

CENTRAL AFRICAN ECONOMIC
AND
MONETARY COMMUNITY

CENTRAL AFRICAN MONETARY UNION

THE MINISTERIAL COMMITTEE

REGULATION N°01/ /CEMAC/UMAC/CM ON
THE IMPLEMENTATION OF CERTAIN
PROVISIONS OF THE FOREIGN EXCHANGE
REGULATIONS BY RESIDENT EXTRACTIVE
COMPANIES

THE MINISTERIAL COMMITTEE,

Having regard to the revised Treaty of the Economic and Monetary Community of Central Africa (CEMAC);

Having regard to the Convention governing the Central African Monetary Union (UMAC);

Having regard to the Statutes of the Bank of Central African States (BEAC);

Having regard to the Convention establishing a Central African Banking Commission (COBAC) and subsequent amending texts;

Having regard to the Convention on the Harmonisation of Banking Regulations in the Central African States and subsequent amending texts;

Having regard to Regulation No. 01/16/CEMAC/UMAC/CEMAC on the prevention and suppression of money laundering and terrorist financing and proliferation in Central Africa;

Having regard to Regulation N°03/16/CEMAC/UMAC/CM on payment systems, means and incidents;

Having regard to Regulation n°02/18/CEMAC/UMAC/CM on foreign exchange regulations in CEMAC and subsequent implementing texts;

Considering the principles of the Extractive Industries Transparency Initiative (EITI);

Considering that investment in the extractive sector contributes to the harmonious and sustainable development of the Member States and the Community;

Considering the importance of the activities of resident companies operating in the extractive sector in achieving BEAC's objectives of strengthening CEMAC's foreign exchange reserves;



Considering that the repatriation of a substantial part of the foreign currency assets held by extractive companies and of the funds for site rehabilitation contributes to the external sustainability of the common currency;

Considering the need for a full and harmonious application of exchange regulations in conformity with the monetary cooperation agreements in force;

Considering the specificity and complexity of the activities of the extractive sector as well as the heavy investments required for their development and the associated operating constraints;

Anxious to facilitate the achievement by BEAC of its objectives in terms of repatriation of foreign currency to CEMAC and the subsequent strengthening of its foreign exchange reserves, while not hindering the optimal functioning of the Zone's extractive companies;

Concerned to ensure the external stability of the currency issued by BEAC through the maintenance of an adequate level of foreign exchange reserves, a guarantee of the sustainable development of CEMAC economies;

Having regard to the assent of the Board of Directors of BEAC, delivered at its session of December 17, 2021 in Douala, Republic of Cameroon;

Meeting in ordinary session on 23 December 2021 in Douala, Republic of Cameroon;

On the proposal of the Governor of BEAC,

UNANIMOUSLY ADOPTS THE FOLLOWING REGULATION:

Article 1. – 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 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 of sites at the end of their operation.

For the purposes of this Regulation, extractive companies shall mean resident upstream oil and gas and mining companies, with the exception of transporters and subcontractors as defined by the Instruction of the Governor of the Central Bank, subject to the cases expressly provided for by specific provisions.

Article 2. - 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.



However, on an exceptional basis, taking into account their 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.

Article 3. - The minimum repatriation rate provided for in Article 2 of this Regulation 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.

Article 4. - The repatriation obligation laid down in Article 2 of these Regulations 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.

Article 5. - The obligation to repatriate foreign currency held abroad by extractive companies for the constitution of funds for the purpose of rehabilitating sites at the end of exploitation or the RES Fund is integral.

Financial endowments or funds for the rehabilitation of sites at the end of operation, constituted outside CEMAC before the date of entry into force of this Regulation, shall be repatriated to CEMAC within a period of 3 years, starting on 1 January 2022, under the terms and conditions specified by Instruction of the Governor of the Central Bank.

Article 6. - Financial allocations or funds intended for the rehabilitation of sites at the end of exploitation are deposited by extractive companies in one or more accounts opened in the books of the Central Bank in the name of the State and of the companies.

An account opening and operating agreement, signed between the extractive company, BEAC and the State concerned, specifies the terms and conditions for managing site rehabilitation funds.

An Instruction of the Governor of the Central Bank shall determine the conditions and modalities for the opening and operation of the accounts referred to in the first paragraph of this article.

