute and jute goods, down from over 90 percent in 1971-72, an indication of some success in attempts to diversify exports. Rice accounted for another fifth, another significant factor since rice exports only began in 1973-74. Other important exports overseas are hides and skins, handicrafts, carpets, large cardamom, tumeric, oil cake, dry ginger, linseed and rice bran cake, in that order. Exports go primarily to Belgium, West Germany, Singapore, France, China, Japan, HongKong, Italy and Poland, in that order. Her imports consist primarily of manufactured goods, of which the most important by far are textiles and petroleum products. Others are machinery and parts, aircraft and parts, fertilizers, motor vehicles and motorcycles and their parts and accessories, and a variety of other products. These come from Japan (about 14 percent), USA, China, the Soviet Union and Korea, with lesser amounts coming from the UK, West Germany, Hong Kong, Singapore and Thailand.¹⁴

All but a small amount of this trade passes through Calcutta, where the list of problems is long indeed: frequent strikes, inadequate storage facilities, inefficient handling, slow postal services, cumbersome clearance procedures, difficulties in processing insurance claims, chronic shortages of wagons, limited working hours for port officials and laborers. Sometimes Calcutta Customs has held up exports for a long time for no apparent reason or because it challenged the certificates of origin. There are many examples over many years of Nepalese exports being delayed for so long that the accumulated demurrage charges exceeded the commercial value of the products. This has happened recently with tumeric and pulses, for example. A number of times shipments of jute have been destroyed or severely damaged by fire caused by spontaneous combustion after being stored improperly for a long time.

The excessive number of transshipments of goods moving by rail is a serious problem. The Indian Railways are still not very efficient and there is serious congestion at the major transshipment points. Congestion is most serious at Raxaul, where problems of security, Indian goods stored at Nepal siding and irregular arrival of Nepal-bound goods without advance notice add to the woes of insufficient storage. Barauni, where two-thirds of Nepal's imports (except for pol products) are transshipped, is also not very efficient. Since

14. Nepal Overseas Trade Statistics 1977-78, pp. 148-165.

January 1980 some transshipment (from broad gauge to truck) of Nepalese imports has been effected at Narayanpur Anant yards near Muzaffapur, relieving some of the congestion at Barauni. Other problems with rail shipment include excessive customs duty insurance (required policies costing several times the Indian customs duty in order to assure that the goods actually reach Nepal), difficulty in retrieving goods at customs warehouses, different working hours for Indian and Nepalese customs officials at border posts, etc. Within India there are 25 government and private agencies involved in Nepalese third country trade and 60 different types of documents comprising 240 forms in regular and special use. All of this results in average transit times between Nepal and Calcutta of about two months.

Truck transport costs 3-4 times more than rail transport within India, but it would result in a net saving in time and cost to shippers, especially for valuable goods. India, however, restricts truck haulage to "sensitive" goods, bulk cargoes, and some aid goods. Even when permitted, truck transport is subject to many restrictions. The use of containers is limited, individual packages in trucks must be sealed, trucks are restricted to certain roads even during bad weather, some Indian states levy taxes on trucks in transit, and so on. Nevertheless, it is likely that truck transport will increase if only to reduce the tremendous cost of transit. It has been estimated that the direct costs of land-lockedness amount to 10-15 percent of Nepal's GNP, *not* including unavoidable costs due to her geographic position, but only the difference between existing and technically possible practices.

The UNDP UNCTAD/ESCAP Project of Assistance to the Least Developed Land-locked Countries in Asia (RAS/72/077) has helped to ease some of Nepal's transit problems in a variety of ways. It has made many studies and produced most useful reports on various aspects of the transit situation and made recommendations for improvements. It has held seminars and workshops, prepared the way for development of routes and ports other than Calcutta and provided technical assistance in various transit operations. It has also helped arrange the allocation of funds from the UN Special Fund for Land-locked Developing Countries for the construction of a large warehouse in Calcutta port for Nepal's use. With all this help, however, Nepal must still negotiate with India about virtually every aspect of her transit.

Nepal faces handicaps other than the lack of an alternate transit state in negotiating with India for suitable transit arrangements. Most important of these disadvantages is an overwhelming disparity

in size, population, level of economic development, military strength, and governmental organization and experience. Add to that the fact that though the two countries have almost diametrically opposite import policies, some eighty-five percent of Nepal's total trade is with India, and a situation exceedingly difficult for Nepal becomes apparent.

Trade and transit, however, vital as they are, constitute only a portion of the complex Indo-Nepal relationship. Strong and ancient cultural ties bind the two countries together, but different political and social systems give them distinct personalities. Though Nepalese generally resent the overpowering Indian influence in their country on everything from consumer goods and movies to commerce, much of which is controlled by Indian merchants, they still serve in the Indian army (as "Gurkhas"), go to India for sophisticated medical treatment and higher education, invest surplus capital in India, and migrate to India for work. The relationship between the two countries is frequently described as "Love hate" or "big brother-little brother," but underlying it is a deep-seated Nepalese desire to remain independent.

