



EUROPEAN COMMISSION
DG Competition

***Case M.8199 - BUNGE / EUROPEAN OILSEED
PROCESSING FACILITIES***

Only the English text is available and authentic.

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

Article 6(1)(b) NON-OPPOSITION
Date: 06/02/2017

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EUROPEAN COMMISSION

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 Where possible the information omitted has been replaced by ranges of figures or a general description.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

To the notifying party:

**Subject: Case M.8199 - Bunge / European Oilseed Processing Facilities
Commission decision pursuant to Article 6(1)(b) of Council Regulation
No 139/2004¹ and Article 57 of the Agreement on the European Economic
Area²**

Dear Sir or Madam,

- (1) On 23 December 2016, the European Commission received a notification of a proposed concentration ('The Transaction') pursuant to Article 4 of Council Regulation (EC) No 139/2004 by which Koninklijke Bunge B.V. ('Bunge', the Netherlands) intends to acquire from Cargill B.V. ('Cargill Netherlands') and Cargill France SAS ('Cargill France') sole control over two European oilseed processing facilities and dedicated bulk terminal assets ('Target Business').³ Bunge

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 Publication in the Official Journal of the European Union No C 10, 13.1.2017, p.9.

and the Target Business are designated hereinafter as the 'Parties', Bunge is designated hereinafter as the 'Notifying Party'.

1. THE PARTIES

- (2) Bunge is a global agribusiness and food company incorporated in Bermuda and headquartered in the United States. Bunge operates in approximately 40 countries worldwide with 35,000 employees and its operations include originating, storing, processing and selling of agricultural commodities, principally oilseeds and grains. Bunge is a global processor of oilseeds and a producer of vegetable oils and oilseed meals.
- (3) The Target Business consists of certain of Cargill's assets in the Netherlands and France. In the Netherlands, the assets consist of an oilseed crushing facility and seed oil refining facility in the port of Amsterdam for the production of oilseed meal and oil. In France the assets consist of an oilseed crushing facility and storage in the port of Brest for the production of oilseed meal and oil. Both facilities are able to handle both soybeans and rapeseed.

2. THE CONCENTRATION

- (4) The Parties signed the Signing Protocol on 5 August 2016, which includes the Draft Master Sale of Business Agreement ("Draft MSA") setting out terms and conditions for finalising and for entering into a sale of business agreement. Pursuant to the Draft MSA, Bunge will acquire the assets of the Target Business and assume its liabilities as per the Draft MSA with a view to carrying on the Target Business as a going concern. Bunge will thereby acquire sole control of the Target Business upon closing of the proposed transaction.
- (5) Consequently, the Transaction constitutes a concentration within the meaning of Article 3(1)(b) of the EU Merger Regulation.

3. EU DIMENSION

- (6) The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 000 million (Bunge: EUR 39,166 million, Target Business: EUR [...] million). Each of them has an EU-wide turnover in excess of EUR 250 million (Bunge: EUR [...] million, Target Business: EUR [...] million) but they do not achieve more than two-thirds of their aggregate EU-wide turnover within one and the same Member State. The notified operation therefore has an EU dimension.

4. COMPETITIVE ASSESSMENT

- (7) The Parties' activities overlap horizontally in the production of soybean meal, crude soybean oil and bulk refined soybean oil. Soybean is a type of oilseed. Soybeans are crushed to produce oilseed meal, which is used in the animal feed industry, and crude soybean oil. The soybean oil can either be sold as crude oil or be further refined and sold to the food, feed and biofuel industry.

