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Common Market for Eastern
and Southern Africa

Case File No. CCC/MER/2/14/2022

**Decision¹ of the Eighty-Third (83rd) Committee Responsible
for Initial Determinations Regarding the Proposed Merger
involving LSF XI Magpie Bidco SRL and Manuchar NV**

ECONOMIC SECTOR: Distribution of chemicals and freight
forwarding

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 Where possible, the information omitted has been replaced by ranges of figures or a general description.

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Introduction and Relevant Background

1. On 4th March 2022, the COMESA Competition Commission (the "**Commission**") received a notification involving LSF XI Magpie Bidco SRL ("**LSF XI**") as the acquiring undertaking and Manuchar NV ("**Manuchar**") as the target undertaking, 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

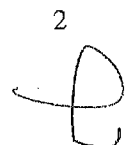
LSF XI (the acquiring undertaking)

4. LSF XI is a private limited company incorporated and organised under the laws of Belgium as a newly established and a wholly owned subsidiary of affiliates of Lone Star.
5. The parties submitted that Lone Star is a private equity firm that invests globally in real estate, equity, credit, and other financial assets. Since the establishment of its first fund in 1995, Lone Star has organised 21 private equity funds, and has offices in Beijing, Dallas, Hamilton, Hong Kong, London, Madrid, Miami, Montreal, New York, Paris, Singapore and Tokyo.
6. The parties submitted that, within the Common Market, Lone Star, through its portfolio investments, is mainly active in the manufacturing and distribution of roof tiles, carpets and rugs, supply of coffee machines and payment solutions, supply of construction materials, construction chemicals, production and distribution of colours and ink. Further, Lone Star is active in the following Member States: Egypt, Kenya, Libya, Madagascar, Mauritius, Sudan and Uganda. Further, Lone Star, through its portfolio investments as presented in Table 1 below:

Table 1: Operations of Lone Star in the Common Market

Member State	Name of Subsidiary	Nature of Activities
Egypt	Younexa Egypt	F&G manufacturing entity and distributor of colours and inks



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Member State	Name of Subsidiary	Nature of Activities
Egypt, Kenya, Madagascar, and Mauritius	Evoca Group	In the out-of-home coffee machine sector and provides a comprehensive range of machines and payment solutions for the Ho.Re.Ca, OCS and vending markets.
Egypt, Kenya, Libya, Mauritius	Balta Group	Manufacturer of carpets and rugs for homes and businesses as well as non-woven textiles for building, geotextile, automotive, print and exhibition industries
Egypt	MBS Construction Chemicals Egypt SAE and MBS Construction Chemicals Trading SAE	Supplier of construction materials, construction chemicals and solutions worldwide
Kenya	MB Solutions Kenya Ltd. MBCC	Supplier of construction materials, construction chemicals and solutions worldwide
Sudan ²	Edilians	Manufacturer and distributor of roof tiles

Manuchar (the target undertaking)

7. Manuchar is a limited liability company incorporated and organised under the Laws of Belgium. The parties submitted that Manuchar is an international distributor of chemicals across emerging markets and invests globally in the wholesale trade of chemical products, the procurement and maritime transport of a variety of commodities including steel; polymers; cement; paper and pulp; wood; pharmaceuticals; as well as metals and parts (i.e., mining supplies, tyres, spare parts and safety equipment).
8. Manuchar's end-to-end chemical distribution business serves various industries, including homecare, personal care, food and feeds, agriculture, mining, oil and



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gas, glass, textiles, paper, and water treatment. Its international trade activities cover steel, plastics, cement, wood, paper, spare parts, and pharmaceuticals³.

9. The parties further submitted that, in the Common Market, Manuchar is predominantly active in the wholesale trade of chemical products particularly soda ash and sodium sulphate which are the most important chemical products distributed by Manuchar. Its portfolio also includes potassium sulphate; magnesium sulphate; potassium chloride; sodium bicarbonate; citric acid; glycerine; fatty alcohol; waxes and oils.
10. Manuchar also provides third party logistics ("3PL") services in Kenya and Uganda.
11. The parties submitted that, within the Common Market, Manuchar is primarily active in the Democratic Republic of Congo (the "DRC"), Ethiopia, Kenya, Uganda. Further, the parties submitted that Manuchar to a limited extent also operates in Burundi, Djibouti, Egypt, Eswatini, Libya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Sudan, Zambia and Zimbabwe.

