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EUROPEAN COMMISSION
DG Competition

Case M.7858 - INEOS / CELANESE ASSETS

Only the English text is available and authentic.

**REGULATION (EC) No 139/2004
MERGER PROCEDURE**

Article 6(1)(b) NON-OPPOSITION
Date: 11/05/2016

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EUROPEAN COMMISSION

Brussels, 11.05.2016
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In the published version of this decision, some information has been omitted pursuant to Article 17(2) of Council Regulation (EC) No 139/2004 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 Where possible the information omitted has been replaced by ranges of figures or a general description.

PUBLIC VERSION

MERGER PROCEDURE

To the notifying party:

Dear Sir/Madam,

Subject: Case M.7858 – INEOS / CELANESE ASSETS
Commission decision pursuant to Article 6(1)(b) of Council Regulation No 139/2004¹ and Article 57 of the Agreement on the European Economic Area²

- (1) On 01 April 2016, the European Commission (the "Commission") received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004³ by which INEOS Europe AG ("INEOS" or the "Notifying Party") acquires sole control over certain assets of Celanese Sales Germany GmbH ("Celanese"). The acquired assets consist of Celanese's European n-Butyl Acetate Business ("CBB"). The acquisition is effected by way of purchase of assets ("the Transaction").⁴ INEOS and CBB are collectively referred to as the "Parties"

¹ OJ L 24, 29.1.2004, p. 1 (the 'Merger Regulation').

² OJ L 1, 3.1.1994, p. 3 (the 'EEA Agreement').

³ OJ L 24, 29.1.2004, p. 1 (the 'Merger Regulation'). With effect from 1 December 2009, the Treaty on the Functioning of the European Union ("TFEU") has introduced certain changes, such as the replacement of 'Community' by 'Union' and 'common market' by 'internal market'. The terminology of the TFEU will be used throughout this decision.

⁴ Publication in the Official Journal of the European Union No C 130, 13.04.2016, p. 9.

1. THE PARTIES AND THE OPERATION

- (2) **INEOS** is a company which is part of the wider INEOS Group, a global manufacturer of petrochemicals, specialty chemicals and oil products. INEOS produces, inter alia, n-Butyl Acetate ("n-BuAc") and Butanol.
- (3) **Celanese** is controlled by the Celanese Corporation, a specialty materials and chemical company traded on the New York stock Exchange. Celanese is active in the manufacture and supply of a variety of chemical products such as intermediate chemistry (e.g. Butyl Acetate (BuAc), acetic acid), emulsion polymers (e.g. vinyl acetate copolymers), food ingredients (e.g. acesulfame potassium) and engineered materials (e.g. thermoplastic polyesters), commercialised in the EEA, the Middle East, North Africa and Russia.
- (4) **CBB** includes certain Celanese's assets relating to its European n-BuAc business. On the basis of an Asset Purchase Agreement signed between INEOS and Celanese on 1 April 2016, INEOS acquires sole control over CBB, consisting of (a) existing contracts and purchase orders in relation to n-BuAc in the EEA, (b) the list of all customers to whom Celanese sells n-BuAc within the EEA as well as (c) certain historical sales data and other trading information relating to the sale of n-BuAc in the EEA. The assets acquired by INEOS do not include any facilities, personnel or other assets related to the production of n-BuAc.
- (5) The Transaction therefore constitutes a concentration within the meaning of Article 3(1)(b) of the Merger Regulation.

2. EU DIMENSION

- (6) The Transaction does not have EU dimension within the meaning of Article 1(2) of the Merger Regulation. While the undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 000 million⁵ (INEOS Group: EUR [...] million; CBB: EUR [...] million), only one of them has an EU-wide turnover in excess of EUR 250 million (INEOS Group: EUR [...] million; CBB: EUR [...] million). The threshold in Article 1(3) of the Merger Regulation is not met either.
- (7) On 08 December 2015, the Commission received, by means of a reasoned submission, a referral request pursuant to Article 4(5) of the Merger Regulation with respect to the Transaction. According to the Notifying Party, the Transaction was reviewable under the national merger control laws of three Member States, namely Germany, Austria and the United Kingdom. A copy of this submission and a note by the Commission, setting out that the Commission considered the referral appropriate, was transmitted to the Member States on the same day.
- (8) None of the Member States that would have jurisdiction to review the Transaction objected to the request within the deadline of 15 working days. Therefore, according to Article 4(5) of the Merger Regulation, the Transaction is deemed to have Union dimension.

