

Mining Law in Cameroon: A Blueprint for Investors in the Sector

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Abstract

Cameroon is currently at an important crossroads as far as the development of the mining sector is concerned. In recent times, the mining sector has undergone series of legislative reforms with the aim to spur the interest of investors in this sector of the economy. These legislative reforms have also been in line with the country's vision to become emergent by 2035, with the mining sector been one of those sectors to spur the realization of this vision. This paper therefore aims at examining the extent to which the Cameroonian mining law has become a tool to attract investors in this sector of the economy which in the past decades has witnessed a downturn of investors. The paper makes use of the qualitative research methods. Despite significant strides that the Cameroonian government has made to make to lure the interest of investors, inadequacies of the mining law, lack of transparency and accountability, discrimination in terms of obtaining certain mining licences and political instability are the major setbacks that has hindered the continuous growth of the sector. It is in this light that the research recommends both nationals and non-nationals should be involved in artisanal mining, tax and customs incentives should not only be limited to holders of semi mechanized and industrial mining permits or licences, transparency and accountability should be strengthened through continuous publication of mining data and declaration of revenue obtained from this sector, and rehabilitation of the mining sites should be effectively supervised by the concerned body.

Keywords: mining, mining law, investors, blueprint

1. Introduction

Cameroon is endowed with a huge geological potential, which can contribute to the country's economic growth through the development of the mining sector.¹ The mining sector forms part

Cameroon's extractive industry which is still at its infancy stage. This sector is predominantly artisan in nature.² Mining means all preparatory works, extraction, transportation, treatment and analysis on a given deposit to obtain marketable

¹ KPMG. (2014). "Cameroon Country Mining Guide", Strategy Series, p. 8. Available at www.kpmg.com/mining (Lastly accessed on 18th May 2024).

² Enow B. (2022a). "The Quarry Industry and the Cameroonian Law". *National Journal of Labour and Industrial Law*, 5(1), pp. 15-22.

or useful products.¹ Similarly, mining is the extraction of economically valuable minerals or other geological materials from the earth surface. It may be from an ore body, vein, seam, reef or placer deposit.² Cameroon's subsoil contains significant mineralization of iron, gold, bauxite, diamond, rutile, cobalt and nickel amongst others.³

The presence of these varied mineral potentials has made some experts to describe Cameroon as a veritable "geological El dorado".⁴ Although most of the mineral resources remain largely unexploited, for some time now, causing the mining sector remains on the fringe of the economy, of recent time, the Cameroon mining sector has been bustling. The abundant reserves of the mineral resources have lured a multitude of both national and international mining companies to the country over the past decade as rises in global mineral prices spiked renewed interest in its untapped potential.⁵

Despite the country's significant potential in mineral resources, the contribution of mining activity to the nation's Gross Domestic Product remains insignificant. The most glaring of this was in 2022 where the mining sector contributed only 1% of the country's Gross Domestic Product.⁶ It is believed that the development of the solid or hard mining mineral sector will help the country ensure the relay of hydrocarbons whose stocks are dwindling and secure additional financial resources, which can be

allocated to finance prospect investments in the Cameroon.⁷ This explains why the mining industry is amongst the 9 priority industries⁸ in the National Strategy Policy 2020-2030 (SND30) which will accomplished the President's vision of Cameroon becoming an emerging country by 2035.⁹ The private sector plays a significant role in the development of mining projects, but under State control which issues mining titles to mining companies.¹⁰ In this light, the Mining Code categorically articulated that mineral substances contained in the soil and sub-soil of the territory of the Republic Cameroon, its territorial waters and its continental shelf shall be the property of the State that shall exercise sovereign rights thereon.¹¹ By virtue of the provisions of this law, it establishes the State of Cameroon as the owner these mineral resources in what is commonly termed as the "Principle of Permanent Sovereignty over natural Resources".¹²

The strategic importance of mining resources has led States to subject mining activities to specific laws and regulations. Cameroon is currently at an important crossroads as far as the development of the mining sector is concerned.¹³ In recent times, the mining sector has undergone series of legislative reforms with the aim to spur

¹ Section 3 of Law No. 2023/014 of 19 December 2023 to institute the Mining Code.

² Balasubramanian A. (2016). "An Overview of Mining Methods". Centre of Advanced Studies in Earth Science, University of Mysore, p. 1.

³ Jaff N., et al. (2017). "Building Nexus between Transparency Initiatives and Artisanal/Small Scale Mining in Cameroon", Policy Paper, Natural Resource Governance Institute, p. 4; The Mining Sector Capacity Building Project-PRECASEM, p. 3. Available at www.plaquette_prescasem_cimec.com (Lastly accessed on 7th May 2024).

⁴ Investor's Guide. (2010). "Cameroon: The New Destination for Mining in Africa", p. 4.

⁵ The World Folio. (2011). "Mining Potential Abounds". Available at www.theworldfolio.com (Lastly accessed on 7th May 2024). Examples of Mining companies in Cameroon includes Mining Inc, Cam Iron SA, Geovic Cameroon PLC, Alubassa SA, Alucam, Uranex SA, Compagnie Miniere du Cameroun SA, Steelcam Industries Limited, Bougne Compagnie" (BOCOM), Camiron, Zambo Gold Corporations SA amongst others.

⁶ Extract of the Speech of the President of the Republic of Cameroon, His Excellency President Paul Biya, 31st December 2023. Available at www.minepat.gov.cm/en/2023. (Lastly accessed on 7th May 2024).

⁷ *Op. Cit*, note 8.

⁸ These sub sectors are the Energy, Argo-Industry, Digital, Forest-Wood, Textile-Confection-Leather, Mines-Metalwork-Steelwork, Hydrocarbons-Petrochemicals-Refining, Chemicals-Pharmaceuticals, and the Construction-Services-Professionals-Technical Scientists.

⁹ MINPMEESA. (2022). Statistical Year Book on Small and Medium-Sized Enterprises, Social Economy and Handicraft, p. x.

¹⁰ For instance, "Bougne Compagnie" (BOCOM), on 13th February 2024, obtained a permit for gold and related substance exploration in the Vaimba area, covering 487 Km² in the Northern Region of Cameroon. Similarly, the same company under its subsidiary, G- Stones on 16th February 2024, obtained a permit for the exploration of iron, gold and related substances in Bipindi, Southern Cameroon over an area of 253 Km². Both permits last for two years. Business in Cameroon (2024), Mining, Available at <https://businessincameroon.com> (Lastly accessed on 7th May 2024).

¹¹ Section 4(1) of the 2023 Cameroonian Mining Code.

¹² United National Resolution 1803(XVII) of 14 December 1962, establishing the Principle of Permanent Sovereignty over Natural Resources; Article 1 paragraph 2 of the International Covenant on Economic, Social and Cultural Rights; Principle 10 of the Stockholm Declaration and Principle 2 of the Rio Declaration on Environment and Development.

