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Corporate Interest and the Governance of Commercial Companies under OHADA Law

Medret Lekunga Ndangoh

Private Law Department, University of Ngaoundere, Ngaoundere P.O. Box 454, Cameroon

ABSTRACT

No commercial company can exist without corporate interest, as it is fundamental to its existence. Corporate interest underpins the parties' decision to enter into a company agreement. As stipulated in Article 4 of the Uniform Act relating to commercial companies law, every commercial company must have a lawful purpose and must be formed in the common interest of the shareholders. The central question addressed in this paper concerns the legal substance of corporate interest within the OHADA context. Should corporate interests primarily serve the objectives of the company as a legal entity with distinct legal personality, or should they serve the interests of shareholders? This paper advances the hypothesis that, although the shareholders are the principal beneficiaries of the corporate interest, they can fully enjoy the benefit of the commercial company only where the company's interest is placed above individual interests. The sustainability and growth of the company will ultimately reinforce shareholders' interests. Corporate interest has both economic and social dimensions. From an economic perspective, respect for the company's interest ensures its continued viability and requires managers to act within the framework of that interest. From a social perspective, corporate interests promote equilibrium between the company and its shareholders while also safeguarding a balance between majority and minority shareholders. This study adopts the doctrinal legal research method to achieve its objective; it analyzes legal rules contained in statutes and regulations and critically examines and evaluates authoritative legal texts.

Keywords: Corporate Interest; Commercial Company; Shareholders; Corporate Entity; Economic Unit

*CORRESPONDING AUTHOR:

Medret Lekunga Ndangoh, Private Law Department, University of Ngaoundere, Ngaoundere P.O. Box 454, Cameroon; Email: medretlekunga@yahoo.fr

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1. Introduction

One of the principal aspirations of the African business environment is the revitalization of economic activities across the continent. In this regard, the adoption of the Organisation for the Harmonisation of Business Law in Africa (OHADA)[1] legal framework, particularly the Uniform Act relating to Commercial Company and Economic Interest Groups (UACCEIG), constitutes a significant step toward economic integration, legal certainty, and the efficient operation of commercial companies[2]. The Act is widely regarded as adaptable to African economic realities and has modernised company law by redefining the concept of a commercial company[3], notably through the recognition of single-shareholder companies and mechanisms aimed at protecting minority shareholders.

Nonetheless, the UACC has not achieved complete conceptual clarity. Certain notions of fundamental importance—particularly corporate interest—remain insufficiently defined. Although not expressly defined under the UACC, corporate interest constitutes a foundational principle of company management and the very “raison d’être” of commercial companies under OHADA law. The concept derives largely from jurisprudential construction influenced by Article 1832 of the French Civil Code[4]. OHADA legislation recognises the existence of corporate interests without expressly defining their content[5], but considers them as a mandatory element for company formation under Article 4 of the AUCCEIG. Doctrine and case law have established that corporate interests prevail over individual shareholder interests. However, OHADA jurisprudence and scholars remain silent on some critical issues concerning corporate interests, such as operational definition, conflict resolution, and enforcement mechanisms. In the absence of a precise definition, the content has assumed a protean character and is interpreted differently according to circumstances. Some authors conceive it as the collective interests of shareholders expressed through majority voting at general meetings, whereas others associate it with the corporate purpose defined in the company’s articles of association. More generally, the concept refers to the primacy of the company’s objectives and long-term preservation over the immediate personal interests of shareholders.

This understanding of corporate interest has direct implications for company managers. The UACCEIG requires managers to act in good faith and in the best interests of the company, while sanctioning conduct contrary to those interests. Although shareholders’ rights remain important, the Act emphasizes the long-term viability and proper functioning of the company, rather than immediate profit distribution. From this perspective, measures relating to capitalisation, profit retention, or restructuring may be justified where they temporarily reduce dividends, insofar as they safeguard the company’s continuity as a legal entity[6].