It would be difficult indeed to find another land-locked state in the world with as varied and serious a set of obstacles to "free uninterrupted, and continuous" transit to and from the sea as Nepal, and yet Nepal does have transit facilities in India. Relations between the two countries, moreover, are good at present and the transit situation is improving

5. LAOS

Of the three countries we are surveying here, Laos is poorest, least populated, least industrialized and most isolated. With an area of 236,800 sq. km., it is a relatively large country, but about two-thirds of the country is mountain and highland terrain (averaging 1-2,000 meters above sea level), and even in the level land where cultivation is most intense, the soils are poor and crop yields are low. It is estimated that 63 percent of the country is covered with forests, but probably only 30 percent of the forests have commercial value. The climate is the most extreme in southeast Asia and the driest in Indochina. Luang Prabang, the old royal capital, receives only 53 inches of rain per year and there is a dry season from December to February. There was a minor drought in 1976 and an unprecedented drought in 1977, followed by disastrous floods in 1978. During this period there were calamitous food shortages and international relief efforts provided over 150,000 tons of foodstuffs.

Even in normal years it is hard to make a living in Laos, and most of the people live at or near the subsistence level.

There is not, in fact, a single Lao economy. The population of some 3.5 million people is predominantly rural and widely scattered with an average population density of only 14 per sq. km. in 1980. About half the population lives in the plains of the Mekong River and its tributaries and only 15 percent live in urban areas. The larger towns — Vientiane (the capital), Luang Prabang, Savannakhet, Pakse and Khammovane — are primarily regional markets, though they have become administrative centers as well. The Lao People's Democratic Republic is composed of a number of self-contained, local economic units, usually villages, rather than one national economy with a free flow of goods throughout. This is due in large part to the rudimentary internal transport system. Since 1975 transport has had a very high priority in government planning and by late 1982 the road network, especially in the north, was considered adequate, though still badly in need of expansion and upgrading to meet the needs of a growing economy.

The most important economic activity by far is subsistence agriculture, chiefly wet rice cultivation in the lowlands and maize and dry rice in the highlands. The formal export economy, however, features tin ore, timber, coffee and water buffalo hides. Despite its present poverty, Laos has very large reserves of potentially exportable iron ore, potash and gypsum — and very likely other minerals as well. Again, its poor transportation system and weak infrastructure inhibit the exploitation of these reserves. The Mekong River would seem to be a natural superhighway, but in fact it is quite unsuitable for large-scale transport. During the dry season the water is very low because of frozen headwaters. At that time river transport is hazardous because of falls, rapids, and shallows. During the wet season there are very dangerous currents, shifting channels, considerable floating debris, etc. Before World War II it took longer for a river boat to go from Saigon (now Ho Chi Minh City) to Luang Prabang than to go from Saigon to Marseilles by steamship.¹⁵ Since independence in 1954 there have been no scheduled river boats. Instead Highway 13, paralleling the left bank of the Mekong, carries the bulk of north-south traffic and since 1956 the principal Lao route to the sea has been the railroad across Thailand between Nonghai and Bangkok.

15. Barton, Thomas Frank. "Outlets to the Sea for Land-locked Laos," *The Journal of Geography*, Vol. 59, No. 5, May 1960, pp. 206-220.

Laos is not a major trading country. In 1980 the total value of its imports was \$82 million and exports \$21.8 million, only 26.4 percent and 7 percent respectively of her GNP. Of this trade, imports from third countries totaled \$61.5 million and exports to third countries \$17.4 million. These figures are important because, besides illustrating how small the formal economy actually is, they show that Laos is less dependent for trade on her immediate neighbors (especially Thailand) than either Nepal or Afghanistan, but relatively more dependent on transit to and from the sea.¹⁶

Under the French colonial regime, Indochina had common customs, monetary, transit and other arrangements. These were dissolved in 1954 when Cambodia, North Vietnam, South Vietnam and Laos became independent states. South Vietnam, however, continued to accord transit facilities in Saigon to Cambodia (now Kampuchea) and Laos under an unwritten understanding. The usual transit formalities of bonds, seals and inspection were retained, but no duties or transit taxes were charged other than a small fee to cover administrative expenses. A Convention on the Port of Saigon was signed in Paris on December 29, 1954 which provided special areas of the port for Lao and Cambodian transit goods, but apparently it was never implemented. Laos also signed transit agreements on June 2, 1959 with South Vietnam and on October 10, 1959 with Cambodia, but neither of these was implemented either. It is possible that Laos negotiated these agreements merely in order to enhance her bargaining power with Thailand, with whom she had signed a transit agreement in 1955. In any case, by 1956 the bulk of Lao transit traffic had shifted from Saigon to Bangkok. Detailed Lao-Thai transit agreements were signed on July 22, 1959 and June 1, 1978.

A comparison of these two treaties is instructive. The preambles of both are modest and conservative, making no reference either to the underlying reason for a transit treaty for a land-locked country, or to the numerous resolutions, principles and conventions adopted since the 1921 Barcelona Convention which recognize the need for special assistance for least-developed land-locked countries. Neither one specifies in sufficient detail all phases of transit trade operations. The 1978 treaty does not include the 1959 provision that the Barcelona Convention "shall be subject to the laws and regula-

16. All Lao statistics must be considered less than completely accurate; these UN figures are very likely more accurate than most. There is also considerable "informal" or "unrecorded" trade, chiefly the smuggling out of rice, timber, livestock and opium, as well as informal re-exports of luxury goods.

tions in force in either country," which would seem to imply greater conformity to the convention in some matters. Another improvement in the 1978 treaty is that it removes certain bilateral trade issues from the transit provisions, notably those obligating Laos to take certain actions to prevent smuggling.

The 1978 treaty, however, does not provide for simplification of customs formalities or harmonization of documentation; it does not even have a protocol or memorandum which spell out procedures designed to reduce costs and avoid delays of traffic in transit. Both treaties, moreover, are at sharp variance with current international forwarding and transport practices in force for land-locked and transit countries. Instead, they establish a very restrictive transit regime in which Lao goods must be handled by Thai-designated agencies while providing no guarantees for timely deliveries. Even the 1959 provision for joint customs control of traffic in transit was dropped in 1978.

