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The Liquidation of Companies under the OHADA Uniform Act on Commercial Companies and Economic Interest Groups: A Legal Appraisal of the Case of Cameroon

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Abstract

The liquidation of companies in the global, continental, and national context has become a major aspect that needs to be addressed. The uniform act on commercial companies and economic interest groups (UACCEIGs) was created to harmonize laws in Africa and to assist countries in attaining economic development. That is why it made provisions for types of companies, their formation, and operation. Companies regulated by OHADA are categorized as registered and unregistered companies. As the name implies, registered companies are companies that have been created in accordance with the provisions of the UACCEIG. These companies include private limited liability companies, public limited liability companies, and general and limited liability companies. Whereas unregistered companies are not created following the formal procedure preview by UACCEIGs, but are recognized in terms of practice of law. These companies, either registered or unregistered, may not last for the expected period due to liquidation. Liquidation is the permanent closing of the business since all its assets have been sold and the company has ended its legal existence. This could be voluntary when members willingly decide to liquidate their companies due to the attainment of their objectives, resignation of members, or the expiration of the term of the company. Liquidation is compulsory when the company is forced to be liquidated by a court order, due to a request from its creditors, who request the payment of their debts. This is a complex situation and UACCEIGs has made provisions for liquidating a company thus encouraging liquidation. The presumption in creating procedures for liquidation is to help companies who may want to extinct their business operations. However, no benefit can outweigh the disadvantages of the permanent closure of a business. This situation does not only affect its members but third parties are equally affected. UACCEIGs is considered not 100% effective in preventing liquidation for when companies are facing financial difficulties and consider liquidation as end goal since the act has not made any other initiative to strengthen the operation of the company and to bring it back on its feet. This study is important as it takes into consideration the formation of companies, the types of companies, liquidation, and the effects of liquidation. This work is based on secondary data collected via books, journals, articles, and internet sources. Our work will be divided into parts; that is, part one will examine the formation, the types of companies, and the causes and modes of liquidation. While part two will deal with the liquidation proceedings, the role of the liquidator, and the effects of liquidation.

Keywords: Business, company, liquidation, liquidators, parties

INTRODUCTION

A company is a legal entity created by a sole member or two persons who agree to contribute in kind, cash, or service to generate and share profits [1]. Though there exist different laws regulating

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companies, we shall lay effaces on the Organization for the Harmonization of Business Law in Africa on Commercial Companies and the Economic Interest Groups (UACCEIGs) [2]. The legislators of OHADA created it with hopes of developing national economies, maintaining jobs, and giving partners the possibility to prevent the dissolution of companies. Though it has this objective, it accepts liquidation when all possible recovery has failed. The companies OHADA [3] regulates are registered and unregistered. Registered companies comprise the following types: general partnerships, limited liability companies, private limited companies, public limited companies, simplified public limited companies, and simplified public limited companies [4]. While unregistered companies are De Facto Company and De facto partnership and consortium which OHADA law recognized in practice, but however not entirely since it was not created in respect of the company formation proceedings, like other companies under OHADA. These companies are created for a period that could be extended, and this period and extension are stated in the company's articles and memorandum of association. The life of the company may come to an end due to the presence of liquidation and not reaching the years it was expected to exist. When this occurs, members are affected since they hope to continue doing business and yielding profits.

Liquidation signifies the closure of a business. This is when the business sells off its property and pays off its creditors and other liabilities. After settling all the claims, the remaining funds are shared among the owners, shareholders, and investors of the business [5]. It means the company's assets are sold, and any realization from them is redistributed in order of priority among creditors and shareholders. Then the liquidator strikes the company of the registrar, which is the last stage of liquidation called dissolution [6]. Liquidation is applicable to solvent and insolvent companies. The company's life does not end immediately when liquidation is carried out, as it is a process where assets are sold. Still, in practice, the company will shut down after liquidation because it will have no assets to use to continue the business and will likely dissolve and cease to exist. That is why liquidation is also referred to as winding up [7] or dissolution [8], though dissolution is the final stage of liquidation. Companies liquidate due to insolvency, fraudulent activities, increased debt and inability to pay back, lack of desire among members to continue the business, reaching its expiration period, the realization of its purpose, cancellation of the company's articles of association, disagreement between members, or for any other reason provided in the articles of association. Liquidation is equally seen to be a business exit strategy option. Another exiting strategies one might consider before liquidation can be merger, acquisition, and initial public offerings.

The establishment of the OHADA uniform act was to harmonize business law in Africa. It is applicable in all OHADA member states and prevails over national laws in case of conflict [9]. The interest of the study shall be in the 2014 revised UACCEIGs. This legal text governs businesses or companies in African countries such as Benin, Burkina Faso, Cameroon, the Central African Republic, Chad, the Comoros, Côte d'Ivoire, the Democratic Republic of the Congo, Equatorial Guinea, Gabon, Guinea, Guinea-Bissau, Mali, Niger, Republic of Congo, Senegal, and Togo. It regulates companies in Cameroon concerning Article 45 of the Cameroonian Constitution [10]. The uniform act encourages businesses and helps them grow by creating regulations to govern them. It even created provisions to govern types of companies and how they form and operate so that owners of the companies can effectively manage the business and the company can last for long.

The OHADA law was created to strengthen commercial activity in Africa, and so all its provisions are considered to be created for that purpose. This is rebuttable as it has created provisions for the liquidation of companies which will lead to a permanent closing of the business. It does not per se force companies to liquidate, but the mere fact that the provision it has made has no other initiative for a dying company will be seen as an encouragement. Creditor's voluntary liquidation, compulsory liquidation, and member's voluntary liquidation are common forms of liquidations. A creditor's voluntary liquidation is a situation where a company becomes insolvent, and the directors or owners initiate the option to liquidate in order to avoid court intervention which might result to compulsory shutdown of the business. Here, the business is declared insolvent before the creditors can take any legal measure against the company. Compulsory liquidation is done when the creditors appeal to the court to dissolve the company since the creditors no longer believe the company can pay their debt. Member's voluntary liquidation occurs when a company is solvent and can pay its debt but liquidates since it has reached the existence of its purpose [11]. All these listed liquidation types follow particular proceedings in the OHADA act.

The liquidation proceedings commence following the articles of association or by agreement of the members or court order [12]. The company shall be under liquidation from the time the said business is under dissolution. Once the company is under liquidation, all documents and articles handled to third parties by the company shall carry the words 'company under liquidation'. The name of the liquidator and the legal personality of the company will continue to exist till liquidation is complete [13]. In a partnership, liquidators are appointed by unanimous vote.

In contrast, in a limited liability partnership, they are appointed by a unanimous vote from the majority limited capital partners, and the majority capital members decide on private limited companies [14]. The liquidator may be appointed by members, third parties, or legal entities [15] for an agreed compensation. When shareholders are unable to designate a liquidator, the court will be called upon to do that. At the request of the interested party, all appointed liquidators are expected to perform their functions separately but present a unique report [16]. The liquidator appointed can be replaced following certain conditions or by the request of a member within legitimate grounds [17]. During liquidation, it is prohibited to assign all or part of the company's assets to liquidators, employees, spouses, ascendants, or descendants. Still, assets can be assigned during a merger by unanimous vote in a general partnership and unanimous acceptance from members in a limited liability partnership [18]. The liquidation process is expected to be completed within three years duration from the date of dissolution. If not, the public prosecutor or interested person can petition the court to liquidate the company [19]. After further processes are done and the liquidation proceedings end, the liquidator will pay creditors and use the rest of the capital to give to shareholders. From the given explanation, one will see that liquidation of companies is indeed an issue that needs to be tackled, understood, researched, examined, and explored for the study will benefit not only the companies but other parties as well. So there is a need to give a legal appraisal of company liquidation, check the degree of this issue that needs to be handled, and make possible recommendations to help avoid or ameliorate it.

