



**COMESA Competition Commission**  
Kang'ombe House, 5<sup>th</sup> Floor  
P.O. Box 30742  
Lilongwe 3, Malawi  
Tel: +265 111 772 466/529/530  
Email- [compcom@comesacompetition.org](mailto:compcom@comesacompetition.org)



**Common Market for Eastern  
and Southern Africa**

**Case File No. CCC/MER/12/50/2024**

**Decision<sup>1</sup> of the 116<sup>th</sup> Meeting of the Committee Responsible  
for Initial Determinations Regarding the Proposed  
Acquisition of Covestro AG by ADNOC International  
Germany Holding AG**

**ECONOMIC SECTOR: Manufacturing**



**25 March 2025**

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 Where possible, the information omitted has been replaced by ranges of figures or a general description.

## 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;

Having regard to the COMESA Merger Assessment Guidelines of 2014;

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;

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

Determines as follows:

### Introduction and Relevant Background

1. On 6 January 2025, the COMESA Competition Commission (“**the Commission**”) received a notification of a merger regarding the Proposed Acquisition by ADNOC International Germany Holding AG (“**ADNOC**” or the “**Acquiring Firm**”) of Covestro AG (“**Covestro**” or the “**Target Firm**”), pursuant to Article 24(1) of 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**

### ***ADNOC (the “Acquiring Firm”)***

4. The parties submitted that ADNOC is a company incorporated under the laws of Germany. ADNOC is a subsidiary of Abu Dhabi National Oil Company P.J.S.C. (“**ADNOC P.J.S.C.**”), which together with its subsidiaries and controlled joint ventures forms the ADNOC Group or the “**Acquiring Group**”).
5. ADNOC P.J.S.C. is ultimately owned by the Government of the Emirate of Abu Dhabi and is a commercially autonomous entity that is governed by its own board of directors and, in particular, its Executive Management team.
6. The parties submitted that the Acquiring Group controls the following firms that are or have subsidiaries incorporated in the Common Market<sup>2</sup>:
- i. [REDACTED];
  - ii. [REDACTED];
  - iii. [REDACTED];
  - iv. [REDACTED];
  - v. [REDACTED]; and
  - vi. [REDACTED].
7. The parties further submitted that ADNOC P.J.S.C.'s jointly controlled joint venture Borouge Pte Ltd, which trades as “Borouge” (Borouge) has only one subsidiary incorporated in Egypt, namely [REDACTED].<sup>3</sup>
8. ADNOC P.J.S.C.'s also jointly controls [REDACTED].

### ***Covestro (the “Target”)***

9. The parties submitted that Covestro is a publicly listed company incorporated under the laws of Germany.
10. The parties submitted that Covestro’s shares are listed, inter alia, on the regulated market of the Frankfurt Stock Exchange.

<sup>2</sup> Confidential information claimed by merging parties.

<sup>3</sup> Confidential information claimed by merging parties.





11. Covestro is a chemical producer that focuses on the supply of high-performance polymer materials and solutions globally.

### **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 undertakings concerned have operations in two or more Member States. The undertakings concerned derived a turnover of more than the threshold of USD 50 million in the Common Market and they each derived a turnover of more than USD 10 million in the Common Market. In addition, the parties do not hold more than two-thirds of their respective aggregate turnover or asset value in one and the same Member State. The CID was thus satisfied that the transaction constitutes a notifiable transaction within the meaning of Article 23(5)(a) of the Regulations.

### **Details of the Merger**

14. The notified transaction concerns the proposed acquisition of up to 100% of the share capital of Covestro by ADNOC, by way of an all-cash voluntary public takeover offer to all the shareholders of Covestro (the "**Public Takeover**"). This transaction followed an intention of ADNOC to launch a voluntary takeover offer for the entire shareholding of Covestro.
15. Upon closing of the Public Takeover, ADNOC will additionally subscribe for 18,900,000 new shares in Covestro, corresponding to 10% of Covestro's current share capital, by means of a capital increase against cash consideration with exclusion of subscription rights of any remaining minority shareholders of Covestro.



