

Proceeds of Crime and the Havoc it is Causing to Legitimate Business in Cameroon

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ABSTRACT

The business arena in Cameroon is facing a lot of challenges. Amongst them is the influx of illicit money. The attendant consequence, being a high probability of chasing out legitimate businesses; and their proprietors from the Cameroonian market. This problem is made worst by the fact that those involved are politically exposed persons; whom because of the corrupt nature of the country and a highly centralised government wield a lot of power; thus weakening the existing legal framework put in place to check embezzlement and money laundering.

This paper is meant to create awareness on the damaging effects of these illegal practices on our economy. This will enable law makers to design a legal framework with measures capable of preventing the flow of such illegitimate funds into the country's economy. Only such a move can create a conducive and healthy arena for doing business in Cameroon. One where there can be positive competition that can boost growth in an economy. Businesses run for the purpose of laundering money are unstable and do not help the economy in any way.

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INTRODUCTION

Government officials; in whose care the Cameroonian government has entrusted the management of state affairs, for the benefit of the greater majority have transformed state funds into their personal property. This they achieve through what is generally referred to as grand corruption. Given that these politically exposed persons wield a lot of power, without the necessary checks and balances practiced in democratically advanced countries; it is easy for them to practice a type of grand corruption that generate billions in proceeds known as embezzlement. To make the misappropriated funds usable, they resort to yet another crime – money laundering. With the help of sophisticated forms or techniques of money laundering, criminally amassed billions are invested into businesses nationwide which then generate funds with a seemingly legitimate origin. This way the criminal origins of the funds disappear forever and the criminals can benefit from their crimes.

These Money launderers have for many years successfully used different methods to move embezzled funds into the country's commercial institutions. They choose areas in which there is a low risk of detection due to ineffective anti-money laundering rules for their operations. They avoid banks and invest the proceeds of their crimes into those businesses where the risk of detecting them as illicit gain is very low. This creates a very serious economic problem because legitimate investment is forced out of business.

Going along Peter L. line of reasoning corrupt societies in general create an enabling environment for a successful criminal enterprise. The criminalization of politics has made matters worse in Cameroon; where politically exposed persons most often are the criminals. They launder the money they take out of state coffers by investing the same into different businesses; with the intention of giving legitimacy to the embezzled funds and as such committing another crime. This explains why this paper examines corruption as the main source of the illicit proceeds laundered in Cameroon. This necessitates a proper understanding of the different types of grand corruption, alongside the techniques used by embezzlers.

I. GRAND CORRUPTION: THE MAIN SOUCER OF ILLICIT PROCEEDS IN CAMEROON

Grand corruption is corruption master minded by dominant groups in a state.¹ It involves the systematic plundering of public funds by politically exposed persons.² Most often, as it

¹David.C., "Tracking the Proceeds of Organised Crime -The Marcos Case." Paper Presented at the Transnational Crime Conference, Canberra, 2000, P.2

² see the case of the; *Republic of Philippines v. Ferdinand E. M Marcos, Imelda R. Marcos et al*, United States District Court

was the case in *The Albatros*,³ the law is inefficient in the face of such corruption. It manifests through embezzlement and state capture. Our point of focus here is embezzlement of public funds and how it serves as the main channel through which dirty money enters the Cameroonian economy.⁴

A. EMBEZZLEMENT

This type of corruption is disadvantageous to the greater majority in any given society. It is not only a moral crime but also an economic crime given that it drains huge proportions of a country's financial possibilities.⁵ It is closely linked to the misappropriation of public funds. Embezzlement is the act of fraudulently withholding funds or property belonging to the state or any public enterprise. Thus depriving a people of funds needed to attain their development goals. This misappropriation of state funds impoverishes the entire nation and leads to a disregard of social values such as hard work and meritocracy.⁶ Thus promoting discrimination which is the cause of increased social inequality in Cameroon. This social inequality is said to be amongst the causes of terrorism in the country today. Embezzlement is nurtured by vices such as; a constant violation of laws

for the Central District of California, case no CV 86-3859-MRP(GX)

³ Following the failure of negotiations by Yves Michel FOTSO to purchase a brand new BBJ-2 for the President a report was made to the Secretary General at the Presidency of the Republic; Jean Marie Atangana Mebara. Without informing the President of the Republic he decided to start new negotiations with Boeing. He then brought in another high ranking personality into the scene Jérôme Mendouga the then Cameroonian Ambassador to the United States. His role was to act as an intermediary in these new negotiations with Boeing. When Mendouga carries out his first assignment he makes strange discoveries and instead of reporting to hierarchy he also decides to be silent and take upon himself to enter new negotiations with Boeing; promising Boeing officials that the government will transfer an additional four million US dollars to complete the purchase price of a brand new aircraft. And not only that he also went ahead with the complicity of Jean Marie Atangana Mebara to make new negotiations for the lease of another Boeing Jet this time a Boeing 767-200 as a temporary solution while awaiting the delivery of the brand new aircraft. This temporary jet they named The Albatros. Unfortunately, The Albatros' first outing with the President revealed that the aircraft was defective. Mechanical faults prompted the President to order that The Albatros be returned to Boeing and that investigations be carried out to determine what led to the purchase of a defective aircraft in place of a brand new one. These investigations led to the filling of a case with the Mfoundi High Court also entitled The Albatros. See also *Abacha and Others v. Secretary of state for the Home Department*, [2004] EWHC Admin. 787 Case N0 CO/4708/2000.

