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**Common Market for Eastern
and Southern Africa**

Case No. CCC/MER/5/21/2018

**Decision¹ of the Forty-Fifth (45th) Committee Responsible for Initial
Determination on the Proposed Merger Involving The Weir Group
Plc and ESCO Corporation**

ECONOMIC SECTOR: Mining and Construction

4th October 2018 – Johannesburg, South Africa

Handwritten signatures: nN, T.P.P, B.M.C

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 Where possible the information omitted has been replaced by ranges of figures or a general description.

Information and Relevant Background

1. On 11th June 2018, the COMESA Competition Commission (hereinafter referred to as the “Commission”) received a notification for approval of a merger between The Weir Group Plc (the acquiring firm, “Weir”) and ESCO Corporation (the target firm, “ESCO”).
2. The transaction was notified with the Commission under Article 24(1) of the COMESA Competition Regulations, 2004 (hereinafter referred to as the “Regulations”). Pursuant to Article 26 of the Regulations, the Commission is required to assess whether the proposed 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. The Committee Responsible for Initial Determination (hereinafter referred to as the “CID”) established that the parties operated in more than one COMESA Member State. This therefore meant that the regional dimension requirement under Article 23(3) of the Regulations is satisfied and asserted jurisdiction on the Commission to assess the transaction.

The Parties

Weir

4. Weir is a public company listed on the London Stock Exchange. Weir primarily designs and manufactures engineering products and; provides services for minerals, oil and gas and power industries. Weir products and services are sold in the following COMESA Member States: The Democratic Republic of Congo (DRC), Egypt, Eritrea, Ethiopia, Kenya, Libya, Madagascar, Mauritius, Eswatini, Uganda, Zambia and Zimbabwe.

ESCO

5. ESCO is a private company incorporated in the United States of America manufacturing equipment used in the mining and construction industries. ESCO products and services are sold in the following COMESA Member States: The DRC, Egypt, Eritrea, Madagascar, Mauritius and Zambia.

Nature of the Transaction

6. The transaction involves the acquisition of sole control by Weir of ESCO.

Competition Analysis

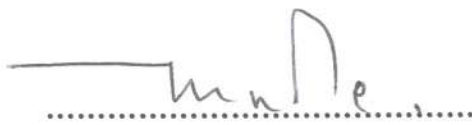
7. The CID defined the relevant product and geographic markets as follows:
 - a) The distribution of mining and construction equipment in the Common Market; and
 - b) The national aftersales market for mining and construction equipment.
8. The CID observed that the merger is not likely to substantially prevent or lessen competition in the relevant markets and that the merger has no effect of restricting trade

between Member States. Further, the CID observed that the merger would not be incompatible with the Treaty objective of single market integration

Determination

9. The CID determined that the merger is not likely to appreciably lessen competition in the Common Market and does not negate the objective of the Treaty establishing the Common Market for Eastern and Southern Africa, namely full market integration.
10. The CID therefore approved the transaction. This decision is adopted in accordance with Article 26 of the Regulations.

Dated this 4th Day of October, 2018



Commissioner Patrick O. Okilangole
(Chairperson)



Commissioner Brian M. Lingela
(Member)



Commissioner Thembelihle P. Dube
(Member)