



ΚΥΠΡΙΑΚΗ ΔΗΜΟΚΡΑΤΙΑ



**Decision CPC: 15/2014**  
**Case Number 8.13.014.02**

**THE CONTROL OF CONCENTRATIONS  
BETWEEN ENTERPRISES LAWS 1999 TO 2000**

**Notification of concentration regarding the acquisition of share capital of  
Lekki International Container Terminal Services LFTZ Enterprise  
by CMA Terminals S.A.S.**

Commission for the Protection of Competition:

Mrs. Loukia Christodoulou,	Chairperson
Mrs. Eleni Karaoli,	Member
Mr. Andreas Karides,	Member
Mr. Charis Pastellis,	Member
Mr. Christos Tsingis	Member

Date of decision: 10 March 2014

**SUMMARY OF THE DECISION**

On the 31<sup>st</sup> of January 2014, the Commission for the Protection of Competition (hereinafter the «Commission») received from CMA CGM S.A. (hereinafter «CMA CGM») and International Container Terminal Services, Inc. (hereinafter «ICTSI»), notification of a proposed concentration, in accordance with section 13 of the Control of Concentrations between Enterprises Law (Number 22(I)/99) (hereinafter the «Law»). The notification concerns the acquisition of 25% of the share capital of Lekki International Container Terminal Services LFTZ Enterprise (hereinafter «LICTSLE») by CMA Terminals S.A.S. (hereinafter «CMAT»), indirect subsidiary of CMA CGM.

CMA CGM S.A. is a company duly registered under the laws of France. This company is active in the containers sector and it provides a full range of activities including shipping, reefer transport, handling facilities and logistics. CMA CGM is also active in «Roll on and - Roll off» (hereinafter «Ro-Ro») services, stevedoring and to a small extent, in bulk shipment.

CMA Terminals S.A.S. is a company duly registered under the laws of France and indirectly owned by CMA CGM. CMAT is a port operator and is responsible for the development, design, construction and operation of container terminals.

International Container Terminal Services, Inc. is a company duly registered under the laws of Philippines and is active in the management, development and operation of marine container terminals and port projects globally. ICTSI Capital BV is a subsidiary of ICTSI, which holds all the shares of LICTSLE.

Lekki International Container Terminal Services LFTZ Enterprise is a company duly registered under the laws of Nigeria. This company is indirectly subsidiary of ICTSI and operates, maintains, manages and repairs the container terminal in Lekki, Nigeria.

This transaction is based on a Share Purchase Agreement (hereinafter the "Agreement"), among ICTSI Capital BV, Jens Offersgaard Floe (together the sellers) and CMAT (the buyer). According to the said Agreement, CMAT will acquire 25% of the share capital of LICTSLE, while the remaining 75% of the shares will continue to be owned by ICTSI Capital BV. Along with the Agreement, a Shareholders' Agreement (hereinafter the "Shareholders' Agreement") was signed among ICTSI Capital BV, CMAT, CMA CGM and LICTSLE, whereby rights are granted to CMAT with respect to strategic decisions of LICTSLE.

The Commission, during its assessment, took into consideration the relevant Notice of European Commission No. 2008/C95/01<sup>1</sup> and focused its attention to paragraphs 62-82 of this Notice, which state that joint control exists where two or more undertakings or persons have the possibility of exercising decisive influence over another undertaking

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<sup>1</sup>European Commission Consolidated Jurisdictional Notice under Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings.

with equal voting rights or appointment to decision-making bodies, veto rights, joint exercise of voting rights, etc.

The Commission, taking into account the above facts and events concerning this concentration has concluded that this transaction constitutes a concentration within the meaning of section 4 (1) (b) of the Law, since there is a change of control on a permanent basis of the company LICTSLE, from exclusive control by ICTSI Capital BV to joint control by ICTSI Capital BV and CMAT.

Furthermore, based on the information contained in the notification, the Commission found that the criteria set by section 3 (2) (a) of the Law were satisfied and therefore the notified concentration was of major importance under the Law. According to the notification, the aggregate turnover achieved by CMA CGM and the ICTSI Group of Companies for the year 2012, exceeded, in relation to each one of them, 3.417.203 euro. In addition, only CMA CGM engages in commercial activities within the Republic of Cyprus and its aggregate turnover for the year 2012 exceeded 3.417.203 euro.

CMA CGM is active in the containers sector and it provides a full range of activities including shipping, reefer transport, handling facilities and logistics. CMA CGM is also active in «Roll on and - Roll off» (hereinafter «Ro-Ro») services, stevedoring and, to a small extent, in bulk shipment.

CMAT is a port operator and is responsible for the development, design, construction and operation of container terminals.

ICTSI is active in the management, development and operation of marine container terminals and port projects globally.

LICTSLE operates, maintains, manages and repairs the container terminal in Lekki, Nigeria.

The Commission for the purposes of evaluating this concentration considered the relevant product/service market to be: 1) the market for containerized liner shipping, 2) the market for Ro-Ro shipping services, 3) the market for non-containerised shipping (ie

bulk shipments), 4) the market for containerized terminal services and 5) the market for contract logistics services. The geographical market in this case was left open.

In this case, only one of the participating companies is active in the relevant markets within the Republic of Cyprus, namely CMA CGM. Therefore, the concentration does not create any affected markets as determined in Annex I of the Law.

The Commission, on the basis of the factual and legal evidence of the case and having taken into consideration the report prepared by the Service unanimously decided that this concentration does not create or strengthen a dominant position as there is no affected market and therefore the concentration does not raise serious doubts as to its compatibility with the competitive market.

Therefore, the Commission, acting in accordance with section 18 of the Law, unanimously decided not to oppose the notified concentration and declare it as being compatible with the requirements of the competitive market.

Mrs. Loukia Christodoulou  
Chairperson of the Commission for the Protection of Competition