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REGULATION OF SUBCONTRACTING IN CAMEROON : A BOOST FOR THE COMPETITIVENESS OF SMALL AND MEDIUM-SIZED ENTERPRISES

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Long overlooked by any real regulatory framework, subcontracting in Cameroon has developed in a relative legal vacuum, despite the existence of scattered provisions contained in various sectoral texts (notably the mining code, oil code, and gas code) and in the Public Procurement Code[1] . This lack of a unified legal framework has encouraged practices that are often unfavorable to SMEs, particularly in their contractual relationships with large companies or multinationals.

In light of this situation, the adoption of Law No. 2025/010 of July 15, 2025, on the subcontracting regime in Cameroon (the «Subcontracting Law») constitutes a major regulatory advance. This law signals a clear political will to provide the country with a legal framework capable of securing subcontracting relationships, encouraging the use of local SMEs, and promoting a more inclusive productive fabric.

This reform therefore aims to address several strategic issues, foremost among which are the fight against abusive practices in subcontracting relationships, the upskilling of local SMEs, and their gradual integration into national value chains. It is also in line with the objectives of structural transformation of the economy, as set out in the SND30.

However, some provisions of the reform could have counterproductive effects on the entire subcontracting system. The reform therefore appears to be a remedy with certain curative virtues, but with as yet unknown side effects.

I. A REFORM TO HELP NATIONAL CHAMPIONS EMERGE

1. A broad scope of application

One of the major contributions of the Subcontracting Act lies in its broad scope of application[2] . By stating that subcontracting is permitted in all sectors of economic activity, unless expressly exempted, the text establishes a general framework covering both traditional productive sectors (industry, agribusiness, construction, energy, mining) and rapidly expanding fields such as digital technology. This broad scope offers several advantages, both for SMEs and for the economy as a whole :

- Economic inclusion of local SMEs

By applying to sectors historically dominated by large companies or multinationals (energy, mining, infrastructure, etc.), the Subcontracting Law opens up new opportunities for participation by national SMEs, which were often marginalized. From now on, SMEs can claim market shares in projects with a high economic impact, as contractually recognized players.

- *A welcome formalization of subcontracting relationships*

By making the Subcontracting Act applicable to contracts between private individuals as well as to public procurement[3] and public service delegations, the legislator is helping to formalize practices that were often informal, particularly in sectors where subcontracting was carried out without a clear legal framework.

- *A unified legal basis*

Finally, the clarification that public procurement and public-private partnership contracts are also covered by the subcontracting regime, subject to the specific texts governing them, ensures greater clarity and consistency in the applicable law. The Subcontracting Act thus becomes the common law of subcontracting in Cameroon.

It should be noted that subcontractors generally bear the brunt of late payments in public procurement, which are one of the main causes of their economic difficulties. In this regard, recent studies reveal that 25% of business bankruptcies are directly linked to these delays[4] , and that three out of four companies are in favor of penalizing late payments, including in the context of public procurement[5] .

2. A proactive national preference policy

- *Priority given to Cameroonian SMEs in access to subcontracting*

The Subcontracting Act grants exclusive access to subcontracting activities to Cameroonian SMEs, defined as those in which at least 51% of the capital is held by nationals and which have their registered office in Cameroon[6] . This measure aims to create an economic environment in which national SMEs become key players in major value chains, while limiting situations where foreign entities capture the market.

1 Articles 131 et seq. of the Public Procurement Code.
2 Articles 5 and 6 of the Subcontracting Act.
3 In accordance with Article 6(2), the Subcontracting Act applies to public procurement subject to the provisions of public procurement regulations. In addition to the Public Procurement Code, these regulations include the General Administrative Clauses applicable to public procurement.
4 Figure given at the1st International Conference on Payment Deadlines in Public Administrations, held from October 21 to 24, 2024, in Yaoundé.
5 Report entitled «Cash Flow and Payment Terms for Businesses,» published by GECAM in July 2020.
6 Article 10 of the law on subcontracting.

The use of local subcontractors is also becoming mandatory for certain sectors and projects deemed to be «structural»[7] , confirming the legislator's intention to require a significant presence of SMEs in the execution of projects with high economic or strategic stakes.