Both treaties, especially that of 1978, are oriented toward Lao third-country imports and not toward Lao exports to third countries. Rather than expediting the growingly essential Lao export promotion and diversification, they are inhibited by requirements concerning origin, marking, valuation and sanitation. One improvement, however, is that the Thai government corporation Express Transport Organization, which has a monopoly on haulage of Lao goods through Thailand, may no longer set and change tariff rates freely; instead this is a matter for bilateral agreement. A number of other provisions concerning rates and charges, transit routes and facilities roughly balance out so that overall the 1978 treaty does not represent a significant improvement in the conditions for Lao transit traffic through Thailand.

Since the treaty was signed, Thai-Lao negotiations on transit matters have continued at least through 1978 and early 1979, primarily on technical matters, none of which has resulted in notable benefits for Laos. Now, in addition to imposing safeguards to prevent smuggling, Thailand imposes various restrictions for "security" reasons. The 1978 treaty, moreover, had only a one-year duration, creating a most unstable situation for Laos. Clearly, the change of government in Laos in 1975 has increased Thai wariness, if not outright hostility, toward Laos, despite their frequent expressions of fraternal (or paternal) concern. Largely because of these unfavorable transit arrangements through Thailand, Laos is turning more and more toward transit through Vietnam.

(a) Lao Transit Routes and Facilities

Between attainment of independence in 1954 and the change of government in 1975, Laos had the use of five crossing points into Thailand: Houeisay to Chiang Khouang in the far north near the Burmese border, Thanaleng near Vientiane to Nonghai, Thakhek to Nakhon Phanom, Savannakhet to Mukdahan and Pakse to Phibul Mangsahan. While all were used for bilateral trade during this period, some 90 percent of Lao transit trade crossed the Mekong at Thanaleng-Nonghai. In 1957-59, for example, according to Barton, 10 percent of Lao transit traffic went through Pakse and Savannakhet together, and various other combinations of road and river were little used.¹⁷ In September 1957 an agreement was signed between Thailand's government company, Express Transport Organization (ETO) and the Railway Express Agency of the United States providing for shipment of cargoes to any destination in Thailand or Laos on a through bill of lading. This move alone cut delivery time between Bangkok and Vientiane from six months to about one week; combined with infrastructive improvements that made transit cheaper and safer, it solidified the role of this route as the dominant one for Laos.

In 1976-77, friction between the new Lao Peoples Democratic Republic and the traditional monarchy of Thailand "resulted in Bangkok placing a complete ban on the export of strategic materials to Laos." This was followed in October 1977 by a Thai ban on petroleum shipments to Laos from the Shell Oil Company in Bangkok, a ban which was later lifted. This illustrated to Laos the danger of relying too much on transit across Thailand and Laos began re-orienting herself toward Vietnam. (Relations with Kampuchea were also poor, so a southern route was not feasible.) A road was planned between Thakhek and Danang and other routes to the east were considered.¹⁸

During this period, there was also a radical shift in the direction of Lao imports. In 1976 Thailand was the dominant source of imports; in 1977 Laos imported far less from Thailand, and the Soviet Union suddenly became the major supplier. At the same time Japan's share of exports to Laos doubled while all other sources to-

17. For more details of Lao transit in the late 1950's, see Stojkovic, Ivan, "Les Problèmes du Transport et du Transit au Laos," United Nations Department of Economic and Social Affairs, May 1962.

18. Hardstone, Peter C.N., "Laos: The Transportation Problems of an Indochinese Landlocked State," *Philippine Geographical Journal*, Vol. 22, No.3, July-September 1978, pp. 151-160.

gether provided less than 10 percent of Lao imports. The pattern has since returned to a more normal one, but this shift also illustrates the volatility of trading patterns due to political conditions. Inevitably, changing trading patterns mean changing transit patterns for a land-locked country. A more important, long-term change in Lao imports since economic development really began in 1977 has been from predominantly pol products and luxury goods to food, industrial raw materials, machinery and transportation equipment. Thus there is greater need now for safe, efficient and economical transit. Lao exports have not changed so much, either in volume or composition, but export earnings are more important than ever because they are needed now for investment in economic development.

The main Lao transit route remains Nonghai-Bangkok. There are good road and rail connections between the two termini and both are heavily used for Lao transit traffic. The Port of Bangkok is a river port and subject to a draft limitation of 8.2 meters. The port comprises a mix of State and privately-owned wharves with Klong Toi, owned and operated by the Port Authority of Thailand, forming its principal component. Some Lao transit traffic is landed at the Thai Maritime Company terminal, but Klong Toi is really Laos' gateway to the world. On the whole the port is efficiently run. Since traffic volume has grown rapidly, congestion began to be a problem in the late 1970s, but the port is being expanded to accommodate this new traffic. In addition, the Thai government is constructing a new deep-water port at Sattahip (due for completion in 1985) and plans another at Laem Chabang, 70 km. south of Bangkok, scheduled to go into operation in the early 1990s. In future, Laem Chabang might become the principal Lao transit port.

