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Common Market for Eastern and Southern Africa

Case File No. CCC/MER/08/36/2024

Decision[1] of the 113th Meeting of the Committee Responsible for Initial Determinations Regarding the Proposed Merger Involving Sinoma Cement Co., Ltd. Granulats Jbel Oust S.A and Société Les Ciments De Jbel Oust S.A

ECONOMIC SECTOR: Manufacturing (Cement)

20 December 2024

COMESA COMPETITION COMMISSION
20 DEC 2024

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 Where possible, the information omitted has been replaced by ranges of figures or a general description.

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 27 September 2024, the Commission received a notification for approval of the merger regarding the proposed merger involving Sinoma Cement Co., Ltd. ("**SCC**" or the "**acquiring firm**"), Société Les Ciments De Jbel Oust S.A ("**CJO**") and its controlled entity, Granulats Jbel Oust S.A. ("**GJO**"), together the ("**target firms**"), 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

SCC (the "acquiring firm")

4. The parties submitted that SCC is a limited liability company formed in China on November 20, 2003, with its registered office at 5/F, Building 17, Beizhan North Street, Xicheng District, Beijing, China.

5. SCC is a cement-based building materials enterprise. It has achieved diversified development in concrete, aggregate, bricks, admixture, and co-processing. It is headquartered in China and active Zambia where it operates plants for cement and aggregates production. Further, the activities of SCC and its affiliates/subsidiaries within the Common Market are presented in Table 1 below.

Table 1: Activities of SCC and its affiliates/subsidiaries with the Common Market

Name of Company/ subsidiary or affiliate	Member State	Activities
Sinoma Cement Co., Ltd. and affiliates	Burundi	Cement, commercial concrete, red brick
	Democratic Republic of Congo ("**DRC**")	Engineering services
		Cement, commercial concrete, red brick
		Commercial business
	Djibouti	Production operations services
	Egypt	Fiberglass
		Engineering service
		Spare parts
		Production and operation service
	Ethiopia	Engineering services
		Production and operation services
		Commercial business
		Logistics business
	Kenya	Engineering services
		Commercial business
	Malawi	Cement, commercial concrete, red brick
	Mauritius	Fiberglass
	Somalia	Fiberglass
	Tunisia	Fiberglass
	Zambia	Engineering services
		Cement
		Commercial service
		Mining service
		Spare parts
	Zimbabwe	Solar and renewable products / warehousing
		Cement, commercial concrete, red brick
	Uganda	Spare parts,
		Commercial business
Sinoma cement Co., Ltd. and subsidiaries	Burundi	Cement
	DRC	Cement
	Malawi	Cement

	Zambia	Cement
		Red brick
		Ready-mix concrete
	Zimbabwe	Cement

CJO and GJO (the "target firms")

6. The parties submitted that CJO and its subsidiary, GJO, are companies established under Law of Tunisia. CJO operates a cement plant in Tunisia where it produces cementitious materials (mainly cement and clinker).

7. The parties CJO has a long operating history, stable operation, and is geographically located close to the ports with favourable location conditions and is a mature integrated cement enterprise in Tunisia. The parties further CJO's subsidiary i.e., GJO produces aggregates within the same region as the cement.

8. The parties submitted the activities of the target firms within the Common Market as presented in Table 2 below.

Table 2: Activities of the target firms within the Common Market

Name of Company	Member State	Activities
CJO	Libya	Cement
	Tunisia	Cements, and Clinker to Grinding Stations
GJO	Tunisia	Aggregates

Jurisdiction of the Commission

9. 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".*

10. 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

11. The proposed transaction consists of the purchase by SCC of all the shares issued by CJO from Votorantim Cimentos EAA Inversiones S.L.U. ("**VCEI**"). As result of the proposed transaction, SCC will assume control of CJO and its fully owned subsidiary GJO.

Competition Analysis

Consideration of the Relevant Markets

Relevant Product Market

12. 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**".*

13. The CID noted that the acquiring group's activities include engineering services, cement production and sales, commercial concrete, red brick, ready-mix concrete, Commercial business, supply of fiberglass and spare parts, logistics business, mining service, solar and renewable products, warehousing.

