



EUROPEAN COMMISSION

DG Competition

Case M.10371 - SIBUR / TAIF

Only the English text is available and authentic.

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

Article 6(1)(b) NON-OPPOSITION

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EUROPEAN COMMISSION

Brussels, 30.9.2021
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PUBLIC VERSION

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 Where possible the information omitted has been replaced by ranges of figures or a general description.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 Joint-Stock Company SIBUR
Holding
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District, Tobolsk
626150 Tyumen Region
Russia

**Subject: Case M.10371 – SIBUR/TAIF
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**

Dear Sir or Madam,

- (1) On 2 September 2021, the European Commission received notification of a proposed concentration pursuant to Article 4 of the Merger Regulation by which Public Joint-Stock Company SIBUR Holding (“SIBUR”, Russia) acquires within the meaning of Article 3(1)(b) of the Merger Regulation sole control of Joint-Stock Company TAIF (“TAIF”, Russia) by way of purchase of shares.³ SIBUR is designated hereinafter as the “Notifying Party” while SIBUR and TAIF are designated hereinafter as the “Parties”.

¹ 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 (the ‘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.

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

³ Publication in the Official Journal of the European Union No C 363, 9.9.2021, p. 5.

1. THE PARTIES

- (2) SIBUR is a public joint stock company organised and existing under the laws of Russia. It is an integrated petrochemicals group active in Russia and globally, with a focus on two business segments: (a) olefins and polyolefins (polypropylene, polyethylene, etc.), and (b) plastics, elastomers and intermediates (synthetic rubbers, expanded polystyrene, PET, etc.). SIBUR's petrochemicals business mainly utilises its own feedstock, which is produced by its Midstream segment, which uses by-products purchased from oil and gas companies.
- (3) TAIF and its group of companies ('TAIF Group') are based in the Republic of Tatarstan, Russia. The TAIF Group comprises several subsidiaries and affiliated companies operating in oil and gas processing, chemicals and petrochemicals, and power engineering, as well as investment and other services. TAIF Group produces – among others– olefins, ethylene oxide, ethylene glycol, polymers and rubbers.

2. THE CONCENTRATION

- (4) [Confidential information on the agreement between the Parties]. SIBUR will thus acquire direct sole control of TAIF by virtue of the Transaction.
- (5) TAIF operates in the petrochemical industry through its two main operational companies, Nizhnekamskneftekhim PJST ("NKNK") and Kazanorgsintez PJSC ("KOS"), which are included in the perimeter of the Transaction.
- (6) [Confidential information on the agreement between the Parties],⁴ [Confidential information on the agreement between the Parties].⁵
- (7) [Confidential information on the agreement between the Parties].
- (8) In the current constellation, the Commission considers that SIBUR acquires sole control over TAIF and its subsidiaries, because [Sibur will control the decision-making bodies of TAIF and its key subsidiaries].
- (9) [Although TAIF shareholders retain limited rights for a transitional period, Sibur will already exercise control over the operational management of TAIF through the ability to decide on the business plans of TAIF key subsidiaries]. On this basis and even if it were considered that the remaining TAIF Shareholders would retain rights amounting to joint control, this would not change the Commission's assessment, since such rights would not in any event constitute a lasting change of control. Therefore, the whole Transaction may be considered to be an acquisition of sole control.⁶
- (10) The Transaction is therefore an acquisition of sole control over TAIF by SIBUR within the meaning of Article 3(1)(b) of the Merger Regulation.

⁴ Form CO, paragraph 40 and response of the Notifying Party to RFI 8.

⁵ Form CO, paragraphs 41 et seq.

⁶ Commission Consolidated Jurisdictional Notice under Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings (OJ C 95, 16.4.2008, p. 1), paragraph 34.

3. UNION DIMENSION

- (11) The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 000 million (SIBUR: EUR 6 381 million, TAIF: EUR 2 571 million)⁷. Each of them has a Union-wide turnover in excess of EUR 250 million (SIBUR: EUR [...] million, TAIF: EUR [...]), but they do not achieve more than two-thirds of their aggregate Union-wide turnover within one and the same Member State. The Transaction therefore has a Union dimension.

4. RELEVANT MARKETS

- (12) The Transaction gives rise to horizontal overlaps and vertical links globally and in the EEA in relation to the production of petrochemicals, namely products refined and processed from crude oil, natural gas and other hydrocarbons. The Parties operate multiple petrochemical plants in Russia and produce a wide range of petrochemical products.
- (13) The Transaction gives rise to horizontal overlaps globally and in the EEA,⁸ and several plausible horizontally affected markets with regard to butyl rubber at global and EEA level, as set out in Table 1 below.
- (14) In addition, in view of the Parties' activities in the supply of distinct petrochemical products, which are however part of the same production value chain, the Transaction gives rise to several vertical links globally and in the EEA, as well as to a vertically affected relationship with regard to isobutylene (upstream) and butyl rubber (downstream) at EEA level.

Table 1: Horizontally affected market based on 2020 data⁹

Overlapping product	Parties	Estimated volume share		Estimated value share	
		Globally	EEA	Globally	EEA
Butyl rubber	Sibur	[0-5]%	[0-5] %	[0-5] %	[0-5] %
	TAIF	[10-20]%	[40-50]%	[10-20]%	[30-40] %
	Combined	[10-20]%	[40-50] %	[10-20]%	[30-40] %

⁷ Turnover calculated in accordance with Article 5 of the Merger Regulation.

