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**Common Market for Eastern  
and Southern Africa**

**Case File No. CCC/MER/08/38/2022**

**Decision<sup>1</sup> of the Ninety-First (91<sup>st</sup>) Committee Responsible  
for Initial Determinations Regarding the Proposed Merger  
involving SABIC Agri-Nutrients Company and ETG Inputs  
Holdco Limited**

**ECONOMIC SECTOR: Agriculture**

**10 February 2023**

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 Where possible, the information omitted has been replaced by ranges of figures or a general description.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

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 7 September 2022, the COMESA Competition Commission (the “**Commission**”) received a notification for approval of a merger involving SABIC Agri-Nutrients Company (“**SABIC AN**”) as the acquirer and ETG Inputs Holdco Limited (“**EIHL**”) as the target.
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

### ***SABIC AN (the acquiring firm)***

4. SABIC AN is incorporated in the Kingdom of Saudi Arabia (**KSA**). SABIC AN is the primary acquiring firm in this transaction. It is controlled by Saudi Basic Industries Corporation ("**SABIC**"), which is in controlled by Saudi Arabian Oil Company ("**Saudi Aramco**", which together with its subsidiaries is further referred to as the "**Acquiring Group**").
5. SABIC AN is a global fertiliser producer, whose portfolio includes urea, ammonia, phosphate, and specialised products. SABIC is active in various sectors, including petroleum and natural gas<sup>2</sup>, raw material inputs for agricultural fertilisers (through SABIC AN), commodity chemicals<sup>3</sup>, metals<sup>4</sup> and specialties<sup>5</sup>. Saudi Aramco, on the other hand, is primarily engaged in prospecting, exploring, drilling and extracting hydrocarbon substances and processing, manufacturing, refining, and marketing these substances.
6. In the Common Market, the acquiring group is active in the Democratic Republic of Congo ("DRC"), Djibouti, Egypt, Ethiopia, Kenya, Libya, Madagascar, Malawi, Mauritius, Rwanda, Sudan, Tunisia, Uganda, Zambia, and Zimbabwe.

### ***EIHL (the target firm)***

7. The primary target firm relates to 49% shareholding of EIHL, a company incorporated and registered in accordance with the laws of the United Arab Emirates.
8. EIHL owns more than 350 distribution centres across Sub-Saharan Africa and specialises in distribution and blending of specialised fertilisers and agro-chemicals. With its network of agents and agronomists, EIHL has positioned itself to cater to commercial and smallholder farmer requirements across the African continent, including the most rural areas where opportunity is scarce. EIHL is, *inter alia*, involved in the import, blending, and distribution of fertiliser commodities.

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<sup>2</sup> This segment relates to energy and chemicals company focused on the trading of petrochemicals and natural gases.

<sup>3</sup> The petrochemicals business is mainly involved in polymers, including polyethylene and polypropylene. These polymers are used in applications such as in automotive components, industrial food packaging, pipes, bottle, and liquid containers.

<sup>4</sup> The metals business is active in steel production, producing long and flat steel products.

<sup>5</sup> The specialties business is active in the markets of high performing plastics, compounds, and forms, characterised by demanding combinations of thermomechanical with electrical or optical properties used in a number of applications including telecommunication infrastructure and devices, smart devices and PCs, electric vehicles, automotive lighting, in building and construction, mass transportation, display, and electronics etc.

9. In the Common Market, the target is active in Burundi, DRC, Djibouti, Ethiopia, Kenya, Madagascar, Malawi, Rwanda, Seychelles, Uganda, Zambia, and Zimbabwe.

### **Jurisdiction of the Commission**

10. 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.*
11. The undertakings concerned together have operations in two or more Member States. The undertakings concerned have a combined annual turnover in excess of the threshold of USD 50 million in the Common Market. In addition, the parties each derived turnover of more than USD 10 million in the Common Market and they did not derive 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**

12. The parties submitted that the potential transaction contemplates the purchase by the acquirer of 49% of the shares in EIHL from ETG World, together with certain governance rights which will confer joint control.
13. It has been submitted that the introduction of SABIC AN as a 49% shareholder in EIHL will strengthen ETC Group's efforts to further penetrate the agricultural inputs markets globally. EIHL owns more than 350 distribution centres across Sub-Saharan Africa and specialises in distribution and blending of specialised fertilisers and agro-chemicals. With its network of agents and agronomists, EIHL has positioned itself to cater to commercial and smallholder farmer requirements across the African.

