EUROPEAN COMMISSION
DG Competition

Case M.11247 - INEOS / CERTAIN ASSETS OF TOTALENERGIES

Only the English text is available and authentic.

REGULATION (EC) No 139/2004
MERGER PROCEDURE

Article 6(1)(b) NON-OPPOSITION
Date: 13/03/2024

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EUROPEAN COMMISSION

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 Where possible the information omitted has been replaced by ranges of figures or a general description.

Ineos AG
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Subject: Case M.11247 – INEOS / CERTAIN ASSETS OF TOTALENERGIES Commission decision pursuant to Article 6(1)(b) of Council Regulation No 139/2004[1] and Article 57 of the Agreement on the European Economic Area[2]

Dear Sir or Madam,

(1) On 7 February 2024, the European Commission received notification of a proposed concentration pursuant to Article 4 of the Merger Regulation (EC) No 139/2004, by which subsidiaries of INEOS AG[3] ("**Ineos**" or the **"Notifying Party"**, Switzerland) will acquire sole control of certain manufacturing assets and contracts at the Lavéra petrochemical site, as well as parts of the connected East-Axis ethylene pipeline (the **"Target"**, France) from TotalEnergies Petrochemicals France SA and TotalEnergies Petrochemicals & Refining SA ("**TotalEnergies**") (the **"Transaction"**).[4] Ineos and the Target are hereinafter together referred to as the **"Parties"** or post-Transaction as the **"Merged Entity"**.

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 ("**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 The acquiring entities within the INEOS Group are INEOS Olefins SA (Switzerland), its subsidiary INEOS Olefins France Holdco SAS (France), INEOS Chemicals Lavéra SAS (France) and Inovyn Finance Limited (England).

4 OJ C, C/2024/1596, 15.2.2024.

1. THE PARTIES AND THE TRANSACTION

(2) Ineos is a global manufacturer of petrochemicals, speciality chemicals and other oil products.

(3) The Target consists of the following:

(a) At the Lavéra petrochemical site:

i. TotalEnergies' share in the following production JVs, currently owned 50%/50% with Ineos: (i) an ethylene steam cracker unit (Naphtachimie SA, "**Naphtachimie**"); (ii) an aromatics unit (GIE Pour l'Extraction des Aromatiques du Sud-Est); and (iii) a polypropylene unit (Appryl SNC).

ii. Certain contracts, customer lists and inventory related to these production facilities;[5] and

iii. TotalEnergies' share of naphtha storage infrastructure (GIE 3TC), currently owned 50%/50% with Petroineos Manufacturing France SA.[6]

(b) On the connected East-Axis ethylene pipeline from Lavéra to Sarralbe:

i. The southern section of the pipeline from Lavéra to Feyzin, currently owned 100% by TotalEnergies;

ii. 24.1% more of the ownership rights in the central section of the pipeline connecting Viriat to Tavaux and Feyzin to Viriat via Saint Pierre de Chandieu, currently jointly owned by TotalEnergies (74.1%) and Ineos (25.9%); and

iii. 50% of the ownership rights in the northern section of the pipeline connecting Viriat to Carling, currently owned 100% by TotalEnergies.

2. THE CONCENTRATION

(4) On 24 October 2023, Ineos and TotalEnergies entered into an agreement. By this agreement, Ineos will acquire sole control over certain assets specified in paragraphs 3(a) and 3(b) within the meaning of Article 3(1)(b) of the Merger Regulation. The assets mentioned in paragraphs 3(a)(iii) and 3(b)(ii) and (iii) are not full function joint ventures within the meaning of Article 3(4) of the Merger Regulation post-Transaction.

3. UNION DIMENSION

(5) The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 000 million (Ineos: EUR […] million; the Target: EUR […] million).[7] Each of them has a Union-wide turnover in excess of EUR 250 million (Ineos: EUR […] million; the Target: EUR […] million), but they do not achieve more than two-thirds of their aggregate Union-wide turnover within one and the

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5 These include (i) business contracts between TotalEnergies and third parties, (ii) inventory currently owned by TotalEnergies and its affiliates, (iii) contracts between TotalEnergies and associated parties in relation to the polypropylene products produced by Appryl, and related material commercial information, (iv) distribution agreements to be entered into between Ineos and TotalEnergies and (v) interests in relevant real estate parcels (Form CO, paragraph 3.10).

6 Petroineos is a joint venture between Ineos and PetroChina.

7 Turnover calculated in accordance with Article 5 of the Merger Regulation. The provided turnover figures are for the year 2022.

same Member State. The notified operation therefore has a Union dimension within the meaning of Article 1(2) of the Merger Regulation.

4. INTRODUCTION TO THE RELEVANT MARKETS

(6) The Target is comprised *inter alia* of a petrochemical business at the Lavéra site, in France. The part most relevant for the Commission's assessment is the Naphtachimie cracker, which takes naphtha feedstock and breaks it down into smaller hydrocarbons, namely ethylene and propylene, as well as other by-products. Ethylene is an important basic chemical product, used primarily as a feedstock in the production of polymers such as polyvinyl chloride ("**PVC**") and industrial chemicals.

(7) The Target includes ownership rights over the **"East-Axis"** ethylene pipeline network which runs from Lavéra to Sarralbe in North-East France. It is also connected to the French Med Pocket ethylene pipeline which incorporates LyondellBasel's (**"LBI"**) Berre facility in the south (the East-Axis and the French Med Pocket pipelines together constitute the **"Pipeline Network"**). On the Pipeline Network, there are three operational crackers: (i) the Target's Naphtachimie cracker; (ii) the aforementioned cracker at Berre owned by LBI; and (iii) TotalEnergies' (57.5%) and Ineos' (42.5%) jointly-owned cracker at Feyzin, which is controlled solely by the other owner TotalEnergies.

(8) Given that Ineos currently (i) jointly controls the Naphtachimie cracker with TotalEnergies with whom it shares the ethylene production equally, (ii) owns 42.5% of the cracker at Feyzin and (iii) owns three additional steam crackers in Europe,[8] Ineos' acquisition of TotalEnergies' part of the Naphtachimie cracker gives rise to horizontally affected markets for ethylene (Section 6.2.1.) and propylene (Section 6.2.2.).[9]

(9) In addition, Ineos uses ethylene and propylene as inputs to produce various downstream products, including PVC, ethylene oxide and acrylonitrile ("**ACN**"), which give rise to the following vertically affected relationships: (i) ethylene (upstream) – various markets for PVC (downstream) (Section 6.3.1.); (ii) ethylene (upstream) – ethylene oxide (downstream) (Section 6.3.2.); and (iii) chemical grade propylene (upstream) – ACN (downstream) (Section 6.3.3.).

5. MARKET DEFINITIONS

5.1. Ethylene

5.1.1. Product market definition

(10) Ethylene is a basic chemical product which belongs to the olefin group. In Europe ethylene is mainly produced by cracking naphtha.[10] However, liquefied petroleum

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8 These crackers are located in Grangemouth (UK), Cologne (Germany) and Rafnes (Norway).

9 The Transaction also results in a horizontal overlap in the production of butadiene, which does not give rise to affected markets per paragraph 25(g) of Annex I of Commission Implementing Regulation (EU) 2023/914, as it benefits from the flexibility clauses of point 8 of the Notice on Simplified Procedure. In addition, the market investigation did not reveal any competition concerns in relation to this overlap, which will therefore not be further discussed in this Decision.

10 Naphtha is a feedstock that is produced in the process of refining crude oil. When diluted with steam and then heated to very high temperatures naphtha "cracks" into ethylene and propylene.

gas, ethane or gasoil may also be used as feedstocks in the production of ethylene. Ethylene is used to produce for example vinyl chloride monomer (**"VCM"**) (an intermediary product for PVC), ethylene oxide ("**EO**") and polyethylene.

5.1.1.1. The Commission's previous practice

(11) The Commission has in past decisions consistently found that the manufacture and supply of ethylene constitutes one distinct product market because the same product specification is suitable for all derivative uses and ethylene cannot be replaced by another product in these applications.[11]

5.1.1.2. The Notifying Party's view

(12) The Notifying Party does not oppose the Commission's practice with respect to the product market definition of ethylene.[12]

5.1.1.3. The Commission's assessment

(13) The market investigation has largely confirmed the findings in the Commission's previous decisions that ethylene is a separate product market. The majority of respondents to the market investigation agreed that ethylene is not substitutable with other products and therefore constitutes a distinct product market.[13] Equally, nothing in the market investigation indicates that there is a need to further segment the ethylene market. Therefore, for the purposes of the competitive assessment in the present case, the Commission will consider a separate product market for ethylene.

5.1.2. Geographic market definition

5.1.2.1. The Commission's previous practice

(14) The Commission has in past decisions noted that ethylene is a hazardous gas which is highly flammable and distributed either in a compressed form by pipeline or in liquid form via refrigerated ships to an import terminal. While the Commission has not previously concluded on the geographic market definition, it has considered that the geographic market for ethylene could be delineated based on the available pipeline networks (regional or national) [14] or it could be EEA-wide or even global, depending on specificities of the case or region.[15]

5.1.2.2. The Notifying Party's view

(15) The Notifying Party considers that the ethylene market should be looked at on an EEA-wide basis, given that ethylene can be transported by ship as well as by pipeline, and there is a relatively high degree of price convergence across Europe and across different pipeline networks.[16]

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[11] See e.g. M.9410 – *Saudi Aramco/SABIC*, Decision of 27 February 2020, paragraph 333; M.6905 – *Ineos/Solvay/JV*, Decision of 8 May 2014, paragraphs 423-424, and M.4401 *Basell/Münchsmünster cracker and associated assets*, Decision of 21 December 2006, paragraph 10.