The Port Authority of Thailand has provided Laos with a new, efficient intransit warehouse in Klong Toi. It would be more useful if it were on the water and it is now occasionally too small to accommodate all the goods in transit at a particular time, but the Thais seem willing to assist in such improvements as might be necessary. Thai trucks ply directly between this warehouse and the ferry at Nonghai, cross the Mekong on the ferry and unload their cargoes in the Lao port of Thanaleng, whence they are transported to their ultimate destination by Lao trucks. Exports move in the reverse direction. When the railroad is used, trucks must still carry the cargoes between the trains and the transit warehouses in Bangkok and Nonghai. Generally speaking, Laos has few transit problems in Bangkok, except for some delays in clearance and occasional congestion, and is free to choose between rail and road transport between

Bangkok and Nonghai. The choice depends on the type of cargo, availability of wagons and comparative costs.

The real bottleneck in this transit route is the Mekong River crossing. At both Nonghai and Thanaleng storage facilities are inadequate and the concrete ramps leading down to the river are so steep that trucks sometimes roll or slide down them into the river. Cargo handling equipment is inadequate and there are no provisions for handling containers. For the river crossing itself, there are only three ferries (of 50, 50 and 70 tons capacity), three tow boats and two barges available. The ferries are ancient and in poor condition. Working conditions and efficiency are better at Nonghai than in Thanaleng, but are far from ideal. All of these problems of inadequate facilities are in the process of being remedied now, with new Lao trucks and ferries enroute, new warehouses planned on both sides of the river and other improvements planned or under way. This is essential, for in 1979 this crossing handled 95 percent of Lao imports and 55 percent of her exports. Since Thailand closed the border at Mukdahan/Savannakhet in July 1980, virtually all of Laos' overseas trade has passed through here.¹⁹

The only other border crossing point between Thailand and Laos from 1978 to July 1980 was Mukdahan/Savannakhet. The primary transit goods using this route were Lao logs being exported and petroleum products coming in. Three ferries of 60, 60 and 80 tons capacity carry goods and there are 8 boats for passengers. All are owned by private Thai entrepreneurs. The ramps down to the river are not paved and are particularly dangerous in wet weather. There is no rail service, but the highways serving both towns are good. Cargo handling equipment, warehouses and other facilities, however, are seriously deficient even if Thailand again permits use of this crossing, Laos may choose not to use it. She is currently building a new transit port at Ken Kabao, 27 km. upstream from Savannakhet as part of her program to reorient a large part of her transit traffic from Thailand to Vietnam. The plan is to use the Mekong for transport between Houeisay and Ken Kabao and truck transport over Route 9 between Ken Kabao/Savannakhet and Danang.

The French Governor-General in 1898 conceived the idea of a railroad connecting Laos with the east coast, but construction did not begin until the 1930s. In 1937 about 11 miles of the projected 117-

19. At Nonghai there are also passenger ferries crossing the Mekong to Thadua, Laos, adjacent to Thanaleng. These "ferries" are little more than large canoes with in-board engines mounted amidships and can accommodate only about a dozen people seated on benches around the sides.

mile line between Tanap and Thakhek was opened to traffic. A 25-mile ropeway was also constructed across the Mugia pass between Xam Cuc and Ban Naphao which operated until March 1945. Then, because of increasing costs in the mountains and low revenues from the main Hanoi-Saigon railroad, construction was halted. Before World War II three highways - numbers 7, 8 and 9 - linked the Mekong with the coast, but they were never really functional and have since degenerated even more.

Since relations with Thailand have worsened in recent years and Laos has come under very considerable Vietnamese influence, she is trying to revive these old routes, or develop even better ones. This involves two important projects: improving transportation on the Mekong and improving the roads through the mountains to the coast. The first is also a prime objective of the Mekong Committee.²⁰ This will involve removing rocks, dredging sandbars, charting and marking channels, etc. This will enable the river to be used extensively for long hauls instead of solely for local traffic as at present.²¹

In October 1979 Laos signed an agreement with Vietnam for port facilities at Danang and for Vietnamese transport of transit goods. Even before this agreement, however, some Lao goods transited Vietnam, using the ports of Haiphong and Danang. The major impediment to such transit is the deplorable state of the roads, especially in Laos. They can be used only in dry weather and only for loads of under 20 tons (in some places only two tons). Another problem is that of too much one-way traffic: most imports are bound for northern Laos while most exports originate in the south. At present the emphasis is on upgrading Highway 9 to Danang, but it is possible that in the future the principal transit route through Vietnam will be Highway 8 to Vinh.²²

While air transport has since 1975 become very important within Laos, international air transport is still rudimentary. Under a 1978 agreement there is one flight a week in each direction between

20. The Committee for Coordination of Investigations of the Lower Mekong Basin was established in 1957 by the four riparian States - Laos, Thailand, Cambodia and South Vietnam - to plan the integrated, multipurpose development of the basin with the aid of many regional, international and national agencies.

21. In 1980 it was estimated that only 2.8 percent of the volume of all Lao freight was carried by river. There were only 37 Lao river vessels, of which 32 were antiquated barges. These figures are likely to grow larger in coming years.

22. Vietnam has been helping Laos upgrade Highway 9 and COMECON has undertaken to help with Highways 7 and 9, according to Lee Yong Leng, *Southeast Asia and the Law of the Sea*, Revised Edition, Singapore University Press, 1980.

Bangkok and Vientiane and some service between Vientiane and Hanoi and Singapore. These flights carry very little cargo. Interestingly, though, Laos has since 1978 been a transit State for Vietnam. Seeds, medicines and other high-value aid goods come from Europe and Australia by plane to Bangkok and move by truck to the Vientiane airport, whence they are flown to Hanoi. It seems unlikely, however, that air cargo will be very important for Lao overseas trade for some time to come.