Jurisdiction of the Commission

12. 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 USD 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 USD 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.*

13. The merging parties have operations in more than two COMESA Member States. The parties' combined annual asset value in the Common Market exceeds the threshold of USD 50 million and they each hold asset value of more than USD 10 million in the Common Market. In addition, the merging parties do not achieve

³ <https://www.leadersleague.com/en/news/lone-star-acquires-belgian-chemical-distributor-manuchar> accessed on 20th April 2022



more than two-thirds of their respective COMESA-wide asset value 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

14. The parties have submitted that the proposed transaction entails the acquisition by LSF XI, a wholly owned subsidiary of affiliates Lone Star, of 100% of the issued share capital in Manuchar together with its subsidiaries (the "**Manuchar Group**").

Competitive Assessment

Relevant Markets

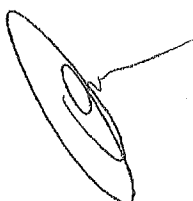
Relevant Product Market


15. The CID noted that no categories of products and/or services supplied by the acquiring undertaking and target undertaking may be considered as similar, reasonably interchangeable or substitutable. For this reason, the CID's assessment focused on the wholesale of chemical products, the provision of third-party logistics and freight forwarding services provided by the target in Kenya.

Wholesale of chemical products

16. The CID noted that the distribution of chemical products primarily involves the purchase and resale of solid and liquid chemicals to industrial and commercial end-users. Once purchased, chemicals can be warehoused in a distributor's facility or directly shipped to a final customer particularly in the case of larger volumes of chemical products. The European Commission ("**EC**") has distinguished three relevant product markets distribution of chemicals namely: the market for the bulk chemical business; the market for the distribution of commodity chemicals and the market for the distribution of specialty chemicals.⁴
17. The CID noted that the market for the bulk chemical business entails delivering commodity chemicals to customers that demand large quantities of a single product. On the other hand, the market for the distribution of commodity chemicals involves distributors who buy commodities in large quantities from producers or traders and distribute them to customers that require a large range of different chemicals in smaller quantities. In this respect, the distributors also provide additional services such as filling, storing, blending and logistics. Under

⁴ See Case No COMP/M.2244 - ROYAL VOPAK / ELLIS & EVERARD, para 11, Dated 16/01/2001; Case No COMP/M.3344 - BAIN CAPITAL / INTERFER / BRENNTAG, Para 11, Dated 21/01/2004; Case No COMP/M.4836 - CVC / UNIVAR, para 14, Dated 17/09/2007.




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this market segment, the products are generally highly commoditised, widely available and fairly easy to handle and no specific knowledge about the customers' industry would be necessary for the distributor to sell these products.

18. The CID further noted that the distribution of specialty chemicals entails distributing highly priced, branded products in small quantities to selected customers. In this segment, several distributors specialise in specific products for a range of user groups and the distributors tend to have specific knowledge about customers' needs for them to sell these products.
19. The CID considered that substitution is likely to be limited amongst the three segments. It was considered that customers for bulk chemical products are unlikely to opt for specialty chemicals nor commodity chemicals given that the type of the chemicals demanded are likely to be different. Further, the mode of distribution to the various customers is likely to differ and substitution limited. For instance, bulk chemical distribution would require a distribution system that is able to accommodate moving large quantities of chemicals from the manufacturer to the customer. Such a customer would also need to have storage facilities large enough to accommodate large quantities of the chemicals once these are supplied. Similarly, a distinction can be drawn between bulk chemical distribution or commodity chemical distribution with specialty chemical distribution.
20. The CID recalled that, in the Common Market, Manuchar operates in the market for the wholesale distribution of commodity chemicals which include soda ash and sodium sulphate. The CID noted that this market can be segmented in accordance with the type of chemical product distributed which can be distinguished based on the intended use and chemical composition. Thus, soda ash and sodium sulphate are intended for different purposes and are likely to be demanded differently by customers. The CID noted that in **SOLVAY/RHODIA**, the EC⁵ considered that soda ash (or sodium bicarbonate) is an alkaline chemical commodity mainly used as a raw material in the manufacture of glass, making of detergents and in metallurgy while sodium sulfate was seen as useful in the manufacture of detergents and in the kraft process of paper pulping.
21. Despite the possible distinction by intended use, the CID noted that from a supply perspective, traders can easily switch to the distribution of different chemical products since there are no distinguishing special skills or know how required to deal with the distribution of particular chemical products. To this end, the CID noted that supply side substitution was possible amongst the different types of chemical products.