⁴ FOMBAD, C.M. Loc.cit.P. 366.

⁵ IMF Report N°06/322 Op.cit.

⁶ L'anecdote N°271 of Wednesday 28th June 2006.

governing the award of public contracts⁷; self-gratification; greed; and favouritism; all practiced in state institutions.⁸ As demonstrated in the case of: *Moutchipou Seidou et autre c/Ministère Public*,⁹ public institutions in Cameroon have been transformed by the ruling elite and their close associates into their personal estates.

Such practices generates billions of CFA francs which government losses each year to these unscrupulous individuals.¹⁰ This is for the most part due to the fact that there is a complete absence of credible oversight mechanisms to oversee the management of these institutions. As was the case in *Gerald Emmanuel Ondo Ndong et autre c/Ministère Public*,¹¹ where not only was the institution run like a private estates; its budget served as the accused bank; and he spent every moment planning how to swindle. The accused in this case like those in the case of *Abono Pauline and Others c/Ministère Public were guilty of spending on projects totally at odds with the mission of the institutions they had been entrusted to manage. The proceeds from these crimes once in the hands of the embezzlers create an urgent need to launder them*¹². The techniques used by embezzlers are as diverse as the opportunities for embezzlement.

B. EMBEZZLEMENT TECHNIQUES

The award of public contracts has been the most productive domain where criminals under the cover of government offices generate billions of francs CFA at each swindle. The techniques used include: overbilling, misuse of occupation, influence peddling, false declarations, fictitious contracts, fictitious companies etc.

1. Overbilling

It is a common practice in Cameroon that Contracts are awarded only to those contractors who are willing to cheat in order to satisfy their greedy quest for self-gratification.¹³ When the vote holder who is usually the minister heading a ministry is certain that the contractor has agreed to the swindle they can then settle for one of numerous techniques known as overbilling. If the contract is for the supply of goods the price of articles is inflated to at least four times its normal price. Where the contract is for services everything is done to make sure that the state ends up spending more than thrice the amount it would have spent for those services¹⁴. For the government official to make sure his scheme succeeds and to ensure secrecy, nowadays these government officials go as far as creating their own companies headed by either expatriates or their close family members.

After guaranteeing secrecy the contractor and the vote holder work in close collaboration to be able to plan how to exploit lapses in the contract file to their advantage. Texts

⁷ *Pierre Desire Engo et Dippah Henri c/Ministère Public et CNPS*, Arrêt no 223/P du 2 juin 2006 and *Norbert Ndong c/Ministère Public*

⁸ Jeune Afrique Economie -ETE - 2012- N° 388(P. 22-25)

⁹ Arrêt no 78/ CRIM du 27 juin 2006.

¹⁰ Rapport sur l'état de la lutte contre la corruption au Cameroun, 2011. P. 230.

¹¹ Arrêt no 051-051bif/06 du 14 novembre 2006.

¹² Cameroon's 2011 Anti-Corruption Status Report November 2012, P.296

¹³ *Article 30 of the UN Convention Against Corruption* 2003.

¹⁴ *Credit Foncier c/Edou Joseph and Others*

are modified to be able to inflate prices as was the case in *Douala Ports Authority c/ Etonde EKOTTO and Others*. Also following the execution of the project for the construction of the stretch of road between AYOS-ABONBANG-BONIS the ministry of public works and the contractor PANTECHNIKI were accused of using this embezzlement technique. As such Contrary to the provisions of Service Order N° 976 which stipulates that new prices of commodities must be negotiated with the vote holder; the contractor is said to have imposed fabulous prices which were validated by the Ministry of public works. All this thanks to the *prior agreement between* the contractor and the Minister of Public Works. The overbilling was evaluated to stand as high as 800%, since commodities were calculated at trice and at times four times their initial cost.¹⁵ This and other manipulations raised the cost of a fictitious complementary contract to the original contract for the construction of the first portion of the AYOS-ABONBANG-BONIS stretch of road to Fifteen billion.¹⁶ Thus the government official with the help of the contractor embezzled fifteen Billion from state coffers. This is just a tip of the iceberg in terms of the huge amounts embezzled from the state when an analysis is made of what obtains in the domain of public contracts covering the entire national territory. The embezzlers also make use of other techniques like; preferring exceptional rules that favour embezzlement instead of respecting the less fruitful general principle governing the execution of public contracts in Cameroon.

2. Misuse of Power

The award of public contracts in Cameroon is reputed for being regulated by numerous laws which lay down strict procedures for the execution of projects. The intention here is to make it difficult for criminals to infiltrate this sector. However, of late the barons of power with the help of corruption are using their positions to circumvent these norms, thus creating opportunities for embezzlement.¹⁷ The contractor is usually the corrupter while the corrupted is the representative of the public institution who either works individually or with others. The commission consists of the vote holder's representative, the accountant and a paymaster. The allocation of funds is done in one of three ways depending on the amount of money to be paid. Where the project is worth less than five million the document allocating the funds is a purchase order. If the worth of the project ranges between five and twenty million the document allocating funds is an order note; for projects worth as from twenty million and above the document allocating funds is a contract.¹⁸ The general principle is that funds are allocated after an order has been placed for the supply of services following the publication of a call for tenders. In exceptional cases the order is made through a direct award or by mutual agreement.

