

THE ROADMAP OF THE HARMONIZATION OF BUSINESS LAW IN AFRICA,

by Jean Alain PENDA and Doctor TUMNDE, Jurists of Department of law at the University of BUEA.

INTRODUCTION

Faced with the globalisation which permits the universalisation of the market and favours trade liberalisation, fourteen African states with a common legal background, signed a treaty in Mauritius, on October 17 1993, creating the Organisation for the Harmonisation of Business Law in Africa (OHADA)¹, to promote an enabling legal and judicial environment for their economic activities. The treaty's original feature lies in the specificity of its fundamental objective, the size of the communal integration that it proposes and the special methods and means used to attain its objectives. This common objective can be singularised as follows: to stabilise and develop the economies of its member states by modernising the legal infrastructure relating to business undertakings in Africa.

In pursuance of its aim, within its framework, harmonisation is translated in real terms through the adoption of various texts called Uniform Acts; and so far, it has adopted eight Uniform Acts dealing, respectively with general commercial law, company law, securities law, bankruptcy law, debt recovery and enforcement law,

arbitration law and the most recent one on the contract for the carriage of goods by road.

Viewing OHADA as an International Organisation, and by observing the literature review of the legislations governing business law in the regional organisations soon after the decolonisation of African states, the researcher in his task focuses, in particular, on the contribution of OHADA in the harmonisation of business law in Africa. In this last instance, various instruments² are taken into consideration as the basis of this research.

It is evident from the foregoing that the OHADA Treaty and the accompanying instruments have restructured business law in the continent. The Treaty replaces the national law of each member state with the communal law, thereby, creating a more stable legal environment for companies doing business in Africa.

¹ Form the acronym “Organisation pour l’Harmonisation du Droit des Affaires en Afrique.

² Uniform Act (U.A).

CHAPTER ONE

WHAT IS OHADA?

1.1 MEANING OF OHADA

OHADA is the French acronym for the “*Organisation pour l’Harmonisation en Afrique du Droit des Affaires*”, which literally means “Organisation for the Harmonisation of Business Law in Africa”. It is an International Organisation created by a treaty signed in Port Louis (Mauritius) in October 1993 by fourteen African states¹ and entered into force in September 1995 in those countries that ratified it. This International Organisation comprised of four institutions, namely the Council of Ministers², the Common Court of Justice and Arbitration (CCJA)³, the Permanent Secretariat⁴ and the Regional School for the Training of Legal Officers (ERSUMA)⁵. These four institutions help to elaborate, apply and enforce OHADA legislation.

The idea of the creation of OHADA sprang from the political will to strengthen the African legal system by enacting a secure legal framework for the improvement of Business in Africa, which is also indispensable for the development of the continent. Amongst the sixteen member states, only Guinea is not a member of the Franc zone.

¹ Today, subsequently Guinea (Conakry) and Guinea-Bissau joined Benin, Burkina Faso, Cameroon, Central Africa Republic, Comoros, Congo, Ivory Coast, Gabon, Guinea, Bissau Guinea, Equatorial Guinea, Mali, Niger, Senegal, Chad and Togo bringing the total to sixteen states.

² Pursuant of Article 27 of the treaty, it is composed of Ministers of Justice and Ministers of Finance of all the member states.

³ Like the Permanent Secretariat (supra) it is a permanent institution and its head quarters is in Abidjan (Cote d’Ivoire). It is known as CCJA.

⁵ Its headquarters is located at Porto Novo (Benin) and it is under the authority of the Council of Ministers. (ERSUMA)

Also, with the exception of Guinea-Bissau and Equatorial Guinea where Spanish and Portuguese are spoken respectively and English in English-speaking provinces of Cameroon, all members currently reflect a common tradition, which is civil law⁶.

As a public International Organisation, OHADA is a legal entity with its own rights and obligations, distinct from those of its member states. OHADA also enjoys privileges and immunities with regards to its property and employees, so that it can perform its activities freely. It has privileges of jurisdiction, which allow it not to be sued before the domestic courts of Cameroon. It has its own resources, derived from annual contributions paid by the member states and also from contribution of aid from other International Organisation and foreign states.

Considering the rapid progress of legal harmonisation that has been accomplished by OHADA within less than a decade, OHADA seems to have been a highly effective means of achieving legal stability in Africa.

1.2 ORIGIN OF OHADA

After their accession to independence in the 1960s, countries of the Franc Zone shared the same judicial inheritance based on the French Civil Code of 1804, the Commercial Code of 1806 and the law on Commercial Companies of 1807. However, 30 years later, diversities took place, each state was either adopting or ignoring, as it wished, successive reforms on amendments brought by France.

⁶ To the exception of English Cameroon

This heterogeneity of the legislation, together with the lack of accessibility of judicial information, has created problems in the determination of the rule of law in force in certain countries. On the other hand, not all the countries had joined their necessary efforts to the adaptation of their legislation to the socio-economic context of Africa in the 21st century⁷.

It is therefore for the need toward accessibility, uniformity and modernisation that the project of creating the Organisation for the Harmonisation of Business law in France Zone started in 1991, with the constitution of a feasibility mission financed by France. The mission ended in 1993 with the signing of the OHADA Treaty by 14 African states⁸ at Port Louis (Mauritius) which was based on the creation of OHADA and its four institutions: the Council of Ministers, the Permanent Secretariat and the Regional Training Centre for Legal officers.

The idea of harmonising legislation in several French-speaking Africa states was first discussed in a gathering of Ministers of Justice of Francophone Africa in May 1963. The idea was then laid aside for more than 25 years before it resurfaced in the early 1990s. The Ministers of Finance approved their report in September 1992. President Diouf of Senegal presented the initiative at the Libreville, summit in October 1992. At this summit, a steering committee of three jurists (the so-called *directoire*) was given responsibility for drafting the international treaty and for identifying areas of law to be harmonised. On 17 October 1993, some 30 years after

⁷ Economic Community of West African States and Economic Union and Monetary of West African States.

⁸ Member states.

the idea was first discussed, but only two years after it became seriously envisaged, a treaty establishing the “*Organisation pour l’Harmonisation en Afrique du Droit des Affaires*” (The OHADA Treaty) was signed in Port Louis, Mauritius.

The Treaty advocated the adoption of laws called “Uniform Acts” destined to replace legislations in force at the local level and they are directly applicable in the members states without other formality. The adoption is made by ministers of Justice and Ministers of Finance of all member states.

Today, the OHADA project has 16 African states. Without being the first, it constitutes the most ambitious projects for the harmonisation of Business law in Africa.