⁵ Case No COMP/M.6230 - SOLVAY/ RHODIA, para61, Dated 05/08/2011



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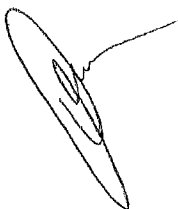
22. The CID considered that while the distribution of the chemical products may entail distributing different products, distinguished based on product characteristics, intended use or otherwise, a supplier is likely to easily switch between distribution of these products.
23. In view of the above, the CID considered that the market for the wholesale distribution of chemical products comprised a single market which does not need to be further segmented for the purpose of competitive assessment of this transaction.

Contract Logistics and Freight Forwarding

24. According to the parties' submission, Manuchar is active in the provision of 3PL services (also known as traditional contract logistics services) and freight forwarding services which entail clearing and loading or discharging of vessels and as well as providing local logistics via trucks. The freight forwarding services entail coordinating international shipments, inland transport tracking, preparation of customs and other documentation imposed by regulatory authorities, cargo insurance and insurance claims, conversion of cargo space, warehousing, as well as negotiation of freight charges and international payment methods.
25. The CID considered its previous decision in **DP World/Imperial Logistics** where separate product markets for contract logistics services and freight forwarding services were identified.⁶ It was considered that freight forwarders do not own any part of the network they use but they often hire transportation capacity for their shipments from third parties. To the contrary, it was noted that contract logistics services entail comprehensive services offered across the production through to distribution value chain and do not simply entail the moving of goods. Contract logistics move goods through the production line, warehousing, distribution plan, inventory management and final distribution.
26. A distinguishing feature in contract logistics include the combination of warehousing and transportation services and the involvement of the provider in the customer's supply chain which does not happen in freight forwarding. A provider of contract logistics oversees other services such as inventory control, product tracking, order picking, management, time lined delivery, quality checking, information technology and account management⁷. Thus, the two services can be distinguished as distinct markets.
27. The CID noted that within both the freight forwarding market and the contract logistics market, narrower markets can potentially exist. For instance, freight forwarding can be grouped into domestic and international freight forwarding or

⁶ Decision of the Eighty-first (81st) Committee Responsible for Initial Determinations regarding DP World Logistics FZE and Imperial Logistics Limited, 20th February 2022.

⁷ European Commission Case No COMP/M.2411 - AUTOLOGIC/TNT/WALLENIUS/CAT JV, paragraph 15.



according to the mode of transport (i.e., air, land and sea)⁸; whereas contract logistics services can be segmented by type of good handled or the industry serviced.

28. The above notwithstanding, the CID did not consider the segmentation of the market further given the absence of horizontal overlap as the acquirer is not active in these markets in the Common Market. The CID considered that narrower markets need not be defined as any alternative market definition is not likely to alter the competitive assessment of the merger. The CID therefore considered that the market for the contract logistics services and the market for the freight forwarding services are distinct product markets.
29. Premised on the foregoing and without prejudice to the CID's approach in similar future cases, the relevant product markets are construed as follows:
- a) **the market for the wholesale distribution of chemical products;**
 - b) **the market for the contract logistics services; and**
 - c) **the market for the freight forwarding services.**

Relevant Geographic Market

30. The CID noted that paragraph 8 of the COMESA Market Definition Guidelines defines the relevant geographic market as, "*...the area in which the undertakings concerned are involved in the supply and demand of products or services, in which the conditions of competition are sufficiently homogeneous and which can be distinguished from neighbouring areas because the conditions of competition are appreciably different in those areas...*".
31. With regard to the market for the wholesale distribution of chemical products, the CID noted that distributing chemical products is subject to strict regulations and may be time sensitive, as compared to distribution of other types of products.
32. The CID further noted as per the parties' submission that, for suppliers to enter the chemical products distribution market and effectively compete, they often set-up national warehouses, storage facilities, local port operations and create local logistics network in the country or the region in which they wish to operate. In this respect, the CID considered that the national markets are likely to present homogenous conditions within which competition takes place.
33. Having regard to the parties' operations in the Common Market in Burundi, Djibouti, the DRC, Egypt, Eswatini, Ethiopia, Kenya, Libya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Sudan, Uganda, Zambia, and Zimbabwe, the

⁸ European Commission Case COMP/M.4746 Deutsche Bahn / EWS, Case COMP/M.4045 DB / BAX Global, Case COMP/M.3971 Deutsche Post / Exel and Case COMP/M.1794 Deutsche Post / Air Express International.



CID considered that the market for wholesale distribution of chemical products is national in scope and pertains to these markets.

34. With respect to the contract logistics services and freight forwarding services markets, and in line with its previous decisional practice⁹, the CID considered that the geographic scope of contract logistics and freight forwarding market is the Common Market.

