

## **CREATION OF SONAMINES: WHAT WILL CHANGE?**

The difficulties associated with mining in Cameroon are manifold. This is not only due to the impertinence or the insufficiency of texts, but also and especially due to deficits of integrity in the mining value chain in Cameroon. To attract investors in the mining sector, and promote the sustainable exploitation of mineral resources, the State of Cameroon has undertaken many efforts that have resulted in the creation of institutions such as CAPAM and the adoption of the mining code of 2016. The existing institutions and texts do not necessarily alleviate the controversy that this sector arouses in our country. Write-ups abound, such as work of student researchers in the mining sector and the advocacy of civil society (in this case Transparency International, Foder and others) which denounce upstream, influence peddling, favoritism, fraud, corruption, etc. . Downstream, we find in the exploitation, the use of prohibited equipment, the non-recording of the quantities produced, the exploitation without authorization and the non-respect of the allocated spaces. Faced with all these difficulties, the list of which is not exhaustive, the Head of State signed on December 14, 2020, a decree creating the SONAMINES (National Mining Corporation) with mandate to henceforth manage the interests of the State in the mining sector. It is placed under the supervision of two ministries, in particular that of the Ministry of Mines which provides technical supervision and the Ministry of Finance which provides financial supervision. The advent of this decision raises questions: has the advocacy of civil society aroused an awakening of decision makers and the reaction of the Head of State? Does the creation of SONAMINES resolve the value crises within the mining sector in our country? What will change after this decree?

The answers to these questions are the subject of this article. On the one hand, we will analyse SONAMINES with the difficulties linked to mining in our country (I), and in a second part we will try to see what will change after its material establishment (II).

### **I- SONAMINES FACING DEFICITS OF INTEGRITY IN THE MINING VALUE CHAIN**

Integrity in our view refers to behavior and actions in accordance with a set of ethical and moral principles, which prevent corruption<sup>1</sup>. Shown from the perspective of governance, integrity faces corruption to achieve a high dimension of ethics in mining management.

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<sup>1</sup> Definition by TI, Combating Corruption in Judicial Systems (Berlin: TI 2007).

[www.transparency.org/content/download/27437/413264/file/judiciary\\_advocacy\\_Toolkiy.pdf](http://www.transparency.org/content/download/27437/413264/file/judiciary_advocacy_Toolkiy.pdf)

These deficits are identified in the advocacy of civil society (A), the impact of which is no longer to be demonstrated (B).

### **A- The content and relevance of civil society advocacy (TI-C and FODER)**

The natural resources governance index of the Natural Resources Governance Institute (NRGI in 2017) denounces the mediocrity of the general conditions of governance in Cameroon, i.e. 33/100. Transparency International's Corruption Perceptions Index for 2019 reports a score of 25/100, (well below average). The causal link between the two indices is direct. These results demonstrate that improving extractive governance is necessary to positively impact the management of natural resources.

According to the Support Framework for Mining Handicrafts, "Cameroon's public treasury loses about one billion FCFA each month due to the concealment of resources produced by mining companies".

TI-C and FODER's advocacy is therefore based on a few recommendations:

Return to the non-cohabitation of exploration permits and artisanal mining authorizations;  
 Strict application of the principle of reserving the exercise of artisanal mining only to natural persons of Cameroonian nationality and of semi-mechanized artisanal mining exclusively to companies under Cameroonian law.

Specify, for each site being sampled, the average degree of purity of the gold present, thus opening the way to optimization of revenues and their better distribution and management.  
 Communicate to the CTDs the documents specifying the mining revenues which are directly allocated to them or which are allocated to their respective populations, in order to centralize the information relating to their distribution or management.

Finalize the implementing texts of Law No. 2016/017 of December 14, 2016 on the Mining Code;

Build the capacities of stakeholders involved in the extractive industries value chain on the mining code, the penal code and any other text intended to limit integrity deficits. All this must be crowned by the implementation of the penalties provided against offenders.