- (8) The horizontal overlaps lead to affected markets for soybean meal in France and Germany, for crude soybean oil in the EEA, France and Portugal and for bulk refined soybean oil in the EEA, Poland and Spain. ⁴

4.1. Product markets

4.1.1. Soybean meal

- (9) As concerns soybean meal, the Notifying Party argues that the relevant product market should encompass the broader category of oilseed meals used as basic ingredients in animal feed production, which includes meals from other oil-bearing crops such as sunflower seeds, rapeseeds or sesame seeds.
- (10) As regards demand-side substitutability, the Notifying Party explains that animal feed consists of a relatively large amount of protein, (constituting ca. 25-30% of the total cost of animal feed), carbohydrates and other added substances such as minerals, vitamins and amino-acids. This protein content varies according to the crop, from 44-50% for soy seeds to 32-36% for rapeseed and 34-38% for de-hulled sunflower seeds. According to the Notifying Party, all oilseed meals are suitable to provide the protein content in the animal feed. They submit that animal feed producers have a mathematical formula to mix their animal feed and thus focus on the meals' crude protein measure value first and foremost. Therefore the different oilseed meals become substitutable to a large degree, and the animal feed producers vary the composition of the meals according to the availability and the price-protein ratio of the crop.
- (11) As regards supply-side substitutability, the Notifying Party submits that numerous crushing facilities are able to process several types of oilseeds and switch production depending on the spot price of the input oilseed (e.g. soybean or rapeseed) and the price for the output (e.g. the soybean meal and oil). The Target Business' plants are such so-called 'swing plants', capable of switching between soybean and rapeseed.
- (12) In its past decisions, the Commission considered a distinct market for Non-Grain Feed Ingredients (NGFI)⁵, including oilseed meals.⁶ The Commission also considered a further segmentation according to the various types of NGFI, including the different types of oilseed meals.⁷ However, the Commission ultimately left open the precise market definition.⁸

⁴ As regards vertical relationships, Bunge is a supplier of packaged refined soybean oil and biodiesel using bulk refined soybean oil as input. However, these vertical relationships do not lead to affected markets.

⁵ NGFI are-products from the oil milling industry, and the starch and ethanol industry. NGFI include oilseed meals, corn germ meal, corn gluten feed, sugar beet pulp pellets, distillers grains with solubles, palm kernel meal, copra meal, linseed meal and fish meal.

⁶ See e.g. cases M.7854 Agravis / Wilmar International / H Bögel, COMP/M.6383 Cargill / Korofrance, COMP /M.4042 Toepfer / Invivo / Soulès.

⁷ *Ibid.*

⁸ *Ibid.*

- (13) Respondents to the market investigation⁹ unanimously indicated that soybean meal is not entirely substitutable with other NGFI. As mentioned in paragraph 10, soybean meal has higher protein content than other oilseed meals at 44-50% as opposed to rapeseed or sunflower meal at 28-38%. For certain animals, such as poultry, lamb and young ruminants, the average protein content of the meal needs to be higher, above 40%, which is technically only achievable if some soybean meal is present. It was also mentioned that soybean meal contained a specific amino-acid (lysine) that is essential and is otherwise chemically synthesized and added to animal food, but is naturally present and easily digestible in soybean meal, which makes soybean difficult to completely substitute.¹⁰ Indications from market participants suggest that a minimum of 25% of the oilseed meal needs at all times to be soybean based.
- (14) This view was also shared by a majority of competitors having responded to the market investigation.¹¹ As explained by one competitor, "*Soybean meal has certain quality characteristics (e.g. concentrated protein) which means it can't be easily substituted by other non-grain feed ingredients, in certain animal feed rations.*"
- (15) Respondents to the market investigation have also confirmed that the use of soybean meal has been decreasing during the past decades. It was estimated that a substitution of 2-3% p.a. has been taking place in favour of alternative protein meals¹², such that now 50% less soybean meal is being used than 20 years ago. The tendency stemmed from two factors, namely the growing local supply of rapeseed and sunflower fuelled by the EU biodiesel regulation and active R&D efforts from animal feed producers to partially substitute soybean meal with high protein rapeseed or sunflower meal.
- (16) However, the EU biodiesel regulation is changing¹³ in a way that no further fields should be drawn into biodiesel crop production. This puts a cap on the further substitution of soybean meal in favour of rapeseed and sunflower meal. Likewise, substitution stemming from R&D investment by animal feed companies should reduce as they have now reached a stage where it is no longer economically or technically feasible to increase the level of rapeseed and sunflower in animal feed.
- (17) As regards supply-side substitution, although the Amsterdam and Brest plants can technically switch between oilseeds, [...], but have focused on soybean crushing since then. The other soybean crushing Bunge plants (Bilbao, Cartagena and

⁹ See replies to question 6 to Q2 – Questionnaire to soybean meal customers.

