

CEMEX UK

RESPONSE TO ISSUES FOR COMMENT IN CC NOTICE ON REMEDIES

1 INTRODUCTION

- 1.1 This response sets out CEMEX's views on the CC's 'Issues for Comment' in relation to each of remedies C1 to C6, set out in the Notice on Remedies (the "Remedies Notice") published on 20 May 2013.
- 1.2 CEMEX notes that its views on the Issues for Comment are only relevant to the extent that the CC decides, notwithstanding CEMEX's view that no remedies are necessary, that it is appropriate to impose the particular remedy option commented on. Further, CEMEX's submissions in this response are without prejudice to the submissions made in its response to the Remedies Notice submitted on 12 June 2013 (the "Remedies Response") and, in particular its submissions that:
- (a) if the CC maintains that a remedy is necessary, Measure 1 set out in paragraphs 4.13 to 4.30 of Section 4 of the Remedies Response is adequate, by itself, to remedy the AEC identified by the CC (this is the CC's proposed Remedy C5);
 - (b) to the extent that the CC does not accept that Measure 1 is, by itself, adequate to remedy the AEC identified, Measure 1, combined with any of Measure 2 - 5 set out in paragraphs 4.31 to 4.70 of Section 4 of the Remedies Response, is adequate to address the AEC identified;
 - (c) the CC's proposed Remedy C1 would not be effective in addressing the AEC identified, nor would it be a proportionate remedy. Further, if applied to CEMEX, Remedy C1 would be particularly ineffective and disproportionate (see further Section 5 of the Remedies Response);
 - (d) the CC's proposed Remedy C2 would not be effective in addressing the AEC identified, nor would it be a proportionate remedy. Further, if applied to CEMEX, Remedy C2 would be particularly ineffective and disproportionate (see further Section 5 of the Remedies Response); and
 - (e) if the CC does not accept that Measure 1, set out in the Remedies Response, would, by itself, be sufficient to address the AEC identified, subject to certain modifications necessary to maintain a free and competitive market, CEMEX considers that the CC's proposed Remedy C3 would be an effective and proportionate measure, which would contribute to addressing the AEC identified (see Section 4, paragraphs 4.53 to 4.60, of the Remedies Response). Further, if the CC does not accept that Measure 1, set out by CEMEX in the Remedies Response, would, by itself, be sufficient to address the AEC identified, CEMEX considers that the CC's proposed Remedies C4, C5 or C6 would be effective and proportionate measures, which would contribute to addressing the AEC identified (see Section 4, paragraphs 4.31 to 4.48, of the Remedies Response).

1.3 CEMEX also wishes to note that the submissions in this response are without prejudice to its right to appeal any, or all, of the CC's Final Report.

2 ISSUES FOR COMMENT ON REMEDY C1 - DIVESTITURE OF CEMENT PRODUCTION CAPACITY BY ONE OR MORE OF THE TOP 3 CEMENT PRODUCERS

2.1 CEMEX reiterates that, in its view, Remedy C1 would not be effective and is disproportionate to address the AEC identified (see further Section 5, paragraphs 5.2 to 5.25, of the Remedies Response). The following comments are only relevant if the CC, notwithstanding CEMEX's strong objections, chooses to impose Remedy C1.

2.2 ***A. How many new independent cement producers would it be necessary to create through divestiture in order to achieve an effective remedy?***

2.3 CEMEX has provided the CC with a significant amount of evidence to indicate that HCM has greatly disrupted the market and contributed to a reduction in cement prices. On this basis, CEMEX believes that, to the extent there was any coordination in the GB cement market, this has been fully undermined by the entry of HCM. However, to the extent that the CC maintains that further independent cement producers are necessary to undermine the alleged coordination, it is CEMEX's view that only one further cement producer, with adequate capacity to serve the external market, is necessary achieve an effective remedy.

2.4 ***B. Should this remedy involve divestiture of cement production capacity from Lafarge Tarmac only, or should divestitures from Cemex and/or Hanson also be considered?***

2.5 Please refer to paragraphs 5.6 to 5.25 of the Remedies Response, which set out the reasons for which the imposition of a cement divestiture remedy of CEMEX would be particularly ineffective and disproportionate. CEMEX is unable to comment on whether a divestiture of cement production capacity from Hanson or Lafarge should be considered.

