

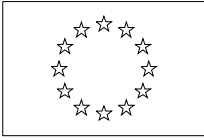
*Case No COMP/M.2271 -
CARGILL /
AGRIBRANDS*

Only the English text is available and authentic.

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

Article 6(1)(b) NON-OPPOSITION
Date: 19/02/2001

*Also available in the CELEX database
Document No 301M2271*



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 19.02.2001
SG(2001)D/286262

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 Where possible the information omitted has been replaced by ranges of figures or a general description.

PUBLIC VERSION

MERGER PROCEDURE
ARTICLE 6(1)(b) DECISION

To the notifying party

Subject: Case No COMP/M.2271 Cargill / Agribrands

Notification of 18/01/2001 pursuant to Article 4 of Council Regulation No 4064/89

1. On the 18th January 2001 the Commission received a notification of a proposed concentration pursuant of Article 4 of Council Regulation (EEC) No. 4064/89¹, whereby Cargill Incorporated (Cargill) proposes to acquire sole control of the whole of the undertaking Agribrands International (“Agribrands”) by way of purchase of shares.
2. After examination of the notification, the Commission has concluded that the notified operation falls within the scope of Council Regulation (EEC) No 4064/89 and does not raise serious doubts as to its compatibility with the common market and with the functioning of the EEA Agreement.

I THE PARTIES

3. **Cargill** is a privately owned US company active internationally (through its subsidiaries and affiliates) in a wide variety of businesses. It is an international marketer, processor and distributor of agricultural, financial and industrial products. The company’s businesses include grain and commodity merchandising, oilseed and grain processing and refining, flour milling, meat processing, steel manufacturing and financial services.
4. **Agribrands** is a publicly held U.S.-based producer and marketer of animal feeds and other agricultural products. Its EEA activities are limited to France, Italy, Spain and Portugal.

¹ OJ L 395, 30.12.1989 p.1 corrigendum OJ L 257 of 21.09.1990, p.13; Regulation as last amended by Regulation (EC) No 1310/97 (OJ L 180, 9.7.1997, p.1, corrigendum OJ L 40, 13.2.1998, p.17)

II. THE OPERATION

5. Pursuant to the Agreement between Cargill and Agribrands, Cargill will acquire all of the assets of Agribrands. As a result of this acquisition, Cargill will acquire sole control of Agribrands, giving rise to a concentration within the meaning of Article 3(1)(b) of the Merger Regulation.

III. COMMUNITY DIMENSION

6. The undertakings concerned have a combined aggregate world-wide turnover of more than €5.000 million² [Cargill €2,300 million, Agribrands €1,200 million]. The aggregate Community-wide turnover of Cargill exceeds €250 million ([...]million), although the EU-wide turnover of Agribrands is below €250 million ([...]million). The three Member States test is satisfied by reference to Spain, France and Italy. In each of these Member States, the combined turnover of Cargill and Agribrands is in excess of €100 million and each party has a turnover in excess of €25 million. None of the undertakings concerned achieve more than two-thirds of their aggregate Community-wide turnover within one and the same Member State. The notified operation therefore has a Community dimension.

IV COMPETITIVE ASSESSMENT

7. The parties have overlapping activities in the markets for the production and marketing of animal feed (horizontal level) and the production and marketing of oilseed meal (one of the major ingredients of animal feed) upstream of animal feed production (vertical level).

1. Relevant product markets

A. Animal feed

8. Both Cargill and Agribrands are active in the production of animal feed. The parties have submitted that the relevant product market ought to be considered as all animal feed products, without the need for further distinction as significant demand-side and supply-side substitutability between the different types of animal feed exists. Market investigation has confirmed this submission. The precise definition however, can be left open as the analysis of this case would be the same irrespective of the market definition used.

B. Oilseed Meal

9. On the vertical level, of both parties only Cargill is active in the production of any upstream ingredients of animal feed, i.e. oilseed meal, which is obtained as a by-product from the crushing of oilseeds (mainly soya, rape and sunflower). In previous decisions³,

² Turnover calculated in accordance with Article 5(1) of the Merger Regulation and the Commission Notice on the calculation of turnover (OJ C66, 2.3.1998, p25). To the extent that figures include turnover for the period before 1.1.1999, they are calculated on the basis of average ECU exchange rates and translated into EUR on a one-for-one basis.

