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ANALYSIS OF THE MAIN CHANGES OF THE 2022 FINANCE ACT

February 16, 2022

ANALYSIS OF THE MAIN CHANGES IN THE 2022 BUDGET LAW

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Law No. 2021/026 of December 16, 2021 to enact the Finance Law of the Republic of Cameroon for the fiscal year 2022 was published in the Official Gazette on December 17, 2021 (hereinafter the "2022 Finance Law").

The LF 2022 was prepared in accordance with the President of the Republic's circular of August 30, 2021 on the preparation of the State Budget for the fiscal year 2022. The said circular requested the continuation of the optimization of non-oil revenues in a context of timid recovery of the post-Covid world economy but also the strengthening of the modernization of the efficiency and equity of the tax system.

We will present below the main "fiscal" (internal taxation) and "customs" (door tax) measures of the LF 2022, in force since January 1st, 2022.

As part of our analysis, we will also draw on the Minister of Finance's circular n°00000/C/MINFI/456 of December 30 on 2021 instructions for the execution of the budget laws, and the monitoring and control of the execution of the State budget and other public entities for fiscal year 2022 (hereafter, the "CIREX").

1. THE MAIN "TAX" CHANGES IN THE FINANCE LAW

The main tax changes in the 2022 Finance Law can be grouped into seven (07) categories of measures: measures relating to corporate income tax (1.1), measures relating to personal income tax (1.2), measures relating to the Special Tax on Income (1.3), measures relating to the Value Added Tax (1.4), measures relating to the Money Transfer Tax (1.5), measures relating to registration fees (1.6), measures relating to tax procedures (1.7) and other tax and financial provisions (1.8).

1.1. Measures relating to the Corporate Income Tax

1.1.1. Relief from the deduction of bad debt losses

Previously, in addition to the general conditions for deductibility of provisions, the deduction of bad debts was conditioned by :

- Lack of real security;
- The justification of the irrecoverable character by the exhaustion of the ways and means of amicable or forced recovery provided by the OHADA uniform act.

Henceforth and exclusively for the 2022 fiscal year, losses relating to doubtful debts of less than 500,000 FCFA that have been provisioned over a period of five (05) years are automatically deducted without the need to prove that the amicable or forced recovery procedures provided for by the regulations in force have been exhausted.

An analysis of the 2022 Finance Act shows that in order to benefit from this measure, the taxpayer must ensure that the provision is indicated on the FSDs¹ for the five years preceding the application for deductibility. In practical terms, therefore, the first applications of this measure will not be made until 2027.

1.1.2. Rationalization of the withholding tax system on purchases

The streamlining of the withholding tax system concerns the reorganization of the rates and the extension of the scope of application.

With regard to the reorganization, the LF 2022 has reduced the number of rates of withholding tax on purchases, in particular through the abolition of the 15% and 20% rates. In the past, these rates were applied as a penalty on the amount of transactions carried out by taxpayers not on the file of a tax center and carrying out import operations and even more seriously when these taxpayers made sales under customs control.

With regard to the extension of the scope of application, purchases made from industrialists, importers and forestry operators, including those made by final consumers, are now subject to a withholding tax. However, purchases made by the State, CTD² and persons domiciled abroad, purchases made by registered industrialists and subject to the real regime for the needs of their operation, local purchases of petroleum products made by *marketers* registered in the file of active taxpayers of the Directorate of Large Enterprises are exempt from the said withholding tax.

For the record, *marketers* are companies that distribute refined petroleum products.

1.2. Measures relating to the Personal Income Tax (IRPP)

1.2.1. Simplification of the methods of taxation of property income

Since January 1^{er}, 2022, taxpayers receiving property income not subject to withholding tax will benefit from the following advantages

- Submission to the tax on property income at the rate of 10% plus the Additional Communal Centimes (CAC);
- Exemption at the end of the fiscal year from payment of any of the said income;
- However, taxpayers are still required to file an annual income tax return.

Previously, taxpayers receiving property income that was not subject to withholding tax were required to pay by return:

- At the latest on the 15th of the month following the end of each quarter of the fiscal year, an advance payment of IRPP fixed at 5% of the rent actually collected;
- At the latest on March 15 following the fiscal year to which the income in question is attached, the balance of the tax definitively due at the end of the fiscal year.

