



COMESA Competition Commission
Kang'ombe House, 5th Floor-West Wing
P.O.Box30742
Lilongwe3, Malawi
Tel:+26501 77246
Email- compcom@comesa.int



**Common Market for Eastern
and Southern Africa**

CASE FILE No. CCC/MER/5/15/2014

**Decision¹ of the Tenth Meeting of the Committee of Initial Determination
Regarding the Proposed Merger between Torre Industrial Holdings
Limited and Control Instruments Group Limited**

ECONOMIC SECTOR: Construction, Earth Moving and Automotive

7th August 2014 – Lilongwe, Malawi

¹ In the published version of this decision, some information has 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 Where possible the information omitted has been replaced by ranges of figures or a general description.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 13th May 2014, the COMESA Competition Commission hereinafter referred to as “the Commission” received a notification for approval of a merger between Torre Industrial Holdings Limited hereinafter referred to as “Torre” and Control Instruments Group Limited hereinafter referred to as “Control Instruments”
2. The transaction was notified with the Commission under Article 24(1) of the COMESA Competition Regulations (“the Regulations”). Under this provision 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 pursuant to Article 26 of the Regulations.
3. The Committee of Initial Determination hereinafter referred to as “the CID” observed that the parties operate in two or more COMESA Member States. This, therefore, means that the regional dimension requirements under Articles 23(3) and 23(5) are satisfied and ultimately asserts jurisdiction of the Commission to assess the transaction. The parties to the transaction are currently active in the following COMESA Member States:
 - Kenya
 - Mauritius
 - Malawi
 - Swaziland
 - Zambia
 - Zimbabwe

The Parties

Torre Industrial Holdings Limited

4. The acquiring firm Torre is a public company listed on the Johannesburg Stock Exchange and is not controlled, directly or indirectly, by any firm. Torre indirectly holds a non-controlling 49% interest in Tractor and Grader Supplies Private Limited (“TGS Zimbabwe”), a firm registered and operative in Zimbabwe. Torre also indirectly owns 90% of the issued shares in Tractor and Grader Supplies Copperbelt Proprietary Limited (“TGS Zambia”), a company registered in Zambia. In addition, Torre directly owns 50% of the issued shares in Tractor and Grader Supplies (Swaziland) Proprietary Limited (“TGS Swaziland”), a firm registered and operative in Swaziland.
5. Torre distributes/sells and rents tower cranes and passenger hoists, sells, rents and repairs forklifts. Torre also services the aftermarket earthmoving industry through the supply of repair parts and components for mining and construction earthmoving equipment. More specifically Torre through TGS Swaziland, TGS Zambia and TGS Zimbabwe are aftermarket suppliers of new spare/alternative parts for Caterpillar machinery, Costex branded tractor parts, Maxiforce branded engine parts and Titan branded ground engaging tools.

Control Instruments Group Limited

6. The target firm Control Instruments is a South African registered firm. Control Instruments manufactures and distributes quality branded products to the automotive aftermarket in sub-Saharan Africa. The company, established in 1948, has a significant basket of products. Brand names owned and/or exclusively distributed by Control Instruments Automotive include Gabriel, Echlin, Textar, VDO, Autocom, Acsa-Mag, Mag Brakes, Warn, Hi-Lift, Vision X and Truck-Lite.
7. Control Instruments is involved in the marketing, sale and distribution of premium branded automotive aftermarket products. The automotive aftermarket is the secondary market of the automotive industry and is concerned with the supply of automotive products after the sale of the vehicle to the end-user. It typically services the replacement parts market for vehicles older than five years.

Nature of the Transaction

8. Torre currently owns 34.54% of the issued share capital (excluding treasury shares) in Control Instruments. In terms of the proposed transaction, Torre intends to make an offer to acquire up to 100% of the total issued ordinary shares in Control Instruments not already owned by Torre, which if successful, will result in Torre acquiring sole control of Control Instruments.

Competition Analysis

9. The CID defined the relevant product market as follows:
 - Sale and rental of tower cranes
 - Sale and rental of passenger hoists
 - Sale and rental of forklifts
 - Sale of spare/replacement parts for Caterpillar Machines
 - Sale of replacement parts for automotives
10. The CID found that the merger will not result in the elimination of competition in the Common Market. Furthermore, the CID found that the merger is also not likely to frustrate other firms from entering the Common Market through anti-competitive behaviour like foreclosure. This is because the investigation and assessment have established that the transaction does not eliminate or threaten to eliminate competitors operating within the Common Market.

Determination

11. The CID determined that the transaction is compatible with the objectives of the Treaty Establishing the Common Market. This is because investigations and assessment show that the transaction is not likely to frustrate the single market objective. The CID therefore approved the transaction.
12. This decision is adopted in application of Article 26 of the COMESA Competition Regulations.

Dated this 7th day of August, 2014.

.....
Commissioner Alexander J. Kububa (Chairman)

.....
Commissioner Daniel Gappy (Member)

.....
Commissioner Thabisile Langa (Member)