PROBLEM STATEMENT OF THE RESEARCH

Companies are legal entities created to last for a particular or agreed period, and this period is stated in its articles of association. This period can be extended, but a company's existence cannot exceed 99 years [20]. Members of the company expect this company to last for the agreed period. Still, companies are not entities that last for long, and their life may be short-lived due to liquidation, be it compulsory or voluntary. It affects companies that shut down without meeting their objectives and discourages forming new businesses. Many fear their companies may liquidate without reaching their intended financial objective and even other interested persons.

RESEARCH QUESTIONS

Principally, we examine the main and secondary research questions for the purpose of clarity:

(a) *Main research question*

- How are companies liquidated under OHADA UACCEIGs?

(b) *Secondary research questions*

- What are the types and procedure of liquidation?
- What are the merits, demerits, and effects of liquidation?

RESEARCH OBJECTIVES

(a) *Main objective*

The main objective of this study is to examine and give a legal appraisal of the liquidation of companies under OHADA UACCEIGs.

(b) *Secondary objectives*
- To understand types of liquidation
- To examine the procedure of liquidation
- To identify the effects of liquidation
- To determine the problems of liquidation
- To identify the advantages and disadvantages of liquidation
- To give the recommendations to ameliorate the rate of liquidation

HYPOTHESES OF THE STUDY

Liquidation of companies under OHADA automatically shut down the business without possibly restructuring or rehabilitating the company.

SCOPE OF THE RESEARCH

The scope of this work is limited to the liquidation of companies done in Cameroon. There exist a series of laws which are used to regulate the liquidation of companies, but this work is limited to companies under OHADA. The work will look at the liquidation of companies under OHADA.

RESEARCH METHODOLOGY

This research focuses on the empirical analysis of secondary data. The primary data consists of legal instruments of liquidation, with the focus being the OHADA uniform act as well as secondary data which constitute books, journals, articles, thesis, and reports on the subject matter.

SIGNIFICANCE OF THE STUDY

- The study is important to companies as it will provide information about the liquidation of companies. It would serve as a guide to any company that wants to liquidate or enable aspiring companies to use this information to create specific strategies to avoid liquidation if they hope to continue their business.
- The study is important to shareholders and directors as it will educate them on the possibility of voluntary liquidation when the company is solvent or insolvent.
- When liquidation occurs, the people most affected are employees, since they lose their jobs. So this research work is important to them as it will make them knowledgeable about liquidation.
- A creditor is a person or entity (the company) that owes money, and there is a possibility the debt is due. This creditor or creditors have complained and requested companies pay their debts. So the presence of this research will teach these creditors about the possibility of getting back their debts through compulsory liquidation and the necessary procedures to carry it out.
- This research is equally important to liquidators, as it informs them about everything they need to know about liquidation, such as the type, proceedings, and more.
- This study is important to the researcher as it will provide other researchers with excellent knowledge on the topic and contribute to the work of other researchers who have written on it.

LITERATURE

A lot of studies have been carried out on this topic, the liquidation of companies, making this concept a significant one as it relates to the life of a company. A brief examination of these studies shows that there exists a gap in the liquidation companies.

According to Ben S. Branch, Hugh M. Ray, and Robin Russell [21], no business entity lasts forever, and anyone faced with the task of liquidating a business needs to know that liquidation does not present an insurmountable problem where substantial value is often overlooked. The ideas in their book are based on the authors' life experiences, since one was an academician who had seen the successful liquidation of a billion-dollar company, while the others were practicing attorneys with substantial experience in liquidation. They talked about liquidation and concentrated on the liquidation of companies that may still be operating. However, it is considered insolvent as it has assets worth less than its liabilities, so liquidation is carried out in or out of bankruptcy. Liquidation in bankruptcy commences following the bankruptcy proceedings since companies usually carry out these proceedings to reorganize the company. The link between liquidation and bankruptcy, seen as the liquidator's bible, is the bankruptcy code of 1978, precisely its Chap 7 of the bankruptcy code. This chapter says the trustee is in charge of liquidating the assets for the best price and then distributing the proceeds to the claimants. While liquidation out of bankruptcy occurs when a solvent company sells itself and its assets and then uses the proceeds to pay off its liabilities, distribute the remaining funds to equity owners, or when the liquidation proceedings are done by the creditor instead. The liquidator is defined as the senior manager of the liquidation estate whether the liquidation occurs in or out of bankruptcy. The liquidator manages the people, the assets, and most importantly, the people involved in liquidation. So the ideas of this book are somewhat similar to this study as they talked about the basics and process of liquidation, the duties of a liquidator, and forced liquidation due to the plea of creditors. Apart from similarities, this work equally differs from this one as their whole work is based on liquidation in bankruptcy proceedings and how the bankruptcy court regulates the matter. Their work is not based on liquidation, where a company decides to sell its assets for a reasonable price, or on a transfer of ownership, where ownership of the company is transferred to another. It equally differs in that it does not mention liquidation of companies under OHADA, nor does it recommend the possibility of company restructuring or rehabilitation to ameliorate liquidation.

According to Professor Rabiatu Ibrahim Danpullo [22], a company is a legal entity created by persons which can sue and be sued. The choice of a company is influenced by certain factors. These factors look at how the business is formed, who is liable for the debts owed, who makes decisions for the business, and the amount of capital needed in its creation. To create a company, members must have the capacity to trade. To form the company, the incorporators must be of full legal age and not suffering from mental illness or any other incapacity [23]. Parties with capacity can either choose to establish a sole proprietorship, private limited company, public limited company, or partnership. To create these companies, members must look at the capital, object, registered office, and articles of association. So, when this company is created, it is created for a particular duration which according to the uniform act should not last more than 99 years. The company might not last even for its expected duration due to liquidation. Liquidation is a process where the assets of the insolvent company are collected and realized, and after this is done, the company will cease to exist. To commence a liquidation procedure, there is a need for a member resolution, the appointment of a liquidator, the sale of assets, and the dissolution of the company. So, this work is similar to this study as she talked about the formation and liquidation of companies. But however, it is different, and she did not explain the types of liquidation which are voluntary and compulsory liquidation nor did she explain the procedure for liquidation. So, this study hopes to cover the gap.

According to William Kaspar Fraser MacDonnell and Hugh Williamson [24], a company is an entity that is usually separate and distinct from its members and shareholders. It is incorporated through a special legislative act or certain procedures following the company act in the province where the company hopes to carry out its business. The company does not only incorporate but dissolves as well. There are many reasons for dissolutions. In some jurisdictions, a company ceases to exist because it is struck off the register for not being subsistent or because it is insolvent and cannot pay back money owed to creditors. A company may be solvent but still wind up due to a court order or its own resolution to do so. So, the company's business is ended, and its assets are disposed of to pay creditors and shareholders following insolvency proceedings carried out under the Bankruptcy Act. The bankruptcy act, or dominion act, relates to insolvent debtors, including corporations in Canada. Hence, an insolvent corporation is one that cannot meet its obligations or pay its debts even if it has experienced bankruptcy or not. Their work has a common idea with this study as they talked about the incorporation of a company, particularly a limited liability company, winding up due to insolvency, the effects of the winding-up order, and the power of the liquidator. Despite these similarities, it still differs from the study since their work is on winding up due to insolvency only, and following the bankruptcy act and Dominion winding-up act 1906, on companies. This, therefore, indicates a gap that this study will fill, as it hopes to throw more light on the formation and dissolution of companies under the OHADA uniform act.

