



ECOWAS REGIONAL COMPETITION AUTHORITY

AUTORITÉ RÉGIONALE DE LA CONCURRENCE DE LA CEDEAO

AUTORIDADE REGIONAL DA CONCORRÊNCIA DA CEDEAO

**TRANSCRIPT ERCA INAUGURAL ANNUAL CONFERENCE – DAY 1: OPENING, HIGH-
LEVEL PANEL AND
HARMONISATION OF FRAMEWORKS**

PRESIDENT OF THE ECOWAS COMMISSION – H.E. GENERAL BIRAME DIOP

Your Excellency Mr. Mohammed B.S. Jallow, Vice President of the Republic of the Gambia, honorable ministers, excellencies, ambassadors and heads of diplomatic and council missions, distinguished guests, ladies and gentlemen, it is a great honor to extend at the outset our sincere and warm appreciation to His Excellency Mr. Mohammed B.S. Jallow, Vice President of the Republic of the Gambia for honoring the opening of this conference with his distinguished presence. Your excellency, your presence today is a testimony to the importance you attach to regional integration and to the building of a more integrated, competitive and prosperous ECOWAS community. It also reflects the Gambia's commitment to our regional integration agenda and to the work of the ECOWAS regional competition authority whose headquarters are proudly located here. On behalf of the ECOWAS institutions, I convey our profound gratitude for your continued support and for the warm hospitality extended by the Republic of the Gambia. I also warmly welcome all ministers, ambassadors, representatives of member states, regional and international institutions, national competition authorities, regulators, the private sector, civil society, academia, the judiciary and our distinguished experts and partners. I particularly

acknowledge the participation of our sister regional organizations including WAEMU, COMESA, EAC and CEMAC as well as the AfCFTA Secretariat and our international partners, notably the African Development Bank, UNCTAD, the World Bank, the OECD and the European Union. Your presence demonstrates our shared commitment to building an open, integrated and competitive regional market. Excellencies, ladies and gentlemen, our conference takes place at an important moment for ECOWAS. Despite the challenges facing our region, our commitment to deeper economic integration and to a more resilient, dynamic, and competitive community remains firm. At the same time, our economies are undergoing profound transformation driven by digitalization, changing value chains, e-commerce, digital platforms, and the growing need to strengthen the competitiveness of our enterprises. It is therefore particularly appropriate that this conference is devoted to the theme “Competition Policy and Market Integration in ECOWAS: Issues, Challenges and Opportunities”. Regional integration is not simply about removing barriers to trade. It is also about creating the conditions for markets to function effectively and fairly. An integrated market can deliver its full potential only when economic operators are able to compete on equitable terms. We must therefore not only open our markets but ensure that they remain open and competitive. This is where competition policy assumes its strategic importance. Competition policy promotes efficiency, innovation and investment; protects consumers and creates an environment in which enterprises can grow on the basis of merit, productivity and the quality of their products and services. It is therefore not merely a legal instrument. It is an essential economic policy and a powerful instrument of regional integration. Since the mid 2000s, ECOWAS has progressively established the foundation of a regional competition regime. The adoption of the regional competition policy framework in 2007, followed in 2008 by the community competition rules and the establishment of the regional competition authority represented important milestones in this endeavor. The authority whose headquarters were inaugurated here in The Gambia in 2018, commenced operations in 2019. Since then, important progress has been made in strengthening its legal, institutional and operational framework. Our objective must now be to ensure the effective implementation of this framework across the community. Excellencies, ladies and gentlemen, competition policy must accompany our broad economic transformation. We must produce more, process more, and create greater value within our region. We must strengthen our enterprises, create decent employment and deepen our participation in regional and global value chains. Competitive markets are essential to achieving these goals. This is particularly relevant in strategic sectors such as agriculture, agribusiness, energy, transport and logistics, telecommunications and health. In this regard, I wish to welcome the regional competition authority's intention to launch the active phase of a market investigation into the Cocoa value chain, an important sector for our region and particularly for Côte d'Ivoire and Ghana, two of the world's leading cocoa producers. I encourage the members of the states concerned and all relevant stakeholders to contribute fully to this important exercise. We must also

accelerate the development of regional value chains. West Africa can no longer remain a collection of national markets operating side by side. Our ambition must be to build a genuinely regional market in which production, processing, financing and distribution can take place across borders with fewer artificial obstacles. This requires common rules, stronger institutional cooperation and effective collaboration between the regional competition authority and national authorities. Ladies and gentlemen, the digital economy presents another major frontier for competition policy. Digital platforms, e-commerce, digital financial services, and data driven business models are transforming the way our economies operate. These developments create enormous opportunities but also raise important questions regarding market access, competition, innovation, consumer protection and the exercise of market power. ECOWAS must ensure that our competition framework remains responsive to these emerging realities and that our institutions possess the capacity and expertise necessary to address them. Equally important is the role of small and medium-sized enterprises, which are at the heart of our economies, contributing significantly to employment, innovation and entrepreneurship. Competition policy must help ensure that these enterprises can access markets and compete fairly. Competition should reward merit, efficiency and innovation, not exclusion. Above all, our competition policy must remain focused on the ultimate beneficiary of an integrated regional market, the citizen and the consumer. Competitive markets should provide consumers with fair prices, greater choice, better quality and innovative products and services. Competition policy and consumer protection are therefore closely interconnected, and our efforts must contribute to building confidence in the community market and in the institutions and rules that govern it. Excellencies, ladies and gentlemen, the effective development of a competitive community market is a collective responsibility. It requires strong national institutions, effective cooperation among member states and the regional competition authority and policies and regulations that support rather than restrict competition. It also requires the active engagement of the private sector. We seek a strong, innovative and responsible private sector, one capable of investing, creating jobs, and competing successfully in regional and international markets. Compliance with competition rules should therefore be regarded not simply as an obligation but as an investment in corporate integrity, reputation, sustainability and public trust. As we conclude our deliberations, I hope that this conference will enable us to develop practical policy recommendations, strengthen regional cooperation and establish a lasting platform for knowledge sharing on competition matters. I further hope that this first annual conference will open a new chapter in our regional, continental and international cooperation and reinforce our shared conviction that an integrated ECOWAS must be a competitive ECOWAS and a competitive ECOWAS must be an ECOWAS that serves its peoples. With these words, I wish the conference every success and fruitful deliberation.

I thank you for your kind attention.

VICE PRESIDENT OF THE REPUBLIC OF THE GAMBIA – H.E. MOHAMMED B.S. JALLOW

Commissioners of the ERCA Council, Executive Director of the ECOWAS Regional Competition Authority, heads of national competition authorities, heads of regional economic communities, representative of development partners, excellencies, members of the diplomatic Corps, distinguished leaders of industry and the private sector, distinguished delegates, the press, ladies and gentlemen, all other protocol duly and respectfully observed. On behalf of His Excellency the President of the Republic who was supposed to be here but due to other state issues has asked me to represent him here. It is my honor to welcome you all to Banjul for this historic inaugural conference of the ECOWAS regional competition authority. Your presence here underscores our shared conviction that regional integration and competitive markets are the bedrock of West Africa's economic future. We are indeed proud to host ERCA and to serve as the launch pad for this transformative chapter in regional economic governance. On behalf of the government and the people of the Gambia, I invite you therefore to enjoy the hospitality extended to you and the resources put at your disposal. Besides the formal sessions and discussions, we encourage you to freely explore the beauty and warmth of our dear country and its people. Excellencies, ladies and gentlemen, the theme of this conference – “Competition Policy and Market Integration in ECOWAS: Issues, Challenges and Opportunities” – captures one of the most pressing economic priorities currently facing West Africa. As our region accelerates efforts towards seamless trade and economic alignment, establishing a balanced competitive framework is essential to address market barriers, overcome cross border challenges, and unlock new opportunities for regional growth. To build a truly prosperous region, our markets must remain open, fair, and competitive. Sound competition policies protect citizens from unfair pricing, create a stable environment for local enterprise and attract durable foreign investment. Importantly also by dismantling unfair practices, appropriate competition enforcement measures serve as a vital shield for our most vulnerable citizens and they safeguard the purchasing power of families, women in our local markets and young entrepreneurs seeking a fair chance to succeed. A sound economic policy is paramount for both individual member states and the broader ERCA region. Domestically, effective competition policy shields consumers from unfair pricing, creates a predictable environment for local enterprise and attracts durable foreign direct investment. Regionally, it ensures that market integration yields genuine economic opportunities rather than cross border monopolies and anti-competitive cartels. Let me reiterate that by dismantling unfair practices, we will be better positioned to effectively safeguard the daily purchasing power of our citizens, particularly low-income families, women, and young people seeking opportunities to thrive. To succeed in this endeavor, strong, independent and well-resourced institutions are essential. As a result, the Gambia places the highest priority on fair market governance. Through The Gambia Competition

and Consumer Protection Commission, we continue to build a transparent and predictable business environment to ensure our domestic framework aligns seamlessly with regional standards. My government is advancing key legislative reforms, notably the competition and consumer protection bill of 2026. Furthermore, our landmark merger regulations is expected to come into force this year, equipping the GCCPC with modern tools to prevent market distortion. As the host nation of this momentous event, I reaffirm the Gambia government's firm commitment to fulfilling all our obligations to the ECOWAS Regional Competition Authority. Similarly, to ensure that ERCA effectively executes its regional mandate, we are dedicated to providing the necessary administrative facilities and operational support. In line with this commitment, my government has formally allocated a parcel of land dedicated to constructing the permanent ERCA headquarters. In this regard, [applause]

In this regard, I call upon the ERCA Commission and our esteemed international development partners to collaborate with us and support the funding and construction of this vital regional institution. I must also emphasize that cross-border and anti-competitive practices cannot be tackled exclusively by any single nation. The ECOWAS authority's success will depend on close collaboration with national authorities unified information sharing and sustained political commitment across all member states. I urge that your discussions on critical sectors such as transport, telecommunication, energy, agriculture, and the digital economy translate into practical action. The citizens of West Africa expect tangible outcomes that include but are not limited to lower costs of living, expanded opportunities for small and medium-sized enterprises, and robust regional trade. Let this inaugural conference mark the beginning of a regional commitment to fair competition and shared prosperity. Excellencies, ladies and gentlemen, with these pointers, it is now my singular honor and privilege to declare the ECOWAS Regional Competition Authority Inaugural Conference officially open. I wish you fruitful deliberations and pray that the Almighty Allah continue to bless our efforts and guide us all. I thank you for your kind attention.

Thank you, your excellency.

At this juncture, I would like to appreciate the efforts of everybody that puts these morning ceremonies together in such a professional manner

and thank the team for the diligence. Work began in this plenary hall as early as Saturday. By Sunday, the director was in letting any of us breed [words unclear] to make sure these ceremonies will go according to plan. So, council members, distinguished guests, ladies

and gentlemen, I hope the opening ceremony was worth every minute of it because a lot of work had gone into it. And your excellencies, we will like to crave your indulgence to accompany us outside for a group photo. So council members, invited guests, dignitaries, if you can also join us through the group photo. Please if you can ask our colleagues to come back inside so we can get started.

Ladies and gentlemen, good morning. We are coming back. We are behind time. The next session should take about 40 minutes. As it is now, we are about an hour behind schedule. So, we'll appreciate for us to settle down quickly and get started with this panel.

in the interim. Yeah. One, two. I would like to invite members of the panel and then end with the introduction of the moderator for the next 40 minutes. And therefore it gives me great pleasure to invite Mr. Dehpue Zuo, Commissioner for Economic Affairs and Agriculture, ECOWAS Commission.

Mr. Commissioner, if you are around – we would like to invite you to the high table. Ah, he's already here. I like practical people. Thank you.

The next panelist is the Honorable Minister Mod K. Ceesay, Minister for Trade, Industry, Regional Integration and Employment of The Gambia. Honorable Ceesay,

Hon. Mod K. Ceesay, Minister for Trade.

I am sure if some of the protocol can assist us, he may be in the holding room at the back. So we'll invite him.

Professor Eleanor Fox, Professor Emerita at New York University School of Law.

That would be online. I'm not sure – do we have her online already? If yes, can we have her say a word? So we are sure she's with us.

Yes. Hello. Thank you.

Professor, can you hear us? Yes, I can. Can you hear me? I see your lip move, but we don't hear you. Could you bring her to the speakers. Let us be sure she's with us this morning.

Professor, can you hear us? Yes, I can. Can you hear me? We hear you now loud and clear. Wonderful. Thank you. Thank you. Thank you very much. The Honorable Minister – by the way, for the next 40 minutes we have the pleasure to introduce the moderator for this high-level panel: an international legal and regulatory expert with more than 30 years of experience in law, resources and governance; a council member providing strategic leadership in advancing competition; also a board chair of the Center for Extractives and Development Africa; industry partner, professor of competition law and development, King's College [institution unclear in audio]; and a Ghanaian diplomat – Madame Juliette Twumasi-Anokye. Thank you so much.

Honorable Minister, Excellencies. The conversation starts first with the representative of the Ministry of Trade. All delegates – my Honorable Minister extends his sincere apologies.

What is preventing companies from benefiting from the advantages of ECOWAS?

Yes, I think the good thing is that we have, and I think that regional cooperation – with non-tariff barriers that exist.