¹³ PRECASEM-Cameroon Ministry of Mines and Technological Development (MINMIDT). Available at <https://minmidt.gov.net> (Lastly accessed on 19th May 2024).

the interest of investors in this sector of the economy. The 2001 Mining Code, as amended in 2010, had several gaps and deficiencies that hindered the development of the mining activity. In order to address these limitations and accelerate the implementation of mining projects, the Mining Code in force was revised through Law No. 2016/017 of December 14, 2016. Aligned with the principles of attractiveness, competitiveness and profitability, the 2016 Code reflected a clear intention to promote the development of the mining sector by encouraging domestic and foreign investments. In this regard, it provided a set of tax and customs incentives for mining companies and some of their subcontractors. Thriving to ensure that this sector attracts more investors, through Decree No. 2020/749 of 14 December 2020, a National Mining Corporation. 8 years after, a new legislative reform – Law No. 2023/014 of 19 December 2023 to institute the Mining Code was adopted all in an attempt to make this sector investment friendly.

The Mining Code governs the reconnaissance, exploration, mining possession, transportation, processing and marketing of mineral substances.¹ The main aim of this Code is to boost, encourage and promote investments in the mining sector that can contribute to the economic and social development of the country. To ensure the aim of this Law is achieved, it fully maintained all the tax and customs incentives provided for in the 2016 Mining Code. The benefits primarily include tax and customs duties exemptions, as well as deferrals which apply to mining companies at the exploration or production phase operating in compliance with the law. It is against this backdrop that, principally, this paper aims at examining the extent at which the Cameroonian Mining Law has become a tool to attract investors in this sector of the economy. The paper also aims specifically to examine the different legal regime applicable to the mining sector in Cameroon, examine the institutional regulatory structure of the mining sector in Cameroon and challenges that besets the current Mining Legislations in Cameroon.

2. Legal Regimes Applicable to the Mining Sector in Cameroon

The most basic definition of a legal regime is a system or framework of rules governing some

physical territory or discrete realm of action that is at least in principle rooted in some sort of law. Often the concept has been applied to specific areas of the law.² In relation to mining law, they are the specific rules designed by the State to permit investors extract mineral resources that are located within the territory of Cameroon. The legal regime also encompasses mineral deposits located on the continental shelf and within the exclusive economic zone.³ In this light, section 9(1) of Law No. 2023/014 of 19 December 2023 to institute the Mining Code clearly indicates the minerals which falls within the ambit of the legal regime.⁴ The Mining Code makes provision for 6(six) types of mining titles to be issued in Cameroon which in this paper will be classified under mining licences and mining permits.

2.1 Mining Licences

A mining licence is an authorization granted by the government or a State Agency to a firm or individual to develop a mineral resource and the setting up of associated mining operations on a concession. They are issue as a condition precedent to commencing mining operations at the mining site. The terms and conditions of the mining operations are typically set out in the mining licence.⁵ Within the ambit of the Cameroonian Mining Law, artisanal mining licences semi-mechanized mining licences and mining wastes processing licences are the licences issued to the investors.

2.1.1 Artisanal Mining Licence

Generally speaking, artisanal mining also known as small scale mining refers to mining by individuals, groups, families or cooperatives with minimal or no mechanization, often the informal (illegal) sector of the market.⁶ Often those who work at artisanal mines do so on a subsistence basis. It is also an area of mining that involves a comparatively large percentage

² Estlund C. (2002). "The Ossification of American Labour Law". *Columbia Law Review*, 102(6), p. 24.

³ Section 10 of the 2023 Cameroonian Mining Code.

⁴ Examples of these mineral deposits include: iron, manganese, titanium, rocks, chromium, vanadium, copper, lead, zinc, cadmium, germanium, platinum, group, gold, silver, nickel, cobalt, tin, sulphur, boron, limestone amongst others.

⁵ www.valupaedia.com (Lastly accessed 20th May 2024).

⁶ Forjindam D. (2021). "Artisanal and Small-Scale Mining in the East Region of Cameroon: An Overview". *Commonwealth Law Review Journal*, 7, pp. 321-348.

¹ Section 1(1) of the 2023 Cameroonian Mining Code.

of women and children.¹ In connection with the Mining Code, artisanal mining consists of using traditional methods and processes to extract and concentrate top -or sub soil mineral substances at a maximum depth of 10 metres, and obtaining marketable products. This activity is carried out an artisanal miner.² The Mining Code specifically holds that this activity is carried out only by natural persons of Cameroonian nationality. This activity is subject to the issuance of an individual artisanal miner's card and an artisanal mining licence.³ Radioactive substances are excluded from the artisanal mining licence.⁴ It is important to know that while the 2016 Mining Code speaks of non-industrial mining licence, the 2023 Mining Code speaks of artisanal mining licence.⁵ The writer is of the opinion that this change of appellation is due to the fact that the activities at this stage uses machineries even though not heavy machineries as compared to semi mechanized and industrial mining.

The holder of an individual artisanal miner's card may at any time, mark out one or several artisanal mining perimeters.⁶ The perimeters for which an artisanal mining is granted shall be a quadrangle equal to 1 hectare in surface area with sides not exceeding 100 metres in length.⁷ The issuance of the artisanal mining licences in Cameroon is within the competence of the regional and sub divisional delegates in charge of mines for the region concerned who awards the artisanal mining permit in Cameroon. The granting of an artisanal mining licence shall be subjected to the payment of fixed duties to the State Treasury. In this regard, the artisanal miner will pay the sum of 30, 000Fcfa to the State Treasury. This amount moved to 50, 000Fcfa in cases of renewal of the licence.⁸ The above stated amounts remain unchanged with the predecessor 2016 Mining Code. However, it is quite unfortunate that the Mining Code is silent

as to the number of times such renewal can be granted. In addition, holders of an artisanal licence will be liable to payment, at the beginning of each financial year, as applicable, of an area royalty or State land concession rights of CFAF 50/m²/year.⁹

2.1.2. Semi-Mechanized Mining Licence

These are operations carried out to extract and concentrate mineral substances, and obtaining marketable products using some mechanical means in the chain of operations.¹⁰ The introduction of semi mechanized mining in Cameroon became authorized under the 2016 Mining Code. This activity has also been incorporated into the 2023 Mining Code. Under the Mining Framework of 2001, such operations were illegal. To carry out such activity in Cameroon, the holders need to be in possession of a semi-mechanized mining licence. A semi-mechanized mining licence is a legal document that confers on its holders the exclusive right to carry a semi-mechanized artisanal mining within the assigned perimeter.

While artisanal mining licences are issued only to natural persons, the Mining Code categorically states that semi-mechanized mining licences are issued only to legal entities, with specifications that majority of the shareholders will be nationals.¹¹ Thus, the Mining Code provides a flexible mining regime wherein both nationals and non-nationals can carry out semi-mechanized mining within the national territory. This activity shall be delimited to a surface area not exceeding 21 hectares and such an area will be a single polygonal shaped block within a cadastral unit.¹² This licence shall not be granted to include an exploration permit except in cases of quarry substances.

To encourage investors in this sector, the State grants a deduction of a combined flat mining tax of 25 percent of the gross production of every semi-mechanized artisanal site. The aforementioned tax reduction represents the share of the State in mining production, ad valorem tax on precious and semi-precious substances and corporate tax monthly instalments.¹³ This tax represents 17.8 percent of

¹ Natural Resource Governance Institute. (2015). The Mining Industry: Overview and Trends, p. 3. Available at www.resourcegovernance.org (Lastly accessed 20th May 2024).

² Section 3 of the 2023 Cameroonian Mining Code.