14. The CID also noted that the target group's activities in Tunisia include production and supply of cement, as well as supply of clinker and aggregates to its internal grinding stations. The target group is also active in the supply of cement in Libya.

15. Accordingly, the CID observed that the transaction is a horizontal merger since both parties are active in the production and supply of cement. Further, the transaction raises vertical relationships between the parties given concrete products manufactured and supplied by the acquiring group require cement. However, the CID noted that the target is only active production and supply of cement, thus focuses its assessment of the relevant product market to the production and supply of cement.

Production and supply of cement

16. Cement is a critical material in the construction industry, primarily used in producing concrete. It is manufactured by crushing and heating limestone with clay or shale, resulting in a fine powder. The production process involves a controlled chemical combination of calcium, silicon, aluminium, iron, and other elements, forming cement clinker[2]. Grinding the clinker with gypsum produces the final product, which, when mixed with water, serves as a binding agent, hardening into a durable material.

17. Cement is indispensable in various construction sectors, including public, residential, and commercial projects, due to its binding properties that enable materials to adhere. It is widely utilized in producing mortar for masonry work and concrete. Additionally, it is a vital component in manufacturing ready-mixed concrete, precast concrete products, and mortar, emphasizing its essential role in construction.

18. Cement is largely a homogenous product in the sense that the production process is similar across all producers in the industry[3]. It is homogenous in composition due to quality-assured production and material-handling processes. Therefore, the production and supply of cement may broadly be considered as a single relevant market. However, segmenting the broad market is possible according to the different strengths and applications of cement. For instance, it is noted from the parties' submission that the target group produces 32.5 N and 42.5 R classes of cement. These grades serve distinct purposes due to their varying strengths.

19. Similarly, while the production and supply of cement may broadly constitute a single relevant market due to its homogeneity and similar production processes across industry players, the CID in its previous decisional practices[4] argued that segmentation based on strength and application as he 22.5X, 32.5N, 42.5N, and 52.5N is appropriate.

20. The variety of grades indicates significant supply-side substitutability, enabling manufacturers to switch between producing different grades with minimal cost or production process changes. This flexibility allows producers to adapt to market demand efficiently. In the ***NCHL/Cimerwa*** case, the CID also noted that cement producers can easily switch production between grades (e.g., 42.5N and 32.5N) without significant costs, reflecting high supply-side substitutability. This adaptability enables producers to allocate production capacity based on market demand and respond effectively to small price increases.

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[2] https://www.cement.org/cement-concrete/how-cement-is-made/, accessed on 12 December 2024.
[3] See para 27, Case File No. CCC/MER/01/03/2024, decision dated, 11 July 2024.
[4] See Case File No. CCC/MER/01/03/2024, decision dated, 11 July 2024.

21. On the demand side, consumer preferences vary. Retail customers often prioritize price over technical differences, especially for smaller projects. However, for projects with specific technical requirements, consumers are willing to pay a premium for higher-grade cement. In commercial and industrial construction, factors such as strength, technical specifications, and quality assurances are pivotal alongside pricing considerations.

22. Based on the foregoing, the CID defined the relevant market as ***the production and supply of various grades of cement (32.5N, and 42.5R)***.

Relevant Geographic Market

23. 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**"*[5].

24. The geographic scope for the production and supply of different grades of cement is generally limited by high transportation costs due to the heavy weight of cement. Transporting cement over long distances often proves economically unviable without incurring substantial expenses. However, advancements in technology and infrastructure have expanded the effective transport range, enabling producers to access more distant markets more efficiently and cost-effectively[6]. For instance, bulk cement carriers equipped with advanced logistics and transportation systems have significantly extended the competitive transport range. These innovations facilitate the shipment of larger quantities in a single load, reducing per-unit costs and making it feasible to serve previously inaccessible markets.