- *A mandatory quota of SMEs to be included in major projects*

Again with the aim of strengthening national preference, the Subcontracting Law imposes a quota for the integration of SMEs in major projects. Thus, any large Cameroonian or foreign company awarded a major contract must reserve **at least 40% of the contract value for subcontracting** to local companies[8] . This provision aims to institutionalize value sharing in economic sectors dominated by large companies and multinationals, and to stimulate a gradual transfer of know-how and technology to local companies.

- *Support for the upskilling of SMEs through the recognition of acquired experience*

Beyond market access, the text establishes a new right for subcontractors by requiring the main company to issue a certificate of service rendered[9] . This document officially recognizes the quality and reality of the service provided and can be used by the subcontractor as proof of experience in future calls for tenders.

3. A drive for transparency to clean up the subcontracting ecosystem

- *Mandatory competitive bidding*

The new regulations introduce unprecedented transparency mechanisms in subcontracting practices, with the aim of ensuring fair access to contracts, particularly for SMEs. Thus, **any subcontracting operation costing more than a regulatory threshold must now be subject to a competitive bidding process,** with mandatory advertising through various channels (including the press, the internet, and employer organizations)[10] . This obligation to invite competition is a major step forward for SMEs, which often struggled to access information on subcontracting opportunities, which were generally restricted to small circles or informal relationships.

- *A publication requirement to strengthen the accountability of main contractors*

In addition to the transparency promotion mechanism, all companies operating in Cameroon—whether public or private—are now required to publish an annual list of their subcontractors and the amount of remuneration paid to them[11] . This financial transparency requirement is primarily intended to:

- **Promote the traceability of economic flows generated by subcontracting** and enable objective monitoring of the real impact of the new law on the development of local SMEs; and
- **Provide public authorities with a tool for monitoring** the effectiveness of the use of subcontractors and the application of mandatory quotas as provided for by law.

However, it is regrettable that the text remains silent on the practical details of how this publication requirement will be implemented, particularly with regard to the channel, deadlines, and the forms that this publicity must take. It will therefore be up to the implementing text to specify the details.

4. Regulated access to subcontracting: Tax and social security compliance as an eligibility criterion

[12]The new subcontracting framework marks a significant break with previous practices by making access to subcontracting conditional on the administrative, tax, and social compliance of candidate companies. To be eligible, all SMEs must now provide proof of:

- Its legal existence;
- Its registration in the national SME register;
- Its compliance with its tax obligations; and
- Its compliance with its social obligations (in particular, employee registration and payment of social security contributions).

This requirement reflects the government's stated desire to promote an ecosystem of formal, traceable, and responsible subcontractors, breaking with the informality that still

7 Article 9 of the Subcontracting Act.
8 Article 18 of the Subcontracting Act. The threshold for the value of the contract to be taken into account will be specified in the implementing text.
9 Article 33.
10 Article 14.
11 Article 20 of the Act.
12 Section 16 of the Act.

characterizes a significant part of the sector, distorting competition, and negatively affecting government tax revenues.

5. Strengthening legal certainty for subcontractors

The subcontracting relationship can now be proven by any means, significantly strengthening the legal security of subcontractors, particularly SMEs, which often face the absence of formal contracts[13] . In practice, some large companies often refrain from formalizing contractual commitments with their subcontractors, making it difficult for the latter to assert their rights in the event of a dispute. By extending the types of evidence to all types of items (**including email exchanges, purchase orders, invoices, testimonials, etc.)**, the reform introduces a pragmatic protection mechanism that allows for the recognition of the existence of real economic relationships, even in the absence of strict formalities.

6. Payment of remuneration due to subcontractors: Strict regulation of the «lifeblood»

Among the major concerns expressed by subcontractors, the issue of effective payment for their services within a reasonable time frame remains central. Aware of this critical issue, the Subcontracting Act establishes a rigorous framework for the payment of subcontracting services through a set of provisions designed to secure the cash flow of SMEs and prevent abuse of power by large companies.

- *Payment of a mandatory «start-up advance» to ease the cash flow of SMEs*

The new subcontracting framework prohibits the main contractor from requiring the subcontractor to pre-finance the entire service[14] and requires the main contractor **to pay a «start-up advance» of at least 30% of the contract amount**. This mechanism provides a real cash flow buffer for SMEs, which are often weakened by initial costs that they find difficult to bear due to their relatively low financial capacity.