1.2 OBJECTIVES OF OHADA

Unlike other regional integration arrangements in Africa, OHADA’s objectives to its member states is simple; to harmonise their business law such that they have a single modern legal framework for their economic activities and to promote arbitration as a means of settling contractual disputes. In short, this is simply the summary of *Article 1* of treaty that provides:

The objective of the present Treaty is the harmonisation of business law in the contracting states by the elaboration and adoption of simple modern common rules adapted to their economies, by setting up appropriate judicial procedures and

by encouraging arbitration for the settlement of contractual disputes.

Besides stating the objectives and principles of the reform, the OHADA Treaty established a regional organisation responsible for carrying out the harmonisation process. The rationale of all this is to improve legal security, which in turn would help to promote trade and investment. In pursuance of its aims, OHADA issues unified legislation in the form of Uniform Acts on particular areas of law. These Uniform Acts resolve the problem of uncertainty and outdated legislations, which made investment in these countries complicated at best and at worst almost impossible.

CHAPTER TWO

THE NEED FOR REGIONAL INTEGRATION

2.1 LITERATURE REVIEW OF THE PRE-EXISTENCE LEGISLATION IN BUSINESS LAW IN AFRICA BEFORE OHADA

Since the 1970s and the early 1990s, a large number of market friendly legal reforms have taken place. This has always happened in countries either by their own initiative or often by the support of bilateral and unilateral development agencies. This simply proved that countries have long been aware that there is a need to improve legal security and predictability in order to foster investment and trade and promote the economic growth. In recent years, the process seems to have been accelerated due to the desire of many countries to follow the worth of the Globalisation.

In some African countries, the existing laws are improved upon or new ones are adopted in areas such as company, commercial, banking and financial law, arbitration and investment. Indeed, most of these efforts have been done at the regional level and for co-ordination without much consultation at the national level.

Regional integration arrangements have therefore flourished throughout the continent¹. In fact, these arrangements are carried out by regional organisation, categorised as follow:

¹ Economic Community of West African States (EOWAS), Union Economique et Monetaire de l'Ouest African (UEMOA), Southern Africa Development Community (SADC), Common Market of Eastern and Southern Africa (COMESA).

- Economic organisations² such as UEMOA, CEMAC and ECOWAS
- Specialised organisations³ such as OAPI, CIPRES and CIMA.

Notwithstanding these economic organisations, there are also political organisations such as OAU (Organisation of Africa Unity) but which is not part of this research.

2.2 REGIONAL INTEGRATION

Regional integration is carried out within the continent by regional organisations. They are classified under economic and specialised organisation.

2.2.1 ECONOMIC ORGANISATIONS

2.2.1.1 UEMOA

This stands for “*Union Economique et Monetaire Ouest Africaine*” translated to mean West African Economic and Monetary Union. UEMOA comprises of eight countries (Benin, Burkina Faso, Ivory Coast Guinea Bissau, Mali, Niger, Senegal and Togo) and constitutes the extension of the former UMOA (West African Monetary Union) that was created in 1962 and the former CEAO (West African Economic Community) in 1973.

UEMOA’s principal objective is to create a common market system based on the circulation of goods, services and capital. It coordinates national policy in certain

² It forms the Franc Zone. To the exception of Comores that has its own currency: the Comorian Franc. But it should be noted that the same principles to the Franc Zone are applied to the Comorian Franc.

³ Such harmonisation has taken place in narrow areas such as Intellectual Property OAPI and Insurance law.

sectors, such as energy or transport, and harmonises its member states' legislation. Another aim is the coordination of economic policies and performance by instituting procedures of multilateral surveillance.

Seven (7) countries signed the treaty creating the Union on the 10th of January 1994. Later, Guinea-Bissau joined them in May 1997. But it was in January 1995 that the organisation started carrying out its activities.

The Organisation

UEMOA comprises of governing bodies, regulatory bodies and autonomous financial institutions.

Governing bodies

It is comprised of the Conferences of Heads of State, Council of Ministers and the Commission.

- The Conference of Heads of States is the highest authority of the Union that takes all decisions on questions on which solutions have not been found unanimously by the Council of Ministers.
- The Council of Ministers, which is second in the hierarchy, is generally presided over by the ministers of economy and finance of member states. The role of this organ is to define the monetary policy of the Union and binding legislation to ensure the currency, and carry out financial development of the member states. The Council takes unanimous decisions and it is organised by

the BCEAO (the Central Bank of the Organisation of West African State) that ensures the permanent secretariat.

The commission transmits to the conference and to the council useful informations necessary for the preservation and the development of the union. It is the executive branch of legislation and therefore lays down rules for the application issued by the council of ministers. It has the task to execute the budget of the union.

Regulatory bodies

UEMOA has a court of justice based in Burkina Faso. It ensures the uniform interpretation and application of its law and arbitrates when there are conflicts of interpretation between the member states. It comprises of judges appointed by each member states for a term of 6 years renewable once.

Autonomous Financial Institution

They are two in number: BCEAO (West Africa Central Bank) and BAD (West Africa Development Bank)

- The BCEAO is based in Senegal. It issues the currency for the UEMOA states. This financial institution participates at the management of the Bank. The board of director of this institution is composed of 18 members (two from each state plus France). It is represented in each member state by a national agency.

- The BOARD; based in Togo, has as main objectives; to foster the balance development of the member states and to promote their integration. It also contributes to the development and amelioration of the conditions of production for the establishment of new activities.

2.2.1.2 CEMAC

The Central African Economic and Customs Union (UDEAC) was founded on the 8th of December 1964 by the Brazzaville Treaty of 1964 (revised in 1974), which became operational on the 1st of January 1966.

In March 1994, the six UDEAC leaders signed a treaty for the establishment of an Economic and Monetary Community of Central Africa (CEMAC), which was to promote the process of sub-regional integration within the framework of an economic union and a monetary union

The African Economic Community (AEC) has established contacts with CEMAC and views it as being very active in regional integration. A joint AEC /Economic and Social Commission (ECOSOC) mission visited the organisation in August 1998 and found its success in mobilising resources for its programme development and implementation, to be of particular interest to all the regional economic communities in Africa. However, in its June 1999 meeting, the AEC'S ECOSOC again emphasised that, it viewed the Economic Community of Central Africa State (ECCAS) as being the major regional economic community for the Central African region due to the comprehensiveness of its membership. Prior to the serious problems it had to deal with since the early 1990s, ECCAS had in fact been in the process of concluding a modality for programme harmonisation and co-ordination with CEMAC⁴.