⁸ Horizontal overlaps of the Parties globally: LPG, ethylene, propylene, crude C4, benzene, ethylene oxide, ethylene glycol (overall), MEG, DEG, TEG, polyethylene (overall), HDPE, LDPE, LLDPE, polypropylene resin (overall), homopolymers, random copolymers, impact (block)copolymers, styrene, butadiene, (poly)butadiene rubber, styrene butadiene rubber, methyl tertiary butyl ether (MTBE). Horizontal overlaps of the Parties in the EEA: ethylene oxide, ethylene glycol (overall), MEG, polyethylene (overall), HDPE, LDPE, LLDPE, polypropylene resin (overall), (poly)butadiene rubber.

⁹ The Notifying Party confirms that, to the best of its knowledge, the Parties' positions in 2019 and 2018 in any of the plausible affected markets did not differ materially from those in 2020, see response of the Notifying Party to RFI 8.

5. HORIZONTAL OVERLAPS – MARKET DEFINITION AND COMPETITIVE ASSESSMENT

5.1. Market Definition for butyl rubber

- (15) Butyl rubber is among the most widely used synthetic elastomers. Due to its high degree of gas impermeability, butyl rubber is widely used to produce a range of rubber goods, mostly inner liners and inner tubes of tires. Therefore, the tire industry accounts for approximately 70% of global butyl rubber consumption. The remaining butyl rubber is used for the production of various sealants for closing medicine bottles, pharmaceutical packaging and injection vials, as well as for the production of air cushions, pneumatic springs, adhesives, fibre optic compounds, sports ball bladders or chewing gum.
- (16) Butyl rubber is a synthetic elastomer produced by polymerisation of isobutylene with a smaller amount of isoprene. Regular butyl rubber (i.e. non-halogenated butyl rubber) can be further halogenated using elemental chlorine or bromine. Halogenated chloro- and bromo-butyls are commercially the most important butyl rubber derivatives, having higher levels of resistive properties, low gas permeability, and cure versatility. Chloro- and bromo-butyls are halogenated butyl rubbers which are extensively used in the automotive sector for tire production and automobile shock-absorption applications, such as suspension bumpers, exhaust hangers, and body mounts.

5.1.1. Product Market Definition

The Commission's previous decisions

- (17) The wider product market concerned is the market for synthetic elastomers. In *Dow/DuPont*¹⁰ the Commission considered that each synthetic elastomer constitutes a separate product market as it has specific characteristics and/or costs which define the applications for which they may be used. Furthermore, the production of each family of synthetic elastomer requires equipment and techniques specific to that family so that it is not possible to switch the use of a facility designed to produce one elastomer to another in a short time. Therefore, the Commission identified a separate product market for butyl rubber.
- (18) In *Saudi Aramco/SABIC*¹¹ the Commission considered a further segmentation of the butyl rubber market into halogenated and non-halogenated butyl rubber, as the market investigation indicated that they are not generally substitutable with each other from a demand-side perspective. This is because non-halogenated butyl rubber cannot be co-vulcanised with other tire materials and is therefore not suitable for inner liner applications. Within the halogenated category, the Commission also considered a further segmentation between bromobutyl and chlorobutyl as they can be used for the manufacture of different types of tyres. The Commission ultimately left the exact scope of the product market definition for butyl rubber open.

¹⁰ See case IV/M.663 – Dow/DuPont, decision of 21.02.1996.

¹¹ See case COMP/M.9410 – Saudi Aramco/SABIC, decision of 27.02.2020.

The Notifying Party's view

- (19) The Notifying Party considers that butyl rubber forms a separate product market without further segmentation, due to the high degree of supply-side substitutability across the various hypothetical sub-segments. The Notifying Party submits that the precise product market definition can be left open as the Transaction would not raise serious doubts as regards its compatibility with the internal market irrespective of the product market defined in this case.

The Commission's assessment

- (20) The Commission's market investigation did not provide evidence suggesting that butyl rubber is part of a wider market including other elastomers. With respect to a potential further segmentation within the butyl rubber market, customers responding to the questionnaire generally considered that halogenated and non-halogenated butyl rubber are not substitutable with each other as each product presents different qualities and characteristics.¹² A customer also mentioned that the end products usually undergo laboratory testing in order to be qualified, thus their composition and quality cannot be changed with the use of a different type of rubber.
- (21) Responses from the market investigation further indicated that within the halogenated category, a distinction can be made between bromobutyl and chlorobutyl, although some respondents consider them substitutable to a certain extent on the basis of the customer's production plant's chemical mixing and know-how.¹³
- (22) From a supply side perspective, the responses to the market investigation also indicated that butyl rubber and its segments are somewhat homogeneous commodity products across suppliers, and that from a supply-side perspective it is generally possible and straightforward to switch production between the different types.¹⁴
- (23) In any event, the Commission considers that, for the purposes of the present decision, the exact scope of the product market definition for butyl rubber can be left open, since the Transaction does not raise serious doubts as to its compatibility with the internal market or the functioning of the EEA Agreement, under any of the following plausible product market definitions: (i) butyl rubber overall, (ii) non-halogenated butyl rubber (iii) halogenated butyl rubber, and within halogenated butyl rubber, (iv) bromobutyl or (v) chlorobutyl rubber.

5.1.2. Geographic Market Definition

The Commission's previous decisions

- (24) In its older precedents,¹⁵ the Commission considered the relevant geographic market for butyl rubber to be at least EEA-wide, and probably larger, ultimately leaving the

¹² Responses to question 2 of the questionnaire to customers of butyl rubber.

¹³ Responses to question 2 of questionnaire to customers of butyl rubber.