Some issues exist on points of control between our countries, with several controls with issues on logistics and transit for companies,

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This is where the conversation should go. There should be no barrier. They should be going across the border without any hindrance. That is our focus. And the presidential mandate now under the ETLS – you know, the ECOWAS Trade Liberalisation Scheme – is to ensure that all member state are given the opportunity for certification and all license of all product from member state can cross the border without any hindrance. Besides that we should also look at the legitimacy and also the legal objective of what we do prior to coming here or talking with the legal department. Are we looking more at the law and its application? How useful can that be? Can all the citizens of ECOWAS member states feel comfortable with our competition law? Do they feel comfortable with our industrial law? How confident are they going to be on the market where they to go? And there will always be the debate. Sometimes some of them don't have the market power. How do

they have market power? How do they get share in the market? Should we open it or should we build their capacity? And on this note most important thing that there is that we need to see how best to remove barriers for the private sector. Governance is very much key. Transparency is very key. What is good for us here as member state is to see how the private actors feel comfortable in our governance diagnostic that we do. How do they feel comfortable in terms of investment and that itself then we identify a barrier there where the commission comes in to ensure that each member state is applying our protocol. Second thing will be that should we look at competition more as a deliberate a term or should we develop a value chain to see that look we are not going to be protecting individual but there should be a link between production from raw material to finished product and we state how can we complement each other in ECOWAS member states that means that we should be more ambitious As ECOWAS member states, we should seek regional production systems. And last week we asked our private sector guy and asked him and say look what is a homogeneous product you have here in the agriculture sector that ECOWAS can invest in for member states – rice, cassava, yam what do we do these are the practical solution we need to find what's the market for rice in the equal member state what's a market for cassava? Will we look at intra-regional trade? How can we really build up on that? How do we apply this in our industrial policy and how can this be applicable in our competition law and policy as well? These are things that we need to be looking at carefully. Competition policy should contribute and address key issues that protect but at the same time build the resilient and build the market that we need in the sub region. There should be no discrimination on products that are coming from any country. At certain point in time we realize as African continent we're receiving a lot of product from other African from China from Korea the rest of it but can we try the same thing in here in our sub region this is where we need to focus our strength. The third reason here, another point we'll be looking at is that we should, make it part of our industrial policy. Should we look at industrial policy to make it more direct and strategic? That means to achieve economy of scale and say let's look at the full industry which is very much key. How do we prepare ourself for that? even the pharmaceutical how are we addressing this issue to ensure that we have a stronger region that a stronger barrier but our moderator we have 10 minutes so the last point I want to also stress here is that our competition should also be a part of our investment policy in every country as one of the negotiators for my country before coming to ECOWAS – this is the first point I stress: local content there's any negotiation, let's look at the local content. It's important that we can look at what can we do if there's any production, any investment in the market, take into consideration what will be needed most by the population, by the people. So we are here as commissioner to make sure that our objective are achieved that we have a one market, one currency and one goal and a happy people in ECOWAS. Thank you.

Thank you so much commissioner. I'm sure my colleagues and council will agree with me that we look forward to working with you on some of these issues to ensure that they are established.

we will now move very swiftly to Professor Eleanor Fox, who is online. our time is nearly far spent. but it would be great to hear her perspectives because she is sitting outside our region and perhaps would be able to give us a very objective view as to where we are going whether we are going on the right direction or not. So, Professor Eleanor Fox, good morning to you – if we can start with your question one, which is drawing from your experience what are some of the anti-competitive conduct trade barriers especially in developing countries that hinder regional integration efforts that we should be aware of, and how can we address such.

Thank you very very much Dr. Koffi, Dr. Juliet, thank you. Very distinguished panelists. I'm so happy to be able to follow on from you. The whole project that we are here for today is so important, so important to your country, so important to ECOWAS, so important to Africa because really if it is successfully done, there should be one common market. I mean first your common market in ECOWAS but ECOWAS is one of the important pillars for the AfCFTA and a big voice for Africa on the map in the competition and trade policy and economic policy area which means lower prices and better opportunities for you. So, what are the most important anti-competitive conducts and trade barriers that you should be looking at? And there are so many – there's low-hanging fruit right now that obstructs business from going across borders and from operating as one single market. And my advice is this. I'm going to give you three points, one, because this is really how to do it – how to identify what you want to go after and how to do it. The first is for the competition authority to scan the horizon and identify what is keeping your firms back and confined to boundaries that should not be there for an open free market. it can be and of course in competition area the biggest one you will think of is there will be cross-border cartels. There are many other obstructions. There are monopolistic obstructions. There are many areas that relate to and competition law can be a big part, but only a part – corruption, bid rigging, and corruption in procurement. Why is it so important to scan the horizon? It's because that is the way you will pick up the most serious obstructions. And in the first instance, you might not know whether that's a good competition problem, whether it's a good trade problem or whether it is in a gap that has to be covered. And then all right, number two. This leads me to number two. After you have done this and you're aware of the biggest obstructions, consider how to take them out of the way. And there will be some, as I just said, some cases where you know, oh, it is a cartel. I think it's a cartel. I think it's a cross-border cartel. And you will know what to zoom in on. there will be others that are tougher to attack. They might be initially thought of as trade barriers

and this was brought out today. Of course there are non-tariff trade barriers that are very severe and also brought out today. Many relate to standards. Many relate to standards that are set by the biggest businesses and the monopoly businesses that are really not good for the country or the market but good for that company. And some of them arise in the context of trade associations which is another flag to look into. So you consider what are the obstructions you consider in this number two how to get at them and how to get at them requires a deep integration between your competition arm and your trade arm and your internal market arm both within your countries and within ECOWAS, because the obstruction might be more trade or free movement or more competition and You want to be able to capture what I call these hybrid restraints, often lobbied for by the big firms incumbent firms that want protection. And number three, um, collaboration, which we'll come to more later, but collaboration and joint action, after identifying what you want to do, is one of the most important areas and opportunities to think about. So you want to collaborate. ECOWAS wants to collaborate and help the collaboration within the ECOWAS nations. ECOWAS also wants to collaborate with the other regionals and always in the back of your mind building up the pillars for a very strong AfCFTA. Thanks Juliet.

Thank you. Thank you so much for those three pointers. I will move very swiftly on to your second question. From where you sit and with your experience with a lot of other regions and developing regimes of competition policy, what are the lessons that we can learn from other regional or developing market contexts that are particularly relevant to our region? ECOWAS's challenge of combining competition with economic integration and development. Madame moderator, we're out of time – but we'll give you five minutes. Yes, please. Yes, please. Thank you. Oh, so Dr. Juliet, may I answer both this question and the last together because I only have a couple of minutes? I'll wind them up together. Um, so lessons from other regions and also further on joint actions if I may. So other regions you definitely want to look at EU because it is the best model that actually integrates the trade internal market and competition. COMESA obviously you want to look at COMESA who is making great strides. You want to take lessons from UNCTAD which is doing a and has done under Theresa Morera a lot of work on showing the room for collaboration ground up ground up sharing evidence further up sharing cases. you want also to work on the work of the AFC the African comp ACF African competition forum. You want also to be in touch with research institutes like like CRED in Johannesburg and Shamba who are trying to put together the ways in which cooperation and with cooperation only with cooperation can you catch some restraints that seem to be hidden but are impacting disproportionately developing countries and African countries and just let me make a couple of concluding remarks on joint actions and here four points on a continuum. you want to collaborate roots up and by that it means even getting deep into the soil because there are many restraints and we're noting them as Shamba and Cred have done in

agriculture in particular there are some prices are too high people are dying for lack of food but there's enough food why are prices too high why are the industries governed by a few huge huge firms, they keep having joint ventures, they keep getting approved. so root that's roots up collaboration. Number two, when you know when you have some information say of a real cartel and you want to go forward, think jointly go to bring that cases together with your neighbors. A lot has been done for Kenya, Mauritius, South Africa. you can look at their models for taking joint investigations, joint market studies, joint investigations and even possibly joint or at least parallel actions. so number three both advocacy and a strong voice join together in having a voice that will elucidate elucidate international restraints like mega mergers that are desperately hurting developing countries and western world not caring about it. you need an African face to make the case that these mergers should not happen. And number four, just putting my toe in the water of AI and digital markets. there's a huge problem now that the AI models are being fed only almost only by the western data and I know Africa and centers in Africa are thinking about this having a common database that works ground up from African data will be hugely important in the world going forward and helping you with all of the issues like access opportunity based on data that is relevant to you. Thank you. Thank you so much Professor Eleanor Fox in New York. Apologies for waking you up this morning. That is all our time will allow us. but ladies and gentlemen, I believe the conversations will carry on. So thank you so much for your time. Mr. MC, thank you for bearing with us. this our timetable has really gone array this morning. So apologies for that. So ladies and gentlemen, join me in saying thank you to our esteemed panelist to our own very commissioner from ECOWAS and our chief director representing the minister. Gentlemen, thank you so much for your time and professor Eleanor Fox. Thank you so much for your time this morning.

thank you very much. a round of applause for the first high-level panel, which has been done very well. The next panel, we would appreciate it if the panel could run for half an hour. We would do a hard stop after 40 minutes. Um, that way we can go to lunch and then we will be on time. So, we'll cheat on lunch a little bit so that we don't get to stay too late. We'll want you to leave early enough to experience the rest of the Gambia and enjoy the rest of the evening. So you'll assist us in trying to catch up with time. thank you very much Dr. Juliet. Great presentation and moderation. Our next moderator is an economist competition expert at OECD's competition division. He is responsible for Africa and the Middle East leading projects on wide range of competition law and policy issues including peer reviews, market studies and competition assessments at the OECD. He has held different positions since 2007. first at the private sector development division and investment division where he co-authored a number of investment policy reviews in Africa, the Middle East and Southeast Asia. He also served as senior advisor to MENA at the office of the secretary general and later as senior advisor at the country studies

branch of the economics department where he co-authored several economic surveys. also served as economic advisor to the prime minister of Tunisia from 2014 to 2016. He holds a diploma in economics from the University of Stuttgart, Germany, and a master's in business sciences from the Normandy Business School, France. Ladies and gentlemen, Mr. Saïd Kechida,

I hope I got your name right. Good. So now I can help you introduce your panel or you can go right ahead to do that. I can hand over to you right away. I go ahead invite the rest of your panel. therefore it gives us good pleasure to also invite Dr. Troy Waterman, Executive Director of the CARICOM Competition Commission. Dr. Troy Waterman

Dr. Willard Mwemba, CEO of the CCCC. Very interesting.

I hope – Dr. Mwemba – I got your name right. I tried. So it should have been – the W should have it, it's not silent. Okay, I got it. Next, Mr. Malik Jalo [Malick Diallo], AfCFTA Secretariat, Head of Competition Division. I can say his name with confidence. I am sure Jallo is Jallo.

Mr. Sudesh Puran, Head of Investigation of the Competition Commission of Mauritius. Beautiful country, Mauritius.

I hope I said your name right – Puran. Okay, Mr. H...? I want to say – yes – I want to say Yves Kenfack, competition expert and head of investigation. Oh, competition expert on

Yves Kenfack. Yves Kenfack. Okay. Yves Kenfack. Okay, there's your panel. I will allow you. I know there is a keynote address in between. I think you want to do the honors of introducing that or you want me to go ahead with the keynote as well. Okay. we will do that quickly.

An economist and statistician and specialist in regional integration policies. Boasting over 20 years of experience supporting economic integration in West Africa, he possesses expertise in competition policy, public policy, market analysis, regional economic governance, and institutional development. Since 2021, he has served as the Executive Director of the ECOWAS Regional Competition Authority, a specialized agency of the ECOWAS Commission based in Banjul, the Gambia. In his capacity, he oversees

the implementation of the community competition rules and regional consumer protection mechanisms, having previously contributed to the development of the ECOWAS regional competition regulatory framework and the operationalization of ERCA. Prior to joining ERCA, Dr. Koffi spent nearly 13 years at the ECOWAS Commission in Abuja as head of the research and development division. He also held the position of deputy director in charge of research statistics at the Central Bank of West African States where he contributed to monetary policy analysis macroeconomic convergence studies and the monitoring of subregional economic stability. His career additionally includes academic roles as a researcher and lecturer notably at the University of Abidjan, the National Higher School of Statistics and Applied Economics in Abidjan and the Ivorian Center for Economic and Social Research. Ladies and gentlemen, our keynote speaker, Dr. Simeon Konan Koffi.

Thank you very much our moderator.