14. The rationale for the transaction was submitted as follows:
- The Potential Transaction is part of SABIC AN's strategy to integrate its value chain vertically to include the blending and distribution of agricultural fertilisers in the global markets and to increase its currently limited footprint in Africa. It will allow SABIC AN to benefit from EIHL's presence across Africa, thereby moving closer to farmers and end-customers, in particular, through the expansion of its presence further downstream via EIHL's distribution and blending activities. By developing its capabilities throughout the entire fertiliser value chain, SABIC AN will be better placed to meet customer demand in the most efficient way. The potential transaction will thus enable SABIC AN to become a more effective market player in Africa, where major fertiliser companies with established market shares such as Yara, are already vertically integrated in this way.
  - From EIHL's perspective, the potential transaction combines SABIC AN (as a strategic partner) with EIHL / ETG World's distribution network to create a vertically integrated player capable of enhancing its market offering.

## **Competition Assessment**

### ***Relevant Product Market***

15. The parties submitted that the only activities of the parties which are relevant to this assessment are those of SABIC AN and of EIHL's subsidiaries with activities in the Common Market in relation to the agricultural fertiliser value chain, in which the parties operate at different levels. According to the parties, this is a vertical merger: SABIC AN is active upstream in the production and supply of certain raw material inputs into fertilisers. In the Common Market, SABIC AN indirectly only sells urea to fertiliser blenders, predominantly [REDACTED].
16. The CID considered that **a distinct product market can be identified for the supply of urea at upstream level for use by fertiliser blenders**. Urea is a globally traded commodity. It is a raw material used in the manufacture of many chemicals, such as various plastics, urea-formaldehyde resins and adhesives. It is also essential for making feedstock, glue, fertiliser, commercial products, and in resin production. The urea sold by SABIC AN is used for fertiliser purposes. Urea may also be bulk spread by farmers (whereby farmers may choose to apply urea directly to the soil together with any other nutrients they may be using to nourish their crops). The parties submitted that unlike SABIC AN, EIHL is not active in the production of any fertiliser raw material inputs i.e., at the upstream level, including of urea. Rather EIHL uses urea as an input into the mixed fertiliser products that it blends, which it then then sells to downstream (e.g., to fertiliser dealers / farmers). EIHL may also sell urea under its own fertiliser brands for

bulk-spreading. It was submitted that SABIC AN does not service the downstream market at all.

17. The CID identified separate markets for downstream supply of fertilisers from the upstream supply of urea. Fertilizers are inorganic materials with high analytical value and definite composition which can supply nutrients and trace elements, usually applied to the soil to encourage the growth of crops<sup>6</sup>. Nitrogen (“N”), phosphorus (“P”) and potassium (“K”) constitute the primary plant nutrients which are needed in large quantities for agricultural applications.
18. In general, nitrogen is responsible for increased yield and quality, and as nitrogen rates increase, so does yield<sup>7</sup>. Nitrogen is the most consumed nutrient, due to its important role in crop production. Nitrogen is primarily responsible for vegetative growth. Nitrogen assimilation into amino acids is the building block for protein in the plant<sup>8</sup>. Nitrogen fertilizers include anhydrous ammonia, urea, ammonium nitrate, and UAN solution. Urea is the most popular N- fertilizer source with about 54 percent of the world market and represents the major sectoral growth in the nitrogen industry<sup>9</sup>. “[U]rea is the most popular and economical of the nitrogen fertilizers. It has a higher concentration of nitrogen than any other solid fertilizer – 46%. Urea is very versatile, ideal for use in a wide range of environmental conditions on crops including wheat, barley, rice and maize. It can either be sprayed or used for fertigation and is normally applied at least three times during the growing season”<sup>10</sup>. As a fertiliser, urea<sup>11</sup> is blended into other fertiliser mixes e.g., with other raw fertiliser material inputs (‘straight’ fertilisers or with complex fertilisers).
19. The role of phosphorus and potassium in the plant is maintenance<sup>12</sup>. Both are found in high concentrations in areas of new growth and are responsible for keeping the system operating smoothly. Phosphorus is critical in root development, crop maturity and seed production. Phosphorus also plays a role in an array of functions necessary for healthy plant growth, contributing to structural strength, crop quality, seed production, and more.