[12] Form CO, paragraph 6.17.

[13] Responses to Questionnaire 1 – butadiene, ethylene and propylene competitors, Question D.A.1.

[14] See e.g. M.4744 - *Ineos/Borealis*, Decision of 24 August 2007, paragraph 18.

[15] See e.g. M.9410 – *Saudi Aramco/SABIC*, Decision of 27 February 2020, paragraph 338.

[16] Form CO, paragraph 6.19.

5.1.2.3. The Commission's assessment

(16) The results of the market investigation regarding the geographical scope of the ethylene market have been inconclusive. While the market investigation confirmed that ethylene can be and is shipped within the EEA and globally, there were clear indications that the majority of ethylene sold in the EEA is locally produced and distributed via pipeline.[17]

(17) In any event, the Commission considers that for the purposes of the present case, the precise geographic market definition for ethylene can be left open as the Transaction does not raise serious doubts as to its compatibility with the internal market under any alternative geographic market definition (i.e., pipeline network, EEA-wide or worldwide). For the purposes of this Decision, the Commission will conduct its assessment at the pipeline level on the Pipeline Network as defined above.

5.2. Propylene

(18) Propylene is a colourless gas from the olefins group. It is produced via the steam cracking of a variety of feedstock including naphtha and liquefied petrol gas. It is mostly used to produce polypropylene but also a number of other chemicals such as ACN, propylene oxide and butanol.

5.2.1. Product market definition

5.2.1.1. The Commission's previous practice

(19) The Commission has investigated the market for the production of propylene on a couple of occasions, most recently in *Saudi Aramco/SABIC*[18] but also in *Ineos/Solvay /JV.*[19] It found that the manufacture of propylene constituted a separate market from the manufacture of other chemicals because it is not substitutable with any other product.

(20) In *Saudi Aramco/SABIC*, the Commission further considered whether the propylene market should be further segmented per type of grade (polymer, chemical, and refinery) and observed strong indications by respondents that the market concerned mostly polymer grade propylene (purity of around 99.5%) and chemical grade propylene (purity of around 90-95%) as refinery grade propylene (purity of around 60%) was mostly consumed captively. Respondents further highlighted a significant supply-side substitutability between grades as all production processes can produce the different propylene grades. However, the Commission ultimately left the exact product market definition open with respect to propylene grades.[20]

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17 Responses to Questionnaire 1 – butadiene, ethylene and propylene competitors, Questions D.B.1 and D.B.2.

18 Case M.9410 - *Saudi Aramco/SABIC*, Commission decision of 27 February 2020, paragraphs 370 to 378.

19 Case M.6905 – *INEOS/ SOLVAY/ JV,* Commission decision of 8 May 2014, paragraphs 429 to 433.

20 Case M.9410 - *Saudi Aramco/SABIC*, Commission decision of 27 February 2020, paragraphs 373-374.

5.2.1.2. The Notifying Party's view

(21) The Notifying Party agrees with the Commission's previous findings that propylene constitutes a separate market from other chemicals.[21]

(22) The Notifying Party further submits that the market should not be further segmented by grade because: (i) there is a high supply-side substitutability between the three grades;[22] and (ii) on the demand-side, some customers can use either chemical grade propylene or polymer grade propylene and some also have internal purification capabilities to purify lower grade propylene into higher grade propylene (from refinery grade to chemical grade and/or from chemical grade to polymer grade).[23]

5.2.1.3. The Commission's assessment

(23) In the course of the market investigation, the overwhelming majority of respondents considered propylene to be on a distinct product market from other chemicals.[24]

(24) With respect to a potential sub-segmentation by grade, the results of the market investigation highlighted some degree of substitutability between grades.

(25) From the demand side, the majority of customers considered that grades could be substituted to some extent. [25]

(26) On the supply-side around half of the propylene suppliers indicated that they could not easily switch their production capabilities between polymer grade and chemical grade and a majority of them submitted the same answer with respect to switching from refinery grade to chemical grade.[26]

(27) In light of the above results, the Commission considers that there is a separate product market for the manufacture and supply of propylene and that in all likelihood, the propylene market should be further segmented by grade (refinery, chemical, and polymer). For the purposes of this Decision however, the Commission can leave the exact product market definition for propylene open since the Transaction does not raise serious doubts as to its compatibility with the internal market under any plausible definition.

5.2.2. Geographic market definition

5.2.2.1. The Commission's previous practice

(28) With respect to the geographic scope of the propylene market (and its potential sub-segmentations), the Commission has previously examined whether the market

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[21] See Form CO paragraph 6.56.

[22] See Form CO paragraph 6.55 (i).

[23] See Form CO paragraph 6.55 (ii).

[24] Replies to question C.A.1 of the Questionnaire to Propylene Customers; Replies to question E.A.1 of the Questionnaire to Butadiene, Ethylene and Propylene Competitors.

[25] Replies to question C.A.2 of the Questionnaire to Propylene Customers.

[26] Replies to question E.A.3 of the Questionnaire to Butadiene, Ethylene and Propylene Competitors.

is global, EEA-wide[27] or limited to Western Europe[28] but left the exact market definition open.

5.2.2.2. The Notifying Party's view

(29) The Notifying Party submits that the propylene market is at least EEA-wide because: (i) propylene is easy to transport by pipeline, barge, rail and ship; (ii) market conditions (price, demand) tend to be influenced at the global level with significant imports being reported from Asia and the Middle-East;[29] and (iii) trade-flows in the propylene market are increasingly inter-regional with long term imports into Europe increasing over time.[30]

5.2.2.3. The Commission's assessment

(30) During the market investigation, the majority of customers submitted that they used propylene suppliers located in the EEA for their facilities located in the EEA.[31] They also specified that there are logistical barriers to supplying propylene from outside the EEA.[32]

(31) While the majority of propylene suppliers considered that there were no logistical barriers to supplying propylene from outside the EEA, they also noted that they actually supplied their customers located in the EEA from their production facilities located in the EEA.[33]

(32) Accordingly, the Commission considers that the propylene market and its potential sub-segments are likely to be EEA-wide though the exact definition can be left open as the Transaction does not raise serious doubts as to its compatibility with the internal market under any plausible definition (EEA, Western Europe or worldwide) for propylene.

5.3. PVC

5.3.1. Product market definition

5.3.1.1. The Commission's previous practice

(33) The Commission has in past decisions consistently defined separate markets for suspension PVC (**"S-PVC"**) and emulsion PVC (**"E-PVC"**).[34] That is because both demand-side and supply-side substitutability of the two PVC types were found to be limited.

(34) Within S-PVC, the market was further segmented into three separate product markets: (i) commodity; (ii) speciality; and (iii) extender S-PVC, due to their different properties, separate production processes, pricing and their range of

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27 Case M.9410 - *Saudi Aramco/SABIC*, Commission decision of 27 February 2020 paragraphs 377 and 378.
28 Case M.6905 – *INEOS/ SOLVAY/ JV,* Commission decision of 8 May 2014 paragraphs 432 and 433.
29 See Form CO paragraph 6.58.
30 See Form CO paragraph 6.59.
31 Replies to question C.B.1 of the Questionnaire to Propylene Customers.
32 Replies to question C.B.4 of the Questionnaire to Propylene Customers.
33 Replies to question E.B.2 of the Questionnaire to Butadiene, Ethylene and Propylene Competitors.
34 M.7132 – *Ineos/Doeflex*, Decision of 30 July 2014, paragraph 23 and M.6905 – *Ineos/Solvay/JV*, Decision of 8 May 2014, paragraph 195.

possible applications as well as supplier structure.[35] Following an in-depth investigation concerning the market for commodity S-PVC, the Commission has concluded that, in that specific case, the relevant product market was the overall market for commodity S-PVC, including all K-values[36] but excluding HIS-PVC and other co-polymers.[37]

(35) Within E-PVC, the Commission has in the past considered two further segmentations, which were ultimately left open: (i) micro-suspension PVC vs other types of E-PVC; and (ii) speciality E-PVC vs paste E-PVC.[38] The Commission has also considered a possible segmentation of the market for E-PVC based on different K-values and grades of E-PVC, but ultimately concluded that the relevant product market for E-PVC encompasses all K-values and grades.[39]

5.3.1.2. The Notifying Party's view

(36) The Notifying Party does not oppose the Commission's practice with respect to the segmentations of the market for S-PVC

(37) With respect to the market for E-PVC, the Notifying Party considers that further segmentations of the E-PVC market previously considered by the Commission are not appropriate.[40]

(38) First, in relation to the distinction between micro-suspension PVC and other types of E-PVC, the Notifying Party submits that all types of E-PVC are produced on the same production line, and that micro-suspension PVC represents a very small proportion of the overall market and is therefore typically not reported on separately.[41]

(39) Second, the Notifying Party submits that there is no bright line between paste and speciality E-PVC, and that neither Ineos nor third-party industry reports typically make such a distinction. Speciality and paste E-PVC are also manufactured on the same production line.[42]

5.3.1.3. The Commission's assessment

(40) The market investigation did not provide any reasons for the Commission to depart from its previous decisional practice.