DR. SIMEON KONAN KOFFI:

Thank you, fellow panelists, distinguished participant colleagues, excellencies, you are welcome. I think the President of the Commission already expressed, on behalf of ECOWAS, his appreciation for your presence. I just want to add on my own warm welcome and sincerely thank you for joining us at this inaugural conference. The theme of this panel – strengthening cross-border enforcement mechanisms – could not be more timely, as ECOWAS continues to strengthen its regional framework for competition policy and enforcement. The issue is more relevant today as our economies become more and more interconnected. Our markets are becoming increasingly regional, and businesses activities are moving beyond national borders. Regional integration organization such as ECOWAS are designed to complement the effort of member states addressing challenges that extend beyond national jurisdictions and to foster greater regional cooperation and integration. The reality raises an important question. How does the globalization of markets challenge enforcement systems that remain largely organized along territorial lines? If markets are becoming regional, can competition enforcement remain predominantly national? My answer to this question is clearly it cannot. The geographic scope of competition enforcement must increasingly correspond to the geographic scope of the markets in which businesses operate. So, during this intervention I am going to address key issues. The first one is: why does cross-border competition enforcement matter? The reason is that markets are no longer confined by national borders across the ECOWAS region. Businesses operate in several member states. They participate in regional supply chains, transport goods through regional corridors, provide services across borders and make investment decisions based not only on national markets but on the wider regional market. Also the digital economy has accelerated this transformation. A company can provide services to consumers in

several countries without establishing a traditional physical presence in each of them. Digital platforms can operate across jurisdictions. Cloud infrastructure can store information in other countries, and businesses' decisions can have effects in several markets at the same time. In ECOWAS this development is reinforced by regional integration agenda. Regional integration seeks to create greater market access. Stronger market connectivity and greater market contestability. Market access means that businesses should be able to enter and trade across the region. Market connectivity means that customs, transport, payment, standards and regulatory systems should work together across borders. And market contestability means that when businesses enter a market, they should have a fair opportunity to compete]. But there is an important principle you must recognize. An integrated market cannot function effectively when anti-competitive conduct crosses national borders but enforcement remains confined to national jurisdiction. If businesses can operate across borders, cartels can also operate across borders. If companies can establish regional distribution networks, exclusionary conduct can also operate across that network. Therefore, markets transcend national borders and anti-competitive conduct can transcend borders as well. So the cross-border enforcement issue that I want to highlight is that the issue before us is not simply whether countries should cooperate. The fundamental question is how you ensure that our enforcement systems are capable of dealing effectively with conduct whose economic effects extend beyond national borders

There is another dimension that is equally important. Evidence itself is becoming cross border. Relevant evidence may be held by an undertaking in other countries. It may be stored electronically or in cloud infrastructures. It may be generated through digital platform. It may also be distributed across several jurisdictions. This means that even where a national competition authority identifies potential anti-competitive conduct, the authority may not have direct access to all the evidence required to establish the case. The question that we ask ourselves is: how do you move from identifying a cross-border competition problem to effectively investigating and remedying it and the central challenge of cross-border enforcement is now relevant. These challenges are compounded by legal differences. Different jurisdictions may have different rules governing evidence, confidentiality, investigative power, due process and sanction. There are also institutional differences. Authorities do not all have the same level of resources, expertise, investigative capacity or economic analysis capabilities. And finally, there are operational challenges. Cross-border investigation can be expensive, technically complex and time consuming. So I want to make one point very clear. These challenges should inform the design of our cooperation mechanism. These should not become a justification for fragmented enforcement. Fragmentation creates opportunity for anti-competitive conduct to escape effective control. If businesses operate regionally while enforcement remain isolated nationally, there is a risk of what we might call an enforcement gap. Our task therefore is to close that gap and I think there is a statement

on this issue in the program. What should cross-border cooperation achieve in that case? What should effective cross-border cooperation look like? It should be much more than simply exchanging information. Effective cooperation should enable authorities to detect, investigate, coordinate, enforce, remedy and protect. Detect: you should identify clearly conduct with cross-border effects at an early stage. Investigation means obtaining and analyzing evidence that may be located in different jurisdictions and coordinate. You should avoid unnecessary duplication of investigation and equally importantly avoid contradictory approaches by different authorities dealing with the same conduct. and enforcement – cooperation should ultimately enable effective action against anti-competitive conduct affecting regional market. They should also be able to coordinate remedies. remedies that address a problem in one national market may not be sufficient if the anti-competitive conduct continues to affect neighboring markets. And finally, you must protect.

The ultimate objective is not cooperation for its own sake. The objective is to ensure that businesses and consumers genuinely benefit from regional integration. Competition enforcement might contribute to markets that are open, fair, competitive and capable of delivering better outcomes for consumers. Who must cooperate? Who are the stakeholders that are called for cooperation? The first category is naturally the competition authorities. At the regional level, you have ERCA, which has an important role to play. At the national level, you have of course the national competition authority and other relevant national institutions bring together the capacity for this collaboration. So our cooperation is directly connected to competition investigations, merger control, abuse of dominance, restrictive agreements, consumer protection, market studies, capacity building and implementation of regional competition rules. But competition authorities cannot do this alone. This brings me to the second category: the other institutions and regulators that create, regulate and control the markets in which competition takes place. These institutions are essential to effective competition enforcement because competition does not take place in a vacuum. This includes – and during the Commission and the Minister statements they mentioned some of the institutions that are very relevant to ensure complete enforcement of competition rules. You have trade, customs, border management – where weak procedures can affect market entry. You have infrastructure – transport, energy – that can also affect market access. You have also telecommunication and digital economy. Digital infrastructure can shape competition in new markets. You have investment, standards and conformity assessment, and of course consumer protection and all the payment systems. All these infrastructures and regulators in charge of the management have a key role to play in competition enforcement. So you must therefore develop a clear institutional map for cross-border cooperation at the regional level. The regional competition authority provides the regional competition dimension. The national authorities provide domestic enforcement and knowledge of local markets. Our cooperation must also take account,

in our region, of the competition directorate – of course, the AfCFTA Secretariat – all the other regulators. So Mr. moderator, one of the few elements that I want to highlight is that the national competition authorities and all the institutions involved, in the capacity to monitor the various sectors under their responsibility, must create one system with shared responsibilities. This brings me to an important principle: one system and shared responsibility, because we should see ourselves as a complementary component of an integrated enforcement system. ERCA shall provide the regional dimension in collaboration with all the other institutions. I can conclude by saying that operationalizing cross-border cooperation has to look at various dimensions. You must move from simply information exchange to coordinated enforcement. Communication is important: information sharing, technical assistance, parallel investigative planning and of course coordinated enforcement – and this should lead to coordinated remedies and outcomes. Ladies and gentlemen, if you have a takeaway, I can say that ultimately, strengthening cross-border enforcement is not only about law, regulations, procedures and institutional structures – it is also building a culture of cooperation. We need competition authorities that are willing to communicate early. We need institutions that understand that information shared appropriately can strengthen rather than weaken enforcement. And also, we need authorities that recognize that the success of one institution can contribute to the success of the entire regional competition system and we need to develop confidence among our institutions that cooperation can be managed while respecting confidentiality, due process and national legal frameworks. So, I think that strong national enforcement is the foundation of strong regional enforcement. Thank you very much Mr. Moderator for giving me the opportunity to introduce this important panel. Thank you.

Thank you. Thank you very much Dr. Simeon for this presentation and for setting the scene so eloquently. Many thanks for that. Maybe – first, a question to the Master of Ceremony. Am I right in considering that the 30 minutes you mentioned are starting now.

The director overused our time a little bit. So we will reset the clock to you for 30 minutes starting now. Thank you very much. That's good to know. Many thanks for that. So, um, welcome everyone. It's a pleasure to be here., and, um, as Dr. Simeon has rightly pointed, collaboration between competition authorities from different countries to investigate, prevent and remedy anti-competitive conduct that affects more than one jurisdiction is becoming more important than ever. As markets become increasingly globalized, digitalized, cartels, mergers, abuses of dominance, and monopolistic practices frequently produce effects across national borders, making cooperation essential. Now, competition authorities face several challenges when dealing with cross-border cases. Evidence may be located in multiple jurisdictions. Companies involved often operate

internationally. The same contact may affect consumers and businesses in several countries. Divergent investigations can lead to inconsistent outcomes or conflicting remedies. Therefore, cooperation helps authorities improve efficiency, avoid duplication, reduce enforcement gaps, and ensure more coherent outcomes. Now, to help us understand how this works in practice, I am pleased to welcome our five distinguished speakers who will share with us their diverse and rich experience in their respective roles, different perspectives. So we have with us the national perspective, which will be provided by Sudesh. We have the first regional perspective from the continent, which will be provided by Dr. Willard. We have also another regional perspective but from overseas which will be provided by Dr. Troy. Then we have the continental perspective, here in Africa, through Malik; and then we also have the international perspective, which will be provided by Eve. So I would start first with the national perspective and I will ask Sudesh – as a member of COMESA – and, from your experience, how has cross-border cooperation between the Competition Commission of Mauritius and the COMESA Competition and Consumer Commission occurred in practice and what are some of the main challenges that you encountered? thank you, Saïd, for this opportunity and privilege to go first. Thank you, ECOWAS, for the invitation and The Gambia for the hospitality. So, I think for Mauritius we were very privileged, because we started our competition law enforcement before COMESA became operational. So we started in November 2009 and we were a privileged partner of COMESA in creating awareness about the law and in contributing to its promulgation, back in 2015 – 2013, if I'm not mistaken. So we had this privileged relationship of working with COMESA, through which we have cooperated on several fronts. First advocacy awareness taking on board all the stakeholders. I think that is very important that is fundamental in competition law enforcement. So we worked extensively with COMESA in reaching businesses, lawyers, judges, press and all the stakeholders so that we could get the buy-in when the COMESA rules came in and were enforced and we had some experience and that was very important because later some of our staff would work at the COMESA Competition Commission as well. so that was another part of advocacy and awareness and then when it comes to enforcement prior to formalizing our MOU with COMESA in 2017, we started to exchange information to work on cases to provide our insight. I think we worked on more than 300 cases – merger reviews. At the time it was merger reviews, but then we moved from merger reviews to agreements, and also joint market studies or joint studies in which we fitted in. I think that was very important from our perspective. I think I recall Professor Fox just saying that it should be more than enforcement. Enforcement should be broad and it should be more in terms of joint studies policies. so we contributed a lot in terms of enforcement, and then we also contributed in terms of building the capacity of our other COMESA member states. So I think our privileged relationship with COMESA was in terms of partnering the promulgation of the law, building capacity – our own capacity and the capacity of our peers – creating awareness and advocacy, and conducting market studies. And, as you highlighted, that provided us with great opportunities because our law how it is crafted

there are some limits – like, you know, we don't have... merger notification, I mean, is not compulsory. So but whereas COMESA can capture that. So we have more visibility in terms of transactions that are happening at cross-border level, at regional level and that can influence our country and also when COMESA looks at some issues, the regional perspective provides us greater insight in terms of what could be the potential competition issues and that was the case with the paint case – there were several cases. And I think what is very important also to highlight that within that framework we have a system of referral, whereby we can request COMESA to refer matters that can substantially have material influence in terms of competition in our domestic market so that we can go and do a deeper analysis because of our knowledge of the local market. So I think these are opportunities on which we tap in – and obviously there are some challenges. And I think Dr. Koffi highlighted those challenges when it comes to evidence gathering, when it comes to confidentiality, when it comes to territorial issues with gathering and transferring information, when it comes to exercising powers on behalf of COMESA, when you're gathering information and you don't have those powers to gather information – that becomes very important. I'm not going to bring in the issues of domestication and things like that because that has an impact but the thing is evidence gathering and transferring for confidentiality purposes – that's become very, very difficult and I think nowadays the challenge is about where the information lies. Most of the companies – they might be having a physical operation in the country, but the information is not there. So when it comes to assessment of evidence for cases, we are often faced with a challenge of where to find the information, and how our law can enable us to request that information. And we got several issues like that. And in some cases what we do – we say, COMESA, perhaps, they have a more regional presence and they can deal with those international players – right? That was the case with if I'm not mistaken – right? Correct me, my big brother. So far so good so I think I'm not encroaching on others time I think we have a time limit I perhaps stop here or you want me to emphasize a bit more on that 's that's fine yeah no thank you very much. Thank you for this Sudesh. I think you touched upon a very important issues and very concrete issues in terms of challenges and I would like to ask Dr. Willard since this is the normal transition from the national to the regional COMESA perspective. Um, and by the way, congratulations on the adoption of your new regulation earlier this year and on earning the fourth C, which makes you now responsible for Yeah. Right. The three triple C. Exactly. So, from your experience, dealing and coordinating competition enforcement across jurisdictions with different levels of capacities and Sudesh just mentioned how the CCC also helped in terms of providing some capacity-building support, etc., to some of the member states. What has your experience taught you about dealing with these complexities? No – thank you so much, Saïd. Mr. Moderator – and let me thank Dr. Simeon Koffi, who is not just a colleague but a very good, dear brother – for inviting me to this very important conference, the inaugural conference at ERCA. We affirm our continued support to this cause in West Africa. Now say there are challenges to everything on this planet and I think if there were no challenges

life would be very boring and we would have nothing to do. So we need to have those challenges so that we think and find solutions. So yes, the first point is that it's not a straightforward issue to deal with different countries and to converge them into one system. A lot of things have to be made very deliberate to achieve that goal and it's not easy because even at national level – before we became COMESA, or before we became ECOWAS, Dr. Koffi – we came from some countries and we can confirm that even at national level some of these things are not straightforward okay so I start from that premise however, from a COMESA perspective, what has worked – the most important thing, very fundamental – is to have a very clear legal framework, a very clear legal framework that puts in place systems, and who should do what and when. Once we have those clear legal frameworks in terms of what the regional authority should do and what the national authority should do – that is the beginning of convergence already, and elimination of potential conflict between the two. First of all, the regional authority should make it very clear that it does not come to usurp the jurisdiction of national authorities – because sovereignty is a very emotional matter and very close to people's hearts, all of us. So the moment people begin to think that we are going there to usurp their jurisdiction and compromise their sovereignty, it becomes an issue. It has to be made very clear that in fact the issues that we are talking about at regional level through this legal framework is that these are issues that you cannot effectively handle at national level and if you can't effectively handle them at national level the effects are likely to be negative on your country. That's number one. Number two, there should be clear commitment from the countries involved. That becomes very important, and I think Dr. Koffi also mentioned it. There can never be effective regional – there can never be effective continental – competition enforcement without the commitment of member states. And then how do we then ensure that we buy in the commitment from these member states? The important thing and it's a chicken and egg, right? But the important thing is to demonstrate to these countries the benefits that arise from such a system. Why are they participating in this system? What benefits are there in that system? What are the trade-offs? Once that is made very clear and the countries commit to be part of that, it is a step in the right direction. And by commitment, what do I mean? I mean countries beginning to put in legal and institutional frameworks at national level to support competition law. Not just at country level but also at regional level. countries beginning to put in policies and sometimes even changing their laws like in our case we've had Uganda, Eswatini, Zambia, Malawi as some of the countries that have even enacted express provisions in their national laws as a demonstration of the support of the regional system that becomes very important. At regional level, ourselves, we need to have in place appropriate tools such as guidelines, practice notes, manuals and procedures that make it very clear on our mandate and how we implement that mandate because the absence of this brings in uncertainty – and where there's uncertainty, there's dysfunction. So it is very very important and the last thing among the four issues that I'm talking about here would be structured collaboration and cooperation and I think Sudesh has said that very

