

SUMMARY OF CEMENT CARTEL CASE IN SOUTH CENTRAL AFRICA

Introduction

The Zambian economy was from 1972 until 1991 a command economy, with the Zambian government running around 90% of all businesses. This included a company in the cement industry called Chilanga Cement. Chilanga Cement had two plants, one in Chilanga in the Lusaka Province and the other in Ndola on the Copperbelt province. The Chilanga plant supplied the southern parts of the country and the Ndola plant supplied the copper mines and the northern parts of the country. After privatization, Chilanga Cement was sold to the Commonwealth Development Corporation and later on to Lafarge PLC. Lafarge invested in both the Chilanga and Ndola plants not only to increase the tonnage produced for the local market but also targeted the Malawi, Democratic Republic of Congo (DRC) and the Great lakes Region as export markets. The DRC borders the Copperbelt province of Zambia in the north while the Great Lakes Region can be accessed through Lake Tanganyika. Malawi is in the east of Zambia.

In 2009, a new cement plant was established on the Copperbelt in Ndola called Zambezi Portland Cement. It produced less than half of Lafarge cement's production at 1000 tonnes a day, with Lafarge producing 3500 tonnes a day. There was also a small producer Scirocco producing mostly for internal use in their pre-mix concrete with excess sold accounting for less than 4% of market shares while imports were prevalent in the border area accounting for less than 10%.

In 2014, Dangote Cement Zambia Limited entered the market with a plant in Ndola with a capacity of 3000 tonnes a day. The three Ndola plants belonging to Lafarge, Zambezi and Dangote are strategically positioned to sell their cement to the DRC.

In 2018, Mpande Cement Limited (Mpande) established a plant in Lusaka. The Lusaka plant not only sell to the southern parts of the country but also in Malawi. While the Ndola plants have on occasion sold in Malawi they have not been as consistent as the Lusaka plants. Thus, Malawi has in the recent past received Sinoma cement and Lafarge cement from Mpande and Lafarge Zambia (Lafarge) respectively.

Cement demand

The cement sector in Zambia has grown significantly since the 2000s, achieving a growth in output from around 340,614 tonnes in 2000 to over 1,500,000 2 tonnes in 2012.¹ The construction industry is one of the fastest-growing sectors in Zambia. It accounted for 12–15% of GDP between 2007 and 2011 according to the National Construction Council. The sector has continued to grow rapidly due to continued strong demand for residential, commercial and public infrastructure projects across the country. While it was adversely affected by the effects of the global financial crisis on the country's construction activities in 2009, it grew once more in subsequent years driven to a large extent by construction of commercial and residential buildings and the establishment of new

¹ Mbongwe et al. (2014), "Understanding competition at the regional level: an assessment of competitive dynamics in the cement industry across Botswana, Kenya, Namibia, South Africa, Tanzania and Zambia", African Competition Forum draft paper for presentation at pre-ICN conference (22 April 2014),

mines.² Estimated annual demand for cement stood at 817,223 metric tonnes in 2009 increasing by 38% to 1,126,728 metric tonnes in 2010. In 2011 there was a further increase in demand of 27% to 1,428,855 metric tonnes.

The Cement Cartel

The four major players in cement based on brand loyalty and production capacity are Lafarge, Dangote, Mpande and Zambezi. There are two other cement companies namely Great Wall and Scirocco, which are small and have niche markets. These smaller companies do not export their cement.

The market witnessed price wars each time a new cement company entered the market. When Zambezi entered the market the price of cement dropped from around \$10 to \$8 dollars. The two companies in the market at that time, Lafarge and Zambezi appear to have entered into a cartel for price fixing and market allocation. This allegation was never proved. To this day Zambezi cement cannot be found in the Lusaka region as they now concentrate only on the northern market. Further Zambezi entered the market with a 42.5N product when Lafarge was only producing 32.5 N.

When Dangote entered the market, the prices of cement that had been at \$14 per 50 kg bag dropped to about \$5. Dangote penetrated not only the northern parts of the country but also sold to the southern parts as well, producing both the 32.5 and the 42.5 types of cements. A similar price war was seen when Mpande entered the market with the price going down further to \$4.50 from \$5. However, some time in November 2018 the prices of the commodities started going up. The explanation was that the local currency, the Kwacha, had lost value against major convertible currencies such as the US dollar and there was an increase in the prices of electricity and fuel. In November 2019 another price increase was effected and about 8 months later another increase in the prices of 3 cement was effected. The cost of the cement rose from \$4.50 to about \$8. These prices are for the 32.5 cement product.

The Commission Investigations

In 2020, after a series of increments by the cement companies, the Competition and Consumer Protection Commission (the Commission) initiated investigations after two months of market surveillance. A dawn raid was carried out on the four big players. Evidence relating to the cartel was found in the raid. There was a leniency applicant and it was granted. The information provided by the applicant corroborated the evidence found by the Commission. The cartel's objectives were centered on fixing prices and allocating markets. The market allocation included the foreign markets. The price fixing was designed in such a way that Lafarge Zambia, the most popular brand was always higher in price than Dangote by a difference of approximately K3. Equally Dangote would be priced higher than Mpande cement by 3 to 5 Kwacha. So when prices are increased the margin of increase would be the same between the different brands.

² John Sutton and Gillian Langmead (2013), AN ENTERPRISE MAP OF ZAMBIA International Growth Centre, London Publishing Partnership

The market allocation was done on the rebates that distributors and transporters enjoyed. The three companies ensured that they each gave a K3 rebate on each bag. This had the effect of allocating the market with Mpande and Lafarge Zambia (Chilanga plant) supplying the southern parts of the country and Malawi, and Lafarge (Ndola plant) and Dangote supplying the northern parts of the country and DRC and Great Lakes region.

Conclusion

The Board of Commissioners found that there was enough evidence obtained from the dawn raid and the leniency applicant and that a cartel existed between Lafarge, Dangote and Mpande cement companies. The Board of Commissioners, however, did not find sufficient evidence that Zambezi Portland cement was part of the cartel even though they may have engaged in a concerted practice. Two of the companies, Lafarge and Mpande were fined 10% of annual turnover for the year 2019 and 2020 while the leniency applicant, Dangote, received 100% immunity from fines and prosecution. The Board further ruled that the price of cement revert to pre-cartel prices of approximately \$4.50 for a period of one year.

The Companies are free to appeal to the Competition and Consumer Protection Tribunal (Tribunal). However, the CCPC will enforce the price reduction 30 days from receipt of the Board decision as the Tribunal has previously ruled that an appeal to the Tribunal does not stay a decision of the CCPC.