

DECREE No. 2020/251 of 5 May 2020 to lay down
the reorganization and functioning of the Kribi
Port Authority

THE PRESIDENT OF THE REPUBLIC,

- Mindful of** the Constitution;
- Mindful of** OHADA Uniform Act Relating to Commercial Companies and Economic Interest Groups, adopted on 30 January 2014 at Ouagadougou;
- Mindful of** Law No. 83/16 of 21 July 1983 to regulate the policing of port areas;
- Mindful of** Law No. 98/21 of 24 December 1998 to organize the ports sector;
- Mindful of** Law No. 2017/11 of 12 July 2017 to lay down the general rules and regulations governing public corporations;
- Mindful of** Law No. 2018/12 of 11 July 2018 relating to the fiscal regime of the State and other public entities;
- Mindful of** Decree No. 85/1278 of 26 September 1985 to lay down regulations governing policing and operations in port areas;
- Mindful of** Decree No. 99/127 of 15 June 1999 to set up port authorities;
- Mindful of** Decree No. 2011/408 of 9 December 2011 to organize the Government, as amended and supplemented by Decree No. 2018/190 of 2 March 2018;
- Mindful of** Decree No. 2018/355 of 12 June 2018 to lay down common rules applicable to contracts awarded by public undertakings;

HERBY DECREES AS FOLLOWS:

CHAPTER I
GENERAL PROVISIONS

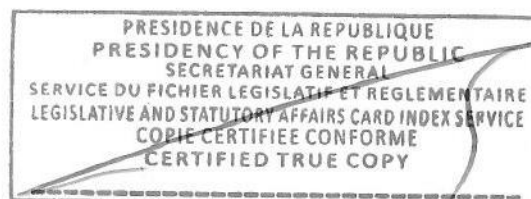
ARTICLE 1: This decree lays down the reorganization and functioning of the Kribi Port Authority, abbreviated as "PAK", and hereinafter referred to as "PAK".

ARTICLE 2: (1) The Kribi Port Authority is a public corporation, with the State as sole shareholder.

(2) Notwithstanding the provisions of paragraph 1 above, shareholding in PAK may be open to other public or private entities.

(3) The Articles of Association of PAK shall determine the share capital as well as the conditions for equity participation.

ARTICLE 3: (1) PAK shall have legal personality and financial autonomy.



(2) Its shall be headquartered in Kribi. The head office may be transferred to any other place within the national territory by resolution of the Board of Directors, subject to ratification of the decision by the Extraordinary General Meeting.

(3) Branches, offices or representations may be set up inside or outside the national territory by decision of the Board of Directors.

ARTICLE 4: (1) PAK may set up subsidiaries to which it shall assign tasks relating to its corporate purpose.

(2) The tasks referred to in paragraph 1 above may also be carried out by structures for direct management by the Port.

(3) The subsidiaries and direct management structures referred to in paragraphs 1 and 2 above shall be set up by decision of the Board of Directors.

ARTICLE 5: The coordinates and boundaries of PAK public port domain shall be determined by decree of the President of the Republic.

CHAPTER II **MISSIONS**

ARTICLE 6: (1) PAK shall be tasked with the management, development, promotion and marketing of the Kribi public port domain.

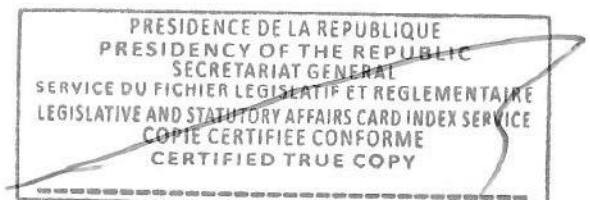
In that capacity, it shall, within the port area and with regard to:

(a) Management of the public port domain:

- ensure the general coordination of port activities;
- ensure the general coordination of all public services and bodies that contribute to or benefit from port activities;
- ensure the management, upkeep, maintenance, renovation and renewal of port infrastructure and equipment;
- ensure the coordination of industrial and commercial activities relating to port operations, in particular the production of goods and services, the transportation, warehousing, storage, stevedoring, cargo handling, towing, mooring, pilotage, consignment, terminal management, transit, bunkering, refuelling and vessel-to-vessel transshipment;
- ensure security and policing of operations at the port and its appurtenances;
- control the match between services rendered and the related tariffs;

(b) Development of the public port domain:

- plan port development, in conjunction with the relevant bodies;
- create and develop port logistics parks;
- develop and extend the Kribi Port and its appurtenances;
- construct and equip port facilities;



- serve as project owner for works assigned to specialized companies, including dredging;
- conduct studies;
- protect the port environment;
- ensure waste management and treatment;
- ensure the maintenance, upkeep, renovation and rehabilitation of buildings under its management;

(c) Promotion and marketing of the public port domain:

- coordinate the port community within the Policy Advisory Committee set up within PAK;
- promote the brand image of the Kribi Port, particularly by organizing promotion campaigns and participating in national or international forums and/or meetings;
- promote cultural, sports and associational activities;
- support the sustainable local, social and cultural development activities of the local communities;
- negotiate and conclude partnerships with other port authorities or any other entity likely to contribute to the achievement of its corporate purpose;
- acquire shares in national and/or foreign companies.

(2) PAK shall perform any other duties assigned to it by the State, in relation with its corporate purpose.

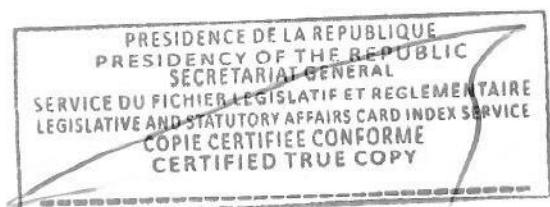
(3) The investment programme for the extension or renewal of port infrastructure or the procurement of new equipment as well as the conditions under which the programme shall be implemented shall be jointly decided upon by PAK, the Policy Advisory Committee and the National Ports Authority.

(4) In the discharge of its duties, PAK shall set up a Port Information System for all the operators and users of the Kribi Port.

Article 7: (1) PAK shall also be responsible for managing public utilities such as roads and various networks, buoys, navigation or access aids within the port area and fire-fighting services and, where necessary, the following ancillary services situated outside the port area:

- public waterways;
- public coastlands and coastal protection;
- maritime signalling service;
- maritime navigation service and activities generally attached thereto, notably flood warning and flood control.

(2) The ancillary services referred to in paragraph 1 above may be subcontracted. They shall remain State services and managed by PAK, in conjunction with the various government services concerned.



Article 8: (1) The Kribi Port Authority shall transfer or cede the following commercial and industrial activities within its port area or in all the spaces over which it has authority:

- vessel-to-vessel transshipment;
- towage/mooring;
- warehousing;
- stevedoring;
- handling;
- consigning;
- storage;
- terminal management;
- pilotage;
- industrial production and processing activities;
- waste management and treatment;
- packaging and conditioning logistics;
- transport;
- transit;
- fuelling, refuelling and other services to ships.

(2) The terms and conditions for ceding or transferring the activities referred to in paragraph 1 above to the private sector shall be laid down in separate agreements, in accordance with the regulations in force.

Article 9: (1) PAK shall ensure compliance with the rules of transparency, competition and competitiveness in the execution of the activities ceded or transferred to private companies. To this end, PAK shall publish a quarterly deadline, cost and performance monitoring table.

(2) Each concession or transfer shall be accompanied by a specifications document laying down conditions for carrying out the activity, as well as the obligations to which awardees are subjected.

Article 10: (1) Where consultation on transfer to the private sector of one of the activities referred to in Article 8 above is not conclusive, PAK may, exceptionally, ensure the direct management thereof, after consulting the Policy Advisory Committee.