³ *Ibid*, Section 20(1).

⁴ Radioactive substances include uranium, thorium and their derivatives.

⁵ Section 171 and 173 of the 2016 Cameroonian Mining Code.

⁶ Section 21 of the 2023 Cameroonian Mining Code.

⁷ *Ibid*, Section 23(1).

⁸ *Ibid*, Section 128(2).

⁹ *Ibid*, Section 130(1)(a).

¹⁰ *Op. cit*, note 21.

¹¹ Section 24(2-3) of the 2023 Cameroonian Mining Code.

¹² Section 24(4) of the 2023 Cameroonian Mining Code.

¹³ *Ibid*, Section 25(2).

the share of the State in mining production, 5 percent of ad valorem tax on precious and semi-precious substances and 2.2 percent of corporate tax monthly instalment.¹

One of the salient innovations brought by the 2023 General Tax Code (GTC) is that the assessment, collection and inspection of mining taxes, duties and royalties are exclusively under the jurisdiction of the tax authority.² However, the Minister of Finance may as appropriate, authorize anybody or entity in charge of supervising mining activities to assist the tax authorities in collecting in kind of the above tax on mineral substances and corporate tax.³

The granting of a semi artisanal mining licence shall be subjected to the payment of fixed duties to the State Treasury. In this regard, the miner will pay the sum of 1, 500, 000Fcfa to the state treasury. This amount moved to 3,000, 000 in case of renewal of the licence.⁴ Just like with artisanal mining licence, it is quite unfortunate that the Mining Code is also silent as to the number of times such renewal can be granted. In addition, holders of a semi mechanized artisanal licence will be liable to payment, at the beginning of each financial year, as applicable, of an area royalty or State land concession rights of CFAF 50/m²/year.⁵

2.1.3 Mining Wastes Processing Licence

Mining waste refers basically to the topsoil or waste rock from mining operations or any solid residue from mineral or processing.⁶ In order words, they are the by-products of the extraction process and include topsoil, rock and dirt which may be contaminated by metals and coal.⁷ Although the Mining Code has not defined what mining wastes processing licences are, they are licences issued to process the residues of mineral after extraction. Nobody is authorized to carry out such activity without prior authorization. The 2023 Mining Code is silent as to the categories of persons and their nationalities to carry out such activities in Cameroon. The granting of a mining waste licence shall be

subjected to the payment of fixed duties to the State Treasury. In this regard, the artisanal miner will pay the sum of 2,000, 000Fcfa to the state treasury. This amount moved to 4,000, 000Fcfa in case of renewal of the licence.⁸ The Code is further silent as to the number of times such licences are to be renewed and the amount to be paid as royalty by the holders of such licences.

It is worth noting that artisanal, semi-mechanized artisanal mining or mineral waste mining licence will not give rise to any form of transaction. Such transactions in particular include farm-out, cession, collateral and pledge. These licences are personal, and this explains why they are not opened for transactions.⁹

2.2 Mining Permits

Mining permits are legal documents that confer on the holders the exclusive right to conduct mining operations within the perimeter of the permit. There are basically three mining permits recognized under the 2023 Mining Code. They include: exploration permits, small scale-mining permits and industrial mining permits.

2.2.1 Exploration Permits

Exploration activities within the mining sector consists of any investigation process or method to locate and evaluate mineral deposits comprising prospecting bulk sampling and laboratory tests. As the name implies, exploration permits are permits granted to mining companies for the purpose of conducting exploration works to locate and evaluate mineral deposits and to determine conditions for the commercial mining thereof.¹⁰ These permits are issued by Minister in charge of Mines on behalf of the State to legal person subject to Cameroon law. An exploration permit as of right is open to cession, conveyance, farm out and pledge.¹¹

2.2.1.1 Conditions for the Granting of an Exploration Permit

The granting of an exploration shall be subject to the signing of a mining exploration contract between the State and the mining company.¹² Such contract gives the State the prerogative to participate in Board sessions of the mining

¹ *Ibid*, Section 25(4).

² Section 239 of the 2023 Cameroonian General Tax Code.

³ *Ibid*, Section 239(1)(b).

⁴ Section 128 (2) of the 2023 Cameroonian Mining Code.

⁵ *Ibid*.

⁶ *Op. cit*, note 21.

⁷ Fonja J. (2019). "Waste Management Regulation in Cameroon: A Curse or Blessing". *Scholars International Journal of Law, Crime and Justice*, pp. 398-410.

⁸ Section 128(2) of the 2023 Cameroonian Mining Code.

⁹ *Ibid*, Section 79(1).

¹⁰ *Ibid*, Section 32(1).

¹¹ *Ibid*, Section 79(2).

¹² Section 32(1) of the 2023 Cameroonian Mining Code.

company. In the event where the mining company fails to invite the State, the exploration permit may be withdrawn from the mining company.¹ There are vital elements which are included in the permit to enable the State follow-up closely the activities of the mining company.²

2.2.1.2 The Duration for the Permit

The Mining Code is so clear as to the duration for such a permit to be granted. In this light, permit is granted for a period of 3(three) years, renewable no more than 3 times. Each renewable must not exceed 2(two) years.³ At the end of the above stated periods, the holder who has identified a deposit and has demonstrated to the Minister in charge of Mines, based on a pre-feasibility study, that he cannot mine the said deposit within the set time limit, may apply for a change on the schedule to enable him pursue exploration activities in the area covered by the permit for a further non-renewable period of 2 (two) years.⁴ In this light, the holder of the exploration permit will propose a new schedule enabling him to complete exploration works in the perimeter concerned.

Upon expiry of an exploration permit whose holder does not apply for a renewal, or at the end of the last validity period of the permit not followed by an application for mining permit, the mining title surface area will be considered unoccupied. Such surface area may be allocated to another applicant without payment of compensation to the previous permit holder.⁵ This explains why holders of exploration permits pay the sum of 5,000Fcfa/Km² to the state treasury. This amount moves to 10,000Fcfa/Km² in cases of renewal of the

permits.⁶ In cases of transfer, the amount paid is 15,000,000Fcfa.

The surface area covered by the exploration permit shall not exceed 500 Km² (five hundred square kilometer) or its equivalent in number of cadastral units.⁷ To ensure that work effectively goes on, the Mining Code gives a mandatory requirement for the holders of such permits to commence exploration work within the area covered by such a permit no more than 9 (nine) months from the day it was issued.⁸ To further monitor the activities of holders of exploration permits, the State makes it incumbent on them to submit quarterly reports to the Minister in charge of mines, copying the duly authorized public body, a technical report and a financial reports.⁹

2.2.1.3 Payment of Royalty Under Exploration Permit

Holders of an exploration permit will be liable to payment, at the beginning of each financial year, as applicable, of an area royalty or state land concession rights as follows:

- 1st year: CFAF 5000/Km²/year;
- 2nd year: CFAF 6000/Km²/year;
- 3rd year: CFAF 7000/Km²/year;
- 4th year: CFAF 14000/Km²/year;
- 5th year: CFAF 15000/Km²/year;
- 6th year: CFAF 30 000/Km²/year;
- 7th year: CFAF 31000/Km²/year;
- 8th year: CFAF 62 000/Km²/year;
- 9th year: CFAF 63000/Km²/year;
- Above 9th year: CFAF 200 000/Km²/year.