¹⁴ Responses to question 2 of questionnaire to competitors of butyl rubber.

¹⁵ See case IV/M.663 – Dow/DuPont, decision of 21.02.1996 and case COMP/M.3733 – Dow/DDE, decision of 26.04.2005.

question open. In *Saudi Aramco/SABIC*¹⁶ the Commission considered that the relevant geographic scope for butyl rubber and its plausible sub-segments is likely worldwide, as the market investigation indicated that both the supply of and demand for butyl rubber are global, with regular trade flows between regions. The Commission ultimately left the exact scope of the geographic market definition open.

The Notifying Party's view

- (25) The Notifying Party considers that the geographic market for butyl rubber is global in scope.
- (26) First, the Notifying Party submits that each major butyl rubber manufacturer has a few global production facilities that supply customers around the globe, while they use multiple production sites to supply butyl rubber to the same customer. Second, the Notifying Party considers the key butyl rubber customers to be global tire manufacturers that are active worldwide, thus butyl rubber trade flows are global with significant imports and exports between continents. Third, the Notifying Party submits that production costs are roughly comparable among various worldwide production facilities and transportation costs are low (typically just a few percent of the sales price).
- (27) The Notifying Party submits that the precise geographic market definition can be left open as the Transaction would not raise serious doubts as regards the impact of the transaction on the internal market irrespective of any plausible geographic market definition (i.e. EEA-wide or global) in this case.

The Commission's assessment

- (28) The Commission's market investigation indicates that the relevant geographic scope for butyl rubber and its possible sub-segments is likely worldwide. All customers responding to the market investigation replied that they purchase butyl rubber globally.¹⁷ Two respondents mentioned that they prefer to purchase raw materials locally. For example, one respondent replied: "*We purchase and negotiate Bromobutyl sourcing globally. Considering the transportation/logistic costs and delivery lead times, production facilities in Europe or Russia might be more advantageous for our manufacturing plants in Europe.*"¹⁸ This suggests that sourcing close to the production facility of the end product is commercially attractive. However, most competitors and the main customers (tire manufacturers) have production sites in locations across the world. Competitors further indicated that customers tend to multi-source from suppliers located in various locations worldwide with relatively frequent changes in product flows.¹⁹
- (29) In any event, the Commission considers that, for the purposes of the present decision, the exact scope of the geographic market definition for butyl rubber can be left open, since the Transaction does not raise serious doubts as to its compatibility

¹⁶ See case COMP/M.9410 – Saudi Aramco/SABIC, decision of 27.02.2020.

¹⁷ Responses to question 2 of questionnaire to customers of butyl rubber.

¹⁸ Response to question 3 of questionnaire to customers of butyl rubber.

¹⁹ Responses to question 3 of questionnaire to competitors of butyl rubber.

with the internal market, whether the geographic market be defined as EEA-wide or as global.

5.2. Competitive Assessment

- (30) Based on the considerations on market definition above, the Transaction gives rise to horizontally affected markets²⁰ for :
- (a) butyl rubber (halogenated and non-halogenated) at EEA level (Table 2),
 - (b) halogenated butyl rubber at EEA level (Table 3),
 - (c) non-halogenated butyl rubber at a global (Table 4) and at EEA level (Table 5).
- (31) Tables 2 to 5 below display the Parties' shares in volume and value in the possible affected markets.²¹

Table 2: 2020 market shares for butyl rubber (overall) at EEA level

Company	EEA			
	Volume (kt)	Volume (%)	Value ('000 EUR)	Value (%)
SIBUR	[...]	[0-5]%	[...]	[0-5]%
TAIF	[...]	[40-50]%	[...]	[30-40]%
Parties combined	[...]	[40-50]%	[...]	[30-40]%
Saudi Aramco (Arlanxeo)	[...]	[30-40]%	[...]	[30-40]%
Exxon	[...]	[20-30]%	[...]	[20-30]%
PJSC Tatneft	[...]	[0-5]%	[...]	[0-5]%
Others	[...]	[0-5]%	[...]	[0-5]%
Total	[...]	100%	[...]	100%

Source: The Parties' sales and IHS Markit competitors' sales and market size estimates.

²⁰ One market participant raised concerns with respect to the Parties position in butadiene rubber. In light of a combined market share of only [10-20]% in (poly)butadiene rubber in the EEA and the fact that the concerns were not further substantiated, the Commission does not consider it likely that the Transaction leads to horizontal effects in this respect.

²¹ The Notifying Party submits that industry players typically look at the market in terms of volume, thus volume market shares may be more meaningful. In any event, the differences between market shares in terms of volume and value are negligible. The Notifying Party relied on market data provided from an independent and impartial analyst, namely IHS, following case COMP/M.9410 – Saudi Aramco/SABIC, decision of 27.02.2020.

Table 3: 2020 market shares for butyl rubber (halogenated) at EEA level

Company	EEA			
	Volume (kt)	Volume (%)	Value ('000 EUR)	Value (%)
SIBUR	[...]	[0-5]%	[...]	[0-5]%
TAIF	[...]	[40-50]%	[...]	[30-40]%
Parties combined	[...]	[40-50]%	[...]	[30-40]%
Saudi Aramco	[...]	[30-40]%	[...]	[30-40]%
Exxon	[...]	[20-30]%	[...]	[20-30]%
Sinopec	[...]	[0-5]%	[...]	[0-5]%
Others	[...]	[0-5]%	[...]	[0-5]%
Total	[...]	100%	[...]	100%

Source: The Parties' sales and IHS Markit competitors' sales and market size estimates.