well. In fact, Sudesh, when you were making your presentation I was very worried because I was saying, will I have anything else to say? He said everything well, but structured collaboration and cooperation is very, very important. I think one of the vice presidents in the morning did state that there's no single country that can do it alone. Not in Africa, not on the planet. We need to have cooperation. We need to have collaboration. In the cooperative arrangements in our case in COMESA what worked well number one was to identify countries that were – I want to use a very good word, so that I'm not quoted – but countries that were very new in competition law enforcement and those countries that had much more experience and in the process we assisted to pull up, to push up – to lift up, I think that's better – to lift up those that were behind so that they also catch up because that is important for us. And what am I saying here? Saïd, in conclusion on this matter, what I'm saying here is that in our experience we think regional competition enforcement succeeds where different institutional capacities are recognized and managed through cooperation. And the objective here – and that is very important –. You should not wait until everyone is at the same stage. The objective here is not uniformity. The objective here is not to have identical and equal institutional frameworks and capacities. The objective is to create a system where all these authorities work together in an effective enforcement network. Thank you. Thank you very much for these insights, Dr. Mwemba. So it's about a clear framework, commitment, tools and structured collaboration. Absolutely. So now, moving to a different region – moving to the Triple C, the CARICOM Competition Commission. The commission has been operating for almost two decades. So, from your experience, Dr. Troy, how has cross-border cooperation in the enforcement of competition law occurred in practice? Well, thank you, Saïd, for the question and I'd like to join my colleagues in thanking ERCA as well as Dr. Koffi in particular for the invitation and for the warm hospitality. Now, but in order for me to answer, I have to provide a little bit of a background really in terms of CARICOM and the CCC. Now, CARICOM comprises 15 member states across the Caribbean and the CARICOM competition commission is responsible for crossborder enforcement of competition law. Now, here's the interesting factoid: of the 15 member states, only four so far have had competition enforcement or competition policy through a national competition authority in place. So it means then that we have 11 member states that really are out to sea now and it also means that the CCC's job is even made a little bit more difficult, because although we have a mandate to enforce cross-border competition from a cross-border perspective, we can only do that across four member states. so it means also then that we have to do a little bit more, really, in terms of advocacy. I should say also that, in addition to competition, we are advocates for consumer protection. But what 's created some some interesting issues with regards to enforcement of competition across CARICOM is the fact that we've now been asked to consider or contemplate the feasibility of the CCC acting as a national authority as well. So we have two mandates now that we potentially would have that being a regional enforcement authority and potentially a national authority as well. So you necessarily

have to have the necessary parameters in place to allow that to happen. But where enforcement then becomes a little bit tricky, for the most part, is that we have to look at it now from three perspectives: functional, operational and technical. Functional in terms of the legislation that's in place. We only have four member states that do have competition laws and active competition laws albeit with different elements to it whereby the CCC might not necessarily be recognized by the national authorities. Right? So we still have to manage expectations, manage relationships where that's concerned, in terms of operational elements. Now, it comes to the point where procedures become important, and what you said with regards to COMESA is very important – they're very applicable really with regards to how we enforce as well. but then we have to do – and we recognize that there's still a lot more that we have to do, perhaps beyond the norm, because of the realities that we have to face on the ground. But when it comes to the third element now, that is the technical area, we have to ensure then that capacity is there – but capacity is not there. Because one of the reasons why we still have four member states out of 15 with competition authorities and the reason why CCC now has been asked to explore the possibility of being a national authority is don't is that we don't have the technical capacity across the member states. So it becomes a burden – it becomes a lot to carry, really, in terms of having that enforcement from a regional perspective. Different things to consider on one hand and then you have to potentially have that enforcement at a national perspective. Different things to consider as well. Mindful also that you have 15 different member states, 15 different possible modes of business, 15 different policies in terms of industrial policy – we heard about that – and how that is integrated with trade policy and how that is integrated with competition policy. We have different objectives as well at the national level. So it means then that when we have to do any enforcement – or investigations – we have to look at potentially 15 different investigations. Right? so, technical capacity notwithstanding, then our role – we've taken on the mantle really in terms of building out that capacity from the commission outwards. So it... and I take your point, it is a very valid point, in terms of ensuring that sovereignty isn't compromised because that is one of the major issues as well. So what we've attempted to do is to encourage a culture of inclusivity. So we do have some member states that have indicated that they've taken a step towards establishing their competition authority. So what we've done is we've brought them onto the table. So in so far that, if there are any competition matters – investigations that are on the table that we're looking at, with the possibility of going the next step in terms of investigation. We've invited those member states that have actually taken that step to sit with us so that they can have a firsthand experience of what the a regional competition mechanism should look like or would look like with their involvement. So we're now acting not in terms of a top-down approach. And I take note too of Professor Fox's notion of working from the roots up. but having that inclusivity in place – we provide... Dr. – Mr. Moderator, we have about 10 minutes to go, but you are lucky because they're setting up for lunch, so we can stretch it to 15, to a maximum of 20. Thank you. That's super generous. Thank you very

much. And you're welcome. thanks. It's only through my intervention. So yeah – there are a number of things that we've sought to do in terms of boosting the visibility of the CCC in the eyes of our constituents, those being the nationalthe member states and the potential authorities as well. we are promoting a consultative environment where, rather than them going out and seeking it on their own in terms of solutions, with the possible end result of duplication of effort, they come to us and we have that discussion as well. Even if it is a case where we're saying well listen this we 're not sure how this works or how it's supposed to work tell us. And we have that open door policy whereby member states reach out to us and we have those discussions and then we take perhaps take it a next step in terms of saying well listen but you know reminding them that without the competition regimein place things like this or these negative impacts are likely to occur. So I'll stop there just so I can give my other colleagues an opportunity to Thank you very much Dr. Troy. I mean you gave us very useful insights and different perspectives on the challenges also that the car competition commission is dealing with in terms of functional operational but also technical um challenges. Now, taking these insights back to Africa, and asking Malik on the continental perspective: what are the mechanisms that the AfCFTA competition protocol has put in place to deal with these issues and to foster cross-border cooperation and competition enforcement at the continental level with existing regional competition authorities and also national competition authorities. Thank you very much, Saïd – it's working now? Yes. Great. And thank you, Koffi, and congratulations for this well put together conference.I just want to maybe pick up two things. when I see Barbados – I recall the powerful messages that prime minister of Barbados delivered. I think it was u the previous African Union summit and the vision that she's u also providing for not only Africa but also the Caribbean to get together and let's say reclaim our place, African place. And that also is transmitting this message: that it all comes down to the vision – the African Union vision – to get to an integrated, peaceful and prosperous Africa. So it's that vision that is guiding us, and I think both the African Union member states and the regional economic communities are pushing that agenda together.this is all coming also from the Abuja Treaty, and all the stages that we need to go through to arrive to the realization of that vision. So Professor Fox also was saying, in talking about collaboration, that the RECs should – let me just use her own words – be the pillars for a strong AfCFTA. And I think she's absolutely right.if you look at the protocol on the relationship between the African Union and the regional economic communities – it provides for a legal framework for that cooperation between the RECs and the Union as a unity, the AfCFTA being part of the African Union, and also an international framework with the heads of the RECs and also organs of the Union meeting to coordinate policies, measures for the implementation of Agenda 2063. So the protocol on competition is part of that broader framework, and the protocol provides a cooperation framework. And I think Willard was saying that the clear rules and allocation of jurisdiction is maybe the first step – and this is what the protocol has done. I'm talking less about the state parties, because they are the ones that negotiated and that have taken the commitments. So we

expect from them implementation – and this is what Willard was saying. So the protocol, as I said, is not applying to issues that are already dealt with by the national competition authorities and the regional competition authorities. So the protocol has a clear scope of application, which means that we built upon what is already existent – which is the RECs framework and the national regimes. And from there, what is important now is to develop a framework and mechanism for the enforcement of the protocol. We do that with those rules – as I said, scope, jurisdiction allocation, exchange of information. we have adopted the regulation on the powers and procedures of the authority, and Article 18 of that regulation also provides for joint investigation, exchange of information and mutual assistance in investigation and market studies. So the rules are there for the cooperation. We have also Article 19 — which also provides for a referral mechanism in merger review. So that is important, but the most important thing is the network – the AfCFTA competition network. This brings together national competition authorities, regional competition authorities, competition authorities and it goes beyond let's say information sharing, capacity building etc. It provides a platform for these authorities – whether they are general regulators or sectoral regulators, as the case may be, that is telecommunication or electricity or whatever sector, or aviation, which is also extremely important nowadays – to allocate cases, look at which authority is best placed to handle a matter, exchange information as I said, but also look at how maybe the theory of harms, the market definition, all of those issues can be looked at together. So it's a really deep cooperation framework that will allow the AfCFTA competition authority to take or to draft decisions that will be submitted to the board taking into consideration the market realities and the information gathered from the competition authorities. I think this framework is the basis for the three layers to work together in a harmonized way, so that the protocol can be implemented seamlessly. Thank you very much, Malik. So you mentioned, of course, the framework, you mentioned some of the tools, you mentioned network, and of course commitment. It's also a point that was picked by the previous speakers which is also very important to underline. now moving to the international perspective, and to Eve. So, from UNCTAD's experience in supporting countries and regional organizations in developing and implementing competition policy and law, what are the key institutional and practical conditions that enable effective cooperation between national and regional competition authorities particularly where there are differences in legal frameworks, institutional capacity and enforcement practices? And what lessons would be most relevant.

Note : Check the online Video to see the French content
<https://www.youtube.com/watch?v=Fv9FcslJL6c>

It's very good. I don't speak French, but we are running out of time, sir. I can also do it in English, but I think the event is important. Please, please, please give me five more minutes. Can we do in two minutes, sir? Okay. Thank you. I'll wrap up. So, now

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In conclusion to this debate I mean we had already prepared a second round of questions to the panelists but I guess this is impossible. So we will um just just want to say a few words in conclusion to say that the debate clarified that competition authorities today regional and cross-border cooperation is definitely no longer optional and I would just say that Dani Rodrik's motto of 'don't ask why, ask how' seems more relevant than ever. So with this I would like to conclude and thank my distinguished panelists for taking the time and being with us here. again many thanks to Dr. Simeon and for providing us this opportunity and this platform to discuss these super important issues and please join me in thanking the panelists for their presentations and insights.

We thank you very much the panel. we are very happy if you could stay for a group photo. The panel photographers if you could come forward for a group photo. We will break away now for lunch. I would crave your indulgence for us to spend no longer than an hour. So 1 hour for lunch. That way when we return we will almost be on time. Lunch is served upstairs on this side. You could go through this door, get out to where we had the group photo, take the stairs and then walk down to the banquet hall. Or you could exit this door, take an elevator, go upstairs, walk around to the banquet hall. Banquet hall is located on this side. So you can go with the stairs, walk down all the way down, or you could exit this door, take an elevator, go upstairs and walk around this hall or to steal the same corner. We'll be back in an hour at 2:30 hopefully. Thank you so much. It's been a great morning.

Thank you very much. We'll be back in one hour.

And with a regulatory change, we deliberately moved from a centralization to a decentralization of EU antitrust enforcement. So now we run a system of parallel competencies where national competition authorities and national courts apply EU competition rules directly in their respective jurisdictions as well as the European Commission who has jurisdiction for the whole European Union. And that sounds like it should have produced chaos – but it didn't, because we took two precautions that I want to share with you. First, there is the clear primacy of EU law above national law. When EU rules are applicable in a case, they must be applied. National rules can be applied alongside EU law, but then only if it is consistent with the format and as a result, national competition rules are largely aligned with the corresponding EU rules – they tend to replicate them. The second point is that the decentralization was paired with a network: the European Competition Network, in which the Commission plays a central

coordinating role. So the Commission would take up cases that raise novel issues with precedent value, matters of real EU-wide significance, and in any event we would take up antitrust cases affecting more than three member states. Also, as a matter of law, we have a mechanism by way of which, if the Commission initiates formal proceedings in a case, this immediately relieves any EU national authority from its competence to deal with that case – so we become the sole enforcer. But day-to-day the system runs on cooperation, not on command-and-control. Of course we have a one-stop-shop mechanism depending on thresholds. So – what does the cooperation actually look like? So we tell each other about new investigations. The authority best placed to act takes the lead. In cases where a couple of national competition authorities intervene, it's because they are looking, for instance, at different geographic markets – not the same one – and then coordination is ensured. We meet constantly to discuss cases and calibrate priorities, and we assist each other, including in carrying out inspections on another authority's behalf. We share information. We have legislation in place to be able to share evidence, with clear confidentiality frameworks in place of course, and every national authority notifies the Commission of its draft decisions to receive feedback. And likewise, an advisory committee of competition authorities of the member states has the chance to comment on our draft decisions. The scale is worth pausing on – the scale of our enforcement altogether. Last year alone, the Commission and the national authorities opened together around 150 investigations. Since 2004, when this network was set up, we have had close to 3,800 cases, and the large majority – 80 to 85% – of them are cases where EU competition law has been enforced by national authorities. So there is plenty to do for all, and in particular because also national authorities enforce their own national law in purely national cases. None of these would have been put together without the floor of minimum guarantees for every national authority. All member states have had to pass laws complying with requirements of being genuinely independent from political and business interference and to have adequate resources, trained staff and to have a minimum toolbox of investigative and decision-making powers. Also, authorities are obliged to help each other to collect fines across borders, so that the company cannot simply hide behind a national boundary. One more feature of our network is that we have comparable leniency programs. So – the power of the network, the minimum safeguards and the clear division of work: regarding the experience that might be useful for Africa from what we have lived through even if we have a very different starting point. What I can say is that I know that the European model grew out of a very specific legal architecture, and this is not exactly the one that you would have in Africa. It doesn't need to be either. Your continent is building integration through regional authorities, with different histories, different legal instruments, different relationships to national sovereignty – and on top of that you have the AfCFTA competition protocol at continental level. So you are not building a system from scratch. Still, I would like to share a couple of highlights that may be applicable for you. First, it regards courts. Our enforcement record isn't built only by the authorities. The court of justice of the European Union is the ultimate interpreter of

EU competition law. So there is a preliminary reference procedure through which the national courts can ask the Court of Justice to clarify how EU rules should be read before deciding their own cases, and the Court of Justice rulings bind everybody: every national authority, every national court, the Commission – and that is a single answer as to what the law is. And it does not only apply to the rulings regarding interpretation; it is also the case law of the Court of Justice of the European Union as review court of our decisions, the decisions by the European Commission. So I appreciate how difficult it could be for Africa to build a single continental court with that kind of binding authority over every member state. But the underlying principle may still be useful in supporting convergence. Courts at national and at regional level must be independent, well equipped and willing to engage with each other's reasoning, and they can narrow legal divergence over time. There should also be a hierarchy between courts, and rulings should provide legal certainty and final decisions. The second point is the allocation of tasks. Beyond the European Union – I have spoken about that – we also share a single market... but we cannot hear anymore. Can you make sure we can hear her? If you could hold for a moment, please. Yes. Can you hear us, ma'am? I can hear you. Yes. You have about two minutes to go. If you could wind up quickly. Thank you. Okay. Um, so we also share a single market, the European Economic Area, with our neighbours of the European Free Trade Association, which has also its own supranational surveillance authority. But we apply the same substantive competition rules, and we can allocate cases between the European Commission and their authority. So this may be something that is closer to your system, and where you could get some inspiration. So finally, just three points, to comply with the timing that you have provided to me. prioritize building the enforcement record. Authorities earn credibility by acting, not just by legislating. Credibility is preserved through clear allocation of tasks. If every authority feels that it has to investigate every case, then you get duplication and wasted resources. And finally, build the courts' case law to back your enforcement record, because your credibility will depend on how well your decisions stand in independent court scrutiny. I'd encourage African regional and national courts to build capacity, to be well equipped and empowered. Thank you very much – I have reduced my points to fit with your timing.

