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Common Market for Eastern and Southern Africa

Case File No. CCC/MER/7/23/2023

Decision[1] of the 103rd Meeting of the Committee Responsible for Initial Determinations Regarding the Proposed Acquisition of Viterra Limited by Bunge Limited

ECONOMIC SECTOR: Agriculture

13 December 2023

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 Where possible, the information omitted has been replaced by ranges of figures or a general description.

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 18 August 2023, the COMESA Competition Commission (the "**Commission**") received a notification for approval of a merger involving Bunge Limited ("**Bunge**") and Viterra Limited ("**Viterra**"), 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

Bunge (the acquirer)

4. Bunge[2] is an agribusiness and food company which is mainly active in the sale of vegetable oils, oilseed meal and grains. Bunge delineates its business globally in the following three core segments:

   i. Agribusiness: Bunge is mainly involved in the origination, storage, processing and sales of agricultural commodities, mainly oilseeds (soybeans, rapeseed, canola and sunflower seed) and to a lesser extent grains (mainly wheat and corn). Bunge is a global oilseed processor and producer of vegetable oils and protein meals. Bunge's principal customers of oilseeds, grains and oilseed meals are animal feed manufacturers, livestock producers, wheat and corn millers and other oilseed processors. Bunge's unrefined, crude vegetable oils are either used internally for further refining in Bunge's Refined and Specialty Oil Products segment or for the production of renewable fuel; or sold to third party edible oil processing companies. In addition, Bunge sells vegetable oil products for non-food uses, such as industrial applications and the production of renewable fuel.

   ii. Refined and Specialty Oils: Bunge sells refined oil products to food processors, food service companies, and retail outlets, as well as for feedstock to renewable fuel producers. These products include packaged and bulk oils and fats, including cooking oils, shortenings, margarines, mayonnaise, renewable fuel feedstocks, and other products derived from the vegetable oil refining process.

   iii. Milling Products: Bunge's activities concern the production and sale of wheat flours, bakery mixes, corn-based products and milled rice products to food processors, food service companies and retail outlets.

5. In the Common Market, Bunge is active only through import sales of grains, oilseeds, vegetable oils and non-grain feed ingredients (**NGFI**). For clarity, Bunge does not have any milling or processing capability in any Member State.

6. Globally, Bunge operates a non-core segment in the Sugar & Bioenergy segment. Bunge's activities in that segment consist primarily of Bunge's 50% interest in BP Bunge Bioenergia, as well as minor ethanol distribution sales activity. BP Bunge Bioenergia is based in Brazil and produces sugar, ethanol and electricity from burning sugarcane bagasse for the Brazilian market and abroad. These activities are not core to Bunge's business and its long-term goal is to seek strategic opportunities to divest its investment in the joint venture, hence the designation of such operations as non-core. Bunge has no Sugar & Bioenergy activities in the Common Market.

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[2] Pursuant to a re-domestication completed on 1 November 2023, Bunge Global SA is now the parent entity of the Bunge group and Bunge Limited (the former parent entity of the Bunge group) re-domesticated from Bermuda to Luxembourg and now operates as a "S.à.r.l.". Bunge Limited S.à.r.l. is now a wholly owned subsidiary of Bunge Global SA.

7. Bunge is active in the following Member States: Djibouti, Egypt, Ethiopia, Kenya, Libya, Madagascar, Mauritius, and Tunisia. Bunge's activities per Member State are set out in **Table 1** below:

Table 1: Activities of the Acquiring Group in the Common Market

Member State	Description Of Activities
Djibouti [3]	Marketing of vegetable oils
Egypt	Marketing of grains, oilseeds, vegetable oils and non-grain feed ingredients (**NGFI**)
Ethiopia	Marketing of vegetable oils
Kenya	Marketing of vegetable oils
Libya	Marketing of vegetable oils
Madagascar	Marketing of vegetable oils
Mauritius	[redacted]
Tunisia	Marketing of vegetable oils

Viterra (the target)

8. Viterra (together with its controlled affiliates, the **Target Undertaking**), is a company incorporated under the laws of Jersey, with its headquarters in the Netherlands. Viterra is a marketer of agricultural commodities, active in the origination, processing, refining, storage, handling and marketing of agriproducts. Viterra's network enables it to source agricultural commodities directly from producers, store and handle the commodities in its facilities near growing regions and transport the commodities (whether refined or processed in its facilities) from the growing regions to its port terminals which export those agricultural commodities to a wide range of international markets. In 2022, Viterra acquired the grains and ingredients business of Gavilon Agriculture Investment, Inc (**Gavilon**)[4].

9. Viterra focuses on origination, storage, handling and marketing of commodity crops. Viterra's main operating regions are North America, South America (Argentina and Brazil), Europe, Russia, Ukraine, and Australia.