¹⁰ Form CO, paragraph 78.

¹¹ See e.g. replies to questions 6 and 7 to Q1 – Questionnaire to oilseed competitors.

¹² See e.g. replies to question 6 to Q2 – Questionnaire to soybean meal customers, confirmed non confidential minutes of a call with a French customer on 17 January 2017, confirmed non confidential minutes of a call with a French customer on 19 January 2017.

¹³ The changes in biodiesel regulation result from the adoption of the so-called ILUC (indirect land use change) Directive (Directive (EU) 2015/1513). These new rules amend the existing legislation on biofuels to reduce the risk of indirect land use, where biofuel crops were crowding out food crops, and to prepare the transition towards advanced non- crop based biofuels.

Barcelona) are also crushing soybeans [...], [...] the Italian Bunge plant in Porto Corsini has switched at one occasion [...].¹⁴

- (18) Based on the above there are strong indications that within the broader category of NGFI, soybean meal constitutes a distinct product market. However, the Commission considers that it is not necessary to conclude on the exact scope of the product market as the Transaction does not raise serious doubts under any alternative market definition.

4.1.2. *Crude soybean oil*

- (19) As regards crude soybean oil, it can either be (i) refined for sale to food and feed applications, (ii) refined for biodiesel and energy applications or (iii) sold to animal feed producers (albeit in small quantities).
- (20) The Notifying Party submits that crude soybean oil should be part of a broader market for crude vegetable oils (including seed oil like soybean, rapeseed and sunflower oil or tropical oils) based on any kind of oilseed.
- (21) As regards demand-side substitutability, the Notifying Party argues that most customers (refineries) can process any kind of crude vegetable oil that is then sold to and used in the food industry. However, the Notifying Party notes that the different kinds of oils might need different kind of treatment (e.g. sunflower oil bottled for human consumption requires de-waxing for clear appearance) or special equipment (e.g. for tropical oils).
- (22) The Notifying Party submits further that different types of vegetable oils are largely substitutable for biodiesel and energy applications: palm, rape and soy are usually blended, with varying compositions. Nevertheless, customer specifications vary, not only following the price evolution, but also the temperature variations. In the south of Europe, more soybean is used, whilst in the north or in wintertime, more rapeseed is required.
- (23) The Notifying Party explains further that the customer group of animal feed producers purchases crude oils only in small quantities. Furthermore, as the oil only serves to improve the consistency of the feed, the vegetable oils are fully substitutable according to them.
- (24) Commission precedents¹⁵ considered that separate markets exist for crude and refined oil. The Commission defined¹⁶ a separate market for crude seed oils and left open whether that market should be further segmented according to the type of oilseed. A separate market for olive oil, which is not affected by the Transaction, was however defined.¹⁷

¹⁴ Form CO, paragraph 92.

¹⁵ See e.g. cases IV/M.866 Cereol / ÖSAT-Öhlmühle, COMP/M.6383 Cargill / Korofrance.

¹⁶ See e.g. case COMP M.3188 – ADM / VDBO.

¹⁷ See e.g. case COMP/M.3039 Soprol / Cereol-Lesieur.