⁴ No formal contact exists between CEMAC and South Africa.

2.2.1.3 ECOWAS

The Economic Community of West Africa State (ECOWAS) is a regional group of fifteen countries, founded in 1975. Its mission is to promote economic integration in all fields of economic activity, particularly industry, transport, telecommunication, energy, agriculture, natural resources, commerce, monetary and financial questions, social and cultural matters.

The institutions of the Economic Community of West Africa State (ECOWAS) are as follows:

- The authority of Heads of State and Government. This is the highest authority in the Union. Its purpose is to determine the general policy and major guidelines of the community.
- The Council of Ministers, responsible for the development of the community.
- The Community Parliament.
- The Economic and Social Council.
- The Community Court of Justice together with the Arbitration Tribunal is not yet operational.
- The Executives Secretariat, which ensures the smooth functioning of the community.
- ECOWAS Bank for Investment and Development (EBID).

EBID and the Fund for Co-operation, Compensation and Development, often referred to as the Fund are its two main institutions designed to implement policies, pursue a number of programmes and carry out development projects in member states. Such

projects include intra-community road construction, and the development of telecommunication, agricultural, energy and water resources.

However, although the implementations of a number of ECOWAS projects have not always been very satisfactory, it is becoming more and more significant in the whole region. For example, a recent development arising out of an ECOWAS initiative worth mentioning is the regional pipeline systems to enhance regional economic growth and stability, whose construction started in 2003.

2.2.2 SPECIALISED ORGANISATIONS.

2.2.2.1 CIMA

The inter-conference on insurance markets (*Conference Inter Africaine des Marches d'Assurance*) (CIMA) whose treaty was signed on July 10, 1992 in Yaounde, Cameroon, has established an integrated organisation of Insurance Industry in the member states. The signatory states⁵ of this treaty are fifteen (15) today, with Guinea-Bissau being a new member⁶, all of which are members of OHADA. CIMA finally entered into force in February 1995. It has drawn up a code, which is applied throughout the member states. However CIMA is only applied to land insurance and not to other type of insurance.

The CIMA main objectives are to:

⁵ Benin, Burkina Faso, Cameroon, Central Africa Republic, Comoros , Congo Cote d'Ivoire, Gabon, Equatorial Guinea, Guinea Bissau, Mali, Niger, Senegal, Chad and Togo

⁶ Since April 14th 2002 in Yaounde.

- Create conditions conducive to the healthy and balance development of insurance companies.
- Foster investment in the economy of their country or the region, general technical and mathematical provision, by means of insurance and reinsurance operations.
- Foster the creation of a broader and more integrated market under the most favourable technical condition for insurance.
- Train managers and technicians in the insurance field.

CIMA treaty has opted to preserve the following institution as autonomous bodies:

- The International Insurance Institute (*Institute International des Assurances, IIA*) in Yaounde, which is specialised in insurance training.
- The Regional Reinsurance Company (*Company Commune de Reassurance des Etats membres de la CIMA, CICA-ER*). This is the common reinsurance agency of the member states.

2.2.2.2 CIPRES

The Inter African Conference on Social Welfare (*Conference Inter African de la Prevoyance Social- CIPRES*) was established by a treaty signed on 21st September 1993, by member states of the Franc Zone, but it entered in force only on October 10 1995. Till date, the law has not been harmonised and national laws of each member

states continue to apply in that member state. Briefly, its objective is simple: to harmonise social legislation in the member states.

CYPRES comprises of three institutions:

- The Council of Ministers, which defines the policies of the organisation.
- The Supervisory Commission whose purpose is to ensure the proper management of social security bodies.
- The Regional Inspectorate, which is to propose new rules for the harmonisation of social legislation.

2.2.2.3 OAPI

The African Intellectual Property Organisation (*Organisation Africaine de la Propriete Intellectuelle - OAPI*) was established by the Bangui Convention of 2nd March 1977. The original Bangui Convention of 1977 was revised in February 1999, and the Revised Version entered in to force in February 2002⁷. The following countries are members of OAPI: Benin, Burkina Faso, Cameroon, Central Africa Republic, Chad, Congo, Ivory Coast, Equatorial Guinea, Gabon, Guinea, Guinea-Bissau, Mali, Mauritius, Niger Senegal and Togo.

OAPI has drawn up legislations in ten fields of intellectual property, including patents, trademarks or trade names and industrial drawing or models. Its overall objective is to be closely involved in the technological development of its member states. To achieve this goal, OAPI seeks to:

- Ensure the protection and publication of intellectual property rights by a common registration for every member state;
- Make the legal framework attractive to private investment by creating conditions that are favourable to the effective application of the principles of intellectual property; and
- Encourage creativity and the transfer of technology.

In a nutshell, the economic and specialised organisations mentioned in this chapter were regional organisations established by member states of the Organisation of African Unity, to promote and develop legal integration themselves. Today, with the new treaty creating the Harmonisation of Business Law in Africa (OHBLA), these previous organisations have not ceased to exist nor are they working in isolation. On the contrary, they are complementary to OHADA even though some may give rise to conflicts of laws.

⁷ Agreement of 24th February 1999, revising the Bangui Convention of 2nd March 1977 on the creation of an Africa intellectual property organisation.

CHAPTER THREE

THE SCOPE OF THE OHADA UNIFORM ACTS

3.1 THE HARMONISATION OF BUSINESS LAW IN AFRICA

Harmonisation relates to the coordination of laws from different origin. So far, it consists of modifying existing laws in order to reach an agreement amongst them. This therefore, demonstrates that the issue of harmonisation may be represented by the reduction of differences and divergences amongst them and by filling the gaps where necessary. This is actually what legislators had in their mind when drafting the OHADA Treaty. That is why, the first article of the Treaty, states principal objectives of the organisation in the following words: “the objective of the present Treaty is the harmonisation of business laws in the contracting states...”

As we all know, every attempt to harmonise or unify nowadays just like OHADA law, is a necessity in this gradual globalising world economy and social intercourse. This harmonisation of national laws in Africa, has not only protected reasonable expectations in the movement of persons, goods and services across state frontiers, but has actively promoted international trade and commerce. From available evidence, OHADA appears to fall within the attempts to achieve regional integration of laws.

However, prior to OHADA, albeit the existence of a number of regional integrations, some twenty years ago, economic operators continue to cry foul to

difficulties plaguing the African judiciary and lack of confidence amongst investors.

