



COMESA Competition Commission

Kang'ombe House, 5th Floor

P.O. Box 30742

Lilongwe 3, Malawi

Tel: +265 1 772 466

Email- compcom@comesa.int



**Common Market for Eastern
and Southern Africa**

Case File No. CCC/MER/11/47/2022

Decision¹ of the Ninetieth (90th) Meeting of the Committee Responsible for Initial Determinations Regarding the Proposed Acquisition of Sole Control by Louis Dreyfus Company Melbourne Holdings Pty Ltd over Emerald Grain Pty Ltd

ECONOMIC SECTOR: Agriculture



19 December 2022

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 Where possible, the information omitted has been replaced by ranges of figures or a general description.

The Committee Responsible for Initial Determinations,

Cognisant of Article 55 of the Treaty establishing the Common Market for Eastern and Southern Africa (the “**COMESA Treaty**”);

Having regard to the COMESA Competition Regulations of 2004 (the “**Regulations**”), and in particular Part 4 thereof;

Mindful of the COMESA Competition Rules of 2004, as amended by the COMESA Competition [Amendment] Rules, 2014 (the “**Rules**”);

Conscious of the Rules on the Determination of Merger Notification Thresholds and Method of Calculation of 2015;

Recalling the overriding need to establish a Common Market;

Recognising that anti-competitive mergers may constitute an obstacle to the achievement of economic growth, trade liberalization and economic efficiency in the COMESA Member States;

Considering that the continued growth in regionalization of business activities correspondingly increases the likelihood that anti-competitive mergers in one Member State may adversely affect competition in another Member State,

Desirability of the overriding COMESA Treaty objective of strengthening and achieving convergence of COMESA Member States’ economies through the attainment of full market integration,

Having regard to the COMESA Merger Assessment Guidelines of 2014,

Determines as follows:

Introduction and Relevant Background

1. On 1 November 2022, the COMESA Competition Commission (“**Commission**”) received notification of a merger involving Louis Dreyfus Company Melbourne Holdings Pty Ltd (“**Louis Dreyfus**”) and Emerald Grain Pty Ltd (“**Emerald Grain**”), 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 decision of the CID is set out below.



The Parties

LDCMH (the acquiring undertaking)

4. LDCMH is a company incorporated in accordance with the laws of Australia. LDCMH acts as a holding company for the Australian operations of Louis Dreyfus Company B.V. ("LDC", together with its controlled affiliates including LDCMH, is collectively referred to as the **LDC Group**). LDCMH has an interest and operates in Grains, Oilseeds and Cotton in Australia.
5. LDCMH is a 100% indirectly owned subsidiary of LDC, the holding company of the LDC Group of companies. LDC is a global merchant and processor of agricultural goods and is active along the entire value chain, including production, origination, processing, storing, transporting, merchandizing, packaging and distribution. Globally, the LDC Group operates in various business lines (platforms), including, in particular, the following:
 - a. **Oilseeds:** LDC originates, processes, stores and merchandizes different oilseeds and related processing by-products, for global food, feed, energy and other industries. It also provides oilseed meals (such as soybean meal), predominantly used as a protein ingredient in animal and aquatic feeds, and vegetable oils, used as edible oil, to create biodiesel and other derivative products for industrial applications, specialty chemicals, personal care, cosmetics and pharmaceuticals.
 - b. **Grains:** LDC sources grains - including wheat, corn, sorghum and barley - from major producing areas, storing, transporting, processing and merchandizing these, including as derivative products such as corn-based ethanol, as well as dried distillers grains and finished products for human and animal (pet food) consumption. [REDACTED]
[REDACTED] The parties further submitted that the acquiring undertaking's grain segment supplying into the Common Market includes wheat, corn, sorghum and barley, as such, reference to "grains" in this filing should be taken to refer to wheat, corn, sorghum and barley.
 - c. **Cotton:** LDC originates, gins and merchandizes cotton. [REDACTED]
[REDACTED]
[REDACTED]
 - d. **Sugar:** LDC originates raw sugar from producers and exports it from producing countries. It also merchandizes beet sugar, refined sugars and sugar-based ethanol.
 - e. **Rice:** LDC merchandizes paddy rice, semi-processed brown rice (milled from dried paddy grains), milled rice (by removing the husk, bran and germ layers



to varying degrees) and parboiled rice (soaked, pressured, steamed, and dried prior to milling) worldwide.