- (25) As concerns the substitutability of crude soybean oil with other types of oils, the market investigation¹⁸ did not give a clear answer. For those using soybean oil as an ingredient of animal feed, some respondents indicated a possibility of complete substitution with other types of seed oils, such as sunflower or rapeseed oil, while others saw the previous-calculated manufacturing formula, which define the proportions of the ingredients, to constitute a barrier to change. A majority of the responding biodiesel producers held that soybean oil was largely substitutable with other types of vegetable oil with regard to the exact composition of the final product but this view was not shared by all respondents.
- (26) The Commission considers that it is however not necessary to conclude on the exact scope of the product market as regards crude soybean oil as the Transaction does not raise serious doubts under any alternative market definition.

4.1.3. *Refined soybean oil*

- (27) Refined oils are traded further in different forms: They can be sold in bulk to the food manufacturing industry or packed in bottles and cans for sale to retailers or food service customers. They can also be processed further into white and yellow fats.
- (28) Accordingly, the Commission¹⁹ distinguished in previous cases different markets within edible oils and fats for (i) bulk refined seed oil (BRSO), (ii) packed refined seed oil (PRSO) and (iii) bakery fats. The Parties' activities only overlap in the market for BRSO.
- (29) A further sub-segmentation of BRSO has been considered into hard oils and soft oils according to the consistency of the oil at room temperature (e.g. palm oil and coconut oil are hard oils; rapeseed, sunflower and soybean are soft oils). The Commission also considered a segmentation of BRSO according to seed varieties, such as bulk refined soybean oil or sunflower oil, and between seed and tropical oils²⁰.
- (30) The Notifying Party argues that a further sub-segmentation of BRSO into bulk refined soybean oil is not necessary as industrial customers select refined oil according to availability and price and not according to seed type, as the nutritional value of all seed oils is very similar. EU labelling requirements do not hinder food producers in changing the proportions either, as they are not required to display the precise proportion of different vegetable oils employed on the packaging.
- (31) The Commission considers that the replies received during the market investigation were not conclusive as to whether refined soybean oil was entirely substitutable with tropical oils (such as palm or coconut).²¹ A majority of respondents held that

¹⁸ See replies to question 6 to Q3 – Questionnaire of soybean oil customers and replies to question 7 of Q1 – Questionnaire to oilseed competitors.

¹⁹ See e.g. cases COMP/M.3188 ADM / VDBO, COMP/M.3039 SoproI / Cereol-Lesieur.

²⁰ See e.g. case COMP/M.3188 ADM / VDBO and COMP/M.7963 ADM/Wilmar/Olenex JV.

²¹ See replies to question 8 of Q3 – Questionnaire to soybean oil customers and replies to question 10 of Q1 – Questionnaire to oilseed competitors.

soybean oil was not substitutable with other seed oils, however, many admitted not purchasing refined oils.

- (32) The Commission considers that the precise product market definition can however be left open for the purposes of this decision as the Transaction does not raise serious doubts irrespective of the exact product definition for BRSOs.

4.2. Geographic market

4.2.1. Soybean meal

- (33) As regards soybean meal (and its potential broader market for NGFI), the Notifying Party submits that the market is global since NGFI are commodities that are traded globally and there are no barriers to trade. They submit that ca. 50% of the NGFI sold in the EEA stems from imports. As concerns soybean meal specifically, imports mainly originate from South America, notably Brazil, and land in various deep sea ports in Europe. Furthermore, according to the Parties, NGFIs are commodities traded on the stock exchange in Chicago and the spot market in Rotterdam, which lead to a homogenization of competition conditions.
- (34) Nevertheless, the Notifying Party acknowledges that [...] of the soybean meal crushed in Brest is delivered to customers in [...] by truck.²² For Bunge's crushing plants (in Spain or Germany), the average travel distance is a function of the vicinity of port/waterways and the concentration of demand but does not exceed [...] km. Customers source also from ports where soybean meal crushed in South or North America is delivered through vessels. Customers in general bear the cost of transport from the crushing plant or the seaport to their facilities. As transport costs for deliveries by truck appear to be significant, the customers wish to minimise the distance for their purchases. Therefore, the Notifying Party has also provided an assessment of narrower geographic markets based on catchment areas around the plants.
- (35) The Commission considered the market for oilseed meals to be EEA-wide in its precedents²³ but also left open in some cases whether the market could be national.²⁴
- (36) Customers having replied to the market investigation reported²⁵ actual sourcing distances for soybean meal between 10 and 700km, however the majority of respondents explained that they did not source farther than 300 km. A number of customers confirmed²⁶ the distance of the supply source as a constraint, as feed producers only had limited storage capacities and deliveries needed to be frequent.