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<sup>6</sup>Science Direct: Urea Fertiliser, Accessed at <https://www.sciencedirect.com/topics/agricultural-and-biological-sciences/urea-fertilizer>, on 30 September 2022.

<sup>7</sup> Noble Research Institute, ‘Back to Basics: The Roles of N, P, K and Their Sources’. Accessed at: <https://www.noble.org/news/publications/ag-news-and-views/2007/january/back-to-basics-the-roles-of-n-p-k-and-their-sources/>. According to a study, the average U.S. corn yield was predicted to decline by 41% without N fertilizer (Stewart et al., 2005, ‘The Contribution of Commercial Fertilizer Nutrients to Food Production’, the Journal of Agronomy).

<sup>8</sup> *ibid*

<sup>9</sup> <http://elixirfertilizers.com/>

<sup>10</sup> [https://www.sabic.com/assets/en/Images/BRO\\_AGR1\\_Agri-Nutrients\\_A5\\_070618\\_low-Res\\_tcm1010-13919.pdf](https://www.sabic.com/assets/en/Images/BRO_AGR1_Agri-Nutrients_A5_070618_low-Res_tcm1010-13919.pdf)

<sup>11</sup> Whilst urea has traditionally been a low-cost fertilizer, its price has significantly increased as a result of the Ukraine-Russia war.

<sup>12</sup> Supra footnote 13.

20. Potassium is required for the activation of over 80 enzymes throughout the plant. It is important for a plant's ability to withstand extreme cold and hot temperatures, drought and pests. Potassium increases water use efficiency and transforms sugars to starch in the grain-filling process. Potassium is often referred to as the "quality element," because of its contribution to many of the characteristics associated with quality, such as size, shape, color, and even taste, among others<sup>13</sup>. The most used K- fertilizer product worldwide is potassium chloride, also known as muriate of potash (MOP). It accounts for almost 70 percent of all demand for K- fertilizers.
21. In view of the characteristics of the different types of nutrients and their specific role in the growth of plants, the CID considered that the N-, P- and K- fertilisers constitute three distinct product markets. From the description of their roles in plant development above, it does on a higher balance of probability appear infeasible that there can be effective substitution between these elements while achieving the same desired results on plant development.
22. It is noted that fertilizers can be in single nutrient form (straight N, straight P, and straight K) or in a complex form which may contain any of these nutrients. Compound fertilizers can be in the form of NPK, NP, NK and vary in their percentage of nitrogen, phosphate and potash. They can be produced as complex granules whereby each granule contains each of the nutrients, or in the form of a blend where each of the nutrient is present in separate granules and then "blended" to the right formula.
23. Given the activities of the acquirer at upstream level in the manufacture of urea, the CID focused its competitive assessment on nitrogen containing fertilizers, which include straight nitrogen and nitrogen-containing compound fertilizers. The CID observed that nitrogen containing fertilisers (whether straight or complex) are the most common in the Common Market, as can be seen in the table below:

***Share of nitrogen containing fertilisers imports in the Common Market***

<b>Member State</b>	<b>Share of N fertilisers out of total fertiliser imports</b>	<b>Share of Complex fertilisers out of total fertiliser imports</b>
Ethiopia <sup>14</sup>	36%	62%
Kenya <sup>15</sup>	31%	65%
Madagascar <sup>16</sup>	25%	70%
Malawi <sup>17</sup>	46%	50%

<sup>13</sup> <https://feeco.com/npk-fertilizer-what-is-it-and-how-does-it-work/>

<sup>14</sup> <https://trendeconomy.com/data/h2/ethiopia/31>

<sup>15</sup> <https://trendeconomy.com/data/h2/kenya/31>

<sup>16</sup> <https://trendeconomy.com/data/h2/madagascar/31>

<sup>17</sup> <https://trendeconomy.com/data/h2/malawi/31>

Mauritius <sup>18</sup>	38%	42%
Seychelles <sup>19</sup>	28%	55%
Zambia <sup>20</sup>	38%	59%
Zimbabwe <sup>21</sup>	46%	34%