(2) PAK shall take all necessary measures to make up for the failure or shortcomings of the operators responsible for the activities referred to in Article 8 above.

Article 11: All private activities carried out within the PAK area, other than those provided for in Article 8 above, shall be subject to authorization by the Port.

Article 12: (1) The construction, use and maintenance of road, railway, water, electricity and other networks within the port area, by entities other than the State

and PAK, shall be subject to separate agreements between PAK and the entity concerned with the said activity.

(2) The road and railway networks situated inside the port area shall be in the public port domain.

Article 13: (1) In the discharge of its public service duties specified in Articles 6 and 7 above, PAK shall have the enforcement powers and prerogatives of government.

(2) As such, it shall be vested with all the rights and benefits of the State entrenched in the laws and regulations in force.

(3) For the implementation of the provisions of paragraph 1 above, PAK shall be bound by all the obligations of State resulting from the said laws and regulations.

CHAPTER III

OVERSIGHT, MANAGEMENT CONTROL AND PERFORMANCE

ARTICLE 14: (1) PAK shall be under the technical supervisory authority of the ministry in charge of ports.

As such, the technical supervisory authority shall ensure compliance of the resolutions of the Board of Directors with the laws and regulations in force, as well as with sector policy guidelines.

(2) PAK shall be under the financial supervisory authority of the ministry in charge of finance.

As such, the financial supervisory authority shall ensure the regularity of the resolutions of the Board of Directors with a financial impact, the sustainability of financial commitments and the overall consistency of PAK performance plans with sector programmes.

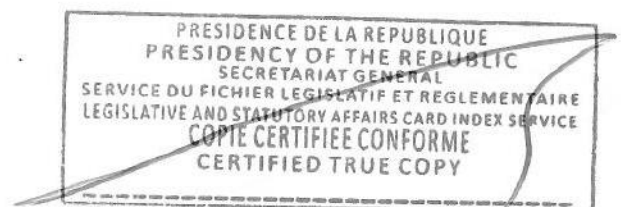
ARTICLE 15: The General Manager of PAK shall submit to the technical and financial supervisory authorities all documents and information relating to the life of the company, including financial statements, the Auditor's report and activity reports.

ARTICLE 16: (1) The technical and financial supervisory authorities, in conjunction with the Board of Directors, shall contribute towards monitoring the performance of PAK.

(2) The minister in charge of ports and the minister in charge of finance shall, each in his own sphere, submit an annual report on the situation of PAK to the President of the Republic.

CHAPTER IV

MANAGEMENT ORGANS



ARTICLE 17: (1) PAK shall be managed by the following three organs:

- the General Meeting;
- the Board of Directors; and
- Management.

(2) The duties, organization and functioning of the organs referred to in paragraph 1 above shall be laid down in the Articles of Association.

ARTICLE 18: The role of the General Meeting shall be devolved to a college of 5 (five) members, composed as follows:

Chairperson: the minister in charge of finance or his representative;

Members:

- one representative of the Presidency of the Republic;
- one representative of the Prime Minister's Office;
- one representative of the ministry in charge of ports;
- one representative of the ministry in charge of regional development.

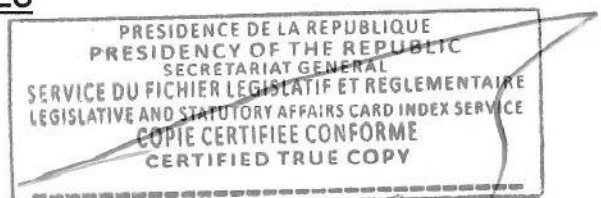
ARTICLE 19: (1) The Board of Directors of PAK shall comprise 12 (twelve) members, including the Chairperson.