- (32) With respect to halogenated butyl rubber and its sub-segments (i.e. halogenated bromobutyl and chlorobutyl rubber), SIBUR is currently not yet active. However, SIBUR started producing halogenated butyl rubber in 2021 through its Joint Venture RSE (with Reliance) in India. The Notifying Party expects the Joint Venture to have a total capacity for halogenated butyl rubber of approx. [...] once it is fully operational by [...]. According to the Notifying Party's projections, the market share of SIBUR in halogenated butyl rubber would be in an approximate range between [0-5]% and [0-5]%²² (by volume) globally and between [0-5]% and [0-5]% (by volume) in the EEA.²³
- (33) The Notifying Party states that it is not aware of any sources providing separate market data for halogenated bromobutyl and chlorobutyl rubber. However, the Notifying Party submits that the Parties' market shares are not expected to be materially different in bromobutyl and chlorobutyl rubber.²⁴ One customer provides an estimate of market shares in the chlorobutyl market: *"The chlorobutyl market is limited to few suppliers particularly Exxon [30-40]% share (our estimation),*

²² In that case, the market for halogenated butyl rubber globally could possibly be affected in 2022, given that TAIF's market share in 2020 is [10-20]%. However, the expected market share of [0-5]% is a theoretical maximum, which is unlikely to be reached due to a number of conservative assumptions (full capacity of the production facility, which is not the norm for butyl rubber plants; attribution of 50% of the Joint Venture's output to SIBUR, while SIBUR's contractually agreed share is 25%). Hence, SIBUR's true market share is likely to be closer to the lower theoretical expected market share of [0-5]% globally and, provided TAIF's market share stays equal to 2020, the global halogenated butyl rubber market would thus not be affected by this Transaction, even in the foreseeable future.

²³ The theoretically expected maximum and minimum market shares at EEA level in 2022-2023 are calculated based on similar conservative assumptions (e.g. assuming the Joint Venture's sales of halogenated butyl rubber in the EEA equals overall sales of butyl rubber in the EEA vs. global butyl rubber sales, i.e. [10-20]%, while SIBUR's current proportion of butyl rubber sales in the EEA are much lower at [0-5]%), see response of the Notifying Party to RFI 8.

²⁴ Of TAIF's total global sales in the halogenated butyl rubber market in 2020 ([...]), approx. [60-70]% ([...]) was bromo butyl rubber and [40-50]% ([...]) kt was chloro butyl rubber. Assuming a roughly similar split for competitors, TAIF's market share on these segments would not be materially different than its share in the halogenated butyl rubber market overall, see response of the Notifying Party to RFI 8.

Arlanxeo [10-20]% share and new Sibur [10-20]% (including Reliance joint venture and TAIF) following JSR [5-10]%. ”²⁵

Table 4: 2020 market shares for butyl rubber (non-halogenated) at global level

Company	Worldwide			
	Volume (kt)	Volume (%)	Value ('000 EUR)	Value (%)
SIBUR	[...]	[5-10]%	[...]	[5-10]%
TAIF	[...]	[10-20]%	[...]	[10-20]%
Parties combined	[...]	[20-30]%	[...]	[10-20]%
Exxon	[...]	[10-20]%	[...]	[10-20]%
Tatneft	[...]	[10-20]%	[...]	[10-20]%
Saudi Aramco	[...]	[5-10]%	[...]	[5-10]%
Others, including	[...]	[40-50]%	[...]	[50-60]%
China Petrochemical Corporation (Sinopec Group)	[...]	[5-10]%	[...]	[5-10]%
JSR	[...]	[0-5]%	[...]	[0-5]%
Zhejiang Cenway	[...]	[0-5]%	[...]	[0-5]%
Reliance Industries Ltd.	[...]	[0-5]%	[...]	[0-5]%
Other smaller competitors ²⁶	[...]	[20-30]%	[...]	[30-40]%
Total	[...]	100.00%	[...]	100.00%

Source: The Parties' sales and IHS Markit competitors' sales and market size estimates.

Table 5: 2020 market shares for butyl rubber (non-halogenated) at EEA level

Company	EEA			
	Volume (kt)	Volume (%)	Value ('000 EUR)	Value (%)
SIBUR	[...]	[10-20]%	[...]	[5-10]%
TAIF	[...]	[40-50]%	[...]	[30-40]%
Parties combined	[...]	[50-60]%	[...]	[40-50]%
Saudi Aramco	[...]	[30-40]%	[...]	[30-40]%
Tatneft	[...]	[10-20]%	[...]	[10-20]%
Exxon	[...]	[0-5]%	[...]	[0-5]%
Others	[...]	[0-5]%	[...]	[0-5]%
Total	[...]	100%	[...]	100%

Source: The Parties' sales and IHS Markit competitors' sales and market size estimates.

²⁵ Response to question 6 of the questionnaire to customers of butylrubber.

²⁶ Response of the Notifying Party to RFI 6, paragraph 2.

The Notifying Party's view

- (34) The Notifying Party submits that the overlap with TAIF does not give rise to competition concerns notably on the grounds that (i) SIBUR is an insignificant player, (ii) the combined market shares of the Parties or the increment brought about by the Transaction are low, (iii) there is a large number of competitors, (iv) there are no barriers to entry, including R&D, (v) the Parties' customers have significant buyer power and can easily switch among suppliers at a global level, (vi) the Parties are not close competitors.