This thunderous plea did not fall on deaf ears. In fact, the decision of the Head of State to create SONAMINES complements the actions already taken by the Cameroonian State at the legal and institutional level, partly responding to the aforementioned concerns.

### **B- Decree on the creation of SONAMINES: Proof of the government's reaction to a relevant advocacy from civil society.**

Government created in 2003 the “unit for support and promotion of artisanal mining” (CAPAM) with main missions the coordination, organization, support, facilitation, promotion and development of mining activities in Cameroon. On December 14, 2020, the President of the Republic signed a decree establishing the National Mining Corporation (SONAMINES). The latter characterized by a particular legal regime, is a company having as sole shareholder the State. With legal personality and financial autonomy, it is mandated to defend the interests of the State in the mining sector. There is a slight progress which we have demonstrated sufficiently in the second part of this article. However, it could be said here without risk of being mistaken, that the action of civil society on the ground sufficiently publicized has helped decision-makers to pay particular attention to the mining sector in Cameroon despite the current health and security crisis that call for attention. A comparative study reveals among others a striking concordance between the advocacy of TI-C and FODER on the one hand, and the missions assigned to SONAMINES on the other. SONAMINES has as role inter alia, the realization of the inventory of mining indices in conjunction with other administrations and competent bodies; carry out studies and activities relating to the exploration and exploitation of mineral substances, ensure the implementation of measures relating to the restoration, rehabilitation and closure of mining sites after exploration and exploitation together with other administrations; collect and keep documentation on mining substances and mining activities in accompanied by the ministry in charge of mines.

However, good governance and transparency in the mining sector requires the establishment and application of a regulatory framework capable of guaranteeing optimal revenue collection, followed by their equitable redistribution. Evolution of legislation in this direction has been observed. Thus, Cameroon has taken a big step in integrating the Kimberly process since 2012 in order to maximize and capitalize its mining exploitation on a global scale. Following this integration, texts were revised in this area until the adoption of **Law No. 2016/017 of December 14, 2016 on the Mining Code**. In 2017, **Law No. 2017/011 of July 12, 2017 on the general rules and regulations governing public corporations** to reinforce administration in their actions. Finally, **law n ° 2018/011 of July 11, 2018 on the code of transparency and good governance in the management of public finances in Cameroon** came as a direct response to the cries of civil society which denounces corruption and poor governance in all sectors of public action.

Basically, looking at the genesis and the evolution of the mining sector, we can boast of having made progress on the institutional level through the creation of SONAMINES which will have to collaborate with other public sector administrations. It would be showing bad faith if we do not also acknowledge the legislative advances. There are still

many questions to be answered to achieve a material impact on the ground: On the one hand, will the creation of SONAMINES change anything in compensation for integrity deficits in the mining value chain in Cameroon? On the other hand, is the legal progress sufficient to date in their practical implementation to boost mining and make it profitable at its fair value?

## **II- MOVING TOWARDS THE EMERGENCE OF A NEW ERA IN THE MINING SECTOR**

It is necessary here to determine whether SONAMINES, which succeeds CAPAM, will bring added value to the mining sector (A) but also to identify the deficit factors following the advent of SONAMINES (B).

### **A- SONAMINES and CAPAM: Evolution or Stagnation**

SONAMINES (National Mining Corporation) has been the successor structure of CAPAM since December 14, 2020. Decree n ° 2020/749 of December 14, 2020 creating SONAMINES, refers to it as “CORPORATION”. By corporation, it should be understood to mean a structure conferring a legal personality on an economic entity made up of several people who pool goods, rights, capital or services for a specific objective stated in the agreement unlike CAPAM (unit for support and promotion of artisanal mining) which was created under decision No. 238 / MINMEE / CAB of April 1, 2003.