²² Form CO, paragraph 150.

²³ See e.g. case COMP/ M.1126—Cargill / Vande-moortele, COMP/M.1376, Cargill / Continental Grain, COMP/M.2271, Cargill / Agribrands.

²⁴ See e.g. case COMP/M.3039 Soprol / Cereol-Lesieur, COMP/M.4042 Toepfer / Invivo / Soules.

²⁵ See replies to question 8 to Q2 – Questionnaire to soybean meal customers.

²⁶ See replies to question 11 of Q2 – Questionnaire to soybean meal customers.

- (37) However, the Commission considers that for the purposes of this decision, the precise geographic market definition of the soybean meal market can be left open, as no serious doubts arise under any alternative geographic market definition.

4.2.2. *Crude soybean oil*

- (38) As regards crude soybean oil, the Notifying Party submits that its trade is similar to soybean meal trade and that the relevant geographic market should be considered global or at least EEA wide.
- (39) In most of its precedents, the Commission regarded the market for crude seed oils to be EEA-wide²⁷, but in other cases left open whether the market could be national²⁸ or EEA wide.
- (40) The Commission considers that the replies to the market investigation showed that there are indeed some imports of soybean oil in the EEA, originating mainly from South America. However, the size of these imports is much smaller than for soybean meal, as the transport of oil requires specific vessels. Therefore, most of the oil that competes in Europe is produced in Europe.
- (41) As regards trade within Europe, most customers confirmed that they are prepared and they regularly do purchase soybean oil across Europe, from ports or facilities located in other European countries. In general, respondents to the market investigation confirmed the relevance of cross-border trade as regards crude oil. For example the Target Business' entire market share in Portugal is achieved with [...], through deliveries from the [outside of Portugal, at a great distance] plant, which is a strong indication that the market for soybean oil could be wider than national, in particular for countries with sea access. At the same time, all other responding Portuguese crude oil customers sourced from Portugal or Spain. French customers on the other hand sourced not only from Brest but also from the Netherlands, Spain and even Russia²⁹.
- (42) However, the Commission considers that for the purpose of this decision, the precise geographic market definition of the crude soybean oil market can be left open, as no serious doubts arise under any alternative geographic market definition.

4.2.3. *Bulk refined soybean oil*

- (43) As regards bulk refined soybean oil (and its potential wider market for BRISO), the Notifying Party submits that, in line with Commission precedents³⁰, the market should be considered EEA wide. However, regional markets encompassing several Member States (Belgium, Netherlands and Germany) have also been considered by the Commission in previous cases.³¹ The Commission considers that since the

²⁷ See e.g. cases COMP/M.6383 Cargill / Korofrance, V/M.866 Cereol / ÖSAT-Öhlmühle, COMP/M.3044 ADM / Pura.

²⁸ See e.g. case COMP/M.3039 Soprol / Cereol-Lesieur.

²⁹ See replies to question 9 of Q3 – Questionnaire to soybean oil customers.

³⁰ See e.g. case COMP/M.3044 ADM / Pura.

³¹ See e.g. case COMP/M.7963 ADM / Wilmar / Olenex.

replies to the market investigation have not provided any elements going against these alternative geographic market definitions, the geographic market definition can be left open.

