



# DETERMINATION OF MERGER NOTIFICATION M/19/044 – TIMAC AGRO (HOLDINGS) (GROUPE ROULLIER)/GRASSLAND AGRO

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## Section 21 of the Competition Act 2002

### Proposed Acquisition of sole control of Grassland Agro Unlimited Company by Timac Agro (Holdings) Ireland Limited

Dated 27 May 2020

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#### Introduction

1. On 17 April 2020, in accordance with section 18(1)(a) and/or section 18(12A) of the Competition Act 2002, as amended (the “Act”), the Competition and Consumer Protection Commission (the “Commission”) received a notification of a proposed transaction, whereby Timac Agro (Holdings) Ireland Limited (“Timac Holdings”), a wholly-owned subsidiary of Timac Agro Ireland Limited (“Timac Agro”), would acquire sole control of Grassland Agro unlimited company (“Grassland Agro”) (together the “Parties”) (the “Proposed Transaction”).

#### Contextual background and the Proposed Transaction

2. On 17 January 2013, the Commission’s predecessor, the Competition Authority (the “Authority”), approved the acquisition by Timac Agro, through Timac Holdings, of 50% of the issued share capital of Grassland Fertilisers unlimited company.<sup>1</sup> The Commission understands that Grassland Fertilisers unlimited company changed its name to Grassland Agro on 31 January 2013.
3. On 16 December 2019, Grassland Holdings Limited (“Grassland Holdings”) and Timac Holdings entered into a share purchase agreement (the “SPA”). Pursuant to the SPA,

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<sup>1</sup> This transaction was notified to the Authority on 21 December 2012. The Authority’s determination in *M/12/032 – Timac/Grassland Fertiliser* can be accessed at <https://www.cpc.ie/business/wp-content/uploads/sites/3/2017/04/M-12-032-Timac-Grassland-Fertiliser.pdf>



Timac Holdings will acquire an additional 30% of the issued share capital of Grassland Agro from Grassland Holdings. This would bring Timac Holdings' shareholding in Grassland Agro from 50% to 80%.<sup>2</sup> The Parties informed the Commission that, following completion of the acquisition by Timac Holdings of an additional 30% of the issued share capital of Grassland Agro, Timac Holdings will exercise sole control over Grassland Agro. This proposed acquisition was initially notified to the Commission on 18 December 2019 (the "2019 Notification").

4. During the review of the 2019 Notification, the Commission became aware that Timac Agro, Timac Holdings, Grassland Holdings and Grassland Fertilisers unlimited company (which now operates as Grassland Agro) entered into a shareholders' agreement on 31 January 2013 (the "2013 Agreement") following the Authority's determination on 17 January 2013. It appears to the Commission that the 2013 Agreement may have already conferred sole control of Grassland Agro on Timac Holdings by virtue of certain rights reserved to Timac Holdings in the 2013 Agreement relating to the operation of Grassland Agro.
5. Following the Commission's communications with the Parties regarding its initial concerns about the implications of the 2013 Agreement, the Parties made a submission to the Commission setting out their views as to why Timac Holdings did not acquire sole control of Grassland Agro as a result of the 2013 Agreement. Without prejudice to the Parties' position in this regard, at the suggestion of the Commission, the Parties voluntarily withdrew the 2019 Notification and, on a precautionary basis, re-notified the Proposed Transaction to the Commission on 17 April 2020 under section 18(1)(a) and/or section 18(12A) of the Act to provide additional context on the relationship between the Parties, including on the 2013 Agreement.
6. The Commission has not reached any final view in relation to the 2013 Agreement and reserves its right to make further enquiries in respect of this matter. The Commission has confined its review to assessing the likely effects on competition of the proposed acquisition by Timac Holdings of an additional 30% of the issued share capital of

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<sup>2</sup> Timac Holdings currently holds 50% of the issued share capital in Grassland Agro, with Grassland Holdings holding the remaining 50%.



Grassland Agro, which would result in Timac Holdings holding 80% of the issued share capital of Grassland Agro. Accordingly, there will be no further consideration of the 2013 Agreement in this determination.

## The Undertakings Involved

### *The Acquirer – Timac Holdings*

7. Timac Holdings,<sup>3</sup> a wholly-owned subsidiary of Timac Agro, is ultimately owned by Compagnie Financière de Participations Roullier S.A (“CFPR SA”). Timac Holdings is a private company limited by shares and is incorporated in the State.
8. Timac Agro, a private limited company registered in the State, supplies specialty fertiliser to a single customer in the State, namely Grassland Agro. Timac Agro operates a separate business of trading in fertiliser materials for use outside of the State.
9. CFPR SA, a French incorporated company, is the ultimate parent of Timac Agro and the parent company of le Groupe Roullier (“Groupe Roullier”). Groupe Roullier is a French group of companies that specialises in plant, animal and human nutrition. It has operations worldwide, and is structured into nine business divisions: agro-supplies; mineral and industrial products; magnesite; plastics; garden products; food phosphates; operation and transformation of seaweed; naval equipment; and pastries.
10. For the financial year ending 31 December 2018, Groupe Roullier’s worldwide turnover was approximately €2 billion, of which approximately €59.78 million was generated in the State.<sup>4</sup>

### *The Target – Grassland Agro*

11. Grassland Agro is a private unlimited company registered in the State, which is engaged in the blending<sup>5</sup> and wholesale distribution of specialty and commodity fertiliser and

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<sup>3</sup> Timac Holdings is a holding company and has no turnover other than that generated by virtue of its 50% shareholding in Grassland Agro.