B.H. Mcpherson [25] talked about the history of the law of company liquidation and company's uniform act in Australia, and corresponding enactments from other jurisdictions. He says liquidation may occur for various reasons; it could be because the company is insolvent, caused by members who want to realize their investment, or done to put an end to the mismanagement in the affairs of the company. His focus is mainly on liquidating a registered limited liability company which could be voluntary or compulsory. Voluntary liquidation is carried out by a special resolution during the general meeting of the company. If the company is solvent, the liquidator is appointed by its members who fix his remuneration and exercise the power of supervision. But if the company is insolvent, the right to appoint the liquidator will be given to the creditor. Compulsory liquidation starts with a petition and then commences by judicial order. The effect of this liquidation is that it creates an alteration of the status of the company, it terminates the power of the company to carry on its business except for the limited purpose of winding up its affairs, and it puts an end to the company's capacity to dispose of assets and restricts the rights of creditors to take legal proceedings. His idea corresponds with this study as he talked about the modes of liquidation, its effects, parties who can commence the liquidation proceedings, and the duties and power of the liquidator. However, he differs as the uniform companies guide him to act in Australia and only talks about the liquidation of limited liability companies. There are other types of companies like a general partnership, de-facto companies, and more seen in this work.

Nicolas Rouiller [26] said entrepreneurs might conduct business alone, or with other persons, or partners ready to share the risk and profits resulting from the business activity. He talked further about the origin of a company that started from a partnership to a limited liability company. Broad consultations within the financial professions showed that large companies or groups of companies fall into bankruptcy shortly after having posted large profits-manifesting opacity and bad governance. This could be a partnership or limited liability company, and these companies would wound up due to bankruptcy. This bankruptcy could be due to the director's conflict of interest, which has affected the company and made it bankrupt. So the bankruptcy proceedings will lead to contract termination and fulfillment of obligations like paying the debts owed to the creditor. His idea is common with the study as he talked about company formation from partnership to limited liability and how companies wound up due to liquidation. But his work is however contrary to the study as he only brings a short explanation of companies and barely really talks deeply about liquidation. Still, his work is essential as it gives an understanding of partnership and limited liability companies.

Judge Emden and Alfred Charles [27] are of the view that a company wound up for different reasons. It could be compulsory by court intervention, voluntarily without court intervention, or voluntarily under an order from the court. Still, either case follows the winding-up act of 1890. During the winding up by court order, the liquidator is considered an officer of the court. Thus, if the company is insolvent, the liquidator will be a trustee for the creditor. In voluntary winding up, the liquidator is hired to act as a trustee for the company, not necessarily because the company is insolvent. In voluntary winding up, based on the court's order, the liquidator shall submit reports to the registrar about the progress of the winding-up proceedings, and no remuneration shall be paid to the liquidator from the company's assets unless allowed by the registrar. He went further to explain the wound up of companies following the winding-up act of 1862. This act explains voluntary winding up in and out of court, compulsory winding up, and their differences. The authors' work connects with this study as they state and explain the modes of liquidation, liquidation proceedings, and parties involved in it. However, it has some differences, one being that their ideas did not come from OHADA. Instead, they used other acts like the winding-up act of 1862, the joint-stock act, and more in his work.

Alan Bradstock [28] said the term liquidation refers to the process of shutting down a company and the distribution of its assets. Under UK law, liquidation is a formal procedure in which a limited company is shut down by a designated licensed insolvency practitioner called the liquidator. Thus, liquidation means the company's assets are liquidated, and the income realization is shared among creditors and shareholders. Then the liquidator strikes the registrar's company, which is the last liquidation stage, called dissolution. Liquidation is used to pay both solvent and insolvent companies. When companies are liquidated, they cease to trade, their staff remains redundant, and the company cease to exist as a legal entity. Plus, even the power of the directors will cease to exist, and he will not be able to access the business bank account. As earlier said, there exist three forms of liquidation among which are creditor's voluntary liquidation, compulsory liquidation, and member's voluntary liquidation. The former is initiated by shareholders when the company is insolvent, then compulsory is done by creditors requesting the payment of their debt. Member's voluntary liquidation is done by the members of a solvent company who wish to close their business in reduced taxes. There is no set timeframe to liquidate a company, but once liquidation starts, it could be done within two to three weeks or even a month. He goes further to bring forth ways to rescue the company from liquidation by suggesting the use of invoice finance to kick-start company cash-flow, proposing a company voluntary arrangement, negotiating a 'time to pay arrangement', considering turnaround finance, and entering into company administration. All that has been said is similar to the study as he discussed, the types of liquidation, and the possibility of company rehabilitation but contrasts with the study as his work is not based on OHADA and did not go further to list the companies and state how each liquidates.

Ms. Vaishali Malhotra [29] talked about the dissolution of a company. He says a company is said to dissolve when it ceases to exist as a legal entity, and the company's name is struck off the register of registered companies after all its assets have been redistributed. He says there is a slight difference between dissolution and winding up since dissolution of a company is purely administrative while winding up is judicial. There are different ways a company can dissolve; it could be because of a merger or reconstruction of the company, voluntary dissolution, and dissolution done by a tribunal. So, his work is similar to the study as he explained the modes, causes, and effects of liquidation but differs as his work is on liquidation following the company act of 2013. He spoke on liquidation but did not list and explain how distinct companies in OHADA liquidate.

Simon Tabe Tabe [30] explained the similarities and differences in the formation of companies between the new OHADA law relating to commercial companies and economic interest groups and the principles of common law and the Nigerian company ordinance. He further showed how companies are formed under common law and OHADA, emphasizing the differences. The common interest of this work and his is the incorporation or formation of companies under OHADA. The dissimilarity between his work and this study as he did not talk about company liquidation but only about company incorporation.

Will Kenton, in his write-up, says that the bankruptcy code controls the asset liquidation process. A trustee who is bankrupt is appointed to liquidate non-exempt assets to pay creditors when the proceeds are exhausted, or the remaining debt is discharged, so it is important to know what the US Chapter 7 bankruptcy act stipulates, and what it regulates. The act says unsecured debts are debts without collateral, e.g., tax debt, child support, and debts by personal injury and secured debts are debts with collateral security. Under Chapter 7, debts can be discharged without the creditor having any right to reclaim them. When the debts have been discharged, the debtor cannot get another discharge of his debt. This is so because bankruptcy will appear on credit reports for a period of ten years from the filing date which causes a serious damage to the debtor's ability to get loans. His work has a common initiative as he talked about winding up a company to pay secured and unsecured debts, but differs as his work is based on the liquidation proceedings in Chapter 7 bankruptcy act which does not tie with this study.

The Ministry of Corporate Affairs in India [31] states that a business needs a speedy and efficient procedure for it to exist. When the business or the startup company is not efficient to the point where it is insolvent, the insolvency procedure will help it close down. There are times when a business grows in size but has to liquidate due to mismanagement, bad business decisions, or fraud. So with this said, would not it be possible to prevent the business from shutting down by rehabilitating the business? The answer to this can be seen as companies in India were able to turn from sick and dying to dominant international firms. This is due to an existing rehabilitation system governed by the Industrial Companies (Special Provisions) Act 1985, which regulates rehabilitation. The procedure is lengthy, the same as the liquidation procedure, which is not only lengthy but equally costly and will lead to the complete erosion of assets. However, this lengthy rehabilitation procedure is better since it could revive the business. The ministry encouraged the creation of an insolvency law that governs both proceedings for winding up or liquidation and rehabilitation and restructuring companies. So his work is quite distinct as he encouraged companies to rehabilitate rather than liquidate. This idea is similar to this study as the work is only based on liquidation following the uniform act. It is to encourage OHADA to create provisions to regulate these rehabilitation proceedings. A difference between the two studies is seen as this study is not based on liquidation following insolvency or bankruptcy proceedings, whereas the other is.