Article 7. - Financial allocations or funds for the rehabilitation of sites, domiciled in the books of a CEMAC Credit Institution before the entry into force of these Regulations, shall be transferred to an account opened at the Central Bank, at the latest within twelve (12) months, as from 1 January 2022.



Article 8. - An extractive company that has constituted funds for the rehabilitation of sites outside CEMAC or has not repatriated them within the applicable deadlines shall be liable to a fine equal to 150 % of the amount of funds that have not been domiciled or repatriated in the State where the exploitation activity takes place.

Is liable to a penalty equal to 1/1000th of the amount of funds not transferred or constituted, per month of delay as from 1 January 2023, the extractive company which has not transferred or constituted the RES funds in an account opened in the books of the Central Bank within the applicable regulatory or contractual deadlines.

The fine and penalty provided for in this article shall be recovered by the Central Bank and paid for two thirds (2/3) into the account of the RES fund at BEAC, the remaining third (1/3) being shared equally between BEAC and the Public Treasury.

Article 9. - Currency repatriated in application of paragraph 2 of Article 2 of these Regulations may be deposited in CFAF or foreign currency accounts in CEMAC.

Article 10. - Extractive companies may open foreign currency accounts in CEMAC, including transporters and subcontractors, regardless of their location.

The opening of foreign currency accounts in CEMAC by extractive companies as provided for in this article is subject to the prior authorisation of the Central Bank under the conditions and procedures specified by Instruction of the Governor of the latter.

Article 11.- Extractive companies, holders of foreign currency accounts duly authorised by the Central Bank, may not be forced to convert them into CFAF accounts, subject to compliance by them with the foreign exchange regulations in force and without prejudice, where applicable, to the application of Article 187 of Regulation No. 02/18/CEMAC/UMAC/CM on the regulation of foreign exchange in the CEMAC under the heading of safeguards relating to the preservation of CEMAC's external accounts.

Article 12. - Extractive companies may hold foreign currency accounts outside CEMAC, after prior authorisation from the Central Bank, solely for the purpose of carrying out their activities.

Extractive companies' foreign currency accounts outside CEMAC operate in accordance with the minimum repatriation rate in force.

Article 13.- Foreign currency accounts outside CEMAC cannot be used to settle transactions between resident extractive companies, in accordance with Article 30 of Regulation No. 02/18/CEMAC/UMAC/CM of 21 December 2018 on foreign exchange regulations in CEMAC. However, resident extractive companies may carry out between themselves, from their accounts in foreign currency outside CEMAC, only transactions of calls for funds.



Resident extractive companies shall periodically declare to the Central Bank the calls for funds made between them from their foreign currency accounts outside CEMAC.

Article 14. - The conditions and modalities for the opening and operation of foreign currency accounts within and outside CEMAC by extractive companies are specified by Instruction of the Governor of the Central Bank.

Article 15. - Foreign currency accounts within and outside CEMAC of extractive companies are subject to periodic declarations under the terms and conditions specified by a Circular Letter from the Governor of the Central Bank, under penalty of the sanctions provided for by the exchange regulations in force.

Article 16. - Extractive companies report their imports and exports to the Central Bank.

Article 17. - The domiciliation of imports and exports of extractive companies is carried out with Credit Institutions and the Central Bank, which proceed to their discharge.

The domiciliation may be carried out in any CEMAC Credit Institution, regardless of the country of establishment of the extractive sector company concerned or the CEMAC country into which the goods or services are imported or exported.

Article 18. - The conditions and modalities of declaration, domiciliation and clearance of imports and exports of extractive companies are specified by Instruction of the Governor of the Central Bank.

Article 19. - These Rules may be amended by the Ministerial Committee. Its provisions may be specified, as necessary, by Instruction or Circular Letter of the Central Bank.

Article 20. - The Regulation on foreign exchange regulations in CEMAC, in particular its provisions relating to sanctions in the event of non-compliance, applies to extractive companies, unless otherwise provided for in this Regulation.

Article 21. - The Credit Institutions, COBAC, BEAC and the competent national authorities are each responsible for ensuring the strict application of these Regulations.

Article 22. - This Regulation shall enter into force on the date of its signature. It is published in the Official Journal of the Community.

Issued in Douala, on the 23rd of December 2021

The Chairman of the Ministerial Committee,

Louis Paul MOTAZE