The obligation to respect corporate interests is best understood within modern corporate governance theory, where it operates as a normative standard guiding managerial conduct. From the perspective of agency theory, managers exercise powers as agents of the company and must therefore refrain from pursuing personal interests that conflict with those of the company. However, this obligation cannot be reduced to the exclusive advancement of shareholders’ interests as suggested by shareholder primacy theory. Drawing from the institutional theory of the commercial company, corporate interest is instead conceived as an autonomous standard reflecting the company’s existence as a distinct legal and economic entity. Within this framework, it defines the limits of managerial discretion by requiring that corporate powers be exercised neither for the personal benefit of managers nor solely for the advantage of majority shareholders, but in furtherance of the company’s long-term viability and organisational integrity.

Considering the interpretation of authors, corporate interest can be defined as the proper interest of a commercial company[7, 8]. It also represents the interests of all parties to the company contract, independent of the specific interests of the other stakeholders, such as wage earners, creditors, suppliers, etc.

The lack of definition and scope has led most authors and judges to determine its content by reference to the specific circumstances in which it arises, which may result in arbitrary outcomes[9]. French judges[10–15] have sanctioned violations of this concept in varied ways[16–20], and the Common Court of Justice and Arbitration (CCJA) has followed the trend[10, 11, 18, 21–24]. Thus, its content cannot be ascertained solely through statutory interpretation. The absence of a legal definition, basis, and limitation is inconsistent with OHADA’s objective of ensuring legal security. Legal security, a fundamental principle of law, protects individuals from the adverse effects of unclear, unpredictable, or unstable legal rules [12]. This difficulty is compounded by emerging environmental factors specific to the company's operational context.

With regard to its function, corporate interest operates as a normative standard before the courts. It may validate or nullify certain acts undertaken by company managers, or trigger the liability of the managers. Due to a lack of a clear statutory definition, the outcome is frequently a lack of uniformity. Such indeterminacy hinders precise delineation of its boundaries. The underlying question is whether it primarily advances the aggregate interests of shareholders or the interest of the commercial company as a distinct economic and social unit. This raises a fundamental question: to whom or to what is corporate interest ultimately owed?

The working hypothesis of the paper concerns the legal content of corporate interest. It may be understood as the underlying rationale for the shareholders' adoption of the articles of association, the primary objective that unites the parties within the commercial company.

Substantial literature exists on corporate governance and company law under OHADA, including doctrinal analyses of corporate interests, abuse of majority powers, shareholder protection, stakeholder theory, and the public order character of the UACCEIG. Nevertheless, neither the literature nor jurisprudence has provided a comprehensive examination of corporate interest as an autonomous legal standard that both justifies and limits the exercise of power by corporate powers and shareholders within the OHADA corporate framework. This doctrinal and jurisprudential gap is significant because the concept serves as a central criterion for assessing the validity and legitimacy of corporate decision-making.

This paper is of dual significance, encompassing both economic and social dimensions. From an economic perspective, respect for the corporate interest contributes to the company's sustainability by constraining managerial action within the company's objectives, thereby protecting investors, attracting capital, preventing corporate abuse, and enhancing overall performance. From a social perspective, this study promotes equilibrium within the corporate structure by fostering a balanced relationship between majority and minority shareholders. It also encourages ethical business conduct and corporate social responsibility, such as environmental protection and community development. A well-developed understanding of corporate interests therefore positions commercial companies as active contributors to social wellbeing.

In this study, the doctrinal legal approach will be employed. This method entails the systematic examination of legal rules enshrined in statutes, regulations, and interpretative texts, and their critical appraisal.

For analytical clarity, this study will assess corporate interest as an expression of the company's social and economic identity, and then evaluate its interpretation in relation to shareholder interests.