10. In the Common Market, Viterra is active through import sales of grains, oilseeds, vegetable oils, sugar, pulses, cotton and NGFI. Viterra does not have any milling or processing capability in any COMESA Member State. Viterra is active in the following Member States: Burundi, the Democratic republic of Congo (**DRC**), Djibouti, Egypt, Ethiopia, Kenya, Libya, Madagascar, Mauritius, Rwanda, Somalia, Sudan, Tunisia, and Uganda. Viterra's activities in the Common Market, through its controlled entities

[3] Sales recorded for the 2022 financial year. However, the entity formerly trading as Bunge CIS is no longer part of the Bunge Group having been sold in February 2023.
[4] The transaction was approved by the Commission in 2022.

incorporated in the Common Market (Egypt) and its controlled entities incorporated outside of the Common Market are set out in **Table 2** below. In addition, Viterra was also active in [redacted], through sales are made by independent traders.

Table 2: Activities of the Target Undertaking in the Common Market

Member State	Description Of Activities
Djibouti	Marketing of cotton
Egypt	Marketing of grains, oilseeds, pulses, sugar, cotton, non-grain feed ingredients and vegetable oils
Ethiopia	Marketing of grains and vegetable oils
Kenya	Marketing of grains and sugar
Libya	Marketing of grains
Madagascar	Marketing of grains and sugar
Somalia	Marketing of sugar
Sudan	Marketing of grains and pulses
Tunisia	Marketing of grains, vegetable oils and sugar

Jurisdiction of the Commission

11. 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.

12. The undertakings concerned have operations in two or more Member States. The merging parties derive combined turnover in excess of the threshold of USD 50 million in the Common Market and they each derive turnover of more than USD 10 million in the Common Market. In addition, the parties do not derive more than two-thirds of their respective aggregate 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

13. On 13 June 2023, Bunge, Viterra and Viterra's existing shareholders (or affiliates of the existing shareholders) entered into a business combination agreement in terms of which Bunge will acquire 100% of the issued and outstanding share capital of Viterra (the "**Transaction**"). As part of the Transaction, Viterra's three main shareholders, namely Glencore plc ("**Glencore**"), Canada Pension Plan Investment Board ("**CPP Investments**") and the British Columbia Investment Management Corporation ("**BCI**"), will acquire stakes of respectively [redacted] (on a fully diluted basis) in Bunge after the Transaction without acquiring control of Bunge. Glencore and CPP Investments will also each receive two out of twelve board seats but not any additional rights that will allow them to control Bunge.

14. Following implementation of the Transaction, Viterra will be wholly owned and controlled by Bunge, and none of Bunge's shareholders (which following the Transaction will include Glencore, CPP Investments and BCI) will control (directly or indirectly) Bunge.

COMPETITION ASSESSMENT

Consideration of the Relevant Markets

Relevant Product Market

15. Both the acquiring group and the target operate in the agricultural commodities segment. Agricultural commodities are staple crops that are grown and harvested to produce food and can be used as an industrial ingredient, e.g., in the production of fuel. Agricultural commodities include grains, livestock and meat, cotton, oil seeds, dairy and soft commodities comprising of *inter alia* sugar, cocoa and coffee and other miscellaneous agricultural commodities including wool and rubber.

16. The agricultural commodities supply chain comprises of various stages. The value chain starts with origination. Origination refers to the market for purchasing crops such as harvested grains and oilseeds directly from farmers. Purchasers include agricultural traders, distributors, millers or crushers (including Viterra and Bunge).

17. Once the agriproducts have been originated from the farmers, they are stored and handled in silos, elevators and/or port terminals. The agriproducts 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.

18. The agriproducts are then sold to a large variety of export markets, including to food manufacturing companies, animal feed manufacturing companies, and non-food manufacturing companies (e.g., biofuels or industrial products). These manufacturers then sell the final product to food/feed retailers and other outlets for consumption. Direct sales can also occur between non-adjacent parts of the chain (e.g., direct sales by farmers/cooperatives to processors or direct sales by processors to end users).

19. The merging parties submitted that as importers and traders of NGFIs and vegetable oils to the Common Market, they may supply other traders, food companies, animal feed producers, livestock producers, and, additionally for vegetable oils, other vegetable oil refining companies. The merging parties do not supply consumer goods directly to end-consumers in the Common Market.

20. In ***Viterra/Gavilon***[5], the CID considered that the origination stage constitutes a distinct market separate from the downstream wholesale markets as they involve different players and therefore different supply and purchase conditions. The farmers sell to intermediaries who may further process the grains or seeds before marketing the crops. The intermediaries typically have larger financial, storage and transportation facilities than their customers at the downstream marketing chain and are typically more sophisticated as they also engage in paper trade of such crops[6]. It is noted that the parties are not involved in the origination stage within the Common Market. The assessment has therefore focused on the marketing segment.