Thank you. Thank you so much. Thank you. If you can follow [me] – the panel discussion to be led by Mr. Basiru Njie (Moderator) please. Thank you very much. Mr. MC – and thank you, Director, for those opening remarks. As stated, this panel will mainly be discussing the importance of harmonization. That's why, with me, we have experts when it comes to national consumer protection authorities, and also regional bodies, as well as the ECOWAS. I think harmonization – the importance cannot be overemphasized, given the fact that it makes it practically almost impossible for regional bodies to implement their regional laws effectively if harmonization does not happen, because it brings about a lot of inconsistencies and also leads to forum shopping. So, in order to have a consistent

regional law that is easily enforceable, it is very important for harmonization to happen because that is the only way enforcement of these laws can happen. For instance, enforcement of the ERCA regional law is supposed to be done by member states and member states the only time they will be able to do this adequately is if they align or harmonize their laws with the regional law. It makes it easier for enforcement. So today we would discuss the national experience, the experience at the ECOWAS level, as well as regional experiences.

So I will start with the national experience. I would first ask Mr. – Professor Alban Ahoure – from the perspective of a national competition authority what are the practical consequences of having to operate simultaneously under a national and regional framework. Okay. Thank you, Mr MC I will go in French, because I think that since this morning several speakers have spoken in English. So I will use French – this is the best language for me. And I will say – okay.

(See the French content on the youtube channel <https://www.youtube.com/watch?v=Fv9FcsJL6c>)

Thank you. Thank you very much professor. I think one thing which you stated, which is very important, is there's a need for a lot of advocacy – because even among national bodies themselves, most consumers or businesses do not know the responsibilities or the differences between competition authorities and sector regulators, talking about the regional bodies. So there is a lot of work that needs to be done – a lot of advocacy also needs to be done. So I will now come to when it comes to the legal mechanics – it's... I'm glad that we have the ECOWAS Commission here and also I think for ECOWAS I think we are a bit lucky in the sense that currently most of the countries are now developing their laws. So it makes it easier for them to align and harmonize rather than trying to amend. So I think this is a huge opportunity, in which ERCA is supporting some of these countries to try and develop. So I think it's a huge opportunity for all of these countries. So the Director of Legal Affairs of the ECOWAS Commission is here – Mr. Gaye [Gaye Sowe]. So, Mr.... So how has the ECOWAS Commission facilitated the implementation of the ECOWAS Treaty in member states with pluralist legal systems. Thank you, chair. I don't know if you can hear me. I feel a bit uncomfortable with this thing around my neck – I don't know whether it has to do with the length [word unclear].

Thank you. Just to thank ERCA very much for having us here. The question is about how we use the ECOWAS Treaty. The treaty we know is the foundation just like in our domestic systems you know we have our constitutions so a lot of the laws we will be talking about

– we've talked about – they always would have their foundation basis on the ECOWAS Treaty, which we know was revised in 1993. The Commission plays an extremely important role in different ways. First is about, you know, creating norms. We know when it comes to competition – going back, 2008 – you know, we've had the 2008 Act, revised in 2013, then the 2021. So there have also been a lot of other legal instruments. So even though binding on member states, or in some instances our businesses – we know, when it comes to developing those norms, the Commission is at the very center, as in drafting. So it's really really very important. The first being, in the sense, we create norms. Another would be providing technical support, guidance, particularly where it's needed. It is maybe about lawyers from the Commission doing so, or lawyers doing so through the network of ECOWAS legal advisers – or, if possible, the Commission facilitating the process, which is extremely important. So it's about providing guidance, providing technical assistance to whoever needs the services of the Commission when it comes to competition law. So I think that is extremely important. Capacity building too is key – that is something the Commission has done, can facilitate. It's also extremely important – capacity building, coordination. One other thing I think we have to emphasize: because if you look at the relevant law, the Community Court of Justice is given a role. I'm not sure we have started using the Court of Justice. The law says appeals from the Council would go to the Community Court of Justice. So here we see the Commission coming in maybe as a bridge – whether it's about building the capacity of whoever is going to sit on appeal at the court, or whether it's about going to the court asking for an opinion on a specific issue, or whether it's about litigating some of these issues before the court. I think these are really, really very important areas in which the Legal Directorate, the ECOWAS Commission, can come in. I think we're lucky when it comes to competition law, particularly if we're thinking of maybe building jurisprudence, if we're thinking of having some of these principles properly interpreted. We're lucky in the sense we have about five new judges joining the court in the next few weeks – next month. And two out of the five worked for ERCA. So I think this is an opportunity ERCA, as an authority, should make very good use of – and I think the Council too, if need be, should make very good use of – in the sense we now have experts sitting on the court on appeal. I think it is an opportunity we really shouldn't lose sight of so to say: yes, norm creating – we will continue to create the laws, and we also would continue to provide guidance wherever our guidance is needed, technical assistance, coordinate where necessary. Most importantly too, we have to find ways of how best we can use the ECOWAS Court of Justice, since our laws have given it a role. Thank you.

Thank you. Thank you very much, Mr. Gaye. I'll still have another question. This one is in relation to having a balancing act – because normally there is a conception that if you harmonize, you lose some of your sovereignty; especially member states, they sometimes think that harmonization means automatically losing some of their

sovereignty and things like that. So in light of this, how should ECOWAS balance the need for harmonization with the differences in national legal and institutional systems – basically creating a balancing act? Thank you. Can you – Saïd? Okay. Like I said, sometimes I feel it has fallen off, it's a bit light. Yeah. We know we have different legal systems in our sub-region. Even in our countries you find different systems too. It is not, for example, necessarily accurate to say – let's say – The Gambia, Nigeria, operate a common law system, because in addition to the common law we also have our customs, which are very much part of our legal system. So we're talking about the possibility of harmonizing even at the local level, making it relevant to everybody. You know, if you go outside of our countries – you know, different legal systems, different legal culture. But at the onset it is important to recognize – I think this point was made earlier on – nobody is looking for uniformity at all we are not saying ERCA has come up with a directive – that is, a supplementary act – we have to transpose word to word I mean they don't have to be identical but there are certain things we definitely have to agree on some things that really cut across in fact I think I have listed some of them here. We're talking about – what is it called – common objectives, just a second – common principles, like, just a minute – such as preventing anti-competitive conduct, protection of consumers and promoting fair markets. Whether you from a Portuguese-speaking country, whether you're from a French-speaking country or English-speaking country, we all would agree these are core. I mean, in human rights language, we say core minimum, common objectives. So we're not calling for laws being the same. We're not calling for laws being identical. What we're saying is at least we should be able to find common ground when it comes to certain things. So when we find those grounds, then it really would be our responsibility to push for those common issues to be applied exactly the same way. I mean, take for example enforcement. Would it be proper for us to have different enforcement rules in our different countries? We all know the answer to that is – yeah – is no. So the point was made earlier and I really don't need to belabor it. But then, at the end of the day, the responsibility should be finding key areas where we agree. And then, at the end of the day, if we do that, the issue of capacity building which I talked about earlier on, technical assistance which I also talked about earlier on – those then would come in to make sure at least we are on the same page when it comes to doing the right thing for the community. If we have that as the basis of what we do, I'm sure harmonization would really not be a problem. It's really not about state sovereignty – as in what is applicable in Senegal not being applicable here. Like I said, the objectives – common, some of them common – should be pursued, and it should be our responsibility to make sure we push for all of them to be applied in a very harmonious way, not in a very uniform way, because we all cannot afford to do exactly the same thing. Yeah. So I think that's the message I have when it comes to harmonization – just to concentrate particularly on the common objectives, and doing our best to make sure the application cuts across. Thank you. Thank you very much, Mr. Gaye. I think one thing we learned is harmonization is not about uniformity – it's about the common objectives and principles. Thank you. Next, we'd like

to also have discussions with the Director of Competition at UEMOA, Mr. Mélaine Cohou Tchokponhoué. I think ERCA has been doing tremendous work when it comes to having discussions with UEMOA to see areas that they can work together – because, already at the establishment of ERCA, UEMOA already existed and they were already member states. So I think since inception ERCA has been doing a lot of work. So I think it'll be very interesting to know, from your experience, what lessons from you will be most relevant to ECOWAS in harmonizing national and regional competition laws. Thank you sir. Okay.

Thank you very much, Director. I think those are very important lessons. Next we will move on to talk about cooperation and implementation. I would go back to Professor Alban Ahur, mainly to talk about the role of national competition authorities. Like I stated, for the regional laws to work, member states need to take responsibility – there needs to be political will, because without the member states actually being responsible and enforcing, it makes it very difficult for the regional framework to work. So in this context, how can national authorities contribute more effectively to making the regional harmonization work in practice?

thank you very much, Mr.... for those very, very important points. the last question would be to Mr. Mélaine Cohou Tchokponhoué again. I know a lot of work has been done between ERCA and UEMOA. So what in your opinion what should be the next step? where should this cooperation go next to reduce the regulatory fragmentation in West Africa?

Thank you very much, Director. I've been informed we have one question from the floor – Madame Henrietta [Hon. Justice Henrietta Didugu]. The floor is open. – thank you, Moderator, and thank you. This is a departure from what has obtained, but I – because of the importance of the subject matter of discussion – thought I should also weigh in and make a contribution. It's not really a question, it's a contribution to the discussion, and I do that because I have extensive knowledge about the law-making process in ECOWAS. I used to be the Director of Legal Affairs, the Executive Director of ERCA, and a prospective judge of the ECOWAS Court. So I mean law-making is something I have done for much of my career in ECOWAS. This process is a long, involved process – it's precise, it's exacting; it is a process that has the full participation of every member state in ECOWAS. So every law that exists today in ECOWAS was born through a long process of developments that involved harmonization of – I mean – laws of member states. So it takes about two to three years. So there has been this long process of harmonization, and

the end is a development of a law that is basically uniform – a law that member states are obliged to adopt, to ratify and to domesticate. So just like the EU practice, just like in other groupings – as long as the law has been signed by the Authority of Heads of State, member states are obliged to adopt. We cease to talk about harmonization because the process of developing that law went through a long process of harmonization among member states. It takes two to three years. And then in addition to this under the treaty we have classification of laws. When a law is a supplementary act it is a uniform act that all member states ought to implement. When a law is defined as a directive – just like the EU directive – then that means that we have a common objective, then member states will achieve those objectives through their own methods – methods that are perhaps subject to their own constitutional procedures. So: directives, and you have acts. So that is the difference. So by the time we have an act, there's no question of harmonization – it has already been harmonized. That's why it's a uniform act. So I just thought to throw light on this. But when you have two groupings like ECOWAS and UEMOA that have different procedures, then you begin to talk about cooperation frameworks – and that is what the last speaker spoke about. I know that ERCA and the UEMOA authorities have a cooperation framework for how to deal with competition enforcement in the region. So that is normal. So I wanted to – you know to – weigh in so that people understand that I mean if all member states were free to adopt and to insist on harmonization of already adopted laws then I mean it's a long way to having a common an economic union a common market and all that no so there are laws that are uniform and states are expected to comply with those laws. There are laws that are called directives. So: common purpose – adopt it any way you want, but reach that target. So I thought it was important to weigh in here, for people to understand how laws are made in ECOWAS. – Thank you, Moderator. Mr. Moderator, perhaps we give you the last word. Okay. Thank you very much, Madame Didugu. I think over our discussions what has been clear is harmonization is not optional – it's a necessity, and that is the only thing that will make us stronger as a region. Because once laws are consistent, enforcement is consistent, it makes the environment more predictable, more competitive and more consistent – and it also even attracts more foreign direct investment, and discourages forum shopping and things like that. So thank you all for the brilliant discussions and contributions. Thank you.

Thank you very much Mr. Nai and the entire panel. We are now right on time and this will be I'm told if you would like to take a group photo with the panel if you could come forward and we'll invite the photographers to do the group photo.

