
GENERAL NOTICES • ALGEMENE KENNISGEWINGS

**ECONOMIC DEVELOPMENT DEPARTMENT
NOTICE 904 OF 2015****MEMORANDUM OF AGREEMENT****Between****THE COMPETITION COMMISSION SOUTH AFRICA****(Hereinafter referred to as "the Competition Commission")**

**A regulatory body established as a juristic person in terms of the provisions of section 19 of the Competition Act No. 89 of 1998, as amended ("Competition Act"),
herein duly represented by Mr Tembinkosi Bonakele in his capacity as the
Commissioner of the Competition Commission**

and**THE INTERNATIONAL TRADE ADMINISTRATION COMMISSION OF
SOUTH AFRICA****(Hereinafter referred to as "ITAC")**

**A body of authority established as a juristic person in terms of the International
Trade Administration Act No. 71 of 2002,
herein duly represented by Mr Siyabulela Tsengiwe, in his capacity as the Chief
Commissioner of ITAC**

1. PREAMBLE

The Competition Commission is established in terms of section 19 of the Competition Act in order to promote and maintain competition in South Africa through, *inter alia*, investigation and evaluation of restrictive vertical and horizontal practices, abuse of a dominant position, complex monopoly conduct, exemptions, mergers and acquisitions, and conducting market inquiries.

The Competition Commission, in terms of the provisions of section 21(1)(h) read with sections 3(1A)(a) and 3(1A)(b) and 82(1) of the Competition Act may negotiate agreements with any regulatory authority in order to coordinate and harmonise the exercise of concurrent jurisdiction exercised over competition matters (Chapter 2, 2A, 3 or 4A of the Competition Act) within a relevant industry or sector, and to ensure the consistent application of the principles of the Competition Act. Furthermore, the Competition Commission may in terms of section 21(1)(i) participate in the proceedings of any regulatory authority and in terms of section 21(1)(j) advise and receive advice from any regulatory authority.

ITAC is established in terms of section 7(1) of the International Trade Administration Act in order to administer international trade in terms of section 26 of the International Trade Administration Act by investigating and evaluating applications concerning alleged dumped or subsidised imports; safeguard measures and the amendment of customs duties in South Africa and within the Common Customs Area.

ITAC may in terms of section 21(1)(a) of the International Trade Administration Act enter into an agreement with any regulatory authority or organ of state to coordinate and harmonise their respective functions with regard to international trade matters, in order to ensure the achievement of the objects of the International Trade Administration Act. ITAC may in terms of section 21(3) participate in the proceedings of any regulatory authority or organ of state and advise and receive advice from, any regulatory authority or organ of state.

There are thus areas of common interest and functions that call for cooperation between the Parties.

2. THE OBJECTIVE OF THE AGREEMENT

The purpose of this Agreement is to promote cooperation and friendly relations between the Parties on matters of mutual interest in order to give effect to their respective governing legislation.

3. COOPERATION

The Parties hereby agree on cooperation as meaning the following:

- 3.1 Operation of and participation in joint education programmes;
- 3.2 Providing comment/advice on complaints/applications; and
- 3.3 Providing comment/advice on merger transactions.

4. JOINT EDUCATION PROGRAMMES

The Parties agree, to the extent feasible:

- 4.1 To co-sponsor joint workshops or seminars on competition and international trade matters as and when necessary on any topical matter of mutual interest;
- 4.2 To conduct joint impact assessment studies; alternatively sector research studies and/or make contributions in each other's impact assessment studies.

5. COMPLAINTS/APPLICATIONS

The Parties agree, to the extent feasible:

- 5.1 To make representations to each other on matters relating to complaints/applications falling within their respective jurisdictions where they deem it necessary for the other to take into account such competition/international trade considerations in resolving complaints/applications;
- 5.2 To refer complaints/applications falling within the jurisdiction of the other within a reasonable time after the review of such and also to advise the complainant(s) to lodge/submit such complaints/submissions, as the case may be, with/to the relevant authority; and
- 5.3 To advise and receive advice from one another, in particular for ITAC to provide the Competition Commission with an opportunity to comment on applications as the case is with other stakeholders.