2.2.2 Small Scale-Mining Permits

Mining can be carried out on a large scale and on a small scale. The Cameroonian mining regime has given the possibility for both to be carried out. A small-scale mining is any permanent small scale mining project using semi industrialized or industrial processes, and whose annual production does not exceed a certain tonnage of the marketable product in the form of mineral ore concentrate or metal.¹⁰ Small scale mining permits although not defined

¹ *Ibid*, Section 32(4).

² The mining exploration contract drawn up between the State and the mining company shall include in particular: rights and obligations of the mining company, exploration perimeters, minimum exploration work schedule and corresponding financial commitments, conditions for operating the exploration implementing monitoring committee, conditions for supporting follow-up teams in the field, conditions for supporting the training of Cameroonians, conditions for reimbursement of exploration expenses, obligations relating to commercial discoveries, contract renewal conditions, conditions for monitoring the execution of exploration works, contributions to the Mining Sector Development Fund and provisions relating to State participation in the mining company's Board session.

³ Section 33(1) of the 2023 Cameroonian Mining Code.

⁴ *Ibid*, Section 34(1).

⁵ *Ibid*, Section 34(3).

⁶ Section 128(2) of the 2023 Cameroonian Mining Code.

⁷ *Ibid*, Section 35.

⁸ *Ibid*, Section 36(3).

⁹ *Ibid*, Section 38(3).

¹⁰ *Op. cit*, note 21.

by the Mining Code, are permits granted by the Minister in charge of mines to permits holders of such permits to carry out small mining projects using industrialized or industrial processes.¹ Through the issuance of this permit, the holder has the right to extract mineral substances from the soil or sub soil, by any standard process or method, to obtain the useful substances therein.²

The permit is granted for an initial period of 5(five) years, renewable for a period of 3 (three) years.³ The area for which a small-scale mining permit is granted shall be determined on the basis of the mineral deposit that a feasibility study had earmarked for mining. The surface area consists of a single polygonal block, wholly contained within the exploration permit on the basis of which the small-scale mining permit is issued.⁴ Those in possession of a small-scale mining permit is required to start developing the site within a period not exceeding 1 year (one) year, with effect from the date of notification of the permit, failing which the permit may be withdrawn after a formal notice served remains unheeded. The holder similarly is given a duration of not more than 2(two) years to start mining and developing the mineral deposit.⁵ The small-scale mining permit confer on the holder a movable real right on the substance and an immovable real right within the perimeter during the period of the permit. Such rights are opened to farmout and may be pledged and mortgaged respectively.⁶ Holders of small-scale mining permit will pay the sum of 5, 000, 000Fcfa a fixed duty to the State Treasury before they can be granted the permit. In cases of renewal of the permit, they will deposit 10, 000, 000Fcfa. If the holders intend to transfer the permit to another person, they shall pay the sum of 25, 000, 000Fcfa. The holders are equally required to pay 75, 000Fcfa/Km²/year as royalty to the State as compensation to the State land concession rights.⁷

2.2.3 Industrial Mining Permit

Industrial mining is mining based on prior proof of the existence of a deposit that can be commercially mined, using the fixed facilities

required for collecting materials through industrial processes. An industrial mining permit is granted by a decree. It is granted for an initial period not exceeding 20 (twenty) years. It is renewable for one or more periods not exceeding 10 (ten) years each.⁸ Once it is issued, the holder is required to start developing the site within a period not exceeding 2(two) years, with effect from the date of notification of the permit. They are further required to start mining and valorizing the deposit within a period not exceeding 5 (five) years with effect from the notification date of the permit.⁹ The Industrial mining permit confer on the holder a movable real right on the substance and an immovable real right within the perimeter during the period of the permit. Such rights are opened to farmout and may be pledged.¹⁰ Holders of small-scale mining permit will pay the sum of 10, 000, 000Fcfa a fixed duty to the State Treasury before they can be granted the permit. In cases of renewal of the permit, they will deposit 50, 000, 000Fcfa. If the holders intend to transfer the permit to another person, they shall pay the sum of 25, 000, 000Fcfa. The holders are equally required to pay 100, 000Fcfa/Km²/year as royalty to the State as compensation to the State land concession rights. It is important to note that a small scale or industrial mining permit may be granted to a holder of exploration permit provided that he provides evidence of the existence of a deposit within his perimeter. However, the grant of small scale or industrial mining permit will entail cancellation of the exploration permit within the perimeter covered by the mining permit.¹¹

3. The Institutional Regulatory Structure of the Mining Sector in Cameroon

The legal instruments that regulate the mining sector cannot exist in a vacuum. There is a need for institutional frameworks to implement the provisions of the law where necessary. This section of the paper therefore shade light on the different institutional frameworks that have been put in place to ensure that the provisions of the law are adhered to.

3.1 The Ministry of Mines, Industry and Technological Development (MINMIDT)

¹ Section 49(1) of the 2023 Cameroonian Mining Code.

² *Ibid*, Section 49(2).

³ *Ibid*, Section 50(1).

⁴ *Ibid*, Section 51.

⁵ *Ibid*.

⁶ *Ibid*, Section 83.

⁷ *Ibid*, Section 130.

⁸ Section 53 of the 2023 Cameroonian Mining Code.

⁹ *Ibid*.

¹⁰ *Ibid*, Section 84.

¹¹ *Ibid*, Section 42.

The Ministry of Mines, Industry and Technological Development was created by Decree No. 2011/410 of 9th December 2011 organizing the government. Its creation was a materialization of the President of the Republic's will, to give a new impetus to the Cameroonian industry and its mining sector, two major arguments for the revival of economic growth in Cameroon. However, thanks to Decree No. 2012/242 of 1st October 2012, which reorganizes the ministry, the intervention of the Ministry of Mines, Industry and Technological Development in the economy in general and in the industry and service sector is now clearly identified. It is thus responsible for the development and implementation of the government's mining and industrial policy and technological development strategies in the various sectors of the national economy.¹ As such, the ministry is responsible for the development of mining cartography, geological prospecting and mining activities, development of mining, oil and gas resources, management of natural mining and gas resources and monitoring of the upstream oil sector.

Specifically, MINMIDT has different departments with key functions attached to them. In this light, the MINMIDT National Brigade for the control of mining activities is responsible for enforcing mining regulations and logging activities, mineral exploration and mining activities, and the activities of springs and mineral water companies. The MINMIDT's Department of Mines (Division Direction des Mines) includes the sub-directorate of Mining Activities Division of Mining Activities, the Directorate of hydrocarbons (Sous Direction des Hydrocarbures), and the Directorate of Mining Registry, and the (sous direction de Cadastre Minier).