(41) All of the responding market participants confirmed that S-PVC and E-PVC constitute distinct product markets,[43] and that within S-PVC there exist separate product markets for commodity, speciality, and extender S-PVC.[44]

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35 M.7132 – *Ineos/Doeflex*, Decision of 30 July 2014, paragraph 23 and M.6905 – *Ineos/Solvay/JV*, Decision of 8.05.2014, paragraphs 196-207.

36 K-value is a measure of degree of polymerization or number of monomers in PVC chain or molecular weight.

37 M.6905 – *Ineos/Solvay/JV*, Decision of 8 May 2014, paragraphs 214-252.

38 e.g. M.7132 – *Ineos/Doeflex*, Decision of 30 July 2014, paragraph 23 and M.6905 – *Ineos/Solvay/JV*, Decision of 8 May 2014, paragraphs 514 ff.

39 M.6905 – *Ineos/Solvay/JV*, Decision of 8 May 2014, paragraphs 532-538.

40 Form CO, paragraph 6.166(ii).

41 Form CO, paragraph 6.166(ii)(b).

42 Form CO, paragraph 6.166(ii)(a).

43 Responses to Questionnaire 3 – PVC competitors, Question C.A.1.

44 Responses to Questionnaire 3 – PVC competitors, Question C.A.2.

(42) With respect to plausible further segments of the market for E-PVC, the results of the market investigation were inconclusive. Respondents provided mixed views on whether the production technologies used for different types of E-PVC are similar or not, and on whether customers are able to switch between using different types of E-PVC in a reasonable time and without incurring significant costs.[45] In the present case, the exact product market definition for E-PVC can in any case be left open as the Transaction does not raise serious doubts as to its compatibility with the internal market irrespective of whether the E-PVC market is considered as a whole, or if it is further segmented into micro-suspension PVC and other types of E-PVC, or into speciality E-PVC and paste E-PVC.

(43) For the purposes of the competitive assessment in the present case, the Commission will therefore consider separate product markets for commodity S-PVC, speciality S-PVC, extender S-PVC, and E-PVC and its plausible segments (i.e. micro-suspension PVC and other types of E-PVC, and paste E-PVC and speciality E-PVC).

5.3.2. Geographic market definition

5.3.2.1. The Commission's previous practice

(44) With respect to the geographic market definition of the S-PVC market and its segments, the Commission previously concluded that the geographic scope of the market was wider than national and encompassing at least North Western Europe (**"NWE"**),[46] while leaving open the question as to whether the market covered a wider area encompassing all Western Europe or the whole EEA.[47] Following an in-depth investigation concerning specifically the market for commodity S-PVC, the Commission concluded that the geographic scope of the market for commodity S-PVC was smaller than the whole EEA and as wide as NWE or at most NWE+.[48]

(45) With respect to the geographic market definition of the E-PVC market and its segments, the Commission has considered the geographic scope to be EEA-wide or global.[49]

5.3.2.2. The Notifying Party's view

(46) The Notifying Party does not oppose the Commission's practice with respect to the geographic market definition for commodity S-PVC.[50] However, the Notifying Parties considers that the market for speciality S-PVC should be considered on an EEA-wide basis or even a global basis since, given its speciality nature, prices (and margins) for speciality S-PVC are typically higher than for commodity S-PVC and therefore it is cost competitive to ship speciality S-PVC over greater distances.[51] Similarly, with respect to extender S-PVC, the Notifying Party considers that the

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45 Responses to Questionnaire 3 – PVC competitors, Question C.A.4.

46 NWE includes Belgium, Denmark, France, Germany, Ireland, Luxembourg, Netherlands, Norway, Sweden, and the United Kingdom.

47 See e.g. M.7132 – *Ineos/Doeflex*, Decision of 30 July 2014, paragraphs 26-28 and M.6905 – *Ineos/Solvay/JV*, Decision of 8 May 2014, paragraphs 540-544.

48 NWE+ includes NWE plus Austria, Finland, Italy and Switzerland. See M.6905 – *Ineos/Solvay/JV*, Decision of 8 May 2014, paragraphs 253-405.

49 See e.g. M.7132 – *Ineos/Doeflex*, Decision of 30 July 2014, paragraph 33-35 and M.6905 – *Ineos/Solvay/JV*, Decision of 8 May 2014, paragraphs 540-544.

50 From CO, paragraph 6.168.

51 Form CO, paragraph 6.168.

geographic scope of the market is EEA-wide or even global given that extender S-PVC is a stable, non-toxic product that can be shipped and is readily and safely transportable over considerable distances.[52]

(47) With respect to E-PVC, the Notifying Party agrees with the past Commission assessments that the market is likely EEA-wide or global.[53]

(48) The Notifying Party notes that if the markets are to be considered regional, the narrowest relevant region would be for Southern Europe (**"SE"**) (covering Portugal, Spain, Italy and France) which would include the Target and Kem One's manufacturing sites.

5.3.2.3. The Commission's assessment

(49) With respect to the markets for commodity, speciality, and extender S-PVC, most of the respondents to the market investigation indicate that all types of S-PVC travel at least EEA-wide to reach the customer and that the conditions of competition are similar at least at the EEA-wide level.[54]

(50) With respect to the market for E-PVC and its plausible segments, all respondents indicate that all types of E-PVC travel at least EEA-wide to reach the customer and that the conditions of competition are similar at the EEA-wide level.[55]

(51) For the purposes of the present decision the exact geographic market definitions of all the PVC markets can in any case be left open as the Transaction does not raise serious doubts as to its compatibility with the internal market irrespective of the exact geographic market delineation.

(52) For the purposes of the competitive assessment in the present case, the Commission will therefore consider all plausible geographic markets, that is that the markets for commodity S-PVC, speciality S-PVC, and extender S-PVC are either regional (NWE, NWE+ or SE) or EEA-wide in scope, and that the market for E-PVC and its plausible segments are at least EEA-wide.

5.4. Ethylene Oxide ("EO")

5.4.1. Product market definition

5.4.1.1. The Commission's previous practice

(53) The Commission has in past decisions held that EO constitutes a separate product market because it is characterised by low substitutability with other products, particularly when used as a direct raw material in chemical reactions.[56] In more recent decisions the Commission has, however, left the product market definition open.[57] In *Ineos/BP Dormagen,*[58] the Commission also considered whether on-site

52 The Notifying Party's response to RFI 8, dated 29 February 2024.
53 Form CO, paragraph 6.169.
54 Responses to Questionnaire 3 – PVC competitors, Question C.B.1.
55 Responses to Questionnaire 3 – PVC competitors, Question C.B.1.
56 See e.g. M.4005 – *Ineos/Innovene*, Decision of 9 December 2005, paragraph 15 and M.2345 – *Deutsche BP/Erdölchemie*, Decision of 26 April 2001, paragraph 11.
57 See e.g. M.5927 – *BASF/Cognis*, Decision of 30 November 2010, paragraphs 190-194, M.4094 – *Ineos/BP Dormagen*, Decision of 10 August 2006, paragraph 46 and M.9410 – *Saudi Aramco/SABIC*, Decision of 27.02.2020, paragraph 278.

supplies (i.e. long-term arrangements with customers whose plants that convert EO are located on, or adjacent to, the EO supplier's site and connected via pipeline) and off-site supplies (i.e. supplies to other customers involving transport) constituted two separate markets, but ultimately left the exact market definition open. In *Saudi Aramco/SABIC,* the majority of respondents to the market investigation did not consider any segmentation of EO to be necessary.[59]

5.4.1.2. The Notifying Party's view

(54) The Notifying Party regards EO as a distinct commodity and, in all likelihood, a separate product market although it believes that the relative importance of the integrated producers as users of EO, the close supply-side relationships between EO and ethylene glycols, and the feedback effect on EO of competitive dynamics in the downstream derivatives markets all place important competitive constraints on the feasibility of price increases in the EO third party market. The Notifying Party notes that in any event the precise market definition can be left open since no competition concerns arise irrespective of the product market definition.[60]

5.4.1.3. The Commission's assessment

(55) The Commission considers that, for the purposes of the present case, the exact scope of the product market definition for EO can be left open, since the Transaction does not raise serious doubts as to its compatibility with the internal market under any plausible product market definition for EO (overall, on-site or off-site).

5.4.2. Geographic market definition

5.4.2.1. The Commission's previous practice

(56) The Commission has in past decisions considered that the geographic market for EO is Western Europe (i.e. EEA plus Switzerland) or regional (Northern or Southern Europe), but ultimately left the exact scope open.[61] More recently in *Saudi Aramco/SABIC* the market investigation indicated that the relevant geographic market for EO is likely regional or EEA-wide in scope, pointing to significant cross-border trade flows within, as well as beyond, the EEA. The geographic market definition was ultimately left open also in this case.[62]

5.4.2.2. The Notifying Party's view

(57) The Notifying Party considers that the geographical scope of the EO market should be considered to be EEA-wide. However, the Notifying Party notes that in any event the precise market definition can be left open since no competition concerns arise irrespective of the geographic market definition.[63]

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58 M.4094 – *Ineos/BP Dormagen*, Decision of 10 August 2006, paragraph 46.

59 M.9410 – *Saudi Aramco/SABIC*, Decision of 27.02.2020, paragraph 277.

60 Form CO, paragraph 6.229.

61 See e.g. M.5927 - *BASF/Cognis*, Decision of 30 November 2010, paragraphs 195-197, M.4094 - *Ineos/BP Dormagen*, Decision of 10 August 2006, paragraphs 47-51, and M.4005 - *Ineos/Innovene*, Decision of 09 December 2005, paragraph 27.