It shall be composed as follows:

- one personality appointed by the President of the Republic;
- one representative of the Presidency of the Republic;
- one representative of the Prime Minister's Office;
- one representative of the ministry in charge of ports;
- one representative of the ministry in charge of finance;
- one representative of the ministry in charge of regional development;
- the Director General of the National Ports Authority or his representative;
- the Government Delegate of the Kribi City Council or his representative;
- the Director General of the Cameroon National Shippers' Council or his representative;
- one representative of shipping agents;
- one representative of stevedores;
- one peer-elected staff representative.

(2) The representatives of shipping agents and stevedores shall be designated by their peers, at the behest of the minister in charge of ports.

CHAPTER V **RESOURCES**



I – FINANCIAL RESOURCES, BUDGET AND ACCOUNTS

ARTICLE 20: (1) The resources of PAK shall comprise;

- charges for use of the public port domain, infrastructure and port equipment;
- ship charges;
- royalties from other concessions or transfers;
- proceeds of service delivery;
- proceeds from concessions;
- revenue from loans, shares and investment;
- possible subsidies;
- gifts and legacies.

ARTICLE 21: PAK shall be bound to pay a royalty to the National Ports Authority, the ceiling of which shall be fixed by the finance law, and the rate by joint order of the minister in charge of ports and the minister in charge of finance.

ARTICLE 22: (1) The financial resources of PAK shall be public funds and shall be managed in accordance with the rules applicable to business corporations.

(2) However, resources from cooperation and partnerships shall be managed pursuant to the conditions set forth in the relevant conventions and agreements.

ARTICLE 23: The draft budget of PAK shall be prepared by the General Manager and approved by the Board of Directors before the beginning of each financial year.

ARTICLE 24: Each year, alongside the budget, the General Manager shall prepare, for approval by the Board of Directors, an activities programme stating the objectives and projected outcomes during the financial year.

ARTICLE 25: The income and expenditure of PAK shall be provided for in the budget comprising two separate parts:

- the recurrent budget (regular income and expenditure) or provisional profit and loss accounts; and
- the investment budget, together with a cashflow plan and a financing plan.

Article 26: (1) The draft budget prepared by the General Manager of PAK must be balanced in income and expenditure. It shall be approved and rendered enforceable by the Board of Directors.

(2) The budget thus approved shall be forwarded for information to the minister in charge of finance and, as appropriate, to the minister in charge of ports.

II – CORPORATE PROPERTY

Article 27: (1) The State shall transfer to PAK for ownership or use, depending on the legal status of the property, assets as well as the property of the defunct Cameroon National Ports Authority (CNPA), comprising built-on or non-built-on property, by nature or by use, located in the Kribi Port area.

(2) The property referred to in paragraph 1 above includes:

- outbuildings and property in the public port domain, as well as private property of the State assigned to PAK, in accordance with the land tenure legislation;
- private property of the State transferred for ownership to PAK;
- property of the defunct CNPA located within the PAK area;
- infrastructure and buildings in the Kribi public port domain, notably embankments, docks, wharfs and water bodies;
- infrastructure and buildings in the Kribi public port domain;
- real and personal property in the private domain of the State and needed for the management of the infrastructure referred to in paragraph 1 above, notably, furniture, machinery, equipment and supplies.

Article 28: (1) The General Manager of PAK shall be responsible for managing property, under the direction of the Board of Directors.

(2) The property management referred to in paragraph 1 above shall concern the acquisition and disposal of property.

Article 29: (1) In the event of disposition of PAK property, the General Manager shall seek the prior authorization of the Board of Directors. He shall update the Board of Directors on the status of the property which shall be examined during one of its sessions.

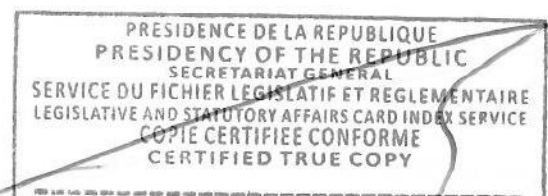
(2) The authorization of the Board of Directors referred to in paragraph 1 above shall be granted through a resolution adopted by at least 2/3 (two-thirds) of its members.