The Department of Geology (Direction de la Geologie) includes the Division of Geologic Prospecting and the (Sous Direction de la Prospection Geologique) and the Division of geological Mapping and Natural Hazards, (Sous-Direction de la Cartographie Geologique et des Risques Naturels). The Department of Industry (Direction de l'Industrie includes the Division of Local Transformation (Sous Direction de la Transformation Locale), which is responsible for policies and programs for the

local processing of mineral production.²

3.2 National Mining Corporation

The National Mining Corporation, abbreviated as "SONAMINES" was created four years ago as the first national mining corporation in Cameroon. It was created by Decree No. 2020/749/ of 14 December 2020 to set up the National Mining Corporation.³ The creation of SONAMINES led to the closure of the Mining Crafts Support and Promotion Framework (CAPAM), which was created by Decree No. 064/PM of 25 July 2003. SONAMINES is a public corporation, with the State as the sole shareholder.⁴ SONAMINES is under the technical supervisory authority of the Ministry in charge of Mines.⁵ SONAMINES is managed by three organs, namely the General Meeting, the Board of Directors and Management.⁶

As function, SONAMINES shall develop and promote the mining sector in Cameroon, with the exception of hydrocarbons and quarry materials, and manage the interests of the State in the domain. To that end, it shall be responsible in particular for: carrying out the inventory of mining showings, in conjunction with other relevant government services and bodies, conducting studies on the exploration and exploitation of mineral substances, in conjunction with other relevant government services and bodies, carrying out mineral substance purchase and marketing transactions on behalf of the State carrying out mineral substance exploration and exploitation activities, promoting the processing and packaging of mineral substances and ensuring the implementation of measures relating to the restoration, rehabilitation and closure of mining sites, in conjunction with other relevant government services.⁷

In addition, it is involved in acquiring shares in companies involved in the exploration, exploitation, marketing, treatment and processing of mineral substances through contributions, sponsorship, subscriptions, purchase of corporate securities and/or rights,

¹ MINMIDT. (2020). Statistical Yearbook of the Mining Industry and Technological Development Sector in Cameroon, p. 2.

² Forjindam D. (2021). *Op. Cit*, note 21, p. 331.

³ Article 1 of Decree No. 2020/749/ of 14 December 2020 to set up the National Mining Corporation.

⁴ *Ibid*, Article 2(1).

⁵ Article 5(1) of the 2023 Cameroonian Mining Code.

⁶ *Ibid*, Article 8(1).

⁷ Article 4(1) of Decree No. 2020/749/ of 14 December 2020 to set up the National Mining Corporation.

alliance and/or joint venture, participating in negotiations and monitoring the execution of contracts signed between the State and mining companies, in conjunction with the other relevant government services, collecting and preserving documentation on mineral substances and mining activities, in conjunction with the ministry in charge of mines, contributing to the promotion of transparency in the mining sector, contributing to the promotion of geological and mining information, in conjunction with the other relevant government services, carrying out all commercial, industrial, capital, real estate and financial transactions directly or indirectly linked to its corporate purpose or that can foster its development.¹

3.3 The Kimberly Process

The Kimberly process (KP) was initiated by the UN in January 2003. It is an international observatory whose objective is to contain the infiltration of blood diamonds. It is a veritable world network for preventing conflicts and fighting against rebellions, by exfiltrating blood diamonds. The process promotes supervised and legal diamond mining and trade.²

The purpose of the Kimberly Process is to improve the follow-up of the traceability of rough diamonds of mines to National Permanent Secretary of the Kimberly Process, create a more transparent and better controlled diamond trade and increase public revenue and attract foreign currencies. It translates government's strong political good will and commitment to confirm to the principles and requirements of the Kimberly Process as well as to observe international rules as regards transparency in the extractive industries.³

In 2005, the Moscow Declaration made several recommendations to the member countries of the Kimberly Process. These recommendations were:

- Ensure the traceability at the mine to point of export by the introduction of production records at the artisans as well as sales records at the local levels;
- Regulate artisanal mining of diamonds

in particular by introducing a cadastre system to maintain accurate and updated information on the areas of production and mining licences;

- Fight against the illicit diamond trade by harmonizing cross-border regional tax rates;
- Encourage miners to move into the formal economy.⁴

The Cameroonian government has made tremendous efforts to adhered to the Kimberly Process. In this light, in 2003, the Head of State signed the instrument whereby Cameroon adhered to the Kimberly Process. In July 2007, MINMIDT started a study with the technical expertise of the Bureau de Recherches Géologiques et Minières (BRGM). In 2011, Decree No. 203/PM of 29th November 2011 officials of the National Permanent Secretariat of the Kimberly Process were appointed. Cameroon was officially admitted as a member of the Kimberly Process on the 14th November, 2011 by ambassador **Guillian A. Milovanovic**, President of the Kimberly Process. The mining company, C&F Mining was the very first mining Cameroon to received Kimberly certificate authorizing it to export diamonds, estimated at 600 carats.

3.4 Extractive Industry Transparency Initiative (EITI)

The Extractive Industries Transparency Initiative (EITI) is a voluntary mechanism aimed at strengthening the good governance of public revenues derived from extractions in countries rich in oil, gas, and mining resources.⁵ The EITI requires the annual publication of EITI Reports, including the disclosure of significant state revenues from the extractive industries, as well as the disclosure of all significant payments made to the Government by Oil, Gas and Mining Companies.

In September 2008, twenty-one countries were listed as candidates, including 14 African countries. Cameroon announced its intention to join the initiative in March 2005 at the Lancaster House Conference in London and was accepted as EITI Candidate country during the board meeting held in Accra on 27th September 2007.

¹ *Ibid.*

² Kimberley Process-Cameroon, The Ministry of Mines, Industry and Technological Development (MINMIDT), Available at <https://minmidt-gov.net/en/major-projects/kimberley-process.html> (Lastly accessed 20th May 2024).

³ *Ibid.*

⁴ Fomena W., et al. (2013). "Artisanal Mining, A Challenge to the Kimberly Process, Case Study of the Kadey Division, East Region of Cameroon", RELUFA, p. 12.

⁵ <https://eiti.org/fr>. (Lastly accessed 5th June 2024).

The current governance structure of the Initiative in the Republic of Cameroon was created by a decision of the Prime Minister in June 2005.¹ It consists of a Tripartite EITI Committee composed of representatives of the state, civil society organizations and extractive companies. The functions and operating procedures of this body have been specified in Decree N° 2005/2176/PM dated 16 June 2005.²

Cameroon became an EITI compliant country on 17 October 2013. In order to remain EITI compliant, Cameroon must regularly publish EITI reports in conformity with the requirements. Cameroon has been able to meet up with the EITI standard. Cameroon has so far published fourteen (14) EITI Reports covering the period from 2001 to 2018. BDO was appointed by the EITI Committee as Independent Administrator (IA) for the preparation of the 15th EITI Report covering the year 2019.

Based on EITI's publication, in 2019, cash payments made by extractive companies reached CFAF 261.91 billion. Payments in kind made during the same period were valued at CFAF 646.37 billion,³ bringing the total payments made by Extractive companies during 2019 to a value of CFAF 908.28 billion. Petroleum companies account for the bulk of these payments with 93.58%. SNH, DGI and DGD represent the main destinations for these payments.⁴

It should be noted that on 1st March 2024, Cameroon was suspended from EITI until the next validation scheduled to take place on April 2027. The suspension comes as a result of Cameroon's breaches of the EITI protocol notably participation of civil society related to freedom of expression and association.⁵

4. Mechanisms Used by the Mining Law in Cameroon to Attract Investors in the Sector

Investors will be willingly to invest in any

country if the environment is investment friendly. They need to be guaranteed that their investments are secured. In this light therefore the question that begs for answer is: what mechanisms are used by the Cameroonian Mining law to attract investors in the sector?