4.3. Competitive assessment

4.3.1. Soybean meal

- (44) As concerns soybean meal, if the relevant market is defined as the sale of all oilseed meal in the EEA, the overlap does not lead to affected markets as combined market shares are [10-20]%, with an increment of [0-5]%. If only soybean meal is considered, the combined market shares rise to [20-30]% at EEA level, with an increment of [0-5]%. Main competitors are ADM ([10-20]%), Cefetra owned by German cooperative BayWa ([10-20]%) and Nidera owned by China's state-owned food processing holding company COFCO ([10-20]%).
- (45) The only national affected markets for soybean meal arising as a result of the Transaction are France and Germany.

France

- (46) In France the Parties' combined market shares amount to [30-40]%, with an increment of [10-20]%. A broader market considering all NGFI or all oilseed meals would not lead to affected markets in France. Bunge is mainly active in France through imports of soybean meal crushed [outside of France, at a great distance] and delivered to the ports of Montoir (close to Nantes) and Lorient (southern Brittany) and through imports of soybeans crushed in its plants [outside of France, at a great distance] and to a lesser extent in [outside of France, at a great distance]. The Target is mainly active in France through its crushing plant in Brest (Western Brittany). Cargill, the seller of the Target, has in the past been present through its crushing capacity in Brest and through additional imports to Montoir at the same time. However, since 2014 Cargill had been gradually withdrawing from imports in Montoir to the point that Cargill is not present through imports any more, commercially only relying on the soybean crushing in Brest.
- (47) Considering the customers' limitations with regard to the transportation cost of the soybean meal, the Parties submitted market shares also for a possible geographic market based on the catchment area of the plants. If accordingly only the Western Regions in France are considered, namely Bretagne, Pays de la Loire, Normandie and former Poitou Charentes,³² the Parties' combined market share would be [40-50]%, with an increment of [10-20]%.
- (48) In the light of these market shares, several customers in Western France claimed that the merger would remove one of the main alternatives to Bunge in this region. Several customers pointed out³³ that soybean meal crushed in Brest was sold at lower prices than imported soybean meal in general. Customers submitted that the

³² An internal document from Cargill considers [...]

³³ See e.g. Confirmed non confidential minutes of a call with a French customer on 17 January 2017, confirmed non confidential minutes of a call with a French customer on 19 January 2017, reply to question 19 of Q2 – Questionnaire to soybean meal customers.

price difference was around [...] EUR/ton, which would constitute ca. [0-5]% of the total price of a ton of soybean meal.

- (49) These customers also explained that Cargill has only been applying the lower prices since they reduced their import activity to Montoir two years ago. Discounts were related to the crushing activity as the plant – as opposed to importers who are more flexible - needed to recoup its fixed costs, meaning that crushed stocks needed to be sold, where necessary at a discount.³⁴ These customers do not see Bunge as a price leader or being aggressive in its commercial policy³⁵, which would allegedly be the case of Cargill.³⁶
- (50) Some customers explained that the pricing policy applied in Brest influenced import prices in Montoir and Lorient downwards, which in turn impacted prices in other French ports located further away, such as Sète. The reason is that prices charged in Montoir are used as a benchmark for the whole French market. Should Bunge discontinue Cargill's practice of selling soybean meal from the Brest plant at lower prices, customers in Western France will not only lose a cheaper alternative to imports, but such policy could have a price impact on the whole territory of France and affect customers located in the South.
- (51) The Commission has investigated these claims and found that the price discount of the Brest plant exists, however that its extent has been negligible, less than EUR [...] on average per ton, which represent [...]% of the total price (which is between EUR 350 and 450 per ton).³⁷ The main reason why the Brest plant occasionally sells at a small discount of approximately [...]% over the import price is [...].
- (52) The Commission finds, in light of the market investigation, that prices of soybean meal in France are not set with reference to the price charged by the Brest plant, but rather by the import price of Montoir, as it is the main gateway for soybean meal in France (ca. 1.3 million tons, while Brest and Lorient together represent only 0.55 million tons). In order to sell its stocks and cover its fixed cost base, the Brest plant uses [...] to convince customers seeing both locations as alternatives to purchase from them. Should Bunge choose a different strategy for the Brest plant post-merger, the impact on prices of soybean meal in Western France would nevertheless be minimal (and in any event unlikely due to the remaining competition as set out in the following paragraphs).
- (53) Furthermore, respondents to the market investigation clearly confirmed the presence of several competitors: Louis Dreyfus ([10-20]% in France and [10-20]% in Western France), Noble³⁸/COFCO ([10-20]% in France and [20-30]% in Western France, entry in 2012) and Solteam ([10-20]% in France and [10-20]% in Western France)