## Competition Analysis

### Consideration of the Relevant Markets

#### *Relevant Product Market*

16. Paragraph 7 of the Commission's Guidelines on Market Definition states that a ***"relevant product market comprises all those products and/or services which are regarded as interchangeable or substitutable by the consumer/customer, by reason of the products' characteristics, their prices and their intended use"***.
17. The CID observed from the parties' submissions that ADNOC is principally active in the exploration, production, storage, refining, and distribution of oil and gas, as well as in the development of petrochemical products.
18. The CID noted that Covestro is a chemical producer that focused on the supply of high-performance polymer materials and solutions globally.
19. The CID observed that the chemical industry is a diverse industry which produces chemicals and related products to be used as an input in the manufacturing goods in almost every industry, including agriculture, pharmaceuticals, energy, and consumer products. Raw materials like oil, natural gas, minerals, and agricultural products are processed into a broad range of chemicals used by consumers.
20. The CID further observed that the petrochemical industry on the other hand produces chemicals from petroleum and natural gas. Petrochemicals are used as building blocks for a wide variety of products used in industries such as plastics, textiles, automotive, construction, and pharmaceuticals.
21. The CID noted the parties' submissions that they are both active globally across the chemical value chain, which consists of the following products:
  - i. Feedstock, which is the raw material used as the principal input for a chemical process, e.g., salt, oil and gas.
  - ii. Petrochemicals and basic chemicals: feedstock is then transformed into basic forms usable for the chemical industry, which can be divided into petrochemicals and basic chemicals. Petrochemicals, include ethylene, propylene, benzene, toluene. They are typically used to introduce organic elements into a reaction or a product. Basic chemicals, e.g., chlorine, sodium hydroxide, ammonia, are typically inorganic and are often used as reagents.
  - iii. Intermediates: petrochemicals and basic chemicals are combined to create the desired molecular core structures (for instance



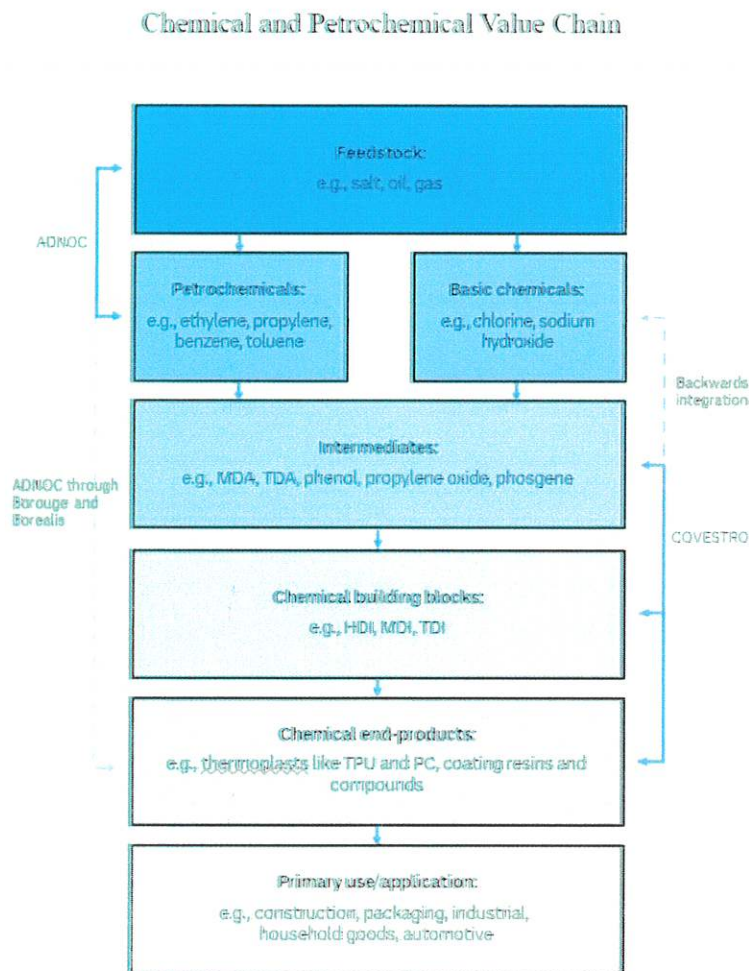


Diphenylmethanedi-amine (“MDA”), Toluenedi-amine (“TDA”) or specific chemical required for downstream reactions (such as phenol or propylene oxide). The production of intermediates is often integrated, as some intermediates can be highly reactive (like phosgene), or have no other commercial use except for a specific downstream process (such as MDA and TDA).