62 M.9410 – *Saudi Aramco/SABIC*, Decision of 27 February 2020, paragraphs 281-282.

63 Form CO, paragraph 6.231.

5.4.2.3. The Commission's assessment

(58) The Commission considers that, for the purposes of the present case, the exact scope of the geographic market definition for EO can be left open, since the Transaction does not raise serious doubts as to its compatibility with the internal market under any plausible geographic market definition (EEA or regional).

5.5. Acrylonitrile ("ACN")

(59) ACN is an intermediate chemical used in the production of a variety of products including thermoplastic resins, adiponitrile and acrylic fibre. It is produced using both ammonia and propylene (either chemical grade or refinery grade).

5.5.1. Product market definition

5.5.1.1. The Commission's previous practice

(60) In the past, the Commission found that ACN constituted a distinct market that should not be further segmented.[64]

5.5.1.2. The Notifying Party's view

(61) The Notifying Party agrees with the Commission's precedents regarding product market definition for ACN.

5.5.1.3. The Commission's assessment

(62) The Commission considers that, for the purposes of the present case, it will conduct its assessment on the basis of a distinct market for ACN with no further sub-segmentation.

5.5.2. Geographic market definition

5.5.2.1. The Commission's previous practice

(63) In previous cases, the Commission considered the market to be at least EEA-wide, EEA plus Turkey or worldwide but left the exact geographic market definition open.[65]

5.5.2.2. The Notifying Party's view

(64) The Notifying Party submits that transporting ACN is not difficult and that the cost of transportation is low. For these reasons, the market for ACN should be considered worldwide.[66]

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64 Case M.9883 – *INEOS / BP CHEMICALS BUSINESS,* Commission decision of 21 September 2020 paragraphs 34 and 35.

65 Case M.9883 - *INEOS / BP CHEMICALS BUSINESS,* Commission decision of 21 September 2020, paragraphs 39 and 40; Cases M.5238 *INEOS / BASF assets* Commission decision of 31 July 2008, paragraphs 16-17 and 20, and M.7614 – *CVC Capital Partners / Royal DM (Fibre Intermediates and Composite Resins)*, Commission decision of 22 July 2015, paragraphs 40-42*;* Case COMP/M.6093 - *BASF/ INEOS/ STYRENE/ JV*, Commission decision of 1 June 2011, paragraphs 151-152.

66 Form CO paragraph 6.246

5.5.2.3. The Commission's assessment

(65) The results of the market investigation did not contradict the Commission's past practice or the Notifying Party's submission. In any event, the exact geographic market definition can be left open since the Transaction does not give rise to serious doubts as to its compatibility with the internal market under any plausible geographic market definition for ACN (EEA, EEA plus Turkey, or worldwide).

6. COMPETITIVE ASSESSMENT

6.1. Legal framework of the assessment

(66) Under Articles 2(2) and 2(3) of the Merger Regulation, the Commission must assess whether a proposed concentration would significantly impede effective competition in the internal market or in a substantial part of it, in particular through the creation or strengthening of a dominant position. In this respect, a merger can entail horizontal (non-coordinated and/or coordinated) and/or non-horizontal effects.

6.1.1. Horizontal non-coordinated effects

(67) The Horizontal Merger Guidelines describe horizontal non-coordinated effects as follows: *"A merger may significantly impede effective competition in a market by removing important competitive constraints on one or more sellers, who consequently have increased market power. The most direct effect of the merger will be the loss of competition between the merging firms. For example, if prior to the merger one of the merging firms had raised its price, it would have lost some sales to the other merging firm. The merger removes this particular constraint. Non-merging firms in the same market can also benefit from the reduction of competitive pressure that results from the merger, since the merging firms' price increase may switch some demand to the rival firms, which, in turn, may find it profitable to increase their prices. The reduction in these competitive constraints could lead to significant price increases in the relevant market".*[67]

(68) The Horizontal Merger Guidelines list a number of factors which may influence whether or not significant horizontal non-coordinated effects are likely to result from a merger, such as the large market shares of the merging firms, the fact that the merging firms are close competitors, the limited possibilities for customers to switch suppliers, or the fact that the merger would eliminate an important competitive force.[68] Not all of these factors need to be present to make significant non-coordinated effects likely and it is not an exhaustive list.[69]

(69) Finally, the Horizontal Merger Guidelines describe a number of factors, which could counteract the harmful effects of the merger on competition, including the likelihood of buyer power, the entry of new competitors on the market, and efficiencies.[70]

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67 Guidelines on the assessment of horizontal mergers under the Council Regulation on the control of concentrations between undertakings, OJ C 31, 5.2.2004, p. 5 – 18 ("Horizontal Merger Guidelines", paragraph 24.

68 Horizontal Merger Guidelines, paragraphs 27 ff.

69 Horizontal Merger Guidelines, paragraph 26.

70 Horizontal Merger Guidelines, paragraphs 64 ff.

6.1.2. *Horizontal coordinated effects*

(70) A merger in a concentrated market may also significantly impede effective competition due to horizontal coordinated effects where, through the creation or the strengthening of a collective dominant position, it increases the likelihood that firms are able to coordinate their behaviour and raise prices, even without entering into an agreement or resorting to a concerted practice within the meaning of Article 101 TFEU. A merger may also make coordination easier, more stable or more effective for firms that were already coordinating before the merger, either by making the coordination more robust or by permitting firms to coordinate on even higher prices.[71]

(71) To assess whether a merger gives rise to horizontal coordinated effects, the Commission should examine, first, whether it would be possible to reach terms of coordination and, second, whether the coordination would be likely to be sustainable. In this respect the Commission considers the changes that the transaction brings about. The reduction in the number of firms in a market may, in itself, be a factor that facilitates coordination.[72]

6.1.3. *Non-horizontal effects*

(72) As regards non-horizontal relationships, a merger between companies which operate at different levels of the supply chain may significantly impede effective competition if such merger gives rise to foreclosure. Foreclosure occurs where actual or potential competitors' access to supplies or markets is hampered or eliminated as a result of the merger, thereby reducing those companies' ability and/or incentive to compete.[73]

(73) The Non-Horizontal Merger Guidelines distinguish between two forms of foreclosure. Input foreclosure occurs where the merger is likely to raise the costs of downstream competitors by restricting their access to an important input. Customer foreclosure occurs where the merger is likely to foreclose upstream competitors by restricting their access to a sufficient customer base.[74]

(74) For input foreclosure to be a concern, the merged entity should have a significant degree of market power in the upstream market. Only when the merged entity has such a significant degree of market power, can it be expected that it will significantly influence the conditions of competition in the upstream market and thus, possibly, the prices and supply conditions in the downstream market. [75] For customer foreclosure to be a concern, a vertical merger must involve a company which is an important customer with a significant degree of market power in the downstream market. If, on the contrary, there is a sufficiently large customer base, at present or in the future, that is likely to turn to independent suppliers, the Commission is unlikely to raise competition concerns on that ground.[76]

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71 Horizontal Merger Guidelines, paragraph 39.
72 Horizontal Merger Guidelines, paragraph 42.
73 Guidelines on the assessment of non-horizontal mergers under the Council Regulation on the control of concentrations between undertakings, OJ C 265, 18.10.2008 ("Non-Horizontal Merger Guidelines", paragraph 18.
74 Non-Horizontal Merger Guidelines, paragraph 30.
75 Non-Horizontal Merger Guidelines, paragraph 35.
76 Non-Horizontal Merger Guidelines, paragraph 61.

(75) In assessing the likelihood of an anticompetitive foreclosure scenario, the Commission examines, first, whether the merged entity would have, post-merger, the ability to substantially foreclose the access of its rivals to inputs or to customers, for example, by reducing sales to downstream rivals or purchases from upstream rivals, second, whether it would have the incentive to do so, and third, whether a foreclosure strategy would have a significant detrimental effect on competition.[77]

6.2. Horizontal overlaps

(76) The Transaction gives rise to the following affected horizontal markets: (i) ethylene on the Pipeline Network, and (ii) chemical-grade propylene in Western Europe and in the EEA.

6.2.1. Ethylene

(77) The Transaction gives rise to an affected horizontal market in ethylene at the pipeline level on the Pipeline Network (as defined above in Section 4), where the Parties' combined market share is [50-60]% based on production capacity. In addition to Naphtachimie at Lavéra there are two other ethylene crackers on the Pipeline Network: (i) LBI owns a cracker at Berre; and (ii) TotalEnergies (57.5%) and Ineos (42.5%) jointly own a cracker at Feyzin, which is controlled solely by Total Energies. As the minority shareholder, Ineos is entitled to a share of the output products and independently decides what to do with that share (i.e. whether to use it captively or to sell it and to whom/on what terms).[78] The capacities associated with the Feyzin cracker are attributed to Ineos' and TotalEnergies' market shares (see Tables 1 and 2 below) in accordance with the rights of each shareholder. Under the JV agreement, the production share for most products (including ethylene and propylene) is in line with the overall ownership rights of 42.5% (Ineos) / 57.5% (TotalEnergies).[79]

(78) At the EEA-level the Transaction does not give rise to a horizontally-affected market in relation to ethylene as the Parties' combined market share is [10-20]% based on sales by value and volume as well as based on production capacity.

(79) The effects of the Transaction arising from the horizontal overlap in ethylene at the pipeline level are assessed below.