³⁴ See reply of a French customer to question 21 of Q2 – Questionnaire to soybean meal customers, confirmed non confidential minutes of a call with a French customer on 19 January 2017.

³⁵ See replies to question 20 of Q2 – Questionnaire to soybean meal customers.

³⁶ See replies to question 21 of Q2 – Questionnaire to soybean meal customers.

³⁷ See reply of the Parties to the Commission's request for information of 18 January 2017; comparison of daily prices quoted in Montoir and Brest in course of the year 2016.

³⁸ In 2014 COFCO acquired a controlling stake in Noble and increased its shareholdings to 100% in 2016.

with their imports in the ports of Montoir or Lorient, which fall within the catchment area of the Brest facility, therefore directly competing with it. Also Noble/COFCO was mentioned by respondents as an aggressive competitor.³⁹

- (54) Customers when listing their existing suppliers for soybean meal⁴⁰ have noted at least three and often four suppliers that they are currently purchasing from. Only one respondent sources from Brest only. Customers have also noted⁴¹ that Bunge was an important actor with significant market share in the world and in France but other operators such as Dreyfus and COFCO were similarly important. Most customers consider soybean meal a standardized product where the intensity of competition is generally high.
- (55) Therefore, in light of the above and the available evidence, the Commission considers that the Transaction does not raise serious doubts as regards the horizontal overlap of the Parties' activities in the sale of soybean meal in France.

Germany

- (56) In Germany the Parties' combined market share at national level for soybean oil amounts to [20-30]%, with an increment of [5-10]%. A broader market considering all seed oils would not lead to affected markets in Germany. Bunge is mainly active in Germany through [...] and the Target Business through [...].
- (57) Considering the customers' limitations with regard to the transportation cost of the soybean meal, the Parties submitted market shares also for a possible geographic market based on the catchment area of the plants. If accordingly only customers located in West Germany, notably in North Rhine Westphalia, are considered (supplied from Amsterdam by vessels sailing on the Rhine), the Parties' combined market share would be [20-30]%, with an increment of [0-5]%.
- (58) As regards the German market for soybean meal, all responding customers⁴² consider that there is sufficient competition, with four to five alternative suppliers present.
- (59) Therefore, in light of the above and the other available evidence, the Commission considers that the Transaction does not raise serious doubts as regards the horizontal overlap of the Parties' activities in the sale of soybean meal in Germany.

4.3.2. Crude soybean oil

- (60) As regards crude soybean oil, the transaction leads to affected markets at the EEA level with a combined share of [30-40]% (Bunge [20-30]%, Target Business [5-10]%). The merged entity would face competition from ADM ([20-30]%), Cargill's retained business ([5-10]%), Armaggi and Louis-Dreyfus ([5-10]% each). Further, there appears to be limited overlaps of customers between the Parties as Bunge

³⁹ See reply to question 22 of Q2 – Questionnaire to soybean meal customers.

⁴⁰ See replies to question 8 of Q2 – Questionnaire to soybean meal customers.

⁴¹ See replies to question 18 of Q2 – Questionnaire to soybean meal customers.

⁴² See replies to question 18 of Q2 – Questionnaire to soybean meal customers.

supplies primarily [...] customers across the EEA whereas the Target Business is focused on [...] customers in [...].

