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**Common Market for Eastern  
and Southern Africa**

**Case File No. CCC/MER/07/22/2023**

**Decision<sup>1</sup> of the One Hundred and First (101<sup>st</sup>) Meeting of the Committee Responsible for Initial Determinations Regarding the Proposed Acquisition of Control by ME Grain Logistics Holding Ltd over Nile Stevedoring and Storage Company S.A.E.**

**ECONOMIC SECTOR: Agriculture**



**5 November 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 Where possible, the information omitted has been replaced by ranges of figures or a general description.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 24 July 2023, the COMESA Competition Commission (the “**Commission**”) received a notification for approval of a merger regarding the proposed acquisition of control by ME Grain Logistics Holding Ltd (“**ME Grain**”, and together with its affiliates the “**ME Solaris Group**” or the “**acquiring group**”) over Nile Stevedoring and Storage Company S.A.E. (“**Nile Stevedoring**” or the “**target**”), 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

### **ME Grain**

4. ME Grain is a United Arab Emirates based newly established entity controlled by ME Solaris Commodities DMCC ("**ME Solaris**"), which is part of ME Solaris Group. The ME Solaris Group is a grain trader that supplies wheat mainly to the Middle East and African countries, including Egypt. Within the Common Market, the ME Solaris Group is active in Djibouti, Egypt, Kenya, Libya, Sudan, Tunisia, and Uganda.

### **Nile Stevedoring**

5. Nile Stevedoring is a company based in Alexandria, Egypt which is jointly controlled by Wadi Holdings Egypt S.A.E and Medsofts Company LLC (Egypt). The target provides stevedoring and storage services for agricultural commodities to its customers in Egypt. Within the Common Market, the target operates in Egypt only.

## Jurisdiction of the Commission

6. 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.*
7. The undertakings concerned have operations in two or more Member States. The merging parties hold a combined turnover in excess of the threshold of USD 50 million in the Common Market. In addition, the parties do not hold 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

8. The proposed transaction entails the ME Solaris Group will acquire 50% of the issued share capital of Nile Stevedoring while the existing shareholder, Medsofts Company LLC, will remain holding its existing 50% shares in the target.

## COMPETITION ASSESSMENT

### Consideration of the Relevant Markets

#### *Relevant Product Market*

9. The acquiring group is a grain trader that supplies wheat, barley and corn mainly to the Middle East and African countries, including Egypt. The target provides stevedoring and storage services for agricultural commodities to its customers in Egypt. The transaction raises vertical overlap in the activities of the acquirer and the target since stevedoring and storage services are an input into grain trading, with the former market being an upstream market for the downstream providers of grain trading services. The CID focused its assessment of the relevant product market on the trading of grain and stevedoring and storage services as follows.

#### Trading of grain

10. Grains are amongst agricultural produce and include maize, sorghum, wheat and burley which are grown for human or animal consumption. They are a significant source of carbohydrates, protein and are a staple in the diets of many cultures around the world. They are sourced from farmers and transported and supplied to downstream markets for further value addition or direct consumption by households.
11. The global agricultural commodity value chain, including for grain, entail that once produce has been sourced from the farmers, it is stored and handled in silos, elevators and/or port terminals.<sup>2</sup> Furthermore, in the case of grain it is either transported to processing or refining facilities (i.e., crushing/milling facilities) where grains such as soybeans is crushed into soybean oil and wheat is milled into wheat flour. Alternatively, grain may be transported directly in its unprocessed form for trade and distribution. Thus, the trading of agricultural crops such as grain has generally been categorised into origination and marketing stages. Origination entails the purchasing of harvested crops (i.e., grains or oilseeds) directly from farmers while marketing involves the sale of crops to third parties (i.e., the sale of grain by wholesalers of grains, oilseeds and intermediate oilseed products to third parties).<sup>3</sup>

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<sup>2</sup> Decision of the Eighty-Fifth (85<sup>th</sup>) CID regarding the proposed acquisition of control by Viterra USA Investment, LLC of Gavilon Agriculture Investment, Inc, dated 2 August 2022, paragraph 19.