6.2.1.1. The Parties' activities

(80) Both Ineos and the Target are active in the production and supply of ethylene. Prior to the Transaction Ineos and TotalEnergies jointly control the Naphtachimie ethylene cracker, which is operated as a production joint venture (meaning Ineos and TotalEnergies each sell the ethylene separately, primarily in line with their 50/50 ownership).[80] In addition to through Naphtachimie, Ineos produces ethylene

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77 Non-Horizontal Merger Guidelines, paragraph 32 and 59.

78 Form CO, paragraph 6.32 (ii).

79 Form CO, paragraph 6.34.

80 Form CO, paragraphs 3.13 and 3.14: "*In relation to the output products, both INEOS and TotalEnergies use a software model to submit their preference for the month ahead [...], which is reconciled by Naphtachimie (using the same modelling software) to devise the monthly "program", respecting the demands of each of the shareholders.*" In specific situations, Ineos' and TotalEnergies' precise monthly outputs can deviate slightly from the 50/50 split. E.g. if one party purchases

on the Pipeline Network at Feyzin (jointly owned with TotalEnergies but solely controlled by the latter). Ineos is also producing ethylene on other pipeline networks within the EEA and the UK, namely at its crackers at Cologne (Germany), Grangemouth (UK) and Rafnes (Norway). In addition to consuming its own production, Ineos also purchases ethylene on the merchant market.[81]

(81) At Lavéra, Ineos typically uses its share of ethylene [description of ethylene use].[82]

(82) The Target, on the other hand, produces ethylene at Lavéra almost exclusively for sale on the merchant market. Kem One is the largest customer located at the Lavéra site, and volumes are also transferred north on the Pipeline Network.[83]

(83) Table 1 below shows the Parties' market shares in the supply of ethylene on the Pipeline Network in terms of capacity, and Table 2 in terms of the "net surplus". Net surplus refers to the difference between the player's nameplate capacity and its estimated captive consumption, and it therefore serves as a proxy for the volumes that a player can make available on the merchant market.

Table 1: The Parties' and competitors' market shares in the supply of ethylene on the Pipeline Network, 2022

	Nameplate capacity (kT)	Market share (in %)
Ineos (excluding. the Target)	[…]	[30-40]%
The Target	[…]	[20-30]%
Combined	***[…]***	***[50-60]%***
TotalEnergies (excluding the Target)	[…]	[10-20]%
LBI (Berre)	[…]	[30-40]%
Total	*[…]*	*100%*

Source: Form CO, Annex 4 – Capacity Shares

Table 2: The Parties' and competitors' net surplus shares of ethylene on the Pipeline Network, 2022

	Ethylene "net surplus"			
	Pre-Transaction		Post-Transaction	
	Surplus (in kT)	Surplus (in %)	Surplus (in kT)	Surplus (in %)
Ineos	[…]	-	[…]	[40-50]%
(a) of which the Target	[…]		[…]	
(b) of which Ineos only	[…]		[…]	
TotalEnergies	[…]	[60-70]%	[…]	[10-20]%
(a) of which the Target	[…]		[…]	
(b) of which TotalEnergies only	[…]		[…]	
LBI (Berre)	[…]	[30-40]%	[…]	[40-50]%
Total	[…]	*100%*	[…]	*100%*

Notes: The Target is not assigned any surplus as the Target itself is not market facing, and therefore its production is assigned to either Ineos or Total, according to their pre- and post-Transaction shares. Source: The Notifying Party's response to RFI 7, dated 16 February 2024.

feedstock which produces slightly more ethylene, this is accounted for by allocating more ethylene to that party over the course of the month.

81 Form CO, paragraph 6.21.

82 Form CO, paragraph 6.22.

83 Form CO, paragraph 6.24.

6.2.1.2. Non-coordinated horizontal effects

6.2.1.2.1. The Notifying Party's view

(84) According to the Notifying Party the ethylene market is characterised by a high degree of vertical integration and captive usage as well as actors (such as Ineos) who are active both in the sale and the purchase of ethylene.[84]

(85) The Notifying Party notes that while the Transaction will result in Ineos increasing its capacity share on the Pipeline Network from [30-40]% to [50-60]%, prior to the Transaction Ineos is the largest consumer of ethylene on the Pipeline Network by some margin. Indeed, the Notifying Party considers that the "net surplus" ethylene (see Table 2 above) produced by each of the three producers located on the Pipeline Network (i.e., Ineos, TotalEnergies and LBI) provides a better indication of their relative strengths as merchant sellers of ethylene. Therefore, the Notifying Party submits that the Transaction does not result in a disproportionately strong position on the Pipeline Network for Ineos, but rather eliminates its large ethylene deficit, and effectively leaves three cracker players with surplus ethylene volumes rather than only two.[85] Moreover, according to the Notifying Party, all five consumers of ethylene located on the Pipeline Network will remain well placed to secure their ethylene needs.

(86) Therefore, the Notifying Party considers the effect of the Transaction to be modest, even if examined at the pipeline level.[86]

6.2.1.2.2. The Commission's assessment

(87) As noted above, post-Transaction Ineos' market share in terms of ethylene production capacities on the Pipeline Network will be [50-60]% with an increment of [20-30]%. Despite this notable increase in its production capacity, the Commission considers that the Transaction does not raise serious doubts as to its compatibility with the internal market as a result of horizontal non-coordinated effects concerning ethylene for the following reasons.

(88) First, the Commission recognises that prior to the Transaction, Ineos does not have any ethylene net surplus on the Pipeline Network and therefore that the Transaction will in fact increase the number of net suppliers of ethylene on the Pipeline Network from two (TotalEnergies and LBI) to three (Ineos, TotalEnergies and LBI). Ineos' net surplus would become available on the merchant market as […].[87]

(89) Second, the majority of respondents to the market investigation consider the effects of the Transaction on the ethylene market to be neutral or positive at the pipeline level. For instance, one respondent specified that it did "*not expect the transaction to change the supply/demand balance on the North-East pipeline*".[88]

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84 Form CO, paragraph 6.26.

85 Form CO, paragraphs 6.49 – 6.50.

86 Form CO, paragraph 6.32.

87 As mentioned in Section 6.3.1.4.2., according to Ineos, […].

88 Responses to Questionnaire 1 – butadiene, ethylene and propylene competitors, Question D.C.1.

6.2.1.3. Coordinated horizontal effects

6.2.1.3.1. The Notifying Party's view

(90) The Notifying Party submits that the markets for the supply and purchase of ethylene are not conducive to coordination and that the Transaction would not increase the risk of coordination as it increases the number of suppliers of ethylene on the Pipeline Network from two to three. In addition, the Transaction removes a structural link between Ineos and TotalEnergies as TotalEnergies will no longer own a part of the Naphtachimie cracker with Ineos.[89]

6.2.1.3.2. The Commission's assessment

(91) The Commission considers that the ethylene market presents a number of characteristics conducive to coordination.

(92) First, ethylene is a homogenous commodity. Coordination is easier to achieve when products are homogeneous.[90] Product homogeneity reduces the number of parameters that need to be observed and makes it easier to compare prices, thereby facilitating the finding of a focal point for coordination.

(93) Second, while prices are negotiated bilaterally, they are very often calculated with reference to a European index price which offers a degree of transparency.[91]

(94) Third, the prices and volumes of ethylene produced and available on the merchant market are relatively transparent. This is due to the fact that most market players are both purchasers and manufacturers, depending on the location of their ethylene production/consuming facilities, to limit the logistical costs of transporting ethylene. For example, Ineos supplies its facilities located in Italy with some ethylene purchased from third party producers.[92] Swap agreements also tend to be common practice in the sector,[93] which grants a clear view to market participants on the ethylene prices of their competitors (their suppliers) as well as on the status of supply and demand in a given geographic "pocket".

(95) Fourth, the many mergers, acquisitions, and asset purchases[94] in the sector have further heightened the level of transparency with respect to ethylene production and supply as market participants gain knowledge of their competitors production methods and actual capacities with any new acquisition or divestment.

(96) Fifth, the ethylene sector is characterised by an important number of existing structural links between market participants in the form of joint ventures.[95] Several

89 Annex 16 to the Form CO

90 Horizontal Merger Guidelines, paragraph 45.

91 Minutes of the call with a market participant, dated 12 September 2023.

92 Form CO paragraph 6.20.

93 Form CO paragraph 9.5.

94 See for example COMP/M.6218 - INEOS/ TESSENDERLO GROUP S-PVC ASSETS, Commission decision of 26 July 2011; COMP/M.4094 – Ineos/BP Dormagen; Commission decision of 10 August 2006; COMP/M.10797 - PCG / PERSTORP, Commission decision of 8 September 2022; COMP/M.9883 - INEOS / BP CHEMICALS BUSINESS, Commission decision of 21 September 2020; COMP/M.8480 – PRAXAIR / LINDE, Commission decision of 20 August 2018.

95 See for example COMP/M.6905 – INEOS/ SOLVAY/ JV, Commission decision of 8 May 2014; COMP/M.10862 - OLIN / MITSUI / BWA JV, Commission decision of 20 December 2022; COMP/M.11010 - INEOS / SINOPEC / ETHYLENE JV, Commission decision of 17 February 2023; COMP/M.10816 – ADNOC / ADQ / RIL / JV Commission decision of 23 September 2022.

market players also have their facilities located on the same production site (e.g. Lavéra), where they share on-site services (safety, security, etc.) or provide them to each other. These links further increase contacts and transparency between market participants and can create dependencies among them.