The Commission's assessment

- (35) In the EEA market for butyl rubber overall in 2020, the Parties had a combined volume market share of [40-50]% ([30-40]% in value), with SIBUR bringing an increment of [0-5]% in volume and [0-5]% in value. Although the Parties' combined market share is significant, this is largely attributable to TAIF's pre-existing market share. While the HHI is above 2000 ([...]), the HHI delta brought about by the Transaction is [...] by volume and [...] by value, and therefore at a level at which the Commission is unlikely to identify horizontal competition concerns absent other conditions.²⁷ Moreover, none of the market participants responding to the market investigation, including customers and competitors of the Parties, has raised concerns about the impact resulting from the Transaction.²⁸ In light of this, the Commission concludes that the Transaction does not raise serious doubts as to its compatibility with the internal market or the functioning of the EEA Agreement in relation to butyl rubber overall in the EEA.
- (36) In the EEA market for halogenated butyl rubber in 2020, TAIF had a market share of [40-50]% in volume and [30-40]% in value. SIBUR is not currently active in halogenated butyl rubber and did not generate revenues with halogenated butyl rubber in the EEA in 2020. In view of the fact that SIBUR does not currently sell halogenated (bromo or chloro) butyl rubber in the EEA, the Transaction only leads to future overlaps in those plausible markets. In particular, SIBUR will only produce halogenated (bromo and chloro) butyl rubber through its Joint Venture RSE, in which it has a share of 20%. [...]. Therefore, given that the Parties' likely significant combined market share from 2022 is largely attributable to TAIF's pre-existing market presence, the Transaction is unlikely to bring any significant change to the current structure of the market.
- (37) Moreover, while SIBUR is arguably a future entrant in the plausible market for halogenated butyl rubber in the EEA, the Transaction is unlikely to change this due to the fact that SIBUR is entering the market via its Joint Venture RSE with Reliance. Besides having joint control over RSE, Reliance holds the majority of shares in the Joint Venture. The Commission considers that Reliance is unlikely to have any incentive to stop the current plans to enter the market even in the hypothetical scenario that SIBUR might wish so. In any case, the market investigation confirmed that the butyl rubber market overall is growing, thus it would make no commercial sense for Joint Venture RSE not to enter the market or not to expand its capacity. For example, one competitor states: "(...) *the production*

²⁷ See Horizontal Merger Guidelines, paragraph 20.

²⁸ Responses to questions 6 and 7 of the questionnaires to customers and competitors of butyl rubber.

*of butyl rubber is an attractive investment opportunity due to the growing demand for butyl rubber products used in tire manufacturing and, therefore, new entry in this market occurs regularly. Indeed, in the past years the global butyl rubber business has experienced rapid expansion of capacity and new market entry. For instance, a butyl rubber manufacturing facility – Reliance Sibur Elastomers Private Limited – has recently been constructed in Jamnagar, Gujarat, India.”*²⁹

- (38) The vast majority of respondents to the market investigation considers that the Transaction will bring no change to the current market structure.³⁰ As mentioned above, one customer provided an estimate of market shares in the chlorobutyl market: *“The chlorobutyl market is limited to few suppliers particularly Exxon [30-40]% share (our estimation), Arlanxeo [10-20]% share and new Sibur [10-20]% (including Reliance joint venture and TAIF) following JSR [5-10]%.”*³¹ Another customer considers that *“the Transaction would not influence overall availability in EU of bromobutyl, nor [they] believe there’s any rationale for the new owner to downsize existing capacity at TAIF”*. According to the customer, SIBUR’s market share is too limited to be qualified as a *“‘true’ competitor”* to TAIF, while *“regardless of the Transaction, Exxon and Arlanxeo will still be the suppliers of reference”*.³²
- (39) Based on the above considerations, the Commission concludes that the Transaction does not raise serious doubts as to its compatibility with the internal market or the functioning of the EEA Agreement in relation to halogenated butyl rubber and its further plausible segmentations in the EEA.
- (40) In the global market for non-halogenated butyl rubber in 2020, the Parties had a combined volume market share of [20-30]% ([10-20]% in value). Other major global competitors include Exxon ([10-20]%), Tatneft ([10-20]%) and Saudi Aramco ([5-10]%). Given that (i) the Parties’ combined market share is limited and the market is only affected by volume market shares, (ii) there remain sufficiently strong competitors in the global market, and (iii) none of the market participants responding to the market investigation has raised concerns about the impact resulting from the Transaction,³³ the Commission concludes that the Transaction does not raise serious doubts as to its compatibility with the internal market or the functioning of the EEA Agreement in relation to non-halogenated butyl rubber in the global market.
- (41) In the EEA market for non-halogenated butyl rubber in 2020, the Parties had a combined volume market share of [50-60]% ([40-50]% in value). Post-Transaction, the Parties would continue to face several competitors, including Saudi Aramco

²⁹ Response to question 5 of the questionnaire to competitors of butyl rubber.

³⁰ Responses to questions 6 and 7 of the questionnaires to customers and competitors of butyl rubber. One market participant raised concerns that the Transaction will reduce the number of manufacturers of bromobutyl and chlorobutyl rubber from four to three players in Europe, while also acknowledging that *“the existing suppliers will have sufficient capacity to supply European customers”*. Given that SIBUR is not yet active in the manufacturing of bromobutyl and chlorobutyl rubber, the Commission does not consider it likely that the Transaction will bring any significant change to the current structure of the market.

³¹ Response to question 6 of the questionnaire to customers of butyl rubber.

³² Responses to questions 4 and 6 of the questionnaire to customers of butyl rubber.

³³ Responses to questions 6 and 7 of the questionnaires to customers and competitors of butyl rubber.