2.6 ***C. Should this remedy only focus on divestiture of current production capacity, or should divestiture of latent production capacity also be considered? What weight should be placed on latent production capacity when considering the extent of divestitures that is necessary?***

2.7 As set out in paragraph 5.12 of the Remedies Response, CEMEX does not consider that the [X]. CEMEX assumes that [X].

2.8 Further, given the [X], and the requirement for the CC to address the AEC swiftly, CEMEX considers that latent production capacity should be disregarded in assessing the extent of divestiture necessary.

2.9 ***D. What selection criteria should be used when identifying a suitable divestiture package? For each of Lafarge Tarmac, Hanson and Cemex, which cement plant(s) and/or latent production capacity are most likely to form the basis of an effective divestiture package?***

2.10 For the reasons set out in paragraphs 5.6 to 5.25 of the Remedies Response, the imposition of a remedy requiring CEMEX to divest any cement production capacity would be particularly

ineffective and disproportionate. CEMEX is unable to comment on the specific plants of Lafarge Tarmac or Hanson which are most likely to form the basis of an effective divestiture package. However, CEMEX considers that in order to constitute an effective remedy, the divested cement plant should, at a minimum, have the following features:

- (a) it should have adequate capacity to compete and take advantage of economies of scale. CEMEX considers that such a plant should have capacity of at least 1.2 MT;
- (b) ideally it should be rail linked;
- (c) it should be situated close to its quarry site and security of supply should be ensured; and
- (d) it should follow a fully dry process of cement production (as opposed to a semi-dry or a semi-wet process). As explained in the Remedies Response both a semi-dry and a semi-wet process of cement production are more energy intensive and rely on old technology which results in increased costs for a cement producer.

2.11 ***E. What other operations would need to be included in a divestiture package alongside any cement plant in order for the purchaser to be able to compete independently—for example, would it be necessary to include rail-linked depots or a cluster of RMX plants, and if the latter, how many?***

2.12 To the extent that the CC maintains that there is coordination in the GB cement market, it is CEMEX's view that this can be best addressed by a cement producer, with a large capacity to serve the external market. Therefore CEMEX does not believe that a cluster of RMX plants is necessary for the remedy to be effective and this may reduce the effectiveness of the remedy. It would, however, make the remedy more effective if rail-linked depots were divested.

2.13 ***F. What criteria should be applied to the consideration of purchaser suitability? For example, would acquisition of divested capacity by Aggregate Industries, Hope Construction Materials or a current importer of cement be effective in remedying this aspect of the AEC?***

2.14 CEMEX considers that it would serve as an advantage for an acquirer of a cement plant to have previous experience of operating in the GB cement (or closely related) markets. Accordingly, CEMEX sees no reason why [§<] would not be a suitable purchaser of divested cement capacity.

2.15 ***G. What safeguards should be put in place to ensure a timely disposal and an effective divestiture process, in particular:***

(i) What timescale should be allowed for the implementation of any divestiture the CC may require?

2.16 CEMEX reiterates that it does not believe that a cement divestiture is necessary to remedy the AEC identified. However, to the extent that the CC maintains that divestiture of a cement plant is necessary, CEMEX believes that, in line with its Guidance, the CC should allow at least 6 - 10

months to agree final undertakings, given the likely lack of suitable purchasers in the market for cement assets, and a further 12 months to complete divestiture of the cement capacity.

(ii) What arrangements should be put in place for holding separate the operations to be divested from those that will be retained and for monitoring any such provisions?

2.17 In accordance with its Guidance, it would be appropriate for the CC to seek undertakings from the relevant parties, which impose a general duty to maintain the divestiture package in good order and not to undermine the competitive position of the package. Given the [3<]. It is therefore not appropriate to require hold separate undertakings from the divesting party.

(iii) Under what circumstances should the CC appoint a divestiture trustee?

2.18 In accordance with the CC's Guidance, if the divesting parties cannot procure divestiture to a suitable purchaser within the initial divestiture period, a divestiture trustee may be appointed, unless it is appropriate to extend the divestiture period. However, given the high value of cement assets, it is important that the CC provides the divesting party with adequate time (with extensions to the initial divestiture period if necessary) to be able to sell the asset at full market value.

