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**Common Market for Eastern
and Southern Africa**

Staff Paper No. 2016/11/LV/05

Decision¹ of the Twenty Seventh Committee Responsible for Initial Determination Regarding the Application for Authorisation of the Supply Agreement between Eveready East Africa Limited and Supreme Imports Limited

ECONOMIC SECTOR: MANUFACTURE AND DISTRIBUTION OF LIGHTING BULBS

22nd November 2016 – Livingstone, Zambia

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 Where possible the information omitted has been replaced by ranges of figures or a general description.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 14th September 2016, Eveready East Africa Limited (hereinafter referred to as "Eveready") and Supreme Imports Limited (hereinafter referred to as "Supreme") completed the notification process for authorisation of a Supply Agreement (hereinafter referred to as the "Agreement") as provided under Article 20 of the COMESA Competition Regulations (hereinafter referred to as the "Regulations"). On the basis of this formal application for authorisation, the Commission has assessed the Agreement to determine whether it is compatible with the Regulations.
2. Pursuant to Article 16 of the Regulations, the COMESA Competition Commission (hereinafter referred to as the "Commission") is required to assess whether the Agreement between the parties would, or is likely to affect trade between Member States and has as its object or effect the restriction, prevention or distortion of competition in the Common Market.
3. The Committee Responsible for Initial Determination (hereinafter referred to as "the CID") established that the Agreement has a regional dimension and may likely affect trade between Member States. This therefore means that the Commission has jurisdiction to assess the Agreement.

The Parties

Eveready

4. Eveready was incorporated in Kenya as Union Carbide Kenya Limited in 1967. It changed its name to Eveready East Africa Limited on 30th September 2004 and converted to a public company with limited liability on 30th October 2006. Eveready has registered offices in Kenya and Uganda and also has operations in several other Member States through exports, namely Malawi, Rwanda and the DRC.
5. Eveready's main business activity is distribution of assorted products including batteries, pens, bleaching and lighting solutions in the Common Market.

Supreme

6. Supreme is a company registered in the United Kingdom involved in the manufacture of lighting bulbs. Supreme also manufactures batteries and lighting products under license brands such as JCB, Eveready, Energizer, Powermaster (Fittings), and Philips.

The Agreement

7. The Agreement contains provisions that give Eveready Exclusivity and Right of First Refusal in the following COMESA Member States; Burundi, Democratic

Republic of Congo Ethiopia, Kenya, Malawi, Rwanda, Sudan, Uganda and Zambia.

Competition Analysis

8. The CID defined the relevant market as the manufacture and the distribution of lighting bulbs in the Common Market.
9. The CID observed that the relevant markets are competitive in spite of the offending provisions of the Agreement between Eveready and Supreme. The offending provisions under the said Agreement are not likely to have an appreciable effect on competition. The CID further established that the Agreement has no effect of restricting trade between Member States and it would not be incompatible to the Treaty's objective of single market integration.

Determination

10. The CID determined that the Agreement is not likely to negatively affect trade between Member States and is compatible with the Treaty establishing the Common Market for Eastern and Southern Africa. The CID therefore authorised the Agreement.
11. This decision is adopted in accordance with Article 20 of the Regulations.


Dated this 22nd day of November, 2016.



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Commissioner Matthews Chikankheni (Chairman)



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Commissioner Thabisile Langa (Member)



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Commissioner Chilufya Sampa (Member)