21. The CID also considered a further segmentation by type of agriproduct, as discussed below.

Grains

22. The grains sold by Viterra and Bunge include corn, wheat, and pulses. Grains are different from other crops such as oil seeds, cocoa and coffee on account of their physical characteristics which can influence the manner in which the crops are stored, transported and marketed. For instance, green coffee beans tend to be sensitive to foreign odours and moisture, hence, they are usually shipped in woven bags made from natural fibre which allows free circulation of air. This is likely to have cost

[5] Decision by the 85th meeting of the CID, dated 2 August 2022. Accessible at: https://www.comesacompetition.org/wp-content/uploads/2022/08/Decision-Viterra-Gavilon.pdf (herein after referred to as the **Viterra/Gavilon case**).
[6] The CID noted that the European Commission (the **EC**) has similarly traditionally identified distinct markets for origination and for marketing whereby marketing comprises of the sale by wholesalers to third parties. See for instance, EC Case No COMP/M.6740 - Baywa/Cefetra, dated 19 December 2012, paragraph 9.

implications to distributors of coffee beans since they have to ensure the coffee beans are stored in a controlled environment which does not compromise the quality of the coffee beans[7]. On the other hand, grain marketing generally does not require complicated transportation and storage systems. The key requirement for grain is to ensure that it is dried to the right moisture content.

23. The CID therefore considered that the marketing of grains is a distinct market from that of other agricultural commodities. The CID considered that it was not necessary to further segment the market according to the various types of grain which may exist, given that 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. As noted above, the merging parties themselves originate and distribute a wide variety of grains. It is observed that global players similarly offer various grain options rather than specialising in one type of grain which would point to supply side substitutability. The grains supply of ADM Germany GMBH, for instance, extend to beans and pulses (including dark red kidney, light red kidney, chickpea, navy bean, black bean, pinto bean, red lentil, green lentil, fava bean, yellow pea and small red bean), edible seeds (chia, flax, hemp, pumpkin and sunflower) and peanuts. Another competitor and global player, Cargill distribute grains which include wheat, corn, barley and sorghum. Therefore, within the marketing segment, the CID was of the view that marketers would easily switch to start supplying other types of grains without significant costs or risks in response to a small but significant price increase.

Oilseeds

24. The parties also market oilseeds, including sunflower seed, rapeseed and soybean oilseeds.

25. Oilseeds are derived from the following crops: canola, palm oil, soybeans, shea, coconut, olive, and sunflower. Oilseeds are grown for their high oil content. Oilseeds are crushed to produce oil and when the oil has been extracted, majority of these seeds can be used for animal feed.

26. In ***Viterra/Gavilon***, the CID noted that while each oilseed produces oil with a distinct colour and flavour, ultimately all types of oilseeds are processed and refined to reach the same functionality for downstream use and further processing[8]. It is noted that the

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[7] Decision of the Seventy-Fifth Committee Responsible for Initial Determination Regarding the Proposed Merger Involving Apuleaf II Limited and Louis Dreyfus Company B.V. Case File No. CCC/MER/01/02/2021

[8] A similar position was adopted in the Viterra/Gavilon case. This is also consistent with the approach in other jurisdictions, see for instance the European Commission decision in Case No IV/M.1376 - Cargill / Continental Grain dated 3rd February 1999, paragraph 14.

majority of the market players process and market a variety of oils[9]. To this end, the CID held that there exists one broad product market for the marketing of oilseeds.

Vegetable Oils

27. Vegetable oils, including oilseed oils, are an agricultural commodity whereby oil-bearing crops are crushed and pressed to produce oil in crude form. The oil may be a blend of several crops (for example, groundnut, linseed, palm, palm kernel, rape, soya, and sunflower). The crude oil can be further processed to produce refined oil for cooking or renewable fuel.

28. The parties submit that there is one product market for vegetable oils in the Common Market due to the blending between crops as well as the high degree of substitutability and interchangeability between crops. On the demand-side, all types of vegetable oils may be processed and refined to reach the same functionality for downstream uses and further processing. This is reflected in the fact that both nutritional values and sale prices are comparable. According to the parties, on the supply-side, the production, transport and marketing methods are also broadly consistent between vegetable oils. Suppliers are able to switch production between vegetable oils and market them in the short term without significant additional costs. Given substitutability and interchangeability of both supply and demand in the Common Market, the parties submit that vegetable oils can be assessed as one product market.

