EN

Case No IV/M.1082 -
****** ALLIANZ / AGF***

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REGULATION (EEC) No 4064/89
MERGER PROCEDURE

Article 6(1)(b) NON-OPPOSITION
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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 08.05.1998

PUBLIC VERSION

MERGER PROCEDURE
ARTICLE 6(1)(b) DECISION

To the notifying parties:

Dear Sirs,

Subject : Case No. IV/M.1082 - Allianz/AGF

Notification of 19 March 1998 pursuant to Article 4 of Commission Regulation No. 4064/1998

1. On 19 March 1998 the Commission received a notification of a proposed concentration by which the undertaking Allianz AG ("Allianz") acquires sole control over Assurances Générales de France ("AGF") by means of a public bid closed on 20 March 1998.

I. THE PARTIES INVOLVED AND THE OPERATION

2. Allianz, with headquarters in Munich/Germany, is the leader of a group of insurance companies active in all sectors of private insurance business and is one of the largest industrial insurers in the EEA and third countries. Allianz acquired the German credit insurer Hermes in 1996 (decision IV/M.813).

3. AGF, with headquarters in Paris, is an insurance company active in life- and non-life insurance and re-insurance in the EEA and world-wide. AGF is notably active in credit insurance through its subsidiary Euler.

4. By way of a public bid which was declared successful on 15 April 1998, Allianz intends to acquire the majority of the shares in AGF. Such acquisition will grant Allianz the majority of votes in AGF's general assemblies. AGF will remain a separate legal and publicly listed company. The proposed operation constitutes a concentration according to Article 3 (1) (b) of the Merger Regulation.

II. COMMUNITY DIMENSION

5. Allianz and AGF have a combined aggregate world-wide turnover, calculated in accordance with Article 5 (3) (b) of the Regulation in excess of ECU 5,000 million (Allianz: ECU 40,102 million; AGF: ECU 10,680 million). Each of them has a Community-wide turnover, calculated in accordance with article 5 (3) (b) of the Regulation of more than ECU 250 million (Allianz: ECU 30,975 million; AGF: ECU 9,183 million), 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. It does not constitute a co-operation case under the EEA Agreement pursuant to Article 57 of that Agreement.

III. COMPATIBILITY WITH THE COMMON MARKET

a) Life and non-life insurance without credit insurance

Relevant product markets

6. The proposed concentration concerns the life and non-life insurance market. Both life and non-life direct insurance from the demand side can usually be divided into as many product markets as there are risks covered because their characteristics, premiums and purposes are distinct and there is typically no substitutability for the consumer between the different risks insured (see cases No IV/M.759 - Sun Alliance/Royal Insurance; IV/M.862 - Axa/UAP; IV/M.985 - Credit Suisse/Winterthur; IV/M.812 - Allianz/Vereinte).

Relevant geographic markets

7. As far as life and non-life insurance for private households are concerned, the relevant markets seem at present to be mainly national, in view of the established market structures, the need for adequate distribution channels, fiscal constraints and differing national regulatory systems (see cases No IV/M.759 - Sun Alliance/Royal Insurance; IV/M.862 - Axa/UAP).

8. As far as aviation insurance is concerned, the Commission in the Allianz/Vereinte case (No IV/M.812) considered that it has Community-wide dimension as far as large risks are insured. In the Axa/UAP decision (No IV/M.862) this view was confirmed for other high risk transport insurance markets such as navigation and space insurance.

9. The parties consider that the geographic market for aviation insurance is a world-wide one, given the fact that only a small part of the gross premiums are generated in a domestic market, this circumstance indicating a world market. The French undertaking AGF-M.A.T. for example generates more than 80% of its MAT gross premiums with customers domiciled outside of France.

10. However, a geographic definition of the markets for MAT can be left open because even with the narrowest market definition there are no serious doubts regarding its compatibility with the Common market or a substantial part of it.

Assessment

11. The parties have overlapping activities in professional goods insurance, holiday insurance and maritime, transport and aviation insurance (MAT) in France, in liability insurance in Ireland, and in civil liability, household and accident insurance in Germany.

12. In professional goods insurance in France, combined shares amount to around 18%. Allianz/AGF even after the concentration will have a significantly smaller market share than the market leader Axa/UAP with around 25%. The same can be said about the market situation in the French holiday insurance market, where the parties achieve combined shares of 18.4%. The market leader is Mutuelles Assistances (19%) and there are a number of other important competitors with comparable market shares like Axa/UAP (16.8%) or Generali (14.8%).

13. Concerning maritime transport insurance, estimated aggregated market shares amount to 27.8%, but the parties will have a significantly smaller market share than the market leader Axa/UAP (37.6%). On a European level the parties only achieve combined shares of about 7%. In aviation insurance combined market shares in France amount to approximately 31%. The main competitors in aviation in France are Axa/UAP (around 33%) and GAN (13%). On a European level market combined market shares are significantly lower.

14. There will be combined market shares of about 27% in liability insurance in Ireland, but due to the fact that Allianz is hardly present on the Irish market, the increment of market shares will be less than 1%. Moreover, two strong competitors with shares of approximately 15% each will impede the creation of a dominant position in the Irish liability insurance market, notably Hibernian (15.2%) and Royal & Sun Alliance (14.8%).

15. In civil liability insurance in Germany, aggregated market shares amount to approximately 19%, but the concentration will only produce a minimal addition of market shares due to the fact that AGF's activities are limited to 0.15%. The same can be said, in principle, for household insurance and accident insurance in Germany. In household insurance and accident insurance combined market shares amount to 17.5% and 23.4% respectively with a rather negligible increment of 0.02%. In all three market segments a dominant position cannot be assumed given the fact that the market is characterised by a considerable number of competitors with relevant market shares.