2.19 ***H. What costs and benefits would arise as a result of this remedy?***

2.20 CEMEX considers that the imposition of this remedy will be ineffective and is extremely disproportionate and, if applied to CEMEX, will lead to a reduction in competition in the GB cement market. Please refer to paragraphs 5.6 to 5.25 of the Remedies Response.

2.21 ***I. Whether there are any other relevant considerations to be taken into account in evaluating and implementing this remedy.***

2.22 The CC should be aware that the package of proposed remedies set out by CEMEX in Section 4 of the Remedies response is a much more proportionate package of remedies, which will fully address the AEC alleged by the CC. The CC is required to consider and justify why an intrusive and irreversible remedy such as cement divestiture is appropriate when a less onerous package of remedies will address the AEC identified.

2.23 In addition, CEMEX notes that, given the likelihood of appeals, it is unlikely that the CC will be able to implement a divestiture remedy in a short timescale and this is a relevant consideration to be taken into account when assessing the appropriateness of a divestiture remedy against the (easily implementable) effective and proportionate package of remedies proposed by CEMEX.

3 ISSUES FOR COMMENT ON REMEDY C2 - DIVESTITURE OF RMX PLANTS BY ONE OR MORE OF THE TOP 3 CEMENT PRODUCERS

3.1 CEMEX reiterates that, in its view, Remedy C2 would not be effective and is disproportionate to address the AEC identified (see Section 5, paragraphs 5.26 to 5.45, of the Remedies Response). The following comments are only relevant if the CC, notwithstanding CEMEX's strong objections, chooses to impose Remedy C2.

- 3.2 ***A. How should the extent of any divestitures required by each of the Top 3 cement producers be determined? For example, should we use a target VI ratio or some other methodology?***
- 3.3 CEMEX believes that a RMX remedy is neither necessary nor proportionate. However, to the extent that the CC considers a RMX remedy necessary, CEMEX considers that a remedy implementing a mechanism for mandatory competitive tendering for a specified quantity of cement for the all the vertically integrated producers' RMX plants (including HCM's RMX plants) would be more proportionate than a RMX divestiture.
- 3.4 CEMEX considers that, if implemented, this remedy should be implemented only for a period of up to 3 years. This would go some way towards achieving the CC's aims of increasing the size of the addressable market and encourage entry, while providing a new cement entrant with sufficient time to establish a reputation and/or set up its own RMX network.
- 3.5 If the CC maintains that an RMX divestiture is proportionate, CEMEX believes that any RMX divestiture should take full account of the impact of such divestitures on the divesting party. This is particularly so as it is likely that the [§<].
- 3.6 [§<].
- 3.7 CEMEX therefore believes that, to the extent the CC maintains that a RMX divestiture is proportionate, a target VI ratio could be adopted, but this cannot be applied in an indiscriminate manner, which would result in the loss of GB producers' profitable RMX plants.
- 3.8 ***How should any target VI ratio be calculated? For example, which year should be used as a baseline and should the same target VI ratio apply to all of the Top 3 cement producers or a different target VI ratio for each?***
- 3.9 As mentioned above, CEMEX considers that a remedy implementing a mechanism for mandatory competitive tendering for a specified quantity of cement for the major's RMX plants is more proportionate than a RMX divestiture. CEMEX would therefore wish to discuss further with the CC at the hearing the mechanism for implementing such a remedy rather than the mechanism for calculating a target VI ratio.
- 3.10 To the extent that the CC maintains that a RMX divestiture is proportionate, CEMEX considers that, in the interests of equity, it would not be appropriate to indiscriminately apply the same VI ratio to all of the Top 3 cement producers, without taking account of the impact the divestments would have on each producer's overall profitability.
- 3.11 ***C. What criteria should be applied to the consideration of purchaser suitability? For example, would the purchaser of any cement plant divested under remedy C1 be a suitable purchaser for any RMX plants to be divested under this remedy?***
- 3.12 CEMEX does not consider that it is necessary to obtain a cluster of RMX plants in order to be a competitor which will effectively undermine the alleged coordination in the GB cement market. However, to the extent that the CC maintains that it is proportionate and effective to divest RMX

plants, CEMEX sees no reason why the purchaser of divested cement capacity under C1 would not be a suitable purchaser of divested cement capacity.