(b) Lao Transit Problems

Many of the problems faced by Laos in her transit trade have been discussed above. The two outstanding ones, however, remain to be covered, at least in sketchy form. They are the very complex procedures and the high costs involved in transiting Thailand.

The first known detailed study of this situation was done in 1971.²³ It covered the transit routes between Bangkok and the five Lao entry points listed above, but concentrated on the most important, the route to Nonghai. At that time, trucks carried all but goods that required special care or were too big and needed rail transport, and ETO had an official monopoly on truck transport. ETO used a subcontractor, Eaa Peng Chieng (EPC), for all intransit trucking and it also did some of the hauling between Thanaleng and Vientiane. Pol products, technically third country imports, were actually imported from Thailand since they were refined there. They were shipped to Nonghai by private rail and truck transporters and thence by ferry to Thanaleng. The major and persistent Lao complaints were about delays in shipments and high freight charges by ETO. In addition, considerable sums of "tea money" had to be paid along the way to highway and local police, customs officials and others.

These observations have been confirmed and elaborated upon by several United Nations experts (and by this writer) since 1971. One pointed out, for example, that ETO freight rates for intransit cargoes were higher than for domestic goods, quite to the contrary of established international practice. ETO claimed that its charges included payment for such services as insurance, loading and unloading, facilitating customs clearance and shipping across the Mekong, and guarding the shipments. In fact, however, these services are less than satisfactory as well as being overpriced. Some Lao importers

23. Koosuwan, Thongchai, "Analysis of Transportation of Intransit Goods to Laos," Master's Thesis, Thammasat University, Bangkok, August 1971.

even place their own guards on ETO trucks to try to reduce the damage and pilferage that plagues their transit shipments.

Some other Lao complaints concern congestion in the Port of Bangkok, numerous public holidays when customs officials do not work, requirement for advance payments for haulage from the port, delays in identifying and handling bulky packages, cumbersome customs procedures, insufficient trucks in the port area, labor problems in the port, Thai rather than Lao control of goods in transit, customs inspection requiring unloading and reloading trucks at Nonghai, confinement to the one port of entry into Laos, the various inadequacies of facilities described above, shortages of trucks for the haul across Thailand, and on and on. Overwhelmingly, however, the principal problems are the Mekong River crossing and the ETO monopoly.²⁴

The first may be solved to a large extent in the near future if the Nonghai-Vientiane railway-cum-highway bridge over the Mekong is ever built, as agreed upon by the two countries under the Mekong Scheme over a decade ago. The second may be more difficult to solve, entangled as it is with Thai politics and commercial considerations. Under increasing pressure, the Thai government has recently asserted that Laos actually chose the ETO monopoly over two other alternatives, and claim that they are willing to consider joint transportation development companies, as recommended many times by Lao officials and importers and by UN experts.

Meanwhile, project RAS/72/077 has been operating in Laos since September 1979, doing the same kind of detailed, basic studies as in Afghanistan and Nepal. The project was designed to help to train Lao nationals in transit operations and otherwise, under very difficult conditions of poor infrastructure, novice officials and civil strife, all of which hinder communications and mobility, doing what it can to ease the transit problems of the country. One concrete accomplishment was finalization of the purchase of trailer-hauling truck tractors with money from the UN Special Fund for Landlocked Developing Countries.

With all this, the fact remains that Laos has very little leverage in negotiating with Thailand for better transit arrangements and lower charges. The Thai government maintains tight control over

24. In 1980, transit costs for imports broke down this way: port charges 22 percent, transshipment charges 12 percent, clearing fees 6 percent, customs charges 3 percent, and transportation between Bangkok and Thanaleng 57 percent. This extraordinarily high cost for transport appears to be due entirely to the ETO monopoly.

the whole process, even though one of the original reasons for it — illegal re-export of luxury goods from Laos into Thailand and deflection of such goods into Thailand before they reach Laos — is no longer relevant. It seems to have been replaced by a new concern, what the Thais refer to as “security” considerations. One observer, noting the several closings of the border by Thailand since 1975 on these grounds, has commented, “It is a good illustration of a land-locked state at an ideological boundary suffering from the enmity of its neighbor.”²⁵

6. ANALYSIS AND CONCLUSION

What does all this mean? What can we learn from a study of these three Asian land-locked countries and their transit problems? We have already examined these problems in some detail and reached some conclusions about them individually. Now it seems appropriate to see if the three cases form patterns of any kind and if the patterns conform to the generalizations about land-locked states made in the introduction. Then we shall review briefly the six approaches to resolution of the problems discussed in the introduction and see how relevant they are to the cases of Afghanistan, Nepal and Laos. Finally, we can project a bit into the future and suggest a reasonable picture of the transit situation in light of past patterns and current developments.

In terms of physical geography, the three countries exhibit important similarities and some differences. In all three the proportion of level land is small and both Afghanistan and Nepal are dominated by mountain ranges among the world’s most massive. Only in Afghanistan are there high mountains in the middle of the country, but rugged terrain makes travel difficult in the others as well. All three countries experience wet and dry seasons; overall, Afghanistan is the driest, Nepal and the wettest and Laos in between. All three are drained by significant rivers, but in Afghanistan only the Helmand may be considered large, while Nepal has a number of large rivers flowing into India and Laos is blessed with the mighty Mekong and its tributaries which someday might provide her with a true outlet to the sea. Laos appears to be the most highly mineralized of the three, but Afghanistan has important iron ore and natural

25. Lee Yong Leng, *supra* note 22, p. 47. This observation seems more relevant now than ever, since it was reported in late 1980 that Thailand had completely closed its border with Laos. No other information is available on this closure.

gas reserves. Forests are important resources in Nepal and Laos, but are rapidly disappearing because of poor management.