4.1 Flexible Mining Legal Regimes

Most often, States do not intend to bear the risks associated with extractive activities or do not have appropriate technical and financial capabilities. As a result of this, most frequently, they will resort to mining companies (domestic or foreign) for the exploitation of the natural resources located in their territory.⁶ To attract these investors the Cameroonian Mining Law has provided flexible mining regimes. Flexibility is in the sense that it has provided the possibility to obtain different mining permits and licences. In this light, the Mining Law adopted in 2023 has provided for six different classes of mining regimes in Cameroon. The law gives the possibility for both investors who are nationals or foreigners to invest in this sector.

Depending on the activities and operations the investors intend to carry out, they can apply for the required permits or licences. Artisanal and semi-mechanized artisanal mining licences are granted only to natural persons of Cameroonian nationality. The author is of the opinion that the state resorted to issue such licences only to Cameroonian nationality because little capital is required in this sector. In addition, it is a way of encouraging national mining companies to take advantage of the friendly investment environment and contribute to national development. These domestic companies will also develop the mining sector and to an extent, reduces the State reliance on foreign investors.

The national legislators in enacting the Mining law also gave the opportunity for foreigners to be involved in the sector specifically when it comes to industrial mining. This mining requires huge capital most of which can only be funded by foreign investors. The state intervenes as a licensing public authority and thus grants mining rights to these investors as she lacks the required capital and technology to extract the minerals. The reason for the State granting these licenses to foreign investors is because the mining sector has become an important source

¹ Bissou, M., et al. (2014). "EITI and Mining Governance in Cameroon: Between Rhetoric and Reality". Natural Resource Governance Institute Report, p. 15.

² *Ibid.*

³ Valuation of in-kind oil payments at the market price and in-kind payments of gold at CFAF 18.500/gram

⁴ Extractive Industries Transparency Initiative in Cameroon. (2019). EITI Executive Summary Report, BDO Tunisia Consulting, p. 8.

⁵ Business in Cameroon. (2024). Available at www.businessincameroon.com (Lastly accessed on 5th June 2024).

⁶ Jeantet. (2021). *Mining: Introduction to Mining and Mining Law*. ALSF Academy, p. 15. Available at <https://alsf.academy> (Lastly accessed 1st June 2024).

of revenues for the State. The State participation in the share capital varies depending on the stage of the mining activity. In cases of artisanal mining or small-scale mining, the participation of the State shall be up to 10 percent of the total shares. The total share of the State in cases of industrial mining may not exceed 25 percent.¹

However, States with large quantities of natural resources may become victims of the “resource curse” or “Dutch disease”. The resource curse is a paradoxical situation in which countries with abundance of non-renewable natural resources experience stagnant economic growth or even economic contradiction.

4.2 Tax Incentives

Investors especially those investing in emerging markets always considered the tax system of that particular country before investing. Taxation provides the State with a quick and flexible way to increase or decrease its revenue.² This ability is all the more unfair as it can affect the private operator at any time during the project, and in particular before the commercial quantities of natural resource have even been discovered, therefore threatening the profitability of a project.³ Taxation is a tool for the State that can hinder or enhance activity in the extractive sector. States with reserves of natural resources have to weigh up the desire to appeal to investors, by way of attractive taxation, against the need to obtain a right share of the mining income.⁴

The tax regime applicable to the mining sector in Cameroon has been laydown in the Mining Law and the Finance Law which is promulgated yearly. Specifically, mining companies are liable to pay special taxes (survey and exploration fees, fixed costs and area royalty and value-based royalty), income taxes for their workers and company taxes. However, to attract potential investors in this sector, the Mining Code has offered several tax and customs exemptions. Tax incentives are measures that provide for a more

favorable tax treatment of certain activities or sectors compared to what is granted to the general industry.⁵ Many developing countries including Cameroon has resorted to use this method due to lack of funds, technical capabilities and infrastructural facilities to develop this sector. The question that begs for answer therefore is: what are the taxes and customs exemptions do mining investors enjoy in Cameroon?

4.2.1 Tax and Customs Incentives During the Exploration Phase

During the exploration phase of mining operations, exploration permit holders benefits from business licensing tax exemption, free registration of incorporation, company duration extension or capital increase and unbuilt landed property ownership transfer deeds, exemption from VAT on local purchases and on importation of materials and equipment directly related to mining operations featuring on a list jointly established by the Minister in charge of Mines and the Minister in charge of Finance.⁶

In addition, exploration holders enjoy certain customs incentives. In this regard, exploration permit holders will be granted temporary entry status for their equipment used for exploration, as well as for professional equipment, machines, appliances, mining site vehicles and spare parts. Special lubricants required for the operation of exploration plant and equipment shall be imported duty free.⁷

4.2.2 Tax and Customs Incentives During the Exploitation Phase

During the exploitation phase, mining permit holders-mining companies and enterprises shall be entitled to:

- a) payment of registration fees on incorporation, company during extension and capital increase deeds spread out over 1(one) year. Such fees may be split and paid into installments.
- b) application of an accelerated depreciation at the rate of 1.25 percent of the normal rate for specific fixed assets whose list jointly established by the Minister in charge of Mines and the

¹ Section 47 (4) of the 2023 Cameroonian Mining Code.

² Enow, B. (2022b). “Petroleum Fiscal Regimes and the Law in Cameroon”. *Journal of Taxation and Regulatory Framework*, 5(1), pp. 1-10.

³ Jeantet. (2021). *Op. Cit*, note 85, P.55.

⁴ The concept of mining income means the difference between the revenue generated by the mining activity and the costs incurred by the activity, which include ‘normal’ remuneration of the capital factor; Alain Charlet B., et al. (2013). “La Fiscalité Minière en Afrique de l’Ouest et du Centre”. *Revue de droit Fiscal*, 48, p. 14.

⁵ Klemm, A. (2010). “Causes, Benefits and Risks of Business Tax Incentives”. *International Tax and Public Finance*, 17(3), pp. 315-336.

⁶ Section 138 (1) of the 2023 Cameroonian Mining Code.

⁷ *Ibid*, Section 139 (1)(2).

Minister in charge of Finance.

- c) extension of the loss carries forward period from 4(four) to 5(five) years.¹

During the exploitation phase, the holders of a mining permit who intend to export their products will do so at zero VAT rate. Mining company deeds shall be exempted further from the payment of registration fees and stamp duty up to the date of the first commercial production, with the exception of deeds on the leasing and renting of accommodation premises.²

The Mining law equally exempts mining permit holders from paying taxes and customs duties during the mine installation or construction phase, customs duties on equipment, inputs and capital goods needed for production as well as on the first consignment of spare parts accompanying start off equipment.³

4.3 The Use of Stabilization Clauses

The State's exercise of its sovereign prerogatives can lead to a change in legislation.⁴ All of these changes, even if they do not directly affect the contractual framework, could affect the situation of the mining company who is subject to a considerable legislative hazard. These changes in the legal framework could even jeopardize the initial contractual and financial balance of the project. One major feature in mining operations is the long-term agreement. Given that these agreements may change over time, there is the need for the interest of the mining operators to be protected. One possible way of protecting their interest is through the insertion of stability clauses.