- *Strict supervision of payment terms to subcontractors*

Another Achilles heel in the subcontracting chain is the failure of main contractors to meet payment deadlines. The Subcontracting Act now addresses this issue by imposing a maximum payment period of 60 working days from the date of receipt of the invoice, which can be extended contractually to a maximum of 90 days, for the payment of services rendered[15] . This cap is a decisive step forward in combating the practice of certain large companies of indefinitely deferring payment of the remuneration owed to their subcontractors. Exceeding or failing to comply with these deadlines is now punishable by:

- **An administrative penalty**, the amount and terms of which will be set out in an implementing text[16] ;
- **Default interest** calculated according to the formula: **I = M x (N/360) x (i)**[17] . In concrete terms and by way of illustration, if the payment deadlines are exceeded by 45 days for a subcontractor's remuneration including tax amounting to 100,000,000 CFA francs, the amount of default interest will be: **100,000,000 x 0.125 x 5.5,** or **68,750,000 CFA francs**; and
- **A fine ranging from 25 to 50% of the contract value** in the event of a clear refusal to pay for subcontracting services and, where applicable, the related late payment interest and penalties, after formal notice has been given by the MINPMEESA[18] .

- *Establishment of direct payment by the principal to the subcontractor in the event of default by the main contractor*

To prevent subcontractors from being held hostage by a defaulting main contractor, **the reform introduces the possibility of direct payment by the Principal**[19] . This measure can be activated when the subcontracted service reaches a threshold of 10% of the main contract, or in the event of fraudulent maneuvers by the

13 Section 21 of the Act.

14 Section 29 of the Act.

15 Article 32 of the Act.

16 Section 51 of the Act.

17 According to Article 41(3) of the Act:
- M = Amount including tax owed to the subcontractor;
- N = Number of calendar days of delay;
- i = Central Bank tender interest rate (**TIAO**), plus one (01) point, or the discount rate applied by the issuing bank of the currency in question, plus a maximum of one (01) point, as applicable. Currently, the BEAC TIAO is **4.5%.**

18 Article 51 of the law.

19 Article 37 of the law.

main contractor.

This mechanism, often demanded by SMEs, acts as a financial safety net, ensuring that the work actually performed will be paid for, even in the event of default by the main contractor. **It thus reinforces the obligations of principals, who must now scrupulously ensure that the main contractor fulfills its payment obligations to its subcontractors.** To this end, the contract between the client and the main contractor must now expressly include clauses governing the main contractor's default vis-à-vis the subcontractor, which will trigger direct payment by the client to the subcontractor.

- *Strict regulation of retention guarantees by the main contractor*

With the same aim of securing the financial base of SME subcontractors, the Subcontracting Act strictly regulates the use of retention guarantees, which are often misused by certain main contractors to unduly delay payment to subcontractors[20] . From now on, **this retention cannot exceed 10% of the contract amount including tax,** and only applies if a warranty or maintenance period is provided for. In addition, it must be released upon provisional acceptance of the services, which prevents it from becoming an unjustified cash burden for the subcontractor.

- *Protection of subcontractor claims against transfers or pledges in favor of third parties*

Claims arising from subcontracting agreements are subject to specific protection, as the main contractor is prohibited from assigning or pledging them to a third party without the express consent of the subcontractor[21] . This provision aims to prevent the subcontractor from being deprived of its remuneration as a result of the conclusion of security agreements (assignment or pledging of claims) to which it is a third party. It ensures that the sums owed to the subcontractor remain entirely reserved for it, unless otherwise freely negotiated.

II. A DOUBLE-EDGED REFORM WITH POTENTIALLY COUNTERPRODUCTIVE EFFECTS

1. The new start-up advance system: A risky mechanism for main contractors

While the objective of strengthening subcontractors' cash flow is legitimate, the obligation for main contractors to systematically pay subcontractors a 30% start-up advance is potentially conflict-generating. Such a measure does not take into account the many, yet frequent, situations in which subcontractors, once they have received the advance payment, fail to fulfill all or part of their contractual obligations. In such cases, the main contractor is exposed to direct financial risk, without any adequate protection mechanism. However, the legislator had proven options available to avoid this pitfall and could have introduced a sliding scale for the start-up advance to be paid according to objective criteria (such as the nature of the services, the amount of the contract, the level of risk, or the subcontractor's track record).