- iv. Chemical building blocks: intermediates are combined to form chemical building blocks. These are molecules that typically already include the structural elements desired in the chemical end-product. Building blocks, such as MDI, TDI, HDI, PET are usually also traded on the market and can often be combined into a multitude of final products.
  - v. Chemical end-products: building blocks are combined and reacted to create the desired final molecule to be used in an end-application (for instance polymers like polyvinyl chloride),
  - vi. Thermoplasts such as TPU, PC, raw materials for coatings and adhesives, for example those curing via physical drying). Standard grades of final molecules, such as standard PC, can thereby be further specialised for specific applications through downstream processes like compounding. However, for chemical end-products there is no chemical reaction at the customer level anymore.
  - vii. Primary use/application: the chemical final product is then used in a specific end application, such as construction, packaging, industrial, household goods and automotive. Examples would be the coating of a car part, furniture, pipe or the headlamp of a car.
22. The CID further noted the parties’ submissions that at a global level, the Acquiring Group is mainly active at the (a) feedstock and (b) petrochemical and base chemical levels, while Covestro is mainly active at the (c) intermediates, (d) chemical building blocks and (e) chemical end-product levels, with a partial backward integration into certain basic chemicals, as reflected in the figure below. The parties stated that the majority of their activities are thus generally one or two steps apart from each other in the value chain.
23. The parties’ activities in the Chemical and Petrochemical value chain are depicted in Figure 1 below.



**Figure 1: Parties activities in the Chemical and Petrochemical value chain**



24. The CID noted that in the Common Market, the ADNOC Group, through its subsidiaries Fertiglobe plc (Fertiglobe), Borouge and Borealis, is active, at the upstream level of the value chain, in the chemicals value chain through the production and sale of ammonia, and at the intermediate level, through the sales of polyethylene and polypropylene based compounds, including polyethylene and polypropylene based materials.
25. The CID further noted that in the Common Market, Covestro is active at the intermediate level of the chemicals value chain through the sale of certain performance materials including TDI, [REDACTED] MDI, [REDACTED]  
[REDACTED]  
[REDACTED].
26. The CID observed that ADNOC Group is engaged in the production and supply of anhydrous ammonia in COMESA through its subsidiary Fertiglobe. The CID further noted that anhydrous ammonia can be used as an input for the industrial





manufacture of performance materials such as MDI and TDI, which Covestro supplies into the Common Market. The CID noted that there is a potential vertical link between the activities of the merging parties. The CID's market definition therefore focused on the products of likely vertical overlaps.

#### *Ammonia*

27. The CID noted that ammonia is a colourless, pungent gas composed of nitrogen and hydrogen. The CID has previously considered that ammonia can be distinguished as either anhydrous or aqueous ammonia.<sup>4</sup> Aqueous ammonia is anhydrous ammonia dissolved in demineralised water, typically 25% of ammonia and 75% of water.
28. The CID previously noted the distinction made between anhydrous and aqueous ammonia, given the limited demand and supply-side substitutability, as anhydrous ammonia required additional transportation and storage precautions because of its hazardous nature.<sup>5</sup> The CID further considered that within anhydrous ammonia, a further distinction could be made between ammonia for fertilizer use and ammonia for industrial purposes.<sup>6</sup> Anhydrous ammonia is mainly used in the production of nitrogen-based fertilizers through the Haber-Bosch process, which is a method developed over 100 years ago to create ammonia by heating and pressurizing nitrogen from the air over a hydrogen source (typically from natural gas or coal). The resultant ammonia is further processed to create nitrogen fertilizers in solid and liquid forms.<sup>7</sup> However, given the activities of the parties, the CID considered that Fertiglobe primarily produces anhydrous ammonia for its own use in the production of urea fertilizers. The CID previously defined a market for the production and supply of urea in the Proposed Acquisition of Sole Control of Fertiglobe Plc by ADNOC Fertilizers – Sole Proprietorship L.L.C.<sup>8</sup>
29. For the purposes of this transaction, however, the CID was of the view that anhydrous ammonia is relevant as this can be potentially used as an input to the downstream production activities of the target.