³ Cases IV/M.866 Cereol/ÖSAT-Öhlmühle; IV/M. 1225 Cereol/Sofiproteol-Saipol; IV/M.1126 Cargill/Vandermoortele

it was not considered to be appropriate to make a distinction between the different types of oilseed meal as there is significant demand-side and supply-side substitutability, interdependent pricing and comparable nutritional value. What kind of oilseeds are crushed depends mainly on the availability and price of the seeds and their nutritional value. Soya, sunflower and rape seeds are on the basis of their nutritional value the main sources although other oilseeds can also, up to a certain extent, be used. Equally so, there is a certain substitutability between oilseed meal and other products such as grains, maize and corn. The parties submit that it would be appropriate to identify one single product market for oilseed meals extracted from the various different oilseed origins. In this case the precise product market definition can be left open as, no matter the exact delineation of the market, effective competition would not be significantly impeded in the EEA or any substantial part of it.

2. Relevant geographic markets

A. Animal feed

10. As suppliers compete on a national basis through supply points and demand is strongly influenced by national demand characteristics, the parties have considered this market as being national in scope. Transport costs are high, as such limiting the distance over which compound animal feed can be economically transported to 150 -300 km from a supply point. The market investigation has indicated that it would not be appropriate to define the geographical market narrower than national, because supply areas overlap which may lead to a chain effect, possibly across the EU. It is, however, not necessary for the Commission to decide on the precise market definition as no matter the exact delineation of the geographical market, effective competition would not be significantly impeded in the EEA or any substantial part of it.

B. Oilseed Meal

11. The Commission has concluded in previous decisions that the market for oilseed meal is at least Community wide and probably even wider as the US, China, Korea and Japan are also important markets for oilseed meal constituents. Disruption of supply in these regions has an effect on EU prices for oilseed meal. On the other hand, transport costs for oilseed meal do play an important role, as such limiting the distance over which it can be transported at economically viable costs. In any case, oilseed products are traded on the international commodity markets of Chicago and Rotterdam and there are no barriers to trade. Therefore, for the purpose of the present assessment, and in line with previous decisions already adopted by the Commission in these sectors, the geographic market for oilseed meal can be considered as at least Community-wide.

3. Assessment

A. Animal feed

12. To a large extent, the European animal feed businesses of Cargill and Agribrands are complementary and only overlap in Spain and Portugal where the parties would have a combined market share of respectively [under 10%] and [under 10%]. Market investigation confirmed that the assessment of the market should include the integrated self-supply by farmers of products such as corn, hay, grain or turnips, as this effectively constrains the prices of commercial feeds. But even if the captive supply were to be excluded from the volume of animal feed consumption in these countries, the

concentration would not lead to affected markets ([under 15%] in Spain and [under 15%] in Portugal).

B. Oilseed Meal

13. Concerning oilseed meal as an upstream market for animal feed, Cargill is the leading European producer with a EU-wide market share of over [between 20% and 30%]. In this market, Cargill faces strong competition from the US based Archer Daniels Midland Company (ADM) with ([between 20% and 30%]) and Eridania Béghin-Say's Cereol affiliate ([between 20% and 30%]) and both these competitors have the capacity to meet increased demand. In addition, as ADM is not integrated in the downstream production of animal feed, it is a significant supplier of oilseed meal in the market actively competing with Cargill for the supply of oilseed meal. As Cargill's oilseed meal production will, post-merger, continue to exceed its captive needs to a large extent and as the parties' downstream combined share of animal feed supply in the EU is limited, the operation will not give rise to foreclosure or other anti-competitive effects.
14. On the basis of this information the Commission concludes that the concentration does not raise serious doubts as to its compatibility with the common market.

VI CONCLUSION

15. For the above reasons, the Commission has decided not to oppose the notified operation and to declare it compatible with the common market and with the EEA Agreement. This decision is adopted in application of Article 6(1)(b) of Council Regulation (EEC) No 4064/89 and Article 57 of the EEA Agreement.

For the Commission,
(signed)
Michaele SCHREYER
Member of the Commission