These safeguards would have made it possible to reconcile the protection of subcontractors with the guarantees of main contractors. By imposing a rigid threshold of 30%, with no margin for discretion, the reform creates a potentially dissuasive financial constraint, which could have a negative impact on the subcontracting chain.

2. Disproportionate late payment interest to the detriment of main contractors

- *A punitive calculation formula*

The formula used to calculate late payment interest in the event of late payment appears to be clearly excessive and unbalanced[22] . To take the example cited in point 6 above and applying the calculation formula provided for in Article 41(3), for a delay of 45 days on an invoice of CFAF 100 million including tax, **the late payment interest amounts to CFAF 68,750,000, or nearly 70% of the principal amount!** Such a financial burden, in the absence of any progressivity or ceiling, creates a clear imbalance in the contractual relationship and constitutes a significant risk factor for large companies. Contrary to the objective of encouraging compliance with payment deadlines, this mechanism could, on the contrary, lead large companies to limit subcontracting relationships as much as possible, for fear of exposure to financial risks that are difficult to sustain.

- *A rigid system that ignores the objective causes of late payment*

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20 Article 38 of the law.

21 Article 39 of the law. It should nevertheless be noted that the lack of prior authorization from the subcontractor should have no effect on the validity of the assignment of the claim by the main contractor, insofar as the subcontrac tor is a third party to the assignment agreement, in accordance with the provisions of Articles 80 to 83 of the OHADA Uniform Act of December 15, 2010 on the organization of securities.

22 Article 41(3) of the law.

Beyond its punitive nature, the late payment interest regime as designed by the reform does not provide for any adjustment to take into account the circumstances surrounding the late payment. It does not distinguish between deliberate late payment and late payment attributable to objective constraints, such as prior non-payment by the principal, administrative uncertainties, or ongoing litigation. This lack of flexibility is all the more problematic as it exposes the main company to heavy penalties even in situations over which it has little or no control. **While it is undeniable that late payment interest is intended to deter abuse, its excessive calibration compromises its effectiveness** and runs counter to the objectives of developing the network of SME subcontractors.

3. The urgent need to adopt an inclusive and balanced implementing text

- *A reform lacking in effectiveness pending its implementing legislation*

The full effectiveness of the Subcontracting Act remains dependent on the swift adoption of its implementing regulations, on which its practical implementation depends. As things stand, several key elements of the legislative framework remain unresolved due to a lack of regulatory details. This is particularly true of the financial threshold triggering the obligation to call for competition for the selection of subcontractors, the mandatory clauses and references that must appear in subcontracting agreements, and the regime applicable to administrative sanctions. In the absence of these complementary texts, the law will be difficult to enforce, exposing economic actors to legal uncertainty.

- *The urgent need for an inclusive approach to drafting implementing regulations*

The quality of the process for drafting the implementing regulations will determine the balance and consistency of the reform. If these regulations are adopted without genuine consultation with all stakeholders—particularly SMEs, large companies, employers, and public and private project owners—they risk being out of step with the realities on the ground. Inappropriate calibration of thresholds, disproportionate obligations, or excessive formalism could transform a tool for promoting the local economy into a brake on economic activity, or even a source of conflict.

4. The need for consistency between the and tax legislation

- *An extension of tax exemptions incompatible with current tax legislation*

The Subcontracting Act appears to enshrine an automatic extension to subcontractors of the tax, customs, or incentive schemes enjoyed by the main company. However, this provision raises questions as to its compliance with current tax law. In fact, the General Tax Code does not provide for any possibility of automatically extending such benefits to third parties, and the Order of July 18, 2025, on incentives for private investment reinforced this position **by expressly excluding any possibility for the State to grant tax or customs exemptions to the investor's co-contractors**[23] . In this context, the legal scope of this exemption appears uncertain, and its application could expose subcontractors to a real risk of tax reassessment in the event of an audit.

- *An exemption from late payment interest contrary to tax legislation*

Still on the subject of contradictions with current tax law, **the Subcontracting Act provides that late payment interest owed to subcontractors is not taxable**[24] . However, this tax exemption conflicts with current tax legislation insofar as:

No provision of the General Tax Code appears to provide for such an exemption; and

- According to Article 4(6) of the Law of July 11, 2018 on the State's financial regime, only finance laws can legally establish tax exemptions[25] .