Historically and culturally, the countries are quite different. Laos is the only one of the three to have been colonized by Europeans; Afghanistan and Nepal have long been classic independent buffer States. All are ethnically heterogeneous, but Afghanistan is predominantly Muslim, Nepal Hindu and Laos Buddhist. All three have been strongly influenced culturally by their neighbors: Afghanistan by Persia, Nepal by Tibet and India, and Laos by China and Thailand. Nepal and Laos have had little contact with the outside world until recently, while Afghanistan for millenia has been a crossroads of Asia.

Economically, all three are predominantly agricultural, though industrialization has begun modestly in Afghanistan and Nepal. All export chiefly commodities and import chiefly manufactured goods, including petroleum products. Laos has the smallest foreign trade of the three, though conceivably, with its great untapped mineral resources, it has the greatest potential. All have very weak infrastructures, Laos weakest of all, and all are trying to improve them with foreign assistance. As for transit, each country has advantages not shared by the others: Afghanistan's truck routes to Europe, Nepal's multiple entry/exit points along the Indian border, and Laos' relatively efficient route through Thailand. But each suffers unique liabilities as well: Afghanistan's generally poor relations with her erstwhile principal transit State, Nepal's confinement to a single seaport for transit, Laos' almost total absence of third country trade by air. Afghanistan and Laos already act, in a modest way, as transit states for their neighbors, while conceivably in the future trade could flow between Tibet and India through Nepal.

Politically, the three countries are quite different. Afghanistan and Nepal were once very much larger during periods of aggressive expansion but have lost territory partly as a result of European activity. Afghanistan and Laos were until the 1970s traditional monarchies and Nepal still is. Afghanistan and Laos now have communist governments aligned with the Soviet Union (Afghanistan under Soviet occupation, Laos partly through Vietnam and partly directly), while Nepal enjoys some measure of democracy. Despite occasional strains, Nepal has long been on good terms with her only two neighbors, while Afghanistan has good relations only with the USSR among her four neighbors and Laos only with Vietnam among her five neighbors. While all three can offer something to their neigh-

bors in exchange for transit rights and facilities, none is in a strong bargaining position.

Summing up, we can fairly say that all three countries match the generalization made in the introduction about developing land-locked countries: By world standards, all are small, poor and weak.

All three countries have, indeed, also sought to overcome these handicaps, which are common to all "least developed" countries but greatly exacerbated by the lack of a sovereign seacoast, by each of the six methods described in the introduction. In the case studies we have emphasized four of them: bilateral negotiations with transit States; internal development, particularly of transportation; improvements in transit facilities, including development of alternate routes; and the work of the United Nations, especially of the United Nations Development Programme, the United Nations Conference on Trade and Development and the United Nations Economic and Social Commission for Asia and the Pacific. It might be useful to say a bit more about the remaining two: regional integration and cooperation, and international law.

Of all the world's major regions, Asia is the least organized. There is no region-wide intergovernmental organization comparable in any way to such groups as the Organization of American States, the Council of Europe, the Organization of African Unity or the South Pacific Commission. The entity closest to them is the Association of Southeast Asian Nations, which only came to life after the communist takeovers in Indochina in 1975, is still not a very significant force in the region, and has only five members, none of which is land-locked. There is no tradition of unity or concerted action in the region, no sense of common identity or destiny. There is no movement whatever toward economic integration and even such regional cooperation as exists has been stimulated, nurtured and financed from outside the region, notably by ESCAP, the Asian Development Bank and the Colombo Plan. The Asian Highway and the Mekong Scheme are the only two regional projects so far, and both of them involve one or more of the countries we are examining here.

Significantly, Asia is the only region in the world where transit states (USSR, Iran, Pakistan, India, Thailand and Vietnam) insist that transit is strictly a bilateral matter and refuse to consider any sort of regional transit system or even adhere to internationally adopted legal instruments or practices designed to aid the free flow of commerce for the benefit of all. China, which borders all five Asian land-locked countries, is not yet an important transit state for any of them and has not taken a forceful position on transit matters.

India and Pakistan have been the least cooperative of the transit states, and only Thailand has endorsed Project RAS/72/077. It is likely to be a long time before cooperation in transit matters reaches the level it has in Europe, Africa or South America.

As for international law, we gave a summary of relevant developments in the introduction. It remains to say a little more about UNCLOS III, the roles of Afghanistan, Nepal and Laos in it, and its results as far as transit is concerned. First, it is fair to say that the land-locked states at UNCLOS III were outmaneuvered at the very beginning, actually even before the conference began, at a series of regional meetings in Africa and Latin America, and despite — or perhaps because of — their alliance with the so-called geographically disadvantaged states, never regained any of their losses and never really played a major role in the conference. This was true in spite of the persistent, often skillful and sometimes heroic leadership of a few delegates from Land-locked countries. Among them were, in the early years, Abdul Hakim Tabibi of Afghanistan and a little later Shailendra Kumar Upadhyay of Nepal.

