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**Common Market for Eastern
and Southern Africa**

CASE FILE No. CCC/MER/204/2013

**Decision¹ of the Seventh Meeting of the Committee of Initial Determination
Regarding the Acquisition of all the Issued Shares in CMC Holdings
Limited by AI Futtaim Auto & Machinery Company LLC**

ECONOMIC SECTOR: Automotive and Machinery

20th March 2014 – Lilongwe, Malawi

Information and Relevant Background

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 Where possible the information omitted has been replaced by ranges of figures or a general description.

1. On 4th March 2014, AI Futtaim Auto & Machinery Company LLC (AI Futtaim) and CMC Holdings Limited (CMC) filed a merger notification with the COMESA Competition Commission (“the Commission”).
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 (the CID) observed that one of 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

AI Futtaim Auto & Machinery Company LLC

4. AI Futtaim is one of the largest privately owned business conglomerates in the Middle East region. AI Futtaim supplies and services heavy vehicles and machinery including trucks, buses, construction machinery, marine engines, air compressors, diesel generators, light towers and material handling equipment with its headquarters in Dubai, United Arab Emirates. AI Futtaim has no operations in the Common Market.

CMC Holdings Limited

5. CMC is a dealer and retailer of passenger and goods vehicles, automotive and agriculture and heavy equipment, whose subsidiaries operate in Kenya, Tanzania and Uganda (it was noted that Tanzania is not a member of COMESA). The company imports passenger and goods vehicles, automotive and agriculture and heavy equipment from various franchisors and manufacturers under franchise and dealership agreements.

Competition Analysis

6. The CID established that the transaction would not frustrate the single market objective of the Treaty in that it does not have an **appreciable** effect on trade between Member States. Therefore the CID resolved that the merger **be authorised**.

Determination

7. The CID deliberated on the merger transaction presented by Management and agreed with its recommendations to authorise the transaction. The CID found that the transaction does not negate the objectives of the Treaty, hence does not conflict with the single market objective. The transaction is therefore approved without conditions.
8. This decision is adopted in application of Article 26 of the COMESA Competition Regulations.

Dated this 20th day of March, 2014.

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Commissioner Mathews Chikankheni (Chairman)

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Commissioner Chilufya Sampa

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Commisioner Thabisile Langa