A vote holder's representative who intends to embezzle funds gets around the general rules and settles for the exception which gives him the latitude to break up funds allocated for a given project into small lots in order to avoid

¹⁵Rapport sur l'état de la lutte contre la corruption au Cameroun, 2011. P. 231

¹⁶ Ibid.

¹⁷Jeune Afrique Economie –ETE – 2012- N° 388, P40

¹⁸GERDDES – Cameroon, *Corruption in Cameroon*, Friedrich Ebert Stiftung 1999 P.37

making a public call for tenders. This gives him the possibility to negotiate through a mutual agreement (*gre a gre*) and here he can make arrangements with the contractor on the respective prices to be proposed, so that all of them involved in the committee in charge of the award of contracts can end up with huge sums of money once the contract is awarded. In this way; they circumvent the most controlled procedures and statutory limitations on their powers.¹⁹ Thus in one of its control sessions; the Supreme State Audit, found some managers of public institutions²⁰ liable for using these mismanagement techniques. These managers exploited loopholes in the law governing the award of public contracts that offer embezzlement opportunities²¹. These managers are known to have used several techniques as they set out to embezzle billions of francs CFA; amongst them exploitation of the exception to the general rule that the award of public contracts is made through the publication of tenders. These government officials split up public contracts; into small lots so as to make the public contracts commission incompetent to handle the award of such contracts.²² They also indulge in malpractices such as the postponement of commencement deadlines for the execution of public contracts further than is stipulated by the law after having received bribes, as well as failure to draw up purchase orders for certain offers. All these create opportunities for swindling fabulous amounts from state coffers²³.

C. Fictitious Companies

Most Cameroonian ministers in their capacity as vote holders in their respective ministries create fictitious

¹⁹Gerald Emmanuel Ondo Ndong *et autre c/Ministère Public* Arrêt no 051-051bif/06 du 14 novembre 2006

²⁰ They include the rector of the University of Yaoundé II Soa for the period 2007-2009; the Dean of the faculty of economics and management sciences of the University of Yaoundé II Soa for the period 2006 – 2009; the Former government Delegate to the Limbe Urban Council between 20002 – 2008

²¹ Jeune Afrique Economie –ETE – 2012- N° 388, P.39

²²For instance a contracts for the purchase of vehicles was split up into three contract before being awarded as follow: -
Marché n° 18,23,24/AONO/CPM/CUD passé avec la Société SOCADA d'un montant total de 198.111.408FCFA

-Le Marché n° 63 / AONO/CPM/ CUD /08 du 05/12/08 passé avec la société MITCAM d'un montant de 24.500.000FCFA (Douala 1^{ère})

- le marché n° 64/AONO/CPM/CUD/08 du 05/12/08 passé avec la société SUMOCA d'un montant de 60.000.000FCFA (Douala 3^{ème})

²³ Thus in the project for the construction of the AYOS-ABONBANG- BONIS road the contractor with the complicity of the representative of the vote holder attempted to embezzle public funds to the tune of 15 billion Fcfa through the award of a complementary contract. As a result of these collusions a prolongation of the dead line for the reception of the contract was granted to PANTECHNIKI. The dead line for the reception of the first portion of the road was extended from 25-66 months while that for the second part was extended from 30-56 months. These extensions meant more expenses on the part of the state. PANTECHNIKI spent 932 million CFA francs in bribes paid to officials of the Ministry of public works to motivate them to negotiate with the ministry of finance to grant them the different periods of grace.

Companies either in the name of their close relatives or expatriates which they use to vie for public contracts. For every call for tenders he creates at least three of such companies; so as to increase his chances of being chosen by the commission.²⁴ He then bribes members of the commission to award the contract to the fake company. For this to happen the members of the commission connive to help the fictitious company;²⁵ by communicating information on maximum prices proposed on the tender price list in advance to the company. This in turn enables the company to propose favourable prices when they make their financial bids²⁶. Upon award of the contract and giving that the company is not real; documents are faked to justify the completion of the abandoned project after having taken possession of the huge sums earmarked for them. This is what happened during the construction of the AYOS-ABONBANG-BONIS road one of such fictitious companies was used by the contractor PANTECHNIKI to embezzle 37 billion Fcfa.²⁷

D. False Declarations

To be able to misappropriate funds without leaving traces that can be followed by investigators; embezzlers make use of false declarations²⁸. This technique is very much used in the domain of public contracts and in the management of state owned establishments. Contractors make false declarations in most cases to cover huge expenses for which they have no justifications.²⁹ Inquiries on embezzlement during the construction of the AYOS-ABONBANG-BONIS road by PANTECHNIKI revealed such outrageous false declarations relating to excavation works. The amount of soil presumed to have been excavated could produce a mountain with the height of mount fako; if it were to be deposited in an

²⁴Rapport sur l'état de la lutte contre la corruption au Cameroun, 2011. P. 182.