⁵ Turnover calculated in accordance with Article 5 of the Merger Regulation and the Commission Consolidated Jurisdictional Notice (OJ C 95, 16.4.2008, p. 1).

3. COMPETITIVE ASSESSMENT

3.1. Market definition

3.1.1. Product market definition

3.1.1.1. n-BuAc

- (9) n-BuAc is a medium-volatile, colourless solvent with solvent power for cellulose nitrate, polymers, resins and oils. n-BuAc is used as a solvent in the coatings, leather, paper and chemical processing industries, as well as an extraction solvent in the manufacture of certain antibiotics and in the recovery of phenol from waste liquors. The surface coating industry is the main application for n-BuAc and accounts for more than 70% of the total n-BuAc consumption. The remaining applications for n-BuAc include leather treatment, perfumes manufacturing and extraction solvent.⁶ The two main products used to produce n-BuAc are n-Butanol and Acetic Acid.
- (10) INEOS sells two types of butyl acetate: n-Butyl Acetate (i.e. n-BuAc) and iso-Butyl Acetate ("iso-BuAc"). CBB only sells n-BuAc.
- i. Commission's previous practice
- (11) In previous decisions, the Commission indicated that the market of Butyl Acetate should be defined as distinct from other chemical products, but left ultimately open the question of whether there are separate product markets for n-BuAc and iso-BuAc.⁷
- (12) In previous decisions, the Commission did not examine whether the market for n-BuAc should be further divided into separate product markets on the basis of n-BuAc's various purity grades.
- ii. The Notifying Party's view

n-BuAc and iso-BuAc

- (13) The Notifying Party claims that n-BuAc and iso-BuAc are, to some extent, substitutable products from a demand side perspective in terms of prices and product characteristics. The Notifying Party also states that some customers have a historical preference for one or the other product, which, however, is not the result of each product's characteristics or price.
- (14) From the supply side the Notifying Party submits that: (i) the manufacturing process for n-BuAc and iso-BuAc is similar; (ii) production for the two products uses similar (or even identical) equipment and technologies and (iii) manufacturers are able to use the same reactors to produce both products with only a limited required investment, estimated at less than one million EUR.

⁶ Source: [...].

⁷ Case COMP/M.6411 – ADVENT / MAXAM, paragraphs 60-62; Case COMP/M.6778 – ADVENT INTERNATIONAL CORPORATION / CYTEC'S RESIN BUSINESS, paragraphs 28-30.

Purity grades of n-BuAc

- (15) As regards different purity grades of n-BuAc the Notifying Party submits that there are two grades: normal grade with a purity of 99.0% and high purity grade with a purity of at least 99.5%. The Notifying Party states that it does not consider that different product markets for different grades for n-BuAc exist.
- (16) CBB produces only high purity grade. For historical reasons, INEOS offers in the EEA two different specifications, 99.0% and at least 99.5%, [...].
- (17) The Notifying Party also states that n-BuAc producers can manufacture normal grade and high purity grade in the same plant. According to the Notifying Party's market intelligence, the main competing n-BuAc producers in the EEA (i.e. BASF, Oxea, Celanese and Solvent Wistol) all offer only high purity grade, which can be used, due to its higher specifications, by all customers for all uses of n-BuAc. The Notifying Party argues that there is full supply and demand substitutability between the two purity grades of n-BuAc.
- (18) In any event, the Notifying Party concludes that the exact product market definition can be left open, since INEOS' market position post-Transaction will be similar regardless of the precise scope of the product market definition.