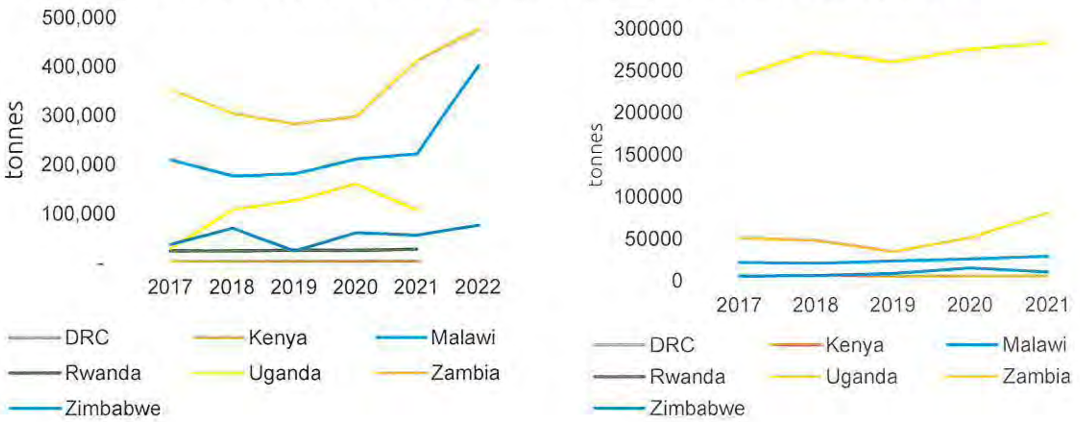
29. The CID noted that in ***ADM/ WILMAR / OLENEX JV***,[10] the European Commission's (**EC**) market investigation pointed towards a limited degree of substitutability between different types of vegetable oils. Market participants highlighted differences in terms of composition, nutritional and taste profiles, and price between the different vegetable oils that limit their interchangeability. It was found that sunflower and rapeseed oils are generally easier to substitute to each other than soybean oil, although sunflower oil has been historically more expensive and is considered by some respondents as a premium oil compared to the other two. Furthermore, all of the customers responding to the market investigation indicated that they would not be able to easily switch their orders to a different oil type following a 5-10% price increase. Nonetheless, the market investigation also revealed a certain degree of supply side substitutability, noting that while each type of vegetable seed oil requires somewhat different processing equipment and treatment (e.g., refined sunflower oil refining for bottling requires dewaxing, rapeseed oil contains phospholipids to be controlled), a number of refineries are already set up to be able to process several different types of vegetable oils (typically at least soybean, rapeseed, sunflower, corn).

[9] https://www.bunge.com/Food-Ingredients/Our-Businesses/Refined-and-Specialty-Oils
[10] EC Case M.7963 - ADM / WILMAR / OLENEX JV, paragraphs 27-31.

30. In Africa, it is noted that different regions have different preferences for vegetable oils. In terms of oils and fats production, the Sub-Saharan region mainly produces palm oil in West Africa, and soyabean and sunflower in Southern and East Africa respectively.[11] Major palm oil producing countries include Nigeria, Ghana, Côte d'Ivoire, and Cameroon. South Africa produces sunflower and soyabean oils while Tanzania produces sunflower oil.

31. In the context of the African Market Observatory (**AMO**) project by the Centre for Competition, Regulation and Economic Development (University of Johanneburg) in collaboration with the Commission, producers in Malawi, Zambia and Zimbabwe indicated that the only limit to producing vegetable oil from oilseeds such as sunflower and cotton as opposed to only from soybeans is the availability of these oilseeds. Currently the majority of production is skewed towards soybeans, with investments in increasing crushing capacity in Malawi, Zambia and Zimbabwe, and importantly driven by the growing local and regional poultry industries (Nsomba et al., 2022b). Figure 1 below shows the difference in production of soybean and sunflower seeds in selected Member States.

Figure 1: Production of soybean (left) and sunflower-seed (right)[12]



32. The AMO project gathered that from a supply perspective, oilseed crushers have over the last 5 years moved to installing or renovating production capacity to allow for crushing various types of seeds, with a combination of mechanical crushing and solvent extraction.

33. The AMO project, however, also suggests that consumers in Southern Africa (Malawi, Zambia and Zimbabwe) predominantly consume vegetable oil from oilseeds. The

[11] https://www.ofimagazine.com/content-images/news/Sub-Saharan-Africa_2022-06-28-134655_aaqz.pdf
[12] Source: FAOSTAT

most common vegetable oil consumed is soybean oil, other types of oil such as sunflower and cotton are also available in smaller quantities due to lower production. Blends of these different types of oil with palm oil are also available with the exception of Zimbabwe where only soybean, sunflower and cotton oil are consumed. In the eastern part of Africa, palm oil is predominantly consumed with the exception of Uganda where there are significant levels of sunflower oil production. It was observed that Uganda's sunflower seed production has increased to over 280,000MT as of 2021 which has resulted in an increase in the local supply of crude sunflower oil. Coincidentally, in 2022, Uganda did not import any crude palm oil. From the consumer side, the AMO interviews established that consumers in Uganda can switch between palm oil and sunflower oil.