M. Keukak Tameze Hugues [32] said the dissoluteness and clearance sales indicate the withdrawal of development and promoters within the commercial companies of business activities; such situations are delicate because it involves delicate sectors like employment and the national economy. Therefore, it is necessary to ensure the effective transmission of the company's patrimony to its associates of different creditors. He says there are two types of liquidation which are liquidation of companies in bonus and liquidation when the company is facing severe and uncompromised difficulties. When liquidation due to clearance sales of commercial companies in bonus occurs, the company still is considered the master of its patrimony as stated in A.U.S.C.G.I.E. The second type splashes the reputation of commercial companies and sometimes leaves creditors unsatisfied. His work is similar to this work as he talked about the types and conditions for liquidation of companies. His work is distinct as he talked about liquidation without financial difficulty (i.e., liquidation in goods) or when it experiences difficulties and is forced to liquidate its property, of which there other causes of liquidation. He does not explain the distinct types of companies and how they form and liquidate; instead, he concentrates solely on the types of liquidation and how this type is carried out.

TYPES OF LIQUIDATION

According to BH McPherson, the liquidation could take place in one of the following forms which could be voluntary, by the court, or under the supervision of the court [33]. This is categorized as voluntary liquidation (i.e. creditor's voluntary liquidation and member's voluntary liquidation) and compulsory liquidation. Voluntary liquidation is an extrajudicial procedure for liquidation carried out by creditors or contributories without the order of the court. The liquidator is appointed by creditors and contributories who exercise an amount of control over their actions. So the type of voluntary liquidation is decided based on the condition of the company, i.e., if it is solvent or not. For compulsory liquidation, it is done based on court order and not voluntarily. Compulsory and voluntary liquidation are two different concepts as concern the liquidation of companies. Judicially speaking, compulsory winding up might be regarded as the act of the court while voluntary winding up or liquidation is the act done by the members. The fundamental difference between the two is the presence of a much more detailed provision of the rules regulating the handling of the funds by the liquidator in a compulsory liquidation than in voluntary liquidation, so it is important to understand in detail how these forms of liquidation are carried out.

Members Voluntary Liquidation (MVL)

The member's voluntary liquidation is a process that helps shareholders to appoint a liquidator in order to formally shutdown a solvent company. A solvent company implies a company or a person can meet its financial obligation, so when a business is said to be solvent, it means that the business can pay off its debts and any money it owes [34]. Once the liquidator has liquidated all of the company's assets and ensured that there are no outstanding company liabilities, a capital distribution will be paid to shareholders, either in cash or from funds held in the company. In this kind of liquidation, the creditors shall not be involved in it so long as, when the liquidation is done, their debts will be paid. The liquidation is carried out based on the special resolution passed by members after the holding of the general meeting. But before the holding of this meeting, the members must create a declaration of solvency which shall have the statement of affairs of the company, indicating the assets and liabilities of the company, the expenses of winding-up and the total amount to be realized at the end of the liquidation process. They must make a written declaration that the debts of the company will be paid for an estimated time after the winding-up procedure is finalized. And when the directors are creating this declaration, they must make sure they give reasonable grounds for the liquidation; it should be something they are executing after thorough thinking, and they are sure the company will be able to pay its liabilities after the liquidation is done. When they fail to give reasonable grounds for the liquidation and the company is unable to pay its debt at the end of the liquidation, they will be held liable. After the declaration is made, it will be presented in the general meeting where the procedure for liquidation is proposed.

The general meeting is called by members of the company and is valid when it is called by the board of directors (BOD). But will be invalid when called by an unauthorized person trying to act on the behalf of the BOD. So to commence the meeting, a notice is sent to members of the company which states the intention of the meeting which will be written in bold. For the case at hand, the notice shall state the intention to liquidate the company. So when all the members of the company are present, they will be asked to vote on the grounds of the execution of liquidation since this is a collective decision. As stipulated under the uniform act, any member has the right to vote on collective decisions [35]. They may be represented by a proxy [36] under the terms provided for in this uniform act, and where appropriate, by the articles of association [37]. The members vote for this resolution by show of hand and when the majority is in favor of it, they shall decide on the appointment, salary, and the power of the liquidator during the liquidation process. In a situation where the liquidation is decided by the members, one or more liquidators shall be appointed [38]. These liquidators are selected among one or more members of the company and it could be selected by a legal entity [39].

Creditors Voluntary Liquidation (CVL)

It is a process allowing the directors of a limited company, after a shareholders vote, to voluntarily close the company via liquidation [40]. According to BH McPherson, before MVL, voluntary liquidation was the only type of liquidation. Meaning, at the time even when the company was insolvent, liquidation took place entirely under the control of members and not the creditor's voluntary liquidation [41] as described by the Greece committee in 1926. There the liquidators appointed by the members were former officers of the company who colluded with the directors in suppressing evidence of fraud or mismanagement and ensured that proceedings were not taken against those that were responsible. Creditors of course were not happy about this and would often send petitions to the court for the company to be wound up by the courts. But many times, this is not successful due to the expense involved in carrying out such a petition and the fact that they were forced to state justification on how members' voluntary liquidation will affect their interest. Before they even finish filling the justification and other requirements, the assets of the company had already been liquidated.

So looking at the situation, the Greece committee recommended amending the law and giving power to the creditor and this led to the creation of the creditor's voluntary liquidation. This creditor voluntary liquidation is done based on the interest of the creditors who have a real interest to loose when the company is insolvent. But it is however voluntarily carried about by the company on grounds of paying the debts of the creditors. Voluntary liquidation means reaching a point where you feel the company cannot continue and one either about to get forced into compulsory liquidation by creditors, or you have simply recognized that the company is insolvent and has no future.

There are several reasons why a company may carry out a creditor's voluntary liquidation. Among them are, the first is the presence of dictatorial control since the company will have the right to choose its legal practitioner or liquidator, and be able to decide on the timeframe for the liquidation which will benefit the company, compared to when the liquidator is hired by the creditor. Another reason for this liquidation is that the company has received a statutory demand from a creditor demanding he pay his debt. Since a company is unable to pay its debts, it will be good that the company get into a creditors voluntary liquidation rather than a compulsory liquidation. Moreover, voluntary liquidation may occur when the company is unable to pay its rent and as a result, the landlord will appoint bailiffs to seize the assets of the company. Also, when the company has suffered a substantial bad debt [42] and they are unable to meet with their current liabilities which are now in arrears and trade creditors are now demanding payment (CVL) will be carried out. Furthermore, there could be a significant shift within a company to the extent that it impacts on the ability to trade. For example, a sudden change in industry standards or fluctuations within the market which renders a company's current principal trading activity loss making [43]. In addition to that, members may choose CVL since they need not go to court, the cost is relatively low, and employees can claim redundancy payment [44] and the debts of the company are completely written off.

To commence a procedure for creditor's voluntary liquidation, it starts with the BOD sending a notice to the members about the holding of a members' meeting. The notice will state the purpose of the meeting which is held to decide on the liquidation of the company. And during the meeting, the members must confirm that the company is insolvent and make a resolution and decide on its liquidation or on the steps taken to place the company into a CVL. This process is done faster when it concerns a small company with a handful of directors. The next stage is the company requesting the creditors hold a creditors meeting where they all state their names and debts owed by the company. The notice for this meeting is sent to creditors and published in the official gazette or newspaper so that other creditors not informed will be informed about it. Before holding the creditors meeting, the directors must give a full statement about the list of creditors and the estimated amount of their claims and equally a statement of the company's assets and its values.