Thus, with regard to the texts that create these two entities, we observe a formal evolution. One of CAPAM's missions has been the need to put in place a program that enhances the potential of the 371 municipalities. However, in a context where decentralization has not reached its expected point, CAPAM has therefore failed to implement a real policy in this direction. This led to a legal framework set up to oversee the decentralization process, particularly the the general code of regional and local authorities<sup>2</sup>.

The creation of SONAMINES following the law on decentralized territorial communities therefore corrects and intensifies the shortcomings to which CAPAM has been subjected, in particular by promoting the products from the mining reserves of each of the 371 districts, by realizing the mining potential of these 371 municipalities, by revitalizing local production and encouraging its vulgarization and dissemination.

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<sup>2</sup> Law N° 2009/024 of 29 December 2019 to institute The General Code of Regional and Local Authorities.

A fundamental change with regard to the decree of 14 December, 2020 which creates SONAMINES is in its article 3 (1) which endows this entity with a LEGAL PERSONALITY whereas the former entity did not have any legal personality whatsoever.

In addition, SONAMINES is changing the mode of administration whereas CAPAM, was a nit under the supervision of a supervisory committee headed by the Minister of Mines who until then carried out institutional missions<sup>3</sup>. With the arrival of SONAMINES, this supervision will disappear to make way for a set of bodies including the General Assembly, the Board of Directors and the Director General of SONAMINES (Art 8 of the decree establishing SONAMINES);

**B- The Subsistence of the Deficit of the Texts of Applications (Implementing decrees) to the Mining Code and the Sempiternal Deficit in the Mining Value Chain in Cameroon.**

In fact, since the promulgation of the decree on the mining code in Cameroon, stakeholders in this sector have been unfairly hindered from the deployment of their resources due to the absence of implementing texts.

One of the main reasons for the slowdown in mining activity is the lack of implementing texts. This is one of the observations of the advocacy by civil society actors<sup>4</sup>.

It is also necessary to circumscribe the exercise of mining activity by redefining the conditions and limits of this activity. This comes back to the non-cohabitation between the various exploration permits and the artisanal mining authorizations which are issued illegally and abusively by the administration. Likewise, it is advisable to clean up the file of operators in this sector through an inventory of up-to-date permits with regard to their renewal.

Implementing texts must be put in place with immediate effect to strengthen the application of the mining code. The principle posed by the mining code is that of the exercise of

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<sup>3</sup> See section 4 of the decree creating CAPAM( organization at the level of each mining village of GICAMINES; facilitation of progressive license, establishment of artisanal mining sites; sensitization of artisanal miners on new institutional and legal frameworks; taking measures for easy access to artisanal mining etc.)

<sup>4</sup> Study on the cartography of the integrity deficits in the mining value chain in Cameroon. December 2020.

artisanal mining *stricto sensu* only to natural persons of Cameroonian nationality<sup>5</sup> and of semi-mechanized artisanal mining exclusively to companies under Cameroonian law<sup>6</sup> justifying at least 51 % of shares reserved for nationals.

There is need to specify, even by regulatory means, for each site subject to sampling, the average degree of purity of gold in existence, thus paving the way for maximizing revenues and consequently, their better distribution and management. Such a regulation will clarify and complete the missions assigned to SONAMINES with regard to the development of the mining potential of the 371 councils of Cameroon.

Also firmly apply the sanctions provided for by law against violators in order to limit the integrity deficits that are present in the value chain of the extractive industries.

When implementing texts by decree or by regulatory means are adopted, we will thus be able to limit the illicit transactions which take place between State agents and accredited companies; between the state and the populations who demand effectiveness in the decentralization process.

In view of this commendable progress linked to the creation of SONAMINES, the mining sector still deserves major reform. This will drastically reduce acts of corruption.

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<sup>5</sup> Section 22 (1) of law n° 2016/017 of 14 December 2016.

<sup>6</sup> Section 27 (1) of law n° 2016/017 of 14 December 2016