So this is the last panel of the day. We are now to go into four groupings. Group one on harmonization of legal frameworks and madam I am sure you would form a very good part of group one harmonization of legal frameworks. I am aware in the case of the Gambia

when laws do come in they must be domesticated to fit into our current laws. That has been the standard. I don't know how we expand this conversation further beyond this point but it's pretty standard in Gambia that laws must be domesticated. So it must go through the national assembly and then be ratified as such and then it will now be adopted. So but I hear the conversation and it's very interesting. I'm no legal person so I'm not going to delve into that but group one remains here in the plenary hall and it will be chaired by Adama Diomande I hope I got it right I thought it's French and the speakers for group one will be Sandia Bullock, – “One Market, Many Watchdogs: Regional Primacy and National Autonomy in African Competition Enforcement”. Isaac Tusha, Chief Economist, CCCC. Mrs. Ninette K. Manager for Planning, Policy and Research

Griffin Gero; Kabarak University, Kenya

Dr. Jaimentino C6 Minister of Trade and Industry of Guinea-Bissau.

That's group one. Group two, the ushers will assist you to where you're supposed to be today.

I hope it will be in Thematic Room Two, for group two and group two will be on governance and independence of competition authorities

to be chaired by Dr. Taleim Abbe [spelling unverified], Chairperson of the Consultative Competition Committee of ERCA. And speakers for group two will be Dr. Alfred Mahamadu Braimah, University of Ghana – former Auditor-General of ECOWAS Institutions.

Gabriel Ambrosio Umbano Umabano; Faculty of Law, University of Lisbon.

Esther Opoku [spelling unverified], Barrister and Solicitor, Supreme Court of Ghana. , Partner at Jackson, Etti & Edu

those are for group two, who will be in Thematic Room 2, outside – you'll see the labels on the wall: Thematic Room Two. Group three, for today.

Okay. Group three would be on regional cooperation and information exchange to be chaired by Yaya Sam [spelling unverified], Head of Competition and Economic Research Division, ERCA. And speakers for group three include Lei Abdan [name unclear] – I hope I got it right – President of the Moroccan Association of Consumer Protection.

Nana Asuman Frimpong [spelling unverified], Center for Democracy and Governance.

Monica Werimo

Monica Werimo, Advocate, Nairobi, Kenya. Professor François Nkoa University of Yaoundé. These are speakers and chair of group three on regional cooperation and information exchange.. And finally, group four.

Group four, strengthening technical cooperation, technical and operational capacities. strengthening technical and operational capacities to be chaired by

Ms. Dlamini, Legal Advisor and Company Secretary, Eswatini Competition Commission and speakers include Frederick Muen [spelling unverified], Masinde Muliro University of Science and Technology

- Azeezah Muse-Sadiq
- Samuel Ayomiday Independent Consultant
- Jane Namua, PhD – WAVE Gambia [organisation unclear].

This is chair and speakers for group 4. We're hoping all of us will meet back here in plenary by 4:30 to do a report and also key messages as well as reflections for day one. Thank you. Group one remains. Group two, three and four will be outside the hall. For some of you whose airfares were paid by ERCA, kindly provide your passport and boarding card to any member of our team outside to be registered as being here. Thank you. See you in 1 hour.

I'm hoping it's only group one here now. Group two, three, four., kindly walk out of that door and somebody will escort you to your meeting room. We'll use the thematic meeting rooms for each of the groups. Only group one is to remain here.

We want to get started. Settle down if you're in group one. If you are not, please go to your group.

Thank you very much. Mr. Chairman would like to hand over to you, Mr. Joe Mande, if you could put your team together for group one.

Yes. After you speak, then I invite. Okay.

Civil players.

Ladies and gentlemen, kindly settle down, please. Um, we've gained time already. Let us not waste it. Thank you. Those of you to remain in the plenary hall, kindly be seated. Those of you in the other groups,, please join your group members.

Where is Madame? Madam – Madame Bullock. Sandya Bullock.

Ladies and gentlemen, kindly kindly please we will appreciate getting started. So if you could settle down if you are part of this group if not kindly excuse us so we can get started. Thank you. Next: members of group one – the speakers in particular – you may come forward and join us at the high table.

Madame Sandia.

Good afternoon everyone. Is it working? Okay. Um, good afternoon everyone and I'd like to thank ERCA for the invitation and you know the opportunity to be able to present and attend this inaugural conference. it's indeed a pleasure for us and you know the usual disclaimer I'm presenting on behalf of my colleagues and myself who co-authored the paper but this does not represent the views of ENS Africa. so our paper is titled "One Market, Many Watchdogs", which I think for those who are active in merger filings in the region and in the continent is a scenario and a situation which would be familiar to most people and what we want to look at is how do you reconcile regional primacy and national autonomy in African competition, and how can you make a one-stop shop real when you have certain member states that are not yet ready to accept it. so maybe let me start with the practical difficulty that we've seen. as you may know, ERCA commenced receiving merger notifications back in October 2024. The community rules and the merger guidelines are clear. They set out a one-stop shop regime. So there should be one filing, one authority, one filing fee. that is the aspiration but the reality has been different. There

are rumors in the market. I'll say rumors so that I don't make it political. but there are rumors in the market that one of the largest economies in the region has not yet accepted that the regional filing with the Union displaces its domestic notification requirements. which means that a party that treats a regional filing as sufficient risks implementing a transaction that would be considered unlawfully implemented in the member state, or a party that then chooses to notify at both levels. So regional level and national level then incurs precisely the duplication cost that the one-stop shop regime is meant to remove. So neither option is risk-free, and together they create this ongoing legal uncertainty for businesses and the legal advisers alike. And the difficulty of enforcing a one-stop shop regime is also compounded by timing. So during the years that ERCA was being operationalized, you had several member states that were developing their own national competition authorities and jurisprudence and to now persuade an experienced authority to defer to a relatively new regional body raises political and institutional questions and concerns as much as it raises legal concerns. So what we've done in our paper is to look at comparative lessons from the EU and from COMESA. The EU obviously is the first system that has made a regional one-stop-shop merger control work. And there are a number of features within the EU structure that are also replicated in COMESA. And in the interest of time, I'm going to focus on what we've seen from COMESA. So COMESA obviously is closer to home. It's the largest regional competition authority on the continent and it's the closest to ECOWAS in terms of the institutional setup. So some of you may remember when COMESA began operations in 2013, its claim to exclusive purview was almost immediately contested. the Competition Authority of Kenya at the time took a position that without domestication of the COMESA Treaty and regulations the COMESA rules or regulations had no legal applicability in national markets and therefore required parties to file at national level as well even if the COMESA thresholds had been met. But what followed during the years is the encouraging part. Kenya resolved this difficulty through legislation, and it introduced the Competition General Rules in 2019 and what this means now is that when both sets of thresholds are met so at COMESA and at Kenya parties are only required to inform the CAK that they have made a full filing with COMESA. So there's no longer a requirement for two sets of full filings being made with a regional body and the national body. It suffices to inform the CAK that look we have pursuant to the rules we have duly notified the transaction to COMESA and we're informing you that we've made this notification and this set an example for other member states. So Zambia domesticated the COMESA competition regulations directly within their own competition regulations. It is now an annex to the Zambian Competition Act. Uganda has followed the example of Kenya. They also simply now request that the ministry be informed whenever a COMESA filing has been made and the thresholds have been met in Uganda. But importantly, in relation to the COMESA experience, in December of last year the Council of Ministers adopted a new set of regulations and these new regulations now assert exclusive jurisdiction by COMESA over transactions that meet the regional thresholds. They expressly prohibit member states

from calling for parallel national notification and they say that it shall be contrary to a spirit of regional integration for member states to call for double notification and, drawing on those models, we've made a few recommendations in the paper. The first one being that we believe there should be an express exclusivity clearly stated in the law for mergers that meet the regional thresholds. So our existing framework already allocates regional mergers to ERCA, but what it doesn't do – it doesn't clearly state that there is exclusive competence by ERCA on such transactions and without that express statement everything else relies on cooperation between ERCA and the member states to appreciate and understand the benefit of having a one-stop shop regime.

And exclusivity in our opinion would tell the market that the regional one-stop shop regime is the legal rule. It is not one for negotiation. It is not one for discussion but this is the legal rule, and that should be applied. The second aspect that we've seen has worked for the EU and COMESA is a referral mechanism. So exclusivity must be balanced by a referral mechanism so that member states can fully participate in the regional regime. So where you have a transaction that clearly has disproportionate effects on a single member state even though the regional thresholds may be met because of a party's broader activities in the region – a member state should be able to request a referral – from, assuming obviously, that member state has the capacity and the competence to review the transaction but it should be possible for that member state to request a referral so that it can also fully participate and benefit from a regional regime. That mechanism can also work in the other direction. So for example, a merger that does not meet regional thresholds but meet several national thresholds in the EU there's a possibility for one or more member states to then approach the regional body to say we are aware it doesn't meet the regional thresholds but it's going to meet national thresholds in a number of member states and we think you should look at it. And we believe this is also a referral mechanism that is worth exploring. And one of the benefits of having a regional body that I personally think is a little bit understated is that the regional body because it sits far from the political pressures that often arise at national level. It provides a lot more autonomy in the decision making and it can allow member states as well to benefit from that independence. So for example, when I was still with COMESA, a number of times we would see that there will be COMESA filings that very clearly only affect one member state, but the member state will choose not to ask for a referral because they are aware of the political pressures that come with those parties at national level and when you are a regional body you sit far from that. It is a lot more complicated and difficult for national stakeholders to try and lobby and pressure and influence a regional body than when it is a national body.

The third option would be also now providing a financial incentive for the member states to participate in the regional regime. So COMESA has what's called a filing-fee sharing mechanism. So, every time a merger filing fee is paid to COMESA, the commission keeps 50% and the remaining 50% is distributed amongst the member states which are affected by the transaction. And the goal for that allocation is to assist the member states in capacity building, but it's also to assist them in doing the investigations on behalf of COMESA in those member states and it brings them into the regional regime and I think when a national authority has to defer to a regional jurisdiction, it is clear that the first disadvantage is that it has to let go of a filing fee that would have otherwise come to it and that's an obvious financial loss. And in addition, the member states are still expected to contribute local knowledge on that regional merger because the regional body will reach out to them and ask them for their views and their assessment. So there has to be a mechanism that balances that, in terms of incentivising and rewarding cooperation.

Um and I think maybe in the interest of time that the last point would be and it's a matter that we discussed that was raised in the last panel on domestication and harmonization. Domestication is important but I think it's also important to understand the ECOWAS framework already provides that decisions are binding. The supplementary acts are adopted under Article 9 of the Revised Treaty. They form an integral part of the Treaty, and – on their own terms – I'm not a legal person, but on their own terms they should not require separate domestication, because when parties and member states have signed adherence to the Treaty, they have signed adherence to the regional rules but that said there are member states that will dispute this and it is that ambiguity which is the problem and I think for member states that think domestication is required – then that should be a priority action because we would want domestication not to be a concession that the regional instruments lack force but rather use domestication as a signal of commitment to regional integration – that the member state accepted when it signed the Treaty – and it's a sign of commitment and it's a signal to businesses that the member state is ready to work with a regional body

and I think in closing obviously none of these measures that I've proposed are things that can work overnight we appreciate these are aspirational – these have worked in other regions, and we believe they can also work in ECOWAS, but obviously it will take time. And the question is not whether a regional one-stop shop works, but how quickly we can build one and I think the regime will be truly successful when every party to a cross-border merger and every member state that's affected by that merger – when there is no doubt for everyone involved about who's the authority that needs to be notified. Thank you.

Thank you very much. Um, good afternoon everybody.

So, good afternoon everybody. I'll make a presentation on the paper we co-authored with Isaac Tusha [spelling unverified] from the COMESA Competition Commission. And in this paper we looked at the at the four at the MOU that was signed by the four regional agencies in February. And in this paper we are analyzing how it will not only support regional cooperation but also support the implementation of the AfCFTA competition protocol. We shall also make we have also made some recommendations that could be considered by the a by the regional agencies. So we looked at the background and noted that, in the 54 African countries, we have an estimated 38 that have both a competition law as well as an operational agency. Um, and we have four that have neither a law or a functional agency. Sorry. And we have four that have a law but not a functioning competition agency. And we have 12 that have neither the law or the agency which is then where the regional competition agencies come in to support the regulation of competition and consumer protection within those regions that do not have. We also noted that some countries have dual memberships in the regional agencies. For example, Kenya is a member of the EAC as well as a member of COMESA which could bring some friction in implementing the laws. But we look at this MOU by the four agencies as an opportunity to iron that out. we also went on to note that the four regional agencies are not in competition with AfCFTA; rather, they're complementing the work of AfCFTA in ensuring that we open up trade in Africa. So, looking at the main challenge – which is how to make the system work – really, we have noted that Africa doesn't have an issue with governance. The challenge is how do we make the system work and the objective of this MOU, we noted, is not to add another layer but to bring coherence in the already existing layers, in order to enhance competition and consumer protection. And why is this important? because we noted that Africa only has a 13% share in intra-regional trade, which could be improved to match up to the 50 to 70% in other regions and so when these four agencies work then we will be able to open up markets we'll be able to ensure that the trade is competitive and specifically looking at the enforcement gap in terms of mergers, cartels and abuse of dominance, we note that the conduct spans jurisdictions – I mean, with the advent of digital markets that cut across all boundaries – then it's important that there's collaboration. We also note that overlapping memberships can create duplicated notifications, which Sandya has already alluded to – and so they need to harmonize that, to reduce compliance and transaction costs. And also, national authorities may face the same conduct but still operate in silos. For example, a cartel in Kenya may still be happening in another region, but because of silo mentality then it may not be able to be extinguished within the region. Then specifically looking at the MOU, we noted that it brings out four areas of collaboration – which is, in terms of capacity

