

***Case No COMP/M.2806 -  
SABIC / DSM  
PETROCHEMICALS***

Only the English text is available and authentic.

**REGULATION (EEC) No 4064/89  
MERGER PROCEDURE**

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Article 6(1)(b) NON-OPPOSITION  
Date: 18/06/2002

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 18/06/2002

SG (2002) D/230210

In the published version of this decision, some information has been omitted pursuant to Article 17(2) of Council Regulation (EEC) No 4064/89 concerning non-disclosure of business secrets and other confidential information. The omissions are shown thus [...]. Where possible the information omitted has been replaced by ranges of figures or a general

PUBLIC VERSION

MERGER PROCEDURE  
ARTICLE 6(1)(b) DECISION

**To the notifying party**

Dear Sir/Madam,

**Subject: Case No COMP/M.2806 - SABIC / DSM Petrochemicals  
Notification of 15.05.2002 pursuant to Article 4 of Council Regulation  
No 4064/89<sup>1</sup>**

1. On the 15.05.2002, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No. 4064/89, whereby the undertaking Saudi Basic Industries Corporation (SABIC), Saudi Arabia, acquires within the meaning of Article 3(1)(b) of the Council Regulation control of the whole of DSM Petrochemicals (DPC), Netherlands, by way of purchase of shares.
2. After examining the notification, the Commission has concluded that the notified operation falls within the scope of Council Regulation (EEC) No.4064/89<sup>2</sup> and that it

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<sup>1</sup> OJ L 395, 30.12.1989 p. 1; corrigendum OJ L 257 of 21.9.1990, p. 13; Regulation as last amended by Regulation (EC) No 1310/97 (OJ L 180, 9. 7. 1997, p. 1, corrigendum OJ L 40, 13.2.1998, p. 17).

<sup>2</sup> OJ L 395, 30.12.1989 p. 1; corrigendum OJ L 257 of 21.9.1990, p. 13; Regulation as last amended by Regulation (EC) No 1310/97 (OJ L 180, 9. 7. 1997, p. 1, corrigendum OJ L 40, 13.2.1998, p. 17).

does not raise serious doubts as to its compatibility with the common market and with the EEA agreement.

## **I. THE PARTIES**

3. SABIC is an international industrial group that is primarily active in the manufacture and sale of hydrocarbons and basic chemicals, intermediates, polymers, fertiliser and metals. SABIC is incorporated in Saudi Arabia and has affiliated companies in various countries in Europe and world-wide.
4. DPC is the business group of DSM N.V. (Netherlands) which manufactures and sells polyethylene, polypropylene, hydrocarbons and other chemicals.

## **II. THE OPERATION**

5. The envisaged transaction is the acquisition by SABIC of the six companies comprising DPC by way of purchase of shares.

## **III. CONCENTRATION**

6. The transaction is an acquisition by SABIC of sole control of the whole of DPC within the meaning of Article 3(1)(b) of the Council Regulation control.

## **IV. COMMUNITY DIMENSION**

7. The undertakings concerned have a combined aggregate world-wide turnover of more than € 5 billion<sup>3</sup> (SABIC: € 8.9 billion; DPC: € 2.4 billion). Each of the undertakings have a Community-wide turnover in excess of EUR 250 million (SABIC: € 731.7 million; DPC: € 2.2 billion), but they do not achieve more than two-thirds of their aggregate Community-wide turnover within one and the same Member State. The notified operation therefore has a Community dimension.

## **V. COMPETITIVE ASSESSMENT**

### **Product markets**

8. The transaction will lead to horizontal overlaps between SABIC and DPC in polyethylene, polypropylene, certain hydrocarbons and other petrochemicals, including MTBE.
9. *MTBE*: Methyl tertiary butyl ether (MTBE) is produced from isobutylene and methanol and is sold to oil refineries as gasoline additive to increase octane ratings in premium grade fuels. The parties argue that even though MTBE is a popular additive in Europe there are numerous substitutes from a customer's perspective such as butylene alkylate, propylene alkylate, ETBA amongs others. The parties have submitted that from a demand side perspective other gasoline additives are generally substitutable for MTBE.