All these difficulties were as a result of the following:

- Coexistence of contradictory texts
- Slowness of procedures
- Unpredictability of court judgements
- Corruption of judiciary systems
- The difficulty in the execution of court decisions
- Absence of credibility amongst traders

To solve these problems, OHADA, in pursuance of its aim issues unified legislations in the form of Uniform Acts. These revolved the problems of uncertainty and outdated national legislation which made investments in these countries complicated at best and at worst, almost impossible. It follows that OHADA, in less than a decade, is a highly effective means of achieving legal stability in Africa as Morris Martor¹, a member of the African team in the Paris office of Evershed said during the OHADA seminar² in the University of Buea, Cameroon.

By March 20 2003, the OHADA had already enacted eight Uniform Acts within its ten years of existence. These Acts supersede the previous national legislation on the same area in each country, subject to *Article 10*, which states, “...Notwithstanding any conflict, they may give rise to in respect of previous or subsequent enactment of municipal law”. The various Uniform Acts are:

- General Commercial Law

¹ Lawyer at the Supreme Court of Paris France

- Company Law
- Security Law
- Debt recovery and Enforcement Law
- Bankruptcy law
- Arbitration law
- Accounting Law
- Law relating to the carriage of goods by road

3.1.1 GENERAL COMMERCIAL LAW

The Uniform Act on General Commercial Law is designed to provide certainty to persons engaging in commercial transactions. It entered into force on January 1, 1998. The General Commercial law provisions extend this certainty to the formation of contracts, the performance of obligation, the regulation of accounts and the perfection of security interests. Most of the provisions of this Uniform Act are from the Vienna Convention. That is why many of its technical articles require more effort than the American businesses expect in performing day-to-day transactions in the United States.

Considering the content of the Uniform Act, it is divided in five books as follows:

² University of Buea, 18-19 September 2003.

Book I defines those governed by the general commercial law, to include all those engaged in commercial transactions and who are not government officials or lawyers, and labels them “traders”³.

Book II governs the registration of traders, both for the purpose of tracking transactions and recording security interests⁴.

Book III sets both the provisions for the leasing of real and personal property.

Book IV establishes sales for the establishment of businesses and sales for middlemen, brokers and agents.

Book V sets forth the provisions governing sales of goods⁵. Briefly, this is the Uniform Act, which has really improved commercial transactions as compared to the previous regional integration in the member states.

However, harmonisation in the concrete sense has really rendered commercial transaction easier. Such as the possibility for improvements in certainty, flexibility and enforceability raised by the Uniform Act. Some provisions relating to commercial sales appear to create a solid framework for transactions in goods, even though, the Act does not provide greater certainty for international businesses operating in the OHADA region; the general commercial law, commercial registry of individuals and entities engaged in commercial transactions, as well as of security interests arising from such transaction, reduces the potential for corruption and fraud and provides a mechanism for enforcement of transactions and protection for the to parties involved;

³ It is referred “to merchant” or “buyer and “seller” in the Vienna Convention

⁴ to Article 9 of the similar Uniform Act of Commercial Code in the United States.

⁵ Similar to Article 2 of the Uniform Act of Commercial Code

with OHADA, as the terms of a written agreement will generally control, international businesses should feel comfortable participating in a lease transaction governed by the Uniform Act.

3.1.2 COMPANY LAW

The Uniform Act Relating to Commercial Companies and Economic Interest Groups has been in force in the sixteen treaty states of the *Organisation pour l'Harmonisation en Afrique du Droit des Affaires* "OHADA", since January 1 1998. It is the largest OHADA Uniform Act with 920 Articles. This shows its wide contribution toward the harmonisation of business law in Africa. The result in some way, is more favourable to trade and foreign investors than the current law of France.

The new OHADA legislation relating to commercial companies draw much of its inspiration from modern French company law; that is the 1966 French statutes (Law No. 66 – 537, of 24th July 1966, and Decree No. 67 –236, of 23rd March 1967). Nevertheless, there are some differences between French company law and the Uniform Act. For instance, the Uniform Act makes no provision for a *societe par actions simplifies* (S.A.S) of the kind recently introduced in French company law which, as its name indicates, is a company subject to simplified procedures, whose advantages are inter-alia, freedom in drafting the articles of association, the replacement of shareholders, meetings by written consultation or modern means of telecommunication and the absence of any requirement for the directors to give details of their remuneration in the annual reports

The Uniform Act is presented as follows: the first part of it covers relevant issues such as, the formation and the functioning of the company, the types of commercial companies, namely, partnership, limited partnership, limited liability company, corporation, joint venture, de facto partnership and economic interest groups (E.I.G). The whole Uniform Act is divided into seven sections:

Section I discuss certain general provisions of the Uniform Act, which are applicable with certain exceptions to all types of companies set up in the OHADA region.

Section II discusses the Joint Stock Company, *societe anonyme*, a type of company similar to the limited company under English Law.

Section III discusses another type of limited company, a *responsibilite limitee*, which is used for smaller investments in most cases.

Section IV and V briefly examine companies where the shareholders' liability is unlimited for example, partnerships and other structures, which may be created under the Uniform Act.

Section VI deals with the restructuring and transformation of companies.

Section VII discusses companies, which make public offerings.

Briefly, this is how the harmonisation in the area of commercial companies and Economics Interest Groups is established in the treaty states of OHADA.

However, the road map of the harmonisation in company law and E.I.G is well illustrated through the innovation brought in this instrument. Amongst which we can cite, in the first place, the possibility of having a single owner for a public or private

limited method of administering each corporation and therefore holding companies. Secondly, third parties can rely on the apparent authority of boards and managers without the need to examine a company's purposes and constituent documents. The article of association⁷ as well as their subsequent modifications must take the form of a certified (speciality) deed⁸. This widest power of director is also known under English law as the *Indoor Management Rule*. Also, equity must be fully paid up after a three-year period; auditors are assigned a duty of both advice and control. As I earlier mention, the act has been more innovative in its section two where it has created a new form of company known as stock exchange market. Today, this innovation is not only a written law, but a realisation made in one of the signatory states of OHADA: Cameroon

• THE STOCK EXCHANGE MARKET

The Douala Stock Exchange Market (*DSX*) is a private limited entity with a working capital of 1.2 billion FCFA⁹. It was created on November 11 2001 as a response to the CEMAC demands for the Sub-Regional market in Libreville (Gabon). The need of such a structure was deemed necessary in order to cater for the fragile economies of most of the CEMAC country. This market is therefore expected to facilitate privatisation of some structures, provide information on market situations,

⁷ Statutes, Charter, by-laws

⁸ This is the widest power given to directors of companies under Articles 435, 436 (depending of the type of company) within the limits provided in Articles 121 and 122 of the Uniform act of OHADA on commercial companies.