34. The parties' activities in the vegetable oils market overlap in Egypt and Tunisia. The types of vegetable oils supplied in each Member State is provided below.

Table 3: Type of Vegetable Oils supplied by the Merging Parties in 2022 in Egypt and Tunisia [13]

COMESA Member State	Bunge	Viterra
Egypt	REDACTED	
Tunisia	REDACTED	

35. In view of the foregoing discussion, the CID considered both the broad market for the supply of vegetable oils, and the narrower market for the supply of sunflower and palm oils.

NGFI

36. Feedstuff is composed primarily of protein, starch and crude fibre. It is a mixture of several components, including grain, oilseed meal, corn gluten, animal meal, fishmeal, citrus pulp, and so forth. NGFI are by-products from the oil milling industry (oilseed meal), fishmeal and the by-products from the starch and ethanol industry (by-products of the starch and ethanol industry (including corn gluten feed, corn germ meal, distillers dried grain)[14]. NGFI are used to meet the protein requirements of livestock whereas grains supply the majority of the starch and fibre needs of animals. Grains and NGFI are thus each separately required to produce compound feed that fulfils the nutritional needs of different animal species.

37. The parties submitted that animal feed producers purchase a variety of ingredients to achieve a suitable mix of energy, protein, fats, fibre, vitamins and minerals. The variety

[13] Information claimed as confidential by the merging parties.
[14] https://ec.europa.eu/competition/mergers/cases/decisions/m5550_20090708_20310_en.pdf

of available ingredients allows animal feed producers to mix and match as they desire, according to the availability and cost of particular components. According to the parties, there is a very high level of substitutability across the groups of ingredients available for use in animal feed, with only one requirement: ultimately being able to provide the required mix of nutrients to meet the requirements of the customer and the needs of the animal.

38. The parties submitted that they each supply soybean meal in the Common Market which is highly substitutable with other NGFIs. Soybean meal is primarily used in feed for its protein content. Therefore, from a demand-side perspective, it is directly substitutable with other feed ingredients such as cottonseed meal, groundnut meal, sunseed meal, rapeseed meal, sesame meal, corn germ meal, corn gluten feed, sugar beet pulp pellets, DDGS, palm kernel meal, copra meal, linseed meal and fish meal. From a supply-side perspective, the basic crushing technology for the different feeds is also similar.

39. The CID noted that further segmentation could be made according to oilseed meals, animal meal, and pulp, having regard to the different nutritional, technical and toxicity limits for different animal groups, which reduces the interchangeability of the various components of feedstuff. Within the oilseed meal market, it is noted that soybean meal is the meal that has the highest protein content of all NGFI meals (at 44-50% as opposed to rapeseed or sunflower meal at 28-38%)[15] and thus constitutes an indispensable ingredient for producing feed[16]. In ***Bunge/ European Oilseed Processing Facilities***,[17] the EC's market investigation unanimously indicated that soybean meal is not entirely substitutable with other NGFI, noting that for certain animals such as poultry, lamb and young ruminants require a higher average protein content of the meal needs of above 40%, which is technically only achievable if some soybean meal is present; and that a minimum of 25% of the oilseed meal needs at all times to be soybean based.

40. Bunge supplied [redacted][18] and [redacted][19] to end-users located in the Common Market over the 2022 financial year. Viterra supplied [redacted], [redacted], [redacted] and/or [redacted][20] to end-users located in the Common Market over the 2022 financial year.

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[15] EC Case M.8199 - BUNGE / EUROPEAN OILSEED PROCESSING FACILITIES, paragraph 13.
[16] EC Case No COMP/M.4042 - TOEPFER / INVIVO / SOULÈS, paragraph 18.
[17] EC Case M.8199 - BUNGE / EUROPEAN OILSEED PROCESSING FACILITIES, paragraphs 13-14.
[18] Information claimed as confidential by Bunge.
[19] Information claimed as confidential by Bunge.
[20] Information claimed as confidential by Viterra.

41. Based on the above, there are strong indications that within the broader category of NGFI, soybean meal constitutes a distinct product market. For purposes of this transaction, the CID assessed both the broad market for NGFI and the narrower market for soybean meal.

