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EDITORIAL BY EMMANUEL MASSODA, ESQ.

THE NEED FOR LEGAL MONITORING TO SECURE BUSINESS OPERATIONS



Dear Clients, Dear Partners,
The legal landscape is constantly evolving, and 2026 has marked a decisive turning point in the business environment, with the COSUMAF reform introducing a new scope of activities for financial market intermediaries, as well as case law developments concerning immunity from enforcement measures in the OHADA area following the reform of the Uniform Act organizing simplified recovery procedures and enforcement measures of 17 October 2023.

Against this backdrop, legal monitoring has become an essential requirement for ensuring the legal and judicial security of your activities.

This month, our teams have chosen to analyze the practical implications of these developments for you. What exactly is immunity from enforcement measures in the OHADA context? What is its significance in relation to State sovereignty and the need to preserve the continuity of public services and the allocation of public assets to the public interest? CCJA Judgment No. 54/2026 of 13 July 2026 provides insight into these issues.

Similarly, Instruction No. 49-26 of 13 July 2026 on the main and ancillary activities of stockbroking firms, collective investment scheme management companies and financial investment advisors sheds light on the practical application of Regulation No. 1/22/CEMAC/UMAC/CM/COSUMAF of 21 July 2022 and the COSUMAF General Regulation of 23 May 2023.

An article on the concept of shareholders' agreements in the OHADA area will provide you with an overview of the mechanisms governing the organisation of relations between shareholders, as well as the rules governing the transfer and/or sale of shares to third parties.

Finally, we have included an explanatory note on the cross-border protection of pharmaceutical trademarks, entitled "Cross-Border Protection of Pharmaceutical Trade Marks", in the context of combating counterfeiting.

We wish you an excellent reading of this new edition.

Our Firm remains at your disposal to assist you with your projects and address any questions you may have.

Emmanuel Massoda, Esq.
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EXPERT'S TRIBUNE

SHIP ARREST AS A CONSERVATORY MEASURE: PROTECTING THE CLAIM WITHOUT PARALYZING THE VESSEL'S OPERATION

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Maritime transport plays an essential role in international trade, given the flow of goods that it enables to be transported throughout the world. However, these transport operations expose economic operators to considerable financial risks arising from actions or events attributable or not attributable to them. Such situations frequently give rise to maritime claims, the recovery of which is a major issue in international commercial relations.

A claim is considered maritime where it arises from one of the causes provided for by Article 149 of Regulation No. 08/12-UEAC-088-CM-23 adopting the Community Merchant Shipping Code[1], as well as by the relevant international conventions[2]. A vessel means any craft used to transport goods by sea[3].

The debt-recovery mechanisms provided for by the Uniform Act on the Organization of Simplified Recovery Procedures and Enforcement Measures do not apply to maritime claims. Maritime claims are instead subject to a specific legal regime derived both from international conventions establishing the general principles governing the recovery of maritime claims and from regional instruments specifying the terms of their implementation.

Among these mechanisms, ship arrest plays a central role. It is a preventive measure enabling a creditor to preserve its rights by immobilizing a vessel before obtaining an enforceable instrument[4].

However, given the significant consequences of such a measure for the operation of the vessel and the rights of its owner, it is strictly regulated. The question therefore arises as to the conditions for implementing and lifting a ship arrest. Examining these conditions makes it possible to determine the requirements that a creditor must satisfy to obtain the measure, while analyzing the mechanisms for lifting the arrest makes it possible to assess the safeguards available to the vessel owner or any interested person against an unjustified arrest.

Ship arrest is therefore subject to compliance with a strictly regulated procedure (I). The debtor nevertheless retains the possibility of seeking the lifting of the arrest (II).

I. Implementation of the conservatory arrest of vessels

The arrest may be effected either against the vessel to which the claim relates or against any vessel owned, at the time the maritime claim arose, by the person who owned the vessel to which the claim relates[5]. In other words, the arrest may be effected either against the vessel giving rise to the claim or against any other vessel owned by that vessel's owner when the claim arose. It follows that a ship arrest may only be ordered as security for a maritime claim, to the exclusion of any other claim[6].

1. Adopted on 22nd July 2012.
2. Article 1 of the 1999 International Convention on Arrest of Ships (hereinafter the "1999 Arrest of Ships Convention"); Article 149 of Regulation No. 08/12-UEAC-088-CM-23 adopting the Community Merchant Shipping Code (hereinafter the "Community Merchant Shipping Code").
3. Article 2, paragraph 47, of the Community Merchant Shipping Code.
4. Article 1, paragraph 2, of the 1952 International Convention for the Unification of Certain Rules relating to the Arrest of Sea-Going Ships (hereinafter the "1952 Arrest of Ships Convention"); Article 1, paragraph 2, of the 1999 Arrest of Ships Convention.
5. Article 144, paragraph 1, of the Community Merchant Shipping Code of 22nd July 2012. Article 3 of the 1952 Arrest of Ships Convention.
6. Article 2, paragraph 2, of the 1999 Arrest of Ships Convention.

It should nevertheless be specified that vessels owned or operated by a State enjoy immunity from arrest in certain circumstances. They may not be arrested where it is established that, at the time the claim arose, they were assigned to a governmental and non-commercial service[7].

Subject to these conditions, the implementation of ship arrest follows a particularly rigorous procedural mechanism. In practice, before seizing the competent court, the arresting creditor must request the maritime authority, by way of an application, to give its opinion on the merits of the contemplated measure[8]. In Cameroon, this power is vested in the Minister of Transport.

Having obtained the latter's opinion, the arresting creditor may apply to the competent judicial authority, in particular the President of the Court of First Instance of the port where the vessel is berthed, acting in his or her capacity as judge hearing applications[9]. After reviewing the documents submitted and assessing the statutory conditions for the requested measure, the judge may authorize the arrest of the vessel to which the claimed maritime claim relates.

Once the arrest order has been obtained, the creditor has the measure enforced by a bailiff against the master of the vessel, who draws up a report and notifies it to the commander of the port where the vessel is berthed, the competent maritime authority and the consul of the flag State or, failing that, the vessel's agent[10].

