



COMESA Competition Commission
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**Common Market for Eastern
and Southern Africa**

Case File No. CCC/MER/07/19/2021

**Decision¹ of the Seventy-Ninth (79th) Committee Responsible for
Initial Determination Regarding the Proposed Acquisition of control
by Taylor Smith Investment Limited in Holcim Limited's Indian
Ocean Operating Entities**

ECONOMIC SECTOR: Construction

5th November 2021

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 Where possible, the information omitted has been replaced by ranges of figures or a general description.

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Introduction and Relevant Background

1. On 12th August 2021, the COMESA Competition Commission (the “**Commission**”) received a notification for approval of a proposed transaction relating to the acquisition of sole control by Taylor Smith Investment Limited (“**TSI**”), over Lafarge (Mauritius) Cement Ltd, Holcim Madagascar SA, Holcim Madagascar Immobilier (HMI) (SARL), Lafarge Cement Company (Seychelles) Limited and Lafarge Comores SA (together, the “**Target Undertakings**”), pursuant to Article 24(1) of the COMESA Competition Regulations of 2004 (the “**Regulations**”).
2. 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. Pursuant to Article 13(4) of the Regulations, there is established a Committee Responsible for Initial Determinations, referred to as the CID. The CID is responsible for making initial determinations on cases before the Commission. The decision of the CID is set out below.

The Parties

TSI

4. The parties have submitted that the acquiring firm, TSI, is an investment holding company incorporated under the laws of Mauritius, with its registered address at Taylor Smith House, Old Quay D Road, Port-Louis, Mauritius. TSI is involved in the following broad categories of activities: marine services, logistics and distribution, manufacturing, and services.
5. In the Common Market, TSI is active in Mauritius, Madagascar and Seychelles.

The Target Undertakings

6. The parties submitted the following as the target undertakings:
 - (a) Lafarge (Mauritius) Cement Ltd, a company incorporated under the laws of Mauritius, with its registered address at Cybercity Maeva Tower Floor 10th Ebene, Mauritius;
 - (b) Holcim Madagascar SA, a company incorporated under the laws of Madagascar, with its registered address at, 1 Bis Rue Patrice Lumumba, Tsaralalana, Antananarivo, 101, Madagascar;
 - (c) Holcim Madagascar Immobilier (HMI) (SARL), a company incorporated under the laws of Madagascar, with its registered address at, 1 Bis Rue Patrice Lumumba, Tsaralalana, Antananarivo, 101, Madagascar;
 - (d) Lafarge Cement Company (Seychelles) Limited, a company incorporated under the laws of Seychelles, with its registered address at Newport, Victoria, P O Box 479, Mahe, Seychelles, and

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(e) Lafarge Comoros SA, a company incorporated under the laws of Comoros, with its registered address at, Former Moroni Aerodrome, Moroni, Comoros.

7. Within the Common Market, the target undertakings are active in the production and/or sale of cement in Madagascar, Mauritius, Seychelles and Comoros.

Jurisdiction of the Commission

8. Article 24(1) of the Regulations requires ‘notifiable mergers’ to be notified to the Commission. Rule 4 of the Rules on the Determination of Merger Notification Thresholds and Method of Calculation (the “**Merger Notification Thresholds Rules**”) provides that:

Any merger, where both the acquiring firm and the target firm, or either the acquiring firm or the target firm, operate in two or more Member States, shall be notifiable if:

- a) the combined annual turnover or combined value of assets, whichever is higher, in the Common Market of all parties to a merger equals or exceeds COM\$ 50 million; and*
 - b) the annual turnover or value of assets, whichever is higher, in the Common Market of each of at least two of the parties to a merger equals or exceeds COM\$ 10 million, unless each of the parties to a merger achieves at least two-thirds of its aggregate turnover or assets in the Common Market within one and the same Member State.*
9. The merging parties have operations in more than two COMESA Member States, their combined turnover in the Common Market exceeds the threshold of USD 50 million and they each derive turnover of more than USD 10 million in the Common Market. In addition, the merging parties do not achieve more than two-thirds of their respective COMESA-wide turnover within one and the same Member State. The notified transaction is therefore notifiable to the Commission within the meaning of Article 23(5)(a) of the Regulations.

Details of the Merger

10. The notified transaction concerns the proposed acquisition of sole control by TSI, directly or indirectly through its controlled subsidiaries Cementis Investment Limited and Cementis Indian Ocean Limited, over the Target Undertakings.

Competition Assessment

Relevant Markets

Relevant Product Market

11. TSI is involved in the broad categories of marine services, logistics and distribution, manufacturing, and services. On the other hand, the target undertakings are active in the manufacturing/importation and supply of cement products in the Common Market.

