

**DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION**

NO. 5806

31 January 2025

**NOTIFICATION TO APPROVE WITH CONDITIONS THE TRANSACTION INVOLVING:****TROUW NUTRITION SOUTH AFRICA PROPRIETARY LIMITED****AND****CHEMFIT FINE CHEMICALS PROPRIETARY LIMITED****CASE NUMBER: 2024AUG0003**

The Competition Commission hereby gives notice, in terms of Rule 38 (3)(c) of the 'Rules for the Conduct of Proceedings in the Competition Commission', that it has approved the transaction involving the abovementioned firms subject to conditions set out below:

**Background**

1. On 02 August 2024, the Competition Commission ("Commission") received notice of an intermediate merger wherein Trouw Nutrition South Africa (Pty) Ltd ("Trouw") intends to acquire 100% of the issued share capital of Chemfit Fine Chemicals (Pty) Ltd ("Chemfit"). After the implementation of the proposed transaction, Trouw will have sole control of Chemfit.
2. The primary acquiring firm is Trouw, a private company incorporated in accordance with the laws of the Republic of South Africa. Trouw is a wholly owned subsidiary of Nutreco International B.V. ("Nutreco International"). Nutreco International is ultimately controlled by SHV Holdings N.V. ("SHV"), a company registered in Netherlands. SHV is controlled by the Fenterner van Vissingen Family, through the Lawerecht Foundation, which is a Dutch Foundation.
3. In addition to Trouw, Nutreco International controls the following other firms which are operational in South Africa, namely: (i) Mammoet Holding B.V.; (ii) Nutreco Africa N.V.; and (iii) KIWA N.V.
4. Trouw does not directly or indirectly control any firm in South Africa or elsewhere.
5. Nutreco International, SHV and all firms directly or indirectly controlled by them are, hereafter, collectively referred to as the "Acquiring Group".

6. In South Africa, the Acquiring Group produces a range of animal feed mixes, which it distributes to farmers and animal feed producers. The Acquiring Group produces a range of premixed vitamin and mineral supplements that are formulated to suit the dietary requirements of poultry, livestock and domestic animals.
7. In addition to offering standard formulations, the Acquiring Group also produces and supplies (i) customised premix formulations made to specifications; (ii) animal feed supplements; (iii) Mineral blocks (iv) animal feed additives and young animal feeds for poultry, swine, ruminants and fish; and (v) Engineering solutions for lifting, transport, installation and decommissioning of large heavy structures.
8. The primary target firm is Chemfit, trading as AECI Animal Health. Chemfit is controlled by Chemical Services Limited ("Chemical Services"), which is ultimately wholly owned by AECI Limited ("AECI"). Chemfit does not control any firm.
9. Chemfit develops, manufactures and markets a broad range of premixes for livestock (dairy, beef and pigs), poultry (broilers and layers) and companion animals. In addition to its own premixes, Chemfit imports and supplies feed-grade commodities and represents international market players in animal health additives, nutraceuticals and specialty veterinary products. Chemfit distributes its products nationwide from its manufacturing site in Burgersdorp in the Eastern Cape.

#### **Competition assessment**

10. The Commission is of the view that the proposed merger is unlikely to substantially prevent or lessen competition as there are several players active in the manufacture and supply of animal feed premixes that will continue to constrain the merged entity.

#### **Public Interest considerations**

11. To address public interest concerns, the parties have tendered the commitments set out in **Annexure A**.
12. The Commission therefore conditionally approves the proposed transaction.

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**"ANNEXURE A"****TROUW NUTRITION SOUTH AFRICA PROPRIETARY LIMITED****and****CHEMFIT FINE CHEMICALS PROPRIETARY LIMITED****CASE NO: 2024AUG0003**

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**CONDITIONS**

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**1 DEFINITIONS**

The following expressions shall bear the meanings assigned to them below and cognate expressions bear corresponding meanings:

- 1.1 **"Acquiring Firm"** means Trouw Nutrition South Africa Proprietary Limited;
- 1.2 **"Acquiring Group"** means the Acquiring Firm, its direct and indirect controllers and all firms directly and indirectly controlled by the aforesaid firms;
- 1.3 **"Approval Date"** means the date referred to on the Commission's merger clearance certificate (Notice CC 15), being the date on which the Merger is approved by the Commission in terms of the Competition Act;
- 1.4 **"Commission"** means the Competition Commission of South Africa, a statutory body established in terms of section 19 of the Competition Act;
- 1.5 **"Commission Rules"** mean the Rules for the Conduct of Proceedings in the Competition Commission;
- 1.6 **"Competition Act"** means the Competition Act, No. 89 of 1998, as amended;
- 1.7 **"Conditions"** mean these conditions;
- 1.8 **"Days"** mean any calendar day which is not a Saturday, a Sunday or an official public holiday in South Africa;
- 1.9 **"HDP"** means historically disadvantaged persons as contemplated in section 3(2) of the Competition Act;
- 1.10 **"HSE"** means health, safety and environment;