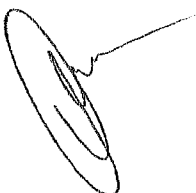
Conclusion of relevant market

35. Based on the foregoing, and without prejudice to the CID's approach in similar future cases, the CID construed the relevant markets in current transaction as the:
- a. **market for the wholesale distribution of chemical products in Burundi, Djibouti, the DRC, Egypt, Eswatini, Ethiopia, Kenya, Libya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Sudan, Uganda, Zambia, and Zimbabwe;**
 - b. **market for the provision of contract logistics services in the Common Market; and**
 - c. **market for the provision of freight forwarding services in the Common Market.**

Market Shares and Concentration

36. The CID noted that the transaction is not likely to result in a change in the market structure given the absence of a horizontal overlap in the activities of the parties in the Common Market. This notwithstanding, the CID noted that the target undertaking predominantly distributes soda ash and sodium sulphate at a wholesale level in the DRC, Ethiopia, Kenya, and Uganda. Further, the target distributes other chemical products in the Common Market, although on a small scale.
37. In this respect, the parties submitted the market shares for soda ash and sodium sulphate as per the Table 2 below.

⁹ Decision of the Eighty-first (81st) Committee Responsible for Initial Determinations regarding DP World Logistics FZE and Imperial Logistics Limited, 20th February 2022.

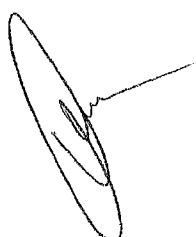



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Table 2: Estimated market shares of the target in the wholesale distribution of soda ash and sodium sulphate

Member State	soda ash		sodium sulphate	
	Pre-merger	Post-merger	Pre-merger	Post-merger
The DRC	[50 – 60]%	[50 – 60]%	[45 – 50]%	[45 – 50]%
Egypt	-	-	[5 – 10]%	[5 – 10]%
Ethiopia	[25 – 30]%	[25 – 30]%	[25 – 30]%	[25 – 30]%
Kenya	[55 – 60]%	[55 – 60]%	[80 – 85]%	[80 – 85]%
Uganda	[0 – 5]%	[0 – 5]%	[0 – 5]%	[0 – 5]%

38. From the above table, the CID noted that while the target has significant market share in the wholesale distribution of soda ash and sodium sulphate in the DRC, Ethiopia, and Kenya, competition concerns are unlikely to arise given that the market structure is not likely to change, post-merger due to absence of overlap.
39. Furthermore, the merged entity is likely to face competition from competitors in the relevant market for the distribution of chemical products who include; Azelis, Brenttag, Soleva, and Protea Chemicals.
40. With respect to the market for the provision of contract logistics services, the parties submitted that their market shares in Kenya and Uganda is below [0 - 10]%. The CID noted that while the parties did not submit market shares information for their competitors in the provision of contract logistics services, they submitted that they face competition from the several players including Bolloré Africa Logistics, DHL Global Forwarding, Siginon Global Logistics, Mitchell Cotts Group, and DB Schenker in Kenya; and Bollore Transport and Logistics, DHL Global Forwarders, Multilines International Ltd, Spedag Interfreight Uganda Ltd, and Unifreight Cargo Handling Ltd in Uganda. Therefore, competition concerns are unlikely to result in the relevant market due to the presence of competitors coupled with the low market shares for the parties.
41. The parties submitted that the target is active to limited extent in the provision of freight forwarding services particularly for the cement industry. The parties are therefore likely to face competition from other providers of freight forwarding services which has global players such as Imperial logistics, DSV A/S, DP World, Siginon Global Logistics, DHL Supply Chain/ Global Forwarders, Bollore Africa Logistics Ltd, and Unifreight Cargo Handling Ltd.





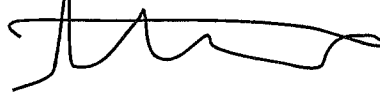
Consideration of Third-Party Views

42. Submissions were received from Egypt, Eswatini, Ethiopia, Malawi, Mauritius, and Seychelles which did not raise any concerns as a result of the transaction given that the parties do not operate as competitors pre-merger.

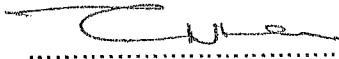
Determination

43. 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.
44. The CID therefore approved this transaction. This decision is adopted in accordance with Article 26 of the Regulations.

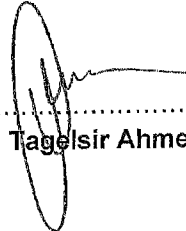
Dated this 31st day of May 2022



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Commissioner Mahmoud Momtaz (Chairperson)



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Commissioner Vincent Nkhoma



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Commissioner Islam Tagelsir Ahmed Alhasan