Upon receipt of the arrest order and the related report, the maritime authority prohibits the vessel from sailing and ensures effective implementation of the measure[11]. In this capacity, it acts as custodian of the arrested vessel[12] until the arrest is lifted or potentially converted into an enforcement arrest. This custodial function, which is remunerated, generates costs which are, in principle, borne by the arrested debtor. The arresting creditor has one month from notification of the arrest report to bring proceedings on the merits to obtain an enforceable instrument, failing which the arrest becomes void[13].

In any event, every arrested vessel remains immobilized and may only be released pursuant to an order lifting the arrest issued by a court, which is not easily obtained in practice.

II. Lifting of the conservatory arrest of vessels

From notification of the arrest instrument, the owner of the arrested vessel or its representative may apply to the competent court for withdrawal of the arrest order[14] and for the lifting of the arrest. Pursuant to Article 153 of the Community Merchant Shipping Code, jurisdiction in this respect lies with the judge hearing interim applications.

The owner may also request the judge to authorize the vessel to sail for one or more predetermined voyages. However, granting such authorization is subject to two cumulative conditions: first, the prior opinion of the competent maritime authority and, second, the provision of security in an amount sufficient and in a form deemed satisfactory to ensure payment of the claim asserted[15].

7. Article 144, paragraph 2, of the Community Merchant Shipping Code.
8. Article 150 of the Community Merchant Shipping Code. Article 4 of the 1952 Arrest of Ships Convention.
9. Article 15, paragraph 2, of Law No. 2006/015 of 29 December 2006, as amended and supplemented by Law No. 2011/027 of 14 December 2011 on the organization of the judiciary in Cameroon.
10. Article 152, paragraph 1, of the Community Merchant Shipping Code.
11. Article 146 of the Community Merchant Shipping Code.
12. Article 154 of the Community Merchant Shipping Code.
13. Article 155, paragraph 1, of the Community Merchant Shipping Code.
14. Article 153 of the Community Merchant Shipping Code.
15. Article 146, paragraph 1, of the Community Merchant Shipping Code.

This security requirement does not, however, apply where the dispute concerns ownership or possession of the vessel, or where it concerns a dispute between co-owners of the vessel regarding its operation or their rights to the proceeds of its operation[16]. Where the parties disagree as to the nature, form or amount of the security to be provided, the judge hearing interim applications shall determine its terms. However, the amount of security so determined may not exceed the value of the arrested vessel[17].

Where the judge hearing interim applications authorizes the vessel to undertake one or more voyages, the judge shall determine the period within which the vessel must return to the port of arrest. The judge may subsequently modify that period considering the circumstances and, where appropriate, authorize the vessel to undertake additional voyages pursuant to Article 147 of the Community Merchant Shipping Code. If, upon expiry of the prescribed period, the vessel has not returned to the port of arrest, the security provided automatically becomes vested in the creditors.

In practice, providing sufficient security may present significant difficulties, as arresting creditors frequently require security corresponding to the full amount of the alleged claim. In addition to payment of a sum of money, security may also take the form of a letter issued by the protection and indemnity club with which the vessel is affiliated. Once that security has been accepted by the arresting creditor, the lifting of the arrest may be sought and ordered.

It should nevertheless be specified that the provision of security by the arrested debtor cannot be construed as an admission of liability or as a waiver of any defence or any right to limit liability[18].

The lifting of a ship arrest may be ordered either judicially or amicably. Although the practical difficulties involved in obtaining a lifting of arrest are real, such relief is sometimes ordered by the competent courts[19].

Ultimately, ship arrest constitutes a strategic tool for preserving maritime claims. The mechanism thus appears to seek a relative rather than absolute balance: protection of the creditor justifies a rapid procedure allowing the preventive immobilization of the vessel, while the possibilities of withdrawal, lifting of the arrest and release against security seek, in return, to limit the excessive effects of such immobilization on the operation of the vessel.

16. Article 4, paragraph 1, of the 1999 Arrest of Ships Convention; Article 5, paragraph 1, of the 1952 Arrest of Ships Convention.
17. Article 146, paragraph 2, of the Community Merchant Shipping Code; Article 4, paragraph 2, of the 1999 Arrest of Ships Convention; Article 5, paragraph 2, of the 1952 Arrest of Ships Convention.
18. Article 146, paragraph 3, of the Community Merchant Shipping Code; Article 4, paragraph 3, of the 1999 Arrest of Ships Convention; Article 5, paragraph 3, of the 1952 Arrest of Ships Convention.
19. Memoire Online - Arrest of Ships under Positive Cameroonian Law - Christian Valdano KOJOUO (PTPI-Bonanjo, interim order No. 299 of 12 April 2007, Salam International Transport and Trading Co. Ltd v. A/S Dan Bunkery Ltd, concerning the vessel “Salam 4”; PTPI-Bonanjo, interim order No. 285 of 18 May 2007, concerning the vessel “Tim Bunk”; PTPI-Bonanjo, interim order No. 480 of 5 October 2007, also concerning ship-arrest litigation.)

OUR LEGISLATIVE FOCUS



ENFORCEMENT IMMUNITY IN THE OHADA AREA FOLLOWING THE REFORM OF THE AUPSRVE OF 17 OCTOBER 2023: DEVELOPMENTS, SCOPE AND COMPARISON WITH CAMEROONIAN DOMESTIC LAW

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Immunity from execution is a legal privilege that prevents enforcement measures and conservatory measures from being taken against its beneficiary, even where a creditor has a certain claim and an enforceable instrument. It differs from jurisdictional immunity, which arises at an earlier stage and concerns the possibility of subjecting a person to the jurisdiction of the courts. Immunity from execution operates at the stage of compulsory realization of the right recognized in favour of the creditor. It traditionally derives from the protection of sovereignty and, for domestic public entities, from the need to preserve continuity of public service and the allocation of public assets to the public interest.