During the holding of the creditor's meeting, one of the directors is obliged to be there with the company's secretary to disclose the company's affairs and the circumstances leading to the liquidation. The meeting is chaired by the creditor or by the representative of the director and at the end of the meeting the chairperson will determine if the meeting held was convenient for the creditors. If the meeting was not convenient, then the chairperson may decide not to consider the meeting and instead ask the company to call another creditor's meeting. But if it was successful, then the creditors may decide and nominate a liquidator and at times this nominated liquidator shall be the one used rather than the one chosen in the member's meeting. However, many times the director's choice of a liquidator shall be used and when the liquidator is appointed, it shall commence liquidation. But to get the best of such services, the directors are advised to choose the best, since he is acting in the interest of the company [45]. The liquidator hired will commence the procedure for liquidation but when he discovers that the company's insolvency is extreme to the point where it may not be able to pay the debts within the period stated in the declaration of solvency then he will inform the members and creditors.

Compulsory Liquidation

This compulsory liquidation is much more formal and more expensive than voluntary liquidation. It is equally known as liquidation by the court or liquidation done by court order. Compulsory liquidation implies that a company will be unable to pay its debts and will be forced into liquidation. This will be influenced by creditors who have last option the liquidation procedure as a mean for the payment of their debts with the hopes of either forcing the directors to act via the company's assets.

There are different reasons for compulsory liquidation or liquidation by court. The first is when the company does not commence a business after one year or more from the period it was incorporated. The winding up order is obtained but others are seldom made on these grounds. When a petition is made to the court on the non-commencement of the business and the possibility the business may never start, the court, after looking into it, shall pass an order for compulsory liquidation. This liquidation may be carried out when there is proof that the company had no intention of commencing the business at any time from the date it was incorporated. And it could equally be done when the company has no debts and even when the shareholders are against it and refuse to pass a resolution for the voluntary liquidation of the company [46]. When a business is suspended for a whole year, it is another reason that attracts the liquidation procedure. This is done when the court is satisfied with the proof showing that members had no intention to carry on the business or fulfilling the purpose of the object in the memorandum. This winding-up may not occur when the majority of the shareholders of the business are opposed to it and following their wishes, the court will accept the opposition even when the shareholders left it for some time. But when the subject matter for which the company was formed no longer exists, the business will cease to exist and this will encourage the court to pass an order for liquidation. Another acceptable justification for CL is when the company owes debts and instead of paying creditors in its company, it decides to merge with another company so as to avoid the debt. Furthermore, CL is done when a company cannot pay its debts due to the creditors.

A company is considered unable to pay its debt when the creditor(s) has demanded the payment of its debt due and yet the company has not paid after many demands were made for a long time. On these grounds, petition will be made to the court by the creditors demanding the liquidation of the company to pay their debts. Thus, the petition will be accepted if proven that the company cannot pay its debt. However, when there is hope and a possibility that the company may make an arrangement to pay the debt of the creditor, then such petition for liquidation will not be accepted, and instead, an estimated period will be given to the company to pay the debt. But if during this period, the company still is unable to compensate the creditors, then the court will pass an order for liquidation. Additionally, apart from being unable to pay debts, the CL may equally be passed when the company is considered insolvent. To determine if the company is insolvent, an insolvent test may be taken. With this test when a company's existing assets are unable to meet the company's liabilities, the company will be considered insolvent. Lastly, CL shall be done when the court has ascertained that the liquidation is just [47] and equitable [48]. Following this principle when a business is experiencing a loss, the court on passing this liquidation order shall not only consider the desires of minority shareholders in favor of liquidation but equally look at the desires of the majority shareholders who may be against the liquidation. So before the court passes an order for liquidation, a meeting may be held among members to decide on the liquidation and if many are in favor of the idea the court shall pass an order for liquidation.

CAUSES OF LIQUIDATION

Dispute among Members

The company can liquidate due to disputes among members, which will disturb the smooth running of the business. The success of a business requires a corporation from its members who own the business and create a decision which they execute together. But many times, the success is hindered due to the dispute among members who cannot corporate or make decisions for the smooth running of the business and so there is a need to solve this dispute [49]. It could equally be handled by arbitration following the conditions laid down in the articles of association or based on an arbitration clause [50]. So when the proceedings in court or arbitration fail to resolve the dispute between members, the business would not be effective and yield profits, and members could be forced to liquidate the business and share its returns. This is highly practicable in a general partnership.

The Non-Forcement of an Incorporated Business

Incorporation is the creation of a new corporation [51]. A company that has been incorporated has a period in which it must commence or start operating; if it fails to do so, it may be forced to liquidate. This liquidation, however, may not take place if the company had a valid reason why it failed to commence operation immediately after it was incorporated. An acceptable reason is when it is proven that the company had the intention to commence the business but could not due to certain circumstances. But when no acceptable reason is given, the company will be forced to liquidate.

Invalidity of a Company

According to Section 242 of UACCEIGs, the invalidity of a company will only derive the business from an express provision of uniform act. The invalidity of the company entails its dissolution followed by its liquidation following the provisions of this uniform act. In private limited companies and share companies, the invalidity of the company shall not be caused by defective consent or the legal incapacity of a member, except that such legal incapacity affects all the founding members [52]. Meaning the company or business shall dissolve when it is considered invalid following the uniform act and could be invalid due to the defective concern or incapacity of a member which affects founding members. Another form of invalidity is the invalidity of the company's purpose or invalidity of the merger or demerger of a company. When the invalidity of a company is discovered, a complaint is made to the court about the invalidity of the company. The court shall give the company a period to correct this invalidity, but when they fail to do so, it shall pronounce the company invalid within 2 months from the time the complaint was made [53]. Also, the actions for the invalidity of the acts, decisions or deliberations of the company shall be time barred after three (3) years from the date of the registration of the company [54]. So where the invalidity of the company is pronounced, it will put to an end of the existence of the company with no retroactive effect. The company will therefore be dissolved, and if there are several other members in the companies, it will be liquidated.

The Expiration of the Period of Formation of the Company

All companies have a particular duration they were created to exist and this duration is stated in the company's articles of association. The existence of this company starts from the day the company is registered in the registry of commencing and securities [55]. And the duration or existence of the company shall not exceed 99 years from the day the company was created [56]. When the company is created, the duration for the existence of each company could be changed following conditions in the uniform act [57]. Once the term or duration of the company has expired, the company will automatically dissolve, unless there is a possibility of extension [58]. The extension of the existence of the company will be done one or several times for each company following the provision laid down by the uniform act through the amendment of the articles of association [59]. And when this supposed extension expires without further extensions, then the company will automatically liquidate. This is one of the reasons why many companies in Cameroon are not considered to have been in existence for more than 100 or 200 years.

Illegal Activities of the Company

A company may be revoked and forced to liquidate due to the illegal activities of the company. The first such activity is the smuggling of illegal goods. Companies may be known to have legal and harmless goods which it produces and distributes nationally, regionally, or internationally. But within these legally accepted goods, it could smuggle illegal goods to a particular destination to sell and gain more money. An example is the smuggling of drugs like cocaine or marijuana in Africa or sale of expired goods and illegal oil bunkering [60]. This is an operation that is highly practiced and only discovered during transportation when the goods are effectively crosschecked. And even when caught, many at times these officials who crosscheck and discover the goods choose to collect bribes than report the act and may even let them continue the transportation of the illegal goods after receiving bribes. But such illegal activities of the company acts have been successfully recorded, by court order, the company shall be forced to liquidate and shut down. Another type of illegal activity of the company is the phoenix or rebirthing activity of the company.

This occurs when companies owe debts and taxes, but rather than paying them, they choose to abandon the company with little or no assets left and instead create a new company and transfer all the assets from the old company into it [61]. They choose to run away from their liabilities and instead leave their indebted company to create a new one without debts. This is not legal and can result in the company's secretaries and directors facing criminal charges and even imprisonment. Though directors at times are protected by the company, a court could pierce the corporate veil and make them personally liable for illegal phoenix, insolvent trading, and the company's loss due to the breach of the director's duty. So the new company would be liquidated to pay debts or taxes owed by the directors or shareholders of their previous insolvent company.