25. In the ***NCHL/Cimerwa*** and ***Bamburi/Amsons***[7], the CID found that the geographic scope for the production and supply of cement is primarily prominent between Member States with shared borders, as proximity plays a crucial role in facilitating trade in cement. In the current context, given that the target group operates in Tunisia and it also supplies different grades of cement in Libya, the geographic scope for the production and supply of cement can reasonably be extended to include both Tunisia and its neighbouring country, Libya.

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[5] Paragraph 8

[6] See para 392, case no. CCC/MER/01/03/2024, dated 11 July 2024; para 34 of Case File No. CCC/MER/8/31/2024 dated 20 October 2024; and Case File dated 18 November 2022.No. CCC/MER/8/35/2022.

[7] See para 392, case no. CCC/MER/01/03/2024, dated 11 July 2024; para 34 of Case File No. CCC/MER/8/31/2024 dated 20 October 2024; and Case File dated 18 November 2022.No. CCC/MER/8/35/2022.

Conclusion of Relevant Market Definition

26. For the purposes of assessing the proposed transaction, and without prejudice to its approach in future similar cases, the CID defined the relevant markets as the ***production and supply of various grades of cement in Tunisia and Libya.***

Market Shares and Concentration

27. Based on the parties' submission and the preceding paragraphs, there is geographic overlap in the production and supply of cement in the Common Market, with the target firms only active in Tunisia and Libya. Therefore, the competitive analysis focuses on the production and supply of cement in Tunisia and Libya only, as detailed below.

28. The parties submitted the target firms' market shares and those of its main competitors, for the cement market, in Tunisia as per Table 3 below.

Table 3: The merging parties and competitors' market shares in the supply of cement in Tunisia[8]

Competitors	***Pre-merger estimated market shares in %***	***Post-merger estimated market shares in %***
CARTHAGE Cement	[20-30] %	[20-30] %
Target firm	**[10-20] %**	**[10-20] %**
SCE	[10-20] %	[10-20] %
CAT	[0-10] %	[0-10] %
SOTACIB	[0-10] %	[0-10] %
GABES	[0-10] %	[0-10] %
C BIZERTE	[0-10] %	[0-10] %
CIOK	[0-10] %	[0-10] %
Total	**100**	**100**

29. The CID observed from Table 3 above that the market for the production and supply of cement in Tunisia is moderately concentrated, with CARTHAGE Cement holding the largest market share at [20 – 30]%, positioning it as the market leader. The target firm is the second-largest player with market share of [10 – 20]%, followed closely by SCE with [10 – 20]%. Other competitors, including CAT [0 – 10]%, SOTACIB [0 – 10]%, GAMBES [0 – 10]%, C BIZERTE [0 – 10]%, and CIOK [0 – 10]%, collectively contribute to a fragmented competitive landscape. While CARTHAGE Cement exerts notable market influence, the relatively balanced distribution of shares among the smaller competitors suggests that no single firm dominates the market entirely.

30. The CID noted that the transaction does not eliminate any competitor but rather integrates the acquiring firm into the market. The market structure will not change

[8] Confidentiality of information claimed by the parties.

post-merger with the merged entity expected to continue facing competition from the current market leader and other established players.

31. From the Libyan cement market perspective, while stating that they did not have competitors' market shares, the CID noted from the parties' submission that the target firms hold *[0 – 10] %* market shares in the cement market. The CID therefore considered that the existing market dynamics in Libya will remain unchanged since it is only the target operating in Libya and in any case, the targets market share is insignificant to raise any likely competition concerns.

32. Thus, the proposed transaction is unlikely to alter the current market dynamics, and the presence of several mid-sized players suggests a market structure where competition is likely to remain healthy, with opportunities for smaller firms to challenge the larger players. It is further observed that the existing market structure will remain unchanged since the acquirer does not have any presence in the production and supply of different grades of cement products in Tunisia and Libya.

Consideration of Third-Party Views

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

Determination

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

35. The CID, therefore, approved the transaction.

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

Dated this 20th day of December 2024

Commissioner Dr Mahmoud Momtaz (Chairperson)

Commissioner Lloyds Vincent Nkhoma **Commissioner Vipin Naugah**

COMESA COMPETITION COMMISSION
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