Under these circumstances, the legal scope of this provision remains uncertain and, unless it is incorporated into a subsequent finance law, it cannot be validly invoked against the tax authorities. As things stand, **subcontractors who consider these default interest payments to be non-taxable could be subject to a tax adjustment, with penalties for insufficient or omitted declarations,** thus creating legal uncertainty that is detrimental to the subcontracting ecosystem.

23 This possibility was provided for in Article 11 of Law No. 2013/004 of April 18, 2013, establishing incentives for private investment, amended on July 12, 2017, but was not renewed in the Order of July 18, 2025, which repealed the law of April 18, 2013.

24 Article 41(5) of the law.

25 This article states *in full* that «*No tax may be levied, collected or exempted, and no expenditure may be incurred or authorized on behalf of the State, without having been authorized by a finance law.*»

5. A regime of severe penalties in an uncertain procedural framework

- *An excessively repressive approach*

The penalty system provided for in the Subcontracting Act is based on a repressive approach, with fines of **up to 75% of the value of the contract or subcontracted service**[26] . This severity is not entirely in line with the practical realities faced by companies, especially since several of the offenses covered by the Act may result from a simple oversight or a constraint beyond their control.

The example of failure to publish the annual list of subcontractors or the amounts paid to them clearly illustrates the excessive nature of the penalty system provided for. Such an omission, which may result from simple negligence without fraudulent intent, exposes the company to a particularly heavy fine **of between 25% and 50% of the value of the contract concerned**[27] . When several contracts have been performed during the reference year, the cumulative amount of these penalties can reach excessive levels. This severity, which unfortunately leaves no room for the idea of a progressive penalty based on the circumstances surrounding the commission of the offense, appears difficult to reconcile with the principles of proportionality that underpin a balanced enforcement policy.

A more balanced approach would have been to make the application of fines conditional on the failure of a prior formal notice, thus giving the company the opportunity to regularize its situation without immediately suffering disproportionate punitive consequences.

- *Absent procedural safeguards*

The effectiveness of a penalty system depends as much on its rigor as on the procedural guarantees governing its implementation. However, the Subcontracting Act is silent on the specific procedures for determining violations and the remedies available to the companies involved. The risk of administrative arbitrariness is therefore real in the absence of an implementing text that strictly regulates, in particular:

- The procedures for establishing violations;
- The mandatory information that must be included in the offense report;
- The company's right to express reservations; or
- The possibility for the company to challenge the findings before the Subcontracting Authority (Minister for Small and Medium-Sized Enterprises), in accordance with the adversarial principle.

In addition, the financial impact of certain fines may be such that it jeopardizes the very viability of the companies being sanctioned, particularly when they are involved in high-value contracts. **It is therefore imperative that the implementing legislation set a ceiling on the fines that can be imposed on a company**, in order to maintain a balance between the deterrent function of the sanction and the economic survival of companies. Without such a framework, the system risks producing effects contrary to those sought, by encouraging main contractors to circumvent subcontracting in favor of insourcing solutions.

III. CONCLUSION AND OUTLOOK

The adoption of the law of July 11, 2025, on subcontracting is a significant step forward in structuring and improving the subcontracting ecosystem in Cameroon. Although there is room for improvement, the real challenge will lie in the effective control by public authorities of the conditions of its implementation by all actors in the subcontracting chain.

In the longer term, it is important to incorporate the regulation of subcontracting into a more comprehensive approach to public procurement reform and improvement of the business environment. The success of the system will depend in particular on:

- The ability of public authorities to strike a relative balance in protecting the interests of the various stakeholders in the subcontracting chain;
- The ability of public authorities to ensure that this law is consistent with existing sectoral legal frameworks (fiscal, social, contractual, etc.);
- The implementation of support for companies in terms of awareness-raising and training, to facilitate the adoption of new legal obligations;
- The establishment of a monitoring and evaluation mechanism, accompanied by regular and structured dialogue with all actors in the subcontracting ecosystem.

26 Articles 50 to 58 of the Act.
27 Article 51 of the law.