

✉ okoamombasa@gmail.com
🐦 @OkoaMombasa
📘 OkoaMombasa
🌐 okoamombasa.org



12th May 2022

The Managing Director,
Kenya National Shipping Line
ICD Embakasi, Agents Block, 2nd Floor
P.O. Box 59334 – 00100
NAIROBI.
nairobi@knsi.co.ke

The Managing Director,
Kenya National Shipping line
Canon Towers II, 1st Floor
Mbaraki Wing, Moi Avenue
P.O. Box 88206 – 80100
MOMBASA.
md@knsi.co.ke

Permanent Secretary
The National Treasury and Planning
Harambee Avenue, Treasury Building
P.O. Box 30007-00100
NAIROBI
Email: ps@treasury.go.ke

The Solicitor General
Sheria House, Harambee Avenue
P.O. Box 40112-00100
NAIROBI.
communications@ag.go.ke



**RE: REQUEST FOR ACCESS TO INFORMATION – JOINT VENTURE INVOLVING
SAS SHIPPING AGENCIES SERVICES SÀRL, KENYA PORTS AUTHORITY
AND KENYA NATIONAL SHIPPING LINES LIMITED**

Reference is made to the above matter.

My name is Khelef Khalifa, I am a Kenyan citizen and a member of Okoa Mombasa. I write this letter seeking information under Article 35 of the Constitution and the Access to Information Act.

Pursuant to Articles 10 and 35 of the Constitution of Kenya 2010 and Section 5 of the Access to Information Act, kindly provide me with the following information in relation to the above-captioned matter or let me know if the information has been proactively disclosed:—

1. The Application submitted either separately or jointly by Kenya Ports Authority, Kenya National Shipping Line Limited & SAS Shipping Agencies Services Sàrl to COMESA for approval of the Proposed Joint Venture.
2. The Shareholders' Agreement and/or any other Agreement executed by Kenya Ports Authority, Kenya National Shipping Line Limited & SAS Shipping Agencies Services Sàrl to give effect to the aforementioned Joint Venture (*refer to COMESA Notice of Inquiry dated 17th March 2022*).
3. Any Points of Agreement and/or Heads of Terms executed between the Government of Kenya and Kenya National Shipping Line Limited.
4. Any Terminal Operations Agreement relating to Second Container Terminal at the Port executed by Kenya Ports Authority, Kenya National Shipping Line Limited & SAS Shipping Agencies Services Sàrl.
5. Any Slot Charter Agreement executed between Kenya National Shipping Line and Mediterranean Shipping Company MSC and/or SAS Shipping Agencies Services Sàrl.
6. Measures that have been taken to comply with Article 10 of the Constitution of Kenya 2010, particularly the requirement to ensure public participation in which members of the public most affected by this venture have been given an opportunity to provide their views.
7. The Memorandum of Understanding executed between the Ministry of Transport & Infrastructure and Mediterranean Shipping Company MSC to establish framework for revival of Kenya National Shipping Line Limited.

I request that you furnish this information within 21 days. Kindly inform me if there are any fees for printing which I will cater for.

Yours faithfully,



KHELEF KHALIFA.

elbusaidykk@gmail.com

cc: Access to Information Officer
Commission on Administrative Justice (Ombudsman)

#OKOAMOMBASA



COMESA Competition Commission

Kang'ombe House - 5th Floor

P.O. Box 30742

Lilongwe 3, Malawi

Tel: +265 (0)1 772 466/529

+265 (0) 999 970 269

Email: compcom@comesa.int



Common Market for Eastern
and Southern Africa

17th March 2022

CCC Merger Inquiry Notice No. 13 of 2022

Notice of Inquiry into the Joint Venture involving SAS Shipping Agencies Services Sàrl, Kenya Ports Authority and Kenya National Shipping Lines Limited

It is hereby notified in terms of Article 26(6) of the COMESA Competition Regulations (the "**Regulations**") that the COMESA Competition Commission (the "**Commission**"), after receiving a notification in terms of Article 24 of the Regulations regarding a proposed Joint Venture involving SAS Shipping Agencies Services Sàrl ("**SAS**"), Kenya Ports Authority ("**KPA**") and Kenya National Shipping Lines Limited ("**KNSL**") and intends to embark on an inquiry in terms of Article 26 of the Regulations.

The parties have submitted that the Joint Venture concerns the acquisition by SAS, a wholly owned subsidiary of MSC Mediterranean Shipping Company SA ("**MSC**"), of certain shareholders' consent rights in KNSL, currently controlled by KPA which will have the effect of giving joint control of KNSL to MSC and KPA.

The MSC group provides worldwide container transport and ancillary services that combine maritime shipping with rail, river and road freight, as well as terminal services. MSC also provides a limited range of freight forwarding services and marine support services and is also involved in the cruise industry, and in other maritime activities. In the Common Market, MSC provides container liner shipping services, sea freight forwarding services and in-land transportation services but does not manage or own a container terminal. It is active in the following Member States: Djibouti, Egypt, Eswatini, Kenya, Libya, Madagascar, Malawi, Mauritius, Sudan, Tunisia, Uganda, Zambia and Zimbabwe.

KPA is a Kenyan State-owned organisation responsible for the operation and management of all the port terminals in Kenya. KPA currently operates Mombasa Container Terminal 2. KNSL is a subsidiary of KPA and currently offers in-land transportation services and freight forwarding services, which activities are negligible at the moment. In the Common Market, KPA and KNSL are active in Kenya, Rwanda and Uganda.

KNSL will, as part of the Joint Venture, become the new operator of Mombasa Container Terminal 2 at the port of Mombasa in Kenya and commence offering freight forwarding services and container liner shipping services. KPA will continue to operate Mombasa Container Terminal 1, Conventional Cargo Terminal, Shimanzi Oil Terminal and Kipevu

All communication should be addressed to the Director and Chief Executive Officer

Oil Terminal, which are all based in Mombasa, as well as the terminals in Lamu, Malindi, Kilifi, Mtwapa, Kiunga, Shimoni, Funzi and Vanga.

The parties have submitted that the proposed Joint Venture, combined with the on-going expansion projects of Mombasa Container Terminal 2, will help position the port of Mombasa as a strong transshipment hub for liner shipping services in South-East Africa. The parties have further submitted that the proposed Joint Venture aims to contribute to the international growth and expansion of the port of Mombasa and is expected to result in additional investments, growth and employment opportunities in Kenya and in the wider South-East Africa region.

The Commission will, in accordance with the provisions of Article 26 of the Regulations, determine, among other things, whether or not the proposed transaction is likely to substantially prevent or lessen competition within the Common Market and whether the proposed transaction is or would be contrary to the public interest.

In view of this, the Commission hereby gives notice to all interested stakeholders, including competitors, suppliers and customers of the parties to the proposed transaction to submit written representations to the Commission with regard to the subject matter of the proposed inquiry by emailing them to: akamanga@comesa.int. All written representations should be sent to the Commission not later than **23rd March 2022**.

If you wish to seek further details and/or clarifications on any aspect of this proposed transaction or need assistance you may get in touch with **Mr. Ali Kamanga, Senior Analyst, Mergers and Acquisitions** on Tel: +265 (0) 1 772 466 or akamanga@comesa.int.

All written representations submitted to the Commission will be treated with the strictest confidentiality and will only be used for the purpose of this inquiry.