3.13 ***D. Should there be a restriction on the Top 3 cement producers acquiring RMX plants following implementation of this remedy and if so for how long?***

3.14 CEMEX believes that there should be no restriction on the Top 3 cement producers acquiring new RMX capacity. Any such restriction would severely constrain the Top 3 producers' freedom to contract and may lead to (1) a reduction in RMX capacity in the market; and (2) an artificial drop in the value of all RMX assets (which would, in turn, reduce the price at which the divesting party will be able to sell its RMX assets).

3.15 ***E. What safeguards should be put in place to ensure a timely disposal and an effective divestiture process, in particular:***

(i) What timescale should be allowed for the implementation of any divestiture the CC may require?

3.16 CEMEX reiterates that it does not believe that a RMX divestiture is necessary to remedy the AEC identified. However, to the extent that the CC maintains that a RMX divestiture is necessary, CEMEX believes that, in line with its Guidance, the CC should allow at least 6 - 10 months to agree final undertakings, given the lack of suitable purchasers in the market for cement assets, and a further 12 months to complete divestiture of the cement capacity.

(ii) What approach should be taken to the sequencing of this remedy and remedy C1, should both be required? For example, should the divestiture of any cement plant precede any RMX plant divestitures, or vice versa?

3.17 CEMEX considers that the answer to this question depends on the design of the remedy package (i.e. how many cement plants are to be divested, which company(ies) will have to divest them, how many RMX plants are to be divested, which company(ies) will have to divest them etc.). In particular, [§].

(iii) What arrangements should be put in place for holding separate the operations to be divested from those that will be retained and for monitoring any such provisions?

3.18 In accordance with its Guidance, it would be appropriate for the CC to seek undertakings from the relevant parties which impose a general duty to maintain the divestiture package in good order and not to undermine the competitive position of the package. CEMEX does not consider it appropriate to require hold separate undertakings from the divesting party. In particular, CEMEX considers that the imposition of hold separate undertakings on CEMEX would be disproportionate as it would [§].

(iv) Under what circumstances should the CC appoint a divestiture trustee?

3.19 In accordance with the CC's Guidance, if the divesting parties cannot procure divestiture to a suitable purchaser within the initial divestiture period, a divestiture trustee may be appointed, unless it is appropriate to extend the divestiture period. However, it is important that the CC

provides the divesting party with adequate time (with extensions to the initial divestiture period if necessary) to be able to sell the asset at full market value.

3.20 ***F. What costs and benefits would arise as a result of this remedy?***

3.21 CEMEX has explained in detail in paragraphs 5.26 to 5.45 of the Remedies Response that the divestiture of RMX plants will not be effective in achieving any of the CC's stated goals in considering this remedy. Section 4 of the Remedies Response demonstrates that there are more effective, less onerous means of achieving these objectives.

3.22 ***G. Whether there are any other relevant considerations to be taken into account in evaluating and implementing this remedy.***

3.23 The CC should be aware that the package of proposed remedies set out by CEMEX in Section 4 of the Remedies response is a much more proportionate package of remedies, which will fully address the AEC alleged by the CC. The CC is required to consider and justify why an intrusive and irreversible remedy such as RMX divestiture is appropriate when a less onerous package of remedies will address the AEC identified.

4 ISSUES FOR COMMENT ON REMEDY C3 - THE CREATION OF CEMENT BUYING GROUPS

4.1 CEMEX notes that Remedy C3 is equivalent to Measure 5 set out in paragraphs 4.53 to 4.60 in Section 4 of the Remedies Response. Subject to certain modifications necessary to prevent distorting the market (further explained below), and to the extent that the CC considers that Measure 1, in itself, would not be adequate to remedy the AEC identified, CEMEX considers that Remedy C3 is an effective and proportionate measure, which would contribute towards addressing the AEC identified.