#### *Diisocyanates*

30. The CID noted that diisocyanates is a monomer, that is, a molecule which has the property to react with molecules to form larger molecules, that is a polymer. Diisocyanates are known to be versatile chemical blocks, which are used as key ingredients in the production of polyurethanes. Diisocyanates are used in a wide

<sup>4</sup> Decision of the 107<sup>th</sup> Meeting of the Committee Responsible for Initial Determinations Regarding the Proposed Acquisition of Sole Control of Fertiglobe Plc by ADNOC Fertilizers – Sole Proprietorship L.L.C

<sup>5</sup> *Ibid* n. 4

<sup>6</sup> *Ibid* n. 4

<sup>7</sup> <http://elixirfertilizers.com/>

<sup>8</sup> *Ibid* n. 4





range of products such as foams, coatings, adhesives, sealants, and elastomers. Diisocyanates used in polyurethane production are divided into two types: aromatic diisocyanates and aliphatic diisocyanates<sup>9</sup> by virtue of their reactivity. The CID noted that aromatic diisocyanates come in two main types: toluene diisocyanate (“**TDI**”) and methylenediphenyl diisocyanate (“**MDI**”).

31. The CID observed that TDI is the main raw material used in the production of polyurethanes, which are versatile polymers used in a number of products, including foams, coatings, adhesives, and elastomers. The CID further observed that MDI on the other hand, is used in the production of rigid foams and coatings. The CID noted that MDI exists in two forms: pure MDI which is solid at room temperature and modified MDI which is in liquid form.
32. The CID noted that the European Commission has distinguished diisocyanates based on their chemical composition. The European Commission has also considered that HDI and MDI constituted distinct markets.<sup>10</sup> The European Commission has further considered a segmentation of isocyanate compounds between diisocyanates and polyisocyanates and has assessed HDI separately from HDI Oligomers (or HDI polyisocyanates). HDI oligomer (or HDI derivatives) also referred to as aliphatic polyisocyanate is used as a cross linker for two component polyurethane coatings, i.e., as a hardener in the coatings industry and to an insignificant extent in adhesives. The CID noted that the European Commission concluded that HDI is an aliphatic diisocyanate, as opposed to aromatic diisocyanate and HDI derivatives constitute a separate product market.
33. Based on the foregoing assessment and without prejudice to the CID’s approach in similar future cases, the CID defined the relevant product markets as:
  - i. the manufacture and supply of anhydrous ammonia,
  - ii. the manufacture and supply of TDI; and
  - iii. the manufacture and supply of MDI.

#### ***Relevant Geographic Market***

34. The Commission’s Guidelines on Market Definition define the relevant geographic market as comprising “***...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***”<sup>11</sup>.

<sup>9</sup> [www.americanchemistry.com/industry-groups/diisocyanates-dii/diisocyanates-overview/diisocyanates-explained](http://www.americanchemistry.com/industry-groups/diisocyanates-dii/diisocyanates-overview/diisocyanates-explained)

<sup>10</sup> Case M.10432 - PTTGC / Allnex

<sup>11</sup> Paragraph 8



35. The CID noted the parties' submissions that both the upstream market for anhydrous ammonia and downstream market for MDI and TDI have the presence of strong global players.
36. The CID noted that anhydrous ammonia, TDI and MDI are globally traded products, due to which customers can access suppliers across the globe.
37. The CID previously considered that geographic market for chemical products is global in view of the fact that the production and supply occur mostly outside of the Common Market and most of the producers and suppliers operate on a global level<sup>12</sup>.
38. The CID noted from the parties' submissions that they operate mostly via exports in the Common Market.
39. In view of the above, the CID was of the view that the geographic scope for the manufacture and supply of anhydrous ammonia, MDI and TDI was likely to be broader than the Common Market and may extend globally given that manufacturers and sellers are global players.