<sup>3</sup> See Case No COMP/M.3725 - Cargill/Pagnan



12. In *Apuleaf II/LDC*<sup>4</sup>, wholesale grain trading was identified as a distinct market from the trading of other crops on account of the differences in handling and storage requirements. For instance, while the trading of coffee may require that coffee beans are handled in a manner to preserve the flavor by avoiding exposure to odours, grain trading would simply require that the grain is dried to the right moisture content. Therefore, grain trading can be construed as distinct from the trading of other crops.
13. Grain trading entails the local and international bulk trading of cereals and other food grains such as wheat, maize, and rice. It also encompasses the paper trade of grains, oilseeds, and intermediate oilseed products between traders whereby grain is used as collateral for loans. It does not require complicated transportation and storage systems.
14. A further segmentation of the trading of grain may exist in view of the different types of grain that may be traded. For instance, the trading of wheat, corn, sorghum, and barley could be deemed separate markets on account of the different characteristics and uses which may imply different pricing and demand patterns<sup>5</sup>. However, it is considered that the cost of switching between the trading of different grains is unlikely to be prohibitive since no peculiar skills or know-how may be required to trade in a particular grain. The transportation and storage infrastructure for one type of grain (i.e., rice/wheat) could easily be used on another grain (i.e., rice) without incurring significant costs. What may be critical is to ensure that at the point of origination, the grains are dried with the required moisture content to avoid spoiling.
15. The CID observed that the acquiring undertaking is involved in the trading of a wide variety of grain including wheat, corn, and barley across the globe and the Common Market. Further, the CID noted that global players in the trading of grain offer optional services to trading in various grains as opposed to specialising in a single type and this confirms the possibility of supply side substitutability.<sup>6</sup>
16. On the basis of the foregoing assessment and in line with its previous approach<sup>7</sup>, the CID identified the relevant product market as the wholesale trading of grains.

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<sup>4</sup> See decision of the Seventy-Fifth (75th) CID regarding the proposed merger involving Apuleaf II Limited and Louis Dreyfus Company B.V., dated 16 April 2021, paragraph 14.

<sup>5</sup> Decision of the Ninetieth (90th) Meeting of the Committee Responsible for Initial Determinations Regarding the Proposed Acquisition of Sole Control by Louis Dreyfus Company Melbourne Holdings Pty Ltd over Emerald Grain Pty Ltd, para 22, dated 19 December 2022.

<sup>6</sup> See <https://www.cargill.com/agriculture>, accessed on 12 September 2023; and <https://www.viterra.com>, accessed on 12 September 2023.

<sup>7</sup> Decision of the Ninetieth (90th) Meeting of the Committee Responsible for Initial Determinations Regarding the Proposed Acquisition of Sole Control by Louis Dreyfus Company Melbourne Holdings Pty Ltd over Emerald Grain Pty Ltd, dated 19 December 2022.



*The provision of stevedoring and storage services*

17. Stevedoring and storage services are two interconnected services within the logistics and shipping industry. They both play crucial roles in the handling and management of cargo, particularly in port terminals and warehouses.
18. Stevedoring services entails the loading and unloading of cargo transported or to be transported on vessels and other craft and the handling of lines of vessels and other craft, at any port<sup>8</sup>. It refers to the handling, loading, and unloading of cargo from ships at a port or terminal.
19. Stevedores (personnel engaged in stevedoring) are responsible for the physical labor in transferring cargo between the vessel and the port, ensuring it is safely loaded or unloaded<sup>9</sup>. They oversee tasks such as operating cranes, forklifts, and other equipment to move cargo, securing cargo on the vessel, overseeing the safe stowage of goods on board, and ensuring that cargo is loaded and unloaded efficiently and without damage.
20. Storage services, on other hand, involve the temporary warehousing or storage of cargo in a designated facility i.e., a warehouse or container yard. The service is crucial when cargo needs to be stored before or after transportation and during transit. It includes receiving cargo, inventory management, security, and the safekeeping of goods. Warehouses or storage facilities may be equipped to store various types of cargo, and they may offer additional services such as inventory tracking, repackaging, and quality control.
21. In view of the foregoing, the CID considered that stevedoring and storage services comprise distinct services. The CID also observed that within the context of the current transaction the target entity provides stevedoring and storage services at port terminals and the services have an element of complementarity in that storage facility services apply to products that are inbound or outbound from/to a vessel through which process stevedoring is required. The CID also considered that for convenience, smooth movement, and management of goods, stevedoring, and storage services are likely to be provided as a package.
22. Based on the foregoing assessment and without prejudice to its approach in similar future cases, the CID identified the provision of stevedoring and storage services as a distinct relevant market.
23. Based on the foregoing assessment and without prejudice to its approach in similar future cases, the CID considered that the relevant product markets are:

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<sup>8</sup> <https://www.lawinsider.com/dictionary/stevedoring-services#:~:text=Stevedoring%20Services%20means%20services%20for.any%20ports%20within%20the%20State>

<sup>9</sup> <https://www.kpa.co.ke/Pages/Stevedoring.aspx>.



- a) The wholesale trading of grain; and
- b) The provision of stevedoring and storage services.