4.2 ***A. Would the creation of one or more CBGs be effective in increasing the ability of cement purchasers to exert competitive pressure on GB cement producers? Are there other measures we could pursue that would be as effective in achieving this aim?***

4.3 As set out in paragraphs 4.53 to 4.60 of the Remedies Response, CEMEX considers that this remedy would be effective in creating countervailing buyer power and increases the incentives to deviate from any alleged coordinated agreement.

4.4 In relation to other measures the CC could pursue to achieve this objective, CEMEX considers that Measure 1 set out in Section 4 of the Remedies Response will undermine the alleged coordination such that there will be no requirement to create buyer power.

4.5 ***B. What are the relative merits of establishing a single CBG covering the whole of GB or separate regional CBGs?***

4.6 Demand for cement is primarily on a regional basis. Regional CBG's would therefore meet the needs of customers better.

4.7 ***C. What responsibilities and/or powers should be given to a CBG in order to enable it to be effective in exerting competitive pressure on GB cement producers?***

- 4.8 CEMEX considers that the responsibilities proposed by the CC in its Remedies Notice (paragraphs 68(a) – (f)) would be effective in exerting competitive pressure on GB cement producers. CEMEX would emphasize, however, that contracts, and the terms of any such contracts, should be freely negotiated between a supplier and any CBG's established. In particular the supplier should be able to take full account of whether a potential customer is credit worthy and be free to refuse to supply to a customer if terms cannot be agreed.
- 4.9 ***D. What considerations should govern CBG membership? For example:***
- (i) Should CBG membership be restricted to independent concrete producers, or should it be expanded to include other types of cement customers, e.g. intermediaries such as independent builders' merchants?***
- 4.10 CEMEX considers that membership of the CBG should be open to all independent cement purchasers including intermediaries and builders' merchants.
- (ii) Should membership of a CBG be mandatory for independent concrete producers whose cement purchases exceed a certain threshold? If so, how might such a threshold be determined?***
- 4.11 Membership of a CBG should not be mandatory for independent concrete producers whose cement purchases exceed a certain threshold. They should be free to join any CBG as they see fit. It would be disproportionate to impose any such obligation on third parties to the current investigation. If, notwithstanding this, the CC insisted on mandatory membership, it would be necessary to protect cement purchasers' (and sellers') freedom to contract and therefore each member of the CBG should be free to negotiate prices outside the CBG.
- (iii) What other measures might promote membership participation?***
- 4.12 No comment.
- 4.13 ***E. What should be the relationship between any CBG and its members? For example, should CBG members also be able to negotiate prices bilaterally with GB cement producers?***
- 4.14 CEMEX strongly objects to any requirement which prohibits CBG members from negotiating prices bilaterally. Such a requirement would restrict the freedom of contract of both cement purchasers and sellers and would be grossly disproportionate and market distorting.
- 4.15 ***F. What enforcement options should be available to a CBG, e.g. if a cement supplier (i.e. a GB cement producer or importer) reneges on a negotiated price?***
- 4.16 CEMEX considers that a CBG can enforce its rights using the normal contractual rules and the same should apply to a cement producer enforcing its rights against a CBG which reneges on a negotiated price (which is more likely).
- 4.17 ***G. What costs and benefits would arise as a result of this remedy?***

- 4.18 Please refer to paragraphs 4.53 to 4.60 and 5.46 to 5.51 of the Remedies Response. As stated above, CEMEX considers that this remedy would not only increase countervailing buyer power but would also increase the incentives to deviate from any alleged coordinated agreement.
- 4.19 ***H. Whether there are any other relevant considerations to be taken into account in evaluating and implementing this remedy.***
- 4.20 First, the CC's proposal that there be a requirement to sell a specific proportion of cement to CBGs is disproportionate and interferes with GB cement producers' freedom to contract. The imposition of such a condition would result in [§]. CEMEX therefore considers that the CC would be in breach of its duty of proportionality if it were to require GB cement producers to sell a proportion of their cement to CBGs.
- 4.21 Secondly, although the Remedies Notice does not suggest this in any way, CEMEX wishes to clarify, for the avoidance of doubt, that it opposes any requirement for CEMEX, or any other GB cement producer, to be required to administer or pay for the CBG(s).
- 4.22 Finally, CEMEX considers that Measure 1 set out in Section 4 of the Remedies response adequately addressed the AEC identified and therefore Remedy C3 should be imposed only if the CC considers that Measure 1 does not, by itself, constitute an effective remedy.