42. On the basis of the foregoing assessment, the CID considered that the relevant product markets are:

i. the marketing of grains,

ii. the marketing of oilseeds,

iii. the marketing of vegetable oils (and narrower market for the supply of sunflower and palm oils), and

iv. the marketing of NGFI (with potential segmentation for soybean meal).

Relevant Geographic Market

43. The Commission's Guidelines on Market Definition define the relevant geographic market as follows:

> *"**The relevant geographic market comprises 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**"* [21].

44. The CID considered that the relevant geographic market for grains and oilseeds was likely to be wider than national. Suppliers in Egypt are likely to face competition from imports originating from the Common Market and beyond and the parties are themselves international players. While the importation of grain and oilseeds in most Member States may be subject to Government regulations such as licensing and compliance with sanitary and phytosanitary standards, these requirements are likely to be attainable and not prohibitive to prevent trade from taking place.

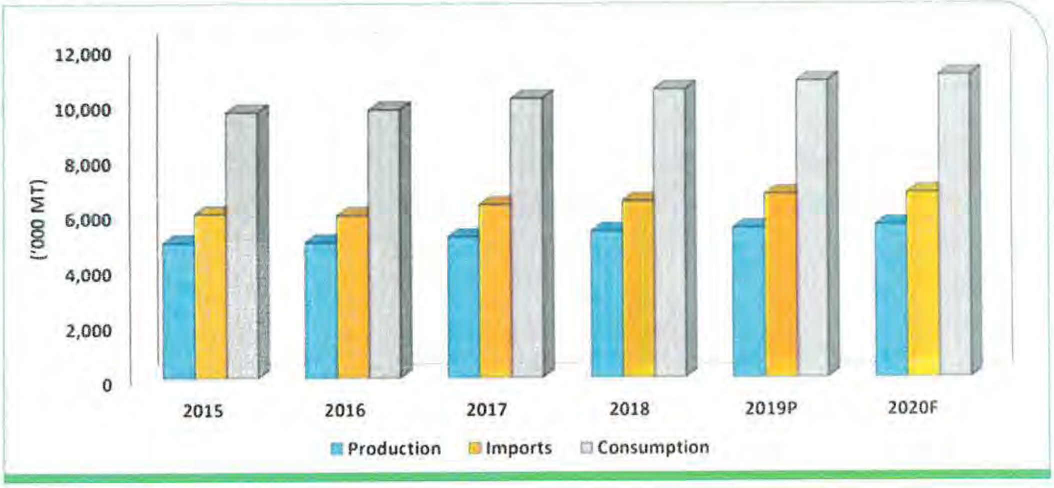
45. Premised on the foregoing discussions, and for purposes of this transaction, the CID was of the view that the relevant geographic market is at least COMESA-wide. The CID further noted that the major players in the relevant markets in Africa are global players. It is common knowledge for example that Ukraine, Russia and India, among

[21] Paragraph 8.

other countries, are major suppliers of grain and oilseed to a number of countries in the Common Market like Egypt, Somalia and Sudan.

46. Most of the oils and fats produced in the Sub Sharan region is for local consumption and domestic requirements are greater than the region can supply on its own (see **Figure 2** below). The region's largest oils and fats producer, Nigeria, produced 1.1M tonnes in 2019 while South Africa produced 700,000 tonnes. The region's supply shortfall is met with imports from major oil crop growers such as Malaysia, Indonesia, Brazil and the EU. In 2019, the SSA region imported approximately 6.5M tonnes of oils and fats, of which, 83% was palm oil.

Figure 2: SSA oils and fats production, consumption, imports ('000 tonnes)[22]



47. The merging parties originate both vegetable oils and NGFIs from a diverse range of countries. Details of the countries from which the merging parties procure different types of vegetable oils and NGFIs that are supplied to end-users in the Common Market by the merging parties are set out in **tables 4 and 5** respectively.

Table 4: Bunge and Viterra countries of origination – vegetable oils (FY2022)[23]

Party	Vegetable oil type	Country of origin
Bunge	[redacted]	[redacted]
Viterra		

[22] Source: https://www.ofimagazine.com/content-images/news/Sub-Saharan-Africa_2022-06-28-134655_aaqz.pdf
[23] Information claimed as confidential by the merging parties.

Table 5: Bunge and Viterra countries of origination – NGFI (FY2022) [24]

Party	Vegetable oil type	Country of origin
Bunge	[redacted]	[redacted]
Viterra	[redacted]	[redacted]

48. Neither of the merging parties have any processing activities or own any industrial assets (including plants) in the Common Market. Their sales activities in the Common Market are therefore conducted on an import basis. Certain products supplied into the Common Market by the merging parties are procured from countries outside of the Common Market. Indeed, Bunge sourced crops from farmers outside the Common Market in 2022 and the merging parties did not overlap as regards origination in the Common Market. As such, there can be a considerable distance between where products originate from and are ultimately supplied to. In addition, the merging parties do not own or operate any overlapping storage facilities or transport assets in the Member States.