([30-40]% by volume, [30-40]% by value) and Tatneft ([10-20]% by volume, [10-20]% by value).

- (42) With respect to the market shares provided by the Notifying Party, as set out in Table 5 above, the Commission firstly notes that Exxon's market position in the EEA market for non-halogenated butyl rubber has been significantly underestimated. In light of Exxon's response to the market investigation including its sales data for non-halogenated butyl rubber in the EEA,³⁴ as well as the responses provided by customers,³⁵ the Commission considers that Exxon is a credible supplier of non-halogenated butyl rubber within the EEA. In that regard, the Commission considers that, in a plausible market for non-halogenated butyl rubber in the EEA, the Transaction would lead to a consolidation from five to four market players and not to a reduction from four to three market players, as Table 5 suggests. Thus, the merged entity would continue to face competition from sizeable players who currently supply EEA customers with non-halogenated butyl rubber including Saudi Aramco, Exxon and Tafnet. In fact, the majority of customers of non-halogenated butyl rubber responding to the market investigation indicated that the major suppliers of non-halogenated butyl rubber in Europe are Saudi Aramco and Exxon, which also have production facilities within the continent.³⁶ .
- (43) Second, the results of the market investigation indicate that even in a plausible market for non-halogenated butyl rubber in the EEA, the merged entity would still face competitive constraints from global non-halogenated butyl rubber suppliers who currently only supply EEA-based customers to a more limited extent. As a competitor put it, "*the Transaction is unlikely to have any anticompetitive effects because the butyl rubber business is highly competitive with many suppliers active on a global basis with a highly commoditized product*" and "*it is fairly easy for any supplier located in or outside the EEA, to supply customers in the EEA*".³⁷ In this respect, the Commission also notes that SIBUR only supplies [...] customers through its joint venture with Reliance, RSE, located in India, whereas TAIF supplies the [...] market from Russia.³⁸ Given that none of the Parties has manufacturing facilities in the EEA and both of them only export non-halogenated butyl rubber to the EEA customers from outside Europe, the Commission considers that the market is characterised by significantly low barriers to entry for potential competitors active in the global market for non-halogenated butyl rubber. In this regard, the Commission also takes note of the recent *Saudi Aramco/SABIC* case, where the market test indicated that "*there are no technical, economic or regulatory barriers to purchasing or selling butyl rubber at a worldwide level at competitive terms, with the exception of recently imposed anti-dumping duties in China*".³⁹
- (44) Third, the results of the market investigation also indicate that SIBUR and TAIF are not close competitors. The majority of the responding customers does not consider the Parties as close competitors in the butyl rubber industry in general and does not

³⁴ Response to question 1 of the questionnaire to competitors of butyl rubber.

³⁵ Responses to question 5 of the questionnaire to customers of butyl rubber.

³⁶ Responses to question 5 of the questionnaire to customers of butyl rubber.

³⁷ Responses to questions 6 and 7 of the questionnaire to competitors of butyl rubber.

³⁸ Form CO, paragraphs 408 et seq.

³⁹ See case COMP/M.9410 – Saudi Aramco/SABIC, decision of 27.02.2020, paragraph 38.

include both of them⁴⁰ among the major butyl rubber suppliers in the EEA. In this context, one customer states: *“From a [customer’s] purchasing point of view we do not consider NKNH and SIBUR to be competitive players in the Butyl rubber market as SIBUR is only establishing (ramping up) Butyl (non-halogenated and halogenated) production in India targeting mostly local Indian/Asian market while NKNH’s traditional key sales market is Europe.”*⁴¹ This is also corroborated by the differences seen between the Parties’ volume and value market shares (particularly in this market, where differences between volume and value market shares are the highest of all the plausible butyl rubber product markets), especially with regard to TAIF, indicating that they are not manufacturing high-end butyl rubber products. In light of the Parties’ current geographic focus (even in a context of low entry barriers) and the type of product on this specific market, the Commission does not consider the Parties to be close competitors in the plausible market for non-halogenated butyl rubber in the EEA.

- (45) Fourth, from a demand-side perspective, the majority of butyl rubber, including the potential sub-segment of non-halogenated butyl rubber, is mostly consumed by leading global players active in the tire industry. In particular, the ten largest tire producers take up approx. 70% of the entire butyl rubber demand.⁴² The Notifying Party submits that customers of non-halogenated butyl rubber are therefore sophisticated purchasers that have significant negotiating power due to their size and commercial significance. Moreover, they have multi-sourcing strategies and they would typically qualify multiple producers for their supply. Given that butyl rubber, including the potential market of non-halogenated butyl rubber, is a commodity product, the Notifying Party claims that customers are able to switch between suppliers quickly and easily.⁴³ In the recent *Saudi Aramco/SABIC* case⁴⁴ the Commission considered that at least for the global tire manufacturers, butyl rubber is indeed a relatively homogenous product across different suppliers and that *“most customers multi-source, consider that there are no barriers to switching other than the need to qualify the supplier’s plant and product, and indeed have switched butyl rubber supplier in the last three years”*. In light of this, as well as the results of the market investigation, confirming that customers consider that they will continue to have access to a sufficient choice of credible suppliers of non-halogenated butyl rubber in the EEA post-Transaction,⁴⁵ the Commission considers the Notifying Party’s claims to be valid.
- (46) Fifth, neither customers nor competitors expect the Transaction to have a significant impact on the plausible market for non-halogenated butyl rubber in the EEA.⁴⁶ Most customers that replied to the market investigation considered that a sufficient number of both halogenated and non-halogenated butyl rubber suppliers remain available

⁴⁰ A few customers include TAIF in the five major butyl rubber suppliers in the EEA. Only one of them also includes SIBUR in the list.

