



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



**Common Market for Eastern  
and Southern Africa**

**Case File No. CCC/MER/08/32/2024**

**Decision<sup>1</sup> of the 113<sup>th</sup> Meeting of the Committee Responsible  
for Initial Determinations Regarding the Proposed Merger  
Involving International Paper Company and DS Smith Plc**

**ECONOMIC SECTOR: Manufacturing (Packaging)**

**20 December 2024**



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 Where possible, the information omitted has been replaced by ranges of figures or a general description.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

Desirous 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 13 September 2024, the Commission received a notification for approval of the merger regarding the proposed acquisition of sole control by International Paper Company (“**International Paper**” or the “**acquiring firm**”) over DS Smith Plc (“**DS Smith**” or the “**target firm**”) and its subsidiaries, (“**DS Smith group**”, or the “**target group**”), 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

### *International Paper (the “acquiring firm”)*

4. The parties submitted that International Paper is a publicly traded company on the New York Stock Exchange that specializes in renewable fiber-based packaging, pulp products, and fiber-based waste recycling.
5. The parties submitted that International Paper does not operate any physical manufacturing sites or trading depots within any COMESA Member State. Its activities in the Common Market are limited to exports from its manufacturing facilities in Europe and the United States, specifically involving the supply of corrugated case materials, pulp, and corrugated packaging.
6. Within the Common Market, the acquiring group operates in Egypt, Ethiopia, Kenya, Libya, Madagascar, Rwanda, Tunisia, Uganda, Zambia and Zimbabwe.

### *DS Smith (the “target firm”)*

7. The parties submitted that DS Smith, with its registered address at Level 3, 1 Paddington Square, London W2 1DL, United Kingdom, with registration number 1377658, is a public company incorporated in the United Kingdom, whose shares are traded on the London Stock Exchange’s main market as DS Smith Plc.
8. The parties submitted that DS Smith serves as the ultimate parent of the DS Smith Group, an international provider of sustainable fibre-based packaging, primarily operating in Europe and North America, with additional recycling and paper-making operations. DS Smith supplies corrugated case materials and corrugated packaging products through export into the Common Market from its manufacturing facilities in Europe and the United States.
9. Within the Common Market, DS Smith operates in the Democratic Republic of Congo (the “DRC”), Egypt, Ethiopia, Kenya, Madagascar, Tunisia, and Uganda.

## 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 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*".

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

### **Details of the Merger**

12. The proposed transaction involves the proposed acquisition of sole control by International Paper over DS Smith.
13. The parties submitted that as part of this transaction, International Paper will issue 0.1285 new shares for each DS Smith share, resulting in a pro forma ownership structure where International Paper shareholders hold 66.3% and DS Smith shareholders hold 33.7% of the combined group upon completion.

### **Competition Analysis**

#### **Consideration of the Relevant Markets**

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

14. Paragraph 7 of the Commission's Guidelines on Market Definition states that a ***"relevant product market comprises all those products and/or services which are regarded as interchangeable or substitutable by the consumer/customer, by reason of the products' characteristics, their prices and their intended use"***.
15. The CID noted that the acquirer exports corrugated case materials, pulp, and corrugated packaging products while the target supplies corrugated case materials and corrugated packaging products through export into the Common Market from their manufacturing facilities in Europe and the United States of America. The CID observed that the transaction raises horizontal overlaps with respect to the manufacturing and sales of corrugated case materials, and corrugated packaging products given that the merging parties are both active in these areas.



16. In view of the above, the CID focused its assessment of relevant product market on the manufacturing and sales of corrugated case materials, and corrugated packaging products.