- f. **Coffee:** LDC originates, merchandizes and mills green coffee beans, including Robusta and Arabica. It owns and operates 20 coffee milling facilities across all major production countries and a distribution network including 15 storage facilities, mainly in coffee origination countries.
 - g. **Juice:** LDC farms (in Brazil) and sources citrus fruits (oranges, lemons and limes), processes them and merchandizes their juices and by-products. By-products include peel oil, extracted from orange peel (application in skincare products, fragrances and food flavoring), essences and aromas recovered from evaporation (application in food flavoring), dry peel (used for pectin extraction for the food industry) and pulp pellets (used as animal feed). It ships citrus juices and by-products to destination ports, where it stores the products for further distribution and sale to fruit juice manufacturers. [REDACTED]
 - h. **Freight:** LDC provides freight services supporting its own agricultural goods merchandizing operations, as well as third party customers in different industries (e.g. mining).
 - i. **Global Markets:** The Global Markets platform provides support to the LDC Group through interest rate and foreign exchange risk management for its activities worldwide.
 - j. **Carbon Solutions:** Carbon Solutions platform supports the LDC Group in its decarbonization efforts supported by participation in voluntary and compliance carbon credits markets.
6. Within the Common Market, the LDC Group generates sales to customers incorporated in all Member States except for Comoros, Eritrea, Libya, Madagascar and Sudan.
 7. LDC is jointly controlled by Louis Dreyfus Commodities and Energy Holdings B.V. ("LDC&E") and Abu Dhabi Developmental Holding Company PJSC ("ADQ") within the meaning of Article 23(2)(a) of the Regulations.
 8. LDC&E is a limited liability company incorporated in the Netherlands. LDC&E is a holding company which does not directly carry out any business activities.
 9. ADQ is wholly owned by the Government of the Emirate of Abu Dhabi. ADQ's portfolio spans key sectors, including energy and utilities, food and agriculture, healthcare and pharma, and mobility and logistics.
 10. ADQ is active in the Common Market through various portfolio companies in the following COMESA Member States: Burundi, Democratic Republic of Congo,



Djibouti, Egypt, Eswatini, Ethiopia, Kenya, Libya, Mauritius, Rwanda, Seychelles, Somalia, Sudan, Tunisia, Uganda and Zambia.

11. ADQ operates in the Common Market through the following controlled entities:

Table 1 – Activities of ADQ controlled entities in the Common Market

Name of Entity	Description of Activity
LDC	- The LDC Group is a merchant and processor of agricultural goods, with activities spanning the entire value chain (production, origination, processing, storing, transporting and merchandising).
Amount Pharmaceuticals Co. SAE	- It operates in the development, manufacturing, marketing, distribution, and export of a wide range of human pharmaceutical and animal health products.
Emirates Steel Industries P.J.S.C.	- Emirates Steel was established in 1995 in Abu Dhabi Industrial area. The production facility is located at Musaffah, Abu Dhabi to manufacture MS Steel Billets for Rebar rolling mills. The company commenced production of steel billets in 1998 with a capacity of 24,000 TPA. It holds the distinction of being first of its kind in United Arab Emirates ("UAE").
Agthia Group Egypt LLC	- The Agthia Group is a regional food and beverage company based in Abu Dhabi (UAE) and listed on the Abu Dhabi Securities Exchange since 2005. Agthia owns 11 factories and 18 warehouses, and manufactures products in the UAE, Saudi Arabia, Oman, Kuwait, Egypt and Turkey with a total workforce of about 4000 employees. Agthia's activities are divided into a consumer business part and an agri-business part. Ismalia Investments is a producer of frozen processed chicken and beef products and was acquired by the Agthia Group in September 2021.
Al Dahra Group LLC	- Agri-commodities trader with focus in the Middle East
NTS Middle East FZCO	- It is a manufacturer and provider of repair services for oil & gas downhole tooling components
Abu Dhabi Media Company P.J.S.C. ("ADM")	- ADM maintains an office and employs staff in Egypt under a special media license. ADM's activities in Egypt include the commissioning of journalism and licensing of audiovisual materials. The company broadcasts of FTA channels via satellite that can be received across in COMESA Member States in North Africa including ADTV; Al-Emarat; Majid TV; AD Sport and Yas. ADM maintains VOD and digital services that can be accessed across COMESA member states across Arabic speaking North Africa including ADTV.ae, UFC Arabia, Al Ittihad, Majid and AD Radio.
Eltizam Asset Management Estate LLC	- It is a physical asset management company focused on the built asset environment in the MENA region, with significant investments in facilities management, real estate management, energy management Prop-Tech, intelligent building technology, and disruptive technology. Tafawuq Facilities Management LLC is a subsidiary of Eltizam Asset Management Group and provides facility management as well as maintenance services for commercial and private customers and employs 2000 people.
Acino Group	- The Acino Group is a pharmaceutical company headquartered in Zurich, Switzerland, established in 1836 and develops, manufactures and internationally markets pharmaceuticals