⁴¹ Response to question 4 of the questionnaire to customers of butyl rubber.

⁴² Form CO, paragraphs 395, 404 and 429. The same considerations have been made in case COMP/M.9410 – Saudi Aramco/SABIC, decision of 27.02.2020, paragraph 65.

⁴³ Form CO, paragraph 430.

⁴⁴ See case COMP/M.9410 – Saudi Aramco/SABIC, decision of 27.02.2020, paragraphs 65 and 70.

⁴⁵ Responses to questions 5, 6 and 7 of the questionnaire to customers of butyl rubber.

⁴⁶ Responses to question 6 of the questionnaire to customers of butyl rubber and responses to question 6 in the questionnaire to competitors of butyl rubber.

post-Transaction to serve customers in the EEA.⁴⁷ For example, one customer states: “We do not expect any change compared to the current, known supplier situation.”⁴⁸

- (47) Based on the above considerations, and all the evidence available to it, the Commission concludes that the Transaction does not raise serious doubts as to its compatibility with the internal market or the functioning of the EEA Agreement in relation to non-halogenated butyl rubber in the EEA.

6. VERTICAL LINKS – MARKET DEFINITION AND COMPETITIVE ASSESSMENT

- (48) Butyl rubber is produced by polymerization of a mixture of isobutylene (around 98%) and isoprene (about 2%). Isobutylene is typically supplied to butyl rubber facilities by pipeline from nearby oil refineries.⁴⁹

- (49) Isobutylene, also known as isobutene, is a colourless, extremely flammable gas with a faint petroleum-like odour. SIBUR sold [...] of isobutylene to TAIF in Russia in 2020, and [...] globally in 2020 ([...]).⁵⁰ TAIF used the product as an input in the production of butyl rubber.

6.1. Isobutylene (upstream) – Butyl Rubber (downstream)

6.1.1. Product and Geographic Market Definitions

The Commission’s previous decisions

- (50) The Commission has not previously considered the product market for isobutylene. However, the Commission has considered the market for high purity isobutylene (“HPIB”) and left open whether the relevant product market was the broader chemical group of isobutylene or whether HPIB constituted a separate market.⁵¹ The market investigation in that case indicated that HPIB and isobutylene likely are separate markets, but did not conclude on the product market definition.
- (51) In terms of geographic market definition, the market investigation in *SK Capital Partners/Schenectady* indicated that the market for HIPB/isobutylene is regional (e.g. EEA-wide), because long-distance transport of the product is generally not commercially viable⁵², but did not conclude on the exact geographic market.

The Notifying Party’s view

- (52) The Notifying Party expressed no specific views with respect to the product or geographic market definition of isobutylene, but considered that the geographic market for isobutylene is global or at least EEA-wide, because isobutylene is actively traded across borders within the EEA. In any case, the Notifying Party

⁴⁷ Responses to questions 6 and 7 of the questionnaire to customers of butyl rubber.

⁴⁸ Response to question 7 of the questionnaire to customers of butyl rubber.

⁴⁹ Form CO, paragraph 360.

⁵⁰ Response of the Notifying Party to RFI 6, paragraph 14.

⁵¹ Case COMP/M.9017, *SK Capital Partners/Schenectady International Group*, decision of 11.10.2018, paragraphs 159 – 162.

⁵² Case COMP/M.9017, *SK Capital Partners/Schenectady International Group*, decision of 11.10.2018, paragraph 164.

submits that the exact product and geographic market definitions can be left open in this case, as the Transaction raises no serious doubts with respect to its compatibility with the internal market under any plausible market definition.

The Commission's assessment

- (53) The Commission has obtained no evidence indicating that the market for isobutylene should be considered as one market overall or as separate segmented markets (i.e. HPIB and isobutylene), and considers that the exact market definition can be left open in this case.
- (54) [Details of SIBUR's sales of isobutylene], the Commission considers that this supports the previous finding that the plausible isobutylene markets are likely EEA-wide. [SIBUR's sales of isobutylene in 2020].⁵³
- (55) The Commission considers that no conclusion on the exact product or geographic market definition for isobutylene is necessary in the present case, since no serious doubts as to the compatibility of the Transaction with the internal market or the functioning of the EEA Agreement arise, regardless of the product (i.e. isobutylene overall or further segmentation into HPIB and isobutylene) or geographic scope (i.e. EEA-wide or global) of that market.

6.1.2. Competitive Assessment

The Notifying Party's view

- (56) The Notifying Party submits that post-Transaction the Parties have no ability or incentive to engage in either input or customer foreclosure for the following reasons: (i) SIBUR only sold limited quantities of isobutylene to TAIF, and in any case only sold isobutylene in Russia; (ii) SIBUR's total sales of isobutylene are negligible, amounting to [...] in 2020; (iii) according to the Notifying Party's best estimates, SIBUR's sales on the merchant market for isobutylene are insignificant in light of global sales and amounted to no more than [0-5]% of global sales on the merchant market. [TAIF's sales of isobutylene].
- (57) Furthermore, and in terms of customer foreclosure, the merged entity will have neither the ability nor the incentive to engage in customer foreclosure practices, in particular by restricting its isobutylene competitors on the upstream market from access to downstream producers of butyl rubber, mostly because both SIBUR and TAIF produce isobutylene captively and hence, are no significant customers of isobutylene currently.