24. There are various types of straight nitrogen fertilizers, which vary in their chemical composition, and in particular in their content of nitrogen. Calcium ammonium nitrate, ammonium nitrate and urea are the most common. Other less used straight nitrogen fertilizers also include urea ammonium nitrate solutions and ammonium sulphate.
25. From the demand perspective, the various specific types of nitrogen containing fertilizers each have individual characteristics. For instance, urea, which is the most concentrated solid fertilizer available, is most effective at medium temperatures and in the presence of moisture. Producers in sub-Saharan Africa use more urea than any other type of fertilizer because it is one of the cheapest sources of nitrogen<sup>22</sup>. The region consumes nearly 3 million tonnes of urea annually, and it makes up more than 40 percent of its total fertilizer consumption. The second-most popularly consumed fertilizer in Africa is NPK, since they offer further options to meet the different agronomic and environmental requirements of soils and crops. While it appears that the processing of nitrogen containing fertilizers<sup>23</sup> requires different types of production facilities for the different types of fertilizers, nonetheless, nearly all manufacturers produce a wide range of these products, which suggest that supply side substitution may be feasible.
26. For the purpose of the present case, the CID considered that the relevant market comprises **all nitrogen containing fertilizers**.
27. In view of the different but related activities carried out by the merging parties, the CID identified the following relevant product markets for purposes of this competitive assessment:
- i. **Upstream supply of urea as an input for fertiliser;**
  - ii. **Downstream supply of nitrogen containing fertilisers.**

<sup>18</sup> <https://trendeconomy.com/data/h2/mauritius/31>

<sup>19</sup> <https://trendeconomy.com/data/h2/seychelles/31>

<sup>20</sup> <https://trendeconomy.com/data/h2/zambia/31>

<sup>21</sup> <https://trendeconomy.com/data/h2/zimbabwe/31>

<sup>22</sup> The World's Most Expensive Fertilizer Market: Sub-Saharan Africa. Accessed at: <https://gro-intelligence.com/insights/fertilizers-in-sub-saharan-africa> on 4 October 2022.

<sup>23</sup> For instance, ammonium nitrate is produced by neutralizing nitric acid with ammonia; urea is produced by reacting ammonia with carbon dioxide; ammonium sulfate is formed as a by-product of other process such as acid scrubbing of coke oven gas, synthetic fiber production, and the ammoniation of process sulfuric acid. (Source: Science Direct: Industry and Products, Handbook of Pollution Prevention and Cleaner Production: Best Practices in the Agrochemical Industry).



### **Relevant Geographic Market**

28. The relevant geographic market consists of all areas where the conditions of competition are significantly similar for all traders.
29. The CID observed that urea is a major source of nitrogen and is generally traded worldwide on a large scale. Its shipping is extremely cost efficient, also as a consequence of its production costs which are the lowest compared to the other straight nitrogen fertilizers. Further, the key import partners for the Member States include countries outside the Common Market, notably South Africa, Saudi Arabia, and United Arab Emirates<sup>24</sup>. This was confirmed by the submissions of several Member States, namely Zambia, Mauritius, and Malawi. It was stated that SABIC AN was not the only supplier of urea in Zambia and customers were able to import from other suppliers worldwide; likewise, there seems to be no significant restriction in relation to the importation of urea in Mauritius – in 2021 and 2022, there were 20 and 17 importers of urea respectively in Mauritius. Most of the urea that has been imported Mauritius in 2022 are from South Africa. In Malawi, the main suppliers of urea to fertilizer companies include SABIC, Yara, and ETG. It was reported that urea is easily available in Malawi and but that currently, fertilizer imports are scarce due to forex challenges in the country.
30. In view of the foregoing, the CID observed that the markets could be broader than national. Nonetheless, the CID considered that for the purposes of this decision, the exact geographic market definition can be left open since the proposed transaction would not lead to a significant lessening of competition under any plausible market definitions.
31. In relation to the supply of nitrogen containing fertilizers, the CID considered that the relevant geographic market is likely to be at least COMESA-wide as there are no restriction on trade of fertiliser within the Common Market. The COMESA-ACTESA Strategic Plan 2020-2030 has identified the harmonisation of fertilizer policies/ regulations, standards, quality assurance and market development in the COMESA Member States and thereafter establish a finance mechanism for bulk manufacturing and procurement of fertilizers and distribution in the COMESA Member States among its key programmes<sup>25</sup>. Further there are indication of trade between the Member States, for instance the main export destinations of fertilizers from Malawi in 2020 were Zambia and Zimbabwe<sup>26</sup>, while Mauritius exports to Seychelles, Madagascar<sup>27</sup>, and Zimbabwe<sup>28</sup>.