Dubai Cable Company	- The company produces copper and aluminium wire and cable products
Abu Dhabi Securities Exchange PJSC	- Abu Dhabi Securities Exchange PJSC is a stock exchange in Abu Dhabi.
AMMROC (Advanced Military Maintenance, Repair and Overhaul Centre) LLC	- AMMROC provides maintenance, repair and overhaul services and integrated logistics support for the military and civil aviation sectors.

Emerald Grain (the target undertaking)

12. Established in 2004, Emerald Grain is a company incorporated in accordance with the laws of Australia. It is a grain trading, marketing, storage and handling company. Emerald Grain supplies Australian grain to over 35 countries across the world.
13. Emerald Grain offers customers access to a full range of grains, milling wheat, malting barley, food grade pulses, oilseeds including canola, and feed grains including sorghum, maize and feed barley. Emerald Grain also provides a network of grain storage and receival facilities across New South Wales and Victoria along with a grain terminal at the Port of Melbourne.
14. In the Common Market, Emerald Grain is active in the trading of wheat in Burundi, Malawi, and Rwanda.

Jurisdiction of the Commission

15. 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.*



16. The undertakings concerned have operations in two or more Member States. The parties' combined annual turnover in the Common Market exceeds the threshold of USD 50 million and they each derived turnover of more than USD 10 million. In addition, the merging parties do not hold 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

17. The notified transaction entails the proposed acquisition by LDCMH of the entire share capital of Emerald Grain from Longriver Farms Pty Ltd in its capacity as trustee for the Longriver Farms Trust. Following the proposed transaction, LDCMH will acquire sole control over Emerald Grain.

Competition Assessment

Relevant Product Market

18. It is noted that within the Common Market, both the acquiring group and the target undertaking are active in the trading of grain products.

Trading of grain products

19. Grain products are sourced from farmers and transported and supplied to the downstream markets. *"Once the agriproducts have been originated from the farmers, they are stored and handled in silos, elevators and/or port terminals. ... are then either transported to processing or refining facilities (e.g., crushing or milling facilities to turn soybeans into soybean oil; wheat into wheat flour; sugar into refined sugar; etc.) or transported directly in their unprocessed form for trade and distribution"*².
20. The unprocessed or/and processed grain products are then sold to a large variety of export markets, including food manufacturing companies, animal feed manufacturing companies, and non-food manufacturing companies (e.g., biofuels or industrial products), at the downstream marketing of the value chain. In the value chain, the marketing category comprises the sale by wholesalers of grains, oilseeds, and intermediate oilseed products to third parties³. These manufacturers then sell the final product to food/feed retailers and other outlets for consumption.
21. The CID has previously identified a distinct market for trading of grains, noting that trading and origination stages involve different roles in the value chain⁴.

² Decision of the Eighty-Fifth (85th) CID regarding the proposed acquisition of control by Viterra USA Investment, LLC of Gavilon Agriculture Investment, Inc, dated 2 August 2022 (the "Viterra Decision"), paragraph 19.

³ European Commission Case No COMP/M.6740 - BAYWA / CEFETRA, paragraph 9.

⁴ Viterra Decision.



Originators/intermediaries typically have larger financial, storage and transportation facilities than their customers at the downstream marketing value chain and are typically more sophisticated as they also engage in paper trade of such crops.