Merger and Demerger of a Company

A company may be forced to liquidate due to a merger or demerger. A merger is a situation whereby two (2) or more companies came together to establish a single business either by creating a new company or by absorbing the others. In such a situation, even a company in liquidation can be absorbed by another company or may participate in the formation of a new company through a merger [62]. So this is a process where a business entity called the bidder corporation decides to take over or acquire the money-making operations of the target company. During this process, the assets of Target Company are immediately sold and transferred to Bidder Company. Whereas demerger is done when several existing assets of the company are shared with several existing companies [63]. During the procedure for demerger or merger, all companies involved in a merger or demerger operation shall establish a merger or demerger document, as the case may be, which must be adopted by the board of directors, the general director, and the manager (s) of each of the companies involved in the operation [64]. The merger or demerger document shall be filed with the registry of commerce and securities at the headquarters of the said companies and shall be published as a notice in a newspaper authorized to publish legal notices by each of the companies involved in the operation [65]. This merger and demerger are done between companies of the same form but could also be done between companies of different forms if provided for by the uniform act [66]. So, when there is a merger or demerger, the company will be forced to liquidate or dissolve.

Inability to Pay Debts

Companies may be forced to liquidate if the debt of the company keeps piling up and the company is unable to pay its debts. Section 345 of the companies act gives the option that due to certain situations, a company may be unable to pay its debts and can be open for liquidation [67]. The first circumstance where the company shall liquidate is, when the creditor by cession, makes a demand at the registered office of a company asking the company to pay back the debt due and has subsequently not paid the sum for 3 weeks. An example is Cameroon Airlines [68] which was created in 1979, but due to financial difficulty, poor safety, and poor maintenance record, it was forced to liquidate. Secondly, liquidation can occur when a judgment, decree is issued or by an order from any court in favor of a creditor of a company through a messenger with an endorsement that he has not found sufficient disposable property to satisfy the judgment. When the court has received proof that the company is unable to pay its debts, the court will verify if this company is unable to pay its debts. If it fails to meet its liabilities, the company shall be wound up as a commercially insolvent company. And the company is considered insolvent following liquidation proceedings under the uniform act and not insolvency or bankruptcy proceedings.

The Realization or Extinction of its Purpose

All companies, be it partnership or limited liability company, are created for a particular purpose and once it has reached its purpose or objective, it may liquidate. All companies must have a purpose that consist their area of activities, which must be defined and described in their articles of association [69] and this purpose shall be lawful [70]. Despite stating the purpose in the articles of association, the purpose of this company shall be changed. At the beginning, the business members of the companies are active since they want to archive the purpose of the business which could be attaining a certain amount of money that is shared among members or there for the production of an estimated amount of goods in a case on partnership or consortium. So when this objective has been met the members of the company may willingly decide to liquidate the business since they see no need to continue as they have met their objective. This is at times highly practiced in consortiums which are companies created for a particular period by individuals or entities from different companies to archive a particular goal. And is highly practiced in a partnership where once a member leaves upon the realization of its purpose the company will be forced to liquidate.

The Annulment of the Articles of Association (AOA)

The articles of association of a company are a document that, together with the memorandum of association (MOA) forms the company's constitution. Also, it defines the duties of the directors, the type of business each director is supposed to undertake, and the medium by which shareholders employ control over the board of directors. So for the company to be formed, there is a need to respect the contents of the AOA. This document is equally seen as a member's agreement and Section 12 states that the articles of association constitute either the company's agreement in the case of a plurality of members or in the expression of the will of a single person in the case of sole membership [71]. In the AOA, the company must state its name, purpose, duration, headquarters, capital, amendments, and more as stated in the articles [72]. This AOA is a very important document that must be present in the registration and formation of a company. So for it to be used as a document in registering the company, it must be created following the conditions laid down in the uniform act, or else it will be cancelled and the company may be forced to sell the assets or contributions it had acquired with hopes of forming the company. Companies formed in violation of articles of Art 7, 8, and 9 UACCEIGs which talked about member status, and Articles 20 and 37 which are about the purpose and contribution of members respectively shall be null [73]. From this, when a company is created without a lawful purpose as state or no contributions made by its members, it shall be null and its AOA will be cancelled leading to the liquidation of the company.

The Death or Resignation of a Member

The liquidation of a company could be due to the death or resignation of a member. Companies are legal entities created by shareholders or members who come together to make a financial contribution and do all that is necessary to register the business. And when a company is formed, it becomes a legal entity that can sue and be sued. According to Section 269 of UACCEIGs, the company may not be dissolved due to the death or withdrawal of a member, or by decision pronouncing its liquidation, or by a measure prohibiting the exercise of commercial activity or by a measure of legal incapacity pronounced against one of the members. It shall continue automatically between the other members [74]. This is true when the company is a limited liability company that will continue despite the death and resignation of a member since the other members will likely continue the business. However, this is not possible in a sole proprietorship or partnership. A sole proprietorship is a company owned by a single member who carries out his business himself and so all contributions and necessary tasks are done by him. When this person dies or is unable to continue the business, it will be liquidated, especially if he has no reliable heir to succeed him. This is the same in a partnership, where partners share the profits and risks of the business. So when a member dies or resigns, the partnership will liquidate to share the returns among partners.

Inadequate Stated and Working Capital

The stated capital is the sum total of contributed funds made by members to the company. It could increase due to the incorporation of reserves, profits, shares, and merger premiums [75]. This capital shall be set by members or by the uniform act following the purpose of the company [76]. This capital is important for the running of the business, for it is divided into equity interest and shares based on the types of company [77]. However, this company will be forced to liquidate when the stated capital goes beyond its minimum, and as a result, the day-to-day running of the business is not possible due to a reduction in capital. This is seen in Section 66 which states that where the capital of the company formed is less than the minimum amount fixed by this uniform act, the company may not be duly formed. After the formation of the company, if its capital is reduced to an amount less than the minimum fixed by this uniform act, the company shall be dissolved, unless the capital is increased to the amount which is even equal to the minimum amount set, under the conditions outlined in uniform act [78]. This reduction will lead to a lack of adequate working capital which the company needs to run the business. If a business owner wants to survive in the market, they need to possess adequate capital for the working of the business. Due to the presence of this issue, it is considered necessary that if a business is not performing well, it is better to wind up the company.

Desires of the Members of the Company

The company may liquidate based on a decision made by members who do not want to continue running the business. These shareholders may want to shut down the business and liquidate the assets of the company so that when the return is shared, they use this money to invest in another business or use the money for reasons known to them. When members foresee the failure of the business, in the long run, they may choose to liquidate so as not to experience losses especially after getting advice from an expert knowledgeable in the field of company liquidation. This is commonly practiced in a sole proprietorship and a partnership. In these companies, when the members decide to liquidate the company, the procedure for liquidation will commence. This is because they own the business, bear risk, and have no limited liability.

EFFECTS OF LIQUIDATION

Registered and unregistered companies may liquidate when they are solvent or insolvent. These could be partnerships, limited liability companies, consortiums, or sole proprietorships. A company may be solvent and operational but voluntarily liquidates due to a merger or decisions of the members and other reasons. This liquidation will equally be done by a court on an insolvent company that is greatly indebted and creditors keep demanding the payment of their debts. The liquidation is not carried out to transfer assets and powers from the hands of the company to the liquidator as the new owner of the business. But rather this power and assets given will not transfer title to the liquidator and it is only done when the liquidation is ongoing. Liquidation will not affect the contracts made by the companies because the liquidator will be acting as an agent or representative of the company. When many think of liquidation, they see the dark side to it and believe it should not even be done since companies stop operation and cease to exist. While others see the brighter side of liquidation and believe its presence could be beneficial not only to the company but to other parties as well. Hence, it is important to state the positive and negative effects of liquidation.