These clauses impose on the Host State the obligation of not introducing new legislative or economic terms that may affect the nature of with the mining operators.⁵ These clauses are of great interest as it limits the State's exercise of its legislative authority with regard to the private operator,⁶ thereby reducing the political risk

that results from the State's exercise of its sovereignty. The inclusion of stabilization clauses, according to which a sovereign State agrees that the exercise of its legislative or regulatory authority cannot affect or modify the contractual terms to which the parties agreed, has become widespread and constitute a commonly accepted practice.

The importance of stabilization clauses is thus entrenched in the Cameroonian Mining Law. In this regard, the Mining Code provides that: stability of the tax and customs regime shall be guaranteed for legal persons holding industrial mining and quarry operation licences and permits for a limited period.⁷ Exceptionally, holders of exploration permits may be entitled to the same guarantee, on condition that they provide evidence of convincing findings during their work. To further guaranteed stability in the contractual arrangements, the Mining Law provides that the amounts, rates and base of taxation specific to the sector, especially fixed fees, State land concession fees or area based-royalty, ad valorem tax and extraction tax, as well as tax and customs benefits on imports by mining companies shall remain as they were on the date the permit or licence was granted, and no new levy or tax whatsoever will be applicable to the permit or licence holder or beneficiary during this period.⁸

The stability period will vary depending on the nature of the mining title. For exploration permits, the stability clause shall last for the duration of the permit, including renewal periods. For quarry licence and permits, it shall last during the initial duration of the licence or permit. The duration for small scale and industrial mining permit will not exceed 15 years.⁹ The foregoing, provisions show the commitment of the Cameroonian Mining legislators to uphold the stability guarantee in mining activities carried out in the country. It is worth noting that a breach of stabilization clause is not without consequences. Though the Cameroonian Mining Law did not expressly provide for these consequences, may result to the payment of compensation for the prejudice suffered by the investor. This aligns with the

¹ *Ibid*, Section 140 (2).

² *Ibid*, Section (3)(4).

³ Section 141 (1) of the 2023 Cameroonian Mining Code.

⁴ Musatafa, E. (2011). *International Energy Investment Law through Stability Contractual Clauses*. Kluwer Law International, p. 105.

⁵ Enow, B. (2022c). "The Efficacy of Disputes Settlement in Promoting Investment in the Petroleum Sector in Cameroon". *Journal of Corporate Governance & International Business Law*, 5(1), pp. 24-33.

⁶ Article 7 of the ECOWAS Directive C/DIR 3/05/09 of 27 May 2009 on the Harmonization of Guiding Principles and Policies in the Mining Sector.

⁷ Section 149 (1) of the 2023 Cameroonian Mining Code.

⁸ Section 149 (2) of the 2023 Cameroonian Mining Code.

⁹ *Ibid*, Section 149 (3).

principle of *restitutio in integrum*.¹

4.4 Encouraged Peaceful Settlement of Mining Disputes

Mining projects require significant financial investments, on a long-term basis, which may give rise to disputes between the investor and the host State. These disputes are most often related to the political risks faced by the mining company. Beyond these political aspects, the overall economic context can also lead to litigations. Mining projects are particularly sensitive to market fluctuations, which can affect the overall financial balance of a project and lead to the suspension of mining operations.² These disputes are open to different dispute resolution mechanisms either through the judiciary or through arbitration.

The Cameroonian Mining Law directly provides for the use arbitration to resolve any dispute between the State and mining operators or between the mining operators in Cameroon.³ In the field as strategic as the exploitation of natural resources, the main advantage of arbitration is undoubtedly its neutrality. This method to settle disputes allows a private operator, depending on the subject of the dispute, to bypass the State's court system. The use of arbitration is often subject to compliance with a prior conciliation process. Recourse to arbitration is often preceded by an amicable settlement phase during which the parties are bound or entitled to attempt to amicably settle their dispute. There are many advantages to these amicable settlement clauses, also known as 'escalation clauses' or 'tiered dispute resolution clauses'. The search for a compromise avoids a decision being taken that is at times perceived as an injustice by one of the parties. The amicable search for a compromise also favours continued contractual relations between the parties.⁴

The Mining Law further promotes a peaceful way to resolve mining disputes by providing that dispute arising from the enforcement or interpretation of a mining agreement signed between a mining title holder and the State which have not been settled out of court, may be

submitted to mediation and conciliation.⁵ The author firmly affirms that the legislators due to the technicalities of mining operations strongly discourages the use of the courts to mining disputes.

4.5 Foreign Exchange Guarantees

The destination of the capital drawn from mining operations is an essential issue for the State. Injunction of the products generated by the extraction activities into the national economy represents a substantial source of development. In the meantime, the mining company wants to ensure the repatriation of profits generated by the mining activities. In this regard, guarantees of access to foreign exchange at market rates for repayment of debts, repatriation of capital and profits and purchase of essential inputs constitutes factors to attract investor's in a country's extractive sector.⁶

These factors have been taken into account by the Cameroonian Mining legislators before crafting the Mining Code. In this light, the Mining Law provides that: the freedom to transfer capital and income shall be guaranteed for foreign natural and legal persons involved in mining investments financed with hard currency.⁷ The commitments of the National legislators in enhancing the interests of investors in this sector is further seen as the Code provides that, foreign nationals who have carried out mining investments or are working in a Cameroonian mining company will have the rights to transfer in the currency assigned at the time the investment was carried out, dividends, all types of proceeds, invested capital, proceeds from the liquidation or realization of their assets, wages; as well as social security contributions and pension funds.⁸

To further guaranteed their interests, Regulation N0.1/CEMAC/UMAC/CM on the Implementation of certain provisions of the Foreign Exchange Regulations by Resident Extractive Companies was enacted in 2021. The purpose of this Regulation is to define the specific rules relating to the implementation of the obligation to repatriate foreign currency assets held outside CEMAC as well as those

¹ Abdullah, A. (2006). "Validity and Efficacy of Stabilization Clauses". *Journal of International Arbitration*, 23(4), p. 329.

² Jeantet (2021). *Op. Cit*, note 85, P.108.

³ Section 188 of the 2023 Cameroonian Mining Code.

⁴ Ortscheidt J., & Seraglini C. (2019). *Droit de l'arbitrage Interne et International*. LGDJ, Paris, p. 10.

⁵ Section 189 of the 2023 Cameroonian Mining Code.

⁶ Strongman J. (1994). "Strategies to Attract New Investment for African Mining". The World Bank Working, No.17480, p. 1.

⁷ Section 151(1) of the 2023 Cameroonian Mining Law.