iii. Results of the market investigation

n-BuAc and iso-BuAc

- (19) From a supply side, the market investigation indicated that production processes for the production of n-BuAc and iso-BuAc are to some extent similar. The switching of the manufacturing process from one product to the other would take few hours and would require minor adjustments.⁸ On the other hand, not every manufacturer of n-BuAc, who responded to the investigation, also produces iso-BuAc.
- (20) From a demand side, a large majority of customers indicated that the products are not substitutable in terms of intended use, prices, and product characteristics, because their chemical composition is different.⁹ A customer stressed that "*n-BuAc and iso-Butyl Acetate are different products, and therefore have different markets and applications, as well as different prices and purity requirements*".¹⁰
- (21) The investigation confirmed that both products are used in the manufacture of coatings; however iso-BuAc has more widespread use in wood coatings and varnishes, while n-BuAc is more suitable for purge and paint thinner formulations and also for some pharmaceutical use. The demand for iso-BuAc was reported to be lower than the demand for n-BuAc at the level of end-users.
- (22) The evidence available to the Commission suggests that n-BuAc and iso-BuAc belong to different product markets, by virtue of the two products' different

⁸ Replies to questions 4 and 5 of Questionnaire Q 1 Competitors.

⁹ Replies to questions 5 and 5.1 of Questionnaire Q 2 Customers.

¹⁰ Replies to question 6 of Questionnaire Q 2 Customers.

chemical compositions, intended uses, demand patterns and prices. The Commission also notes that CBB does not sell any iso-BuAc in the EEA. In light of these facts, the Commission will focus its analysis on the impact of the Transaction on the product market for n-BuAc.

Purity grades of BuAc

- (23) From a demand side, there are some elements suggesting that the market for n-BuAc might be further segmented by grade. Some customers or some applications require or prefer high purity grade.¹¹
- (24) From a supply side, some producers indicated that they do offer different grades of n-BuAc, while others mentioned that they produce only one grade of n-BuAc.¹²

iv. Conclusion

- (25) The evidence available to the Commission suggests that n-BuAc and iso-BuAc belong to different product markets. For purposes of this decision, a potential narrower product market definition based on the purity grade of n-BuAc may be left open, as the Transaction would not give rise to serious doubts as regards its compatibility with the internal market irrespective of the precise scope of the market definition.

3.1.1.2. n-Butanol

- (26) Butanol is a clear, mobile, neutral liquid with a characteristic odour. It is the precursor for a series of chemical intermediate products such as Butyl Acetate, butylamine, butylacrylate and phthalate plasticisers. As mentioned in paragraph (10) above, n-Butanol is relevant for the present transaction, because it is used in order to produce n-BuAc.

i. Commission's previous practice

- (27) In previous decisions, the Commission found that there are two types of Butanol isomers: n-Butanol and iso-Butanol, but left open the question of whether there are separate product markets for n-Butanol and iso-Butanol.¹³

ii. The Notifying Party's view

- (28) The Notifying Party submits that the precise scope of the relevant market can be left open since the Transaction does not give rise to competition concerns under any plausible market definition.

¹¹ Replies to question 7.1 of Questionnaire Q 1 Competitors; Replies to question 7 of Questionnaire Q 2 Customers.

¹² Replies to question 7, 7.1 and 7.2 of Questionnaire Q 2 Customers.

¹³ COMP/M. 5712 – MITSUBISHI CHEMICAL HOLDINGS / MITSUBISHI RAYON CO, paragraphs 38-40; Case COMP/M. 6778 – ADVENT INTERNATIONAL CORPORATION / CYTEC'S RESIN BUSINESS, paragraphs 19-22.