CHAPTER VI **STAFF**

Article 30: (1) The following may form part of the staff of PAK:

- staff recruited directly by PAK;
- civil servants on secondment;
- State employees governed by the Labour Code placed at the disposal of PAK;
- seasonal, casual and temporary staff whose recruitment, remuneration and contract termination procedures shall be set forth in staff rules and regulations.

(2) In addition, PAK may resort to experts and/or consultants under port activity-related partnerships. Conditions for the mobilization, collaboration and management of such experts and/or consultants shall be laid down in agreements signed by both parties.



Article 31: Civil servants on secondment and State employees governed by the Labour Code placed at the disposal of PAK shall, throughout their employment, be liable to labour laws, subject to the provisions of the General Rules and Regulations Governing the Public Service and the special regulations relating to retirement, promotion, end of secondment, end of placement on reserve and payment of retirement benefits.

Article 32: (1) Civil servants on secondment and State employees governed by the Labour Code placed at the disposal of PAK shall, regardless of their status of origin, be entirely managed by PAK.

(2) The management referred to in paragraph 1 above shall concern the payment of salaries and salary incidentals, allowances, bonuses and other benefits provided by PAK.

Article 33: (1) The civil and/or criminal liability of PAK staff shall be subject to the rules of ordinary law.

(2) Conflicts between the staff and PAK shall fall under the jurisdiction of ordinary law courts.

CHAPTER VII **CONTRACTS AND AUDIT REGIME**

I - CONTRACTS REGIME

ARTICLE 34: (1) PAK shall not be subject to the provisions of the Public Contracts Code. However, the Board of Directors shall ensure compliance with the rules of fair competition, equal treatment of bidders, transparency and fair price, in accordance with the common provisions applicable to contracts in public enterprises.

(2) A resolution of the Board of Directors shall lay down conditions for the organization and functioning of the internal tenders board.

II - AUDITS

ARTICLE 35: (1) PAK's accounts shall be audited each financial year by one or several auditors appointed by the General Meeting.

(2) PAK shall be subject to audits by the competent State organs, in accordance with the laws and regulations in force.

CHAPTER VII **MISCELLANEOUS AND FINAL PROVISIONS**

ARTICLE 36: Conditions for the State's participation in public port investments shall be determined, upon approval of corporate plans and based on a special agreement, between the State and PAK, without prejudice to repayment of loans used to constitute existing port assets on the date of publication of this decree.

ARTICLE 37: (1) Development investments ensuing from the public investment programme, as well as the financing of public and ancillary services entrusted to PAK, shall be borne by the State.

(2) The State shall bear the cost of deepening and maintaining access channels and water bodies resulting from a State policy.

(3) The port infrastructure shall be rehabilitated or renovated with the participation of the State, in accordance with the terms agreed between the State and PAK.

(4) PAK shall bear the cost of routine infrastructure maintenance.

ARTICLE 38: For purposes of debt collection, PAK shall have the prerogatives and preferential right of the Treasury, as well as those provided for in the OHADA Uniform Acts. Such preferential rights shall rank immediately after wage claims and dues and taxes owed the State.

ARTICLE 39: PAK shall be bound to take out an insurance policy to cover various business risks.

ARTICLE 40: (1) The Articles of Association of PAK shall be approved by decree of the President of the Republic.

(2) Any amendment to the Articles of Association of PAK shall be subject to the same rules as those provided for their approval.

ARTICLE 41: All previous provisions repugnant hereto, in particular those of Decree No. 2016/267 of 29 June 2016 to reorganize the Kribi Port Authority, are hereby repealed.

ARTICLE 42: This decree shall be registered, published according to the procedure of urgency and inserted in the Official Gazette in English and French.

Yaounde, 5 May 2020