1.2.2. Clarification of the tax regime for non-profit organizations (NPOs)

NPOs are defined by the tax authorities as entities that do not carry out economic activities for the purpose of profit distribution and do not compete with the commercial sector. In order to establish this new tax regime, the tax authorities have considered three (03) distinct cases, namely (i) NPOs not

¹ Note C 28: summary table of tax treatment of provisions for the year.

² Decentralized Territorial Communities.

carrying out economic activities, (ii) NPOs carrying out economic activities on an ancillary basis and (iii) the specific case of educational institutions.

1.2.2.1. The tax regime for NPOs not engaged in economic activity

The case considered here is that of NPOs whose mode of management is totally disinterested and whose activity is not in competition with that carried out by market sector entities.

For these NPOs, an exemption from the patente, the corporate tax and the tax on real estate has been established.

However, the latter remain subject to :

- VAT on their acquisitions of goods and services;
- Registration and stamp duties;
- Personal income tax on their investments; and
- Withholding of taxes for which they are legally liable.

In addition, NPOs that do not carry out economic activities are also subject to the following obligations:

- Fiscal registration materialized by the related registration certificate;
- Monthly return of taxes for which they are liable;
- Annual FSD return submitted in accordance with the OHADA accounting system by March 15 of each year;
- Production at the end of each fiscal year of a detailed statement of all amounts paid to third parties during the previous fiscal year.

1.2.2.2. The tax regime for NPOs carrying out economic activities as an accessory activity

NPOs in this category are subject to corporate income tax and VAT.

As for corporate tax, it is based on the share of business activities at the rate of 15%, not 30%, plus CAC. Similarly, the monthly corporate income tax installment rate is 1% as opposed to 2% for commercial companies. NPCs of this type must keep separate accounts for transactions related to their commercial activities.

As far as VAT is concerned, NPOs of this type are liable for VAT on taxable transactions in accordance with the legal provisions in force³. However, it will be necessary to ensure that the VAT on the operations in question has actually been invoiced, collected and paid by these NPOs.

1.2.2.3. The tax system for schools

From now on, schools are no longer exempt from paying VAT on the commercial activities they carry out.

The LF 2022 repeals an exemption that had created a niche for some schools. Indeed, it was noted that relying on this exemption, schools took advantage of it to engage in parallel⁴ trade.

However, for a better application of this measure, the tax authorities would benefit from specifying, with attention to detail, the commercial activities concerned by the abolition of this exemption.

³ Article 125 of the General Tax Code 2022.

⁴ Sale of outfits, catering, etc.

1.2.3. Tax treatment of independent operations

For tax purposes, independent operation is defined as any activity in an economic sector distinct from the company's corporate purpose and carried out in competition with companies in the sector.

Henceforth, any company which, in addition to its main activity, carries out another activity on an ancillary basis which may be the subject of an independent operation, such as the transport by an industrial company of products for distribution, is required to keep separate accounts showing the results of each of these activities.

For the ancillary activity, the company is now required to pay, where applicable, the taxes specific to that activity.

Profits indirectly transferred from one business segment to another by way of increases or decreases in purchase or selling prices are added back to the results of the main business.

This measure applies to operations carried out on or after January 1^{er}, 2022 and the first results relating to it must be reported by March 15, 2022.

As it stands, the definition used by the tax authorities is far too broad and does not seem to take into account the case of activities that are complementary and essential to the achievement of the corporate purpose.

The administration would benefit from defining the broad lines of interpretation of the concept of independent operation to avoid creating a new ground for arbitrary interpretation.

This clarification is necessary because penalties are imposed on offenders. Indeed, when it is established that the company has reduced its taxable income for corporate income tax purposes, in particular by applying to its sales under the ancillary activity, prices lower than those of the market which would have been applied under conditions of full competition, the services are entitled to reintegrate the profits thus reduced into the income of the main activity.

1.2.4. Strengthening of the youth employment promotion scheme

Henceforth, the allowances paid by companies that offer pre-employment training courses to young graduates within the framework of apprenticeship and socio-professional integration, in particular that conducted by the National Employment Fund, are exempt from tax deductions.

In concrete terms, pre-employment internships for young graduates starting January 1^{er}, 2022 will be exempt from tax for two years.

The benefit of this measure is exclusively subject to a declaration of the company to its tax center of attachment with the list of the persons admitted in training course and the probative justifications. The tax authorities reserve the right to carry out subsequent checks.

1.3. Measures relating to the Special Tax on Income (TSR)

1.3.1. TSR exemption for oil contracts in the research phase

The LF 2022 has established the exemption from TSR of oil contract holders and their subcontractors in the research phase.