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<sup>24</sup> [https://trendeconomy.com/data/commodity\\_h2/310210](https://trendeconomy.com/data/commodity_h2/310210)

<sup>25</sup> <https://www.comesa.int/wp-content/uploads/2020/10/ACTESA-Strategic-Plan-2020-2030-draft-June-2020.docx#:~:text=The%20ACTESA%20Strategic%20Plan%202020,Council%20of%20Ministers%20in%202011.>

<sup>26</sup> <https://trendeconomy.com/data/h2/Malawi/31>

<sup>27</sup> <https://trendeconomy.com/data/h2/mauritius/31>

<sup>28</sup> <https://trendeconomy.com/data/h2/zimbabwe/31>

32. Whilst there are indications that competitive conditions in the Common Market may also be affected by imports from outside the region, given that the proposed transaction would not lead to any competition concerns, the exact market definition will be left open.

**Market shares and Concentration**

33. In respect of SABIC AN's estimated market share in relation to the upstream market for the supply of urea globally, the parties estimates that this would be between [0 – 10]%. The global urea market is highly fragmented, and highly competitive with no single competitor holding a market share in excess of [10-20]%. Table 2 below sets out SABIC AN's main competitors which are also active within the Common Market and sell urea to fertiliser blenders.

**Table 2 - Competitor information for the supply of urea**

<b>Name of competitor</b>	<b>Global market share (%)</b>
Yara	[0 – 10]%
Qatar Fertiliser Company	[0 – 10]%
Eurochem Group	[0 – 10]%
Fertiglobe	[0 – 10]%
Nutrien	[0 – 10]%

34. The CID's independent research confirmed the parties' submissions; it was noted that the global urea market reached a volume of 178.32 million metric tons in 2021, driven by the expanding agriculture sector, increased demand for fertilisers, rising population, rising disposable incomes, availability of feedstock for urea production and low prices<sup>29</sup>. The market is expected to grow at a compound annual growth rate of 0.8% between 2022 and 2027<sup>30</sup>. The CID observed that the acquiring group has a capacity to produce 5 million t/y urea, which would correspond to less than 3% of the total global volume.
35. It is further noted that the transaction will not result in any market share accretion given that the target operates in the downstream market for supply of fertilisers. The urea market is characterised by the presence of strong international competitors, including Yara International ASA, Indian Farmers Fertiliser Cooperative Ltd, PT Pupuk Kaltim, Qatar Fertiliser Company, National Fertilizers Ltd, Engro Corporation Limited, SABIC, CF Industries Holdings, Inc., and Nutrien Ltd.

<sup>29</sup> Global Urea Market Outlook. Accessed at <https://www.expertmarketresearch.com/reports/urea-market> on 5 September 2022.

<sup>30</sup> *Ibid*

36. The parties submitted that the EIHL’s market share in the market for urea fertilisers would be less than [0-10]%<sup>31</sup> in the global market. Table 3 below shows EIHL’s estimated market shares at national level.

**Table 3 – EIHL’s Market Share of Urea Based Fertilisers<sup>32</sup>**

<b>Member State</b>	<b>Approximate market share of urea based fertilizers</b>
Ethiopia	<[10-20]%
Kenya	[20-30]%
Malawi	[30-40]%
Rwanda	[20-30]%
Uganda	<[10-20]%
Zambia	[30-40]%
Zimbabwe	[20-30]%

37. Competitors involved in the supply of urea fertilisers at national level include the following:
- i. Ethiopia: OCI N.V., Midgulf International Ltd., Swiss Singapore Overseas Enterprises Pte Ltd., Samsung C& T Corporation, and Yara International
  - ii. Kenya: Interagro (k) Ltd, Elgon Kenya Ltd, Supplies and Services Ltd, CFAO, and One Acre Fund
  - iii. Malawi: Meridian Group, Paramount Holding, Agora Limited, Malawi Fertilizers, Afriventures Blantyre Limited
  - iv. Rwanda: OCP MOROCCO, Yara East Africa Ltd, One Acre Funds
  - v. Uganda: Uganda Crop Care Limited, and Balton Uganda Ltd
  - vi. Zambia: Omnia Zambia, Ferts, Seed & Grain, Yara Zambia, United Africa Grains (Pty) Ltd; and
  - vii. Zimbabwe: Omnia, Ferts, Seed & Grain, Grow Agriculture, Agromate.
38. It is noted that the parties asserted that the transaction is vertical in nature. The CID, however, also noted that SABIC AN is described as “one of the leading global fertilizer producers”<sup>33</sup>; notably, it is “a global leader in the agri-nutrients industry, manufacturing, distributing and marketing fertilizers and related specialty products. It supplies customers around the world with a wide variety of fertilizers ranging from general to highly specialized, urea, ammonia, MAP, DAP,

<sup>31</sup> Market share information claimed as confidential by the merging parties.