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<sup>3</sup> Turnover calculated in accordance with Article 5(1) of the Merger Regulation and the Commission Notice on the calculation of turnover (OJ C66, 2.3.1998, p25). To the extent that figures include turnover for the period before 1.1.1999, they are calculated on the basis of average ECU exchange rates and translated into EUR on a one-for-one basis.

In conclusion, the parties claim that there is a single market for gasoline additives rather than a separate market for MTBE.

10. Some third parties have pointed out that fuel additives are substances that are added to fuels in relatively small quantities in order to enhance the quality or the performance of the fuels. Several third parties have stressed that MTBE is used as a gasoline enhancer to improve the octane quality and they have also underlined that MTBE can be substituted in gasoline by other components to achieve similar physical properties. A few third parties have suggested that MTBE should rather be characterised as a gasoline blending component, i.e. a substance that is blended with other substances in order to create the fuel. However, in the view of the same third parties, MTBE can be substituted by other components such as ETBE and butylene alkylate in order to achieve similar physical properties. Thereby these third parties are referring to the same substitutes for MTBE as the parties. However, the main part of the respondents of the Commission investigation has supported the parties' description of a market for gasoline additives even though some of them have submitted that there is a separate market for MTBE.
11. *Polyethylene (PE)*: The transaction also involves polyolefins such as polyethylene and polypropylene, which are the most widely used plastics in the world. There are three main categories of polyethylene resins. These are: high density polyethylene (HDPE), low density polyethylene (LDPE) and linear low density polyethylene (LLDPE). HDPE is mainly used for rigid bottles and large blow mouldings (e.g. drums and large pipes), whereas LDPE is primarily used in film and coating applications. LLDPE is mainly used for films and packaging applications. LLDPE can further be split into three main types categorised by the comonomer used in the manufacturing process, these are C4 LLDPE, C6 LLDPE and C8 LLDPE.
12. In previous decisions<sup>4</sup>, the Commission considered HDPE to constitute a distinct product market from LDPE and LLDPE due to demand side considerations. The Commission has in the past left it open whether LDPE, C4 LLDPE and C6 LLDPE constitute one single product market or whether LDPE constitutes a separate market from C4 LLDPE and C6 LLDPE. Finally the Commission has concluded that C8 LLDPE constitutes a separate product market.
13. As polyethylene, polypropylene (PP) is a category of polyolefins and one of the most widely used kinds of plastic used world wide. In its previous decisions, the Commission has distinguished between PP resins and PP compounds<sup>5</sup>. There are three kinds of PP resins; homopolymers, random copolymers and impact (block) copolymers.
14. *Hydrocarbons and other chemicals*: The proposed transaction will also involve a vertical dimension with regard to feedstock such as hydrocarbons and other chemicals. These vertically related markets involve ethylene, propylene, benzene and styrene. In addition, chemicals markets such as crude C4/C5 and heavy aromatic are vertically related to markets where the parties are active. The parties' claim that each of these product areas constitute separate product market.

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<sup>4</sup> Case COMP/M.1671 - Dow /UCC

<sup>5</sup> Case COMP/M.1751 - Shell/BASF/Project Nicole

15. The Commission has previously found that ethylene<sup>6</sup>, propylene<sup>7</sup> and benzene<sup>8</sup> constitutes separate product markets, whereas the Commission has either not investigated the other products or left the definition of such product markets open in previous decisions. However, nearly all third parties in the Commission's investigation have confirmed that each of these products constitute separate product markets.
16. In the course of the Commission's investigation some third parties have in particular pointed out that crude C4 is a separate market from crude C5. In their view the crude C4 market is linked to the butylenes and butadiene market which has no connection with the crude C5 market.
17. However, for the purpose of the present decision it is not necessary to finally decide the product market definitions as the operation does not lead to the creation or strengthening of a dominant position in any market.