6. MERGER TRANSACTIONS

If in analysing a merger transaction the Competition Commission is of the view that there are international trade regulatory issues subject to the jurisdiction of ITAC, the Competition Commission may consult with ITAC to obtain input on such international trade issues pertaining to the transaction.

7. EXCHANGE OF INFORMATION

The Parties shall endeavour to ensure that any information sharing or exchange; will not breach any confidentiality restrictions in terms of their respective mandate(s) and will be conducted only as is necessary to give effect to this Agreement and each entity shall keep records of all information so exchanged between them.

8. CONFIDENTIALITY

Any information shared by the Parties pursuant to this Agreement shall be used only for lawful purposes. Parties shall therefore treat confidential information shared between them as such and to be used only for the purpose of conducting their respective regulatory mandates.

9. GENERAL PROVISIONS

This Agreement is entered into on the basis of the spirit of cooperation and goodwill; and does not affect the independence of the Parties hereto. The provision of or request for information under this Agreement *may* therefore be denied:

- 9.1 Where compliance would require either of the Parties to act in violation of the law;
- 9.2 Under circumstances where there is an imminent risk to national security; or
- 9.3 When compliance with a request or provision of information would interfere with an ongoing investigation in circumstances where prejudice to the investigation is likely to outweigh the adverse effects of denying the information.

10. VARIATION OF THE AGREEMENT

Any variation of this Agreement shall have no legal effect and shall not be binding on the Parties unless reduced to writing and signed by persons authorised to act on behalf of both the Parties.

11. COMMENCEMENT OF THE AGREEMENT

This Agreement will commence:

11.1 On the date of signature thereof by the Party last to sign it and shall endure until termination thereof in accordance with Clause 12 (Termination).

11.2 It has been published in the Government Gazette.

12. DURATION AND TERMINATION OF THE AGREEMENT

This Agreement shall remain in force until it is changed or repealed by both Parties hereto, acting jointly or upon any of the Parties giving the other party a notice of termination of no less than thirty (30) business days.

13. DISPUTE RESOLUTION

Should any dispute or difference arise between the Parties with regard to interpretation and/or implementation of any one or more of the provisions of this Agreement, such dispute or difference must be resolved in a manner other than through judicial proceedings.

14. DOMICILIUM CITANDI ET EXECUTANDI

The Parties choose the addresses listed below as their respective *domicilium citandi et executandi* for purposes of this Agreement.

15. INSTITUTIONAL CONTACT PERSONS

For purposes of this Agreement, the individuals named below will be the main contact persons for the authorities.

THE COMPETITION COMMISSION SOUTH AFRICA

First Floor Mulayo Building (Block C)

The DTI Campus

77 Meintjies Street

Sunnyside

Pretoria

0002

CONTACT PERSON: Head: Stakeholder Relations

Tel No: 012 394 3194

e-mail: mziwodumor@compcom.co.za

THE INTERNATIONAL TRADE ADMINISTRATION COMMISSION OF SOUTH AFRICA

First Floor, Uuzaji Building (Block E)

The DTI Campus

77 Meintjies Street

Sunnyside

Pretoria

0002

CONTACT PERSON: Manager: Legal Services

Tel No: 012 394 3706

e-mail: rbuckas@itac.org.za


16. ATTESTATION

The Parties hereby acknowledge having read the contents of this Agreement, which are understood and accepted by both the duly authorised signatories below .

Signed at PRETORIA on this 24th day of AUGUST 2015


Mr Tembinkosi Bonakele
Commissioner: Competition Commission

As witnesses:

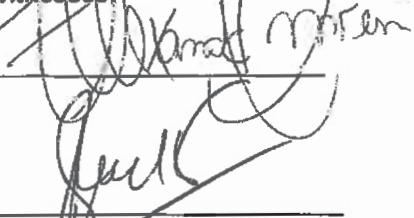
1.  (Print name: S W Nohom)
2. _____ (Print name: _____)

Signed at PRETORIA on this 13 day of AUGUST 2015


Mr Siyahulela Tsengiwe

Chief Commissioner: International Trade Administration Commission of South Africa

As witnesses:

1.  (Print name: F ALEXANDER AMREIN)
2. _____ (Print name: K. BUCKAS)