*Manufacturing and sales of corrugated case materials*

17. Corrugated Case Materials (“**CCM**”) serve as the base paper used in producing corrugated packaging products,<sup>2</sup> a widely adopted solution for packaging and transporting goods due to its durability and lightweight properties. CCM is transformed into corrugated board sheets, which are then converted into corrugated boxes<sup>3</sup>.
18. The CID noted the parties’ submissions that CCM comprises various products made from base paper, the primary material for corrugated packaging. CCM consists of multiple fiberboard layers: two linerboards that form the flat inner and outer surfaces of corrugated packaging, and a fluting layer, which is the corrugated middle section that imparts strength, rigidity, and bulk.
19. CCM includes both linerboards, forming the outer and inerside layers, and fluting, the corrugated middle layer that enhances strength, rigidity, and bulkiness.
20. The parties stated that CCM contains a high proportion of “long fibers,” which are essential to provide the necessary strength and rigidity in corrugated paper packaging. CCM can be made from either virgin wood fibers mixed with some recycled fiber, known as Kraftliner, or entirely from recycled fibers, known as Testliner. Kraftliner, made from virgin wood fibers, is widely used in heavy-duty applications, such as industrial packaging and export shipping, due to its high burst strength and moisture resistance, making it ideal for packaging perishable goods<sup>4</sup>.
21. On the other hand, Testliner, primarily composed of recycled fibers, is valued for its cost-effectiveness<sup>5</sup> and serves as a more economical alternative to Kraftliner. It is commonly used for producing the outer and middle liners in corrugated board production<sup>6</sup>. With a growing emphasis on sustainability and recycling, the demand for Testliner has increased as both manufacturers and consumers prioritize eco-friendly materials. Advances in recycling technology have also enhanced Testliner’s quality and performance, making it suitable for a broad range of packaging applications.
22. The CID considered that although CCM can be segmented further into kraftliner and testliner, the submarkets are substitutable as the testliner is used as an alternative to kraftliners, noting that it is preferred due to its eco-friendly qualities.

<sup>2</sup> <https://www.euwid-paper.com/topic/corrugated-case-material/>, accessed on 11 November 2024.

<sup>3</sup> See Case No COMP/M.3935 JEFFERSON SMURFIT / KAPPA, para. 17.

<sup>4</sup> <https://dataintelo.com/report/corrugated-case-material-ccm-market>, accessed on 13 November 2024.

<sup>5</sup> Ibid.

<sup>6</sup> Ibid.



Similarly, the European Commission (“EC”)<sup>7</sup> has identified a separate product market for CCM but left open whether further sub-segmentation was necessary since transaction was not likely to create or strengthen a dominant position in any of the alternative product market definition considered.

23. Given the above, the CID considered the relevant market to be the **manufacturing and sale of corrugated case materials**.

*Manufacturing and sales corrugated packaging*

24. Corrugated packages refer to finished packaging products made from corrugated board, including various shapes and structures designed to meet diverse industry needs. It encompasses all types of containers and protective materials, such as corrugated cases and boxes, which are widely used for packaging and transporting goods due to their durability, cushioning, and lightweight properties.
25. The CID observed that that corrugated packaging, made from layers of fluted cardboard sandwiched between linerboard sheets, offers excellent protection for goods during transportation and storage. Corrugated packaging is highly valued for its sustainability and recyclability, making it a preferred choice for environmentally conscious businesses, especially as sustainability becomes increasingly vital in the business world.<sup>8</sup> The increase in environmental awareness by consumers and businesses is growing the focus on reducing plastic waste and adopting eco-friendly packaging solutions which in turn has further boosted demand for corrugated packaging. The increasing concern over plastic waste and the environmental impact of non-recyclable packaging materials has led to a shift towards eco-friendly alternatives.<sup>9</sup> This trend is also supported by stringent government regulations and policies aimed at reducing plastic usage, which is expected to continue. Moreover, corrugated packaging is highly customizable, offering options to adjust board types and flute sizes. This allows for strong, yet lightweight designs capable of protecting fragile items during transit. These packaging solutions can withstand significant pressure, vibration, and impacts, ensuring goods remain intact throughout transportation. This witnesses the lesser substitutability between corrugated packaging and plastic-based alternatives, underscoring its unique appeal as a sustainable solution.
26. Corrugated packaging can be categorized based on product types and end-use applications. For instance, corrugated cases are robust, industrial-sized containers designed to handle bulk shipments, offering reinforced durability for heavy-duty use. In contrast, corrugated boxes are lightweight, single-use, multi-layered containers widely used for packaging consumer goods in retail and e-commerce. These boxes come in a variety of sizes and configurations, including single-wall,

<sup>7</sup> See Case M.8915 - DS SMITH / EUROPAC.

<sup>8</sup> <https://www.nefab.com/news-insights/2017/corrugated-packaging-materials/>, accessed on 13 November 2024.

<sup>9</sup> <https://dataintel.com/report/global-corrugated-case-material-market>, accessed on 15 November 2024.



double-wall, and triple-wall designs, providing flexibility to meet diverse packaging needs.