Under OHADA law, the regime governing this immunity for a long time was based on Article 30 of the Uniform Act on the Organization of Simplified Recovery Procedures and Enforcement Measures (AUPSRVE) of 10 April 1998[20]. The reform adopted on 17 October 2023, published in the OHADA Official Journal on 15 November 2023 and entered into force on 16 February 2024[21], substantially revised this framework.

Since the reform clarified the scope of immunity from execution (I), we shall examine its implications under Cameroonian law (II).

I. From the former to the new AUPSRVE: clarifying the scope of enforcement immunity from execution

A. Under the 1998 AUPSRVE

Under the 1998 AUPSRVE, Article 30 provided that *"forced execution and conservatory measures shall not apply to persons benefiting from immunity from execution."* The provision did not, however, precisely identify the beneficiaries of that immunity. Its second paragraph nevertheless established a compensation mechanism in favour of creditors, providing that certain, liquid and due debts owed by legal entities governed by public law or public enterprises, regardless of their form or purpose, could be set off against reciprocal debts owed by any person to them, subject to reciprocity. This wording gave rise to significant uncertainty, particularly concerning the status of public enterprises incorporated in the form of private-law companies.

The CCJA's case law progressively narrowed the scope of this protection. After initially recognizing immunity for certain public enterprises incorporated as private-law legal entities[22], the Court gradually shifted towards restricting that immunity, notably on 26 April 2018[23] and subsequently through several judgments rendered in 2020[24] and 2023[25].

B. Under the new AUPSRVE

The new AUPSRVE enshrined this development. Article 30 now provides that**,** *"unless expressly waived, there shall be no forced execution or conservatory measures against legal entities governed by public law, including the State, local authorities and public establishments."*

20. Former regime governing immunity from execution and set-off.
21. New regime governing immunity from execution as established by Articles 30, 30-1, 30-2 and 30-3.
22. CCJA, 1st Chamber, 7 July 2005, No. 043/2005, Aziablevi Yovo et al. v. Société Togo Télécom.
23. CCJA, 1st Chamber, 26 April 2018, No. 103/2018, Mbulu Museso v. Société des Grands Hôtels du Congo.
24. In its judgment No. 190/2020 of 28 May 2020 in SOTRA v. SONAREST and the State of Côte d'Ivoire, the CCJA introduced a significant shift in its case law on immunity from execution applicable to public enterprises. It established a new exception based on the legal nature of companies with majority public ownership where they are incorporated in a commercial form.
25. Judgment No.176/2023 of 26 October 2023, Société Omeifra-Afrique SA v. SOTRA SA, Moov SA and MTN Côte d'Ivoire. In this judgment of the First Chamber, the CCJA set aside an appellate decision that had incorrectly granted immunity from execution to a commercial company, SOTRA S.A., reaffirming that the corporate form prevails over the origin of the capital.

The OHADA legislature thus abandons the general reference to *"public enterprises"* and expressly limits ordinary immunity to legal entities governed by public law. Foreign public-law legal entities and international organizations, for their part, benefit from specific protection where their immunity derives from conventions relating to diplomatic or consular relations or from establishment or headquarters agreements[26].

The reform further mitigates the absolute nature of immunity. Thus, Article 30-1 establishes an original budgetary registration mechanism by providing that: *"any claim established by an enforceable instrument or arising from an acknowledgement of debt by a legal entity governed by public law, including the State, a local authority or a public establishment may, after a formal notice addressed to the governing body or competent authority in each State Party has remained unsuccessful for a period of three months from notification, be entered automatically in the accounts for the financial year and in the budget of that legal entity as a mandatory expenditure. The request for such registration, addressed to the Minister responsible for Finance, shall be accompanied by supporting documents for the claim and the formal notice. Claims entered following a request for automatic registration shall, by operation of law, bear interest at the statutory rate in force from the date of the formal notice".*

Furthermore, Article 30-2 of the Uniform Act[27] provides a functional protection regime for legal entities that do not benefit from the immunity under Article 30 where enforcement measures are likely to seriously impair the continuity of public service. The judge may take appropriate urgent measures, including making enforcement conditional upon the debtor carrying out acts intended to facilitate or secure payment of the debt. This mechanism is particularly important for public enterprises incorporated as commercial companies. They no longer benefit from automatic immunity but may receive specific judicial protection based on continuity of public service.

Recent case law confirms this new approach. In its judgment of 24 April 2025[28], the CCJA held that a public limited company incorporated under OHADA law remains a private-law legal entity and does not benefit from immunity from execution merely because the State is its sole shareholder or because it performs a public-service mission.

More recently, in a judgment of 26 March 2026[29], the CCJA recalled that immunity from execution prevents a third-party attachment from being made against the assets of the protected entity in the absence of an express waiver. This decision confirms that, once immunity has been established, it remains an effective obstacle to enforcement proceedings and its waiver cannot be presumed.

II. Scope of the reform in light of Cameroonian law

A. Convergence between OHADA law and principles of Cameroonian public law

Cameroonian law has traditionally recognized the principle of protecting public property against forced execution measures. Ordinance No. 74-2 of 6 July 1974 establishing the State property regime provides that assets forming part of the public domain are inalienable, imprescriptible and immune from seizure.

The Cameroonian regime therefore distinguishes, like OHADA law, between protection attached to the public entity and protection attached to certain public assets. This distinction is essential and shows that immunity from execution must not be confused with the immunity from seizure of the entire patrimony of a public entity. The former is protection attached to the beneficiary, whereas the latter concerns the nature or allocation of the asset.

26. Article 30-3 of the new AUPSRVE.
27. Where forced execution and conservatory measures are undertaken against legal entities other than those referred to in Article 30 of this Uniform Act and are likely to seriously impair the continuity of public service. The judge may, at the request of the legal entity concerned or the public prosecutor, take any appropriate urgent measures, making such measures conditional upon the debtor carrying out acts intended to facilitate or secure payment of the debt.
28. CCJA, Judgment No. 128/2025 of 24 April 2025, KODJO Bilé Jean Claude v. Port Autonome d'Abidjan (PAA) and Banque Nationale d'Investissement (BNI SA).
29. CCJA, 3rd Chamber, 26th March 2026, Judgment No. 54/2026, ASECNA v. Famakan SIBIBE & Others.

