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African countries are moving towards greater cooperation on the enforcement of competition law in cross-border transactions. Member states of the Southern African Development Community have signed a memorandum of understanding which will impact competition policy and implementation thereof in the jurisdictions of each member state.

Introduction

1. On 7 May 2016, member states of the Southern African Development Community (SADC) entered into the Memorandum of Understanding on Inter-Agency Cooperation in Competition Policy, Law and Enforcement (SADC MOU).
2. The purpose of the SADC MOU is to create a framework for cooperation in the enforcement of competition policies and law between competition authorities in the member states. The SADC MOU is pursuant to the Declaration on Regional Cooperation in Competition and Consumer Policies, which was adopted by SADC Heads of State in 2009.
3. Nine SADC member states have signed the SADC MOU. These states are South Africa, Botswana, Tanzania, Mozambique, Malawi, Swaziland, Seychelles, Namibia and Zambia.

Cooperation and benefits

1. Through the SADC MOU, the member states intend to achieve a system where prohibited practices are easily detected and efficiently prosecuted and where cross-border merger control can be efficiently coordinated, creating more certainty as to the process for merger notifications and approvals.
2. The SADC MOU provides for, amongst other things, the sharing of information on cases handled by competition authorities and coordinating the investigation of such cases.
3. In addition, the SADC MOU envisages the harmonisation of rules and procedures for competition matters, with member states undertaking to joint capacity building of competition authorities and joint research activities.

Other memoranda of understanding

1. The SADC MOU is one of a number of other memoranda of understanding entered into between African countries.
2. South Africa and Namibia entered into a memorandum of understanding in 2015. This memorandum of understanding envisages cooperation by (i) exchanging information, (ii) providing assistance in investigations and enforcement proceedings, (iii) jointly working on research, (iv) providing technical assistance, and (v) sharing views on substantive competition policy issues.
3. The Common Market for Eastern and Southern Africa (COMESA) also entered into memoranda of understanding

with Swaziland, Malawi and Seychelles.

Conclusion

African countries are coordinating efforts to combat anticompetitive practices and regulate activities affecting competition in their respective jurisdictions. The SADC MOU is a positive move towards a more uniform approach to enforcement of competition law and policy and, in broader terms, economic development.

Your Key Contacts



Noor Kapdi

Chief Executive Officer -

Africa, Johannesburg

D +27 11 326 6257

noor.kapdi@dentons.com



Minal Ramnath

Partner, Johannesburg

D +27 11 326 6257

M +27 83 949 3384

minal.ramnath@dentons.com