### **Relevant Geographic Market**

24. In *Viterra/Gavilon*<sup>10</sup>, the geographic scope for the trading of grains was considered as wider than national given the competition faced by local players from importers. In the current transaction, it is observed that the acquirer sources its grain products from the global market such as Russia for trading into the Common Market. Further, other grain traders operating in the Common Market such as Archer-Daniels-Midland, Bunge, Cargill, Louis Dreyfuss, China's State-backed Cofco, Wilmar International, and Viterra operate on a global presence.<sup>11</sup> It was noted that Viterra sources its grains (i.e., wheat and durum) from major wheat-producing regions, including Canada, Argentina, Australia, USA, and Europe, and supplies to its customers in destinations such as North and Sub-Saharan Africa, Europe, Turkey, and North and South America<sup>12</sup>.
25. The CID noted that the Common Market faces competitive pressure from importation of grain from the global market. For example, it was observed that several Member States such as Egypt, Tunisia, Libya, Ethiopia, and Kenya were among Ukraine's top export destinations of grain between 2016 and 2021<sup>13</sup>. Further, with the disruption in the global wheat supply chain due to Russia/Ukraine war, Argentina the 6<sup>th</sup> largest wheat exporter in the world intends to strengthen its presence in sub-Saharan Africa<sup>14</sup>. It is also reported that in sub-Saharan Africa, wheat is one of the main cereals consumed; and that competition for market share is fierce among global exporters<sup>15</sup>.
26. The above demonstrates that the market for trading grain is global and that the Common Market faces current and future competitive pressure from the global market. Therefore, it is likely that given a small but significant increase in the prices of grain in the Common Market, there would be a shift from sourcing the grain within the Common Market to the global market. Therefore, for purposes of conducting a competitive assessment in this transaction, the relevant geographic market for the wholesale trading of grains is construed as global.
27. Regarding the provision of stevedoring and storage services, the CID noted that storage facility and stevedoring services tend to be localised to a port terminal

<sup>10</sup> Decision of the Eighty-Fifth (85<sup>th</sup>) CID regarding the Proposed Acquisition of control by Viterra USA Investment, LLC of Gavilon Agriculture Investment, Inc, para 30, dated 2 August 2022.

<sup>11</sup> <https://www.foodandpower.net/latest/bunge-viterra-merger-june-23>, accessed on 18 September 2023.

<sup>12</sup> <https://www.viterra.com/What-we-do/Marketing/Grains>, accessed on 13 October 2023 2023.

<sup>13</sup> <http://www.igc.int/en/downloads/2022/gen2122misc1.pdf>, accessed on 15 September 2023.

<sup>14</sup> <https://ecomnewsafrique.com/en/2022/05/23/sub-saharan-africa-argentina-8th-world-producer-will-supply-242000-tons-of-wheat-to-11-african-countries-following-the-war-with-ukraine/>, accessed on 15 September 2023.

<sup>15</sup> *Ibid.*



facility as such competition is also localized to the geographic location of the terminal facility. The location of the terminal facility is an important characteristic in determining the substitutability of competing port storage terminals and stevedoring services since the location is often linked to profitability. The CID further noted that for an entity to operate within a port facility, they are likely required to obtain relevant authorisations and security clearances which may also be peculiar to the country.

28. The CID also considered that storage terminal properties are fixed assets which are immovable by their nature. The immovable nature of the storage terminal facilities makes switching to different areas in response to a small but significant increase in rentals without incurring significant costs and risks unlikely.
29. In view of the above and having considered that the target's operations are localised to the Port of Alexandria in Egypt, the CID determined the relevant geographic market as the market for the provision of stevedoring and storage services at the port of Alexandria in Egypt.

**Conclusion of Relevant Market Definition**

30. Based on the foregoing assessment, and without prejudice to the CID's approach in similar future cases, the relevant markets have been identified as:
  - (a) the wholesale trading of grain in a geographic market which is at least national, and
  - (b) the provision of stevedoring and storage services at the port of Alexandria in Egypt.

**Market Shares and Concentration**

31. The CID considered the following market share information for the wholesale trading of grain market for wheat, barley, and corn supplied into the affected Member States.

**Table 1: Acquirers estimated market shares for wheat, barley and corn supplied into the affected Member States (in 2022/2023)<sup>16</sup>**

Member State	Grain type	Acquirer's share
Egypt	Wheat	[10 – 20]%
Kenya	Wheat	[0 – 10]%
Libya	Wheat	[10 – 20]%
	Barley	[10 – 20]%
	Corn	[10 – 20]%

<sup>16</sup> The parties' submission based on United States Department of Agriculture (USDA) data.





