

***Case No COMP/M.3725 -  
CARGILL / PAGNAN***

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

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Article 6(1)(b) NON-OPPOSITION  
Date: 22/03/2005

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 22/03/2005

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In the published version of this decision, some information has been omitted pursuant to Article 17(2) of Council Regulation (EC) No 139/2004 concerning non-disclosure of business secrets and other confidential information. The omissions are shown thus [...]. Where possible the information omitted has been replaced by ranges of figures or a general description.

PUBLIC VERSION

MERGER PROCEDURE  
ARTICLE 6(1)(b) DECISION

**To the notifying party**

Dear Sir/Madam,

**Subject: Case No COMP/M. 3725-Cargill/Pagnan  
Notification of 17/02/2005 pursuant to Article 4 of Council Regulation  
No 139/2004<sup>1</sup>**

1. On 17/02/2005, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 by which the undertaking Cargill Incorporated. ("Cargill", USA) acquires, through one of its subsidiaries, within the meaning of Article 3(1)(b) of the Council Regulation control of part of the undertaking Pagnan S.p.A. ("Pagnan", Italy) by way of purchase of assets.

**I. THE PARTIES**

2. Cargill is an international company active in a wide variety of business, including commodity trading, commodity processing, the marketing of non-branded food ingredients to the food and beverage industry, and the production and marketing of agricultural inputs to farmers.
3. Pagnan is active in trading of grains and oilseed meals as well as in the production and sale of animal feed products. The part of Pagnan acquired by Cargill is active in imports and trading of grains and protein meals (essentially soy bean meals) within Italy.

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<sup>1</sup> OJ L 24, 29.1.2004 p. 1.

## **II. THE OPERATION**

4. The transaction involves the acquisition by Cargill of the part of Pagnan business related to import and trading of grains and soy bean meals. Pagnan has the option to acquire 20% shares in the company which will own that business. [...], so Cargill will have sole control of the new firm.

## **III. CONCENTRATION**

5. As a result of the operation, Cargill will acquire sole control of part of Pagnan. The operation thus constitutes a concentration within the meaning of Article 3(1)(b) of Council Regulation (EC) n. 139/2004.

## **IV. COMMUNITY DIMENSION**

6. The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 billion<sup>2</sup>. Each of Cargill and Pagnan have a Community-wide turnover in excess of EUR 250 million ([...] billion for Cargill and [...] million for the part of Pagnan acquired), but they do not 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.

## **V. COMPETITIVE ASSESSMENT**

### ***Relevant product market***

7. Pagnan is active in imports and trading of agricultural commodities, primarily grains and soy bean meals. The traders of agricultural commodities purchase items from other traders and trading them on the open market as well as on futures markets in Europe and the United States and forward cash markets, for profit and risk management. In this way, the same item may be sold many times in a “chain” before it is delivered to the end user. The activity of trading differs from that of agricultural merchanting. Unlike traders of agricultural commodities, agricultural merchants have direct relationships with farmers for either the supply of agricultural inputs or the purchase of agricultural outputs. The agricultural merchants effectively act as distributors or intermediaries.
8. According to the parties, there is a unique relevant product market encompassing trading of all agricultural commodities. They submit that traders can easily switch to the trading of different grains, meals or any other agricultural commodity; in practice any agricultural trader could trade the full range of agricultural commodities as there are generally no special skills or know-how to deal with particular products.
9. In a previous decision the Commission left open the question of whether the markets for grains and for oilseed meals constitute distinct relevant product markets<sup>3</sup>. The

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<sup>2</sup> 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.

<sup>3</sup> Case n.1376, Cargill / Continental Grain.

market investigation in this case has shown that differences in prices and in uses could justify the existence of different product markets. However, in this case the precise product market definition can also be left open since even adopting the narrowest possible product market definition effective competition would not be significantly impeded.

### ***Relevant geographic market***

10. Although Pagnan is active only in Italy, the parties submit that the relevant geographic market is at least EEA-wide, or possibly even world-wide, on the basis of the presence of numerous traders operating in the EEA and throughout the world and of the high price transparency. Also the Commission in the previous decision<sup>4</sup> considered the geographic market to be at least Community-wide. However, the envisaged transaction will not raise any horizontal competitive concerns even at national level (Italy), so the definition of any geographic market in the present case can be left open.

### ***Competitive assessment***

11. In the overall market for trading of agricultural commodities there are limited overlaps between the activities of the parties. At EEA-wide level Cargill has a market share of about [5-15%] and Pagnan of [0-10%]. In relation to the specific agricultural commodities traded by Pagnan, in the market for trading of grains the market share of Cargill is [5-15%] and that of Pagnan [0-10%]; in the market for trading for soy bean meals Cargill has a market share of about [15-25%] and Pagnan of [0-10%]. In the international trading market there are other and qualified operators, including Louis Dreyfus Négoce, Glencore Grain Rotterdam, ADM, Invivo, Nidera Handelscompagnie, Bunge, etc.
12. In Italy, in the overall market for trading of agricultural commodities Cargill has a market share of [0-10%] and Pagnan of [0-10%]; in the market of trading of grains the market shares are of [0-10%] and [0-10%]; Cargill is not present in the market for soy bean meals whilst Pagnan has a market share of about [5-15%]. The markets shares of the main competitor in Italy for trading of grains, oilseeds and intermediate products are: Bunge [5-15%], Louis Dreyfus Négoce [5-15%], ADM [0-10%].
13. It is important to note that [...] Pagnan purchased agricultural commodities from Cargill, [...]. According to the data provided by the parties, during the last crop year the amount of soy bean meals acquired from Cargill represents about [...] of the total traded by Pagnan.
14. In view of the foregoing, it can be concluded that the proposed operation would not, in any of the markets considered, significantly impede effective competition, in particular as a result of creating or strengthening a dominant position in the EEA or any substantial part of it.
15. Cargill is also active in numerous upstream or downstream markets. In several of these markets Cargill has a share that exceeds 25%.

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<sup>4</sup> See footnote 3.

16. Cargill is active in the crushing of oilseeds. The crushing of oilseeds produces crude seed oil and oilseed meal, which in turn may be traded before being delivered to the end user. On this basis, oilseed processing may constitute an activity both downstream and upstream of the market for trading agricultural commodities. Oilseed meal is the pulp obtained from the crushing of oilseeds; it's one of the major ingredients in compound animal feed. At EEA-wide level Cargill has a market share of about [25-35%]; for the different types of oilseed meal the market shares of Cargill are: a) soy bean [25-35%], b) rapeseed [15-25%], and c) sunflower seed [25-35%]. In these markets the main competitors are Bunge and ADM.
17. Cargill is also active in the manufacture and supply of starch and sweeteners, for which grains represent an important input. Starch is produced by the wet milling of cereals, tubers and pulps, such as maize, wheat, rice, potatoes, etc. Starch can be further broken down through hydrolysis and further processed to produce a range of sweeteners for use in a number of end-use applications. Cargill's share for each of starch and sweeteners is estimated to be around [25-35%] both at EEA and at Italian level. Within Italy the three main competitors are: Roquette with a market share of [25-35%], Tate & Lyle with a market share of [5-15%] and Avebe with a market share of [5-15%].
18. However, as was confirmed by the market investigation, the risk of foreclosure is very limited as a result of the small size of Pagnan and the fact that Pagnan is already an importer of agricultural commodities from Cargill (see § 13). So, in some respects the transaction represents the acquisition by a global undertaking of its main trader in a country.

## **VI. CONCLUSION**

19. 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 (EC) No 139/2004.

For the Commission

*(signed)*

Neelie KROES  
Member of the Commission