In reality, this is an exemption in principle which is only allowed if the following cumulative conditions are met:

- Foreign providers do not have a permanent establishment in Cameroon;

- The said services are provided at cost price (invoicing made without margin) and the burden of proof lies with the provider;
- These services are provided during the research and development phase (the local oil company must have a research permit or certify that it is in the development phase).

For the record, the same service providers were previously subject to the TSR at the reduced rate of 5%. This measure seems to be aimed at bringing the tax law into line with the provisions of the Petroleum⁵ Code regarding TSR.

1.3.2. Rearrangement of the various TSR rates

Under the 2022 Finance Act, the TSR rates have been reorganized, notably with the elimination of the reduced rate of 2% and the reduction of the reduced rate from 5% to 3%.

The new reduced rate of 3% applies to :

- Public Procurement;
- Audiovisual services with digital content;
- Oil companies in the research phase;
- Commissions paid to money remitters ;
- Rentals and charters of foreign vessels.

This measure is mainly aimed at optimizing the cost of structuring projects carried out by external partners.

1.4. Measures relating to the Value Added Tax

1.4.1. Easing of the conditions for VAT exemptions

LF 2022 confirms the exemption, in order to benefit from VAT⁶ exemptions, from the prior requirement of an exemption certificate.

However, it should be noted that exemptions by destination⁷ remain subject to the exemption certificate procedure, which is issued exclusively by the Director General of Taxes.

1.4.2. Harmonization of VAT refund procedures for organizations recognized as being of public interest

Previously, a prior approval of the Director General of Taxes was required for all operations concerned by the application for VAT refund to organizations recognized as being of public utility.

From now on, this requirement of the prior approval of the Director General of Taxes is abolished and replaces the simple validation of the VAT credits by the tax center of affiliation⁸, following the introduction of the request of the said organizations.

1.4.3. Establishment of the principle of transfer of tax receivables and liabilities in the context of company restructuring operations

⁵ Law N°2019/008 of April 25, 2019 on the Petroleum Code.

⁶ Articles 122 and 128 of the CGI.

⁷ Exemptions by destination correspond to transactions that are taxable by nature, but exempt from VAT by virtue of the law or a particular text for considerations related to the person or the activity of the beneficiary.

⁸ Article 149, paragraph 4 of the CGI.

With the objective of bringing national legislation into line with Community legislation, in particular the OHADA Uniform Act on the Law of Commercial Companies and Economic Interest Groups (**AUSCGIE**), the 2022 Finance Act has established the principle of assignment of tax receivables and debts.

As regards the assignment of tax receivables, these essentially concern VAT credits, including tax overpayments duly recorded by MINFI. It should be noted that, with respect to the said VAT credits, the assignment is conditional on (i) the absorbing entity being liable for VAT and (ii) the validation of the credits in question.

As for the assignment of tax debts, the 2022 FTA specifies that the fiscal debts of the absorbed company are office transferred to the absorbing company. As a result, the collection of said debts may therefore be pursued against the absorbing company.

1.5. Money transfer tax measures

1.5.1. The scope of application

The FTL 2022 sets out the scope of application of these measures, in particular by delimiting (i) the taxable transactions and (ii) the persons liable to be taxed.

1.5.1.1. Taxable transactions

The operations essentially concerned by this tax are :

- Transfers made from Cameroon, including person-to-person transfers, transfers in regulation of bills (water, electricity, etc.); and
- Cash withdrawals following a money transfer, made at the counters of financiers or approved distributors.

It should be noted, however, that these measures do not apply to (i) transfers from one bank account to another, and (ii) transfers for the payment of taxes, duties and fees⁹.

1.5.1.2. Taxable persons

These are essentially the beneficiaries of money transfer or withdrawal services, whether they are individuals or legal entities.

It is important to note that this tax will be collected on a monthly basis by the service providers and remitted to their tax center of affiliation¹⁰. In practical terms, the collection of the said tax is carried out by companies offering money transfer services, by banking institutions and companies operating financial services platforms as well as by companies specializing in money transfers.

1.5.2. Rates and basis of calculation

The rate of this tax on money transfers is 0.2% of the amount transferred or withdrawn¹¹. Thus, the basis for calculating the tax on money transfers is the amount of money transferred or withdrawn¹².

As an illustration, here are some simulations of tax amounts to be paid according to the amount of the shipment:

⁹ Article 228 ter of the CGI.

¹⁰ Article 228 sexies, paragraph 1 of the CGI.

