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Cameroon: Law & Practice
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CAMEROON

Law and Practice

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1. Mining Law: General Framework

1.1 Main Features of the Mining Industry
The mining industry in Cameroon is rich and diversified. Indeed, the Cameroonian territory abounds in a diversity of exploitable and marketable mineral substances, such as iron; manganese; rock titanium; chromium; vanadium; copper; lead; zinc; cadmium; germanium; iridium; selenium; tellurium; molybdenum; tin; tungsten; nickel; cobalt; platinoids gold; silver; magnesium antimony; barium; boron; fluorine; sulphur; arsenic; bismuth; strontium; mercury; titanium; zirconium in sand; rare earths; coal and other fossil fuels; uranium and other retroactive elements; phosphate; bauxite; sodium and potassium salts; alum; sulphates other than alkaline earth sulphates; minerals mined for industrial uses; marble, limestone and any industrial or ornamental rock; chalcedony and opal; ruby, sapphire, emerald, garnet, beryl, topaz and any other semi-precious stones; and diamond.

The mining industry in Cameroon is still under-exploited, despite the will of the government to make Cameroon one of the most important mining countries in Africa through the production, transformation and commercialisation of its mining resources for the socio-economic development of the country. A small percentage of the mineral substances in its territory are exploited through artisanal mining; however, no industrial mining project is in operation.

The mining industry in Cameroon is mainly operated by individuals for artisanal mining and junior companies for industrial mining. However, the state also participates through SONAMINES, which is the public company in charge of the state’s interests in the share capital of mining companies.

The mining industry in Cameroon is attractive. The Mining Code, for example, establishes a system of fiscal and customs incentives for investors in both the exploration and exploitation phases of their mining projects.

The mining industry in Cameroon is in perpetual development and in permanent construction with the participation of different actors, notably the government, parliament, mining companies, civil society and mining craftsmen.

1.2 Legal System and Sources of Mining Law
The Cameroonian legal system is based on both civil law and common law.

Mining legislation in Cameroon (mainly Law No 2016/017 of 14 December 2016 on the Mining Code) is inspired by several sources, namely:

- international standards of extractive governance;
- the EITI Standard (Extractive Industries Transparency Initiative);
- the Kimberley Process;
- African Union mining general policies;
- the Dodd–Frank Act; and
- the principles of sustainable development and good practice recommended in the mining sector by the World Bank in its Extractive Industries Good Practice Guidance.

The EITI Standard is an international standard that aims at transparency for oil, gas and mining resources in different countries.

The Kimberley Process is an international rough diamond certification scheme that brings together governments, civil society and the diamond industry to prevent the purchase of diamonds on
the world market by rebel movements to finance their military activities.

African Union mining general policies are mainly reflected under the Africa Mining Regime Vision, which is a common public policy document adopted at the African Union Heads of State Summit in February 2009 in Addis Ababa, Ethiopia, that aims at the fair and optimal exploitation of mineral resources for broad-based sustainable growth and socio-economic development.

The Dodd–Frank Act is a 2010 US law applicable to extractive companies listed on the US stock exchange.

1.3 Ownership of Mineral Resources
In accordance with the provisions of the Cameroonian Civil Code, ownership of the soil entails, in principle, ownership of the top and bottom. However, mineral substances are an exception to this general principle as any mineral substance contained in the soil and subsoil of the territory of the Republic of Cameroon is the property of the state, which exercises sovereign rights therein in accordance with the provisions of the Mining Code. The state is the only authority entitled to grant mining permits.

1.4 Role of the State in Mining Law and Regulations
The state has several roles in mining in Cameroon:

• grantor-regulator through the Ministry of Mines, Industry and Technological Development; and
• owner-operator through the public company SONAMINES.

The Mining Code provides for a mandatory 10% shareholding minimum, which is free of charge in all operating mining companies; the state can increase its stake to 25% additional shareholding (not free of charge).

1.5 Nature of Mineral Rights
The Cameroonian Constitution provides that the regulation of mining matters is a matter for the law.

However, mining rights are derived from the law (the Mining Code), the Mining Convention and the specifications of the exploration permit.

1.6 Granting of Mineral Rights
The granting authorities in Cameroon are the following.

• The minister of mines is the national authority in charge of the issuance of the following mining titles: reconnaissance, research, small-mine exploitation permits, mineral and thermo-mineral water exploitation permits and geothermal deposits; he also signs the Mining Convention on behalf of the state.
• The President of the Republic is the national authority in charge of the issuance of an exploitation permit for an industrial mine, and an exploitation permit for an industrial quarry.
• The regional delegates of the Ministry of Mines, Industry and Technological Development are the regional authorities in charge of the issuance of artisanal mining permits and semi-mechanised artisanal mining permits.