(97) Sixth, there have been several antitrust investigations in the past in the ethylene sector as well as its derivative products. In 1994, the Commission fined several PVC producers for price fixing and market sharing.[96] More recently in 2020, the Commission concluded its investigation of an ethylene-purchasing cartel and fined its participants accordingly.[97]

(98) Nevertheless, in examining whether it would be possible to reach terms of coordination and whether the coordination is likely to be sustainable the Commission considers specifically the changes that the Transaction brings about and whether existing coordination is made easier, if any.[98] Despite the features of the ethylene market which make it conducive to coordination, the Commission does not consider that the Transaction increases the likelihood that ethylene producers could reach or sustain a coordinated outcome at the Pipeline Network or in the EEA, for the following reasons.

(99) First, the Transaction will increase the number of net suppliers of ethylene on the Pipeline Network from two to three (see Section 6.2.1.2. above). Increasing the number of players on the Pipeline Network tends to make it harder to reach a coordinated outcome.

(100) Second, the Transaction removes a structural link between Ineos and TotalEnergies which should reduce (even if it does not remove) the transparency over the production capacities of the two players on the Pipeline Network.

(101) Third, the Transaction will reduce the market share symmetry between market participants, specifically between TotalEnergies and Ineos. Coordination may be easier to reach when companies are relatively symmetric.[99] Currently, TotalEnergies and Ineos each have a share of around [30-40]%[100] on the ethylene market at the level of the Pipeline Network. Post-Transaction, Ineos' and TotalEnergies' shares will amount to [50-60]% and [10-20]% respectively,[101] increasing the difference between TotalEnergies' and Ineos' presence in ethylene on the Pipeline Network.

(102) Fourth, when looking at the EEA level, the increment brought about by the Transaction is minimal. Indeed, the ethylene produced at the Lavéra site represents a minimal share ([0-5]%) of the overall EEA ethylene production.[102] Any potential increase in transparency at the EEA level stemming from the Transaction would be minimal as Ineos would only have a view over a marginally bigger share of the ethylene capacity in the EEA.

96 Case IV/31.865 — PVC, Commission decision of 27 July 1994.
97 Case AT.40410-ETHYLENE, Commission decision of 14 July 2020.
98 Horizontal Merger Guidelines, paragraph 42.
99 Horizontal Merger Guidelines, paragraph 48.
100 Annex 4 to the Form CO.
101 Annex 4 to the Form CO.
102 Annex 4 to the Form CO.

(103) Finally, the results of the market investigation have not highlighted specific concerns relating to coordinated effects.

(104) In conclusion, the Commission considers that the Transaction does not raise serious doubts as to its compatibility with the internal market as a result of horizontal coordinated effects concerning ethylene.

6.2.2. Propylene

6.2.2.1. The Parties' activities

(105) As a result of the Transaction, Ineos will acquire TotalEnergies' share of the Naphtachimie cracker production JV at Lavéra giving rise to a horizontal overlap on the markets for the manufacture and supply of propylene.

(106) Table 3 below sets out the Parties' shares for each plausible propylene product market in 2022 in the EEA in terms of volume.[103]

Table 3 – Parties' estimated market shares at the EEA level in 2022

Parties	Propylene overall		Refinery Grade Propylene		Chemical Grade Propylene		Polymer Grade Propylene	
	Merchant	Capacity	Merchant	Capacity	Merchant	Capacity	Merchant	Capacity
INEOS	[10-20]%	[5-10]%	[0-5]%	[0-5]%	[20-30]%	[10-20]%	[10-20]%	[0-5]%
Target	[0-5]%	[0-5]%	[0-5]%	[0-5]%	[10-20]%	[0-5]%	[0-5]%	[0-5]%
Combined	***[10-20]%***	***[5-10]%***	***[0-5]%***	***[0-5]%***	***[30-40]%***	***[20-30]%***	***[10-20]%***	***[0-5]%***

Source: Form CO, Annexes 4 and 5.

(107) Per the table above, the Transaction gives rise to a horizontally affected market in chemical grade propylene in the EEA. Table 4 below sets out the Parties' and their competitors' market shares in the EEA in 2022, specifically in the market for chemical grade propylene.

Table 4 - Market shares in chemical grade propylene in the EEA

Supplier	Merchant share	Capacity share
Ineos	[20-30]%	[10-20]%
Target	[10-20]%	[0-5]%
Combined	***[30-40]%***	***[20-30]%***
TOTALENERGIES SE	[30-40]%	[10-20]%
OMV AG	5-10%	[10-20]%
EXXON MOBIL CORPORATION	0-5%	[5-10]%
BASF SE	0-5%	[5-10]%
SHELL PLC	0-5%	[5-10]%
Others	10-30%	[30-40]%

Source: Form CO, Annexes 4 and 5.

(108) The overlap on the overall propylene market does not give rise to an affected market as the combined shares amount to [5-10]% and there is no overlap with respect to refinery grade propylene and polymer grade propylene as the Target is

[103] Shares in each potential segment do not significantly differ at the Western Europe level. The Parties also confirmed that their combined share in each potential segment is below 20% at the Worldwide level.

not active on those segments. For these reasons, the Commission will not discuss these horizontal links any further.

6.2.2.2. The Notifying Party's view

(109) The Notifying Party submits that, with respect to the potential market for chemical grade propylene, Ineos would remain heavily constrained by a number of strong players post-Transaction. Ineos' customers will therefore have alternative sources of supply if needed.[104]

(110) In addition, the Notifying Party submits that […].[105]

6.2.2.3. The Commission's assessment

(111) The Commission considers that the Transaction does not raise serious doubts as to its compatibility with the internal market in relation the horizontal overlap in chemical-grade propylene for the following reasons.

(112) First, while the increment brought about by the Transaction on the merchant market is material, the increment in production capacity is limited (<5%).

(113) Second, the majority of respondents to the market investigation, both customers and producers consider that, while Ineos is one of the leading chemical-grade propylene producers, a number of other equally competitive suppliers will remain active in the EEA, including BASF, TotalEnergies, Shell and OMV.[106] Accordingly, Ineos will continue to face competitive pressure post-Transaction.

(114) Third, the large majority of customers and suppliers consider that the Transaction will have a neutral impact on the market for chemical-grade propylene.[107]

6.3. Vertical relationships

(115) The Transaction gives rise to the following vertically affected markets: (i) ethylene (upstream) – various markets for PVC (downstream); (ii) ethylene (upstream) – ethylene oxide (downstream); and (iii) chemical grade propylene (upstream) – ACN (downstream).

6.3.1. Ethylene (upstream) – PVC (downstream)

6.3.1.1. The Parties' activities

(116) Ethylene is considered as an input into manufacturing of both S-PVC and E-PVC, in both of which Ineos is active. The Target (from TotalEnergies' share of the Naphtachimie cracker) currently supplies ethylene to, among others, Kem One, which is Ineos' only PVC competitor located on the Pipeline Network and which purchases ethylene from the Target. Specifically, Kem One uses ethylene to manufacture VCM, which is shipped to other Kem One plants in Europe to manufacture both S-PVC and E-PVC.

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104 Annex 7.2 to the Form CO, paragraph 1.4.

105 Annex 7.2 to the Form CO, paragraph 1.7.

106 Replies to question C.C.4 of the Questionnaire to Propylene Customers; Replies to question E.C.1 of the Questionnaire to Butadiene, Ethylene and Propylene Competitors.

107 Replies toquestion D.1 of the Questionnaire to Propylene Customers.

(117) Vertically affected markets arise between: (i) the Parties' production of ethylene in the EEA and on the Pipeline Network (upstream); and (ii) Ineos' activities in the various markets for S-PVC and E-PVC under all plausible geographic markets (downstream).

(118) With respect to the Parties' activities and market shares in the upstream markets for ethylene in the EEA and on the Pipeline Network, please see Section 6.2.1. With respect to the Parties' activities in the downstream PVC markets, Table 5 below shows Ineos' and competitors' merchant market share in the relevant downstream markets for S-PVC and E-PVC.

Table 5: Market shares in the merchant market for different types of S-PVC and E-PVC, in value,[108] 2022

	Speciality S-PVC				**Commodity S-PVC**				**Extender S-PVC**				**E-PVC[109]**
	EEA	**NWE**	**NWE+**	**SE**	**EEA**	**NWE**	**NWE+**	**SE**	**EEA**	**NWE**	**NWE+**	**SE**	**EEA**
Ineos	***[40-50]%***	***[40-50]%***	***[40-50]%***	***[40-50]%***	***[20-30]%***	***[20-30]%***	***[20-30]%***	***[20-30]%***	***[50-60]%***	***[50-60]%***	***[50-60]%***	***[50-60]%***	***[20-30]%***
Kem One	***[0-5]%***	***[0-5]%***	***[0-5]%***	***[0-5]%***	***[5-10]%***	***[10-20]%***	***[10-20]%***	***[10-20]%***	-	-	-	-	***[10-20]%***
Vinnolit	[40-50]%	[30-40]%	[40-50]%	[40-50]%	[5-10]%	[10-20]%	[5-10]%	[0-5]%	[50-60]%	[50-60]%	[50-60]%	[50-60]%	[20-30]%
Vynova	-	-	-	-	[10-20]%	[10-20]%	[10-20]%	[10-20]%	-	-	-	-	-
Shinetsu	[0-5]%	[0-5]%	[0-5]%	[0-5]%	[10-20]%	[10-20]%	[10-20]%	[10-20]%	-	-	-	-	[0-5]%
Anwil	-	-	-	-	[5-10]%	[0-5]%	[0-5]%	[0-5]%	-	-	-	-	-
Vestolit	[0-5]%	[0-5]%	[0-5]%	-	[0-5]%	[5-10]%	[5-10]%	[0-5]%	-	-	-	-	[10-20]%
Ercros	-	-	-	-	[0-5]%	[0-5]%	[0-5]%	[5-10]%	-	-	-	-	-
Novakie (Fortischem)	-	-	-	-	<[0-5]%	<[0-5]%	<[0-5]%	<[0-5]%	-	-	-	-	[5-10]%
Others	[5-10]%	[10-20]%	[5-10]%	[5-10]%	[10-20]%	[10-20]%	[10-20]%	[10-20]%	-	-	-	-	[0-5]%
Total	*100%*	*100%*	*100%*	*100%*	*100%*	*100%*	*100%*	*100%*	*100%*	*100%*	*100%*	*100%*	*100%*

Source: Form CO, Annex 6 – PVC market shares; the Notifying Party's response to RFI 8, dated 29 February 2024.
Notes: In cases where the players' market shares do not sum up to 100%, this is due to rounding approximations.

