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**Common Market for
Eastern and Southern Africa**

Staff Paper No. 2018/03/JB/03

Decision¹ of the Thirty Ninth Committee Responsible for Initial Determination on the Application for Authorisation of the Proposed Acquisition of Joint Control in ETC Group (Mauritius) Limited (and it's Subsidiaries) by Mitsui & Co. Ltd

ECONOMIC SECTOR: Agriculture

17th March 2018 – Johannesburg, South Africa

¹ In the published version of this decision, some information may have been omitted pursuant to Rule 73 of the COMESA Competition Rules concerning non-disclosure of business secrets and other confidential information. Where possible, the information omitted has been replaced by ranges of figures or a general description.

Information and Relevant Background

1. On 18th December 2017, the COMESA Competition Commission (hereinafter referred to as "the Commission") received a notification for approval of a merger between Mitsui & Co., Ltd (hereinafter referred to as "Mitsui") and ETC Group Mauritius Limited (and its subsidiaries) (hereinafter referred to as "ETC").
2. The transaction was notified with the Commission under Article 24(1) of the COMESA Competition Regulations, 2004 (hereinafter referred to as the "Regulations"). Pursuant to Article 26 of the Regulations, the Commission is required to assess whether the proposed transaction between the parties would, or is likely to have the effect of substantially preventing or lessening competition or would be contrary to public interest in the Common Market.
3. The Committee Responsible for Initial Determination (hereinafter referred to as "the CID") established that the parties operate in more than one COMESA Member State. This therefore means that the regional dimension requirement under Article 23(3) of the Regulations is satisfied and asserts jurisdiction on the Commission to assess the transaction.

The Parties

Mitsui

4. Mitsui, is a public listed company incorporated in accordance with the laws of Japan. The Mitsui Group comprises a network of 62 subsidiaries in Japan and 206 overseas. Mitsui is engaged in a number of world-wide commodity trading and other businesses which include the sale, distribution, purchase, marketing and supply of products in business areas such as iron and steel, coal and non-ferrous metals, machinery, electronics, chemicals, and energy related commodities.
5. Mitsui has no physical presence in the Common Market but its products are supplied in the Common Market through independent distributors that purchase the products globally.

ETC

6. ETC is a company incorporated and registered in accordance with the laws of the Republic of Mauritius. It conducts a diversified agricultural trading and processing business and has activities in 27 countries in Africa, North America, Europe, the Middle East and South East Asian countries. In the Common Market, ETC produces and supplies agricultural products which include soybeans, sesame seeds, oil seeds other than soy and sesame, soy meal, cashews, sugar, coffee, pulses, wheat, rice, maize, and various types of fertilizers.

Nature of the Transaction

7. The transaction entails the acquisition of joint control by Mitsui over ETC through an acquisition of shares.

Competition Analysis

8. The CID defined the relevant market as the bulk purchase and supply of maize in the Common Market. The CID observed that pre-merger, there are horizontal overlaps in the bulk purchase and supply of maize in the Common Market. This notwithstanding, the CID established that competition concerns are unlikely to arise as the market is characterised by significant competitors that will give competitive pressure to the merged entity, post-merger.

Determination

9. The CID determined that the merger is not likely to lead to a substantial lessening of competition in the Common Market and will not have an adverse effect on trade between Member States.
10. This decision is adopted in accordance with Article 26 of the Regulations.

Dated this 17th of March 2018




Commissioner Thabisile Langa

(Chairperson)



Commissioner Patrick Okilangole

(Member)



Commissioner Chilufya Sampa

(Member)