However, there are cases of overlapping jurisdiction, notably when:

• authorisation for semi-mechanised artisanal exploitation of precious and semi-precious substances can only be granted in a research
permit by the minister in charge of mines, after prior approval by the President of the Republic; and

- a research permit is granted by the minister in charge of mines only after the prior approval of the President of the Republic.

1.7 Mining: Security of Tenure
In accordance with the Mining Code:

- the minimum duration of a research permit is two years, renewable three times for two-year periods, for a maximum period, including renewal, of nine years, at the end of which the private operator must put an end to its research or apply for an exploitation permit, while the granting of a small-scale or industrial mining permit results in the cancellation of the exploration permit within the perimeter of the mining permit;

- the minimum duration of an exploitation permit for small mining is five years, renewable for three-year periods; and

- the minimum duration of an exploitation permit for industrial mining is 20 years, renewable for ten-year periods.

2. Impact of Environmental Protection and Community Relations on Mining Projects

2.1 Environmental Protection and Licensing of Mining Projects
The procedure for carrying out an environmental and social impact study is performed by firms approved by the Ministry of the Environment, which, in turn, issues an environmental certificate of conformity at the end of the process. This procedure is formalistic and costly, as the fees required are substantial and the timeframe for the issuance of the environmental compliance certificate is very long.

2.2 Impact of Environmentally Protected Areas on Mining
There are protected areas in Cameroon. Indeed, the issuance of an exploitation permit is subject to the prior completion of hydrogeological, geophysical, bacteriological and physico-chemical studies that define the conditions of exploitation and the vulnerability studies of the water table in order to determine the protection and security perimeter.

The protection zones may be established by the minister in charge of mines in liaison with the administrations concerned; within which, prospeacting, research and mining of mineral substances or quarries are prohibited.

2.3 Impact of Community Relations on Mining Projects
The Mining Code addresses the issue of community relations in the context of mining projects by taking into account the impact of these projects on the economic, cultural, industrial and technological development of Cameroon and, more specifically, on the development of human resources and the development of local businesses, industries and youth employment.

The Mining Convention provides for specific local content, taking into account the needs of communities surrounding mining projects.

2.4 Prior and Informed Consultation on Mining Projects
Prior consultation is mandatory and is done by the investor in co-operation with the state, regional and local authorities, and civil society.
2.5 Impact of Specially Protected Communities on Mining Projects
There is no community that enjoys special protection in Cameroon.

2.6 Community Development Agreement for Mining Projects
It is usual to have community development agreements in Cameroon referred to under the relevant mining agreement.

The local populations affected by the project must be consulted first for the allocation of the land necessary for the exploitation of the mineral substances, and secondly to identify the needs of the locality and finalise the local content in the agreement.

2.7 Environmental, Social and Governance (ESG) Guidelines and Regulations
Mining regulations in Cameroon include numerous rules relating to governance and transparency stemming from the EITI and the Kimberley Process, as well as provisions relating to respect for the environment or at least the requirements of sustainable development.

2.8 Good and Bad Examples of Community Relations/Consultation Impacting Mining Projects
In the Ngoura district in the East Cameroon region, local people are angry at the mining operators, and the traditional authorities have reported the excessive monopolisation of their land by the mining operators to the administrative authorities. They felt that the mining operators were taking advantage of their mining permits to appropriate thousands of hectares of land in the villages.

As the majority of industrial projects are still at the structuring phase, it is not possible to provide good examples of environmental and community relations around mining projects in Cameroon.

3. Climate Change, Energy Transition and Sustainable Development in Mining

3.1 Climate Change Effects
Theoretically, initiatives to address climate change affect the mining industry to the extent that they prevent or reduce mining activities in certain areas on the one hand, and require environmental compliance on the other.

3.2 Climate Change Legislation and Proposals Related to Mining
There is no climate change legislation related to mining that has been adopted or is under discussion.

3.3 Sustainable Development Initiatives Related to Mining
Several initiatives for the achievement of sustainable development objectives, notably measures related to the fight against climate change, exist in Cameroon, including:

- reform of the normative and institutional forestry framework in order to align it with the requirements of sustainable management of forest resources in accordance with the resolutions adopted at the Earth Summit in Rio de Janeiro in 1992;
- the promulgation of new laws relating to environmental management (eg, Framework Law No 96/12 of 5 August 1996);
- the creation of a Ministry of the Environment and Forestry;
• the establishment of a forestry policy document and realisation of a forestry zoning plan for Southern Cameroon;
• the implementation of a National Environmental Management Programme (PNGE);
• launching of the Forest and Environment Sector Programme (FESP); and
• the participation of Cameroon in the negotiations of the United Nations Framework Convention on Climate Change.