¹¹ Article 228 quinque of the CGI.

¹² Article 228 quater of the CGI.

- For a shipment of 5. 000FCFA, the tax is 10 FCFA;
- For a shipment of 50,000 FCFA, the tax is 100 FCFA;
- For a shipment of 500.000 FCFA, the tax is 1000 FCFA.

It should be noted that the above simulations are valid for withdrawals.

1.6. Measures relating to registration and stamp duties

1.6.1. Reduction from 15% to 5% of the rate of registration fees applicable to large-scale transfers of corporate rights

In order to reduce the cost of corporate restructuring, the rate of registration fees on large-scale transfers of corporate rights (when they do not involve the transfer of the business)¹³ has been reduced from 15% to 5%.

Furthermore, any agreement that allows an entity to carry out an activity carried out by a previous holder is also subject to this new 5% rate, even when the agreement concluded with the latter or his successors is not accompanied by a transfer of customers¹⁴.

1.6.2. Relief from registration fees on transfers by death

Henceforth, the methods of liquidation of the registration rights in the matter of transfer by death are reorganized through :

- Rate reduction (the ceiling rate is reduced from 10% to 5%)¹⁵;
- The increase of the deductibility of funeral expenses from 500.000 FCFA to 2.000.000 FCFA;¹⁶
- The establishment of a tax amnesty for penalties for regularizations made during the fiscal year 2022¹⁷.

1.7. Measures relating to tax procedures

1.7.1. Removal of the certification requirement for the Statement of Location

From now on, the issuance of the certificate of location as well as the requirement of its certification are eliminated. In doing so, the taxpayer must simply certify on his or her honor the accuracy of the information provided to the tax authorities.

Thus, in practical terms, proof of a taxpayer's fiscal location is provided by a location map specifying the municipality of the place of business, the name of the neighborhood and the locality.

1.7.2. Clarification of the modalities for calculating the time limits for procedures notified online

LF 2022 institutes a presumption of receipt, by the taxpayer, of the procedural documents notified online, 48 hours after the acknowledgement of receipt is issued by the DGI¹⁸'s computer system. This 48-hour period is a clear¹⁹ period and is counted in days.

¹³ Article 543 of the CGI.

¹⁴ Ibid.

¹⁵ CIREX provision 16.

¹⁶ Article 559 of the CGI.

¹⁷ CIREX provision 16.

¹⁸ Article L8 quater of the CGI.

¹⁹ A clear time limit is the one that does not take into account the day of completion, of the notification of the act, the holidays (coinciding with the expiration of the time limit) and the day of the expiration of the time limit.

It should be noted that all procedures are now concerned, including notices of verification, notifications of adjustment, notices of collection, formal notices among others.

It is therefore now mandatory that the taxpayer provides a valid e-mail address when registering with the tax authorities, as failure to do so may result in a fine of up to 5,000,000 FCFA²⁰.

1.7.3. Clarification of the conditions for registration and removal from the active taxpayer file

Previously, newly registered taxpayers were automatically registered in the file of active taxpayers. It was only in case of consecutive failure to declare over a period of three (03) months that the taxpayers were removed from the said file.

From now on, taxpayers are registered in the file of active²¹ taxpayers only from the date of filing their first^{ère} return. The said taxpayers remain registered as long as they are up to date with their reporting obligations.

Therefore, in case of failure to file a tax return within a period of three (03) consecutive months (for professional taxpayers) or as soon as the first^{ère} annual return is not filed (for non-professional taxpayers), the said taxpayers are automatically removed from the file of active taxpayers.

1.7.4. Control of the duration of on-site interventions in the field of control

The 2022 Finance Law has regulated the duration of on-site interventions in tax audits, by instituting a report on the start of physical audit operations. The main objective of the institution of this report is to facilitate the calculation of the time of intervention in companies.

It is important to note that these on-the-spot interventions mainly concern the vérification of accounts, the vérification of the overall fiscal situation, spot checks, the right of investigation as well as the right of inventory ascertainment.

In addition, the above-mentioned report must contain certain compulsory information, under penalty of nullity, and be countersigned by the taxpayer or his representative²², if applicable. In the event that the taxpayer or his representative refuses to sign, a mention must be made in the said report.

1.7.5. Easing of the conditions for obtaining the Certificate of Non-Royalty

Exemptions are now allowed for the issuance of Attestation de Non Redevance ("ANR") to the profit of taxpayers who are not up-to-date with their fiscal obligations.