The General Code of Decentralized Local Authorities[30] confirms, for local authorities, the existence of a specific regime for assets forming part of their public and private domains. This Code is now the reference legislation in this area.

The OHADA reform therefore follows a logic that is broadly compatible with Cameroonian law: protecting assets allocated to the public interest without necessarily establishing absolute patrimonial immunity for all entities with public participation.

B. A significant development for Cameroonian public enterprises

The reform is of particular importance in Cameroon given the coexistence of several types of public entities.

Law No. 2017/011 of 12 July 2017 to lay down general rules and regulations governing public corporations distinguishes between public-capital companies and mixed-economy companies in which the State, a public enterprise or a decentralized local authority holds a majority interest[31]. These entities are generally incorporated in forms governed by commercial company law. The new AUPSRVE therefore means that a public enterprise can no longer automatically be equated with a legal entity governed by public law.

This distinction is fundamental for creditors, as a private-law company should not be able to invoke immunity from execution merely because its capital is wholly or predominantly public. This solution is consistent with the development of CCJA case law. In the SOTRA case[32], the Court had already held that a company's private-law form and commercial activity prevented the application of immunity from execution.

The 2023 reform thus marks a movement towards greater accountability of public entities participating in economic activity.

In conclusion, the 2023 reform of the AUPSRVE represents a substantial development in the law of immunity from execution in the OHADA area. Whereas the 1998 text left considerable uncertainty as to the beneficiaries of immunity, particularly public enterprises incorporated as private-law companies, new Article 30 now adopts an approach essentially based on the legal classification of a legal entity governed by public law. Recent CCJA case law, notably judgments No. 128/2025 of 24 April 2025 and No. 54/2026 of 26 March 2026, fully reflect this approach.

The new framework thus achieves a balance between two apparently conflicting imperatives: protection of the public interest and continuity of public service, on the one hand, and the effectiveness of the creditor's right to enforcement, on the other.

In Cameroon, this development calls for particular vigilance in classifying public debtors. A creditor must distinguish a genuine legal entity governed by public law, protected by Article 30, from a commercial company with public capital, whose assets may, subject to specific rules on immunity from seizure, be subject to enforcement proceedings.

Ultimately, the 2023 reform does not abolish immunity from execution but redefines its scope. It thus moves from an absolute obstacle to forced execution towards a more regulated regime, accompanied by mechanisms intended to facilitate recovery of public claims.

30. Law No. 2019/024 of 24 December 2019 establishing the General Code of Decentralized Local Authorities in Cameroon.
31. Article 2 of Law No. 2017/011 of 12 July 2017.
32. CCJA, Judgment No. 190/2020 of 28 May 2020, SOTRA v. SONAREST and the State of Côte d'Ivoire.



OUR POINT OF ATTENTION

SHAREHOLDERS' AGREEMENTS IN THE OHADA AREA: BETWEEN CONTRACTUAL FREEDOM AND MANDATORY RULES

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Companies operating in the OHADA area are increasingly opening to local and international investors, and their governance mechanisms are becoming correspondingly more sophisticated. Articles of association are no longer always sufficient to organize relations between shareholders. It is in this context that shareholders' agreements, also known as extra-statutory agreements, have assumed an increasingly important role in business practice.

OHADA law has not remained outside this development. The Uniform Act relating to Commercial Companies and Economic Interest Groups (AUSCGIE) expressly allows shareholders to enter into extra-statutory agreements[33], giving them genuine flexibility both in organizing their relations and in conducting business.

But this freedom has limits: it cannot be used to circumvent the mandatory provisions of the AUSCGIE, nor to replace, by contractual means, the powers that OHADA law assigns to a specific corporate body.

The question is therefore simple to formulate, though less simple to resolve: how far may the contractual freedom granted to the parties in drafting a shareholders' agreement be exercised? A shareholders' agreement serves as a tool for organizing relations between shareholders (I); its drafting is subject to the mandatory rules of OHADA law (II); and precision in drafting is essential to its effectiveness (III).

I. Shareholders' agreements: A tailor-made tool for organizing relations between shareholders

First and foremost, the agreement supplements the articles of association by organizing relations between shareholders in a confidential and flexible manner.

A. A governance tool adapted to shareholders' needs

Its main advantage lies in the ability to organize how shareholders intend to exercise their rights within the company.

Shareholders may, for example, agree on the procedures for appointing certain officers, composing corporate bodies, adopting certain strategic decisions, or consulting in advance before any significant decision is taken.

The agreement may also provide for a list of "reserved" matters on which shareholders undertake not to vote in favour without the prior consent of one or more of them. These may include significant investments, transactions with related companies, indebtedness above a specified threshold, substantial changes to the business, or the disposal of strategic assets.

This type of clause is particularly beneficial to minority shareholders, who thereby obtain enhanced protection without altering the statutory allocation of powers among the corporate bodies.

The agreement may also govern the transfer of shares through pre-emption, approval, joint exit clauses ("tag-along"), forced exit clauses ("drag-along") or any other mechanism designed to anticipate changes in shareholding.

B. An instrument particularly suited to the coexistence of several categories of shareholders

The agreement is particularly relevant to transactions involving a strategic investor, an investment fund, a parent company and local investors, or several partners brought together in a joint venture.

33. Article 2-1 of the AUSCGIE.

In such structures, the articles of association must comply with OHADA law and ensure the company's legal functioning. The agreement, for its part, specifies the commitments negotiated among the investors.

A parent company may thus enter into an agreement with the local shareholders of its subsidiary providing consultation mechanisms, enhanced information rights, voting undertakings or specific exit arrangements.

The agreement may also be used to organize the period preceding the incorporation of a company: the future shareholders may set out the principles that will govern the company to be established, subject, of course, to their effective implementation once the company has been incorporated, in accordance with applicable law and the articles of association.

II. Contractual freedom constrained by the mandatory rules of OHADA law

A shareholders' agreement cannot become a means of circumventing the mandatory rules governing the operation of commercial companies.