²⁵ Under the LOM PANGAR Project two lots of the contract for the construction of staff quarters were awarded to DPE INTERNATIONAL Company(whose initial bid was 2,383,108,500 CFAF) by the Electricity Development Corporations Tenders Board instead of JEAN DUPUCH EXPORT(whose initial bid was 1,887,478,994 FCFA) cheaper by 495,629,506CFAF coupled with a favourable technical remark. The reason invented being that the latter did not understand the Bid Documents . The tender board members engaged in real gymnastics in favour of DPE INTERNATIONAL whose bid was reduced to CFAF 2,362,742,965 FCFA, a reduction of 20,365,535 .

²⁶Cameroon's 2011 Anti-Corruption Status Report November 2012, P.182

²⁷Rapport sur l'état de la lutte contre la corruption au Cameroun, 2011. P. 230.

²⁸This technique was also under the LOM PANGAR Project with respect to the construction of the ceremonial grounds to host the ceremony for the laying of the foundation station of the project. Service Order N° 001613 choose a company known as BAGRIMI to construct the ceremonial ground at an exorbitant cost of 19 Million, as if this was not enough another Service Order increased the initial amount by 57 million without any justification. Giving that the initial 19 million earmarked only for earth moving works was already too much.

²⁹Cameroon's 2011 Anti-Corruption Status Report November 2012, P.181

area with a diameter of fifty meters³⁰. The contractor also made false declarations with respect to transportation costs amounting to two billion Fcfa.

Within state corporations management makes different types false declarations ranging from those relating to allowances, recruitment and just any activity that can help them cover unjustified expenses. As far as allowances are concerned the embezzlers create allowances not provided for by the laws governing the institution concerned. This permits them to coin them to tie with the amount of money they intend to swindle from the coffers of the state establishment. For instance following the findings of the Supreme State Audit on the Public Contracts Regulatory Agency its manager was found guilty of creating allowances and other benefits in violation of existing texts governing this establishment.³¹ The allowances ranged from: allowances for the collection of ARMP dues to the tune of 420 million Fcfa; allowances paid to personnel which are not provided for in any existing texts to the tune of 270 million Fcfa.³² The same was discovered when the Limbe Urban Council came under scrutiny. The government delegate ordered for the payment of salaries and fringe benefits not provided for by the law to the tune of 101million Fcfa.³³

E. Misuse of Occupation

Embezzlement of public funds is the act of fraudulently withholding property belonging to the state or public enterprise.³⁴ It affects the image, credibility and legitimacy of political authorities; as well as the efficiency of state institutions. It empties public service and general interest of all its contents. The principle that a state is supposed to be at the service of the people to provide them with basic amenities is reduced to nothing.³⁵ Thus, threatening the authority of the state. The law which is an expression of the general will is also not respected. This explains why in Cameroon, public power given to government officials to be exercised for the benefit of all has rather been personalized.

Consequently, in Cameroon civil servants entrusted with the mission to serve the state, putting state interest above any other are rather contented with serving their private interests. In this way power conferred on them to be used for the general good is misused. Misuse of occupation which is an embezzlement technique has led to the utilization of public office as channels for the accumulation of public wealth for private gain. The case known as *The Albatros*³⁶

³⁰Rapport sur l'état de la lutte contre la corruption au Cameroun, 2011. P. 229

³¹Jeune Afrique Economie –ETE – 2012- N° 388. P. 40

³² Ibid.

³³Ibid

³⁴ Jenny Cuffe (BBC World Service) Story from BBC News ; Cameroon Corruption ,Cameroon Health ,Posted on December 22,2006 at 11:45pm.

³⁵AKOMBI.O.S.,*The Wages of Corruption*, Langaa Research&Publishing CIG Mankon,Bamenda;2009.P.42

³⁶ Following the failure of negotiations by Yves Michel FOTSO to purchase a brand new BBJ-2 for the President a report was made to the Secretary General at the Presidency of the Republic; Jean Marie Atangana Mebara. Without informing the President of the Republic he decided to start new negotiations with Boeing. He then brought in another

illustrates an instance where government officials in Cameroon used this technique to embezzle state funds to the tune of 37 billion frs CFA.

F. Intimidation

Criminals seeking for illegal means of becoming rich are always in constant search of new techniques of erasing the traces of their crimes. Some even devote a lot of energy and resources to this course.³⁷ Their main aim being to complicate matters for investigators who eventually attempt to follow any traces they leave behind. This is how criminal gangs involved in white collar crimes operate. They make sure their network of friends is very wide consisting of men in positions of influence; so as to discourage any eventual attempt at investigating and challenging them. Threats are their primary weapon³⁸. Cameroonian criminals have devised new strategies which most often are a combination of some elements borrowed from these techniques although most often they bring in some element of novelty: a new form of intimidation devised this time around is intimidation by bluffing; Cameroonians refer to it as the “*gaze dazzling strategy*.”³⁹ It entails creating doubts, confusion and ambiguity in an abnormal situation, simply by making pronouncements like “*instructions from above*”⁴⁰ or coming from “*hierarchy*.”⁴¹ The message that these ambiguous phrases pass across is crystal clear. The matter under consideration may be illegal but the mere fact that the order is from above, while not it could be from the supreme magistracy that is the President of the Republic himself. At this juncture no one dares to pronounce his name. This is because it is enough to talk of hierarchy and anybody will understand who the person in question is and remain quiet. The aura of the head of state is used as a cover by these