Thus, the right to issue the ANR is established when the deadline²³ for the payment of the tax debt has not expired²⁴, in particular:

- 15 days for fiscal debts recalled on notice of assessment regarding office tax assessments ;
- 30 days for fiscal debts issued on a collection notice following a fiscal audit.

²⁰ Article L104 of the CGI.

²¹ Article L2 ter, paragraph 1 of the CGI.

²² Article L14 Bis, paragraph 1 of the CGI.

²³ Article L53 of the Book of Tax Procedures.

²⁴ Article L94 Bis, paragraph 2 of the CGI.

In addition to these relief measures, it should be noted that the 2022 Financial Law introduces the obligation to stamp documents generated by the DGI computer system. This includes the ANR and the registration certificate among others.

1.7.6. Incentives for spontaneous payment of taxes following tax audits

In order to encourage taxpayers to pay their taxes spontaneously following a tax audit or any other tax adjustment procedure, the 2022 Finance Act introduces a reduced penalty rate of 15%.

It should be noted, however, that this automatic application of the 15% rate to spontaneously paid taxes is not subject to subsequent²⁵ remission or settlement.

1.7.7. Reinforcement of the conditions of admissibility of claims in the pre-litigation and litigation phases

In addition to the conditions of admissibility of claims that had already been set by the legislator, certain additional²⁶ justificative documents are now required in support of said claims and contentious applications, respectively in the administrative phase and before the courts.

These documents include: the notice of audit, the notification of adjustment, the taxpayer's observations, the letter of response to the taxpayer's observations and the notice of assessment.

Consequently, in the event of the above-mentioned documents being missing, all claims and contentious requests will be purely and simply inadmissible²⁷.

1.7.8. Framework for taxpayer assistance in tax matters

As a reminder, assistance remains an option for the taxpayer. Thus, the taxpayer can be assisted both before the tax authorities and before the courts.

Assistance before the tax authorities is now provided exclusively by CEMAC-approved tax consultants registered with the Order, or by an approved²⁸ management center ("CGA").

As far as assistance before the courts is concerned, the taxpayer is allowed to be assisted by a counsel of his choice²⁹. It should be noted, however, that the benefit of legal assistance is limited to taxpayers who are subject to the system of the Liberatory Tax.

1.8. Other fiscal and financial measures

1.8.1. Measures to support the reconstruction of economically distressed areas

Within the framework of the plan for the construction and development of economically distressed areas ("ZES"), the legislator has established the full³⁰ deductibility of donations and gifts made by companies.

The condition for this deductibility is that the expenses concerned must be duly justified and recorded in the accounts of the fiscal year in which they were incurred.

²⁵ Article L96, paragraph 2 of the CGI.

²⁶ Article L116, paragraph 2 of the CGI and Articles L119 of the CGI.

²⁷ Article L128 of the CGI.

²⁸ Article L13, paragraph 1 of the CGI.

²⁹ Article L121, paragraph 6 of the CGI.

³⁰ Article Fifteenth of the LF 2022.

In addition, this measure will be taken into account in the companies' annual income tax returns for the year 2022 and expected before March 2023.

1.8.2. Fiscal measures to boost the banana industry

With the goal of reviving the banana industry, the legislature is implementing the following³¹ tax measures for FY 2022:

- **For banana companies located in SEZs:** the granting for a period of seven (07) years, of the same tax facilities already granted to new companies investing in SEZs, including exemptions from the patent, corporate tax and minimum collection, VAT, and registration fees;
- **For companies in the banana sector not located in a SEZ:** the granting for a period of seven (07) years of a 50% reduction in the rate of the advance payment and the minimum collection of corporate tax, as well as the calculation of the said advance payment on the *Free On Board* (FOB) value.

1.8.3. Tax amnesty in case of spontaneous regularization of the tax on property income

The 2022 Finance Act introduces a waiver of tax reminders for the non statute-barred period for property income tax, real estate tax and inheritance tax.

In order for this exemption to be granted to taxpayers, the regularization must be spontaneous³², in particular it must not be the result of an audit.

1.8.4. Improvement of the tax regime of free revaluation of fixed assets

A company that carries out a free revaluation of all its tangible and financial fixed assets under the conditions provided for by the OHADA Uniform Act on Accounting and Financial Reporting ("AUDCIF"), may reintegrate the revaluation difference relating to depreciable fixed assets into its taxable profits, in equal parts over a period of five (05) years³³.

It should be noted that this is a temporary³⁴ and optional mechanism for neutralizing the tax consequences of the revaluation³⁵.