A. The agreement may not encroach upon the powers of corporate bodies

This is the main point of vigilance when preparing a shareholders' agreement: ensuring consistency between its provisions and the rules of jurisdiction and competence laid down by the AUSCGIE.

For example, shareholders may contractually agree to vote in favour of a specified candidate when corporate offices are filled. However, where the law assigns the power of appointment to a specific corporate body, the agreement cannot remove that power.

Thus, in a SARL, the shareholders may agree to vote for a candidate proposed by a particular investor, but the appointment of the manager must continue to be made in accordance with the AUSCGIE. Likewise, in an SA, shareholders may agree on the candidates they will support for the board of directors, but cannot, solely through the agreement, transfer to a shareholder a power that the AUSCGIE reserves to the board of directors or the general meeting.

The distinction is essential: the agreement may organize how its signatories exercise their corporate rights, but it cannot alter the statutory allocation of powers among the company's corporate bodies.

B. The agreement must remain consistent with the articles of association and the corporate interest

The shareholders' agreement is not intended to replace the company's articles of association either.

The articles of association remain the company's constitutive instrument; they determine its organization under the conditions laid down by the AUSCGIE. In this regard, Article 2-1 of the AUSCGIE provides: *"Subject to compliance with the provisions of this Uniform Act from which no derogation may be made and with the provisions of the articles of association, shareholders may enter into extra-statutory agreements […]".*

The agreement serves a different purpose: it primarily enables the signatories to assume commitments towards one another without necessarily affecting the company's statutory rules. Its confidentiality is one of its main advantages. Unlike the articles of association, certain amendments to which must be published, the agreement generally remains a confidential contractual instrument between its parties.

The corporate interest and mandatory rules also limit shareholders' contractual freedom. For example, a clause granting a shareholder absolute decision-making power over the company could raise difficulties if it deprived corporate bodies of their statutory or legal prerogatives.

III. Drafting precision as a condition for the effectiveness of a shareholders' agreement

The practical value of a shareholder's agreement lies less in its existence than in the precision of its content. A well-drafted agreement will clearly identify decisions subject to a veto right or prior consultation, procedures for appointing officers, restrictions applicable to transfers of securities, exit mechanisms, and the consequences of a breach by one of the signatories.

Attention must also be paid to deadlock-resolution mechanisms. In joint ventures or companies with balanced shareholding, the absence of an exit or deadlock-resolution mechanism can quickly turn a simple disagreement into genuine corporate paralysis.

Finally, the company itself may, where appropriate, become a party to the agreement so that it directly assumes certain obligations. This possibility must nevertheless be handled with caution: by adhering to the agreement, the company cannot waive the exercise of powers that the AUSCGIE mandatorily assigns to its corporate bodies.

Ultimately, shareholders' agreements remain a valuable instrument for investors wishing to organize their relations more flexibly than the articles of association alone allow. Their effectiveness in the OHADA area nevertheless depends on a rigorous articulation between contractual freedom, statutory provisions and the mandatory rules of the AUSCGIE.

For investors, the issue is therefore not to choose between articles of association and a shareholders' agreement, but to determine, for each governance mechanism, what belongs in the articles of association, what may be organized contractually among shareholders, and what remains mandatorily subject to the powers of the corporate bodies.



BUSINESS NEWS

CROSS-BORDER PROTECTION OF PHARMACEUTICAL TRADEMARKS: THE ROLES OF OAPI, EUIPO AND WIPO

Dr. Esther Chielo Uchechukwu
Legal Intern

The pharmaceutical industry relies heavily on trademark protection to distinguish medicinal products and prevent consumer confusion across increasing international markets. Trademarks are essential in distinguishing pharmaceutical products, preventing confusion among healthcare professionals and patients, and ensuring the safe identification of medicines. Their protection therefore serves not only commercial and intellectual property interests but also the broader objective of safeguarding public health. As pharmaceutical products are increasingly marketed across multiple countries, the risk of confusion arising from similar drug names or packaging has grown. The World Health Organization (WHO) identifies medication errors caused by look-alike and sound-alike medicines as a significant source of preventable harm worldwide[34]. In this context, the WHO International Nonproprietary Name system (INNs) promotes the safe identification of pharmaceutical substances by assigning standardized generic names to active ingredients. Unlike trademarks, INNs remain in the public domain and contribute to reducing medication confusion by facilitating the safe prescription and dispensing of medicines.

Despite the global expansion of pharmaceutical markets, trademark protection remains territorial, meaning that registration in one jurisdiction does not automatically provide protection in another. To address this limitation and reduce cross-border trademark conflicts, pharmaceutical companies increasingly rely on regional and international protection mechanisms administered by organizations such as World Intellectual Property Organization (WIPO), African Intellectual Property Organization (OAPI), and European Union Intellectual Property Office (EUIPO). A pharmaceutical trademark registered in Cameroon through OAPI is therefore not automatically protected in the European Union, just as a European Union (EU) trademark does not automatically confer protection in Cameroon.

Accordingly, this article first examines the principle of territoriality as a fundamental principle governing the protection of pharmaceutical trademarks (I). It then considers how this territorial framework operates in practice through the respective roles of WIPO, EUIPO and OAPI, as well as the relevant international legal instruments governing the protection of pharmaceutical trademarks across jurisdictions (II)

I. The principle of territoriality in the protection of pharmaceutical trademarks

In the intellectual property system, the principle of territoriality is known to be a fundamental principle governing trademark protection. As a general principle, trademark rights are territorial and are enforceable within the jurisdiction or regional system in which protection has been obtained. In other words, the creation, extent, and duration of intellectual property rights are governed by the domestic laws of the country in which protection is sought. As a general principle, a state lacks the authority to impose its legal rules on activities taking place beyond its territorial jurisdiction.

Consequently, rather than establishing a single, universal system of patents, copyrights, or trademarks, the international intellectual property regime consists of a collection of independent national and regional rights, each operating within its own legal framework[35].

34. https://www.who.int/initiatives/medication-without-harm, visited on the 6 of July 2026.
35. Daniel J. Gervais, (2026), “The principle of territoriality in international property law and its implications for global frand rate-setting”, GRUR International, Volume 75, Issue 2, pp. 105-107.