iii. Results of the market investigation

- (29) The market investigation indicated that there is certain supply side substitutability between iso-Butanol and n-Butanol, because both products are produced via hydroformylation of propylene through similar production processes.¹⁴
- (30) However, from a demand side, the investigation indicated that there are important differences between n-Butanol and iso-Butanol. A customer stated that the *"Intended use is the same for both products, but they have different physical properties and dissolving power"*. Another customer indicated that n-Butanol is used as a chemical intermediate in the production of butyl acrylate for paints, coatings and adhesives or to formulate acetates and glycol ethers, whereas iso-Butanol is used as solvent that serves as an intermediate in the manufacture of a number of other chemical products such as esters, plasticizers, paints and paint solvents, as well as an additive to diesel and gasoline fuel.¹⁵

iv. Conclusion

- (31) The evidence available to the Commission suggests that n-Butanol and iso-Butanol belong to different product markets. However, there is no need to conclude definitely on a precise product market definition in this case.

3.1.2. *Geographic market definition*

3.1.2.1. n-BuAc

i. Commission's previous practice

- (32) In past cases, the Commission noted that the market for n-BuAc may be EEA-wide, but ultimately left the precise scope of the geographic market definition open.¹⁶

ii. The Notifying Party's view

- (33) The Notifying Party submits that the geographic dimension of the n-BuAc market is at least EEA-wide for the following reasons: (i) the main producers of n-BuAc are located in a limited area of Western Europe (Belgium and North West Germany), but supply n-BuAc throughout the EEA, (ii) the prices of n-BuAc are relatively similar across Europe and (iii) there are no obstacles for producers located outside Europe to export to Europe.
- (34) The Notifying Party also submits that the existence of an EEA-wide geographic market is supported by (i) the long average distance between the production facilities for n-BuAc and the customers' location and (ii) the small proportion of transport cost in the final retail price.

¹⁴ Replies to questions 24, 25 and 25.1 of Questionnaire Q 1 Competitors.

¹⁵ Replies to questions 24, 25 and 25.1 of Questionnaire Q 2 Customers.

¹⁶ Case COMP/M.3056 – CELANESE / DEGUSSA / JV (EUROPEAN OXO CHEMICALS), paragraph 149; Case COMP/M.6411 – ADVENT / MAXAM, paragraphs 63-65; Case COMP/M.6778 – ADVENT INTERNATIONAL CORPORATION / CYTEC'S RESIN BUSINESS, paragraphs 109-111.

iii. Results of the market investigation

- (35) The market investigation indicated that producers generally supply 80% of their production across the EEA.¹⁷ A large majority of the customers reported that they purchase the product at EEA level. However, some customers reported that they use a local distributor in proximity to their manufacturing facility in order to shorten the delivery time and limit the transport cost.¹⁸ According to a customer: "*Within Europe prices and transport costs are similar.*"¹⁹
- (36) The results of the investigation also indicated that the price for n-BuAc in the EEA is different from the price of n-BuAc in other parts of the world; that imports represent only a minor fraction of the merchant market in the EEA due to *inter alia* longer delivery times, higher transport costs, regulatory barriers, etc.²⁰

iv. Conclusion

- (37) The evidence available to the Commission suggests that the geographic market for BuAc is not broader than the EEA. .

3.1.2.2. n-Butanol

i. Commission's previous practice

- (38) In past cases, the Commission noted that the market for n-Butanol may be EEA-wide,²¹ but ultimately left the precise scope of the geographic market definition open.

ii. The Notifying Party's view

- (39) The Notifying Party submits that the geographic dimension of the market for n-Butanol is at least EEA-wide in its scope. It also submits that the market could in fact be global since there are no significant transport or import barriers in Europe and imports (mainly originating in South-Africa and the USA) represent a significant share of n-Butanol sales in the EEA (i.e. approx. 13%).

iii. Results of the market investigation

- (40) The market investigation indicated that the market for n-Butanol is not wider than the EEA mainly due to transport costs. A competitor pointed out that "*n-Butanol is a commodity where margins are sensitive to logistical costs. It makes sense to supply near "the chimney"*".²² A very large majority of n-Butanol producers supply 80% of their products within the EEA.

¹⁷ Replies to question 9 of Questionnaire Q 1 Competitors.