2. Corporate Interest: The Interest of the Commercial Company

At first glance, corporate interest may be understood as the interest of the company as a legal person. However, contemporary corporate theory conceives it as an autonomous legal standard that transcends the individual interests of shareholders, managers, or other corporate actors. Under Article 4 of the OHADA Uniform Act on commercial companies and economic interest groups, a commercial company is created by persons who agree by contract to allocate assets in cash and kind to an enterprise with a view to sharing the profit or benefiting from the savings that may result therefrom. The partners undertake to contribute to losses under the conditions provided for by this Uniform Act. The commercial company is created in the common interest of the partners. Corporate officers, partners, and auditors must act in the corporate interest, taking into account the social and environmental implications of its activity. This provision establishes that a commercial company is created in the common interest of the shareholders. This notion of common interest constitutes one of the fundamental principles of OHADA company law and serves as the normative foundation of the corporate enterprise. This concept implies that the company is not merely a contractual arrangement through which individuals seek to maximize their personal advantages. Rather, the shareholders unite their contributions and coordinate their activities in pursuit of a collective objective. Consequently, the company acquires an autonomous purpose that cannot be reduced to the sum of individual interests.

Once incorporated, the company acquires a distinct legal personality whose continuity and objectives cannot be reduced solely to the immediate interests of its shareholders. From an institutional perspective, the company constitutes an autonomous entity endowed with its own objective interest, separate from the fluctuating interests of shareholders. Corporate interest therefore embodies the preservation and long-term prosperity of the corporate entity. It functions as a normative principle limiting managerial conduct within the company. In this sense, directors and shareholders are not entitled to pursue purely personal or factional interests where such interests threaten the viability or equilibrium of the company. Accordingly, corporate interest should not be understood merely as the aggregation of shareholders' interests, but rather as the superior interest of the company as an enduring economic organisation [13]. This theoretical approach rejects the narrow shareholder primacy model and instead supports a broader conception of the company as a collective enterprise. The company's interest operates as a principle of equilibrium, ensuring that corporate decisions are directed toward the long-term development of the company while reconciling the diverse interests that coexist within it.

Consequently, the notion of corporate interest acquires both an economic and governance dimension. Economically, it seeks to guarantee the profitability and sustainability of the company. Juridically, it serves as a standard of legitimacy against which corporate acts and managerial decisions are assessed. The company's interest therefore prevails over the competing personal interests because the effective realisation of the shareholders' interests ultimately depends upon the preservation of the commercial company.

2.1. Corporate Interest: A Fundamental Element for the Validity and Development of the Commercial Company

The OHADA legal framework shares the contractual basis of French law but departs from it on a fundamental point. While under OHADA, shareholders start on contractual bases but go further to break from it to consecrate an institutional theory for the commercial company; Article 1832 of the French Civil Code is grounded on the contractual theory of the commercial company. Article 4 of the UACCEIG provides that the commercial company must pursue a common interest that transcends the purely individual interests of each shareholder, the French Civil Code.

Within both civil and common law systems, a valid contract presupposes a definite object. A contract cannot be deemed to exist where the parties have failed to agree on the essential elements [14]. Accordingly, the requirement of a determinate object reflects a fundamental principle of contract theory: no valid legal undertaking can exist without a clearly defined purpose. From this perspective, the corporate object constitutes not merely a formal statutory requirement but the juridical expression of the company's "raison d'être." It conditions the validity of the commercial company [15]. The corporate object performs a dual function. First, it serves the constitutive role by legally identifying the economic activity for which the company is created. Secondly, it performs a normative and limiting role by circumscribing the scope of power that may be exercised by corporate organs and representatives. In institutional terms, the object clause contributes to defining the identity and strategic orientation of the company as an autonomous legal entity distinct from the shareholders.

2.1.1. Corporate Interest as a Prerequisite for the Validity of the Commercial Company

The interest to which reference is made is that of the company, and must not be conflated with the interests of the shareholders [16]. The immediate corollary of this analysis is the transposition of the content of shareholders' interests to the company as a distinct legal person. This distinction finds its theoretical foundation in the institutional conception of the company [17].

Furthermore, Monsallier *et al* have observed that, for a commercial company to be recognised as such, two cumulative conditions must be satisfied. First, it must possess an interest distinct from the interests of shareholders. Second, it must be endowed with an organisational structure capable of generating a collective will that expresses and represents the company in all its legal relations.

