

RESTRUCTURING OF COMPANIES (MERGERS, SPIN-OFFS, PARTIAL BUSINESS TRANSFERS & JOINT VENTURES).

With the peaceful citizenry and abundant natural resources, coupled with its pressing need for modern infrastructure, Cameroon is recognized as a country with a vast potential for investment and development.

It has, however, long been recognized that continued investment and development cannot be achieved without, on the one hand, a secure legal and commercial environment that will protect private property and contractual rights and, on the other hand, a strong and independent court system that can ensure the proper application of the law and the efficient settlement of disputes. Until recently, and despite these needs, much of Africa (Cameroon inclusive) suffered from outdated or incomplete legal systems. This gave rise to uncertainty that, in turn, was a disincentive to investment. Against this background, Cameroon has grown increasingly aware of the advantages that arise from the creation of a modern, harmonized and easily accessible system of business law.

Cameroon being a signatory to the Treaty – Organisation for the Harmonisation of Business Law in Africa known by its French acronym OHADA, has been able to embrace some legal principles like Mergers, Spin-offs, Partial Business Transfer and Joint Ventures.

With the Nico Halle & Co. Law Firm being one of the leading Corporate Law Firms in Cameroon, we have been involved in the restructuring and transformation of a couple of Firms in the Primary, Secondary and Tertiary Sectors. Thus it is of prime importance to give an overview of some of the legal principles enshrined in the OHADA Uniform Act on Commercial Companies and Economic Interest Groups.

As per the Uniform Act, a Merger is a transaction whereby two companies join to form a single company either by the creation of a new company or by the absorption of one company by the other. Although this definition refers only to Mergers between two companies, there seems to be no reason why it should not be possible to merge more than two companies at a time.

A Spin-off as per the Uniform Act is a transaction whereby a company's assets and liabilities are shared out among several existing or newly-created companies.

The Uniform Act equally makes mention of a Partial Business Transfer. It is a transaction whereby a company contributes an autonomous division of its activity to another existing or newly-created company.

The above notwithstanding, the Uniform Act in the same vein makes provision for Joint Ventures. As per the Act, a Joint Venture is where the partners agree that it would not be registered with the Trade and Personal Property Credit Register and would not have its own corporate personality. The partners are free to agree on the purpose of the Joint Venture, the rights of the partners and rules for its functioning and winding-up.

Nevertheless, the partners must comply with the mandatory rules laid down in the general provisions of the Uniform Act relating to Commercial Companies, other than those that are specifically related to corporate personality.

The above is just a tip of the iceberg and we of the Nico Halle & Co. Law Firm are at your service. You should therefore not hesitate to revert to us in case of any solicitation in any of these domains.