¹⁸ Replies to questions 11.1, 12, 13 and 14 of Questionnaire Q 1 Competitors.

¹⁹ Replies to questions 9.2 of Q2 Customers.

²⁰ Replies to question 9 of Questionnaire Q 1 Competitors.

²¹ COMP/M.3056 - Celanese/Degussa/JV, para. 87, COMP/M.6778 – ADVENT INTERNATIONAL CORPORATION / CYTEC'S RESIN BUSINESS, paragraphs 109-111.

²² Replies to question 26 and 26.1 of Questionnaire Q 1 Competitors.

- (41) The majority of the customers also indicated that they procure n-Butanol within the EEA.²³ The reasons frequently given for this purchasing pattern are delivery time, transport costs and price (e.g. the price for imported product is perceived as uncompetitive).

iv. Conclusion

- (42) The evidence available to the Commission suggests that the geographic market for n-Butanol is not broader than the EEA. .

3.2. Competitive assessment

- (43) The Transaction leads to (i) a horizontal relationship regarding the production of n-BuAc in the EEA and (ii) a vertical link between the production of n-Butanol (upstream) and the production of n-BuAc (downstream) in the EEA, both relationships giving rise to affected markets.

3.2.1. *Horizontal relationship – n-BuAc*

- (44) The "*Commission Guidelines on the assessment of horizontal mergers under the Council Regulation on the control of concentrations between undertakings*"²⁴ ("Horizontal guidelines") provide that there are two main ways in which horizontal mergers may significantly impede effective competition, in particular by creating or strengthening a dominant position: (i) by eliminating important competitive constraints, which consequently would have increased market power (non-coordinated effects); or (ii) by changing the nature of competition in such a way that coordination between remaining market players will be significantly more likely post-transaction (coordinated effects).

3.2.1.1. Non-coordinated effects

i. The Notifying Party's view

- (45) The Notifying Party submits that the Transaction would not lead to non-coordinated effects because:
- The combined market share of the Parties [30-40]% (INEOS [10-20]% and acquired assets [10-20]%) and, post- Transaction, the merged entity will continue to compete with BASF (with a market share of 25%-30%), OXEA (with a market share of 30%-40%) and Solvent Wistol (with a market share of 0%-5%).
 - The Parties are not close competitors since (i) all suppliers of n-BuAc in the EEA sell to either end-users (mainly coatings producers) or distributors and face a similar kind of demand and customer profile; (ii) Celanese's production capacity is much lower than INEOS' production capacity, (iii) Celanese is not vertically integrated into n-Butanol production which is used as an input to BuAc, contrary to its competitors active in the EEA (e.g. INEOS, BASF and OXEA)

²³ Replies to question 27-28 of Questionnaire Q 1 Competitors.

²⁴ Official Journal C 031 , 05/02/2004 p.5 -18.

- Competitors are able to increase supply in case of price increase and there are no barriers to entry for producers active outside of the EEA.
- Customers are sophisticated buyers and generally procure their needs from multiple sources.

ii. Commission's assessment

- (46) Several elements suggest that the Transaction will not lead to non-coordinated effects on the market for n-BuAc.
- (47) First, the merged entity's market share post-Transaction will be approximately [30-40]%, (INEOS [10-20]%, cbb[10-20]%) in the EEA market for n-BuAc.²⁵ There is no indication that the merged entity's market share would be significantly different in potential narrower markets (e.g., potential markets for n-BuAc of different grades, or potential narrower geographic markets).
- (48) The Notifying Party has argued that the merged entity's market share would be even lower on a potential market for n-BuAc of high purity grade. The investigation has also confirmed that competitors Oxea, BASF and Solvent Wistol have an important presence in the market and will continue to exert significant competitive pressure on the merged entity.
- (49) Second, the investigation has shown that competitors do have spare capacity and they will have the ability to expand output sufficiently in case the merged entity attempts to increase its prices.²⁶
- (50) Third, customers reported that switching is relatively easy since n-BuAc is a commodity product and most of them purchase it on the basis of bilateral negotiations on a short term basis (approximately a year)²⁷ and typically multisource.²⁸ Even though most of the customers have not changed supplier in the past three years, none of them indicated that it would be prevented from doing so in the future. Customers have reported that the lack of switching in the past is the result of their satisfaction with the conditions in the current market structure and none expressed the view that the situation would significantly change as a result of the Transaction. However, customers generally do not consider imports of n-BuAc as a reliable alternative source mainly due to price, delivery time and regulatory obstacles.²⁹
- (51) The results of the investigation suggest that both suppliers and customers consider that the Transaction will not significantly alter the market situation in the foreseeable future.³⁰ Some customers emphasised the fact there will be one