49. In view of the foregoing, the CID was satisfied that the relevant markets are at least COMESA-wide, and possibly global in scope.

Conclusion on Relevant Markets

50. Based on the foregoing assessment, and without prejudice to the CID's approach in similar future cases, the relevant markets in the Common Market have been identified as:

   i. **the marketing of grains,**

   ii. **the marketing of oilseeds,**

   iii. **the marketing of vegetable oils (and narrower market for the supply of sunflower and palm oils), and**

   iv. **the marketing of NGFI (with potential segmentation for soybean meal).**

Market Shares and Concentration

51. The merging parties submitted their market shares for the marketing of grains, oilseeds, NGFI, and vegetable oils in the Common Market as per Table 6 below:

[24] Information claimed as confidential by the merging parties.

Table 6: Market share of Merging Parties and their Competitors in the Common Market [25]

Relevant Market	Competitor	Market share (%)
Marketing of Grains	Solaris (UAE)	[5-10]%
	Cargill (Egypt)	[0-5]%
	ADM (Egypt)	[0-5]%
	COFCO (Switzerland)	[0-5]%
	The Target Undertaking	***[0-5]%***
	Holbud	[0-5]%
	Louis Dreyfus	[0-5]%
	The Acquiring Group	***[0-5]%***
	Other (Agribrasil, Al Ghurair, Amaggi Group, Aston, CBH, CHS, GCOP, Grain Service, GTCS, Harvest Group, NCH, Nibulon, Novaagri, Olam, Promising, Quadra Commodities, Seaboard, Sierentz Global, Sierentz Global Merchants, The Andersons, Voest Alpine)	[70-80]%
Marketing of Oilseeds	ADM	[10-20]%
	Louis Dreyfus	[10-20]%
	Cargill	[10-20]%
	The Acquiring Group	***[0-5]%***
	The Target Undertaking	***[0-5]%***
	Others (Al-Delta, Amaggi, COFCO, Contract Group, Invictus, The Andersons)	[50-60]%
Marketing of NGFI	EDC	[10-20]%
	ADM	[10-20]%
	The Andersons	[10-20]%
	VA Intertrading	[5-10]%
	Setaf Saget	[5-10]%
	The Target Undertaking	***[0-5]%***
	The Acquiring Group	***[0-5]%***
	Others (Al Ghurair, Al-Delta, Amaggi, Avere, COFCO, Louis Dreyfus, Kernel Trade)	[30-40]%
Marketing of Vegetable Oils	Wilmar	[30-40]%
	Apical	[20-30]%
	MOI	[10-20]%
	Cargill	[10-20]%
	PVO	[5-10]%
	The Acquiring Group	***[0-5]%***

[25] Information claimed as confidential by the merging parties.

	The Target Undertaking	***[0-5]%***
	Others (ADM, Afia, Louis Dreyfus, PT museum mass, Mac world, Palmtop, Pacific Interlink)	[10-20]%

52. From **Table 6** above, it is noted that the merging parties are smaller players in all four markets in the Common Market, and that the merger would result in combined market shares that would not exceed [redacted]% in any of the markets.

53. Whilst the CID did not have access to the parties' markets shares by type of vegetable oils, it noted that in the Member States of overlap (Egypt and Tunisia), the parties remain small players. As seen in **Table 7** below, in Egypt, the parties' combined market share would be less than [redacted]% post-merger and would thus not have a significant impact on the market structure. Further, there appears to be quite a number of rivals operating in Egypt which will continue to exert competitive pressures on the merging parties post-merger.

Table 7: The marketing of vegetable oils: Egypt (FY 2022)[26]

Company	**Market Share (%)**
Arma oil	[10-20]%
Afia International	[10-20%
Food industries Co	[10-20]%
Wilmar	[10-20]%
Iffco Egypt S.A.E.	[5-10]%
Pacific Interlink	[5-10]%
United For Processing Storage of Grains	[5-10]%
Gulf Arabian CO.	[5-10]%
Bunge	***[0-5]%***
Viterra	***[0-5]%***
Others	[5-10]%
Total	**100%**

54. In respect of Tunisia, [redacted].[27]

The major suppliers of vegetable oils in Tunisia include Cargill, Aston Agro-International, Carthage Grains, and ADM. These businesses compete fiercely to market vegetable oils in Tunisia but are also constrained by international competitors

[26] Information claimed as confidential by the merging parties.
[27] Information claimed as confidential by Bunge.

such as AAK AB, Fuji Oil Co. Ltd, Wilmar International and many others that could easily supply customers in Tunisia. The merging parties submitted that they only have import data regarding competitor activity and are not aware of a verified public source of information for competitor sales in Tunisia and therefore only provided their own share estimates in **Table 8** below. The figures confirmed the relatively insignificant market position of the merging parties at national level.