The French labour group CNPF-AFEP (the French Employees' Federation) emphasized this position, stating that "*the* corporate *interest constitutes a superior interest to the moral person itself, the enterprise as an autonomous economic agent pursuing goals different from those of its shareholders, employees, creditors, suppliers, and clients. These goals correspond to the common interest of ensuring the* *prosperity and continuity of the company.*"

The notion of corporate interest extends beyond circumscribing managerial powers. Drawing on stakeholder theory, it operates as a mechanism for balancing competing claims within the company and promoting equitable distribution. This balancing function is further reinforced by the institutional theory of the commercial company, which conceives the company as an autonomous organisation with an interest distinct from the aggregation of individual interests.

Within this framework, corporate interest emerges as a normative and organising principle governing the determination and implementation of company policy. It requires that strategy and decision-making be aligned with the enduring interests of the company as a going concern, thereby ensuring coherence, fairness, and long-term sustainability in corporate governance.

Corporate interest thus constitutes the standard to which managers and corporate officers must act to safeguard the company. The OHADA Uniform Act enshrined this principle to guarantee the prosperity and continuity of the company's operations.

From the institutional perspective, corporate interest is the interest of the company as an autonomous legal person distinct from the shareholders. It is therefore oriented towards the preservation of the legal person and the economic activity it represents [18].

Furthermore, in cases of abuse of majority powers, the interest to consider is that of the company, and not that of the majority or the minority shareholders [19].

Beyond being a condition for the company's validity, corporate interest is also essential for its development and sustainability.

2.1.2. Corporate Interest, an Instrument for the Development and Sustainability of the Commercial Company

Under Article 4 of the UACCEIG, a commercial company is formed through contributions by shareholders. These may be in cash, in kind, or in services, reflecting the classical tripartite categorization recognised in corporate law doctrine. Upon subscription, the contributed assets are irreversibly transferred to the company, which acquires ownership on registration in the trade and personal property credit register. This transfer reflects the principle of patrimonial autonomy. Under this principle, the company holds a distinct estate separate from that of the shareholders. As emphasised in institutional and realist theories of the commercial company, this separation is essential to the construction of the company as an autonomous legal entity capable of holding rights and obligations independently of its shareholders.

The sum of these contributions forms the share capital, which finances the company and guarantees creditors. Consequently, under the doctrine of corporate personality and asset partitioning, shareholders have no direct proprietary rights over the company's assets. Their rights are limited to financial and political prerogatives within the company.

Under OHADA law, the contribution regime reflects a broader theoretical logic: the company is not a mere aggregate of shareholders' interests but an autonomous institution whose assets serve its corporate interest of growth and development. This is reflected in company prosperity, dividend distributions, and the accumulation of reserves increasing share capital. To ensure sustainability, company law introduced the statutory auditor to supervise management. The auditor is mandatory in public limited companies and recommended in general partnerships where required by law.

These analyses are grounded in the institutional conception of the commercial company as a social organisation pursuing a guiding idea through an organised authority structure. From this perspective, the corporate interest cannot be reduced to shareholder interests alone. The institutional character gives the company an interest of its own distinct from that of shareholders. This may be understood as the interest of the legal entity or of the company as an autonomous legal entity. To base corporate interest solely on shareholder interest risks impairing the proper functioning of the company. This reflects the need to preserve the company's interest while respecting the principle of shareholder equality, a breach of which may constitute abuse of the majority or minority [20]. The recognition of both abuses is grounded in preventing shareholders from obstructing the company's proper functioning. However, if abuse of the majority were acknowledged whenever equality is breached, minority shareholders will systematically oppose resolutions favouring company development [21–24].

In this regard, corporate interest serves the company's purpose as a fundamental pillar for its sustainability and development. It also guides the conduct and decision-making of company managers.

2.2. Corporate Interest: Supervision of the Actions of Company Managers

From a theoretical standpoint, corporate interest is a normative standard governing the exercise of managerial powers. It functions as both a governance principle and a mechanism for legal supervision of managerial conduct [25]. Company managers must therefore exercise their powers to preserve, sustain, and promote the prosperity of the company.