²⁵ Replies to questions 15 and 16 of Questionnaire Q 1 Competitors.

²⁶ Replies to question 15 of Questionnaire Q 1 Competitors.

²⁷ Replies to questions 11 and 11.1 of Questionnaire Q 2 Customers, Replies to questions 18 and 19 of Questionnaire Q 1 Competitors.

²⁸ Replies to questions 15 and 3 of Questionnaire Q 2 Customers

²⁹ Replies to questions 17, 17.1 and 19 of Questionnaire Q 2 Customers.

³⁰ Replies to questions 17, 17.1 and 19 of Questionnaire Q 2 Customers, Replies to questions 20-23 of Questionnaire Q1 Competitors.

competitor less in a relatively concentrated market.³¹ Nevertheless, they did not express the concern that this would prevent them from finding alternative sources of supply at equally competitive terms post-Transaction.

iii. Conclusion

- (52) In light of all the evidence available to it, the Commission considers that the Transaction would not have non-coordinated effects on the market for n-BuAc.

3.2.1.2. Coordinated effects

- (53) In the present case, post-Transaction INEOS, BASF and OXEA will have relatively symmetric market shares in the EEA market for n-BuAc, with their combined market shares exceeding [80-90]%. All these companies are vertically integrated regarding the production of n-Butanol used as an input to n-BuAc.

i. The Notifying Party's view

- (54) The Notifying Party submits that the risk of coordination is very limited as it is not easy to (i) reach a common understanding on coordination (e.g. customers are present in multiple geographic markets, prices are not transparent and are negotiated mostly bilaterally), (ii) monitor the adherence to the terms of the coordination (customers are very large, sophisticated industrial buyers that multisource), (iii) punish a potential deviation from the coordination (the main market players are not bound by joint ventures and do not depend on each other for the supply of important raw materials). In addition, according to the Notifying Party the presence of relatively smaller competitors (Solvent Wistol), imports and buyer power further decrease the likelihood of coordination.

ii. Commission's assessment

- (55) Several results of the market investigation indicated that post-Transaction it will be difficult for competitors to reach terms of stable coordination.
- (56) First, the investigation revealed that the demand has been fluctuating greatly over the past three years.³² Reports provided by the Notifying Party also illustrate that the market has been heavily impacted by the recent economic downturn and oversupplied. Industry reports further indicate a trend to replace n-BuAc with more eco-friendly solvents in the coating industry (the main application of this product), which would ultimately lead to decrease of demand and further overcapacity.³³
- (57) Second, the investigation indicated that suppliers of n-BuAc do not have structural links between themselves, such as cross-shareholding or participations in joint ventures, which are perceived as facilitating the alignment of incentives among coordinating firms.³⁴

³¹ Replies to question 21 of Questionnaire Q 2 Customers.

³² Replies to question 3 of Questionnaire Q 2 Customers

³³ ICIS Chemical Business, 27 January 2014; [...].

³⁴ Replies to questions 2 and 3 of Questionnaire Q 1 Competitors.