3.4 Energy-Transition Minerals
To date, neither the government nor the parliament has adopted any initiatives related to the growing demand for lithium and nickel.

4. Taxation of Mining and Exploration

4.1 Mining and Exploration Duties, Royalties and Taxes
Mining exploration and exploitation in Cameroon is subject to the General Tax Code and to a specific regime granting tax and customs advantages to mining companies.

The General Tax Code requires mining companies to pay the taxes and duties applicable to all companies, particularly corporate tax. In addition, during the exploration phase, the mining company is required to pay specific taxes such as the fixed fee for the allocation of exploration permits. This fixed fee is based on the surface area of the requested exploration perimeter and the annual surface royalty is payable no later than 31 January each year.

During the exploitation period, the holder of the mining title is subject to a state concession fee at the beginning of each financial year. The cost of the royalty depends on the surface area of the mining title. However, an ad valorem tax will be paid on each mined resource.

The mining legislation does not distinguish between the taxation of national and international investors.

4.2 Tax Incentives for Mining Investors and Projects
The Mining Code grants several advantages to mining companies depending on whether they are in the exploration or exploitation phase.

Tax incentives in the research phase include:

• exemption from the contribution of patents;
• free registration of incorporation deeds, company extension deeds or capital increase deeds, and transfers of undeveloped real estate; and
• a VAT exemption on local purchases and on imports of materials and equipment directly related to mining operations appearing on a list drawn up jointly by the Ministry of Mines, Industry and Technological Development and the Ministry of Finance (subject to the presentation of a VAT exemption certificate issued by the tax authorities).

Tax incentives in the exploitation phase include:

• the payment of registration fees on the acts establishing the company spread over one year, and extension and increase of capital;
• the application of accelerated depreciation at the rate of 1.25% of the normal rate for specific fixed assets, the list of which is fixed by a joint order of the Ministry of Mines, Industry and Technological Development and the Ministry of Finance;
• the extension of the duration of the loss carry-forward from four to five years; and
• the imposition of a zero rate of VAT on products destined for export when they are subject to this tax.

Tax stabilisation agreements are available.

4.3 Transfer Tax and Capital Gains on the Sale of Mining Projects
Transfers or capital gains on the transfer or sale of a mining project are subject to a 15% capital gains tax. This levy applies to all transfers, even outside Cameroon.

5. Mining Investment and Finance

5.1 Attracting Investment for Mining
The following elements help attract investors:

• transparent regulation;
• administrative facilities;
• an attractive tax framework; and
• strengthening the infrastructure to support mining, exploration and development activities.

5.2 Foreign Investment Restrictions and Approvals in the Exploration and Mining Sectors
There are no special rules on the approval of foreign investment in Cameroon subject to declarations to the central bank and Ministry of Finance. However, there are restrictions for foreign investors in the mining sector in Cameroon.

As such, foreign legal entities and individuals operating in the mining sector cannot obtain a mining title in Cameroon unless they have an incorporation in Cameroon.

To this effect, they cannot carry out any of the mining activities carried out by an artisanal miner, an operator holding a reconnaissance permit, a research permit, a small mine permit or an industrial mine permit without the company being registered in Cameroon.

5.3 International Treaties Related to Exploration and Mining
Cameroon is not party to any treaty that specifically promotes and protects mining investments, but to treaties that promote and protect investments in general, including in the mining sector. Cameroon is party to the following conventions:

• the Bilateral Agreement between the government of the Republic of Mauritius and the government of the Republic of Cameroon of 3 August 2001 on the reciprocal promotion and protection of investments – this agreement aims at creating favourable conditions for investments made by investors from Cameroon and Mauritius in their respective territories;
• the Agreement between Canada and the Republic of Cameroon of 2014 concerning the promotion and protection of investments – this agreement is intended to create favourable conditions for investments made by investors from Cameroon and Canada in their respective territories;
• the Agreement on Trade, Investment Protection and Technical Co-operation between the Swiss Confederation and the Federal Republic of Cameroon of 28 January 1963;
• the Agreement between the government of the Republic of Cameroon and the government of the Republic of Mali of 18 May 2001 on the reciprocal promotion and protection of investments – this agreement aims at creating favourable conditions for investments made by investors from Cameroon and Mali in their respective territories;
the Agreement between the government of the Republic of Cameroon and the government of the Republic of Guinea on the reciprocal promotion and protection of investments – the purpose of this agreement is to create favourable conditions for investments made by investors from Cameroon and Guinea in their respective territories;
• the Agreement between the government of the Republic of Cameroon and the government of the Islamic Republic of Mauritania on the reciprocal promotion and protection of investments – this Agreement aims at creating favourable conditions for investments made by investors from Cameroon and Mauritania in their respective territories;
• the Agreement between the government of the Republic of Cameroon and the government of the Arab Republic of Egypt on the reciprocal promotion and protection of investments – this agreement aims at creating favourable conditions for investments made by investors from Cameroon and Egypt in their respective territories;
• the Agreement between the government of the United Republic of Cameroon and the government of the Socialist Republic of Romania on the reciprocal guarantee of investments – this agreement aims at creating favourable conditions for investments made by investors from Cameroon and Romania in their respective territories;
• the Agreement between the government of the United Republic of Cameroon and the government of the Kingdom of Morocco of 24 January 2007 on the reciprocal encouragement and protection of investments – this agreement aims at protecting foreign investments in order to promote the economic prosperity of both countries;
• the Agreement between the government of the Republic of Cameroon and the government of the Republic of Italy of 12 June 1999 on the reciprocal promotion and protection of investments;
• the Agreement between the government of the Republic of Cameroon and the government of the Republic of Turkey of 24 April 2012 on the reciprocal promotion and protection of investments;
• the Agreement between the government of the Republic of Cameroon and the government of the Republic of Great Britain and Northern Ireland of June 1982 on the reciprocal promotion and protection of investments;
• the Agreement between the government of the Republic of Cameroon and the government of the Belgo-Luxembourg Economic Union of 27 March 1980 on the reciprocal promotion and protection of investments;
• the Agreement between the government of the Republic of Cameroon and the government of the Federal Republic of Germany on the reciprocal promotion and protection of investments; and
• the Agreement between the government of the Republic of Cameroon and the United States of America of 1 December 2003 on the reciprocal promotion and protection of investments.

5.4 Sources of Finance for Exploration, Development and Mining
Exploration activities in Cameroon are generally financed by the mining operators’ equity at the exploration phase. These funds are generally derived either from the cash flow of the mining operator’s parent company, from the cash flow of the mining operator, or from loans granted by the mining operators to local or foreign credit institutions.
Exploitation activities in Cameroon are generally financed by international lenders specialised in the mining sector.

5.5 Role of Domestic and International Securities Markets in the Financing of Exploration, Development and Mining
The roles of the international and national securities markets are:

• to mobilise the savings needed to finance the exploration, exploitation and development of mining activities; and
• to attract potential investors to finance mining projects.

5.6 Security Over Mining Tenements and Related Assets
Security interests in mining titles or in assets related to them do not have any particular characteristics.

Following the example of common law securities enshrined in the OHADA Uniform Act on Securities of 15 December 2010, securities on mining titles are characterised by their accessory nature. As such, they guarantee the repayment by the mining operator of the loan granted by the lender(s).

6. Mining: Outlook and Trends
6.1 Two-Year Forecast for the Mining Sector
In the coming years, the government plans to:

• implement the major first-generation mining projects that are being structured;
• develop the mining sector by strengthening the security of mining conventions, following a general audit that should propose a redirection of the policy of awarding mining concessions to transnationals and the obligation to subscribe to contracts;
• actively support the best local companies that are themselves directly involved in the mining value chain, without subcontracting their conventions to foreign partners;
• provide systematic support to inter-professional organisations that oversee the artisanal sectors in the exploration, exploitation and marketing of gold, limestone and precious minerals (diamond, sapphire, corundum, etc) and in the mining industry;
• continue the inventory of the national geological potential through the production and updating of large-scale maps (scales greater than or equal to 1:200,000) to facilitate the exploration of deposits and the diversification of minerals and mining materials; and
• strengthen institutional capacity by fully upgrading the equipment of the national research laboratories in the sector.

The outbreak of the COVID-19 pandemic did not have a major impact on mining regulations.
Amadagana & Partners (A&P) is a business law firm with a legal team of 12 lawyers. A&P has its main office in Yaounde, Cameroon and a secondary office in Paris. In terms of mining expertise, A&P’s lawyers have advised mining companies in legal and regulatory due diligence, as well as in the drafting and (re)negotiation of mining concessions, permits and investment and partnership agreements. In the mining sector, the firm has advised many sponsors including, in 2022, a major mining group in connection with its establishment in Cameroon for the development of a mining exploration project. Despite the complexity due to the absence of key regulatory texts, A&P provided innovative solutions and key insights on the sector to its client. The firm has also contributed to setting up the Cameroonian Mining Association which brings together the main operators of the mining sector in Cameroon.

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