Table 8: The marketing of vegetable oils: Tunisia (FY 2022) [28]

Company	Market Share (%)
Viterra	***[0-5]%***
Bunge	***[0-5]%***
Others	[90-100]%

55. With regard to the NGFI markets, it is recalled that a potential submarket for soybean meals was identified. The parties submitted that Bunge had an estimated share of supply of [0-5]%[29] for the supply of soybean oilseed meals to end-users in the Common Market over the 2022 financial year (based on all oilseed meals consumed in the Common Market), while Viterra had an estimated share of supply of [0-5]%[30] for the supply of soybean oilseed meals to end-users in the Common Market over the 2022 financial year (based on all oilseed meals). The transaction would thus result in a market share accretion of less than [0-5]%[31], with a combined market share of less than [0-5]%[32] for the merging parties.

56. As noted earlier, within the Common Market, the merging parties are not active in the origination market. Nonetheless, given the global structure of the origination market which may impact the downstream markets in the Common Market, the CID also considers the merging parties' strength in the origination market. The merging parties submitted that their combined shares remain low for the origination of grains and oilseeds at a global level (combined share of approximately [0-5]%[33] in grains and approximately [10-20]%[34] in oilseeds). According to the parties, there are hundreds of traders/processors, ranging from multinational players like COFCO, ADM, CHS, Cargill, Wilmar and LDC to more regional players such as Seaboard (which focuses on Africa and South America), Olam (with its strong presence, including a milling facility, in Africa), and Export Trading Group (with origination assets across Africa), and SoyVen (an independent joint venture established by ADM and Cargill with a crush facility focused on Egyptian customers).

[28] Information claimed as confidential by the merging parties.
[29] Information claimed as confidential by Bunge.
[30] Information claimed as confidential by Viterra.
[31] Information claimed as confidential by the merging parties.
[32] Information claimed as confidential by the merging parties.
[33] Information claimed as confidential by the merging parties.
[34] Information claimed as confidential by the merging parties.

57. The CID noted that while the products being sold do not require any specific know-how, intellectual property, advertising/promotion, at the level of the supply chain where the merging parties operate, sufficient capital is required to secure future supplies, warehousing, shipping, and logistics issues. It was also noted that the industry is generally characterized by some degree of vertical integration and scale economies which may make it more difficult for new entrants to compete effectively.

58. Considering the relatively insignificant market position of the merging parties within the Common Market and noting the presence of global competitors that will remain on the market post-merger, the CID considered that it was unlikely that the transaction would result in unilateral effects as customers would have effective and bigger players to whom to turn to if the merging parties were to engage in anti-competitive behaviour.

59. It is noted that the relevant markets are characterised by a large number of players with different market shares. Having regard to the small market position of the merging parties, it was unlikely that the transaction could contribute to increasing incentives to collude or facilitate collusive behaviour with the remaining market players.

Consideration of Third Party Views

60. The CID considered submissions from the national competition authorities of DRC, Egypt, Ethiopia, Kenya, and Mauritius, which confirmed that the transaction was not likely to raise competition concerns in the foreseeable future post-merger. This is consistent with the CID's findings, as discussed above.

61. The above notwithstanding, the CID noted that the agricultural sector represents a sensitive and critical sector for the sustainable development of the Common Market, in particular having regard to recent spikes in global food prices which has affected the Common Market and Africa disproportionately. The CID was concerned that there have been gradual consolidations in the recent past along the value chain at global level may in the future create unfavourable or unfair trading conditions which may negatively impact consumers within the Common Market. The CID, thus, directed the Commission to conduct thorough and regular monitoring of mergers and other market practices that may result in anti-competitive effects along the different levels of the supply chain within the agricultural sector.

62. The CID further observed a general lack of storage facilities for agricultural products in the Common Market, which can impact on the security and fairness of access to these products in the Common Market. The CID, therefore, implored global players

involved in the agribusiness value chain and operating in the Common Market to invest more in the development of storage facilities within the Common Market.

Determination

63. Notwithstanding the CID's concerns on storage facilities and recent global consolidations of firms operating in the global agricultural value chain and based on the circumstances of the case and having regard to the foregoing assessment, 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 the transaction.

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

Dated this 13th day of December 2023

Commissioner Dr Mahmoud Momtaz (Chairperson)

Commissioner Lloyds Vincent Nkhoma **Commissioner Islam Tagelsir Ahmed Alhasan**