building... and here the target is to conduct joint training, so that we're able to equip the case officers. It was noted in the earlier plenaries that the capacity in these regions is not the same. So it's important that capacity building is prioritized and this can be done through training through workshops through staff exchanges where staff are placed in one of the agencies and also collaborating with development partners for technical assistance. The other aspect of the MOU is information sharing. And here – information – it would be important to develop structured mechanisms to share information, especially where a case in one country has been finalized and the regional agency needs to look at it. There's need to streamline the information-sharing protocols especially where confidential information is involved. Then there's need for joint enforcement and this is where conduct is suspected to cut across many regions or many countries. So it's important that there's a need to develop aligned procedures and evidence-exchange protocols. And then harmonization – which everybody has spoken to, I think, today – harmonization in terms of rules in terms of procedures and the remedies that come from such investigations. So why was it important to come up with this MOU? From our reading, we understand we have identified three risks that the MOU sought to cater to. The first being of course duplication which we have spoken about so that ERCA is not doing the same thing as COMESA, and so – you know – so that resources are used optimally. The other one was ad hoc cooperation. Previously there was no well-organized cooperation – it was mostly friendly, I believe – so there was need to come up with a very organized way of doing things. And then, of course, there are different procedures on how to handle cases, on how to conduct market inquiries. So there's need to streamline those. And those are the opportunities we have identified – to enable that not only are resources well used, but optimal decisions and consistency are observed. So we have gone ahead to propose a three-phase implementation road map and here we move up from just setting up to actually realizing benefits to the consumers as well as to the businesses. And in the first phase – which is within the first 12 months – and since the MOU was signed in February, we only have... how many months to February? Four – about five, about five months to February. So we have proposed that within this first 12 months – up to February 2027 – a joint secretariat would have been set up, and their roles identified and clearly defined. Common standard operating procedures have been developed; a baseline capacity mapping amongst the four regional agencies; that the information-sharing protocol and safeguards have been developed and approved within the four agencies; and also a joint work plan or work programme has been developed and approved. So that's within the first year. Then within the second to the third year, we have moved on from now setting the ground to actually making it work. And here it would involve actually doing joint investigations and testing the SOPs to make sure they are in place; coordinating case management, so that there's uniform analysis or uniform notification process; and then recognition or adoption of decisions based on the joint investigations that have been carried out. Then beyond the 3 years we expect that now there'll be a good working relationship. Of course, there'll be joint resourcing and accountability. And here

the main thing is that the four agencies are not uniformly resourced. So it would be important to come up with a procedure to ensure that they have resources to carry out the objectives, as well as now contributing to the realization of the AfCFTA competition protocol and how will success be measured? We're saying that, to measure the MOU outcomes, number of meetings is not what should be looked at. Number of meetings is not a measure that should be considered. Rather, by the end of the third year we should have a joint secretariat established. We should have SOPs. We should have staff exchanges having taken place to build the capacity. We should have at least one or two joint investigations and decisions taken and we should have interoperable case management systems to ensure that there's visibility, there's transparency and there's predictability and as I close, we really challenge the four regional agencies to actually implement this MOU which in our opinion is workable and will open up a lot of the market in Kenya as well as support AfCFTA implementation. Thank you very much.

Esteemed ladies and gentlemen delegates good evening. my paper captures – on strengthening regional competition integration – as was the major key reform, in harmonization of the legal disciplines in the sector. Before then, I receive my greetings from Kenya. In Kenya we say 'Jambo'.

Having said that, we look at the regional competition background. I won't repeat on what has been laid and the foundation, but I'll just capture on the important things. So when we say regional integration and harmonization, what do we mean and why do we need it? while interrogating this sector, we'll realize that there's fragmentation of the legal systems. This – if I might say so – is the major gap in achieving the goals within the framework legal framework. So it is just not on paper but to the actual realization of the subject matter. The second reason why we need harmonization is uneven institutional capacities. We see this in different states and different countries in the ECOWAS community. So uneven institutional capacity weakens the end goal of regional integration within ECOWAS. The third reason why we interrogate, and we realize that we need harmonization, is the weak enforcement mechanisms within the frameworks that have been placed. This is because having different legal frameworks sometimes leads to several administrative bodies, which weakens the dispute resolution process. So when we say harmonization, we don't mean to infringe on sovereignty, or at the same time infringe on the autonomy, of states. We only say that we need harmonization to the extent that it advances and promotes the end goal of regional integration within ECOWAS. And the last reason why we need harmonization in the community is because of the jurisdictional overlaps that my fellow panelists have already stated. The jurisdictional overlaps is quite intuitive, because some states might opt to go for forum shopping whereby they'll adopt a better legal resolution mechanism that best fits them. However,

if we have harmonization, we will have a standard core minimum across all states – and it will be almost fair, but not uniform, as the first panel discussion was talking about. So onto the next how then do we harmonize these legal frameworks? It is important to note that institutional strengthening and governance of ERCA, national competition authorities – like the FDA [name unclear] – would amount to harmonization of the frameworks. That is the first thing. Then the second is the effective collective monitoring and compliance. This is a collective goal from each and every state and it's collective in the sense that every state that is in the community needs to chip in so that they feel they are welcomed and they feel safe even in the community and the legal resolution mechanisms.

Legislation alone is not enough. It goes to the core of implementation and the enforcement of these legal frameworks because without without the enforcement mechanisms and the implementation methods it will be difficult to achieve harmonization within the entire community. So we need to move beyond legislation, and the rules and regulations set. Therefore we go and intersect into the realization of the legislations.

In the interest of time, I will address the challenges identified as not insurmountable, because if it is an initiative – and it is a mandate of the entire community – it is, we can all agree, achievable to proceed to the next goals that we aspire to be at. So first of all is the standardization of the different legal disciplines across the board as we have interrogated that the frameworks are fragmented that means it causes a lot of chaos in the legal dispute resolution. So the second thing that I interrogated and found would be effective is the strategic market integration and regulation as an indispensable tool through stakeholder engagement. This cuts across the entire community and calls for the integration and stakeholder commitment and integration through the overall community. The last one is to strengthen the ERCA institutional independence. This goes into the nitty-gritties of the independence of the body itself because without the independence of the finances, financial resources and all that it limits the capacity of ERCA as an institutional body. So strengthening of the ERCA institutional independence is dependent on the on the independence of the entire institutional body. So in passing when the tune changes the dance must change. This is a famous and popular Nigerian proverb and I'll conclude it at that. Thank you.

Wait. any minute it comes up. If there are any questions or contributions, we have about 5 minutes. So, we can start calling the others to come join us. The microphone is there. Or you can come to the table, any of the tables. Yes, those mics would work. Yes. thank

you so much for this wonderful discussion on the issue of competition laws. mine is just a quick take because as we have observed the competition law is about how we open up participation in the productive aspect. we also look at some other laws that want to narrow down that participation. So here we are talking about laws that have to do with protecting innovation. in the competition law we want to increase participants. We want to make sure that we break the issues of monopoly, oligopolistic behaviour and duopoly [word unclear] in the market, so that we increase efficiency. But there is another aspect of it that looks at reward for innovation – that is the issue of intellectual property rights. IP laws look at how we can increase the innovative tendencies by compensating for the cost of innovation because there is an element of research and development that fits into the process of innovation. So how do we protect or encourage people to invest in research so that we can now develop new ways of doing things. That's why we have the issue of patent rights being given to innovators. We have those other issues like trademarks and others. While the law of competition is looking at opening the space for more players, IPRs want to encourage innovation – and then they compensate for the innovation process. How do we marry the two, because they are also important – because we have what we call the African Intellectual Property Organization that is promoting innovation, and we also have the competition agencies that are also promoting participation. So my take is: how do we marry the two aspects of the law – one is opening and one is narrowing participation. Thank you. So that is just my observation.

Um yeah, maybe just a point on the first question and I think perhaps the regulators in the room might be better placed but there are exclusions that are typically provided for in competition laws in relation to IP rights and that's precisely because we recognize that there are benefits that come from innovation – and obviously, as innovation costs money, that there's time and research that goes into innovation and the aim of competition law is not meant to stifle innovation or innovation incentives. So typically there would be certain exclusions to the application of competition laws in relation to IP rights – unless the companies that benefit from those IP rights are using them in a manner to abuse their dominant position or their monopolistic position. Thank you.

Additionally, the direct answer would be that we need to endow ERCA with independent investigative capacity, and also an independent commission of inquiry into the conflict or dispute in place. However, this this might still conflict with sovereignty of the different states. So we go back to harmonization of the regulations. So if we have regularized standards which cut across the community, it won't conflict with sovereignty, because it would be the standard collective adoption of every community member state. Thank you.

I was going to say we have about 10 minutes extra because two of the groups couldn't start on time because of technical problems. So we will continue until 5. So you have time.

Thank you very much and I thank you for giving me the opportunity to speak to this matter.

I'm a professor from Nigeria.

The issue we are dealing with today, with harmonization of competition laws – a number of people have mentioned the issue of domestication, that has always had problems, because domestication takes different procedures in different countries, and they've always gone back and forth. It takes time like the legal officer just mentioned. but when you talk of harmonization, it is possible without domestication – because domestication means the process of making different laws get consistent and compatible with one another, so that they can work well together [as spoken – see errata]. That being the case, I think I want to suggest a path for ERCA, particularly on these competition laws. Why not work with different working groups – because I doubt if we have done that – either, to work with different groups – scholars, intellectuals – who will look at the competition law we are talking of at the regional level, and compare same with what is obtainable at the national levels. We haven't done that, to see where there are incompatibilities, where there are conflicts and at the same time we also work with competition authorities in those different countries because authorities in different countries are responsible for making suggestions for amendment to their laws. All that we need to do is identify certain basic principles that we want implemented at the regional level. Get ERCA to get a group of experts to work together with national bodies, national competition bodies. Where are your competition laws? We have them. The rules set the basic principles or guidelines at the regional level. The groups will compare notes and see what is it that is obtainable in one country that conflicts with the competition rules or guidelines at the regional level. When we have that because they're experts at those organizations, they will easily believe and understand what ERCA is saying at regional level and get their countries to implement same than when we just make rules and hand down to political authorities you know and then go through the different processes and all that. I don't see a problem when the competition authorities – Nigeria, for instance – if they buy into what is happening at the regional level, and they make proposals for amendment of the competition laws within the country, at the national level, it can easily sail through – than the country seeing a regional body try to dictate certain things to them. So I feel if we do

that, we can easily achieve what we want to do, than making laws or treaties – conventions. I'm not saying we should stop that, but when we're doing that, one sure way we can get objectives easily achieved is to work with the competition authorities – let them make proposals, as may have been agreed during the working groups. It doesn't have to be in the same language – different languages, or different expressions in the law, could actually achieve the same principle that we, you know, seek to push at the regional level. When we have that we can easily achieve our objectives than just handing down rules to national bodies and expecting domestication. That's my take. Thank you very much sir.

Thank you so much. the last group is getting in now. I am sure those of you who remained in plenary have gotten really an extended period for the conversation. We were not anticipating that it would have taken this long. Um, we would then shift a little bit now to the report from the working groups.

, yes, you can. I saw a photographer here. Any photographers? I just saw one. All right, there we can do a group photo now for your panel.

And so I don't know how we do this. We were meant to be done by 5:15. we are now at 5:26.

So this would have been the time that Marek would have been done – Professor Marek would have been done. Um, so I don't know. Do we give every group each group 5 minutes? Would that work? We give a group 5 minutes because really we wanted to hear from Professor Marek as well, and we want the hall to be as populated as it was in the morning, to get the value of what his presentation will be based on. So therefore, is group four back? Group four, are you back? Can we get chair of group four to give us a 5 minutes breakdown of what happened? Group four.

Chair group four is here. Group four is coming. The chair of group four is here. Okay, please come forward and you can we'll try to give each five minutes. I think that should be enough to give us a quick breakdown of what transpired in the last hour and a half.

Good afternoon. I'm here to report on behalf of group four in terms of our discussion. Our session was on – sorry – strengthening technical and operational capacities. So we were

looking into four different papers I think before we left here the they were briefly highlighted. So what was common was that all the papers they were discussing in as much as the papers were different but they were discussing common issues in terms of enforcement in competition policy market integration as well as economic inclusion. So what also came out was: markets are changing. So what does that mean for us as competition authorities? Are we ready in terms of the tools that we have in terms of enforcing competition law or do we need to adapt our tools so as to respond to the market changes? So one of the issues that also came up was yes in as much as we are trying to evolve with the times we need to be careful, as competition authorities, as not to overstep the jurisdiction of other sector regulators as well as also ensuring that we also remain within our mandate and boundaries because we need to be careful in terms of how we then want to use – [words unclear] – approach, in terms of regulating certain issues in the market. So because we were discussing, in terms of, competition in informal markets – in financial markets. So the question then became how far should competition authorities be involved in such where do we begin and where do we end? Are we supposed to be involved in informal markets? Because the reality is there are some competition concerns in informal markets. But then the question is how far should we be involved because it also came out in terms of the examples of other jurisdictions where there has been cels [word unclear] through informal markets and so therefore it raised the need for us to build capacity as well as ensure advocacy in terms of training those those associations and those people in the informal markets because at the end of the day whatever that happens in informal markets – it also has an impact on consumer welfare and also the need for cooperation in terms of other sector regulators because there is a recognition that there are some changes in financial markets which obviously has an impact on competition. Therefore, in as much as we have a role to play, we can also use cooperation with those sector-specific regulators, as opposed to taking a more active role. So I think those were the critical issues and also the issue of gender in terms of how competition harm can affect a certain group including women, and other certain groups which are maybe underprivileged and then also the question of how far should competition law be used in issues of gender. Are we overstepping? Are we doing too much? and the need for caution in terms of how we should be involved in such issues. Obviously there's a recognition that a common theme in all the papers that there are some issues with structural barriers to participation, issues of market power, and how the tools that we are using now may not be sufficient for analyzing market power in this market. So therefore the question as to whether we are doing enough as competition authorities, whether the laws that we have are enough to sufficiently address these issues, whether we need to change them and whether we need to adapt our approaches as well as also training our staff in terms of being alert to these issues – and how, when doing the investigation or market studies, to analyze them. So I think in 5 minutes those were the key discussions in our group. I thank you.