⁸ Section 151(2) of the 2023 Cameroonian Mining Law.

relating to the declaration and domiciliation of imports and exports by resident extractive companies. It also determines the rules relating to the obligation of the latter to set up funds for the rehabilitation off sites at the end of their operation.¹ The regulation defines extractive companies to mean resident upstream oil and gas and mining companies, with the exception of transporters and subcontractors. In accordance with the foreign exchange regulations in force, resident extractive companies are subject to the obligation to repatriate foreign currency held, for whatever reason, outside CEMAC in the context of their activities.²

The regulation guarantees this obligation by providing that, taking into account of operating constraints, extractive companies shall repatriate to CEMAC, through credit institutions, at least 35% of the foreign currency generated by their activities, including payments in kind, whether in the form of royalties or oil or mining profits, with the exception of those relating to rehabilitation funds for sites at the end of exploitation. The minimum repatriation rate provided may be revised upwards by the Government of the Central Bank, after an evaluation of its implementation and taking into account the economic situation of CEMAC, according to a periodicity and under the terms and conditions determined by an Instruction of the Governor of the Central Bank. However, the repatriation obligation shall not apply to currency derived from: activities related to the exploration phase; resource-backed loan contracts, commonly referred to as “resource-backed loans”; any other type of financing with similar characteristics to resource-backed loans, accepted by the Central Bank at the request of the extractive company.³

The Regulation has also given the possibility for Extractive companies to hold foreign currency accounts outside CEMAC, after prior authorization from the Central Bank. This must however be solely for the purpose of carrying

out their activities.⁴ The Mining Law equally guarantees the rights of foreign employers and workers who are engaged in mining activities as of their rights; the right to freely dispose of their property and to organize their company at their discretion, the freedom to recruit and dismiss workers, the freedom to choose suppliers and service providers, free access to raw materials and inputs and free movement of their semi-finished and finished products within the national territory.⁵

4.6 Compliance with Transparency Principle in the Mining Sector

The Mining Law strengthens transparency by ensuring that the mining operators comply with the international standards put in place like the Kimberly Process for diamond mining and the Extractive Transparency Initiative. In this light, holders of mining titles are required to comply with the principles of transparency by declaring all payments made to the State.⁶ In addition, holders of diamond and gold exploration or mining permits and all players involved in the processing and marketing chain of these substances will be subject to traceability requirements and internationally recognised rules and principles.⁷

5. Challenges that Besets the Current Mining Legislations in Cameroon

5.1 Inadequacies of the Mining Law

The efforts made by the domestic legislators to enact a Mining Law that is investors centric has been highly commendable. However, despite these efforts, the Law still falls short in many aspects. Firstly, the law uses technical terms which it did not define as with the case of the mining waste licences. This has not only created ambiguity in the text but has also given room for diverse interpretation of the term. Secondly, the Law fails to specify the number of times certain mining titles are to be renewed. Thirdly, the law falls short to meet international mining standards by granting stability for tax and custom regime only to legal persons of holding industrial mining and quarry permits. This lacuna discourages investors who may want to

¹ Article 1 of Regulation N0 1/CEMAC/UMAC/CM on the Implementation of certain provisions of the Foreign Exchange Regulations by Resident Extractive Companies.

² *Ibid*, Article 2.

³ Article 4 of Regulation N0 1/CEMAC/UMAC/CM on the Implementation of certain provisions of the Foreign Exchange Regulations by Resident Extractive Companies.

⁴ Article 12 of Regulation N0 1/CEMAC/UMAC/CM on the Implementation of certain provisions of the Foreign Exchange Regulations by Resident Extractive Companies

⁵ Section 154 of the 2023 Cameroonian Mining Law.

⁶ *Ibid*, Section 107.

⁷ *Ibid*.

apply for other mining legal regimes aspect from the aforementioned. Also, the Mining Code has established nationality requirements which in turn disfavors foreign investors in getting involved in certain mining operations. In this light, the Code exclude foreign investors by providing that artisanal mining shall be carried out only by persons of Cameroonian nationality.

5.2 Lack of Transparency and Accountability in the Mining Sector

Despite significant strides that the Cameroonian government has been making to promote transparency in the extractive sector like the availability of data on payments declared by extractive companies, including the national oil company, and on revenue received by the relevant government entities, these efforts are still insufficient. The extractive sector remains one of the most secret sectors concerning the availability of data. Relevant information as to how mining permits and licenses are granted still remains inaccessible. This has not only contributed to the issuing of illegal mining permits but has encouraged greater number of the mining operators to operate without conforming to regulatory standards in existence. This may result in the development of an underground economy with the risk of undermining the national economy. In addition, the participation of civil society within EITI in Cameroon is very weak which could be used to influence public decision making. This even explained why Cameroon was suspended from the EITI's program in March 2024.

5.3 Infrastructural Challenges

The inadequacy of infrastructure represents a challenge that has plagued the extractive industries in Africa, particularly Cameroon. The main difficulty results from the financing of these infrastructures. Cameroon have limited access to the infrastructures needed for the processing of mineral resources on their national territory, forcing her to export it natural resources unprocessed, thus foregoing the potential capital gain resulting from the export of raw materials. This lack of infrastructures deprives the State from many benefits; the promotion of natural resources on the national territory would allow them to supply the local market without having to import raw materials, to create jobs and to increase the State's tax

revenue by realizing capital gains.¹

Though efforts have been made to establish a closed-system gold processing system in Kette, Kadey Division of the East region of Cameroon through a joint venture of Cameroon Xin Wang Mining Sarl and Codias S.A., it still remains inadequate as the plant is meant only for small scale gold processing.² Industrial or large-scale gold processing cannot be processed at the plant. The aftermath will be exporting of minerals for processing abroad. In addition, most of the mining sites or areas in Cameroon are inaccessible due to poor roads or transport network.

5.4 Environmental Issues Associated with Mining Operations

It is no news that the extractive industries are at the forefront of environmental degradations. Mining projects has significantly modified the territorial landscape especially in those areas where the activities are carried out. These environment effects can emerge from soil erosion, degradation or water contamination caused by chemicals, disappearance of hills or mountains, diversion of rivers or ground water and land subsidence.³ The effects of mining extend beyond the mine itself; mining operations have an impact on farming and fishing and the lived environment around the mines are all changed. A glaring example of mining resulting in land degradation is seen the small-scale mining in Kempele. Also, a 30 years old abandoned pit of about 15 metres deep which is about 50cm from the main foot path in Batouri mining site stand out to be a serious danger on the population of the area. It is an underground tunnel of about 25 metre long excavated in Mongolia in such of gold.⁴

6. Conclusion

The Cameroonian government has not been indifferent in developing her extractive sector like other States. The government has carried out series of legislative reforms with all in an attempt to make this sector attractive to investors. A well-defined body — SONAMINES

¹ Tax revenue derived from the export of raw materials obviously exceeds that generated by the export of unprocessed resources.

² The Guardian Post (2024), Available at theguardianpostcameroon.com (Lastly accessed on 5th June 2024).

³ Jeantet. (2021). Op. Cit, note 85, p. 103.

⁴ Forjindam D. (2021). Op. Cit, note 21, p. 338.

has been established with the aim to develop and promote the mining sector in Cameroon. The Mining Law through Tax incentives, stability clauses, peaceful resolution of mining disputes and guarantee of miners' rights provides a suitable investment climatic as far as this sector is concerned. This notwithstanding, the inadequacies of the Mining Law, lack of transparency and accountability amongst others stands as a stumbling block to the continuous growth of this sector. As a result of the aforementioned problems, the researcher puts forth the following as recommendations: both nationals and non-nationals should be involved in artisanal mining, tax incentives should not only be limited to holders of semi mechanized and industrial mining permits or licences, transparency and accountability should be strengthened through continuous publication of mining data and declaration of revenue obtained from this sector, and rehabilitation of the mining sites should be effectively supervised by the concerned body.

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