Under fiduciary and agency theories, managers act as fiduciaries entrusted with powers to be exercised in good faith and in furtherance of the company's objectives. Consequently, managers must not act inconsistently with corporate interests. Acts falling outside this framework may be regarded as abnormal management punishable by law. Abnormal management refers to conduct by company managers that deviates from reasonable, prudent, and lawful management in the company's interest. It is characterised by deviation from corporate interest; lack of economic justification, prejudice, or loss to the company, the conferral of an undue advantage to a third party, departure from normal business practice, misuse of powers, and a lack of proportionality assessed against the standard of a prudent manager.

2.2.1. Corporate Interest as a Parameter for Qualifying Abnormal Management

Abnormal management is a jurisprudential construct arising from managerial discretion in corporate affairs, provided decisions do not expose the company to an excessive risk [26]. Within this framework, managerial autonomy is recognised but limited by the duty to preserve the company's interest.

This theory serves as a corrective mechanism to penalise acts departing from rational and prudent administration. French jurisprudence, particularly the *arrêt Loiseau* of 17 October 1990, adopts an objective test: an act is abnormal where it exposes the company to excessive risk or jeopardises its interests [27]. Likewise, fraudulent use of the company's assets by managers or *de facto* managers for purposes contrary to the corporate object constitutes abnormal management. An abnormal management act requires two elements: a deviation from rational/prudent management and prejudice to the company's interest. Such recognition aims to safeguard and protect the interests of the commercial company.

The commercial company constitutes a fundamental pillar of the economic environment. It operates through a management body that ensures proper functioning by taking decisions to promote the company's development. These decisions are taken by managers, who act on behalf of the company and represent the company's interests, which encompass those of the shareholders.

Managers' powers are regulated by law and the company's constitutive instruments. However, modern corporate governance theory recognises that managers need a margin of discretion to act in furtherance of the corporate object. Agency theory shows that this concentration of powers may generate opportunistic behaviour, conflict of interest, and abuse of authority. Extensive powers under the Articles of Association can thus create fertile ground for practices contrary to the company's corporate interest.

To address this risk, the legislator introduced mechanisms to supervise and regulate the activities of shareholders, and particularly, the actions of managers. It is within this framework that the office of the company auditor was established.

However, despite this institutional safeguard, the auditor's effectiveness in protecting the company's corporate interests often encounters significant difficulties, as managers may continue to employ fraudulent and abusive strategies. This fraud is facilitated by governance mechanisms such as the cumulation of offices, where a shareholder simultaneously holds a managerial role and a supervisory and control function within the same company. Such situations encourage fraudulent practices and abnormal management.

Abuse of management powers is generally understood as the exercise of a right or power contrary to the economic and corporate objectives. In principle, the fundamental purpose of exercising rights and managerial powers is to realize the company's objectives. The concept of abnormal management results from adapting the commercial law notion of acts inconsistent with the corporate interest and tax law. The benchmark for identifying abnormal management is the corporate interest of the company. Accordingly, whenever an act by managers is not consistent with the corporate interest, it constitutes abnormal management and is subject to legal sanctions.

2.2.2. The Consequences of Abnormal Management Decisions

The principle of managerial autonomy ordinarily precludes interference by public authorities in the internal administration of corporate affairs. However, by way of exception, the theory of abnormal management allows judicial authorities, and by extension tax authorities for requalification purposes, to intervene in the management of commercial companies. This doctrine enables them to challenge abnormal management, particularly where it jeopardises corporate interest and the treasury, and may also give rise to adverse consequences for public order. They also divert company benefits to third parties, thereby harming the company's activities and development. From a theoretical perspective, this doctrine is linked to corporate interest, which requires managers to administer the company in a manner that protects its sustainability, profitability, and growth.

These acts have detrimental fiscal consequences, as they reduce taxable profits and undermine principles of fiscal transparency and equality before taxation. In such cases, judicial authorities may sanction the author and their accomplices.

