



Seventh United Nations Conference to review the UN Set on Competition Policy

Geneva, 6-10 July 2015

Cooperation in Merger Cases: Competition Authority of Kenya and other Agencies

Francis W. Kariuki
Director-General

"A Kenyan economy with globally efficient markets and enhanced consumer welfare for shared Prosperity"

The views expressed are those of the author and do not necessarily reflect the views of UNCTAD

Need for cooperation

Financial Year	Local Dimension	International Dimension	Total mergers
2012/2013	13 (24.5%)	40 (75.5%)	53
2013/2014	14 (29.8%)	33 (70.2%)	47
2014/2015	48 (48.5%)	51 (51.5%)	99
Total	75 (37.7%)	124 (62.3%)	199

Source: Mergers Department, CAK

Drivers of Cooperation

- ▶ **The number of mergers with International dimension** has increased over time;
- ▶ **Mergers being viewed as a mode of FDI** by the Government;
- ▶ **Regional Integration - Commitments under the RECs**
- ▶ **Levels of Development** – ‘Same problem’ comfort/view
- ▶ **Motivation under the ‘loose’ networks and other individual networks**

Forms of Cooperation

- ▶ **Development of instruments (guidelines)** – ICN; Botswana and Swaziland;
- ▶ **Joint Trainings** – ACF; COMESA
- ▶ **Sharing of Information** – COMESA; Tanzania and Efforts were made to actualize this with the European Commission during the Holcim-Lafarge merger;
- ▶ Sharing of information on laws and guidelines-China (MOFCOM) and JFTC
- ▶ **Informing Analysis** – South Africa; Zambia

Challenges

- ▶ **Lack of Legal framework** to support cooperation – South Africa;
- ▶ **Inconsistency in analysis** – Zambia (Motor vehicle merger);
- ▶ **Management of Confidential information** and records;
- ▶ **Different priorities** – (mergers vs. cartels);
- ▶ **Different thresholds and also timelines**