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12. Cement is the binding material used to bind together the components of building materials. It is a fine powder produced from limestone, alumino-silicate, and other constituents.² Cement is used in the building and construction sector because it has a superior power to harden once mixed with water, and to bind other materials for stability and strength.³
13. The CID noted that cement can be classified into two main types: grey cement and white cement. “Compared to white cement, grey cement is usually less fine, consumes low energy and is less expensive, the former is a special type of cement used for specific construction purposes”⁴. White cement is mostly used for architectural beauty, interior, and exterior decorations, floorings, ornamental concrete products; whereas the grey cement is mostly used for construction purposes such as bridges, buildings and others⁵. White cement is reported to be more expensive than grey cement as a result of “higher selectivity of the raw materials and the increased production complexities involved”⁶. In view of the foregoing, the CID considered that different markets can be identified for white cement and grey cement.
14. Further, the CID noted that Cement can be differentiated according to its grade or class, which indicates strength development and setting times⁷. In terms of performance, the different grades differ primarily in the rate of early hydration and in their ability to resist sulphate attack. The grade of cement used depends on the compression strength required. For instance, quick setting cement are popular in fast-pace construction work as it develops early strength more quickly, thus reducing the time that precast concrete elements must remain in their forms.
15. This notwithstanding, the CID observed that the differences in the chemical composition of the various grades of cement are fairly subtle, with most cement types containing at least 75% calcium silicate minerals⁸. As such, it is expected that in the event of a small but permanent increase of 5–10 % in the price of a certain grade of cement, cement producers would be able to switch to the production of different cement grades within a short period of time and without incurring significant costs. Moreover, cement producers also tend to have the range of cement types for all typical cement applications available.
16. Further, the CID observed that while there exist potentially narrower sub-product markets within the broader cement market (for instance bagged cement vs bulk cement), to the extent that there are no overlaps in the activities of the parties in the cement market and it is improbable that anti-

² EC Case M.7550 CRH/Holcim Lafarge Development Business, paragraph 13

³ *Ibid*

⁴ [Difference Between Grey Cement and White Cement - Civil Engineering \(civiltoday.com\)](#) accessed on 20th September 2021

⁵ *Ibid*.

⁶ Global Cement, White Cement Review, accessed at <https://www.globalcement.com/magazine/articles/890-white-cement-review>. In particular, it was stated that for white cement, “the iron oxide and iron sulphate content in the limestone must be as low as possible as each 0.1% increase in iron oxide reduces cement reflectivity by 2.5%, producing darker cement. To ensure that all of the raw materials are fully converted in the kiln in the absence of iron oxide, mineralisers are added and higher temperatures are used, which uses more fuel. Additionally, the white clinker must be cooled rapidly, often with water, to prevent the oxidation of trace iron impurities that would darken the cement”, which makes white cement more costly to produce.

⁷ <http://www.cement.org/cement-concrete-basics/concrete-materials/cement-types>

⁸ http://iti.northwestern.edu/cement/monograph/Monograph3_8.html

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competitive conduct would manifest post-merger. Therefore, for purposes of this competitive assessment, the CID has considered that the relevant product market is the **wholesale and retail supply of cement**.

Relevant Geographic Market

17. The CID noted that the geographic scope of the market for cement is largely determined by transportation costs as cement is heavy product to transport. The CID noted that there are significant trade flows of cement across certain Member States in the Common Market⁹, in particular across the borders of Kenya-Uganda, Malawi-Zambia¹⁰, and Rwanda-Uganda, given the relatively close geographic proximity of these countries and the fact that cross-border trade of cement benefits from tax exemptions under the COMESA trade liberalisation programme. The CID however observed that the parties’ operations overlap in the territories of Comoros, Mauritius, Madagascar, and Seychelles and the remote geographic location of these Member States could significantly restrict the ability of wholesale and retail customers to source cement from overseas suppliers.
18. The CID thus considered that the relevant geographic market was national, specifically being **Comoros, Madagascar, Mauritius, and Seychelles**.

Conclusion of Relevant Market Definition

19. Without prejudice to the CID’s approach in future cases, for purposes of this transaction, the CID identified the relevant markets as the **national markets for wholesale and retail supply of cement in Comoros, Madagascar, Mauritius, and Seychelles**.