27. From an end-use perspective, corrugated packaging solutions are tailored to specific applications. Food and beverage packaging focuses on ensuring safety and hygiene, protecting products from contamination. Industrial packaging emphasizes strength and durability, making it suitable for transporting heavy items or bulk goods. Meanwhile, consumer packaging combines protection with aesthetic appeal, enhancing the visual presentation of products while ensuring they remain secure during transit.
28. Corrugated packaging products are also manufactured in a range of sizes and strengths to meet diverse customer requirements. Broadly, these products can be divided into bulk packaging and small parcels, each addressing distinct market demands. Bulk packaging is designed for large quantities or heavier items, prioritizing durability, stacking strength, and cost-efficiency. It is particularly suited for industrial applications, agriculture, and wholesale distribution, often incorporating double-wall or triple-wall corrugated boards to ensure resilience for heavy-duty use.
29. On the other hand, small parcels cater for smaller, lightweight products and emphasize portability and aesthetic appeal. This segment has experienced rapid growth due to the rise of e-commerce, which drives demand for customized solutions such as printed or branded packaging. Small parcels also include shelf-ready packaging for retail displays and folding cartons for consumer goods, which enhance convenience and product presentation in retail environments. However, further segmentation is not necessary since the proposed transaction will not raise any competition concerns at any levels of market segment.
30. Based on the foregoing assessment and in line with the parties' submission, and without prejudice to the CID's approach in similar future cases, the relevant product markets were defined as ***the manufacturing and sale of:***

***a) Corrugated Case Materials; and***

***b) Corrugated Packaging.***

#### **Relevant Geographic Market**

31. The Commission's Guidelines on Market Definition define the relevant geographic market as comprising "***...the area in which the undertakings concerned are involved in the supply and demand of products or services, in which the conditions of competition are sufficiently homogeneous, and which can be***



***distinguished from neighbouring areas because the conditions of competition are appreciably different in those areas***<sup>10</sup>.

32. The CID observed that companies such as the target, S Corrugated Inc., Mondi Group, Georgia- Pacific, and Smurfit Kappa Group are some of the leading players in the global Corrugated Packaging Industry and have global presence.<sup>11</sup> The CID also observed that both International Paper and DS Smith do not have any physical manufacturing facilities or trading depots within the Common Market. However, the merging parties' corrugated case materials and corrugated packaging product sales are exclusively made up of limited imports into the Common Market from their manufacturing sites in Europe and the United States and limited on-selling of product sourced from third party suppliers.
33. The CID considered that this was indicative of the geographic scope for the manufacturing and sale of corrugated case materials and corrugated packaging products to be broader than the national and potentially global. This is also confirmed by the submission from Competition Authority of Kenya where it was stated that both the acquirer and the target does not have physical presence in Kenya but export their products into Kenya.
34. The demand for corrugated case materials and corrugated packaging markets is increasing due to consumer awareness and regulations promoting sustainable packaging. With a shift away from environmentally harmful plastics, recyclable corrugated materials, made from renewable resources, are becoming the preferred choice easing these products to be globally traded goods. This trend is further heightened by stringent governmental regulations aimed at reducing plastic waste and promoting ecological sustainability and then facilitating cross-border trade. This suggests that the relevant geographic market is likely to be global.
35. In view of the above, the CID determined the geographic scope for **the manufacturing and sale of corrugated case materials and corrugated packaging as global.**

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

36. For the purposes of assessing the proposed transaction, and without prejudice to the CID's approach in future similar cases, the CID defined the relevant markets as the:
  - a. ***global market for the manufacturing and sale of corrugated case materials, and***

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<sup>10</sup> Paragraph 8

<sup>11</sup> <https://evolvebi.com/report/global-corrugated-packaging-market-analysis/>, accessed on 15 November 2024.





