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Common Market for Eastern
and Southern Africa

CCC Merger Inquiry Notice No. 4 of 2019

Notice of Inquiry into the Joint Venture involving Bollore Transport & Logistics Kenya Limited, Nippon Yusen Kabushiki Kaisha, and Toyota Tsusho Corporation

It is hereby notified in terms of Article 26(6) of the COMESA Competition Regulations (the “**Regulations**”) that the COMESA Competition Commission (the “**Commission**”), after receiving a notification in terms of Article 24 of the Regulations regarding the formation of a joint venture between Bollore Transport & Logistics Kenya Limited (“**BTLK**”), Nippon Yusen Kabushiki Kaisha (“**NYK**”), and Toyota Tsusho Corporation (“**TTC**”), intends to embark on an inquiry in terms of Article 26 of the Regulations.

The parties have submitted that BTLK is a multimodal logistics company offering sea, air, and land freight forwarding, dry port operations, and value-added warehousing services. BTLK’s headquarters are located in Nairobi, Kenya. In the Common Market, BTLK is active in the following Member States: Burundi, Comoros, the Democratic Republic of Congo, Djibouti, Kenya, Madagascar, Malawi, Rwanda, Sudan, Uganda, Zambia, and Zimbabwe.

The parties have submitted that NYK, a company duly organized and existing under the laws of Japan was established in 1885 through the merger of Japan’s two leading shipping companies. The company’s shipping fleet includes 372 bulk carriers, 111 car carriers, 97 containerships (including semi-containerships), 70 LNG carriers (including those owned by equity method affiliates), 63 tankers, 43 wood-chip carriers, one cruise ship, and 42 other ships (including multipurpose and project cargo vessels). NYK employs about 36000 people worldwide and is based in Tokyo. NYK has regional headquarters in London, New York, Singapore, Hong Kong, and Sao Paulo.

The parties have submitted that TTC, a company duly organized and existing under the laws of Japan is a general trading company with leading presence in East African countries in the field of automotive logistics, projects & industrial equipment, agricultural equipment, chemical and fertilizer industry, having global automotive business network, experience in vehicle logistics, and focus on developing new business designs including energy and infrastructure, agriculture, and ICT.

BTLK, NYK, and TCC are collectively referred to as the Acquiring Firms.

The parties have further submitted that as a result of the Joint Venture, Bollore NYK Autologistics Limited (the “**Target Firm**”) was incorporated in Kenya on 18th January 2017 following the signing of a Memorandum of Understanding among the Acquiring Firms on 29th June 2016 and subsequently a joint venture agreement (“**JVA**”) dated 16th September 2016. Under the JVA, the parties agreed to jointly form the Target Firm whose objective was the provision of inland transportation, bonded storage (CFS, vehicle distribution centre, etc.), distribution, value-added services (pre-delivery inspection, maintenance, accessory fitment, painting, washing, etc.) and customs clearances services or new car dealers in relation to any vehicles both new or used arriving at Mombasa port or any other ports in Kenya and any vehicles manufactured and/or assembled in Kenya.

The Commission will, in accordance with the provisions of the Regulations, determine, among other things, whether or not the merger is likely to substantially prevent or lessen competition within the Common Market and whether the merger is or would be contrary to the public interest as provided for under Article 26 of the Regulations. In view of this, the Commission hereby gives notice to all interested stakeholders, including competitors, suppliers and customers of the merging parties to submit written representations to the Commission with regard to the subject matter of the proposed inquiry by emailing them to: sbooluck@comesa.int. All written representations should be sent to the Commission not later than **18th March 2019**.

If you wish to seek further details and/or clarifications on any aspect of this proposed transaction or need assistance you may get in touch with **Ms. Sandya Booluck, Senior Analyst, Mergers and Acquisitions** on Tel: +265 (0) 1 772 466 or sbooluck@comesa.int.

All written representations submitted to the Commission will be treated with the strictest confidentiality and will only be used for the purpose of this inquiry.