<sup>32</sup> Market share information claimed as confidential by the merging parties.

<sup>33</sup> <https://www.etgworld.com/sabic-an.html>; <https://salic.com/news/salic-and-sabic-agri-nutrients-co-sign-a-memorandum-of-understanding-to-enhance-cooperation-in-the-food-security-sector/>;

phosphate-based fertilizers, a comprehensive portfolio of nitrogen-based inorganic products, and specialty solutions”<sup>34</sup>.

39. According to the products’ portfolio available on its website<sup>35</sup>, in addition to producing urea and ammonia, the company also offers a wide range of fertilizers as presented in Table 4 below.

**Table 4 – Fertilisers produced by SABIC AN**

Product	Description	Region Available
11-29-19_6S NPK <sup>36</sup>	11-29-19+6S NPK grade is mainly used for Tuber crops and other fruits which include Potatoes, Onions, Watermelon. 11-29-19+6S provides a one solution for farmers providing balanced primary and secondary nutrients to the plant. That promotes healthy grow, good yield and excellent results.	Europe, Asia, MEA, Americas, Global
18-18-5_9S NPK <sup>37</sup>	18-18-5+9S grade is used on a wide range of vegetables and green landscapes. 18-18-5+9S is a balanced fertilizer promoting homogeneity of primary and secondary nutrients in one granular providing the needs of the plant during the whole seasons to have a healthy growth and good harvest.	Europe, Asia, MEA, Americas, Global
DATE PALM NPK <sup>38</sup>	Date Palm grade has been developed internally by SABIC after extensive research specifically for Middle East Date Palm trees to provide a solution for farmers. The balanced levels of primary and secondary nutrients provides Date Palm tree with its needs during the whole year to have a healthy growth and good harvest.	Europe, Asia, MEA, Americas, Global
Diammonium Phosphate (DAP) <sup>39</sup>	With nutrients including P2O5 (46%) and ammoniacal nitrogen (18%), DAP provides the correct proportion of phosphate and nitrogen needed for farming wheat, barley and vegetables. It is also applied in the early stage of fruit orchard fertilization.	Europe, Asia, MEA, Americas, Global

<sup>34</sup> ‘SABIC AGRI-NUTRIENTS, SALIC SIGN MEMORANDUM TO EXPLORE COMMERCIAL OPPORTUNITIES TOWARD ENSURING FOOD SECURITY’ issued on 28 July 2022. Accessed at: [https://www.sabic.com/en/news/36483-sabic-agri-nutrients-and-salic-sign-memorandum-to-explore-commercial-opportunities#:~:text=SABIC%20Agri%2DNutrients%20Company%20\(SABIC,and%20address%20growing%20environmental%20challenges](https://www.sabic.com/en/news/36483-sabic-agri-nutrients-and-salic-sign-memorandum-to-explore-commercial-opportunities#:~:text=SABIC%20Agri%2DNutrients%20Company%20(SABIC,and%20address%20growing%20environmental%20challenges)

<sup>35</sup> <https://www.sabic.com/en/products/agri-nutrients/agri-nutrients>

<sup>36</sup> [https://www.sabic.com/en/products/agri-nutrients/agri-nutrients/11-29-19\\_6s-npk](https://www.sabic.com/en/products/agri-nutrients/agri-nutrients/11-29-19_6s-npk)

<sup>37</sup> [https://www.sabic.com/en/products/agri-nutrients/agri-nutrients/18-18-5\\_9s-npk](https://www.sabic.com/en/products/agri-nutrients/agri-nutrients/18-18-5_9s-npk)

<sup>38</sup> <https://www.sabic.com/en/products/agri-nutrients/agri-nutrients/date-palm-npk>

<sup>39</sup> <https://www.sabic.com/en/products/agri-nutrients/agri-nutrients/dap>