1.8.5. Clarification of the tax administration's competence in the assessment and collection of state revenues

The 2022 Finance Act also reorganizes³⁶ the competencies for tax assessment, collection and control.

- In terms of tax assessment and collection: the Ministry of Lands, Cadastre and Land Affairs is now responsible for tax assessment and the public accountants for collection.
- In terms of control: the tax centers where the taxpayers of the state rights are located are now competent.

³¹ Provision 30 of the CIREX.

³² Article Sixteenth of the LF 2022.

³³ Section Eighteen, Paragraph 1 of LF 2022.

³⁴ This measure is limited to revaluation transactions in progress until December 31, 2022.

³⁵ CIREX provision 31.

³⁶ Article nineteen of the LF 2022.

In the specific case of taxpayers belonging to the Specialized Management Units ("UGS"), the latter have exclusive responsibility for tax assessment and collection for the companies in their files, and control responsibility is exercised jointly by the tax administration and the administration in charge of the land registry³⁷.

2. THE MAIN "CUSTOMS" MODIFICATIONS OF THE FINANCE LAW

Like the "fiscal" measures, the 2022 Financial Law also introduced customs innovations. These customs innovations are based on three main areas, namely (i) continued implementation of the import substitution policy, (ii) improvement of the social and business environment, and (iii) support for the decentralization and sub-regional integration process.

The customs innovations were taken in a context marked by the negative impact of the international health crisis on the supply chain, the surge in maritime freight prices and its repercussions on the national economy and finally the increase in the scope of tax expenditure due to customs incentives to support investment, the continued dismantling of tariffs under the Economic Partnership Agreement with the European Union and the entry into force of the African Continental Free Trade Area.

2.1. The measures relating to the revival and the continuation of the promotion of the import-substitution

These measures aim to strengthen local agricultural supply and food self-sufficiency in consumer products. This strengthening, which should make it possible to reduce recourse to imports, limit national vulnerabilities and limit the massive outflow of foreign currency, is reflected in concrete terms in (i) support for priority sectors and (ii) an increase in the excise duty on imports of certain products.

2.1.1. Support measures for priority sectors

2.1.1.1. Customs measures to support the agricultural sector

The LF 2022 enshrines, as a continuation of the measures of the fiscal year 2021, the total exemption from customs duties and taxes on the import of prefabricated structures in the form of greenhouses of tariff heading 9406 for use in agriculture. The aim is to promote second-generation agriculture and increase agricultural yield levels.

The exemption also concerns improved vegetable seeds intended to strengthen agricultural production. However, the benefit of this exemption is subordinated, in the phase of instruction of the request to the General Directorate of Customs, to the production of an act of the Ministry in charge of agriculture attesting the improved character of the imported variety.

2.1.1.2. Customs measures to support the livestock sector

For the livestock sector, the LF 2022 provides for total exemption from customs duties and taxes on improved animal seeds intended to boost animal production and on vaccines and medicines for veterinary use. However, the benefit of this exemption is subordinated, in the phase of instruction of the request to the General Directorate of Customs, to the production of an act of the Ministry in charge of the breeding, the fisheries and the animal industries attesting the improved character of the imported seed.

³⁷ Ibid.

Vaccines for veterinary medicine³⁸ and medicines for veterinary use are also covered by the exemption. They must be imported by authorized persons and they must contribute to the strengthening of the immunological system of animals and to the increase of animal production, thus limiting meat imports.

2.1.1.3. Customs measures to support the human health sector

The LF 2022 provides for total exemption from import duties and taxes on vaccines for human³⁹ medicine and software for medical⁴⁰ use. However, only vaccines and software that participate in strengthening the immunological system of populations in the context of preventive health and the capacity of technical platforms are concerned.

In addition, the exemption is also extended, exclusively for a period of 24 months from January 1^{er}, 2022, to devices, equipment and medical materials intended to raise the technical level of public and private health facilities. It should be noted, however, that the devices concerned by the exemption are exclusively those validated by the Minister of Finance⁴¹. In concrete terms, the said exemption is exclusively for the benefit of health care facilities that import directly on their behalf or persons with an approval to market medical equipment issued by the Minister in charge of public health.

2.1.1.4. Customs measures to support the local wood processing sector

For the local wood processing sector, LF 2022 also provides for total exemption from customs duties and taxes on equipment, materials and tools intended for the development of local wood processing activities.