- 1.11 "**Implementation Date**" means the date, occurring after the Approval Date, on which the Merger is implemented by the Merging Parties;
- 1.12 "**LRA**" means the Labour Relations Act 66 of 1995, as amended;
- 1.13 "**Merged Entity**" means the Target Firm subject to the control of the Acquiring Group following the Implementation Date;
- 1.14 "**Merger**" means the proposed acquisition by the Acquiring Firm of the entire issued share capital of the Target Firm;
- 1.15 "**Merging Parties**" means the Acquiring Firm and the Target Firm;
- 1.16 "**Moratorium Period**" means a period of 2 (two) years from the Implementation Date and includes the period between the Approval Date and the Implementation Date and in respect of Semi-skilled Employees and Unskilled Employees, 3 (three) years;
- 1.17 "**Semi-skilled Employees**" means all non-managerial employees that have grade 12 as their highest academic qualification;
- 1.18 "**Target Firm**" means Chemfit Fine Chemicals Proprietary Limited;
- 1.19 "**Tribunal**" means the Competition Tribunal of South Africa, a statutory body established in terms of section 26 of the Competition Act; and
- 1.20 "**Unskilled Employees**" means all non-managerial employees that have not obtained a grade 12 qualification.

## 2 EMPLOYMENT

- 2.1 During the Moratorium Period, the Merged Entity shall not retrench any permanent or fixed-term contract employees or any Semi-skilled Employees and Unskilled Employees because of the Merger.
- 2.2 The moratorium in 2.1 above will not include: (i) voluntary retrenchment and/or voluntary separation arrangements; (ii) voluntary early retirement packages; (iii) unreasonable refusals to be redeployed in accordance with the provisions of the Labour Relations Act 66 of 1995 ("LRA"); (iv) resignations or retirements in the ordinary course of business; (v) retrenchments lawfully effected for operational requirements (for the purposes of the LRA) unrelated to the Proposed Transaction (vi) terminations in the ordinary course of business, including but not limited to, dismissals as a result of misconduct or poor

performance; and (vii) any decision not to renew or extend a contract of a fixed-term third party contract employee or contract with a third party.

### 3 HSE CAPITAL COMMITMENT

3.1 The Acquiring Group shall invest [**Confidential**], to be spent cumulatively over a period of 6 (six) years, in the HSE of the Target Firms' workers at its Burgersdorp production facilities ("HSE Capital Commitment").

3.2 The HSE Capital Commitment will include spend on:

3.2.1 improved ventilation to reduce the inhalation of hazardous substances. The Acquiring Group shall install improved ventilation, and dust extraction equipment to remove hazardous dust;

3.2.2 installation of a fire escape and sprinkler system; and

3.2.3 prevention of dust explosions through improved extraction systems.

### 4 INVESTMENT IN THE RURAL COMMUNITY OF BURGERSDORP

4.1 The Acquiring Group shall spend [**Confidential**] per year over 5 (five) years following the implementation date on projects aimed at the upliftment of the Burgersdorp community ("Development Commitment").

4.2 The Development Commitment will seek to encompass spend on, *inter alia*, improving local school infrastructure, providing community health screening and vaccinations, and providing sustainable solutions for recycling and waste disposal projects.

### 5 SUPPORT FOR EMERGING HDP FARMERS

5.1 The Acquiring Group shall host 5 (five) HDP farmer training days per year at a total cost of [**Confidential**] each, for a period of 5 (five) years following the Implementation Date aimed at providing emerging HDP farmers with training and education in respect of animal health and nutrition.

### 6 MONITORING OF COMPLIANCE WITH THE CONDITIONS

6.1 The Merging Parties shall circulate a copy of the Conditions to all employees and the employee representatives of the Target Firm and the Acquiring Firm within 5 (five) Days following the Approval Date.

- 6.2 As proof of compliance with 6.1 above, the Merging Parties shall within 5 (five) Days of circulating the Conditions, provide the Commission with an affidavit by a senior official of each of the Target Firm and the Acquiring Firm attesting to the circulation of the Conditions and attach a copy of the notice sent.
- 6.3 The Acquiring Firm shall inform the Commission in writing of the Implementation Date, within 5 (five) Days of it becoming effective.
- 6.4 The Acquiring Firm shall submit a report to the Commission indicating its compliance with respect to these Conditions. These reports must be lodged within 5 (five) Days after each anniversary of the Implementation Date for a period of 6 (six) years.

## 7 **APPARENT BREACH**

If the Merging Parties appear to have breached the Conditions or if the Commission determines that there has been an apparent breach by the Merging Parties of any of the Conditions, this shall be dealt with in terms of Rule 39 of the Rules for the Conduct of Proceedings in the Commission.

## 8 **VARIATION**

The Merging Parties may at any time, on good cause shown, apply to the Commission for the Conditions to be waived, relaxed, modified and/or substituted. Should a dispute arise in relation to the variation of the Conditions, the Merging Parties shall apply to the Tribunal, on good cause shown and on notice to the Commission, for the Conditions to be waived, relaxed, modified and/or substituted.

## 9 **GENERAL**

All correspondence in relation to the Conditions must be submitted to the following email addresses: [mergerconditions@compcom.co.za](mailto:mergerconditions@compcom.co.za) and [ministry@thedtic.gov.za](mailto:ministry@thedtic.gov.za).

Enquiries in this regard may be addressed to the Manager: Mergers and Acquisitions Division at Private Bag X23, Lynnwood Ridge, 0040. Telephone: (012) 394 3298