Monoammonium Phosphate (MAP) <sup>40</sup>	With nutrients including P <sub>2</sub> O <sub>5</sub> (52%) and ammoniacal nitrogen (11%), MAP is often used to add the required proportion of phosphate and nitrogen needed for farming clover, wheat and barley, especially in sandy soil.	Europe, Asia, MEA, Americas, Global
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40. The CID thus considered whether the transaction may also present horizontal overlap in the downstream market for supply of fertilisers (including blending activities). The parties submitted that SABIC AN produces nearly all of its urea in KSA and sells it to large international wholesalers (such as █████) in the Jubail port in KSA. These sales occur on a “freight on board basis”, i.e. the title to SABIC AN’s urea transfers to the purchaser (wholesaler) at the moment when the urea is loaded onto the vessel at the Jubail port, which is typically arranged and paid for by the purchaser. It was submitted that all of the urea produced by SABIC AN that is ultimately consumed in African jurisdictions therefore ends up in these markets via third-party wholesalers. SABIC AN has no direct local sales or local staff on the ground to distribute its products.
41. In view of the foregoing, the CID was satisfied that no horizontal overlaps would arise in the Common Market in the downstream market for supply of nitrogen containing fertilisers.
42. The CID considered that access to an effective distribution channel appear to be the main obstacle for timely and sufficient entry into the relevant markets, as inefficiencies in the distribution channel will likely reduce competitiveness. Further, new entrants will require significant capital outlay to rival the established companies such as ETG or Yara. This notwithstanding, the transaction will not contribute to entry or expansion barriers as pre-merger, the acquiring group was already primarily engaged in the Common Market through EIHL.
43. The CID observed that the markets are characterised by a number of national and international competitors which will continue to exert competitive pressures on the merged entity post-merger. More importantly, the transaction will not materially change the market structure of the relevant markets. The proposed transaction is thus unlikely to lead to the creation or strengthening of a dominant position of the merged entity.
44. SABIC AN sells urea to EIHL out of KSA, which urea is used by EIHL in its fertiliser business in the Common Market. In Uganda, SABIC AN also sells urea to another customer (the **Uganda Customer**). Having regard to the vertical links arising from the transaction, the CID assessed whether the transaction could

<sup>40</sup> <https://www.sabic.com/en/products/agri-nutrients/agri-nutrients/map>

increase the parties' incentive and ability to engage in foreclosure at either one or both levels of the supply chain.

45. The parties submitted that they "*intend to keep the operations of both SABIC AN and EIHL entirely separate from one another post-merger and that the Potential Transaction will not materially alter the market structure in the Common Market or the merged entity's ability or incentives to engage in anti-competitive foreclosure strategies*"<sup>41</sup>.
46. Input foreclosure arises where, post-merger, the merged entity would be able, and incentivised, to restrict the access of downstream producers of fertilisers to urea, thereby raising its downstream rivals' costs by making it harder for them to obtain supplies of the input under similar prices and conditions absent the merger. The CID noted that the investors in, and shareholders of the Uganda Customer are significant players, which are likely to have considerable degree of countervailing buyer power in its dealings with suppliers, and themselves have activities in the broad fertilizer market which suggest that the identification of other sources of supplies of urea could occur relatively quickly if SABIC AN were to decide to stop supplying ██████████ post-merger. In view of the available facts, the CID was satisfied that the merged entity is unlikely to be able to successfully engage in input foreclosure in Uganda, or the rest of the Common Market.
47. Whilst noting that the fertiliser industry has generally been prone to collusion as a result of its economic characteristics (high concentration, barriers to entry, homogeneity of the products and relatively inelastic demand), the CID observed that the transaction will not result in the elimination of a competitor in the downstream market for supply of nitrogen containing fertilisers in the Common Market, such that the incentives for engaging in collusive practices may not be enhanced as a result of the transaction.

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

48. Submissions were received from the national competition authorities of Egypt, Kenya, Madagascar, Mauritius, Uganda, and Zambia which suggest that the transaction is not likely to substantially prevent or lessen competition in the Common Market or be contrary to the public interest, in line with the CID's findings as set out above.

### **Determination**

49. 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

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<sup>41</sup> Paragraph 7.3 of Exhibit B of the merger filing.

determined that the transaction is unlikely to negatively affect trade between Member States. The CID, therefore, approved this transaction.

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

Dated this 10<sup>th</sup> day of February 2023

**Commissioner Mahmoud Momtaz (Chairperson)**

**Commissioner Lloyds Vincent Nkhoma**

**Commissioner Islam Tagelsir Ahmed Alhasan**