Thank you group four. We'll now call on group three, and I hope group three will be as diligent as straightforward as group four has been. Group three.

Thank you very much, Hara [name unclear], and thank you very much. Distinguished guests and experts here – I'm the moderator of group three group three the topic is regional cooperation and information sharing so the discussion there are different papers that are presented others talked about the role of the civil society organization in terms of um supporting the enforcement of the competition law. the paper proposed that, as regulators also, we have to recognize these civil society organizations – and also we have to look inward, as far as our laws are concerned, to empower them so that they can continue to be whistleblowers – and, as well as ensuring that they share information, they can help us collect information, data related to violation of consumer rights. So this is very important discussion – in our group – in one of the papers and also we have a paper presented on the information sharing – how competition authorities also need to strengthen their mechanisms in terms of sharing competition information, but at what level – is well discussed in that discussion and also the paper highlighted that we have different cooperation agreements – we also developed information platforms purposely to share information among stakeholders. but now what is missing is how we can operationalize these MOUs as well as the different platform information systems that we have developed so that we can share information related to anti-competitive practices particularly cross-border cases at what level also that information also need to be shared I think that's also discussed in that paper and it proposed that now we have to escalate that information sharing – where we have to develop guidelines as well, at what level – as RECs for instance, or as stakeholders, how we can share information and also, sharing information, we have to be also mindful of the confidentiality of those information. So it is proposing that a guideline also be developed by all stakeholders – particularly the regulators, when it comes to their cooperation – to develop guidelines at what level they can share information related to anti-competitive practices. So we also have a very interesting paper that was presented, that has to do with undisclosed information by the social media influencers. I think this is very, very interesting paper also. it looks at some of the gaps that our current legislations have when it comes to protecting consumer rights, as a result of the activities of these social media influencers – because they are into this business by promoting some products. But why are they promoting those products? because they might have some information, or they might have some agreement with the company, and they are providing advertisement on behalf of them. But what is more important – as regulators, let's ensure that they disclose the information related to their relationship with those businesses. So I think they proposed that – if you looked at all jurisdictions, especially West Africa and other jurisdictions within Africa –

except, for instance, in South Africa: they have such a law whereby, for instance, these social media influencers – there is a specific law to ensure that they disclose their information, information related to their relationship with that product that they are promoting. So I think this is very highly recommended for jurisdictions that are yet to have such a law. And, by looking at our respective laws, there is this gap – and then it is recommended that we have such a law in place, basically to protect consumers. But in the direction also of competition – anti-competitive practices – it's proposed that these social media influencers, or advertising, gives some comparative advantage or competitive advantage to some of the competitors. so, meaning that we have to – there's a need to have a law in place, so that, in terms of regulating competition among the different players, then the law is there to take care of such practices – or their activities – that may result in anti-competitive practices. So as far as the group three is concerned these are the main three papers that are presented and the recommendations are also very well noted. It's just only to say that, since the discussion ensued, in that we have different proposals as to how we have to effectively enforce our laws related to consumer protection. But the good thing is that these papers that are presented in these different thematic working groups are also available on our website. I think it's important that we all consult, or go into, this website so that we can read more about these papers – because they are scholarly written papers that propose recommendations that will help us in terms of our enforcement of our competition laws. So that's what we have. we want to once again thank you very much on behalf of the group three. Thank you. Thank you.

I will vote after the last presentation. Group two, are you ready? Group two.

Remember: short, to the point – we want others here. You know, somebody was complaining earlier there was no jollof rice during lunch. Said, "Calm down. Take it easy. We'll get there. We'll get there."

Quite interesting – all four have done wonderfully well. The icing on the cake today is a presentation by Professor Marek Martyniszyn, Chair of Competition Law and Policy, Queen's University Belfast School of Law – “Closing the Gaps: International Cooperation Across the Competition Enforcement Chain”. Professor Marek

Thank you so much for bearing with me. you're all are a star for not leaving this room at this point of time. It's always a challenge to be between an audience and a dinner and I will try to make it a little bit interesting for you. So I'm a law professor. I have a baby face but not that young. Um, and while we're being set up, um, I tell you what I'm trying to do

today. So, I'm trying to do two things in 20 minutes, which maybe not possible, but I will try. I'm going to give you a little bit of a big picture of why are we here – why this is so important? Right? And so I would do this, and then I'll try to provide you with a little bit of a subjective recap of what was said today – because that's part of what I should do. I won't cover all of this, but I have some visuals to make it easier to follow this. So why at all do we have RECs, and why do we talk about some sort of international solutions? Because the defining feature of all those cross-border cases is separation. So we know this: that violators often are far away from affected markets, and that harm they cause – either through higher prices or lack of innovation – crosses the border and this causes – and that's the arrow at the bottom – the consumer wealth extraction; that's extraction of money, if you wish. And the idea is that we would like to prevent it – we don't want to see it happening. Is it significant? It is hugely significant. A huge amount of commerce is being affected – a huge amount of money is being involved. And indeed, the whole idea behind RECs such as ERCA is really pooling market power. You want to get together to speak with a stronger voice to have a countervailing power. Right? That's the whole point. And there is a secondary reason: we also hope that pooling resources would mean pooling expertise – being better able to deal with these larger cases, which will be more complex. So it's not really rocket science, but that's why we have it. Because when you have these cross-border cases, there are different ways, of course, of dealing with them. It would be ideal to deal with an international problem at the international level. This has been tried a couple of times, and it always failed. There was never an agreement. So there is no energy invested at the multilateral level. Hosting states –. So states that host violators, they really don't have incentives to do anything about it because if firms based there bring wealth from elsewhere, take it away from you, well, they get wealth. Why should they say no to this? Plus, it's a priority issue: they prefer to prioritize cases that affect them, that do harm to them. So we have a situation where the harm states can take action – that's the case of extraterritoriality. I've written about it extensively – and this is where RECs come into play because again bringing these cases on your own as a national competition agency may be very difficult. We have some agencies in the room that have just a few people in terms of people power right? If you have a REC, you hope to have more people power, more capacity, to bring these cases. So that's the beauty of it – that's why we have this – the solutions, right? and we have a number of regional projects here in Africa which are developing, I would say, very well and then we have this chain-of-enforcement theory that I developed some years ago and this is obvious but it needs to be said remember that an authority always has to prevail at every stage of the case – for a violator it is good enough to break only one link in that chain for a case to collapse they have to prevent you only at one stage to kill off your case – that's why you are required to invest so many resources into this. Right? so you always, I think, have to think through the entire process, because these cross-border cases bring extra, you know, challenges here and – if you think – and I won't go into this because I have no time I have this theory of adaptive layering we have internationally different types of instruments that come into play in

competition law in these cross-border cases and you know what – later arrangements don't make earlier arrangements obsolete. So we often have different solutions used at the same time, which is not necessarily a bad thing. Right? and this also touches on the issue we touched on today on many panels. This is the distinction between formal frameworks and informal cooperation. Of course, if you want to do more advanced things, you need formal frameworks, formal legal ways of doing this, no doubt. But you know what? You may have terrific treaties and nothing will happen if you don't have professional relationships and trust and if you don't believe in the project. Right? Of course, if you have trust and you believe one another, and you don't have legal basis, you won't be able to do anything either. So, you need both. But it is so important to have both. It's not good enough to say we need to have legal basis and this will work. Legal basis itself is not good enough. It's critical but not good enough.

Now, maybe maybe I'll add this as well. RECs and ERCA in this case can bring a lot to the table, but the objective here is really not displacing national competition agencies. I think that national competition agencies have really nothing to be afraid of by having regional bodies because regional bodies will empower the region. This is a team sport. Think about this as a football team. Everybody has a role, right? A success of a case in ERCA is a success for the entire region. You know, I've been to different parts of the world to speak about this. I even use the EU because it's the most expansive – and, you know, the oldest regional integration already in this space. We often have cases when publicly you would think there is some disagreement but actually there's no disagreement but there is sort of blame-shifting in media for political purposes, and it is helpful to have a European Commission as the guilty one – this is a helpful one. That will happen to ERCA, I'm sure, many times – not necessarily a big thing. Right? the thing is that this creates opportunities and values, and there is a great power of being together. At this point, right now, I think ERCA is in an advanced position in the process. It has legal basis, decision-making – it adopted many decisions, a growing body of decisions – and this is most welcome and visible. And of course the challenge is now to build on this success further. Now people will be watching whether cartel cases will pop up – right – because mergers, in a way, are much easier, and we all know it because firms come forward and volunteer information sometimes not true information but they do it right and the biggest challenges occur in I think cartel cases and I would only say this you won't overcome challenges if you don't bring these cases to identify the challenges right you need to be willing to take these risks – so bring these cases. And it's not an issue to fail; I think it's a failure not to bring these cases. West Africa has now this effective regional platform for enforcement and this is actually an important achievement in itself. But of course, success will not be judged based on the past; it will be judged based on the future – on how things will develop. Right? And now we have this immediate opportunity and perhaps expectation to see more complete cases. As I said, it's clear that in mergers it works very well – terrific work.

And now people around the world will be looking at what happens in other areas of law – I think especially in cartels. And each successful case will reinforce both ERCA and all the domestic competition agencies of ECOWAS. And I think this is a very important and practical thing to keep in mind. And I stop here – and I offer you a few comments on what I think was said during the day, for the next 10 minutes or so. One of the things I heard on many panels is really that there is a great strength and power in togetherness, in being and acting united. And I think this is huge – this is a huge positive message. His Excellency General Diop, the President of the ECOWAS Commission, talked also about integration being about creating the appropriate conditions and the need for effective cooperation – these are his words. So we have this recognition at the high level. We had also His Excellency the Vice President here – the host, The Gambia – who talked about how important it is to act jointly, and also supporting this regional project politically and practically, and that it will deliver outcomes for people. And I think this is a very significant message: you need – every competition agency, and competition agencies know it better than me, all over the world – you need political backing. The same applies to RECs – no competition agencies, no competition, no projects involving such economic strength will work if they don't have political backing. Right? So I think this is hugely important. Then, the Honorable Minister of Trade, also from The Gambia, on the first panel talked about opportunities of this large market of ECOWAS – of course, it's true – but we all know trade and competition are two sides of the same coin. you get rid of public barriers to trade, private barriers will arise – and that's something for ERCA to deal with, to be able to handle those barriers that may reappear. Right? Dr. Simeon Koffi, our very kind host, talked about challenges and benefits of RECs – but he also talked about operationalizing this, of making this work. And this is so important. It's good to have rules, but you need to test them in action. That's really where magic happens. Um,

Sudesh Puran from Mauritius talked about, for example, referrals – and how these things can work, how important it is. I thought it's excellent because it again talks about the fact that regional projects it's really a teamwork. You need to have everybody involved and sometimes these cases have to move around. This may be needed and this also needs to be clear how it works, right? And that the role is really of peers getting together – I think it's very, very significant as well. Malik Diallo [transcribed as “Malik Jello”] from AfCFTA talked about the importance of networks and bringing all agencies together. Again, the same message: all agencies need to be involved. They need to see what's for them in this project. This is not going to go anywhere. Now we had a nice keynote from the European Commission – from María Luisa (Marisa) Tierno Centella – and she talked exactly about cooperation how national agencies work together with the regional agency right and that's the learning of the European Union. I can tell you now it works very well but it wasn't a smooth ride. I think there is something to be said about learning from mistakes of others. If you can learn from mistakes of other integration projects, like the EU – learn

from them. Don't commit the mistakes they've done. Right? I think, and that was the message from the European Commission: maybe arrange some sort of peer experience-sharing, so that you don't have the problems they faced earlier on. Now I think these things work much, much better. Director of Legal Affairs of the ECOWAS Commission, Gaye Sowe, also mentioned the importance of judges – and I could not not take note of this. This is hugely important. We have so many people in this room and very few judges who I think should be thankful of being here. This is so important. Judges are very important players – if I can use this word – in the system. Right? They need to be embraced and participate in this dialogue. Right? So I think that the fact that Justice Didugu from ECOWAS was here is very significant and should be recognized. Now then – we had also – and I was participating in what happened in the first group, in the first breakout group, and we had Sandya Bullock, now a private practitioner but beforehand with ECOWAS – with COMESA, of course – also spoke about referrals from the private-practice perspective, and how useful and important it is for the private market to understand how these things work, what to expect. And I come back to that – come back to that – in a... maybe I also mentioned the fact that the first working group was really about harmonization of legal frameworks – and different colleagues use the word of harmonization. Well, harmonization is a lovely thing – we often know it's not practically feasible. So for example, in the EU – and I think it's not so different in ECOWAS – they came up with this idea, the directive: that you achieve the same outcome, but maybe the way you get there is slightly different. And you know what? I think that, from a private perspective, actually harmonization is not necessarily what they wish for. I think informed divergence is okay. So clarity and predictability is what businesses need. If there are differences but they are understood and well explained that's good enough. Of course, harmonization is better, because it's lower transaction costs – because you do fewer filings and fewer, you know, to follow – and fewer lawyers will get a job. But if you have informed divergence, this is already helpful. So that's something I think important to keep in mind. And that leads me – really leads me – to the last point. It's again this issue about the distinction between legal framework and whether that's good enough and legal frameworks don't work on their own. As you all know competition law is enforced by all of you. You create the system, people create the system, right? You need to have personal relationships and there must be trust especially in regional projects. Domestic competition agencies need to understand what's in it for them – by having... you, your role as regional body, is to assist, to help. Right? and I think this is very important: only when domestic agencies will see your value – will not be threatened by what you do. And trust is hugely important with this, because all the RECs are doing.... This is really a collective exercise, and I think this is important – should be underlined. Thank you so much for your time.

Professor Marek brings us to the end of this beautiful day. It has been a wonderful day. You have been great. Everybody has done well.