Upon appointment, every manager is entrusted with responsibilities to promote the company's development and growth. When a manager undertakes abnormal management, the conduct may impoverish the company through manifestly non-economic operations that impose charges, generate minimal profits, or involve transactions without adequate consideration. Such acts do not serve corporate interests and must be identified and sanctioned under applicable law. Ultimately, corporate interest remains the principal criterion for distinguishing between normal and abnormal management acts [28].

3. Corporate Interest: The Interests of Shareholders and Other Actors of the Company

A commercial company possesses a dual conceptual character: It may be understood both as a contract and as an institution. Under the contractual view held by Smhmidt, corporate interest is the interests of the members who constitute the company. Under the institutional view supported by Josserand, corporate interest is the interest of the legal person itself, conceived as an autonomous entity distinct from its members. This latter conception is contested in legal doctrine. Certain scholars, notably Schmidt, opposed the institutional interpretation, arguing that prioritising the company's prosperity and continuity will mean retaining part of the shareholders' profits for the company's general interest. Bainbridge disagrees, maintaining that shareholders remain the sole masters of dividend distribution. Consequently, the retention of part of the company's profits to ensure development is not unreasonable. Such retention is commonly observed through mechanisms that convert dividends into shares or distribute bonus shares, often seen as reinvestment. When these investments are properly used for company growth, they are not considered improper or defective distribution of profits [29].

Given these divergent views, some authors advocated a new legal approach to provide a clearer framework that legitimizes managerial authority while setting limits vis-a-vis shareholders' interests [30].

In several jurisdictions, corporate interest is not defined solely in terms of profits. In Belgium, for instance, the company is understood to pursue the objective of providing shareholders with direct or indirect patrimonial benefits, unless its statutes provide otherwise [31]. Under Belgian law, the Companies and Associations Code (2019), though it does not exhaustively define corporate interest, continues to rely on jurisprudence and scholarly interpretation, treating corporate interest as a long-term institutional interest of the company itself, rather than merely the aggregate interest of shareholders [32]. In other words, the Belgian law has relaxed profit-making requirements; patrimonial benefits remain a possible objective, but pursuing them is no longer mandatory for shareholders. This allows companies to pursue broader social and economic objectives [33–35].

However, the company contract, like any contract, is ultimately guided by economic interests, as Bentham noted, all people act in pursuit of interests. Even the most selfless person does not act without it [36–38]. Partners enter the company contract on the understanding that profits, and if necessary, losses will be shared. This shared gain or loss is the primary interest of shareholders and the rationale for forming the company.

Yet Article 4(2) of the UACCEIG provides that companies are created in the common interest of the shareholders.

This "common interest" is not a mere coexistence of individual interests. It is a collective interest that transcends individual motivations—metaphorically: "a happy meeting between two selfish people"[39].

With this in mind, it is appropriate to examine corporate interest as a measuring device for protecting shareholders and other actors within the company, as set out in **Table 1** below.

Table 1. The different interests of a commercial company.

Component	Description	Stakeholders Involved	Interest Protected
Shareholder	Financial return on investment	Shareholders	Profit maximisation
Corporate entity	Long-term sustainability and growth of the company as a legal entity	The commercial company itself	Continuity, profitability, and strategic development
Management interest	Efficient operation and strategic decision-making	Directors and managers	Performance, governance, and corporate success
Employee interest	Job security, fair wages, and working conditions	Employees	Social welfare, productivity, and stability
Creditor interest	Assurance of payment and financial stability	Banks, suppliers, and lenders	Insolvency, risk reduction
Public interest	Compliance with law, ethics, and contribution to society	State, community, regulators	Legal compliance, corporate social responsibility (CSR)
Environmental interest	Sustainable use of resources and environmental protection	Society and future generations	Sustainable, ecological balance
Stakeholder balance	Harmonisation of all competing interests within the company	All stakeholders	Equilibrium, avoidance of conflict, and long-term corporate interest.

3.1. Corporate Interest: An Instrument for the Protection of Shareholders

Corporate interest is, generally, understood as tied to profit. The primary reason individuals enter a commercial company is to pursue profit through commercial acts such as buying and reselling goods. This aligns with Article 4 of the UACC, which emphasizes the economic objective underlying the formation and functioning of the commercial company.