high ranking personality into the scene Jérôme Mendouga the then Cameroonian Ambassador to the United States. His role was to act as an intermediary in these new negotiations with Boeing. When Mendouga carries out his first assignment he makes strange discoveries and instead of reporting to hierarchy he also decides to be silent and take upon himself to enter new negotiations with Boeing; promising Boeing officials that the government will transfer an additional four million US dollars to complete the purchase price of a brand new aircraft. And not only that he also went ahead with the complicity of Jean Marie Atangana Mebara to make new negotiations for the lease of another Boeing Jet this time a Boeing 767-200 as a temporary solution while awaiting the delivery of the brand new aircraft. This temporary jet they named The Albatros. Unfortunately, The Albatros’ first outing with the President revealed that the aircraft was defective. Mechanical faults prompted the President to order that The Albatros be returned to Boeing and that investigations be carried out to determine what led to the purchase of a defective aircraft in place of a brand new one. These investigations led to the filling of a case with the Mfoundi High Court also entitled The Albatros.

³⁷GERDDES – Cameroon, Op.cit.

³⁸Jeune Afrique Economie ; Loc.cit.P.84

³⁹Ibid.

⁴⁰Ibid.

⁴¹Ibid.

criminals who know that giving the prevailing circumstances no one will dare to verify the authenticity of their declarations.

Things are even worse when these criminals are top ranking political and administrative personalities known to be close collaborators of the head of state. This misuse of power of late has become a new and the most cynical way of exploiting this close ties with the head of state to trample on justice. Their actions are meticulously planned; such that in most cases detecting and dismantling their network will need a miracle let alone investigating, judging and sanctioning them.

This is exactly what happened in one of the charges levied in *The Albatros* where intimidation is said to have played a very important role in the embezzlement of four billion FCFA. The accused Jean Marie Atangana Mebara used this technique of intimidation⁴² with the aim of getting the General Manager of SNH to disburse money and pay it into a bank account from which he could then proceed with the layering of the funds to erase traces of their illicit origin. These illicit funds which are the proceeds of grand corruption once in the hands of criminals they are faced with one obstacle which is how to use them without arousing suspicion. To do this they have to launder these illicit money so as to give it legitimacy. Money laundering becomes an indispensable part of the criminal venture; which can only be attained using diversified laundering techniques.

II. MONEY LAUNDERING TRENDS IN CAMEROON

Money laundering is the method by which illicit money is incorporated into the banking systems and business environments of the world. Dirty money is washed so it ends up very white. In French this process is describe as *blanchiment d'argent*, which literally means, the bleaching of money. In this way the identity of dirty money and the ownership of assets derived from it are transformed so that they appear to originate from a legitimate source. In other words Money laundering begins with the fruits of a crime which is the predicate offense and ends with funds that can be used safely or at least with minimal risk. A person who commits a crime will initially try to prevent their actions from being noticed by law enforcement authorities. If the person is arrested or taxed on the proceeds of crime, they will try to avoid having the criminal proceeds traced back to their origin and confiscated.⁴³ This explains why in order for top ranking officials who embezzle state funds to be able to spend money openly, they must ensure that there is no direct link between the proceeds of their crime and their illegal activities. They may also seek to construct a plausible explanation or an apparent legal origin of the money that they possess. The business arena in Cameroon provides an

⁴²The confidential letter sent by Jean Marie Atangana Mebara to the General Manager of SNH referenced 252/CF/SG/PR was drafted in the following intimidating style : «sur les hautes instructions de M. le Presidentde la Republique j’ai l’honneur de vous demander de bien vouloir payer en urgence à la standard Chartered Bank Cameroon l’équivalent en dollars Americaine de la somme de 4millards Fcfa en reglement partiel des sommes dues par la CAMAIR à la société ANSETT World Wide Management Service... »

⁴³ OECD Money Laundering Awareness Handbook for Tax Examiners and Tax Auditors 2009 P.9

ideal place where, criminals launder their proceeds, before spending or investing in the legal economy.

A. THE MONEY LAUNDERING PROCESS

Money laundering is usually described as having three sequential elements; placement, layering, and integration. Placement is the introduction of the funds into the financial system, whether through cash deposits or more complex methods. Layering is a set of activities intended to distance the funds from their criminal origin. Integration involves converting illegal proceeds into apparently legitimate business earnings through normal financial or commercial operations.⁴⁴

1. Placement

This is the first stage in the washing cycle and it is the physical deposit of proceeds derived from criminal activity into the financial system.⁴⁵ Initially money laundering was a cash intensive business, cleaning vast amounts of cash from illegal activities. The goal in this stage is to deposit criminal proceeds, into a bank account at home or abroad. Most often this bank account is opened in the name of unknown individuals or organizations; *In re Londono*.⁴⁶ Following increasing regulation within the financial system Cameroonian criminals are diversifying their activities and today in the placement stage money is placed into the financial system or retail economy or better still smuggled out of the country;⁴⁷ *The Albatros*; *R v. Liverpool*.⁴⁸