⁹ With bank having about 50% shares and institutional Cameroonian investors owning the rest 45% shares.

supervise the admission and the introduction of shares in the market and most important, be able to provide huge loans with long payment periods, a facility that the local banks were unable to provide.

The office is located in downtown Akwa¹⁰ where the major businesses and banks are located. The office are already in place. Briefly, this is the first greatest concrete realisation amongst the innovation provided by the Uniform Acts of OHADA.

3.1.3 SECURITY LAW

The Uniform Act governing the creation of security interest (Security Law) entered into force on January 1, 1998 and governs security in personal and real property. As such, the security law is a hybrid statute. It provides various guarantees, which protect creditors, banks by securing the enforcement of their debtor obligations.

The security law is divided into five parts: the 1st part on “personal security” governs what security law refers to as “collateral security” (surety bonds and letters of guaranty). The 2nd part on security in personal property governs rights of retention, pledges, security interests without dispossession and liens on personal property. The 3rd part on mortgages governs both legal and equitable mortgages on interests in real property. The 4th and 5th parts govern priorities, distribution of proceeds after execution and upon the interest described in parts I-III.

Security law under OHADA is a road map to the harmonisation of business law. This is because the aim of OHADA is to create a unique legal framework providing

¹⁰ Boulevard de la Liberte, Akwa, Douala.

legal and judicial security amongst its member states. This Uniform Act is the most important because it does not only cover legal security ensured by the eight Uniform Acts, it also cover judicial security provided for by the Common Court of Justice and Arbitration responsible for the application and interpretation of OHADA Uniform Acts.

Also, security law has also contributed to the regional integration by encouraging international investments in treaty states and containing more defined terms and clear cross-references to sources of law external to the security law. Today, the superiority of certain wages over most forms of personal and real security in the security law will undoubtedly increase the cost of credit in treaty states and should be eliminated or revised. On the other hand, the Uniform Act allows national laws to decide too many important issues, which erodes the principle of uniformity of law.

3.1.4 DEBT RECOVERY AND ENFORCEMENT LAW

The Uniform Act organising Simplified Recovery Procedures and Measures of Execution “the Recovery Law” entered into force on April 10, 1998. Generally, the recovery law effectively consolidates several different remedies for collecting debts, and provides a framework for obtaining writs for execution on various types of property. The overall scheme provides reasonable protections for debtors, while also providing effective remedies for the collection of just debts by creditors, and means for determining the priority of payments to creditors or other disputes amongst multiple creditors. Lastly, the recovery law favours conciliation and provides

continuing opportunities for the resolution of disputes by agreements with the debtor, or amongst competing creditors.

Concerning the content of the instrument of recovery law, it embodies two parts. The first part is devoted to what is called simplified recovery procedure and the second part on the measure of execution. However, Book I which deals with the simplified recovery (debt collector) procedure, appears to provide, in fact, two types of orders: the traditional order to make payments, and the order to deliver or to return an object¹¹. Indeed, Book I procedures appear to provide Simplified proceedings as rapid as possible with an economic relief in cases involving clearly established claims for money or property. However, it is well indicated in the Uniform Act, which claims are included within the scope of “Unquestionable debts”¹², subject to these Simplified Recovery Procedures. In most cases it is a quantifiable amount of money, like in the case of *Ngeme Geoge v. Etongo David*¹³ where the Buea Court of First Instance, upon and application for an injunction to pay order by the plaintiff to receive a quantifiable amount of 400.000frs., the court ordered the defendant to the whole amount stated in the application (i.e. 400,000frs) to be paid to Ngeme George. Under the injunction to pay, the claimant petitions the notice to the alleged debtor of the order.

Here, the burden of proof is on the claimant. Such a debtor may contest the order. When contested, the court may attempt conciliation to resolve the dispute. If conciliation fails, the court rules on the claim. This ruling has the same effect as a

¹¹ Which is more innovative in some country as Cameroon

¹² The nature of debt is contained in Article 2(1) which may be civil or commercial debt or arises out of the issuance or acceptance of any negotiated instrument or cheque for which is insufficient cover.

judgement after trial¹⁴. This is an innovation brought by the recovery law to facilitate the procedure.

On the other hand, the recovery law described in Book I also provide expedited relief to creditors claiming a right to the delivery of specific personal property. The order may be contested in the same manner as an injunction to pay, with the same provision for mediation by the court before as binding determination is made¹⁵.

The second part of the Uniform Act is contained in Book II where more detailed procedures described appear to accomplish the goal of providing simplified recovery procedures by allowing fluid interaction between litigant parties¹⁶ and by allowing parties to be joined as needed. The law in this area allows sequestration of assets, seizure for sale, seizure of debts, attachment and transfer of earnings, apprehension and seizure of assets. Also the law details the procedure to seize the debtor's property and to sell it in satisfaction of the debt. Lastly, the law includes provisions for opposing the seizure and sale of property, dispute resolution procedures, and special provisions relating to intangible interests¹⁷.

In recapitulation, member states have achieved their goal on this particular instrument of simplified recovery and debt collection procedures. The rationale of this is that it has brought innovations in the procedures, which has rendered this area of law actual with the daily practice. Some of these are:

¹³ Suit No CFIP/45/2000-2001.

¹⁴ This decision is subject to appeal under Article 15.

¹⁵ The Uniform Act of the Simplified Recovery Procedures and Measures of Execution, 1998, Article 12.

¹⁶ Including opportunities for conciliation and resolution of disputes at different stages of the proceedings.

¹⁷ Partnership interest and security

The reasonable protection of both debtors and other agents in these processes, while also providing effective remedies for creditors. The recovery law has given the opportunity to both parties to end the matter voluntarily either by resolution or conciliation of dispute. It has finally also allowed fluid interaction between litigant parties, so that additional creditors can easily join the proceedings against a debtor and have their right determined. However, suffice to note that there are areas in the Uniform Act still lack specificity or definitions in the procedure.

3.1.5 BANKRUPTCY LAW

The emphasis of this legislation is to prevent the liquidation of companies by providing for an amicable settlement between the creditor and the debtor. The Act also provides for the restructuring of insolvent companies. The Uniform Act Organising Collective Procedures for the Wiping of Debts known as “Bankruptcy Law” entered into force on 1st January 1999 and is applicable to all such proceedings commenced after that date. This Act organises court order and court supervised bankruptcy proceedings (simplified insolvency procedure, reorganisation, liquidation of companies), and defines the sanctions applicable to assets and the professional and criminal sanctions applicable to the debtor and company officers (personal bankruptcy). Merchants (individual and legal entities), legal entities that are not merchants and are governed by private law and government owned companies, which are private law entities, may file for bankruptcy.