### **Geographic markets**

18. With regard to MTBE the parties have submitted that the geographic scope of this market is at least Western Europe. This view has entirely been confirmed by the Commission's market investigation. Some third parties have explained that MTBE is readily and cheaply transportable. These third parties have also explained that imports are 15-20% of the total European consumption of MTBE with export in the range of 10-15%. Therefore they have concluded that Western Europe is the relevant geographic scope of this market.
19. In previous decisions<sup>9</sup> the Commission concluded that the geographic scope for all the different types of polyethylene and polypropylene was Western Europe.
20. The Parties have submitted that the geographic scope for the ethylene and propylene is at least Western Europe. As ethylene is highly inflammable it should be noted that this feed stock normally has to be transported through pipelines to the chemical producers. Therefore the Commission has in previous decisions taken the view that the geographic scope of the market for ethylene is limited to the relevant network of pipelines used for the transportation of the ethylene to the producer<sup>10</sup>. However, for the purpose of this case it is not necessary to decide whether the geographic scope of the market for ethylene is Western Europe or confined to the geographic area of the pipelines, since the operation does not lead to the creation of a dominant position in any market.
21. For the other hydrocarbons mentioned above the parties have also submitted that these product markets are at least Western European in scope and this view has been

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<sup>6</sup> Case COMP/M. 2533 - BP /E.ON and Case DG COMP/M. 2092 - Repsol/Quimica/Borealis/JV.

<sup>7</sup> Case COMP/M 2345 Deutsche BP/Erdölchemie

<sup>8</sup> Also case M. 2345

<sup>9</sup> Case COMP/M.1671 - Dow /UCC

<sup>10</sup> Case COMP/M. 2533 - BP/ E.ON

confirmed by the Commission's market investigation. However, for the purpose of this decision it is not necessary to decide whether the geographic scope of such product markets is Western Europe, since the operation does not lead to the creation of a dominant position in any of these markets.

### **III. COMPETITIVE ASSESSMENT**

22. DSM is currently restructuring its business activities strategically and has decided to focus on specialities chemicals and life sciences. As part of this strategy DSM has decided to sell its petrochemical business.
23. SABIC anticipates further consolidation in the chemicals industry which according to SABIC will be dominated by 20-25 global players in the future. It is an objective of SABIC to become one of these global players through a series of strategic alliances, mergers, acquisitions and joint ventures. SABIC is of the view that in order to achieve this objective a balanced geographic presence would be required, e.g. presence in both America and Europe in particular with regard to polymers. The current transaction will secure SABIC a stronger presence in Europe and third parties have pointed out that SABIC thereby will get access to an established European distribution network.
24. MTBE: Based on the approach taken by the parties, i.e. that there is an overall market gasoline additives or components, the parties would account for less than 15% in such a market in Western Europe. However, there would be a possible horizontally affected market with regard to MTBE as the parties would account for 17.8% for this product assessed separately in Western Europe. Third parties have confirmed that the combined market share of the parties will amount to below 20 %. According to the parties the competitors include Lyondell [25 – 35]%, Atofina [5 – 15]%, Neste [0 – 10]%, Repsol [0 – 10]%, Shell [0 – 10]%, Oxeno [0 – 10]%, Ecofuel [0 – 10]%, AGIP [0 – 10]% and Oberrheinische Mineraloelwerke [0 – 10]%.
25. The transaction gives rise to potentially affected markets if the assessment is based on C4 LLDPE and C6 LLDPE taken together, as the parties would account for 19.0% in Western Europe. If C4 LLDPE and C6 LLDPE were assessed individually the transaction would also give rise to a horizontally affected market with regard to C4 LLDPE as the parties combined market share would amount to 21.5% in Western Europe. The competitors are companies such as BP, Polimeri, Dow, Exxon-Mobil, Borealis and Repsol. Therefore, the operation does not lead to the creation or strengthening of a dominant position for any type of PE resins.
26. Based on the parties' information their combined market shares would account for less than 25% in all separate types of PP resins in Western Europe as well as in the downstream related market for PP compounds in Western Europe. Consequently, the operation would not lead to the creation or strengthening of a dominant position in the markets for PP resins or PP compounds.
27. According to the parties' information their combined market shares would also account for less than 25% in all the vertically related markets mentioned above in Western Europe. This conclusion has generally been confirmed by the Commissions market investigation and no third parties have raised competitive concerns in relation to any of the vertically related markets.

## **VI. CONCLUSION**

28. For the above reasons, the Commission has decided not to oppose the notified operation and to declare it compatible with the common market and with the EEA Agreement. This decision is adopted in application of Article 6(1)(b) of Council Regulation (EEC) No 4064/89.

For the Commission

(signed)  
Mario MONTI  
Member of the Commission