**b. global market for the manufacturing and sale of corrugated packaging products.**

**Market Shares and Concentration**

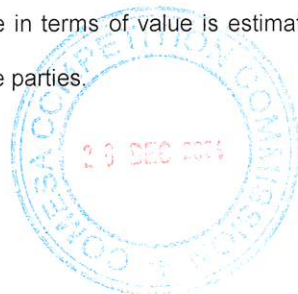
37. The parties submitted that their sales are exclusively made up of limited imports into Common Market from their manufacturing sites in Europe and the United States of America and limited on-selling of product sourced from third party suppliers.
38. The parties further submitted that given their limited presence in the Common Market, coupled with the unavailability of third-party competitor data, they are unable to provide detailed market share estimates for competitors. However, the parties provided estimates of their own market shares for the sale of corrugated case materials and corrugated packaging products (based on value of sales<sup>12</sup>) in each COMESA member state where overlaps exist, as outlined in Table 1 below.

**Table 1: The merging parties and competitors' market shares in the sales of corrugated case materials and corrugated packaging products in the Common Market in 2023<sup>13</sup>**

Member State	Competitors	Corrugated Case Materials value of sales%		Corrugated packaging value of sales%	
		Pre-merger	Post-merger	Pre-merger	Post-merger
Egypt	International Paper (acquirer)	[1-5]	[2-10]	[0-5]	[0-5]
	DS Smith (target)	[1-5]		[0-5]	
	Other competitors	[90-100]	[90-100]	[95-100]	[95-100]
	Total	100	100	100	100
Tunisia	International Paper (acquirer)	[1-5]	[2-10]	[1-5]	[2-10]
	DS Smith (target)	[1-5]		[1-5]	
	Other competitors	[90-100]	[90-100]	[90-100]	[90-100]
	Total	100	100	100	100
Kenya	International Paper (acquirer)	[0-5]	[0-5]	N/A	
	DS Smith (target)	[0-5]			
	Other competitors	[95-100]	[95-100]		
	Total	100	100		
Madagascar	International Paper (acquirer)	[0-5]	[0-5]	N/A	
	DS Smith (target)	[0-5]			
	Other competitors	[95-100]	[95-100]		
	Total	100	100		

<sup>12</sup> The parties submitted that the market size in terms of value is estimated by considering average import trade pricing for these products from COMTrade.

<sup>13</sup> Confidentiality of information claimed by the parties.



Uganda	International Paper (acquirer)	[0-5]	[0-5]	N/A
	DS Smith (target)	[0-5]		
	Other competitors	[95-100]	[95-100]	
	Total	100	100	

39. The CID noted that the merging parties hold an insignificant market share in the corrugated case materials segment within the Common Market. A substantial majority of the market share i.e., [95-100]% in Egypt, [95-100]% in Tunisia, [90-100]% in Kenya, [90-100]% in Madagascar, and [90-100]% in Uganda is distributed among by other competitors.<sup>14</sup> The proposed merger is anticipated to result in a marginal increase in market share, with increments of [0 – 5]% in Egypt, [0 – 5]% in Tunisia, [0 – 5]% in Kenya, [0 – 5]% in Madagascar, and [0 – 5]% in Uganda.
40. The marginal market share accretion suggests that the proposed transaction is unlikely to significantly alter the competitive dynamics of the market. The combined market share of the merging parties will remain well below levels typically associated with market concentration concerns.
41. The CID noted that with regard to the corrugated packaging market, [90 – 100]% and [95 – 100]% market share is distributed among other players in Egypt and Tunisia, respectively. The proposed transaction is also unlikely to result in significant market share accretion since the increase in market share [0 – 5]% and [0 – 5]% in Egypt and Tunisia.
42. The CID therefore observed that post-merger, the transaction will have a negligible impact on the market structure of the corrugated case materials and corrugated packaging markets in the Common Market. The merging parties will continue to face strong competition from established global and regional players, limiting their ability to exert market power. As such, the proposed merger does not raise any competition concerns and is unlikely to result in any substantial lessening of competition within the Common Market.

### Consideration of Third-Party Views

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

### Determination

44. The CID determined that the merger is not likely to substantially prevent or lessen competition in the Common Market or a substantial part of it, nor will it be contrary

<sup>14</sup> Confidentiality of information claimed by the parties.



to public interest. The CID further determined that the transaction is unlikely to negatively affect trade between Member States.

45. The CID, therefore, approved the transaction.
46. This decision is adopted in accordance with Article 26 of the Regulations.

Dated this 20<sup>th</sup> day of December 2024

**Commissioner Dr Mahmoud Momtaz (Chairperson)**

**Commissioner Lloyds Vincent Nkhoma**

**Commissioner Vipin Naugah**