Closely related to the principle of territoriality, is the legal principle of lex loci protectionis, which translates to “the law of the place where protection is sought”. The lex loci protectionis is widely recognized as a leading connecting factor in international intellectual property disputes stipulating that existence, scope, validity, ownership, infringement, and enforcement of trademark rights are governed by the law of the jurisdiction where protection is claimed. For instance, when a Cameroonian pharmaceutical trademark infringement is alleged in Cameroon, it is the Cameroonian laws or the Bangui Agreement[36] that will be applicable to trademark rights, regardless of the laws applicable to related commercial contracts. This legal principle is not only reflected in international treaties, but also widely acknowledged in private international law literature.

The lex loci protectionis plays a crucial role in international trade. Medicines are often produced in one country, packaged in another and marketed in multiple jurisdictions under various trademark portfolios. When disputes over trademark infringement, counterfeit medications, or confusingly similar pharmaceutical marks arise, courts apply the law of the jurisdiction in which the trademark protection is invoked, rather than the law of the manufacturing or exporting jurisdiction. Consequently, the acts of exporting pharmaceuticals do not determine the applicable trademark law; the governing law remains that of the location where protection is sought. This approach maintains national sovereignty over trademark protection while ensuring legal clarity for trademark owners, competitors[37].

II. The roles of WIPO, OAPI and EUIPO

At the international level, WIPO provides an institutional and procedural framework facilitating the international protection of trademarks. Through the administration of international trademark treaties such as the Paris Convention for the Protection of Industrial Property, the Madrid System, the Singapore Treaty on the Law of Trademarks[38] and the Nice Agreement[39], WIPO provides a streamlined trademark registration process while maintaining territorial rights. The Paris Convention ensures national treatment[40], right of priority[41] and the autonomy of trademark registration[42], allowing pharmaceutical companies to secure consistent protection across various jurisdictions. Similarly, the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement managed under the World Trade Organization (WTO), sets minimum standards for trademark protection and compels Member States to enforce judicial and border control against counterfeit pharmaceutical products. These international frameworks indirectly aid in reducing the risk of medication errors.

In Cameroon, these international standards are implemented through OAPI. Under the revised 2015 Bangui Agreement, Cameroon has entrusted the management of industrial property rights to OAPI. Pursuant to Annex III, a pharmaceutical trademark registered with OAPI, enjoys uniform protection across all Member States without requiring separate national registrations. OAPI also examines trademark applications for conflicts with existing rights and distinctiveness, thereby reducing the risk of confusingly similar pharmaceutical trademarks coexisting within the regional market.

36. The Bangui Agreement, adopted on 2 March 1977, established the African Intellectual Property Organization (OAPI) and entered into force on 8 February 1982. It currently governs intellectual property protection across OAPI’s 17 member states and serves as the common legal framework for intellectual property protection within those states. The Agreement was subsequently revised in 1999 and 2015, with the 2015 Act entering into force on 14 November 2020. Cameroon was one of the original States that ratified the 1977 Agreement and is therefore subject to the OAPI intellectual property system. In relation to pharmaceutical trademarks, Annex III of the Bangui Agreement specifically governs trademarks of products and services.
37. WIPO, (2004), WIPO Intellectual Property Handbook, 2nd Edition, Chapter 2, pp. 77-82.
38. The Singapore Treaty on the Law of Trademarks was adopted on 27 March 2006 and entered into force on 16 March 2009. It currently has 58 contracting parties. Cameroon signed the Treaty on 27 February 2007 but has not ratified or acceded to it. However, OAPI acceded to the Treaty on 13 November 2015, and it entered into force for OAPI on 13 February 2016. This is particularly relevant to Cameroon, as its trademark protection operates within the OAPI system.
39. The Nice Agreement, adopted in 1957 and in force since 8 April 1961, currently has 96 contracting parties. It establishes the international classification of goods and services for trademark registration. Cameroon is not a party to the Nice Agreement, although the Nice Classification remains relevant to trademark practice within the OAPI system.
40. Paris Convention for the Protection of Industrial Property 1883, Article 2.
41. Paris Convention for the Protection of Industrial Property 1883, Article 4.
42. Paris Convention for the Protection of Industrial Property 1883, Article 6.

The efficiency of trademark protection in avoiding medication confusion hinges on the collaboration between OAPI and Cameroon's pharmaceutical regulatory authorities. Trademark registration does not permit the marketing of a medicinal product by itself; each pharmaceutical item must also secure a Marketing Authorization (Autorisation de Mise sur le Marché (AMM)) from the national medicines authority before being marketed in Cameroon. This helps to ensure that medicines in the market meet public health needs and intellectual property requirements.

The EUIPO is the agency of the EU responsible for the protection of intellectual property rights. EUIPO performs a wide range of functions, including administering procedures for the examination, publication, opposition, registration, and invalidation or revocation of intellectual property rights; harmonizing intellectual property practices among the Member States of the EU; and facilitating the mediation of intellectual property disputes. The European Observatory on Infringements of Intellectual Property Rights operates within EUIPO. Through its activities, the Office contributes to the enforcement of intellectual property rights while promoting creativity and innovation[43].

A trademark registered with OAPI does not automatically benefit from protection within the EU. Such protection may be sought through the Madrid System for the International Registration of Marks, administered by WIPO. The Madrid System provides a centralized procedural framework allowing OAPI trademark owners to seek protection in multiple jurisdictions, including the EU. To seek protection in the EU through the Madrid system, the Trademark owner must first have a valid basic application or registration with OAPI, which serves as the basis for the international application through OAPI, as the office of origin, in accordance with the Madrid Protocol, designates the European Union as a territory in which protection is sought, and pays the applicable fees. WIPO subsequently conducts the formal examination of the international application and records the resulting international registration before notifying the designated office. The EUIPO then examines the designation of the EU in accordance with applicable EU trademark rules and may grant or refuse protection based on the relevant substantive requirements. The EUIPO can refuse protection based on absolute grounds (such as lack of distinctiveness or descriptiveness) or relative grounds (such as pre-existing conflicting rights) in accordance with EU trademark law[44].