The objective is to strengthen local wood value chains, increase the supply of wood products on the national market and limit the volume of wood exported in the form of logs.

In any case, the Minister of Finance has defined⁴² the equipment, materials and tools that are exclusively eligible for the exemption. In concrete terms, these are those directly linked to the second and third wood processing operations.

Finally, the allocation of the above-mentioned goods and materials to goods other than those of agriculture, livestock, wood processing, human and animal health constitutes an offence of detour of privileged destination and exposes the offenders to the penalties provided for by the Customs Code.

2.1.2. The increase of the excise duty on the import of certain products

In order to reduce the importation of certain goods that are widely available in Cameroon and to broaden the tax base, the 2022 Finance Law now subjects the following imported products to *ad valorem* excise duty at the following rates

RATE	AFFECTED GOODS
25%	Plain honey (0409.00.00.000), potatoes (0701.90.00.000; 0710.10.00.000), peppers and chilies (0904), edible fruits (0801. to 0814), ginger (0910.11.00.000 and 0910.12.00.000) coffee (0901.11.12.000 to 0901.11.19.000; 0901.11.22.000 to 0901.11.29.000; 0901.11.32.000 to 0901.11.39.000; 0901.11.42.000 to 0901.11.49.000; 0901.11.52.000 to 0901.12.00.000; 0901.21.00.000 and 0901.22.00.000), tea (0902.10.00.000 to 0902.40.00.000)

³⁸ Under headings 3002.30.00.100 and 3002.30.00.900.

³⁹ Under heading 3002.20.00.000.

⁴⁰ Under heading 8523.80.00.400.

⁴¹ The said validation is contained in the circular N°0454/MINFI/DGD of 30 December 2021.

⁴² Circular N° /MINFI/DGD0455 of 30 December 2021.

12,5%	Meat and edible offal of bovine animals, goats, sheep and poultry (0201.10.00.000 to 0210.99.00.900), cocoa butter including when used as an input (1804.00.00.000).
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The above-mentioned goods may, however, be exempted from excise duties when they (i) constitute raw materials for the manufacture of other products or when they are covered by a certificate of deficiency issued by the Minister in charge of Trade on the basis of an investment project for the local manufacture of the product concerned.

In addition, as part of the promotion of import-substitution, the rate of exit duty applicable to wood exported in the form of logs has been readjusted from 35% to 50% of the *Free On Board* (FOB) value depending on the respective species. This measure aims to promote local processing of wood before export.

2.2. Measures to improve the social and business environment

The LF 2022 in this context enshrines (i) the harmonization of the valuation of vehicles and other machinery in use, (ii) the exemption of the exit duty for certain agricultural products and the protection of the rights of the taxpayer and (iii) the bonding of customs operations and activities related to these operations.

2.2.1. Harmonization of the evaluation of vehicles and other equipment in use

Aware of the evolution of the means and instruments of valuation of imported used vehicles and in order to harmonize the applicable rules, the LF 2022 has amended and completed ⁴³some provisions of the Finance Act for the year 2011.

Henceforth, the reference system for the evaluation of vehicles imported into Cameroon is the "*Argus automobile*" mainly for vehicles of European origin or those marketed there and the "*Kelley Blue Book*" for vehicles produced or marketed in general on the American continent, taking into account the zip code 60629 for the United States and Mexico and the code H2Y1B5 for Canada.

When these first two supports are not sufficient to determine the taxable value, the usual commercial sites or the places where the vehicles are marketed are used, and if necessary, the export market. For vehicles marketed in Asia and the Middle East, for unmarked trucks and for decoding chassis numbers, the websites to be consulted have been determined in order of priority⁴⁴.

The customs value of vehicles in use is therefore now made up of the value resulting from the consultation of the new valuation guidelines mentioned above, plus the cost of transport and insurance.

When the consultation of the official quotations and the trade sites makes it possible to arrive at several values proposed for the same vehicle (make, type, year, etc.) the customs value will thus be constituted by the average of the values proposed by the various sources.

2.2.2. Exemption from exit duty for pepper and honey

⁴³ This includes Article 2 paragraph of the Finance Act for the year 2011.

⁴⁴ These are: Dubai: www.Dubai.Dubizzle.com , www.drivearabia.com - China, Japan, South Korea: www.BeForward.Jp , www.madeinchina.com - for unlisted trucks: www.europe-camion.com , www.Autoline24.fr and www.truck1.fr - for chassis number decoding: www.vindecoder.fr , www.MBvindecoder.com , www.vindecoder.pl , www.deodethis.com , www.vinfreecode.com , www.toyodiy.com www.autocheck.com

Through the LF 2022, amending Article 5 paragraph 1 of the Finance Act for the year 2020, pepper⁴⁵ and honey⁴⁶ are now exempt from any export duty whether manufactured or not.