Actually, what obtains in Cameroon is that Since the placement of large sums in cash may trigger formal reporting procedures in most financial institutions; criminals who are in possession of huge sums of embezzled funds in cash usually for fear of being detected switch the cash into other valuables like trade goods(merchandise),precious metals (diamonds, gold) or cheques. To attain this goal these government officials first of all invest the embezzled funds into front businesses such as bars, restaurants or casinos, as such they claim to do business which justifies the huge sums of money they may subsequently take to banks. Trade based money laundering encompasses a variety of schemes that enable the cash to be separated from the crime early in the money laundering process without necessarily using the financial system.⁴⁹ Not all criminal proceeds are in the form of cash or even money. Embezzled goods can be exchanged for other valuables (for instance some kickbacks are in the form of goods as was the case in the CELUCAM Affair. In the context of public contracts in Cameroon, the vote holders and their accomplices usually divert equipment meant for the realisation of projects like vehicles, heavy machines, computers and others which they use in most cases to bribes their way through) Illegal funds may be converted into

⁴⁴Board of Governors of the Federal Reserve System. 2002. *Report to Congress in Accordance with §356c of the USA Patriot Act*. Washington, DC: Board of Governors of the Federal Reserve System. P.7

⁴⁵ FIU Seychelles; Guidelines on Anti Money Laundering and Combating the Financing of Terrorism Procedures for Reporting Entities in Seychelles December 2007;P2

⁴⁶ The Times, 11 July 1995,Court of Appeal (UK)

⁴⁷ VIJAY, K.S, Loc. cit p.8

⁴⁸Magistrates' Court, Ex p Ansen, [1998]1 All ER 692

⁴⁹ Money laundering threat Assessment Working Group, Loc. cit. P.42

financial instruments, such as money orders or cheques, and commingled with legitimate funds to divert suspicion⁵⁰. Thus the laundering scheme often allows criminals to distance themselves from the crime.

2. Layering

Layering occurs after the ill-gotten gains have entered the financial system, at which point the funds are converted or moved to other institutions, further separating them from their criminal source;⁵¹*R v.Lilloco*.⁵² The purpose of layering is to disassociate the illegal monies from the source by purposely creating a complex web of financial transactions aimed at concealing any trail as well as the source and ownership of funds. Typically, layers are created by moving monies in and out of the offshore bank accounts of shell companies through electronic funds transfer (EFT). Given that there are over 500,000 wire transfers representing the US \$1 trillion electronically circulating around the globe daily, and giving that there isn't enough information disclosed on any single wire transfer to make known how clean or dirty the money is, this therefore provides an excellent way for launderers to move their dirty money.⁵³ Other forms used by launderers are complex dealings with stock, commodity and futures brokers. Given the sheer volume of daily transactions, and the high degree of anonymity available here, the chances of transactions being traced is insignificant.

3. Integration

This stage has to do with the incorporation of funds into the legitimate economy. Integration involves converting illegal proceeds into apparently legitimate business earnings through normal financial operations.⁵⁴ This is accomplished through the purchase of assets, such as real estate, securities or luxury goods.⁵⁵ At this stage the money is integrated into the legitimate economy and financial system and assimilated with all other assets in the system. Integration of the cleaned money into the economy is accomplished by the launderer making it appear to have been legally earned.⁵⁶ Here it is exceedingly difficult to distinguish legal and illegal wealth because Money laundering, in its simplest form, is the act of making money that comes from Source A look like it comes from Source B.⁵⁷ The criminal in Cameroon guilty of embezzlement is very conversant with the stages involved in the money laundering process. To successfully distant the

⁵⁰ Paul A. S. .Loc.cit. P.10

⁵¹ FIUSeychelles. Loc. cit. P2

⁵²92 C.C.C.(3d) 90,Ontario Court,General Division

⁵³ VIJAY, K.S, Loc.cit

⁵⁴ FIU Seychelles. Loc. cit.

⁵⁵Paul A. S.Loc. cit.

⁵⁶ VIJAY.K.S. Loc.cit.

⁵⁷ The most common types of criminals who need to launder money are drug traffickers, embezzlers, corrupt politicians and public officials, mobsters, terrorists and con artists. Drug traffickers are in serious need of good laundering systems because they deal almost exclusively in cash, which causes all sorts of logistics problems. Not only does cash draw the attention of law enforcement officials, but it's also really heavy. Cocaine that's worth \$1 million on the street weighs about 44 pounds (20 kg), while a stash of U.S. dollars worth \$1 million weighs about 256 pounds (116 kg). see <<http://money.howstuffworks.com/money-laundering3.htm>> last accessed on November 13, 2008

proceeds from the crime he uses one or more laundering techniques.

B. Money Laundering Techniques

Criminals in Cameroon launder the funds they embezzle from state coffers using numerous laundromats; they include: money laundered through the financial sector and the real estate.