Market Shares and Concentration

20. The parties submitted their estimated market shares and those of their main competitors in market shares in Comoros, Madagascar, Mauritius, and Seychelles in the market for supply of cement in their preceding financial year (ended on 31 December 2020) as follows:

Table 1: Estimated markets shares of the Target Undertakings’ and their competitors in the supply of cement in Comoros, Madagascar, Mauritius, and Seychelles

Member State	Name of competitor	Market Share	
		Pre-merger	Post-merger
Comoros	<i>Lafarge Comores SA</i>	30 - 40%	30 - 40%
	Global Cement distributor Kachichi	10 - 20%	10 - 20%
	Global Cement distributor Ibrahim Mze	10 - 20%	10 - 20%
	Raysut cement distributor Kamal	10 - 20%	10 - 20%
	Raysut cement distributor Said Omar	5 - 15%	5 - 15%

⁹ https://www.comesa.int/wp-content/uploads/2021/01/2019-Annual-Report_online.pdf, discussing cement among main products for intra-COMESA trade,

¹⁰ For instance, the distance between Malawi’s Mchinji and Zambia’s Chipata is approximately 31 kilometres.

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Member State	Name of competitor	Market Share	
		Pre-merger	Post-merger
Madagascar	Global Cement distributor Bati Pro	5 - 15%	5 - 15%
	Holcim Madagascar SA	30 - 40%	30 - 40%
	NS Distribution	25 - 35%	25 - 35%
	Enac SARL	5 - 15%	5 - 15%
	Ets Firozehoussen	10 - 15%	10 - 15%
	Raysut Ciment Trading Madagascar	0 - 10%	0 - 10%
Mauritius	Lafarge (Mauritius) Cement Ltd	50 - 60%	50 - 60%
	Kolos Cement Limited	40 - 50%	40 - 50%
Seychelles	Lafarge Cement Company (Seychelles) Limited	45 - 55%	45 - 55%
	Civil Construction Company LTD	15 - 25%	15 - 25%
	P&J Supplies (Pty) Ltd (Homemakers)	5 - 15%	5 - 15%
	Laxmi Trading	5 - 15%	5 - 15%
	Vijay Engineering and Construction	0 - 10%	0 - 10%
	Building and Civil Engineering Contractors	0 - 10%	0 - 10%

21. The CID noted that the target undertakings are leading players in Comoros, Madagascar, Mauritius, and Seychelles. The concentration ratios indicate that the relevant market is highly concentrated in Mauritius and Seychelles and moderately concentrated in Comoros and Madagascar. While the target entities will remain the market leaders post-merger, the CID noted that the transaction itself will not result in any increase in market share, and therefore will not contribute to any change in market concentration.
22. The CID further noted that, while entry barriers into the relevant markets appear highly significant, the proposed transaction is unlikely to bring any change to the existing market structure and thus the existing barriers are not likely to create any added incentives for the merged entity to engage in anti-competitive conduct. The CID considered that while the acquisition by TSI may result in increased financial capacities for the Target Undertakings which is likely to further increase their market shares in the future, the transaction in itself would not create added incentives for the merging parties to engage in unilateral conduct.
23. The CID further noted that the transaction will not contribute to materially changing the structure of the markets to make coordination more likely or successful as there will be no removal of a competitor.

Third Party Views

24. Submissions were received from the national competition authorities of Madagascar, Mauritius, and Seychelles which confirmed the Commission's assessment that the transaction was unlikely to raise competition concerns due to the absence of overlap in the parties' activities pre-merger.

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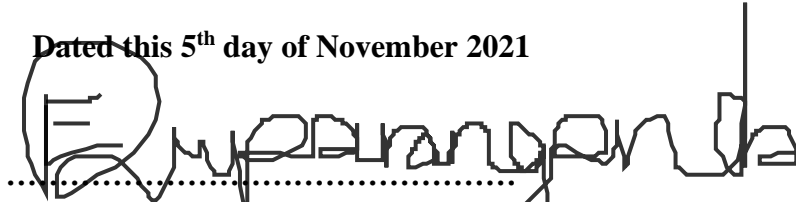
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Determination

25. Based on the foregoing reasons, the CID determined that the merger is not likely to substantially prevent or lessen competition in the Common Market or a substantial part of it, nor be contrary to public interest. The CID further determined that the transaction is unlikely to negatively affect trade between Member States.
26. The CID therefore approved this transaction. This decision is adopted in accordance with Article 26 of the Regulations.

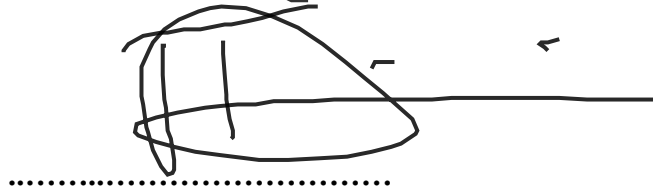
Dated this 5th day of November 2021



Commissioner Ellen Ruparanganda (Chairperson)



Commissioner Brian M. Lingela



Commissioner Thembelihle Precious Dube née Dlamini