To be strictly accurate, the Uniform Law on Accounting is divided in two parts: the first part governs legal redress and liquidation. *Article 2* of this Act defines liquidation as a procedure for the purpose of realising the debtor's assets in order to clear his liabilities. This may be applied to any individual exercising a commercial activity and any corporate body exercising a commercial or non-commercial activity, which is in a situation of insolvency¹⁹. The second part of the Uniform Act deals with preventive settlements, which is also defined in its *Article 2* as a procedure designed to avert insolvency or a cessation of activities, and to permit the clearing of debts by means of composition agreement. This is open to any individual pursuing a commercial activity and any corporate body pursuing a commercial or non-commercial activity: including publicly owned companies. It may not be requested more than once during the same five-year period. The procedure is that, only a debtor may commence such an action and he must not be insolvent at that moment. Also, insolvency²⁰, as defined by the act for purposes of clarification, is a situation where it is impossible for the debtor to meet all his due liabilities with his available assets.

Face to international investors and the benefit of a fast and progressive harmonisation in the treaty states, the bankruptcy law has cover most of the dispute regarding a debtor that may be brought before the court. Furthermore, the bankruptcy law has provided a significant amount of information that must be delivered to creditors regarding the debtor's financial situation. The Unified Law has also given an

¹⁹ The Uniform Act Organising Collective Procedures for the Wiping of Debts. 1999, Article 2

²⁰ Cessation of payment.

exclusive period for the receiver to liquidate real (immovable property) before the secured creditor has the opportunity for a foreclosure sale by the lien holder.

In summation, the bankruptcy law has provided three different types of collective proceedings for the clearing of debt for both companies and individuals: preventive settlement (Reglement Preventif), administration (Regressement Judiciaire), and liquidation (Liquidation Judiciaire).

3.1.6 ARBITRATION

In its own way towards the harmonisation of business law in Africa, one of the principal objectives of OHADA is to promote arbitration as a means of settling contractual disputes. It follows that the Uniform Act on Arbitration is one of the key instruments of the OHADA in the achievement of its goal. The OHADA arbitration, the “Arbitration law” entered into force on 11th June 1999. It provides the arbitration principles and procedures for arbitration; arbitration agreement,¹⁸ designation of the arbitrators, different stages of the proceedings, decisions and exequatur.

Briefly, the arbitration law provides a comprehensive system for giving effect to arbitration agreements that provide for arbitration in anyone of the OHADA treaty states. As an innovative statute, it supersedes national laws on arbitration. It requires courts to stay proceedings in favour of arbitration and provides standards for recognition of arbitrate awards. The OHADA joint court of justice may receive decisions of courts that have to give effect to such awards.

¹⁸ Arbitration clause or out of court settlement.

As briefly described above, the arbitration is divided in two parts, the Common Court of Justice and Arbitration¹⁹ and the Uniform Act on Arbitration. The arbitration law provides a unique, innovative structure for resolving disputes within the OHADA treaty states. Specifically, it has really contributed in the harmonisation in the sense of words. This is because the rules of Arbitration, known as the “Arbitration rules” accord with standards for international commercial arbitration and appear to be sound; this novelty of this arbitration increases the transactional costs for foreign investors unfamiliar with the arbitration law. Also some foreign investors may find the courts dual role as an arbitrate instructions and a court of a law to be unusual and may make them less comfortable.

3.1.7 ACCOUNTING LAW

The Uniform Act on Accounting Law entered in force on January 1 2001 for consolidated accounts and January 1st 2002 for combined accounts. The accounting system, in its road towards the harmonisation process, ensures all transactions. In this objective, it ensures that all transactions are recorded; that they are processed when required and that documents are produced in a timely manner. It ensures that a business found in any member state of the treaty must be in a position to provide documentation describing accounting procedures and the design of the accounting system. To this effect, the Uniform Act on Accounting Law is divided into three parts.

¹⁹ Located in Abidjan.

The first part on individual accounts for companies is further divided into five chapters. The first chapter is devoted to the general accounting principles, while the following three chapters deal, respectively with the organisation of accounts, states of financial year, the rule on evaluation and the determination of results and the control of accounts and lastly information disclosed. The second part is limited to the combination and combined account with regard to transaction and corporate account for the financial year opened as of that date. The last part of the Uniform Act simply discusses sanctions provided in the case of fraud or non-respect of the new accounting system.

In general, the aim of this Unified Law is to provide businesses and other economic players with common rules for keeping, auditing, compiling and publishing their individual accounts and consolidated financial statements. Also, the act provides a fair and accurate picture of the business in a simple and efficient manner. This is the reason why, three sets of procedures for bookkeeping and the presentation of the financial statements have been established and taken into account the size of the business, turnover at the end of the financial period.

3.1.8. LAW RELATING TO CONTRACT FOR THE CARRIAGE OF GOODS BY ROAD.

This is the most recent enacted Uniform Act, adopted in Yaounde on March 12 2002 by the Council of Ministers of Justice and Finance²⁴. Generally, the free circulation of goods and persons is part of the economic integration policy practiced in the two great sub regions of West and Central Africa, where most of the member states of the Organisation for the Harmonisation of Business Law in Africa are located. This involves naturally, an adequate legal framework especially in the land transport section. Before the Uniform Act Relating to the Contracts of Carriage of Goods by Road (AUCTMR) implemented from 1st January 2004, other national legislations were in place in OHADA member states²⁵.

Today, it should be noted that CIETRMD and the Uniform Act are basic inspirations from the Convention on the Contract for the International Carriage of Goods by Road; CMR. Created and opened for signing in Geneva on 19th May 1956.

The Uniform Act is divided into seven chapters: Chapter one discusses certain general provisions of the Uniform Act, which are applicable with certain definitions of relevant terms applied in this area of law. It also gives all types of transportation set up in the OHADA region. Chapter two discusses the meaning of the term contract as soon as the contract between the carrier of goods and the giver of the order for transportation of goods is concluded. This chapter also lists the relevant documents to

²⁴ OHADA Treaty, 1993, Article 8 and 9.

acquire for car and useful documents when dealing with custom offices. Chapter three discusses the execution of contract of transport and the packages of goods in the course of transportation. Chapter four enumerates the responsibilities of the carriers and the nature of their responsibility. Chapter five deals with tax suit and provides arbitration as means of settling contractual dispute between the contractual parties. Chapter six lays down general provisions and exceptions stipulated in the Uniform Act. Also, it states a specific provision as to the exchange of currency depending on the decision of the judgement or resulting from the reconciliation procedure. Finally, chapter seven highlights the transitory and final dispositions of the Uniform Act for the Carriage of Goods by Road.