The Commission's assessment

- (58) The Commission recalls that non-horizontal mergers generally pose no threat to effective competition unless the merged entity has a significant degree of market power (which does not necessarily amount to dominance) in at least one of the markets concerned. In assessing the likelihood of an anticompetitive input foreclosure scenario, the Commission examines, first, whether the merged entity would have, post-merger, the ability to substantially foreclose access to inputs,

⁵³ Response of the Notifying Party to RFI 6, paragraph 12.

second, whether it would have the incentive to do so, and third, whether a foreclosure strategy would have a significant detrimental effect on competition downstream. In assessing the likelihood of an anticompetitive customer foreclosure scenario, the Commission examines, first, whether the merged entity would have the ability to foreclose access to downstream markets by reducing its purchases from its upstream rivals, second, whether it would have the incentive to reduce its purchases upstream, and third, whether a foreclosure strategy would have a significant detrimental effect on consumers in the downstream market.⁵⁴

- (59) As regards input foreclosure (isobutylene and further plausible segmentations), SIBUR's sales of isobutylene suggest that it is not a key player and source for butyl rubber producers in the EEA or globally. Given these low shares ([0-5]% of global isobutylene sales on the merchant market)⁵⁵, SIBUR is unlikely to have the ability to foreclose competitors on the downstream market, which will continue to have multiple alternative suppliers to source from at the global level, as well as in the EEA, including suppliers such as LyondellBasell, Evonik Industries, Enterprise, Shandong Yuhuang, Shandong Shenchì, and Saudi Aramco.⁵⁶ Given that most of the isobutylene production by petrochemical companies is used captively⁵⁷, there are likely no incentives to foreclose downstream competitors, which could simply increase their own in-house supply. According to the Notifying Party, the volume of isobutylene sold on the merchant market in the EEA amounts to less than [20-30]% of total consumption of isobutylene, with the [70-80]% corresponding to the in-house production of the customers. A partial input foreclosure (increased prices) is also unlikely to be successful considering the market structure on the upstream markets which are characterised by self-supply. In any event, neither SIBUR nor TAIF sells isobutylene in the merchant market in the EEA. The Commission considers that it is therefore unlikely that the merged entity has the ability or incentive to foreclose downstream rivals of TAIF post-Transaction.
- (60) As regards customer foreclosure, TAIF's market share in the plausible downstream markets was highest in non-halogenated butyl rubber in the EEA with [40-50]% in 2020 (SIBUR: [10-20]%). Even in this narrowest plausible downstream market where TAIF has the highest market share no concerns arise, as TAIF has no ability to foreclose isobutylene producers. In particular, TAIF is not a significant customer for isobutylene as it produces it captively, covering [a large percentage] of its global needs in 2020 with its in-house production and only sourcing [a small percentage] on the merchant market. In any event, several other large producers of butyl rubber remain in the market (with more than 50% market share in the EEA for example), as possible customers of isobutylene. With respect to incentives, suppliers can sell isobutylene to customers that are active in downstream markets other than butyl rubber, meaning that the upstream product has more widespread use than only in the downstream butyl rubber market (which accounts for approx. 5% of total isobutylene consumption). Major customers include producers of methyl tertiary butyl ether (approx. 35-40% of total isobutylene consumption), methyl methacrylate (approx. 1% of total isobutylene consumption), as well as other end uses, e.g. ETBE, gasoline alkylate, BHT, t-butyl mercaptan, isobutyl aluminium compounds and others,

⁵⁴ See Non-horizontal Merger Guidelines, paragraphs 23, 32 and 59.

⁵⁵ Response of the Notifying Party to RFI 6, paragraph 14.

⁵⁶ Response of the Notifying Party to RFI 6, paragraph 17.

⁵⁷ Response of the Notifying Party to RFI 6, paragraph 13.

accounting for the majority of the total isobutylene consumption.⁵⁸ It is therefore unlikely that the merged entity has the ability or incentive to foreclose SIBUR's isobutylene rivals upstream post-Transaction.

- (61) Based on the results of the market investigation and all other evidence available to it, the Commission considers that the Transaction does not raise serious doubts as to its compatibility with the internal market or the functioning of the EEA Agreement with respect to the vertical relationship between isobutylene (upstream) and butyl rubber (downstream) under any market definition that the Commission considers plausible.

7. CONCLUSION

- (62) For the above reasons, the European Commission has decided not to oppose the notified Transaction and to declare it compatible with the internal market and with the EEA Agreement.⁵⁹ This decision is adopted in application of Article 6(1)(b) of the Merger Regulation and Article 57 of the EEA Agreement. This decision is without prejudice to the Union's restrictive measures imposed in response to the crisis in Ukraine as set out in Council Regulation (EU) No 833/2014⁶⁰ and Council Regulation (EU) No 269/2014.⁶¹

For the Commission

(Signed)
Margrethe VESTAGER
Executive Vice-President

⁵⁸ Response of the Notifying Party to RFI 6, paragraph 22 and RFI 9.

⁵⁹ Before the concentration is implemented, it is necessary to examine whether its consummation would violate Article 2a(1)(b) of Council Regulation (EU) No 692/2014 (OJ L 183, 24.6.2014, p. 9).

⁶⁰ OJ L 229, 31.7.2014, p. 1, as subsequently amended, most recently by Commission Implementing Regulation (EU) 2019/1163 (OJ L 182, 8.7.2019, p. 33).

⁶¹ OJ L 78, 17.3.2014, p. 6, as subsequently amended, most recently by Council Implementing Regulation (EU) 2021/446 (OJ L 87, 15.3.2021, p. 19).