Positive Effects of Liquidation

Necessary arrangement made to pay employees: When an employer goes into voluntary liquidation or compulsory liquidation, it is a stressful time for employees. Fortunately, employees can claim a redundancy payment. This is an arrangement available for employees of the company who are affected by liquidation. Staff members will be made redundant by the liquidator, and if eligible, they can start their claim for redundancy payment and other statutory entitlements. If the money realized from the sale of the company’s assets is not sufficient to cover redundancy payments, the staff will have an alternative means to claim what is owed. The National Insurance Fund pays out for redundancies, unpaid wages, and holiday pay should the company not be able to do so using its funds. If not possible then the employees could file to recover claims. The employee can also get his salary when he files a complaint to court with proof of his employment and salary owed by the company. Another means of recourse is the intervention of trade unions that fight for the right of workers. Article 3 [79] of the Cameroon labor code states that trade unions have the role to study, defend, promote, and protecting the economic, industrial, and commercial interests of employees. So when the company is liquidating and workers are made redundant, the trade union following Article 5(2) intervene urging the company to pay or compensate workers [80].

Low cost in voluntary liquidation: In carrying out voluntary liquidation like member or creditor’s voluntary liquidation, the cost of proceeding is usually low compared to compulsory liquidation. So, when the company is under voluntary liquidation, it will turn to benefit from the low cost of the proceedings. The company’s directors accepted to fund the costs of adjusting the statement of affairs and the holding of a creditors' meeting. Apart from those upfront costs, there exist little fund as concern professional fees to be paid from the sale of company assets as long as it is sufficient.

The halting of legal action: Any legal action against the company will discontinued when the company is in liquidation. An example is when the action of claim taken against a liquidator is halted or put to an end since the company is liquidating. Another scenario for halting the legal action of the creditor is when he lacks proof of claim and the company has no personal liability to his claim.

It protects investors from losses: To partake in the profit-making operations of the business, the investors are obliged to invest in the business, and usually, they may invest a huge sum of money to buy shares, to gain a huge amount of business. Thus, the liquidation of a company and subsequent writing off of any outstanding debt allows any personal funds available to directors or potential investors to be retained for other projects. These funds can therefore be used to support the growth of other business rather than repaying the debts of a company that has no future. It is equally important as they could use this capital to reinvest in a different business that is certain of generating business or invest in growing business.

Discharge of the company's liabilities and debts: The main reason companies liquidate is to pay their debts and liabilities. For this to take place, the companies will sell their assets at a discount to raise funds, and the liquidator will use the proceeds of the sold assets to pay the company's creditors. any unpaid debts will be considered the personal responsibility of the director to repay, unless there are personal guarantees.

Avoid court processes: In liquidation process, there is a possibility of choice for the company. It could decide to choose voluntary liquidation, than face compulsory liquidation, and with this, he may avoid lengthy court proceeding and formalities. Plus voluntary liquidation is like telling the public "it was my decision and I was not forced", which gives some level of morale to the company.

Needless filing company's accounts: There is no need filing annual accounts, value added tax accounts or tax returns once the liquidation has been completed.

Liquidation will not restrict new employment: When liquidation occurs, the companies will be removed from the list of registered companies, and these will cease to exist. This will make parties like employees, directors, shareholders, and more persons involved in the company lose their jobs. However, these parties are not restricted or prevented from finding other employments or starting another business. They might even be opportune to find a more lucrative business than the one which liquidated.

Negative Effects of Liquidation

The liquidation of companies may make directors personally liable for claims not paid: The directors will be considered personally liable for company's debts when they made a personal guarantee against the debts of the company. Meaning when the company is liquidated and the claims of the creditors have not been completely discharged due to incomplete funds, the creditors can sue the directors to retrieve the balance of the debts. This is not beneficial to directors who are forced to pay the claim.

The directors will be held liable for their overdrawn accounts: Many times, directors are against the idea of liquidation because their acts will be discovered by the liquidator. This is quite advantageous for the company as it will expose the deeds of the director but not so much for directors who will be held liable for repayment of their director's current account should it be overdrawn. The liquidator has the competence to ensure that directors repay their debts. This will equally tarnish the image of the director and the company.

All staff will be made redundant: Since liquidation is one of the ways by which a company came to an end, staffs employed by the business will be made redundant and shall be forced to look for employment elsewhere. However, depending on their length of service with the business, they may request for a compensation of a statutory redundancy following their dismissal. The employees are those mostly affected by liquidation for they lose their jobs and their supposed salary may not be paid at the end of the liquidation.

Valuable assets shall be lost: The assets of the company, like arts, machines, equipment, and more will be lost to raise revenue used to discharge liabilities. They are even sold at a discount to motivate buyers. Though shielded by the sale of the assets, the loss of these assets is not satisfactory especially when they are sold at a price lower than the purchase price.

Permanent closing of the company: Liquidation as the name implies is the process where the company comes to an end after all its assets have been liquidated. This is a sad situation since when people create companies, they hope it last long, so they continue operating and yielding profits of the business. Liquidation destroys the goal since instead of the company operating, it permanently stops all business transactions, and the business ceases to exist. Once this happens, the name, brand and goodwill of the business will cease to exist.

The employer will lose highly qualified employees: When liquidation commences, many employees will lose their jobs since the company's business operations will be stopped. Even when the liquidator may want to continue operating the business for some time, it may keep a few employees, until the finalization of the liquidation where they will still lose their jobs at the end. This liquidation is disadvantageous since the employer may lose good and highly qualified employees, which he might not be able to get in his newfound business.

Not beneficial to suppliers: When companies are operational, they may make agreements with suppliers for the delivery of goods needed by the company. So basically, both of them will benefit from a buy and sale relationship. The presence of liquidation will put an end to this relationship and an end to the supposed profits of the supplier. The worst scenario is when the supplier who always supplies goods to the company for a particular period comes to deliver and meets the company going through liquidation. He may incur financial loses which he might likely not claim compensation.

Destroy business reputation and trading licenses: Liquidation will tarnish the image or reputation of the company. The reputation of a business is very important in the business environment, since a good reputation will attract more customers and investors who consider the business to be a company that has values and will yield profit. The presence of liquidation will tarnish the reputation of the company which will cease to exist, and worse, still many investors may not want to work with previous owners of a failed business. The company's reputation will even worsen when the director is found liable for fraud.

Liquidation may lead to a monopoly of goods: Monopoly [81] is a market situation where a trader single handedly sells a unique product in the market. In a monopoly market, the seller faces no competition, as he is the sole seller of goods with no close substitute. The presence of liquidation may give rise to a monopoly since the competitor of the liquidated company in the area where both are found may dominate the market. This will greatly affect consumers who might experience an increase in the price of the product. Consumers will be forced to buy the goods at the price set by the company that is dominating the market. This price can be extremely high and will greatly affect consumers who cannot afford the goods.

The company cannot retain business assets: Once a company is in the process of liquidation, the liquidator will take up the task of selling its assets. They do this so that the company will gain the money it will need to cover its debts and other expenses. This means that the company will most probably lose the majority of its assets and will not be able to use them for a future business.

Fall in the economic growth of a country: Economic growth is an increase in people's real income. This means income of persons in the state has increased to the point where they can afford goods and services. And this will also benefit the poor who can also afford this good. The presence of liquidation will greatly affect economic growth since many people will be unemployed, leading to a fall in income. When this happens, persons will not be able to afford goods and services and this is very disadvantageous to the poor.