<sup>4</sup> For the financial year ending 31 December 2018, Timac Agro’s worldwide turnover was approximately €143 million, of which approximately €4.78 million was generated in the State.

<sup>5</sup> Blending refers to the process whereby Grassland Agro imports raw materials (P (phosphate), N(nitrogen) and K(potash) and blends these raw materials into various ratios (e.g., 10:10:20 meaning the ratio of P/N/K) and bags the product into various sizes (e.g., 50 kg, 500 kg, etc.) before distribution to wholesalers.



the sale of animal health products in the State. Currently, Timac Holdings owns 50% of the issued share capital of Grassland Agro, with Grassland Holdings owning the remaining 50% of the issued share capital of Grassland Agro.

12. For the financial year ending 31 December 2018, Grassland Agro's worldwide turnover was approximately €110 million, all of which was generated in the State.

#### *The Vendor - Grassland Holdings*

13. Grassland Holdings is a wholly-owned subsidiary of Freshgrass Holdings Unlimited Company ("Freshgrass Holdings"). Freshgrass Holdings is the ultimate parent company in the Freshgrass group of companies ("Freshgrass Group"). In addition to its 50% shareholding in Grassland Agro, the Freshgrass Group also owns a property holdings company (Freshgrass Properties Limited) and an agri-merchant business, Drummonds Limited<sup>6</sup> ("Drummonds"). Drummonds is incorporated in the State and is involved in the business of selling agricultural inputs (such as fertilisers, agri-chemicals and animal feed) and farm/garden hardware to farmers, and the sale of grains to feed mills and others in the State.
14. For the financial year ending 31 December 2018, Freshgrass Group's worldwide turnover was approximately €112m of which €105 million, all of which was generated in the State.

#### **Rationale for the Proposed Transaction**

15. The Parties state in the notification:

*"Groupe Roullier sees the blending and wholesale supply of fertiliser in Ireland as a profitable enterprise. It views the proposed acquisition as an opportunity to successfully grow and develop the commodity business and its specialty fertiliser business in Ireland, using its international experience and Grassland Agro's domestic experience."*

#### **Third Party Submissions**

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<sup>6</sup> On 22 November 2016, the Commission approved the acquisition of sole control of Freshmills Holdings Limited (the sole owner of Drummonds) by Freshgrass Holdings. The Commission's determination in *M/16/050 Freshgrass/Freshmills* can be accessed at:

[https://www.cpc.ie/business/wp-content/uploads/sites/3/2017/04/M-16-050-Freshgrass-Freshmills-Public\\_0.pdf](https://www.cpc.ie/business/wp-content/uploads/sites/3/2017/04/M-16-050-Freshgrass-Freshmills-Public_0.pdf)



16. No submission was received.

### **Competitive Analysis**

#### *Horizontal Overlap*

17. The Commission defines markets to the extent necessary depending on the particular circumstances of a given case. In this instance, it is not necessary for the Commission to define precise relevant product and geographic markets as there is no horizontal overlap between the business activities of Grassland Agro and Timac Agro in the State.
18. While both Grassland Agro and Timac Agro are involved in the distribution of specialty fertiliser in the State, they are active at different stages of the supply chain. Timac Agro supplies specialty fertiliser to Grassland Agro, its only customer in the State, which in turn supplies specialty fertiliser to agri-merchants in the State for further distribution to farmers. In light of the above, the Commission considers that the Proposed Transaction does not raise any horizontal competition concerns in the State.
19. In light of the above, the Commission considers that the Proposed Transaction does not raise any horizontal competition concerns in the State.

#### *Vertical Relationship*

20. There is an existing vertical relationship between Timac Agro and Grassland Agro in that the former supplies specialty fertiliser to Grassland Agro.
21. The Commission considers that the vertical relationship between Timac Agro and Grassland Agro in the State with respect to the supply of specialty fertiliser does not raise vertical competition concerns for the following reasons. Timac Agro will not be able to foreclose competing suppliers of specialty fertilisers (i.e. customer foreclosure) following completion of the Proposed Transaction as these competitors are based outside the State and will continue to have access to customers based outside the State. Furthermore, views gathered by the Commission from a number of agri-merchants suggest that specialty fertiliser products are likely to be substitutable with commodity fertiliser products from the perspective of end users (i.e., farmers). All agri-merchants



also noted that there are a large number of suppliers of commodity fertiliser currently active in the State.<sup>7</sup>

22. Therefore, the Commission considers that the Proposed Transaction does not raise any vertical competition concerns in the State.

### **Conclusion**

23. In light of the above, the Commission considers that the Proposed Transaction will not substantially lessen competition in any market for goods or services in the State.

### **Ancillary Restraints**

24. No ancillary restraints were notified.

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<sup>7</sup> These include: Gouldings Chemicals Limited, Grassland Fertilisers (Kilkenny) Limited, Target Fertilisers Limited, NitroFert Limited, Yara Ireland and Greenfields Fertilisers.



### **Determination**

The Competition and Consumer Protection Commission, in accordance with section 21(2)(a) of the Competition Act 2002, as amended, has determined that, in its opinion, the result of the proposed acquisition whereby Timac Agro (Holdings) Ireland Limited, a wholly-owned subsidiary of Timac Agro Ireland Limited, would acquire sole control of Grassland Agro unlimited company will not be to substantially lessen competition in any market for goods or services in the State, and, accordingly, that the acquisition may be put into effect.

For the Competition and Consumer Protection Commission

**Brian McHugh**

**Member**

**Competition and Consumer Protection Commission**