5 ISSUES FOR COMMENT ON REMEDY C4 - PROHIBITION OF GB CEMENT PRODUCERS SENDING GENERALIZED CEMENT PRICE ANNOUNCEMENT LETTERS

- 5.1 CEMEX notes that Remedy C4 is equivalent to Measure 3 set out in the Remedies Response. To the extent that the CC considers that Measure 1, in itself, would not be adequate to remedy the AEC identified, CEMEX considers that Remedy C4 is an effective and proportionate measure, which would contribute towards addressing the AEC identified (see further paragraphs 4.39 to 4.48 in Section 4 of the Remedies Response).
- 5.2 ***A. What should be the scope of this remedy option? In particular, should the prohibition apply to all GB cement producers and to all cementitious materials?***
- 5.3 The CC's concerns relate to transparency of pricing information in the cement market and not to other markets. Hence there is no reason to restrict price announcements in markets other than bulk and bagged cement.
- 5.4 If the CC's concerns regarding price announcement letters are correct, in order for there to be an effective remedy (and in the interests of equity) CEMEX considers that this prohibition should apply to all GB cement producers. In addition, CEMEX considers that the restriction should apply to all GB producers (including HCM) and importers into GB in the interests of equity.
- 5.5 ***B. Under what circumstances could customer-specific cement price announcement letters serve a useful purpose to customers without giving rise to AECs?***
- 5.6 CEMEX understands that the CC's concerns arise only from generalized price announcement letters and not individualized price letters to specific customers. CEMEX notes that sending price

letters to customers allow for the commencement of price negotiations and a blanket prohibition on sending individualized price letters to customers would be disproportionate and create transaction costs for both cement producers and customers. CEMEX therefore considers that there should be no prohibition on sending individualized price letters to customers, which contain a new customer-specific price rather than a percentage increase.

5.7 ***C. Should this remedy seek to develop a template that could be used for customer-specific price announcement letters, or simply specify what forms of communication are to be prohibited?***

5.8 CEMEX does not consider that it would be beneficial to develop a general template to be used for customer-specific price announcement letters and this would unduly restrict the commercial freedom of the cement producers and customer to negotiate in their preferred manner. A prohibition on generalized price announcement letters would address the concerns raised by the CC.

5.9 ***D. What costs and benefits would arise as a result of this remedy?***

5.10 Please refer to paragraphs 4.39 to 4.48 and 5.52 to 5.54 of the Remedies Response.

5.11 ***E. Whether there are any other relevant considerations to be taken into account in evaluating and implementing this remedy.***

5.12 CEMEX reiterates that if the CC were to impose this Remedy, CEMEX would still need to communicate price increases to customers in writing. CEMEX proposes that GB cement producers be permitted to send individualized prices (not percentage increases) to customers in writing explaining the reasons for the price increase.

5.13 Further, CEMEX considers that Measure 1 set out in paragraphs 4.13 to 4.30 in Section 4 of the Remedies Response adequately addressed the AEC identified and therefore Remedy C4 should be imposed only if the CC considers that Measure 1 does not, by itself, constitute an effective remedy.

6 ISSUES FOR COMMENT ON REMEDY C5 - RESTRICTIONS ON THE DISCLOSURE OF CEMENT MARKET DATA BY THE UK GOVERNMENT AND BY GB CEMENT PRODUCERS TO PRIVATE SECTOR ORGANIZATIONS

6.1 CEMEX notes that Remedy C5 is equivalent to CEMEX's Measure 1, set out in Section 4 of the Remedies Response. As explained in paragraphs 4.13 to 4.30 of the Remedies Response, CEMEX considers that appropriate restrictions on the disclosure of cement market data by the UK Government and by GB cement producers to private sector organizations would, on its own, be an effective and proportionate measure to eliminate the alleged coordination and the AEC identified. CEMEX therefore agrees that Remedy C5 would be an effective and proportionate remedy to address the AEC alleged by the CC.

