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**Common Market for Eastern
and Southern Africa**

Case File No. CCC/MER/5/19/2019

Decision¹ of the Seventy-First (71st) Committee Responsible for Initial Determination Regarding the Acquisition by Dairy Distributors S.A.E. of Greenland Group for Food Industries S.A.E.

ECONOMIC SECTOR: Dairy

8th June 2020

¹ 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 Where possible, the information omitted has been replaced by ranges of figures or a general description.

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Information and Relevant Background

1. On 16th September 2019, the COMESA Competition Commission (hereinafter referred to as the “**Commission**”) received a notification for approval of a merger involving Dairy Distributors S.A.E (“**Dairy Distributors**”) and Greenland Group for Food Industries S.A.E (“**Greenland Food**”).
2. The transaction was notified with the Commission under Article 24(1) of the COMESA Competition Regulations, 2004 (the “**Regulations**”). However, the Committee Responsible for Initial Determination (the “**CID**”) observed that the parties did not notify within 30 days of making the decision to merge which is a violation of Article 24(1) of the Regulations. Pursuant to Article 26 of the Regulations, the Commission is required to assess whether the 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 CID established that the parties operate in more than one COMESA Member State and they meet the prescribed notification thresholds. This therefore means that the regional dimension requirement under Article 23(3) of the Regulations is satisfied and asserts jurisdiction on the Commission to assess the transaction.

The Parties

Dairy Distributors (the Acquirer)

4. It was submitted that Dairy Distributors is the acquirer for purposes of this transaction. Dairy Distributors manufactures cheese, yogurt and milk in Egypt. Dairy Distributors is a subsidiary of Lactalis-Halawa Group (“LHG”), and is ultimately part of BSA International S.A. In the Common Market, BSA International S.A. derives revenue in the following Member States: Burundi, Comoros, the Democratic Republic of Congo, Djibouti, Egypt, Eswatini, Ethiopia, Kenya, Libya, Madagascar, Malawi, Mauritius, Seychelles, Sudan, Zambia, and Zimbabwe.

Greenland (the Target)

5. It was submitted that Greenland was established in accordance with the provisions of the Investment Guarantees and Incentives Law No. 8 of 1997, of Egypt. Greenland’s objective is to establish and operate a factory for the production of dairy products, juices and concentrates, all kinds of ghee, sauce, and manufacture of containers. In the Common Market, Greenland derives revenue in the following Member States: Burundi, Comoros, Egypt, Kenya, Libya, Madagascar, Mauritius, Seychelles, and Rwanda.

Nature of the Transaction

6. It was submitted that the transaction concerns the acquisition by Dairy Distributors of the entire shareholding of Greenland (the “**Transaction**”).

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Competition Analysis

7. The CID defined the relevant markets as follows:
 - a) procurement of conventional raw milk in Egypt;
 - b) production and supply of flavoured long-life milk and plain long-life milk in Egypt;
 - c) upstream supply of white cheese in Egypt;
 - d) upstream supply of non-premium spreadable processed cheese in Egypt; and
 - e) upstream supply of block processed cheese in Egypt.

8. The CID observed that the market share accretion from the transaction was likely to be minimal in most of the relevant markets. The CID considered that while the transaction could have led to a strengthening of market position in the market for block processed cheese, there were other strong competitors in the relevant market and the presence of excess capacity would further constrain the parties' ability to engage in anti-competitive behaviour post-merger.

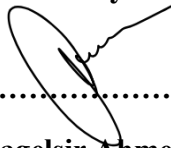
Determination

9. The CID determined that the merger is not likely to substantially lessen or prevent competition in the Common Market or any substantial part of it. The CID further determined that the transaction is unlikely to negatively affect trade between Member States. The CID therefore approved the transaction.

10. Further, the CID determined to warn the merging parties for failing to notify the transaction within the 30-days period provided for under Article 24(1) of the Regulations. The CID warned that a repetition of such omission by the parties may result in the Commission imposing penalties on the parties.

11. This decision is adopted in accordance with Article 26 of the Regulations.

Dated this 8th day of June, 2020

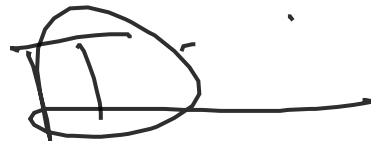


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Commissioner Islam Tagelsir Ahmed Alhasan (Chairperson)



Commissioner Brian M. Lingela



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Commissioner Thembelihle P. Dube née Dlamini