<b>Sudan</b>	Wheat	[20 – 40]%
<b>Tunisia</b>	Wheat	[0 – 3]%
	Barley	[0 – 3]%
<b>Uganda</b>	Wheat	[0 – 3]%

32. The CID noted that the acquirer's market share in the supply of wheat, barley and corn is not significant, except for Sudan – where the target does not have presence. In view of the acquirers limited market shares in the Member States, the CID considered that much of the grain is supplied in these Member States by the parties competitors. Further, the CID considered that the market shares will remain the same post-merger given the of the absence of a horizontal overlap in the market for the wholesale trading of grains.
33. The CID further considered the following market shares for the acquirer and its competitors in the importation of wheat into the Egyptian market.

**Table 2: The acquirer and its competitors market share in the importation of wheat into the Egyptian market (2022/2023)**

<b>Competitors</b>	<b>Market share</b>
Trade House "RIF"	[20 – 40]%
Aston	[5 – 15]%
<b>ME Solaris Commodities</b>	<b>[5 – 15]%</b>
Viterra	[5 – 15]%
Grain Service	[0 – 5]%
STEPPE Agroholding	[0 – 5]%
Cargill	[0 – 5]%
AST Group of Companies	[0 – 5]%
Others	[20 – 40]%

34. The CID noted that Trade House "RIF" and Aston are the leading wheat importers into the Egyptian market with respectively [20 – 40]% and [5 – 15]% market shares while the acquirer is the third largest with [5 – 15]% market share. The CID noted that global grain traders such as Archer-Daniels-Midland, Bunge, Cargill, Louis Dreyfuss, China's State-backed Cofco, Singapore's Wilmar International, and Viterra are amongst the major players in the Common Market<sup>17</sup>. Further, the seven (7) entities control roughly half the flow of grains and oilseeds around the world<sup>18</sup>.

<sup>17</sup> <https://www.foodandpower.net/latest/bunge-viterra-merger-june-23>, accessed on 18 September 2023.

<sup>18</sup> Ibid.



35. With respect to the storage facilities, the CID noted that the Egyptian government started implementing a national initiative on the construction of numerous silos project with the aim to host a global grain storage center<sup>19</sup>. Through this initiative, Egypt has constructed numerous silos, under public-private partnership, with substantial storage capacities and advanced technological capabilities, effectively addressing the storage challenges that were prevalent when grain and crops were imported. It was further reported that this initiative involves the establishment of around 50 silos with a total storage capacity of approximately 1.5 million tons, distributed across 17 provinces in Egypt.
36. The CID observed that the target's silos have a total storage capacity of 190,000 tonnes, which is insignificant compared with the total storage capacity existing in Egypt. Further, the target's market share of all installed grain storage capacity in Egypt is less than [0-5] %.
37. The CID noted that the target's storage facility is located at the port of Alexandria. Further, between 2018 and 2022, over 96% of wheat was unloaded at four Egyptian ports: Abu Qir (Alexandria), Alexandria (Alexandria), El Dekheila (Alexandria), and Damietta. Out of these, 14% were unloaded in Damietta and 86% in the three Alexandria ports. The advantage of Alexandria, where the target is operating, is due to the concentration of infrastructure and clients in this area.
38. The CID noted that the merging parties are in different markets in Egypt and thus the transaction is not likely to result in a change in the market structure of the grain trading, stevedoring, and storage services markets given the absence of horizontal overlaps in the parties' activities pre-merger.
39. The CID observed that given the insignificant market shares of the acquirer in the global grain trading market and given the absence of an actual vertical relationship between the merging parties, any foreclosure strategy is unlikely to be successful as grain traders have access to a wide range of storage facilities and stevedoring services in the Port of Alexandria, Egypt. Accordingly, the merged entity would not have the ability to engage in input foreclosure.
40. The CID considered that the insignificant market share of the acquirer in the global grain trading market (in the Egyptian market in particular) would not sustain a foreclosure strategy by the merged entity. For foreclosure to be sustained, one of the parties should be dominant in either the upstream or downstream market, which is not the case since Nile Stevedoring is not dominant in the storage facilities and stevedoring services in the Port of Alexandria, Egypt.

<sup>19</sup> <https://english.aawsat.com/arab-world/4508511-egypt-proposes-hosting-global-grain-storage-center-brics-summit>, accessed on 13 October 2023.



41. In view of the foregoing, the CID concluded that a customer foreclosure strategy would not be a concern in Egypt where the acquirer's market share in the grain trading market is insignificant and as such, it would not represent an important source of demand for Nile Stevedoring's competitors.

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

42. The CID considered submissions from the national competition authorities of Egypt and Kenya which did not raise any concerns in relation to the transaction, which submissions are consistent with the CID's findings, as discussed above.

### **Determination**

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

Dated this 5<sup>th</sup> day of November 2023

**Commissioner Dr Mahmoud Momtaz (Chairperson)**

**Commissioner Lloyds Vincent Nkhoma**

**Commissioner Islam Tagelsir Ahmed Alhasan**