6.2 ***A. What would be an appropriate time lag for the publication of any monthly sales or production volume data, e.g. three months, six months, a year?***

- 6.3 CEMEX considers that three months would be an appropriate time lag for the publication of any monthly sales data. This time lag would ensure that GB cement producers are not able to reliably monitor their own share of monthly production and this would be sufficient to undermine any alleged coordination.
- 6.4 ***B. Under what circumstances, if any, should disclosure of aggregated cement market data be permitted before such a time lag has expired? What safeguards should be put in place to ensure that any such disclosure did not result in an adverse effect on competition?***
- 6.5 Consistent with its view that this remedy is simple, effective and proportionate, CEMEX does not consider it necessary to make provision for disclosure of such information before expiry of the specified time lag.
- 6.6 ***C. Under what circumstances, if any, should confidential sales and production volume data be permitted to be provided by GB cement producers to trade associations or to other private sector organizations?***
- 6.7 CEMEX considers that GB cement producers should be able to supply sales and production volume data to trade associations and other private sector organizations after the expiry of an appropriate time lag. In CEMEX's view this time lag should be no more than 3 months in the case of monthly data.
- 6.8 ***D. What costs and benefits would arise as a result of this remedy?***
- 6.9 CEMEX considers that this remedy would be able to adequately address the AEC alleged by the CC. CEMEX does not consider that this remedy imposes significant costs on GB cement producers.
- 6.10 ***E. Whether there are any other relevant considerations to be taken into account in evaluating and implementing this remedy.***
- 6.11 No further comment.
- 7 ISSUES FOR COMMENT ON REMEDY C6 - RECOMMENDATIONS TO THE UK GOVERNMENT/EUROPEAN COMMISSION ON THE PUBLICATION OF GB CEMENT PRODUCERS' VERIFIED EMISSIONS DATA UNDER THE EU ETS**
- 7.1 CEMEX notes that Remedy C6 is equivalent to Measure 2 set out in paragraphs 4.13 to 4.38 of Section 4 of the Remedies Response. To the extent that the CC considers that Measure 1, in itself, would not be adequate to remedy the AEC identified, CEMEX considers that Remedy C6 is an effective and proportionate measure, which would contribute towards addressing the AEC alleged by the CC.
- 7.2 ***A. What would be an appropriate time lag for the publication of annual verified carbon emissions data, e.g. six months, one year?***
- 7.3 CEMEX considers that six months would be a sufficient time lag for the publication of annual verified carbon emissions data.

7.4 ***B. Which of the options for more limited disclosure of annual verified carbon emissions data is most likely to be effective in addressing this aspect of the AEC, while enabling the ETS to achieve its objectives?***

7.5 CEMEX considers that the option set out by the CC is paragraph 87(a) of the Remedies Notice (an increased delay in the publication of annual verified emissions data) would be an effective and proportionate remedy which would reduce transparency and, at the same time, allow the ETS to achieve its objective.

7.6 However, while the options set out in paragraphs 87(b) - (d) of the Remedies Notice (i.e. the exclusion of GB cement plants from published verified carbon emissions data; the aggregation of all GB cement plants' verified carbon emissions data; and/or further aggregation of verified carbon emissions data for GB cement plants with those of other GB ETS sectors) would create more difficulties in the ETS achieving its objective, they would not impose significant costs on the businesses involved and would be proportionate measures to reduce transparency in the GB cement market.

7.7 ***C. What costs and benefits would arise as a result of this remedy?***

7.8 Please refer to paragraphs 4.31 to 4.38 and 5.57 of the Remedies Response.

7.9 ***D. Whether there are any other relevant considerations to be taken into account in evaluating and implementing this remedy.***

7.10 CEMEX considers that Measure 1 set out in paragraphs 4.13 to 4.30 in Section 4 of the Remedies response adequately addresses the AEC identified and therefore Remedy C6 should be imposed only if the CC considers that Measure 1 does not, by itself, constitute an effective remedy.

8 ISSUES FOR COMMENT ON REMEDY C7 - STRUCTURAL MEASURES TO ADDRESS THE AEC IN RELATION TO GGBS/GBS PRODUCTION IN GB

8.1 CEMEX has no further comments.

CEMEX UK OPERATIONS LIMITED

26 June 2013