3.1.1. The Definition and Objective of a Commercial Company

Article 4(1) of the UACCEIG reflects the classical contractual theory: the company is a private agreement established for economic gain. As Schmidt notes, the company contract is fundamentally oriented toward producing economic benefits for distribution to shareholders. This view seems to align with shareholder primacy theory, which emphasizes the protection of shareholders' financial interests. Article 4(1) was inspired by Article 1832 of the French Civil Code, which provides that a company is formed by two or more persons who agree to contribute property or services to a common enterprise for the purpose of sharing profits or benefiting from resulting savings. Article 1832 presents the commercial company primarily as a contract. The company originates from an agreement of wills through which the associates voluntarily organize their economic relationship to benefit from its results. Hence, this establishes the essential legal pillars of company law: contribution, a common purpose, participation in results, risk-sharing, and cooperative governance.

Article 4(1) reproduces this contractual definition. However, Article 4(3) UACCEIG adds that the company is created in the common interest of the partners, and all corporate organs must act in the corporate interest. Thus, the UACCEIG also seeks to ensure the sustainability of companies in addition to profit-sharing.

The UACCEIG also seeks to ensure the sustainability and stability of companies in African economies. However, the perception of corporate interest varies by shareholder type. For investors, shareholders focus on short-term profit maximization. For them, corporate interest is the distribution of financial benefits[40]. By contrast, entrepreneur-shareholders who are involved in management prioritize sustainable development and long-term prosperity.

Article 4 of the UACCEIG imposes the common interest of its members, requiring equal consideration of minority investors and majority entrepreneurs. Corporate power exercised solely for one category violates this principle.

This shareholder primacy view is limited [41]. By focusing only on shareholder prerogatives, it ignores sustainability and long-term development [42]. Strict interpretation of profit distribution complicates profit retention, reserves, and the resolution of conflicts threatening company survival [43].

In such circumstances, the aggregate interests of shareholders could lead to the company's disappearance despite its economic viability or broader social importance. This would be inconsistent with the UACCEIG's objective of promoting stable and sustainable economic activity in Africa.

3.1.2. The Appointment of Management Experts and Other Managers

From an agency theory perspective, the UACCEIG makes it mandatory for shareholders to be informed about company affairs. The right to information, expressly guaranteed by law, enables shareholders to act as a counterbalance to corporate officers by overseeing and monitoring management [44].

As a corrective mechanism, this right reduces information asymmetry and ensures managerial accountability [45]. Such transparency enables shareholders, who supervise managerial activities, to exercise effective control over company affairs. It serves both a procedural and normative function, reinforcing managers' fiduciary duties and promoting accountability within the corporate structure. The ultimate objective of this oversight is to ensure decisions align with shareholders' interests.

Shareholders have several legal mechanisms to obtain information. This reflects the broader principle that corporate power entails duties of disclosure and accountability. As per Articles 341 to 343, shareholders may access company documents and records, request relevant documents before the general assembly, and address questions to managers. This right ensures they are adequately informed to participate in deliberations with full knowledge of the matters discussed.

Under contractual theory, the appointment and dismissal of managers are governed by the shareholders' agreement as set out in the articles of association. In limited liability companies, shareholders may dismiss managers at any time in accordance with the collective will of the shareholders.

The UACCEIG goes further to grant shareholders the power to request the appointment of management experts [46] to clarify matters relating to company management [47] Article 159 of the UACCEIG provides that one or more shareholders holding at least one-tenth of the company's authorised capital may petition the president of the competent court of the company's registered office to appoint one or more experts to report on one or more management operations and to prepare a report on one or more management operations. As Modi Koko Bebey notes [48, 49], this institution is one of the most remarkable innovations introduced by the Uniform Act. The principal objective is to provide minority shareholders with reliable and relevant information. As a judicial procedure, it strengthens the effective enforcement of shareholders' rights and preserves the balance of power within the company in line with corporate interests [17, 50].