The measure is likely to promote the label *made in Cameroon* through the export of flagship products such as Penja pepper and Oku honey.

2.2.3. Bonding of customs operations and activities related to these operations

As a result of the 2022 Finance Act, customs operations are covered by the bank guarantee as the ordinary guarantee. Thus, in the absence of a legal derogation or an express provision to the contrary issued by a competent authority, the taxpayer is required to produce a bank guarantee.

However, the bank guarantee may, in the cases provided for by the regulations in force, be replaced by a moral guarantee, in the form of a guarantor or diplomat.

With regard to the activities of persons carrying out customs operations, in particular authorized customs agents, the 2022 Financial Law reaffirms that the bank guarantee becomes the exclusive type of guarantee. Thus, users who have produced a bond of another nature are required to comply. As a result, subscribers to current bonds that are not compliant and that provide for tacit renewal without an expiration date have until June 30, 2022 to replace them with bank bonds. After this deadline, the bids and acquittals⁴⁷ covered by the said bonds will lapse and any duties and taxes will be liquidated under the conditions of ordinary law.

These new measures bring legal clarifications and establish principles that reinforce the practice already observed within the customs services, by admitting less and less guarantees other than bank guarantees.

2.3. Measures to support the decentralization and sub-regional integration process

2.3.1. Special Excise Duty for the Financing of Garbage Collection and Treatment

From now on, in order to strengthen the allocation for the activities of the CTDs and in line with the polluter-pays principle, the rate of the special excise duty for the financing of waste collection and treatment for the benefit of the CTDs is readjusted to 1% of the taxable value of imported goods.

However, this special excise duty does not apply to goods admitted duty free.

Finally, it should be recalled that the Finance Act for fiscal year 2019 had instituted this excise duty at the special rate of 0.5%.

This measure seems to be intended to mobilize additional financial resources for the benefit of the CTDs in the collection of household waste in order to avoid future piles of garbage as recently observed in the major cities of Cameroon.

2.3.2. Implementation of the revised CEMAC Customs Code

Since January 1^{er}, 2022, the revised version of the CEMAC Customs Code is effective⁴⁸.

This new code seems to orient customs services towards modernity by integrating the best customs practices recommended by the World Trade Organization Agreement on Trade Facilitation, the revised Kyoto Convention and the SAFE standards framework of the World Customs Organization (WCO).

⁴⁵ Under headings 0904.11.00.000 and 0904.12.00.000.

⁴⁶ Subheading 0409.00.00.000.

⁴⁷ Administrative title that allows the movement of goods before they have paid the taxes to which they are subject.

⁴⁸ Adopted by Regulation No. 05/19-UEAC-010A-CM-33 of April 8, 2019.

This new code does not have retroactive effect and, as a result, the facts incriminated during controls subsequent to the entry into force of the revised version remain assessed under the old version of the code. However, where the revised version appears to offer milder penalties for an offence, it is this version that will apply by virtue of the principle of retroactivity of the milder penal law.

2.3.3. Implementation of the new Harmonized Commodity Description and Coding System

Since January 1^{er}, 2022 and in accordance with the requirements of the WCO and CEMAC, the 2022 version of the Harmonized Commodity Description and Coding System is effective in Cameroon.

The tariffs will therefore have to be amended to take into account the changes in tariff classification that occurred during the development of this new version.

However, given the complexity of the new system and the adjustments that its implementation will require, it is regrettable that a transitional period has not been provided.

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Authors:

Aurélie Chazai, lawyer at the Cameroon and Paris Bars, *Managing Partner* of Chazai & Partners.

Freddy Mooh Edinguele, *Senior Associate* at Chazai & Partners.

Jean Baptiste Tsanga, Associate Lawyer at Chazai & Partners.

CHAZAI+PARTNERS

Independent business law firm based in Cameroon

Bld. de la République - Immeuble SUNU Assurances (next to Hotel SOMATEL), Bali

B.P. 4937 Douala - Cameroon

7bis rue de Monceau, 75008 Paris, France

T: +237 233 432 617 | P: +237 6 97 02 62 43 | P: +33 6 13 15 85 26

Email: contact@chazai-partners.com

Website: www.chazai-partners.com