22. The CID has further previously considered whether further segmentation can be made by types of grain products such as wheat, corn, sorghum, and barley as each is different from other grain products on account of either their prices and/or physical characteristics. However, from a supply perspective, grain marketers can easily switch to the distribution of different grains since there are no special skills or know-how required to deal with particular grain products. This is evidenced by the fact that the acquiring undertaking itself originate and distribute a wide variety of grains which include wheat, corn, and barley. The CID observed that global players similarly offer various grain options rather than specialising in one type of grain which would point to supply side substitutability – for instance, Cargill⁵ and Viterra⁶, two global traders, distribute a variety of grains which include wheat, corn, barley and sorghum.
23. On the basis of the foregoing assessment, the CID identified the relevant product market as **the trading of grains**.

Relevant Geographic Market

24. The CID has previously considered that the relevant geographic market for the trading of grains is likely to be wider than national in scope, given the fact that local players likely to face competition from imports sourcing and marketing in the Common Market and beyond⁷.
25. The CID noted from the parties' submissions that the LDC Group sources its grain products from major producing areas such as the United States, South America, Australia and the Black Sea region while Emerald Grain sources from Australia. It is further noted that global players such as Cargill, Bunge, ADM Medsofts, and Viterra have presence in the Common Market.
26. The CID further noted that COMESA Member States namely Egypt, Tunisia, Libya, Ethiopia, and Kenya were among Ukraine's top export destinations of grain products during the years from 2016/2017 to 2020/2021.⁸ With the crisis between Ukraine and Russia disrupting the supply of wheat, Argentina, as the 6th largest wheat exporter in the world, intends to strengthen its presence in the Sub-Saharan Africa⁹. It has further been reported that in sub-Saharan Africa, wheat is one of the

⁵ <https://www.cargill.com/agriculture>, accessed on 29 November 2022.

⁶ <https://www.viterra.com/What-we-do/Marketing/Grains>, accessed on 29 November 2022.

⁷ Viterra Decision, paragraph 30.

⁸ <http://www.igc.int/en/downloads/2022/gen2122misc1.pdf>, accessed on 30 November 2022.

⁹ <https://ecomnewsafrique.com/en/2022/05/23/sub-saharan-africa-argentina-8th-world-producer-will-supply-242000-tons-of-wheat-to-11-african-countries-following-the-war-with-ukraine/>, accessed on 30 November 2022



main cereals consumed; and that competition for market share is fierce among global exporters¹⁰.

27. In view of the above, the CID considered that it would not be impracticable for global companies involved in the trading of grains to access such products from outside the Common Market. For the foregoing reasons, **the relevant geographic market for trading of grains is construed as global.**

Market Shares and Concentration

28. The CID observed the estimated market shares of the parties and those of their top competitors (including global competitors which have activities in the Common Market) in respect of the trading of grains in the Common Market as per Table 2 below¹¹.

Table 2 – Non-Confidential Market Share estimates of the merging parties and their top competitors in the trading of grains in the Common Market

Company Name	Pre-merger %
Cargill	[0% - 10]%
LDC	[0% - 10]%
Holbud	[0% - 10]%
Bunge	[0% - 10]%
ADM Medsofts	[0% - 10]%
Viterra	[0% - 10]%
Emerald Grain	[0% - 10]%

29. As can be seen from Table 2 above, the grain trading market in the Common Market is not concentrated and it is characterised by presence of many global players such as Cargill, Bunge, ADM Medsofts and Viterra. The CID further noted that [70-80]% of the grain trading market share in the Common Market is contributed by other local and global players, indicating that the grain market is fragmented. The transaction will result in an insignificant market share accretion in the Common Market. The CID noted that the merging parties are relatively small players within the region and are likely to face more competitive pressures in the global market.

Consideration of Third-Party Views

30. Submissions were received from the national competition authorities of Egypt, Kenya, Mauritius, and Zimbabwe which did not raise any concerns in relation to the transaction. This is consistent with the CID’s assessment, as presented above.

¹⁰ *Ibid.*

¹¹ The merging parties have submitted that they have provided details of their top 5 competitors and market share estimates based on their estimate of the grains market size (volume) in the Common Market, which is based primarily on their knowledge of the Member States in which LDC trades wheat, barley and corn.



Determination

31. 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. The CID therefore approved this transaction.
32. This decision is adopted in accordance with Article 26 of the Regulations.

Commissioner Dr Mahmoud Momtaz (Chairperson)

Commissioner Lloyds Vincent Nkhoma

Commissioner Islam Tagelsir Ahmed Alhasan