- (58) Third, the market investigation did not reveal a high degree of market transparency which in case of coordination could be used to monitor deviations. In most instances, customers negotiate bilaterally their supply arrangements.³⁵ They typically do not contain most favourable customer's clauses or other provisions that could increase the market transparency and allow monitoring.³⁶
- (59) Fourth, the parties' sales are concentrated to a low number of large customers. This would suggest that customers would be in a position to exercise countervailing bargaining power, have a certain degree of visibility in the cost structure of their suppliers, and frustrate potential attempts for coordination, for example by shifting significant volumes from one supplier to another. The investigation suggested that among these customers there are chemical distributors buying significant volumes, whereas some other customers are big chemical producers purchasing various other products from INEOS, OXEA and BASF.³⁷ In addition, the market investigation showed that most of the customers multisource n-BuAc from various manufacturers and distributors.
- (60) Fifth, the market investigation has confirmed the existence of important spare capacity of the manufacturers and their incentive to increase utilisation rates. This is another factor suggesting that coordination is unlikely.

iii. Conclusion

- (61) In light of all the evidence available to it, the Commission considers that the transaction does not raise serious doubts as to its compatibility with the internal market in relation to the EEA market for n-BuAc.

3.2.2. *Vertical link - n-Butanol (upstream) and n-BuAc (downstream)*

- (62) N-BuAc (downstream) is produced through esterification of n-Butanol and crude acrylic acid (upstream). Celanese does not produce n-Butanol and it has been purchasing the product on the merchant market in order to produce the n-BuAc that it sells in the EEA through the acquired assets. INEOS is a producer of n-Butanol with a market share of [10-20]% in the EEA: its share in the merchant market is about [10-20]%; the rest are captive sales within the INEOS group.

3.2.2.1. Input foreclosure

- (63) The Notifying Party submits that INEOS will not have the ability to foreclose access to n-Butanol to competing producers of n-BuAc downstream since: (i) INEOS market share upstream amounts only to [10-20]% of the merchant market (ii) there are several strong alternative suppliers e.g. OXEA (10-20%), BASF (40-50%), Perstorp (10-20%), Grupa Azoty ZAK (5-10%), Oltchim (5-10%), and (iii) the market is oversupplied and imports have been increasing.

³⁵ Replies to question 12 of Questionnaire Q 2 Customers

³⁶ Replies to question 13.1 of Questionnaire Q 2 Customers

³⁷ Replies to questions 1 and 2 of Questionnaire Q 2 Customers

- (64) The market investigation confirmed that BASF and OXEA are by far the biggest suppliers of n-Butanol in the EEA and that INEOS is rather a small player on this market.³⁸
- (65) As a result, the Commission considers that the merged entity would not have the ability to engage into an input foreclosure strategy.

3.2.2.2. Customers' foreclosure

- (66) The Notifying Party submits that CBB represents only approx. [0-5]% of the total estimated demand for n-Butanol in the EEA, thus the risk of customer foreclosure seems very unlikely.
- (67) The market investigation confirmed that n-Butanol is used for several other applications such as the production of Butylacrylate (more than 50% of the demand), Butyl Glycol (10-20% of the demand) and Butyl Ether (10-20% of the demand).³⁹ n-BuAc represents approximately 10% of the demand for n-Butanol. This means that CBB's demand of n-Butanol compared to the global demand is limited.
- (68) As a result, the Commission considers that the merged entity would not have the ability to engage into a customer foreclosure strategy post Transaction.

3.2.2.3. Conclusion

- (69) In light of the above, the Commission concludes that the Transaction does not give rise to serious doubts as to its compatibility with the internal market in relation to the horizontal link regarding the production of n-BuAc in the EEA and vertical link between the production of n-Butanol (upstream) and n-BuAc (downstream) in the EEA.

4. **CONCLUSION**

- (70) For the above reasons, the European Commission has decided not to oppose the notified operation and to declare it compatible with the internal market and with the EEA Agreement. This decision is adopted in application of Article 6(1)(b) of the Merger Regulation and Article 57 of the EEA Agreement.

For the Commission

(Signed)

Margrethe VESTAGER

Member of the Commission

³⁸ Replies to question 27 of Questionnaire Q 1 Competitors

³⁹ Replies to question 28 of Questionnaire Q 1 Competitors.