Key Takeaways

The territorial nature of trademark law remains central to the cross-border protection of pharmaceutical trademarks. While mechanisms such as the Madrid System and OAPI facilitate protection across multiple jurisdictions, they do not provide automatic or uniform protection, as each jurisdiction retains the authority to apply its own legal requirements. Effective protection therefore requires pharmaceutical companies to:

(i) conduct trademark clearance searches before selecting a brand;
(ii) assess protection separately in each target jurisdiction or region;
(iii) verify the compatibility of the proposed trademark with INNs and applicable pharmaceutical regulatory requirements. These measures help balance trademark protection with the broader objective of preventing medication confusion; and
(iv) monitor counterfeit or confusingly similar products across the relevant markets.

43. https://www.eurofiscalis.com/lexiques/euipo/ , visited on the 23rd July 2026.
44. Regulation (EU) 2017/1001 of the European Parliament and of the Council of 14 June 2017 on the European Union Trademark, European Union (EU).



LEGAL WATCH

COSUMAF: THE NEW SCOPE OF ACTIVITIES OF FINANCIAL MARKET INTERMEDIARIES

Isaac Tonye
Legal Intern

As part of its mission to clarify the scope of activities falling within the remit of the various financial market intermediaries in the CEMAC sub-region, the Central African Financial Market Supervisory Commission (COSUMAF) adopted Instruction No. 49-26 of 13th July 2026 on the Main and Ancillary Activities of Stockbroking Firms, Collective Investment Scheme Management Companies and Financial Investment Advisors (the "Instruction").

It specifies the terms for implementing Regulation No. 01/22/CEMAC/UMAC/CM/COSUMAF of 21st July 2022 on the Organization and Operation of the Central African Financial Market (the "2022 Regulation"), as well as the COSUMAF General Regulation of 23rd May 2023 (the "General Regulation").

Until now, the scope of activity of each category of intermediary resulted from several legal instruments, business programmes[45], licensing forms[46] and sector-specific instructions[47]. This fragmentation made the scope of intervention of intermediaries difficult to read, preventing a clear distinction between their principal activities and the ancillary or complementary activities permitted to them. The Instruction therefore clarifies the framework by identifying, for each category of intermediary, principal[48] and ancillary activities that may be carried out.

The Instruction therefore raises the question of the practical implications of this new classification for stockbroking firms (I), collective investment scheme management companies (II) and financial investment advisers (III).

I. The reclassification of certain complementary activities as principal activities of stockbroking firms (SDBs)

Although the previous regime already distinguished principal activities from "complementary activities"[49], certain activities such as reception and transmission of orders, securities-account keeping and financial solicitation still fell within the latter category. The new Instruction now expressly classifies them among the principal activities of SDBs[50].

In addition, certain activities previously addressed in a fragmented manner are now grouped among the ancillary activities of SDBs, including financial investment advice, discretionary portfolio management and Listing Sponsor activities. This classification does not, however, dispense with compliance with the specific conditions or licensing requirements applicable to their exercise, particularly in relation to Listing Sponsor activities[51].

The Instruction reorganizes the structure of SDB activities without creating new activities. In practice, SDBs must verify that the activities they carry out or intend to carry out correspond to the scope of their licence and, where appropriate, apply for its amendment[52].

45. Article 497 in fine of the General Regulation.
46. Annex I to COSUMAF Instruction No. 01-23 of 5 December 2023 on the licensing of market intermediaries (the "Instruction No. 01-23").
47. For stockbroking firms, COSUMAF Instruction No. 2005-03 of 20 December 2005 on the licensing of stockbroking firms operating on the financial market (the "2005 Instruction") (Articles 1 and 2). For financial investment advisers, COSUMAF Instruction No. 42-25 of 23 May 2025 on the conditions and procedure for licensing investment advisers (the "Instruction No. 42") (Article 12 and Annex). Finally, for collective investment scheme management companies, COSUMAF Instruction No. 06-23 of 5 December 2023 (Articles 2, 4 and 6 and Annex III).
48. Article 2 of the Instruction.
49. Articles 1 and 2 of the 2005 Instruction.
50. Article 3 of the Instruction.
51. Article 319-1 of the General Regulation provides that "the activity of Listing Sponsor is subject to a specific licence issued by COSUMAF. 2. This activity may be carried out by stockbroking firms specifically licensed for this purpose".
52. Annex I (2) to Instruction No. 01-23.

II. The new structuring of the scope of activities of collective investment scheme management companies (SG-OPC)

Concerning SG-OPC, the Instruction does not fundamentally alter the existing framework but provides greater detail. The previous regime was based on an individualized scope of activity, determined based on the business programme submitted by each company and specified in its licence. The licence application had to indicate "the scope of the licence and the type of CIS managed [53]", while the business programme had to detail the services the company intended to provide and the conditions under which they would be provided. This framework therefore gave SG-OPCs a degree of flexibility in defining the activities they wished to carry out, subject to COSUMAF approval.

The new Instruction introduces a classification. It classifies the management and administration of CISs, the distribution of CIS management products and financial solicitation as principal activities, while discretionary portfolio management and financial investment advice are classified as ancillary activities[54].

This new classification does not extend the scope of SG-OPCs' licences. The exercise of these activities remains subject to their inclusion in the business programme and within the scope of the company's licence[55]. SG-OPCs must therefore verify that the activities they carry out or intend to carry out are effectively covered by their licence and, if necessary, take the steps required to include them[56].

III. A more restricted scope of activities for financial investment advisors (CIFs)

For CIFs, the Instruction establishes a stricter delimitation of the scope of activities. The previous regime was based on a list of activities enabling CIFs to specify the activities contemplated, the scope of advisory services and, where applicable, other activities falling under regulated statuses or authorizations[57]. This flexibility nevertheless remained subject to restrictions, notably the prohibition on CIFs receiving or holding their clients' funds or financial instruments[58].