1. Money Laundered Through the Financial System

The financial sector in Cameroon offers a number of instruments that corrupt officials exploit to launder ill-gotten wealth. They include: capital market investments, underground banking and collective accounts.

i. Capital market investments

The Money launderer can invest his money into financial assets. Assets, such as shares, bonds and travellers cheques are generally of a very low risk, this reduces the chances of losing money. Furthermore the assets are highly liquid, which means they can be converted back into cash very easily. Laundered funds are comingled into lawful transactions.⁵⁸ The use of bank cheques to move value between persons or jurisdictions is usually not reportable. In most cases, a bank cheque can be issued in any name, and most investigators would not call into play identification requirements unless the transaction involved cash or an amount over a specified threshold.⁵⁹ The Travellers' cheque has been identified⁶⁰ as a medium for laundering commonly used in Cameroon. It offers an undisputed advantage to its users especially international travellers. The use of these cheques in Cameroon for laundering purposes is facilitated by the fact that there is no regulatory threshold limiting the total value of traveller's cheques to be held when travelling and the possibility of its use by customers of commercial banks. Part of money embezzled in The Albatrose Case was laundered using Travellers Cheques. In a bid to repatriate the embezzled funds the launderer bought travellers cheques in the host country and made many trips to Cameroon so as to exchange them in local banks. To disguise these manoeuvres he used the counters of local banks from which he usually received his salary. He made sure he never repeated the transaction at the same counter. The amount withdrawn using the travellers cheque is either equal to or less than his salary.

Embezzlers in Cameroon are noted for operating bank accounts which they use to launder money.⁶¹ Many such accounts have been identified in financial institution around the country, some of which are in financial institutions owned by these criminal. This is what happened in The Albatrose where 31 million US dollars embezzled by Jean Marie Atangana Mebara, Yves Michel Fotso and Marafat Hamidou Yaya was laundered through accounts opened in

⁵⁸ Brigitte Unger et al. Amounts and Effects of Money Laundering, A Report for the Ministry of finance (2006) Utrecht School of Economics Vredenburg 138, 3511BG Utrecht Nederland, Australian National University Center for Tax System Integrity Reg Net, RISS, Canberra ACT 0200 Australia.P 66.

⁵⁹Financial Action Task Force (2002). "Report on Money Laundering Typologies 2001-2002". Paris, 2002

⁶⁰ by Cameroon's National Agency for Financial Investigations

⁶¹Peter L. Op.cit. P. 84.

the Commercial Bank of Cameroon and in the Bank of America by Yves Michel Fotso owner of these enterprises.⁶²

ii. Underground banking

Underground banking can be considered as any financial operation outside the conventional or regulated banking sector. Due to the fact that the Cameroonian society is for the most part multicultural, underground banking is popular amongst the different ethnic groups in Cameroon. It use to be very popular in the Bamileke and other communities from the North West Region⁶³, members of these communities used them for their business transactions as a means to save for rainy days. While these systems have been traditionally used by specific ethnic groups, with the advent of globalization, they are increasingly being used by businessmen not associated with any particular ethnic group. Traditionally, these systems serve for the collection of house hold savings. Since they are unregulated they are attractive to embezzlers who would not like to be detected when moving money.

These informal activities are vulnerable to money laundering because they involve huge sums in cash. Consequently loan schemes provided by tontines in Cameroon are used by launderers to give out loans to their members. This helps many of them to avoid making deposits with the banks. Most often these loans are paid back progressively.⁶⁴ The receiver of the loan in most cases is aware of the dubious source of the money, but will be put off from reporting it due to the benefits they receive from the preferential loan rates.⁶⁵ Traditionally it was thought that these informal channels could not sustain the flow of large sums of money, but there is evidence,⁶⁶ which suggests that business tontines can indeed hold large sums of money. It is important to know that part of the money constituting deposits in tontines are legitimate proceeds but unknown proportions are derived from illicit funds.⁶⁷

Accounts opened by tontines in financial institutions are most often collective accounts and can be used by dishonest persons as a way to launder money.⁶⁸ The money launderer who is a member brings in large amounts of money into the tontine where the said funds are loaned out to other members and the paltry sums that are left are then deposited in the name of one of its members who owns an account with a bank. Such amounts scarcely exceed the reporting threshold. Most often such persons have a good reputation with the financial institution. Within tontines they can pay in large amounts of cash and pay it out to a variety of different people. These people will of course be associates of the launderer.⁶⁹

2. Money Laundered Through Real Estate

The real estate offers a lot of opportunities which can be exploited by money launderers. This situation is made worst when this sector is unregulated as it is the case in Cameroon.

⁶²Jeune Afrique Economie –ETE – 2012- N° 388 P.105

⁶³M . NZEMEN Op.cit.

⁶⁴ Mono Ndjana H. Op.cit.

⁶⁵ Brigitte Unger et al. Loc.cit. P. 67.

⁶⁶ M . NZEMEN Op.cit.

⁶⁷ Brigitte Unger et al. Loc.cit.P. 75.

⁶⁸M . NZEMEN Op.cit

⁶⁹ Brigitte Unger et al. Op.cit. P. 67.