In practice, any irregularity affecting the company undermines both corporate interests and shareholders' interests. Corporate governance and agency theory support this link: managerial misconduct jeopardises the company's economic objectives and shareholders' expectations as capital providers. This explains the powers OHADA grants shareholders, including the appointment of management experts under Article 159. The experts provide information enabling shareholders to assess whether management operations comply with corporate interests and to do an ex-post control of the company [51, 52].

Consequently, shareholders exercise significant supervisory control: participating in the appointment of managers, overseeing management, and dismissing managers when necessary. This reflects shareholder primacy, where shareholders are the principal beneficiaries and ultimate holders of the supervisory authority.

Thus, it can be deduced that the law grants these powers to shareholders because their interest is considered fundamental within the company; their interest is therefore regarded as equally significant as the interest of the economic entity itself, namely the commercial company.

3.2. Corporate Interest as a Mechanism for Reconciling Stakeholder Interests

Corporate interest protects the company as both a social institution and an economic entity. It extends beyond shareholders to safeguard the interests of employees, creditors, the state, and other stakeholders of the company. Corporate interest is therefore a comprehensive concept that integrates these various interests to ensure stability, sustainability, and proper functioning [53, 54].

As Champaud and Paillusseau note, a commercial company constitutes a central point where the interests of shareholders, managers, employees, creditors, and suppliers converge. The legislator's protection of these stakeholder interests presupposes that the company possesses autonomy from the individuals within it.

The protection of corporate interests is effective only when the company's interests and the stakeholder interests are respected. This balance ensures stability and sustainability. Corporate interest may also be understood as the self-interest of an autonomous legal entity. In this view, the commercial company guarantees protection of the various interests within the corporate environment. As Luh Luh Lana observes, the commercial company is the source of these stakeholder interests, so its prosperity requires their protection [55]. Consequently, corporate interest cannot be limited to the company and its shareholders; all significant interests must be considered.

4. Conclusions

In OHADA law, corporate interest constitutes the institutional and objective interest of the company as an autonomous legal entity, in accordance with Article 4 of the AUSCGIE. This conception marks a definitive rejection of shareholder primacy and contractual/nexus theory, which reduce the company to a contract aimed at profit maximization. Instead, OHADA adopts the institutional theory defended by Gindis, Michèle, and Paillusseau & Champaud: the company pursues its own interests, distinct from those of its associates.

Consequently, corporate interest operates as the normative standard that delimits all legitimate corporate action. It performs a dual function: it sanctions acts of majority shareholders, minority shareholders, and managers when they deviate from the company's interest; and it justifies the supervisory powers granted to associates. Among these powers, Article 159 of the AUSCGIE enables one or more shareholders holding at least one-tenth of the share capital to request court-appointed experts to report on specific management operations, while the appointment and dismissal of managers remain subject to law and the articles of association, with dismissal for just cause required in unlimited liability companies.

Furthermore, corporate interest serves as the mechanism for reconciling shareholders' interests with those of stakeholders, including employees, creditors, the state, and suppliers. As Luh Lana, Paillusseau, and Champaud demonstrate, the commercial company is the convergence point of these categorical interests, which are protected through the pursuit of corporate interest rather than by equating them with it.

Finally, this OHADA approach aligns with modern comparative trends. Like Belgium's 2019 Companies and Associations Code, which relaxed mandatory profit-making requirements, OHADA situates corporate interest in long-term institutional viability rather than short-term shareholder gain. The theoretical tension between contractual and institutional theories is thus resolved in favor of the latter under OHADA.

It follows that under the AUSCGIE, corporate interest is not the aggregate will of shareholders, but the supreme reference for assessing corporate conduct. It safeguards the company's stability and sustainability while ensuring that all significant interests within the corporate environment are taken into account.

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Conflicts of Interest

The author declares no conflict of interest.

AI Use Statement

During the preparation of this manuscript, the author used ChatGPT and DeepSeek solely for language and bibliographic refinement. The author subsequently reviewed and edited the content as necessary and takes full responsibility for the final content of the published article.

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