The Instruction now directly sets the limits of this scope[59]. It lists five principal activities that CIFs may carry out and specifies that they are excluded from carrying out any activity other than those falling within their principal activities[60]. The text reiterates the prohibition on carrying out, for their own account, order-execution, placement or trading activities and on receiving or holding clients' funds or financial instruments[61].

53. Article 2 of Instruction No. 06-23.
54. Article 4 of the Instruction.
55. Articles 4 and 6 of Instruction No. 06-23.
56. Articles 497 and 500 of the General Regulation.
57. Article 12 and Annex to Instruction No. 42-25.
58. Article 313 of the General Regulation.
59. Article 5 of the Instruction.
60. Ibid., "CIFs are not authorized to carry out any activity other than those referred to in paragraph 1 above".
61. Ibid.

KEY TAKEAWAYS

1. The Instruction clarifies the principal and ancillary activities of SDBs and further regulates those of SG-OPCs.

2. It restricts the scope of activity of CIFs by limiting the activities that may be carried out under this status.

3. It reaffirms the monopoly of SDBs over arranging public offerings and private placements. It calls on each intermediary to verify that its activities comply with its licence.

OTHER LEGAL NEWS:

Regulation No. 0002/CIMA/PCMA/CE/2026 of 3 July 2026, amending and supplementing certain provisions of the Insurance Code.

Circular Letter No. 003.26 of 5 May 2026 on post-licensing due diligence to be carried out by collective investment schemes in transferable securities (OPCVMs).

Decree No. 2026/00644/PM of 25 March 2026 on the conditions for obtaining accreditation and the terms and conditions governing the practice of the profession of book and textbook publisher in Cameroon.



FIRM NEWS

1. Deal News | Chazai Wamba advises Bamboo Microfinance on its FCFA 5 billion bond issue

Chazai Wamba is pleased to advise Bamboo Microfinance on the legal structuring of its FCFA 5 billion bond issue through a public offering on the CEMAC financial market.

Authorized by the Central African Financial Market Supervisory Commission (COSUMAF) under visa No. COSUMAF-APE-03/26, this transaction represents an important step in Bamboo Microfinance's financing and development strategy.

The bonds issued in connection with the transaction are intended to be listed on the Central African Stock Exchange (BVMAC), once again illustrating the role of the regional financial market in mobilizing resources to finance and develop the financial sector in Central Africa.

We are pleased to mobilize our capital markets expertise and in-depth knowledge of the CEMAC legal and regulatory environment to support this transaction alongside Bamboo Microfinance, Africa Bright Securities and all stakeholders.

This mission is led by Aurélie Chazai, with Vanina Fonga Esq. and Dylan Dave Tchouankeu.






EMPRUNT
OBLIGATAIRE


Bamboo
EMPRUNT
OBLIGATAIRE


Date
Capital début
Intérêts
Capital amorti
Service de la dette
Capital restant



2. Four new interns join CHAZAI WAMBA

CHAZAI WAMBA has recently strengthened its teams with the arrival of four new interns, who joined the firm over the past few months.

- Dr. Esther Chielo Uchechukwu (Doctor of Law, University of Yaoundé 2-Soa),
- Isaac Tonye (Master's student, University of Bertoua),
- Candyce Ndjehemle (Master's student, Catholic University of Central Africa), and
- Asta Kenza Ahmadou (Bachelor's student, Catholic University of Central Africa).

The Firm offers them the opportunity to develop their practice, deepen their knowledge and familiarize themselves with the requirements of the profession alongside our teams.

The Firm is pleased to contribute to the training of young talent and to support them during the early stages of their professional careers.









3. Firm recognition and expertise

CHAZAI WAMBA among the finalists of the African Legal Awards 2026

CHAZAI WAMBA has been selected as one of the finalist law firms for the African Legal Awards 2026, in the Restructuring Team of the Year category. This recognition reflects the Firm's expertise in restructuring and its commitment to supporting clients in complex transactions across Africa. The awards ceremony was held on 4 September 2026 at the Wanderers Club in Johannesburg.



Chazai Wamba contributes to the Merger Thresholds Monitor

Chazai Wamba prepared the Cameroon report for the Merger Thresholds Monitor, reflecting the Firm's expertise in competition law, merger control and M&A in Cameroon.



4. Chazai Wamba Participates in Training for the PPP Unit of the CEMAC Commission

Chazai Wamba is pleased to have co-delivered, from 13 to 15 October 2026 in Bangui, a three-day training session for members of the Public-Private Partnership (PPP) Unit of the Commission of the Economic and Monetary Community of Central Africa (CEMAC), alongside the African Legal Support Facility (ALSF) and Gide law firm.

Established under Article 30 of Directive No. 0157/25-CEMAC-065-UEAC-CM-41 of 25 February 2025 on the legal and institutional framework for public-private partnerships in the CEMAC region, the CEMAC Commission's PPP Unit is responsible for supporting Member States in transposing the Directive into national law, monitoring its implementation, and assisting them, upon request, in the implementation of their public-private partnership projects.

The training aimed to equip the Unit's members with the tools necessary to carry out their duties effectively.

This participation reflects Chazai Wamba's commitment to leveraging its expertise and knowledge of the regional legal framework to support the development of public-private partnerships and project finance, in accordance with best practices in the field.

Chazai Wamba was represented at the training by Vanina Fonga and André Russel Batoum.




ATELIER DE RENFORCEMENT
DES CAPACITÉS
Du 13 au 15 Octobre 2026
au Ledger Plaza,
Bangui, RCA







5. Pink October | Chazai Wamba Mobilises to Raise Breast Cancer Awareness

On 23 October 2026, Chazai Wamba came together to mark Breast Cancer Awareness Month (Pink October) under the theme “Raise Awareness, Prevent and Take Action Together.”

The programme featured an awareness session led by Dr Dackam, an act of solidarity with a breast cancer patient, and moments of sharing focused on well-being and health.

Through this initiative, Chazai Wamba reaffirmed its commitment to initiatives that promote awareness, prevention and solidarity, firmly believing that access to information and collective action play a vital role in the fight against breast cancer.









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