²⁵ UDEAC ECONOMIC Union of central African State, now Central African Economic and Monetary Union (CEMAC) with Cameroon, Central African Republic, Congo, Brazzaville, Gabon, Equatorial Guinea, and Chad and the Inter-Etats de transport Routier de Marchandises Diverses (CIETRMD)

CHAPTER FOUR

CONCLUSION AND RECOMMENDATIONS

4.1 CONCLUSION

The OHADA Treaty and the Uniform Acts go a long way towards the harmonisation of business law in Africa. This harmonisation is a real cataclysm of development of this continent, directed towards the creation of a state of law. It follows therefore that it is the sole regional integration, which has been capable, after 18 years of existence, to give confidence to foreign and national investors, thus, favouring the increase of economic development.

The harmonisation process and the functioning of OHADA have been equally financed by all the member states of the organisation¹ so as to achieve the aim of the OHADA Treaty². Also, the harmonisation process has been greatly accelerated with the aid of UNIDA³, an African Association for a Unified Business Law. This association has amongst its action, mobilised funds, exclusively private with the aim of promoting the new harmonised law. To that effect, in collaboration with member states of OHADA, UNIDA has innovated with a website⁴ dedicated to the OHADA business environment. The reason behind this website is to make the power of Internet

¹ OHADA Treaty, 1993, Article 43(1).

² Ibid., Article 1

³ Non-profit association, created in January 1998 by M. Keba Mbaye, Honorary vice president of the International Court of Justice (the Hague)

⁴ www.ohada.com

for the better and fast diffusion of the new law. In fact, all of this is geared mainly towards the facilitation and the implementation of the new law.

Furthermore, even though it is still early to say whether or not the OHADA Treaty has achieved its goal, it is rather certitude to declare that, its road map of harmonising business law in Africa is a success. This is because, firstly, OHADA has a great advantage that is not to be onerous and not to disturb any political integration or economic unification. But, rather it is a simple instrument of law made available to governments of Treaty States in order to facilitate their regional integration. Secondly, the fact that Ministers of Justice and Ministers of Finance of each member state have carried out the task to study their legislation and come out with a solid and common harmonised legislation in a specific area of law, shows a strong need of African states to form the United States of Africa.

However, OHADA and its Uniform Acts may be too perfect and so far, ideal, if we fail to disclose some of their shortcomings. For instance, the most infamous provision of the Treaty⁵, which has limited the practical language of the organisation to be French. This problem has later been confirmed to have been nothing else than “a mistake, an error and an oversight”⁶, even though on the other hand, French as a sole language has been used for the promotion and implementation of OHADA in other African States. It follows that whether English or French; language is not a barrier to join the organisation. Therefore, it would be interesting in the road map of the

⁵ OHADA Treaty, 1993, Article 42.

⁶ Declared by Idrissa Kere, Director of Legal Affairs of the Permanent Secretariat. Representative of the Permanent Secretariat at the OHADA Seminar held in Buea in September 2003.

organisation to see the extent to which common law jurisdiction adopt the treaty as their law. If and when that occurs, the prospect of African Economic and Monetary Union will become a real impetus to significant foreign investment in the region. So far, this issue to take OHADA as only a French organisation has also generated some difficulties under its instruments.

OHADA texts referred to as Uniform Acts, today, bears a fundamental problem of translation, which reasonably seem to be done by non-expert translators, whereas the law has its legal jargon, specific to its texts. Also, in the heart of its instruments, the Uniform laws of OHADA do not contain a list of defined terms that therefore makes it difficult to ascertain the precise meanings of some of the terms used. This is the reason why in some cases the CCJA had to decline its incompetence to handle some matters just because certain provisions have either been interpreted wrongly or misunderstood. The CCJA case of *SOCOM Sarl v. S.G.B.C et BEAC*⁷, originated from Cameroon, illustrate the problem of translation and that of lack of definition. In this case, the CCJA declined its competence on the ground that *Article 32* of the Uniform Act relating to the Simplified Recovery Procedures and Measure of Execution was not applicable in that circumstance that the national court of Cameroon and the party to the dispute thought. To the CCJA, the Article should be applied to stop an execution rather than to suspend an execution. This was also the situation in the case of *S.G.B.C v Epouse Karnib*⁸. Here the CCJA gave the ruling that once execution has commenced it cannot be stayed. The issue in this case was also the

⁷ CCJA, Arret No 014/2003 du 19 Juin 2003

same *Article 32*. The strict interpretation of the article in this case brought more confusion in the treaty states. However, today, the problem has been resolved with subsequent cases, decided at the CCJA⁹. Therefore, if French legal practitioners are finding difficulties in interpreting the Acts, what more of English lawyers who have nothing but literal and less than adequate translations of the Uniform Acts. Also, if the Acts had a list of definitions of terms legal practitioners will hardly confront such problem of interpreting the new law.

Finally, OHADA law, after some years of its existence, has already provided a good number of Uniform Laws, which are directly applicable in the member states¹⁰. Despite of this, OHADA has not made a Uniform Procedural Law. This aspect breaches the leading goal of the harmonisation and unification. Since each state shall be forced to make use of its national law which obviously must vary from state to state.

In spite of these problems, OHADA is stronger and will remain a great success for Africa. The task now, belongs to the branch office of OHADA to find solutions to these problems. This is the reason why; all African states must join OHADA and work harder for the achievement of a common system of business law, conducive to more stability, prosperity and peace throughout Africa.

⁸ CCJA, Arret No 012/2003 du 19 Juin 2003.

⁹ Declaration made by Justice Fonkwe, Puisme judge at the Supreme Court in Cameroon who said “The judgement are still to be drafted”

4.1 RECOMMENDATIONS

As noted above, OHADA, like any other regional integration in Africa, has its own problems and shortcomings. In spite of these shortcomings, it remains the sole and first organisation that has and is still succeeding in its roadmap towards the harmonisation of the African continent in the realm of business law. So, in order to pave the way for more countries to follow the way forward of OHADA, suggestions have to be made for the amelioration of the problems or shortcomings posed by the Treaty and its Uniform Legislation. That is why the researcher herein recommends the following:

Concerning the problem of French as the only language of OHADA, it is true, it is a weakness, but this has to stop. Time has come for OHADA to mature into a truly bilingual unified system of business laws common to Anglophone and Francophone West and Central Africa. However, the best way to make things evolve is to amend the infamous *Article 42* of the OHADA Treaty, persuade people that OHADA is a key achievement for the entire African continent, but not only for Francophone countries. In addition, when turning OHADA into a truly bilingual system, all legislations, laws shall be in both official languages having the same official value. This will permit English African country to accede to the treaty. The law will also be open to foreign investors of almost all the horizons in the world. In short, this will bring concession from both sides, civil and common. Taking the best from the two systems, which in the field of business law are not so different. This

¹⁰ OHADA Treaty, 1993, Article 10.

harmonisation of languages and to a greater extent, cultures will go along way to increase the harmonisation of business law in Africa.