108 The market shares in terms of volume do not differ materially from value market shares.
109 The Notifying Party submits that the market shares on the overall E-PVC market present a reasonable proxy also for shares on any potential segmentation.

6.3.1.2. The agreement with Kem One

(119) On 1 February 2024, Ineos and Kem One executed an agreement which defines key principles that will govern the commercial relationship between Ineos and Kem One at the Lavéra site post-Transaction (the **"Agreement"**), as well as two ancillary agreements to be executed upon closing of the Transaction.[110] The key terms of the Agreement are as follows:[111]

(a) [summary of contractual clause][112] [summary of contractual clause].

Figure 1: [Illustration in connection with contractual clauses]

Source: Form CO

(b) *Ethylene supply*: Ineos undertakes to honour the existing ethylene supply agreement between Kem One and TotalEnergies (that will be transferred to Ineos post-Transaction) for its remaining duration until [date] (the **"Supply Agreement"**). The Supply Agreement will be amended to [summary of amendments to supply agreement].

(c) [summary of contractual clauses related to confidentiality and information sharing].

6.3.1.3. The Notifying Party's view

(120) The Notifying Party submits that there is no prospect of Ineos post-Transaction employing a foreclosure strategy against Kem One, for the following reasons:[113]

(a) Ineos post-Transaction will not have the ability to foreclose Kem One's ethylene input at Lavéra as Kem One will have viable alternative supply options for all or the vast majority of its Lavéra ethylene demand. […]. In addition, Kem One could also employ other strategies to defeat an input foreclosure strategy by e.g. (i) increasing the VCM production at its other facilities which are not dependent on Ineos; (ii) reducing any VCM sales that Kem One currently makes on the merchant market; (iii) purchasing some volumes of VCM on the merchant market; (iv) importing ethylene dichloride ("EDC") into Lavéra, which would substantially decrease the ethylene requirements at Lavéra; and/or (v) finalising all the necessary steps to enable Lavéra to be supplied from imports from Fos.

(b) Ineos post-Transaction would also have no incentive to foreclose Kem One as […]. Post-Transaction, Ineos will have a strong incentive to continue the supply of ethylene to Kem One […][114] […]. Ineos considers that any attempt to foreclose Kem One would render Ineos' operations across the Lavéra site […]. The Notifying Party also submits a detailed economic analysis demonstrating that the losses resulting from a foreclosure strategy would necessarily exceed the gains from additional PVC profits, under a range of assumptions and scenarios.[115]

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110 The Agreement is governed by French law.

111 Other terms of the Agreement include: (i) [summary of contractual clause]; (ii) [summary of contractual clause]; and (iii) [summary of contractual clause].

112 [summary of contractual clause].

113 Form CO, paragraphs 6.180 ff. There is no prospect of foreclosure against any other PVC competitors, as Kem One is the only one that purchases ethylene from the Target.

114 Trimming the cracker means reducing its output.

115 Form CO, Annex 13 - CRA Report on Vertical Analysis.

(121) The Notifying Party also submits that there is no prospect of customer foreclosure of ethylene competitors on the Pipeline Network, given that […].[116]

6.3.1.4. The Commission's assessment of input foreclosure

(122) Kem One is currently Ineos' only PVC competitor located on the Pipeline Network and which purchases ethylene from the Target. Kem One uses ethylene to manufacture VCM, which is shipped to other Kem One plants in Europe to manufacture both S-PVC and E-PVC.

(123) Taking into account the market investigation results and other available evidence, the Commission considers that the Transaction does not raise serious doubts as to its compatibility with the internal market in relation to input foreclosure because Ineos post-Transaction will not have the ability or the incentive to foreclose Kem One and a foreclosure strategy would not have a significant detrimental effect on the relevant downstream markets.[117]

6.3.1.4.1. Ability

(124) The Commission concludes that Ineos post-Transaction will not have the ability to engage in input foreclosure on the Pipeline Network for the following reasons.

(125) First, following the completion of the Transaction and the Agreement coming into effect, […].[118] […]. The Commission's investigation did not reveal any indication that these would not be viable alternatives for Kem One.

(126) […], Kem One could therefore fulfil its entire ethylene demand at Lavéra through sources alternative to Ineos, that is through a combination of […].

(127) […]. In view of that, Ineos post-Transaction will not have the ability to foreclose Kem One's access to ethylene in the short term […].

(128) Third, the above is confirmed by Kem One, which is confident that, because of the Agreement, *"...post-Transaction it will continue to have access to ethylene under competitive conditions..."* and which has expressed neutral views with respect to the Transaction.[119]

(129) Fourth, given Kem One's ability to access sufficient ethylene volumes from alternative sources, Kem One is unlikely to lose any material PVC sales. In addition, Kem One could deploy additional strategies to mitigate any potential losses of PVC profits, such as for example foregoing sales of PVC types with the lowest margins (see also paragraph 139 below) or trying to increase VCM production at its other sites.

6.3.1.4.2. Incentive

(130) The Commission concludes that Ineos post-Transaction is not likely to have the incentive to engage in input foreclosure of Kem One on the Pipeline Network for the following reasons.

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116 The Notifying Party's response to RFI7, dated 20 February 2024.

117 Potential input foreclosure of ethylene at the EEA level is not further discussed due to the Parties' combined market shares not giving rise to an affected EEA-wide ethylene market.

118 Minutes of the call with Kem One, dated 23 January 2024.

119 Minutes of the call with Kem One, dated 23 January 2024.

(131) First, any attempt by the Merged Entity to engage in input foreclosure of Kem One will result in significant losses. Kem One is currently one of Naphtachimie's largest customers located at the Lavéra site,[120] over the last three years consuming on average […] kT of ethylene annually. The alternative outlets for ethylene produced at Naphtachimie are limited. In particular:[121] (i) […], (ii) the scope for incremental sales on the Pipeline Network are limited as […]; and (iii) […].

(132) Second, [summary of reasons why the Commission assesses INEOS would not be incentivised to pursue a foreclosure strategy].[122]

(133) Third, the above-mentioned losses would unlikely be covered by any gains downstream. Given Kem One's ability to access sufficient ethylene volumes from alternative sources (see Section 6.3.1.4.1. above), Kem One is unlikely to lose any material PVC sales and in turn Ineos is unlikely to gain any material PVC sales.

(134) In view of the above, Ineos post-Transaction is unlikely to have the incentive to engage in input foreclosure as the gains from an input foreclosure strategy are unlikely to outweigh its losses.

6.3.1.4.3. Impact

(135) The Commission concludes that any efforts to foreclose Kem One on the Pipeline Network are unlikely to have an impact on effective competition on the potential markets for commodity S-PVC, speciality S-PVC, extender S-PVC and E-PVC (and plausible segments for micro-suspension PVC and other types of E-PVC, and paste E-PVC and speciality E-PVC) for the following reasons.

(136) First, given that Ineos post-Transaction would not have the ability and the incentive to foreclose Kem One, no assessment of impact on the plausible markets for commodity, speciality and extender S-PVC and E-PVC market (and its plausible segments) is necessary.

(137) Second, even if Ineos had the ability and the incentive, the impact of any foreclosure strategy on the relevant markets in the EEA would be limited due to the Ineos' lack of ability to target foreclosure to an individual PVC type. That is because, even in absence of receiving ethylene from the Naphtachimie cracker, Kem One would continue having access to substantial volumes of VCM that it could easily transport between its various PVC plants to prioritise the supply of more profitable PVC types. In case of a shortage of ethylene and/or VCM Kem One would most likely mainly forego exports of both S-PVC and E-PVC (as opposed to sales in the EEA) and sales of S-PVC as opposed to sales of E-PVC where Kem One's position is relatively stronger, see Table 5 above.

(138) Third, any impact on the relevant downstream markets would be limited due to Kem One's limited market positions on the relevant markets. Specifically, Kem One's market shares in E-PVC and commodity S-PVC are moderate and at most [10-20]%, in speciality S-PVC they are minimal at below [0-5]%, and in extender S-PVC Kem One is not active. In addition, a number of strong alternative players (e.g. Vynova, Vinnolit, Shinetsu) would in any case remain active on those markets.

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120 Volumes are also generally transferred to the north on the Pipeline Network to Feyzin/Viriat.