The full story of the role of the land-locked states at UNCLOS III is yet to be told, though a number of articles have dealt with certain aspects of it.²⁶ Summarizing briefly, we can say that they threw away all of their bargaining power by accepting the notion of a 200-mile exclusive economic zone in the interest of "Third World Solidarity" before UNCLOS III opened in 1973, without obtaining a *quid pro quo*. Thereafter, all their energies were concentrated on trying to get back a small part of what they had given away. In the end, they retained their right to sail their own ships flying their own flag, won theoretically equal access to and voice in the management of the mineral resources of the International Seabed Area along with coastal States, and managed to gain only greatly circumscribed access to a tiny fraction of the living resources of the exclusive economic zone. They retrieved no rights to the non-living resources of the EEZ and nothing whatever from the considerably extended con-

26. A representative sample of the more recent ones might include: Cabello Sarubbi, Oscar J., "La Participación de los Estados sin litoral en la Tercera Conferencia de las Naciones Unidas sobre el Derecho del Mar," *Estudios Paraguayos*, Vol. 6, No. 1, September 1978, pp. 63-84; Mirvahabi, Farin, "The Rights of the Land-locked and Geographically Disadvantaged States in Exploitation of Marine Fisheries," *Netherlands International Law Review*, Vol. 26, No. 2, 1979, pp. 130-162; and Sinjela, A. Mpazi, "Freedom of Transit and the Right of Access for Land-locked States: The Evolution of Principle and Law," *Georgia Journal of International and Comparative Law*, Vol. 12, No. 1, 1982.

tinental shelf. As far as the transit provisions of the United Nations Convention of the Law of the Sea are concerned, they represent only a slight net gain over the 1965 New York Convention and very little more than the relevant provisions, broadly interpreted, of the Barcelona Convention and Statute of 1921.

Very briefly, Part X of the Convention provides for a right of access to and from the sea and freedom (*not* a right) of transit for land-locked states reasonably satisfactory definitions of terms, emphasis on bilateral agreements for details of transit arrangements, a sweeping provision that transit states "shall have the right to take all measures necessary to ensure that the rights and facilities provided for in this part for land-locked States shall in no way infringe their legitimate interests" (Article 125.3), exclusion of application of the most-favored-nation clause, exemption of traffic in transit from charges other than fees for services rendered, non-discrimination in setting of charges and taxes for means of transport, free zones at ports of entry and exit, cooperation in the construction and improvement of means of transport, requirement for the transit state to avoid delays of traffic in transit, equal treatment in maritime ports, and allowance for the granting of facilities greater than those provided for in the Convention.

In essence the Convention simply lays out guidelines, a framework which must be fleshed out by bilateral, subregional and regional arrangements, and a datum plane or standard against which such arrangements can be measured. It solves no problems, lays out no inflexible rules, and is clearly weighted in favor of transit states. Nevertheless, if widely adopted and accepted as binding international law by transit states, it can form the foundation for a very real improvement in the transit situation of land-locked countries in the decades to come.

The land-locked countries, however, particularly those in Asia, cannot rely solely or even largely on international law, no matter how favorably interpreted and applied, to solve their geographical handicap of separation from the sea. This problem, after all, is fundamentally political and in the long run only good relations with the transit states can come close to solving the problem. Meanwhile — and in addition — they will have to pursue all the other means available to them. This will not be easy, particularly in Asia, but the effort must be made and the rest of the world should cooperate to the maximum extent possible.