Furthermore, the researcher recommends that when drafting Uniform Acts, translators who are experts in the field of law must be present so as to avoid the problems of translation. This is the plight that lawyers and legal practitioners are going through in Anglophone Cameroon. This argument can be illustrated by a Cameroonian case of *Achiangan Fombin Sebastian v Foto Joseph and Ors*¹¹, which was held in an English province of the country. In this case, Justice Ayah Paul (as he then was) held inter alia that: “Any piece of legislation that sanctifies French to the exclusion of English remains inapplicable to the Common Law courts by reason of self-exclusion”. This case is to illustrate the need for the problems of language and translation to be resolving in the no distant future.

OHADA and its institutions have to make efforts for the fast and better diffusion of the new law in English. This is because up to date, certain Uniform Laws have not yet been translated¹² and CCJA judgements are wholly in French. This hinders the diffusion of the law thus, making it difficult to be applied in English. The best way to make things evolve is for OHADA institutions to have a positive and constructive behaviour by organising training sessions for magistrates, lawyers and to make OHADA available in English in all the fields¹³. For instance, the regional school; ERSUMA. All of this will increase the legal integration of English speaking countries.

¹² Uniform Act on Accounting and the Uniform Act relating to the Carriage of Goods by Road.

As far as the problems in the Uniform Laws are concerned, the researcher suggests that amendments have to be made in each Uniform Act, modifying and completing them by adding a list of defined terms in order to reduce uncertainties in its provision and ensure their efficient operation. This problem of efficient operation has carried the researcher in another area of the Uniform Acts, which concerns the lack of a Civil Procedural Law as a relevant specific Uniform Act. It is the key Uniform Act, which ought to have been adopted and drafted before all the others. The reason being that it lays down the rules governing the manner in which a right is enforced under Civil Law. We all know that a man may lose a case because of a procedural defect. Therefore, to achieve a successful implementation of its Uniform Laws, OHADA Uniform Act relating to Civil Procedural Laws must be the next to be adopted by the Permanent Secretariat, the sooner the better so as to avoid to put the cart before the horse.

¹³ Particularly in English Cameroon. See the case of *Achiangan Fobin v Foto Joseph & ors (supra)*.

BIBLIOGRAPHY

- Martor B, et al, *Business Law In Africa*, Kogan Page Ltd, London, 2002.
- Joseph Issa Sayegh., et al, OHADA: *Traite et Actes Uniformes commentes et annotes*, Juriscope, France, 2002.
- Ademola Yakubu, *Limits to the Application of Foreign Laws*, Malthouse Press Ltd, 1999.
- Ademola Yakubu, *Harmonisation of Laws in Africa*, Malthouse Press Ltd, 1999.
- Paul Gerard Pougoue, et al, *OHADA: Harmonisation du Droit des Affaires*, Juriscope, 2002.
- Irene N. T. Njoyah, “OHADA: An Unruly Horse”, *The Impartial Judge, Vol 1*, SOWEMAC, Judicial Journal, 2003.
- Enanka Ako Elisabeth, “*Registration of Companies under the OHADA Treaty*”, Paper presented at the OHADA seminar, 18-19 University of Buea.
- Joseph Issa Sayegh, “*The contribution of OHADA to Legal Guarantees and Conflict Resolution*”, *Revue Penant*.
- Martha Simo Tumnde, “*The Future of OHADA in the Age of Globalisation*”, OHADA conference, 30 April 2004, Nigeria.
- Joseph Issa Sayegh, “*L’Integration Juridique des Etats de la Zone Franc*”, *Penant*, Nos .823 and 824, 1997.
- Nicole Lacasse, et al, “*l’Acte Uniforme de l’OHADA Relatif aux Contrats de Transport de Marchandises par Route*”, www.ohada.com.

- Joseph Issa Sayegh, “*L’OHADA, Instrument d’Integration Juridique*”,
Revue de jurisprudence commerciale.
- I.O.AGBEDE, “*Harmonising Commercial Law in Africa; OHADA prospect*”,
OHADA conference, 30 April 2004, Nigeria.
- Jean Alain Penda “*Legal Security; Real Security under OHADA*”,
www.ohada.com.
- K. Mbaye “Avant-propos”, Penant, No 827-1998.
- Jean Alain Penda “*Presentation of UNIDA*”, *OHADA conference*”, 30, April
2004, Nigeria.
- Jacqueline Lohoues-Oble, “*L’Apparition du nouveau droit international des
affaires en Afrique*”, Revue international de droit compare, 1999.
- Jean Alain Penda “*Applicability of OHADA Treaty in Cameroon*”,
www.ohada.com.
- Xavier Forneris, “*Governance, Development and Globalisation*”, University
of Warwick.
- Akere T. Muna “*Is OHADA Common Law Friendly?*”, le bulletin du
batonnier, numero special, January 2002.

- Uniform Act relating to General Commercial Law, 1998.
 - Uniform Act relating to Company Law, 1998.
 - Uniform Act relating to Security Law, 1998.
 - Uniform Act relating to Debt recovery and Enforcement Law, 1998.
 - Uniform Act relating to Bankruptcy law, 1999.
 - Uniform Act relating to Arbitration law, 1999.
 - Uniform Act relating to Accounting Law, 2002.
 - Uniform Act relating to Law relating to the carriage of goods by road, 2004.
 - OHADA Treaty, 1993
 - Decree No. 67 –236, 23 March 1967 of French Company Law.
 - Law No 66 – 537, 24 July 1966 of French Company Law.
 - Law No 99-587, July 1999 of French company law
 - United States Uniform Act of Commercial Code
 - Cour Commune de Justice et d'Arbitrage, “*Recueil de jurisprudence semestriel*”, No 1 Janvier-Juin 2003.
 - Cour Commune de Justice et d'Arbitrage, “*Recueil de jurisprudence semestriel*”, Numero special, December 2003.
 -
-