- (61) In the light of the moderate market shares, the limited overlap in customer base and the presence of at least one equally strong player (ADM) and a number of smaller competitors, the Commission considers that the Transaction does not raise serious doubts as regards crude seed oil at EEA level.
- (62) If the relevant geographic market were national, affected markets would arise in Portugal with a share of [90-100]% (Bunge [80-90]%, Target Business [5-10]%) and in France with a share of [30-40]% (Bunge [20-30]%, Target Business [10-20]%).
- (63) Bunge achieves sales of crude soybean oil in Portugal from a crushing facility rented from Sovena, Bunge's [...] oil customer in Portugal, pursuant to a toll crushing agreement. The Target Business achieves sales to Portugal from [outside of Portugal from a great distance] plant [...].
- (64) Despite the high market share in the narrowly defined Portuguese market for crude soybean oil, the Commission does not consider that the Transaction raises serious doubts in Portugal. The fact that the Target Business supplies Portugal from its crushing facility in [...] ⁴³ in order to achieve the [5-10]% market share does not support a national market definition for soybean oil and shows that Portuguese customers are likely to be able to source from abroad, including through sea-based imports. Furthermore, the Target Business achieves its entire turnover with [...]. Furthermore, Portuguese customers of the Parties stated that apart from the Parties it was possible to purchase soybean oil from other suppliers, such as ADM or Louis-Dreyfus and switching between them was easy. This diversification of suppliers was also possible through imports from various locations of Europe, including Western France and Spain. Most of Bunge's customers in Portugal were neutral towards the Transaction.⁴⁴
- (65) In France, the largest rival of the Parties is Louis-Dreyfus with a [10-20]% market share. As regards French customers of the Parties for soybean oil, none of the respondents expects the transaction to have negative or any impact.⁴⁵ Commission considers that the replies to the market investigation have shown that these customers source from different locations in Western Europe (notably Spain, Portugal and Rotterdam) or even farther away (Kaliningrad).
- (66) In light of the above and the other available evidence, the Commission considers that the Transaction does not raise serious doubts as regards the horizontal overlap of the Parties' activities in the sale of crude soybean oil under any alternative product and geographic market definition.

⁴³ As reported by [...] Target Business' [...] customer in Portugal.

⁴⁴ See replies of Portuguese customers to question 24 of Q3 – Questionnaire to soybean oil customers.

⁴⁵ See replies of French customers to question 24 of Q3 – Questionnaire to soybean oil customers.

4.3.3. Bulk refined oil

- (67) As concerns bulk refined soybean oil, the Transaction does not lead to affected markets if all BRISO are considered to form part of the same market. On a narrower market for bulk refined soybean oil, the combination of the Amsterdam plant's refinery and Bunge's production leads to a combined market share of [30-40]% in the EEA (with an increment of [10-20]%). The Parties' competitors in the EEA are ADM ([20-30]%), Cargill's retained business ([10-20]%), and Sovena ([5-10]%). At national level, the Transaction leads to affected markets in Poland and Spain with combined market shares of approximately [30-40]% and [30-40]% respectively. However, increments will be very limited ([0-5]% and [0-5]% respectively).
- (68) Bunge's plants are located in Italy and Spain which indicates that there is a certain level of geographic complementarity with the Target Business' assets in Amsterdam. Furthermore, although ADM has a smaller share than the parties in soybean BRISO, its oil refining capacity is [...] as high the merged entity as ADM (like Bunge) refines various types of crude oil whereas the Target's plant is specialised in soybean oil.
- (69) In the light of this element and the presence of at least one strong player (ADM) and several other competitors, the Commission considers that the Transaction does not raise serious doubts as regards bulk refined oil at EEA level under any of the alternative product and geographic market definition.

5. CONCLUSION

- (70) For the above reasons, the European Commission has decided not to oppose the notified operation 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
Member of the Commission