#### ***Conclusion of Relevant Market Definition***

40. Based on the foregoing assessment, and without prejudice to the CID's approach in similar future cases, the CID defined the relevant markets as:
- i. the global market for the manufacture and supply of anhydrous ammonia,
  - ii. the global market for the manufacture and supply of Toluene Diisocyanate ("TDI"); and
  - iii. the global market for the manufacture and supply of Methylen Diphenyl Diisocyanate ("MDI").

#### **Consideration of Substantial Lessening of Competition or "Effect" Test Market Shares and Concentration**

41. The parties submitted that the upstream market for anhydrous ammonia is characterised by the presence of strong global competitors such as Yara, BASF, Grupa Azoty and Eurochem. To this end, the CID noted from the parties' submissions that Yara is the world's largest shipper and distributor of ammonia. Further, Yara and CF Industries lead globally, in terms of total ammonia capacity, with a combined capacity of more than 12.9 million metric tons in 2023, with a turnover of USD 15.5 billion corresponding to almost 6.8% of the global share in

<sup>12</sup> Decision of the 107<sup>th</sup> Meeting of the Committee Responsible for Initial Determinations Regarding the Proposed Acquisition of Sole Control of Fertiglobe Plc by ADNOC Fertilizers – Sole Proprietorship L.L.C





2023. The CID also noted that BASF in 2023, had a production capacity for ammonia of 1.37 million metric tons per year and recorded a turnover of USD 68.9 billion. The CID noted the parties' submissions that Grupa Azoty enhanced its ammonia production in 2023 and recorded a turnover of approximately USD 576 million. The CID further noted the parties' submissions that in 2023, Eurochem supplied around 0.3 million metric tonnes of ammonia to external customers and recorded a revenue of approximately USD 3.9 billion in 2023. In this respect, the CID considered that the market for anhydrous ammonia is likely to remain competitive post-merger given the presence of significant alternative suppliers that will continue to compete with the merged entity.

42. The CID noted the parties' submissions that the downstream markets for MDI and TDI are characterised by the presence of strong global competitors which include Wanhua, BASF, Huntsman and Dow.
43. The CID further noted the parties' submissions that ADNOC Group's market shares in the upstream market for anhydrous ammonia is less than 5% globally<sup>13</sup>, and is less than 25% in the Common Market<sup>14</sup>, based on capacity, as at 2023. The CID noted that Covestro's market shares in the downstream market for TDI and MDI (is less than 5% for TDI in the Common Market<sup>15</sup>; 20% - 30% globally<sup>16</sup>, and is less than 10% for MDI<sup>17</sup> in the Common Market and 10% - 20% for MDI globally<sup>18</sup>). Given these market shares, the CID observed that the parties are unlikely to possess market power.
44. The CID further observed that the market was global in nature and had numerous players which provided competitive constraints to the merging parties which was likely to constrain any unjustified future unilateral increase in the price, reduction in output or deterioration in quality by the merging parties in the aforementioned markets for TDI and MDI.

### **Consideration of Third-Party Views**

45. In arriving at its determination, the CID also considered submissions from the national competition authorities of DRC, Ethiopia, Kenya, Libya, Madagascar, Mauritius, Rwanda and Zimbabwe which confirmed the absence of competition and public interest concerns.

<sup>13</sup> Confidential information claimed by merging parties

<sup>14</sup> Confidential information claimed by merging parties

<sup>15</sup> Confidential information claimed by merging parties

<sup>16</sup> Confidential information claimed by merging parties

<sup>17</sup> Confidential information claimed by merging parties

<sup>18</sup> Confidential information claimed by merging parties



## **Determination**

46. 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 will it be contrary to public interest. The CID further determined that the transaction is unlikely to negatively affect trade between Member States.
47. The CID, therefore, approved the transaction.
48. This decision is adopted in accordance with Article 26 of the Regulations.

Dated this 25<sup>th</sup> day of March 2025

**Commissioner Dr Mahmoud Momtaz (Chairperson)**

**Commissioner Lloyds Vincent Nkhoma**

**Commissioner Vipin Naugah**