In such circumstances front companies, international trade and merchandise are the most appropriate laundering channels.

i. Front Companies

Most launderers in Cameroon prefer to do the laundering themselves. They prefer to operate front companies whose sole *raison d'être* is to launder funds. Top ranking personalities in Cameroon are owners or shareholders in Consultancy firms, which operate on a global basis and receive large wire transfers from clients all over the world for services rendered. By setting up such firms Cameroonian criminals can operate legitimate businesses, pay relevant taxes and bills on entities that they control for non-existent services. The huge sums of money syphoned from state coffers are pumped into these firms given that what is being billed for is intangible and presents a myriad of false billing opportunities. The dirty money invested into the consultancy firm is subsequently taken out as profits from the firm's services and is deposited into the firms accounts. When the consultancy firm finally pays money into the embezzlers private bank account it justifies such payments by stating that it is dividend earned by his shares in the firm. The investigator is left with no other option but to accept because proving the contrary is almost impossible. It is especially so since in most cases, the Consultant⁷⁰ claims that his job consists in providing advisory services to clients at a high rate.

ii. Merchandise Laundering

Cameroonians practice mostly merchandise laundering.⁷¹ In essence this is where cash derived from crime is used to purchase goods that can then be sold, thus effectively avoiding the banking system until the money to be deposited is totally clean, and coming from a legitimate business enterprise. Money laundering by embezzlers in Cameroon is not limited to banks and financial institutions.

The Money launderer can invest in consumer goods ranging from basic amenities, provisions, cosmetic products, building materials, sanitary material, agricultural chemicals and fertilizers, electronics etc. To do this he needs the services of an experience businessman in the given line of business in which he intends to invest. He then gets into a partnership agreement promising very high stakes to the businessman. Following their agreement he brings in huge sums of money in cash which he invests into the business. They now use the cash to purchase merchandise at times they set up simple shops or chains of shops(supermarkets or malls.) In an economy like that of Cameroon where customs services are the most corrupt such purchases can be easily transported across borders without arousing suspicions. While the experience businessman is selling the goods to generate money that can be safely deposited into the enterprise's bank account the embezzler keeps bringing in dirty money embezzled from state coffers which they comingle with proceeds from the legitimate business which is then deposited into the business accounts in a financial institution thus giving a legitimate origin to the embezzled funds. These criminals have thus produced what appears to be legitimate commercial revenue.⁷² Most often Cameroonian launderers

also diversify their businesses by investing in second hand goods such as vehicles and other valuables imported mostly from Europe.⁷³ Trading in new or used vehicles bought using the proceeds of crime is a common money laundering trend used by members of government and their relatives in Cameroon. More than half of second hand automobile sales points in Yaoundé are owned by members of government.

The money launderer may also launder funds from crime by acquiring luxury goods. The launderer follows a similar logic as in the case of the purchase of consumer goods. These goods can either be kept for personal use or exported. One of the qualities of these products, which render them extremely attractive, is the fact that large amounts of cash can be transformed into a less conspicuous form. Moreover, it is not unusual for purchasers of luxury items to make their transactions without any questions being asked as to the origins of the funds especially as the shop owner is unwilling to upset the purchasers with personal questions, or worse still because the shopkeeper is ignorant of any existing reporting obligation.⁷⁴ One of such luxury items is gold and it offers an advantage to money launderers because of its high intrinsic value. Gold can be bought and sold with little difficulty in most areas of the world. Furthermore, it holds its value regardless of the form it takes be it in bullion or as a finished piece of jewellery. It is thus often sought after as a way of facilitating the transfer of wealth. These advantages that gold provides are highly attractive to the money launderer. Most laundering activities involving gold are linked to embezzlement and organized crime.⁷⁵ In Cameroon the exploitation of gold is very rudimentary and most of the produce is sold in the black market and smuggled by criminals abroad. Laundering embezzled funds using this medium is common place.

CONCLUSION

In a country like Cameroon where underground networks for the perpetration of crime are the rule rather than the exception money laundering stakes are very high. Unfortunately there are many business areas and industry types in Cameroon where very little or nothing is known about money laundering. Based on such findings and given that any business is run to make a profit, when large orders are placed, most business enterprises would not ask too many questions for fear of losing the business deal or a customer. It is exactly this weakness that criminals are exploiting and crumbling the economy. This is especially so, due to the fact that, law enforcement officials in Cameroon generally presume that business people involved in money laundering schemes are innocent accomplices. That notwithstanding the legal minds that we are; then begin to wonder what can be achieved when businessmen get involved willingly or are receiving a percentage of the money laundered. The problem has been made worse by the fact that so many aspects of the money laundering offence have not been given adequate consideration under existing local legislation. This has led to the infiltration of proceeds of crime into the Cameroonian economy; forcing legitimate businesses to close down in favour of criminal networks.

⁷⁰ Cf. Peter L. Dirty Dealing The untold truth about global Money laundering, international crime and terrorism, KOGAN PAGE Ltd 2003 P.76.

⁷¹ Peter L. Loc.cit. P. 64.

⁷² Brigitte Unger et al. Op.cit.P .70.

⁷³National Agency for Financial Investigations, Cameroon, Progress Report 2010, P. 11.

⁷⁴ Brigitte Unger et al. Loc.cit.P 70.

⁷⁵Financial Action Task Force (2003).'*Report on Money Laundering Typologies 2002-2003*'. Paris, 2003