Affect the needs of consumers: When companies liquidate, it has an impact on consumers' services. This is because the company might be the only one producing or rendering certain services in the area. Its liquidation will automatically affect demand or make purchases of certain goods more costly and difficult to obtain. An example is when the company liquidating is the main supplier of cement in the SW region of Cameroon. So when it liquidates, persons will be forced to seek suppliers from other regions of the state which will be costly and lengthy. This is even worse when the supplier is the only supplier to the state.

Discourage investment: Investors are persons who will only invest their money in something lucrative or something which will generate them income. Liquidation will discourage investment and many people are scared of investing because they know they might incur losses. It will discourage investors from reinvesting in another business since they did not gain from their previous investments due to liquidation.

The liquidator may embezzle: Liquidators are persons appointed to help the company recover and sell its assets. Once a liquidator is appointed, he will have total control over the company's affairs. He is given immense authority to make decisions for the company. This power given to the liquidator might make him misappropriate or steal the company's funds. When given the financial statement of the liquidation at the member's meeting, he might omit records of what was realized in the liquidation process. This may make the available sums realized to be insufficient to pay the creditors' debts.

Assets of the company are sold at a discount: The liquidation will force companies to sell their assets lower than they would have gotten if the company was still operational. This situation is intensely felt when the company deals with perishable goods. Perishable goods are goods that cannot be kept for long, so they will be forced to sell them at a meager price. They might not realize any capital from the goods because they may be harmful and not purchasable. This is indeed discouraging, for instead of gaining or getting back their exact money, they will be incurring losses.

CHALLENGES OF LIQUIDATION

It is a period when a company is considered insolent, which is to say the company cannot pay its debts when they are due [82]. Therefore, a series of problems face the company going into liquidation. Some of these are as follows.

Overdrawn Directors Loan Accounts

Immediately, after a company is placed into liquidation, an insolvency practitioner will verify the director's loan account and if there is a loan account belonging to the director which is overdrawn, it is the responsibility of the insolvency practitioner to recover it and share among creditors of the business.

Being Accused of Wrongful Trading

This is when the director continues to trade even though he is aware that there is no hope of avoiding the insolvency, and thus they make the creditors' positions worse by continuing trade. For instance, taking credit without the hope of repayment from suppliers, repaying the director's loan in preference to the company's creditors, and not keeping up-to-date accounts [83]. In case you are worried about the future of the company, you need to be aware of wrongful trade and the effects of being accused by the insolvency practitioner.

RECOMMENDATIONS

- OHADA should create provisions to restructure the company when the company is going through financial difficulty. This is creating provisions to help companies modify their debts and operations. In debt restructuring, they will negotiate to pay less interest than they were supposed to. This will help reduce their financial burden and pave the way for them to pay back their debts and continue their business. At the same time, OHADA should create provisions to restructure the business to protect companies from insolvency. This will be helpful since companies facing financial losses due to the fall in demand for their product could change the goods they were producing to new ones, leading to increased demand and finance. So, provisions like those of this company may likely not liquidate due to insolvency.
- Cameroonian law should create business rescue options or institutions created purposely to help companies liquidate. Here, companies will make a plan on how they shall revive their business if given the opportunity and finance. When the institution sees that the plan is accurate and success is guaranteed, they will finance the plan in return for interest. So, when the plan succeeds, the company will not face financial issues and think of the possibility of liquidation.
- Companies should try to cut down on unnecessary expenses during operation. Owners of a business may spend a lot of money purchasing costly machines, equipment, or goods for their company, of which there is not much difference between the affordable ones and those sold at a very high price. They may even purchase these goods to increase the prestige of the company. It is terrible to purchase luxurious things, but when it is done continuously, the company may find itself facing financial difficulty, and is forced to sell those highly expensive assets at a discount.
- The OHADA uniform act should state and explain the procedure of each type of liquidation, whether voluntary or compulsory. No matter the liquidation, the company will still shut down. Still, each type of liquidation should have a provision stating and explaining their distinct procedures rather than joining them in a single procedure done mainly by the court. This will help companies to identify the legal benefit they could get from the two types and choose their preferred, or enable them to see their losses and decide to continue the business and not voluntarily liquidate, especially when it is solvent.
- The Cameroonian law should create a provision where companies placed under members' voluntary liquidation should have the possibility of reversing their decision. This is important since companies may decide on voluntary liquidation without thinking about their losses or how they will be negatively affected. They may make such a decision because of what the company is going through at the time, which may be the death of a member, member's disputes, or resignation. So there should be a provision that may allow members to stop liquidation and continue their business.
- The Article 200(5), which says the company should be dissolved when there is a disagreement among members, should be revised. The dispute among members may affect the business to the point where it may consider liquidation; however, this should not be a complete reason for liquidations. OHADA should revise the provision that companies that should not liquidate simply because of a dispute between two members. If that is the case, members with disputes who have deep hatred among one another may see liquidation as a quick escape and will not consider continuing the business. This kind of decision in a partnership will significantly affect other members who may want to continue the business.
- To ameliorate liquidation, the company should hire highly qualified managers who can manage the business properly. The majority of companies liquidate due to poor management and poor decisions. Managers of the business are persons who make a decision for the company and help it achieve its purpose. So companies, before hiring, should check for potential, if possible, their acts in the previous company. By doing this, the company may discover that the manager in question was the cause of insolvency in his previous state.
- Companies, when carrying out a risky operation, should endeavor to hire a risk management officer. Risky operations are those without a 50% rate of success which may fail and make the company's capital drop at a rapid rate causing the company to consider liquidation. So to prevent

this from happening, the company, in carrying out any risky business, should seek advice from the officer on if he should continue the business or not.

- Companies should avoid unclear business because it is generally risky, since one is never too sure about the success of a business or what might occur at times. These are all apparent risks every business faces, but the risks the company has to avoid should be being specific to its business. For instance, the company has seen that the demand for manufactured tomatoes has drastically dropped as people prefer to use tomatoes in their natural form, thus, they should not produce manufactured tomatoes in hopes that their own is different and will likely sell, for they might incur losses. Another specific risk is building the company on a flooded premise.

CONCLUSION

Liquidation is an essential factor that needs to be managed in order to achieve economic growth [84] and development in Cameroon. Cameroon is not commercially strong like developed countries, so it needs the existence of more companies to boost its economy and create a part for development. This is one of the numerous reasons why Cameroon joined OHADA, and her main objective is to foster economic development in West and Central Africa by creating a better investment climate to attract investment and investors to its over 225 million-consumers [85]. The forum took the initiative to create a uniform act like the UACCEIGs created to regulate companies in Africa. This act aims at regulating companies in Africa. It is presumed that the provisions made by the act are guides that the company will follow to protect itself from liquidation since it states the formation, operation, and other necessities. However, this is not true, as when an insolvent or solvent company is considering the possibility of liquidating, the UACCEIGs encourage the idea by creating provisions for liquidation. Under Article 203, it is better to liquidate the company voluntarily or by the court, rather than creating provisions to strengthen the company and ameliorate or prevent liquidation. Liquidation is not completely bad since it is an exit strategy for companies facing financial difficulty. Still, its presence is a hindrance in attaining economic development since companies will cease to exist. This study began with a general introduction on the subject matter which includes the background to the study; the statement of the problem; the research questions; the objectives of the study; the significance of the study; hypothesis; scope of the study; the methodology; literature review; and the plan of the work.

The causes of liquidation, which could be the inability to pay debts, a merger, the expiration of the term of the company, etc., were explained, as were the modes of liquidation which are creditor's voluntary liquidation, members' voluntary liquidation, and compulsory liquidation, and the effects of the liquidation of a company which are positive and negative effects.

So all that discussed in this work has shown that liquidation is an issue that should be tackled to attain economic development in Africa and Cameroon in particular. So these necessary recommendations will help the companies ameliorate liquidation.

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