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**Common Market for Eastern  
and Southern Africa**

**Staff Paper No. 2016/03/08/06/JB**

**Decision<sup>1</sup> of the Twentieth Meeting of the Committee Responsible for  
Initial Determination Regarding the Proposed Merger between Lake Oil  
Group Limited and Petronas Sudan Limited**

**ECONOMIC SECTOR: Petroleum**

**8<sup>th</sup> March 2016 – Johannesburg, South Africa**

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<sup>1</sup> 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 Where possible the information omitted has been replaced by ranges of figures or a general description.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 4th December 2015, the COMESA Competition Commission (hereinafter referred to as "the Commission") received a notification for approval of a merger between Lake Oil Group Limited (hereinafter referred to as "Lake Oil") and Petronas Marketing Sudan Limited (hereinafter referred to as "Petronas").
2. The transaction was notified with the Commission under Article 24(1) of the COMESA Competition Regulations (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. On 5<sup>th</sup> February 2016, the Commission granted approval to the parties under phase one assessment on the premise that the transaction was unlikely to substantially prevent or lessen competition in the Common Market.
4. The Committee of Initial Determination (hereinafter referred to as "the CID") noted that the Commission has jurisdiction on mergers primarily with a regional dimension. This therefore means that mergers that do not satisfy the regional dimension requirement should be assessed by the Member States concerned. Article 23(3)(a) establishes the regional dimension requirement when it provides that:

***"This Article shall apply where both the acquiring firm and the target firm or either the acquiring firm or target firm operate in two or more Member States".***

5. In the case under consideration the parties have operations in Burundi, the Democratic Republic of Congo, Kenya, Mauritius, Rwanda, Sudan and Zambia which are all COMESA Member States, thus, the regional dimension requirement has been established and consequently the Commission has the jurisdiction to review the merger.
6. In addition, regional dimension is established when the parties involved meet the merger notification prescribed thresholds under Rule 4 of the COMESA Competition Rules on Merger Notification Thresholds and Method of Calculation which stipulates that:

***"Any merger, where both the acquiring firm and the target firm, or either the acquiring firm or the target firm, operate in two or more Member States, shall be notifiable if:***

*(a) the combined annual turnover or combined value of assets, whichever is higher, in the Common Market of all parties to a merger equals or exceeds COM\$<sup>2</sup> 50million; and*

*(b) the annual turnover or value of assets, whichever is higher, in the Common Market of each of at least two of the parties to a merger equals or exceeds COM\$ 10 million,*

*unless each of the parties to a merger achieves more than two-thirds of its aggregate turnover or assets in the Common Market within one and the same Member State”.*

7. The Combined turnover of the parties exceeds COM\$ 50 million in the Common Market and Lake Oil and Petronas each derive a turnover of more than COM\$ 10 million in the Common Market. Further, the parties do not derive 2/3 each of their turnover in one and the same Member thereby establishing the regional dimension of the transaction beyond doubt.

#### **The Parties**

##### **Lake Oil**

8. Lake Oil is a company incorporated under the laws of the Republic of Mauritius and forms part of the Lake Oil group of companies. The Lake Oil group of companies are involved in fuel marketing across central and east African countries. Lake Oil has no operations in Sudan.

##### **Petronas**

9. Petronas, is owned by Petronas International Corporation Limited, a company incorporated under the laws of Malaysia, and forms part of the Petronas Group of Companies. Petronas is engaged in the marketing and distribution of petroleum products and lubricants in Sudan. In the Common Market, Petronas has operations in Sudan only.

#### **Nature of the Transaction**

10. The proposed transaction relates to the marketing and distribution of petroleum products and lubricants in Sudan. In terms of the strategic rationale, the proposed transaction will establish Lake Oil in Sudan and will enable Lake Oil to leverage from Petronas' technical knowhow and reputable management skills in order to improve service delivery for the benefit of the group as a whole. The proposed transaction contemplates Petronas International Corporation Limited selling 100% of its shares in Petronas to Lake Oil.

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<sup>2</sup> One COM\$ is equivalent to one US\$.

### **Competition Analysis**

11. The CID defined the relevant market as the marketing and distribution of petroleum products in Sudan. The CID observed that the market structure is likely to remain unaltered post-merger because the parties do not operate in the same relevant geographical market pre-merger.

### **Determination**

12. The CID determined that the merger is not likely to substantially prevent or lessen competition in the Common Market and is compatible with the Treaty Establishing the Common Market for Eastern and Southern Africa. The CID therefore decided to ratify the Commission's decision to approve the transaction.
13. This decision is adopted in accordance with Article 26 of the Regulations.

Dated this 8<sup>th</sup> day of March, 2016.



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**Commissioner Matthews Chikankheni (Chairman)**



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**Commissioner Thabisile Langa (Member)**



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**Commissioner Georges Tirant (Member)**