121 Form CO, Annex 13 – CRA Report on Vertical Analysis.

122 The Notifying Party's response to RFI 3, dated 22 February 2023.

(139) Fourth, the majority of Ineos' competitors in the plausible markets for PVC in the EEA that responded to the market investigation indicate that they currently have spare capacity or would be able to increase the capacity of S-PVC and E-PVC.[123] The competitors' ability to expand their PVC production in the EEA would therefore further limit any impact that a potential foreclosure would have on the relevant downstream markets, as the remaining competitors would continue constituting a sufficient constraint on Ineos post-Transaction.

(140) Finally, the majority of the responding market participants consider that the Transaction will have a neutral impact on the plausible markets for commodity, speciality and extender S-PVC and E-PVC market (and plausible segments for microsuspension PVC and other types of E-PVC, and paste E-PVC and speciality E-PVC), under all plausible geographic market conditions.[124]

(141) In view of the above, the Commission finds that any potential input foreclosure is unlikely to have any significant detrimental effect on competition on the relevant downstream markets.

6.3.1.5. The Commission's assessment of customer foreclosure

(142) The Transaction is unlikely to change Ineos' ability and incentives to engage in customer foreclosure of ethylene competitors in the EEA as the incremental purchasing share of the Target on the EEA-wide ethylene market is minimal at [0-5]%.

(143) Moreover, Ineos post-Transaction will not have the ability to engage in customer foreclosure of ethylene competitors in the EEA, as Ineos' overall purchasing share of ethylene in the EEA is limited to [30-40]%.[125] Therefore, a sufficient customer base will remain available for Ineos' ethylene competitors, which includes Ineos' competitors in the downstream markets for PVC (see Table 5 above) as well as additional other ethylene customers active in a number of other markets downstream of ethylene.[126]

(144) Similarly, Ineos post-Transaction will not have the ability to engage in customer foreclosure of ethylene competitors on the Pipeline Network because Ineos does not constitute an important customer of any of its ethylene competitors on the Pipeline Network. […].[127]

(145) Moreover, virtually all responding ethylene producers confirm that post-Transaction a sufficient customer base will remain available to ethylene suppliers in the EEA.[128] Similarly, no ethylene producer located on the Pipeline Network has expressed any concerns in this respect.[129]

123 Responses to Questionnaire 3 – PVC competitors, Question E.3.
124 Responses to Questionnaire 3 – PVC competitors, Question F.2.
125 Form CO, Annex 7.6.
126 Ehtylene is a basic chemical product used widely in the chemical industry, for example as a feedstock in the production of different types of polymers and industrial chemicals.
127 The Notifying Party's response to RFI7, dated 20 February 2024.
128 Responses to Questionnaire 1 – Butadiene, ethylene and propylene competitors, Question D.C.2.
129 Minutes of the call with market participants, dated 6 September 2023 and 20 February 2024.

6.3.1.6. Conclusion

(146) In view of the above, the Commission considers that the Transaction does not raise serious doubts as to its compatibility with the internal market as a result of the vertical relationship between the Merged Entity's activities in the market for the supply of ethylene in the EEA and on the Pipeline Network (upstream), and markets for commodity, speciality and extender S-PVC and E-PVC market (and plausible segments for microsuspension PVC and other types of E-PVC, and paste E-PVC and speciality E-PVC) under all plausible geographic market definitions (downstream).

6.3.2. Ethylene (upstream) – Ethylene oxide (downstream)

(147) The Transaction gives rise to a vertically affected market between the Parties' upstream ethylene production activities as described above in Section 6.2.1. and Ineos' downstream ethylene oxide ("**EO**") production activities in which it has a market share exceeding 30% in the EEA.[130]

(148) At the level of the Pipeline Network, the vertical relationship does not give rise to risk of input foreclosure given that Ineos is the only EO producer.[131]

(149) As, prior to the Transaction Ineos' EO unit at Lavéra is supplied internally (apart from volumes purchased from the Target), the Transaction can also not give rise to customer foreclosure.[132]

(150) Therefore, potential input and customer foreclosure at the level of the Pipeline Network are not addressed further in this decision.

(151) At the EEA-level, the Commission considers that input foreclosure is implausible considering that the Parties' combined EEA market share for ethylene based on capacity is only [10-20]% (with an increment of [0-5]%). Therefore, potential input foreclosure at the EEA-level is also not addressed further in this decision.

(152) However, as the Parties' combined ethylene purchasing share at the EEA-level exceeds 30% (namely [30-40]% by volume, with an increment of [0-5]%), potential customer foreclosure at the EEA-level is assessed below.

6.3.2.1. The Notifying Party's view

(153) The Notifying Party submits that the Transaction will not result in any risk of customer foreclosure in light of the following considerations: (i) as a vertically integrated player Ineos generally relies on internal production upstream to supply relevant inputs to downstream products (for example, Ineos estimates that [60-70]% of its EO production uses captive ethylene); (ii) the increment brought by the acquisition of the Target in production capacity is negligible; and (iii) pre-Transaction Ineos' EO unit at Lavéra does not purchase any volumes of ethylene from the other crackers on the Pipeline Network (either LBI (Berre) or

130 In addition to Lavéra, Ineos is producing EO at Zwijndrecht (Belgium) and Cologne (Germany). At the EEA-level Ineos' market share is [30-40]% based on sales by both value and by volume and [30-40]% based on capacity. These shares do not significantly vary when considering the potential segmentation between on-site and off-site EO.

131 Form CO, paragraph 6.232.

132 From CO, paragraphs 6.234 and 6.241.

TotalEnergies (share of Feyzin)), and therefore there is no opportunity for Ineos to divert ethylene purchases away from these players post-Transaction.[133]

6.3.2.2. The Commission's assessment of customer foreclosure

(154) The Commission takes note of the fact that the customer base for ethylene suppliers is broader than only EO producers as ethylene is used as the input for several derivatives. Considering the Parties' combined ethylene purchasing share ([30-40]% at the EEA-level), the high level of vertical integration on the market and the fact that the increment in ethylene production capacity brought about by the Transaction at the EEA-level is negligible ([0-5]%), the Commission does not consider that the Transaction would lead to Ineos having the ability nor incentive to engage in customer foreclosure.

(155) This was also confirmed by the market investigation as a large majority of ethylene suppliers indicated that post-Transaction a sufficient customer base would remain available for them.[134]

(156) In light of the above, the Commission considers that the Transaction does not raise serious doubts as to its compatibility with the internal market as a result of the vertical relationship between the Parties' activities in ethylene production and those of Ineos' in EO production.

6.3.3. Propylene (upstream) – ACN (downstream)

(157) The Transaction gives rise to a vertically affected market between the Parties' upstream propylene production as described above at Section 6.2.2 and Ineos' downstream ACN production in the EEA in which it has a market share exceeding 30%.[135]

(158) As regards potential input foreclosure, the propylene grades used for the production of ACN are chemical grade and refinery grade propylene, in which the Parties' combined market shares based on capacity at EEA-level are respectively [20-30]% (with an increment of [0-5]%) and [0-5]% (with [0-5]% increment) and at a Western-European level respectively [20-30]% (with an increment of [0-5]%) and [0-5]% (with [0-5]% increment).[136] Considering that the Parties' market shares based on capacity in the relevant upstream markets are well below 30%, the Commission considers the risk of input foreclosure to be unlikely. Furthermore, the Commission notes that based on the market investigation it seems highly unlikely that AnQore, the only other producer of ACN in the EEA, will be dependent on propylene supplies from Ineos, as submitted by the Notifying Party, [137] considering it procures its propylene for its EEA ACN facilities from five other suppliers.[138] Therefore, the Commission considers the risk of input foreclosure to be unlikely and does not further address it in this decision.

133 Form CO, paragraphs 6.225, 6.234 and 6.241.

134 Responses to Questionnaire 1 – butadiene, ethylene and propylene competitors, Question D.C.2.

135 Ineos' ACN market share in the EEA-wide market is [20-30]% based on sales by both value and by volume and [50-60]% based on capacity.

136 The Parties' combined market shares based on sales for the chemical grade propylene are [30-40]% in the EEA and [30-40]% in Western-Europe. Neither of the Parties has any merchant market sales in refinery grade propylene in the EEA.

137 Form CO, paragraph 6.257.

138 Responses to question C.C.1-1 of the Questionnaire to Propylene Customers.

(159) As to customer foreclosure, the Parties' combined propylene purchasing share for the chemical grade propylene is below 20% both in the EEA and in Western Europe (namely [10-20]% in the EEA and [10-20]% in Western Europe). Neither Ineos nor the Target is purchasing refinery grade propylene within the EEA.[139] Further, the increment arising from the Transaction in terms of chemical grade propylene production capacities is limited ([0-5]%). The market investigation has further confirmed that suppliers of chemical grade propylene will have a sufficient customer base should Ineos stop purchasing its propylene from them.[140] Therefore, the Commission considers the risk of customer foreclosure to be unlikely and does not further address this in this decision.

(160) In light of the above, the Commission considers that the Transaction does not raise serious doubts as to its compatibility with the internal market as a result of the vertical relationship between the Parties' activities in propylene production and those of Ineos in ACN production.

7. CONCLUSION

(161) For the above reasons, the European Commission has decided not to oppose the notified concentration 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
Executive Vice-President

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139 Also, the Parties' overall purchasing share for propylene is below 20% both in the EEA ([10-20]%) and in Western Europe ([10-20]%).

140 Responses to Questionnaire 1 – butadiene, ethylene and propylene competitors, Question E.C.2.