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**Common Market for Eastern  
and Southern Africa**

**Case No. CCC/MER/04/18/2018**

**Decision<sup>1</sup> of the Forty Sixth (46<sup>th</sup>) Committee Responsible for Initial Determination on the Application for Authorisation of the Proposed Merger Involving Starfruit Finco B.V. and the Specialty Chemical Business of Akzo Nobel N.V.**

**ECONOMIC SECTOR:** Specialty Chemicals

**5<sup>th</sup> October 2018 – Johannesburg, South Africa**

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<sup>1</sup> In the published version of this decision, some information has been omitted pursuant to Rule 73 of the COMESA Competition Rules concerning non-disclosure of business secrets and other confidential information. Where possible the information omitted has been replaced by ranges of figures or a general description.

u/l = T.P.D B.M.L

## **Information and Relevant Background**

1. On 26th April 2018, the COMESA Competition Commission (hereinafter referred to as the "Commission") received a notification for approval of a merger between Starfruit Finco B.V. ("Starfruit") and the Specialty Chemicals Business of Akzo Nobel N.V. ("Akzo Nobel SC"). The proposed transaction involved the acquisition of sole control of Akzo Nobel SC by Starfruit.
2. The transaction was notified with the Commission under Article 24(1) of the COMESA Competition Regulations, 2004 (hereinafter referred to as the "Regulations"). Pursuant to Article 26 of the Regulations, the Commission is required to assess whether the proposed transaction between the parties would, or is likely to have the effect of substantially preventing or lessening competition or would be contrary to public interest in the Common Market.
3. The Committee Responsible for Initial Determination (hereinafter referred to as the "CID") established that the parties operated in more than one COMESA Member State. This therefore meant that the regional dimension requirement under Article 23(3) of the Regulations was satisfied and asserted jurisdiction on the Commission to assess the transaction.

## **The Parties**

### **Starfruit**

4. The parties submitted that Starfruit is a private limited liability company incorporated under the Laws of the Netherlands. Starfruit is a special acquisition vehicle controlled by Carlyle Partners VII Caymans Holdings L.P. which is a fund managed by the affiliates of the Carlyle Group ("Carlyle"). Starfruit and its affiliated companies has operations in the following COMESA Member States: Burundi, Comoros, the Democratic Republic of Congo, Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Libya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Sudan, Eswatini, Uganda, Zambia, and Zimbabwe.

### **Akzo Nobel SC**

5. The parties submitted that Akzo Nobel SC is a speciality chemical business of Akzo Nobel N.V. ("Akzo Nobel"), which has been internally separated from the rest of the Akzo Nobel business. Akzo Nobel is a public limited liability company incorporated under the laws of the Netherlands.
6. The parties further submitted Akzo Nobel SC produced a wide range of chemicals and operated the following business units globally: Industrial chemicals, Surface chemistry, Pulp and performance chemicals, Polymer chemistry, ethylene and sulphur derivatives. Akzo Nobel has operations in the following COMESA Member States: Egypt, Ethiopia, Kenya, Madagascar, Sudan, Uganda and Zambia.

## **Nature of the Transaction**

7. The parties submitted that the transaction entails that Starfruit will acquire sole control of Akzo Nobel SC by way of a share purchase agreement.

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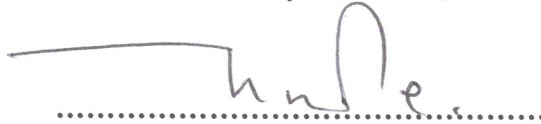
### **Competition Analysis**

8. The CID defined the relevant product and geographic markets as follows:
- a) The global manufacture and supply of Industrial Chemicals;
  - b) The global manufacture and supply of Surface Chemicals;
  - c) The global manufacture and supply of pulp and performance chemicals;
  - d) The global manufacture and supply of polymer; and
  - e) The global manufacture and supply of ethylene and sulphur derivatives.
9. The CID observed that the transaction did not result in a change in the structure of the relevant markets since the parties were not competitors pre-merger.

### **Determination**

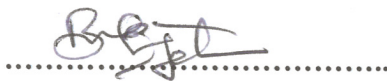
10. The CID concluded that the merger was not likely to substantially prevent or lessen competition in the relevant markets and that the merger had no effect of restricting trade between Member States. Further the CID established that the merger would not be incompatible with the COMESA Treaty objective of single market integration. The CID therefore ratified the authorisation issued by the Director on 23<sup>rd</sup> August 2018.
11. This decision is adopted in accordance with Article 26 of the Regulations.

Dated this 5<sup>th</sup> day of October, 2018



**Commissioner Patrick O. Okilangole**

**(Chairperson)**



**Commissioner Brian M. Lingela**

**(Member)**



**Commissioner Thembelihle P. Dube**

**(Member)**