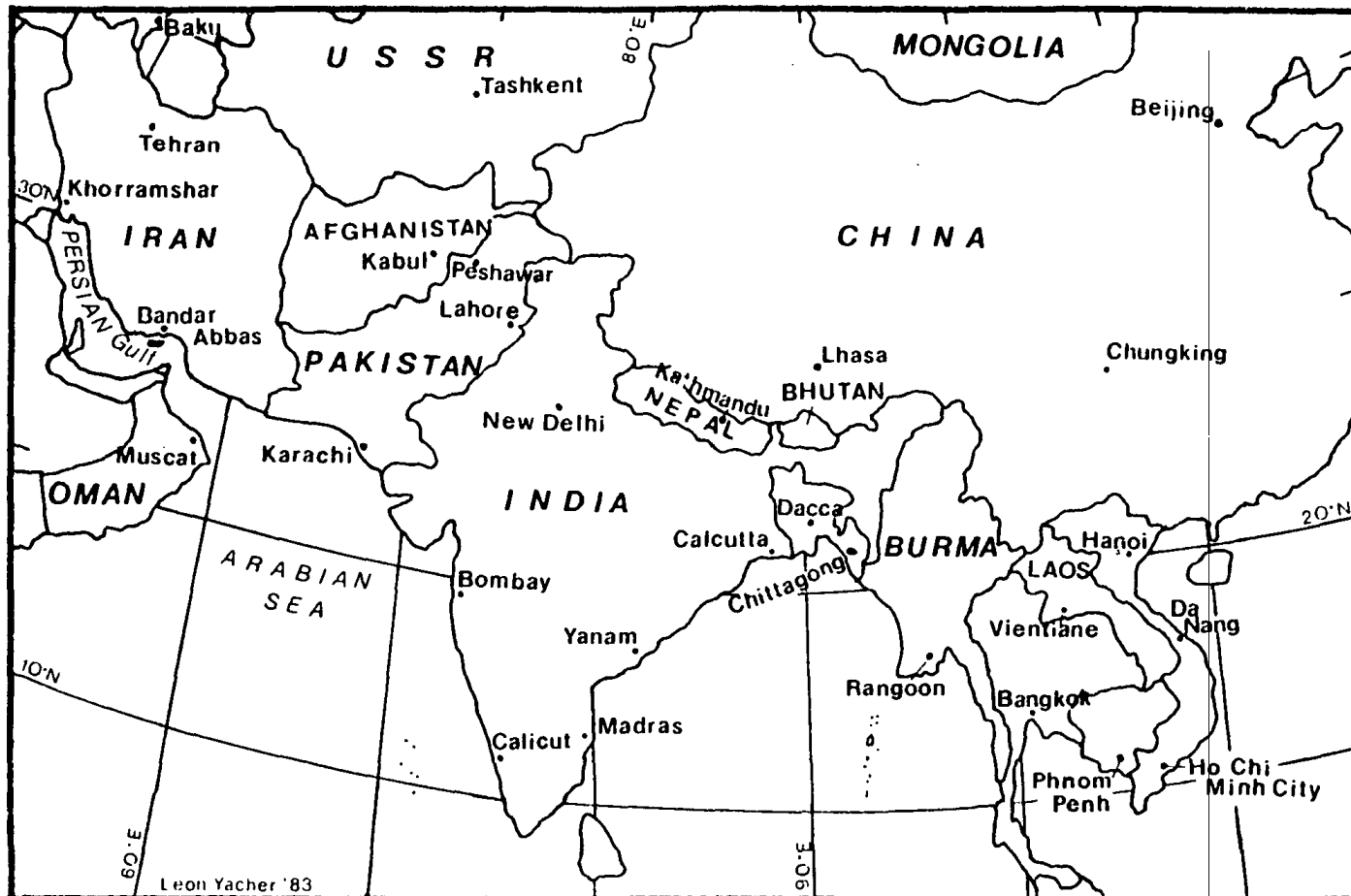


Figure 1. South Asia



Figure 2. Transit Routes of Afghanistan



Figure 3. Transit Routes of Nepal

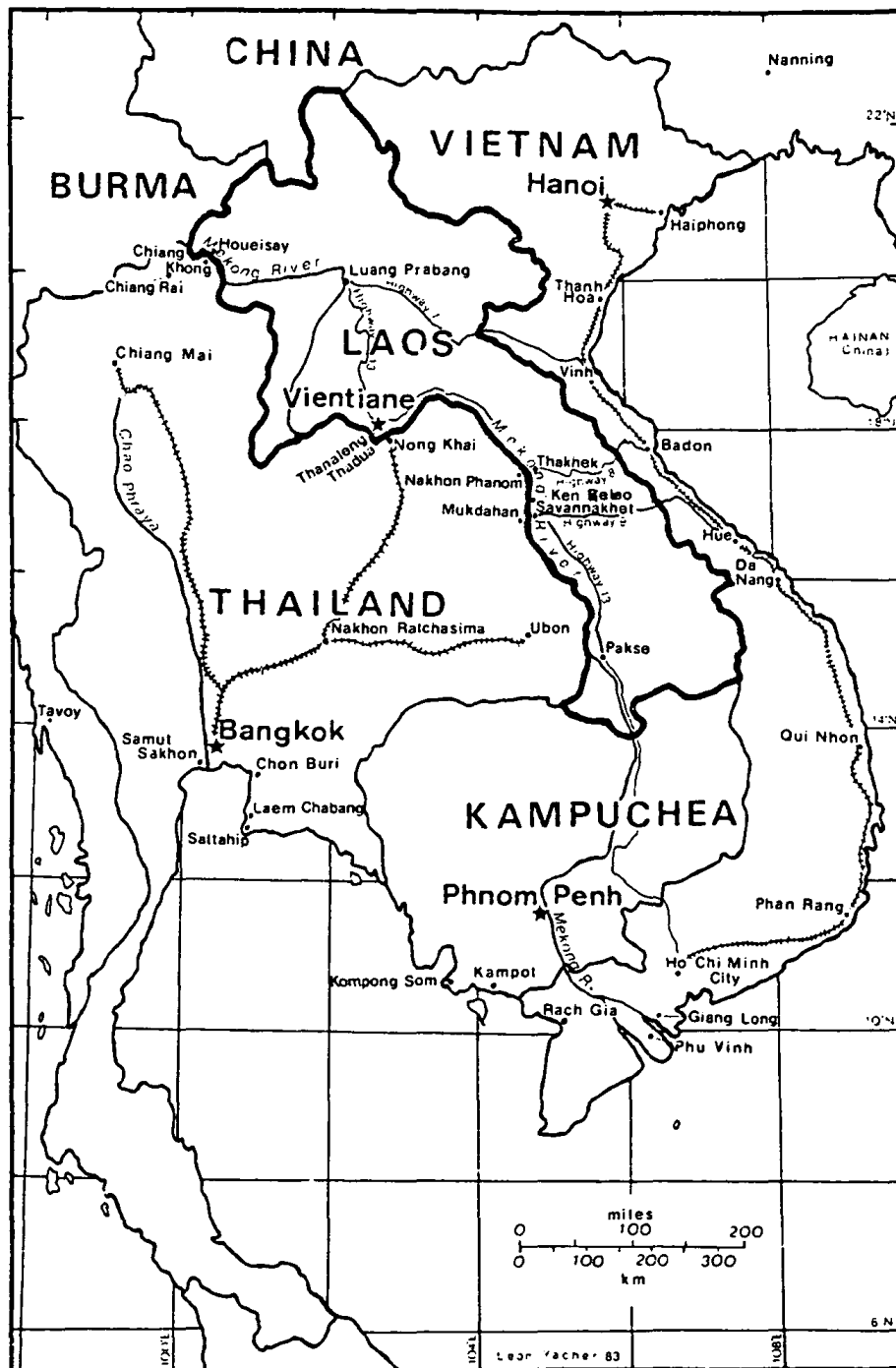


Figure 4. Transit Routes of Laos

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