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**Common Market for Eastern
and Southern Africa**

CASE FILE No. CCC/MER/103/2014

**Decision¹ of the Eighth Meeting of the Committee of Initial Determination
Regarding the Merger between Kone Kenya Limited and Marryat & Scott
(Kenya) Ltd**

ECONOMIC SECTOR: Elevators and Escalators

19th May 2014 – Johannesburg, South Africa

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 Where possible the information omitted has been replaced by ranges of figures or a general description.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 11th February 2014, the COMESA Competition Commission hereinafter “the Commission” received a notification for approval of a merger between Kone Kenya Limited hereinafter referred to as “Kone Kenya”, and Marryat & Scott (Kenya) hereinafter referred to as “Marryat & Scott”.
2. The transaction was notified with the Commission under Article 24(1) of the COMESA Competition Regulations hereinafter referred to as “the Regulations”. Under this provision the Commission is required to assess whether the proposed 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 pursuant to Article 26 of the Regulations.
3. The Committee of Initial Determination hereinafter referred to as “the CID” found that the parties to the transaction operate in two or more COMESA Member States. This, therefore, means that the regional dimension requirements under Articles 23(3) and 23(5) of the Regulations were satisfied and ultimately asserting jurisdiction on the Commission to assess the transaction. Kone Kenya and Marryat and Scott have operations in the following Member States:
 - Burundi
 - Djibouti
 - Egypt
 - Ethiopia
 - Kenya
 - Libya
 - Mauritius
 - Swaziland
 - Uganda

The Parties

Kone Kenya

4. Kone Kenya, a newly incorporated company in Kenya intends to engage in the business of installation of elevators and escalators more particularly in Kenya.

Marryat & Scott

5. Marryat & Scott is a company incorporated in Kenya and a distributor of escalators and elevators for Kone Kenya.

Competition Analysis

6. The CID found that the relevant product markets are the manufacture of, and supply of escalators and elevators. The CID observed that the transaction is unlikely to alter the market structure in the Common Market because the merging parties were not competitors before the merger. The CID found that there no likely foreclosure concerns in the identified relevant product markets and the parties are not dominant in their respective markets. In view of this, the merger is unlikely to prevent or lessen competition in the Common Market. The CID has also found that the merger would have

no effect on trade between Member States and therefore will not be incompatible with the Treaty objective of market integration.

Determination

7. The CID determined that the transaction does not raise competition concerns and is compatible with the objectives of the Treaty Establishing the Common Market. The transaction is therefore approved without conditions.
8. This decision is adopted in application of Article 26 of the COMESA Competition Regulations.

Dated this 19th day of May, 2014.

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Commissioner Alexander Kububa (Chairman)

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Commissioner Chilufya Sampa

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Commissioner Thabisile Langa