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**Common Market for Eastern
and Southern Africa**

Case File No. CCC/MER/09/35/2019

Decision¹ of the Seventy-First (71st) Committee Responsible for Initial Determination Regarding the Proposed Merger Involving Mitsubishi Corporation, Bamboo Energy Fund S.A – SICAV RAIF and BBOXX Limited

ECONOMIC SECTOR: Energy

8th June 2020

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 Where possible, the information omitted has been replaced by ranges of figures or a general description.

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Information and Relevant Background

1. On 4th March 2020, the COMESA Competition Commission (hereinafter referred to as the “**Commission**”) received a notification for approval of a merger involving Mitsubishi Corporation (“**MC**”), Bamboo Energy Fund S.A – SICAV RAIF (“**BEAM**”) and BBOXX Limited (“**BBOXX**”).
2. The transaction was notified with the Commission under Article 24(1) of the COMESA Competition Regulations, 2004 (the “**Regulations**”). Pursuant to Article 26 of the Regulations, the Commission is required to assess whether the 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. The Committee Responsible for Initial Determination (the “**CID**”) established that the parties operate in more than one COMESA Member State and they meet the prescribed notification thresholds. This therefore means that the regional dimension requirement under Article 23(3) of the Regulations is satisfied and asserts jurisdiction on the Commission to assess the transaction.

The Parties

MC (the Acquirer)

4. It was submitted that MC is a company incorporated under the laws of Japan. MC is a global integrated business enterprise that develops and operates businesses together with its offices and subsidiaries in approximately 90 countries and regions worldwide, as well as a global network of around 1,400 group companies. MC has 10 Business Groups that operate across the following industries: Natural Gas, Industrial Materials, Petroleum & Chemicals, Mineral Resources, Industrial Infrastructure, Automotive & Mobility, Food Industry, Consumer Industry, Power Solution and Urban Development. In the Common Market, MC is mainly active in the distribution of cars and tires and derived turnover in the following Member States: the Democratic Republic of Congo, Egypt, Eritrea, Kenya, Sudan, Tunisia, Uganda, Zambia, and Zimbabwe.

BEAM (the Acquirer)

5. It was submitted that BEAM is a company formed under the laws of Luxembourg (Mitsubishi Corporation and BEAM are together referred as the “Acquirers”). BEAM is an investment platform created by Bamboo Capital Partners to accelerate the delivery of modern clean energy to underserved people. BEAM invests in next generation utility companies leapfrogging traditional infrastructure through the use of smart technology. It was submitted that BEAM does not have any operations in COMESA other than its investment in the Target.

BBOXX (the Target)

6. It was submitted that the target undertaking, BBOXX, is a private company limited by shares incorporated under the laws of England and Wales with company number 777839. The parties submitted that BBOXX is a next generation utility, transforming lives and

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unlocking potential through the provision of affordable, reliable and clean energy and other modern utilities. The Target provides end customers with access to energy via a pay-go solar home system and supplies customers with products such as lights, mobile phone chargers, torches, radios, shavers, TVs, fans and fridges. In the Common Market, the target derived turnover in the Democratic Republic of Congo, Kenya, and Rwanda.

Nature of the Transaction

7. The merging parties submitted that MC will acquire a maximum of 20.8% of the total issued share capital of BBOXX; and BEAM will subscribe for approximately 6% of the share capital in BBOXX (together, the “**Proposed Transaction**”).

Competition Analysis

8. The CID observed that MC is mainly active in the distribution of cars and tyres in the Common Market. On the other hand, the target undertaking is active in the provision of clean energy solutions in the form of solar home systems including appliances supplied at retail level.
9. The CID observed that the parties’ activities in the Common Market were not overlapping and therefore focussed the assessment on the activities undertaken by the target firm in the Common Market. For purposes of the competitive assessment, the CID defined the relevant product market as the retail supply of low-voltage electricity (<100W) to small commercial and domestic customers. In terms of the geographic scope of the market, the CID determined that the competitive conditions of the retail supply of electricity solutions are likely to differ according to the Member State where the customers are located having regard to accessibility to grid electrification, purchasing power, and national regulations involving pricing. The CID concluded that the relevant geographic market for the retail supply of low-voltage electricity is national and relates to the DRC, Kenya and Rwanda where the target has operations.
10. The CID therefore concluded that the relevant markets are therefore the retail supply of low-voltage electricity (<100W) to small commercial and domestic customers in each of the national markets of DRC, Kenya and Rwanda.
11. The CID observed that the transaction would not result in a change in the market structure due to the absence of any horizontal overlap in the activities of the parties pre-merger. The CID therefore concluded that the transaction will not lead to a change in market concentration and therefore would not alter the competitive landscape in the Common Market.
12. The CID further observed that the relevant market is characterised by countervailing buyer power in the form of a large number of small customers. The market is also characterised by alternative retail suppliers of electricity solutions such that the merged entity would be unlikely to engage in anti-competitive conduct.

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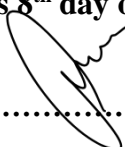
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Determination

13. The CID determined that the merger is not likely to substantially lessen or prevent competition in the Common Market or any substantial part of it. The CID further determined that the transaction is unlikely to negatively affect trade between Member States. The CID therefore approved the transaction.


14. This decision is adopted in accordance with Article 26 of the Regulations.

Dated this 8th day of June, 2020

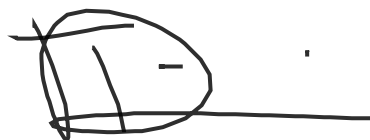


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Commissioner Islam Tagelsir Ahmed Alhasan (Chairperson)



Commissioner Brian M. Lingela



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Commissioner Thembelihle P. Dube née Dlamini