IV. CONCLUSION

16. In view of the above-mentioned arguments it appears that the operation in the life and non-life insurance market -except credit insurance- does not create or strengthen a dominant position as a result of which effective competition would be significantly impeded in the EEA or any substantial part of that area.

b) Credit Insurance

Relevant product markets

17. The present concentration in particular affects one segment of the credit insurance market, namely the “delcredere” insurance in some Member States, in particular Italy, Belgium and UK. The Commission in the Allianz-Hermes Case (No. IV/M. 813) identified six different segments of credit insurance: “delcredere” (comprising domestic credit insurance, export credit insurance and capital goods insurance), consumer credit insurance, fidelity insurance and guarantee insurance. Credit insurance products in general offer protection to suppliers of goods and services against the effect of insolvency of a debtor or extended late payments. Fidelity insurance and computer fraud insurance as explained in the Allianz/Hermes decision covers internal risks deriving from illicit actions committed by employees of the insured.

18. “Delcredere” or credit insurance in the narrow sense, as it is called, includes three types of insurance policies: domestic credit insurance, export credit insurance and capital goods insurance. Domestic credit insurance and export credit insurance protect the policy holders against insolvency of their clients in the domestic market and abroad. Export credit insurance can be further divided according to the kind of risks covered. In particular political risks are covered by special policies managed on behalf of the state acting as a re-insurer. In a number of countries this kind of policy is only offered by one specialised company. Capital goods insurance covers insolvency risks deriving from the purchase of installations and factories in the home market or abroad. Risks of capital goods are related to political risks as far as insurance services to large international companies are concerned. On an overall perspective the delcredere market comprises less than 3% of the non-life insurance sector and is characterised by a high degree of specialisation.

19. From a demand-side perspective, the above-mentioned delcredere insurance products can be said to cover similar risks, namely the risks of insolvency and non-performance of contracting partners. All three segments of delcredere are similar in scope. The only differentiation between domestic and export credit insurance is the location of the risk insured. From a supply-side view it can be observed that the majority of credit insurers offer combined policies in particular for domestic and export credit insurance and, moreover, premiums are calculated in a similar way.

20. The characteristics of delcredere differ from those of other credit insurance products like consumer credit insurance which only addresses banks and financial institutions. The requirements that apply to the delcredere business differ significantly from the other credit insurance business. In delcredere both the risk of losses and profit margins are higher than in other segments of credit insurance and general insurance. While the later can be based on developments calculated according to certain statistical principles, delcredere requires the evaluation of a huge number of different isolated risks as well as special credit management facilities combined with a profound knowledge of markets concerned. Each policy holder has to be scrutinised accordingly. Information on the client’s market can easily be purchased from specialised databases. The interpretation and consequent exploitation of those informations nevertheless requires a specialised data-processing system. The development of such systems from scratch is very time consuming and can take 8-10 years. Different market informations have to be evaluated and risks must be selected.

21. It follows from the above-explained facts that the delcredere market is characterised by considerable market entrance costs. Heavy investments, the appropriate know-how and sufficient human resources are needed in order to start activities in this sector. This view was largely confirmed by the Commission's enquiries involving a representative number of competitors and clients of the parties. For the above-mentioned reasons and for the purposes of the present decision, the delcredere market will be examined as one separate product market.

22. The parties claim that delcredere insurance products are increasingly substituted by services offered by banks in addition to their core lending activities, like factoring and letters of credit used in particular when credit insurance is not available or credit limits are insufficient to cover orders.

23. It cannot be denied that certain bank products are increasingly entering the market as competitors of credit insurance products. Factoring adds the pre-financing element to the service rendered by credit insurers and factoring without recourse may even cover non-payment risk and provide credit protection. Certain bank products like factoring or letters of credit are appropriate supplementary products to credit insurance products.

24. Nevertheless, according to the Commission's findings these products by reason of their characteristics and prices are not yet sufficiently developed to substitute credit insurance products (see also Commission's conclusion in the Allianz/Hermes Case No. IV/M. 813). Factoring companies concentrate on the financial side of the business. They often seek credit insurance themselves with insurance companies. In the course of their business relations with clients they often ask for the assignment of the indemnity of an underlying domestic and export credit insurance policy as a security. A policy holder may obtain financing more easily when presenting the security of a credit insurer protecting his debtor balances. Financial guarantees like factoring and invoice discounting do not provide prevention and risk analysis nor do they provide the transfer of a whole portfolio of buyers, but the factoring company selects acceptable risks. Factoring often does not cover political risks and due to the cession of claims the client loses control over the receivables.

Relevant geographic markets

25. As far as the credit insurance segment is concerned, however, the Commission in the Allianz/Vereinte decision (case No. IV/M.812) and in the Allianz/Hermes decision (case No. IV/M.813) found that, especially for industrial and commercial policies, insurance markets are becoming more and more open to intra-community competition.

26. In the delcredere insurance market (especially in the segment of export credit insurance), the trend to internationalization is particularly strong considering customers' needs, suppliers' business interests and the nature of the business. Multinational corporates especially require a wider geographical scope in terms of servicing their group wide operations. They have an interest to optimise coverage and benefits from scale effect. Policies designed for multinational companies have

to provide world-wide buyer and political cover on a group-wide basis from a single source. Large credit insurers serve their big customers and their foreign subsidiaries from a single point and with a global policy. Markets are becoming more European because of the liberalisation of European insurance markets, the world-wide re-insurance structures and the growing internationalisation of the business.

27. Notwithstanding the growing internationalisation, delcredere, due to the characteristics of its product, also has a national dimension. Delcredere requires local support. Small and medium sized clients usually seek credit insurance with domestic companies. Policies are still mainly contracted on a local basis because detailed information is needed on the business of the insured, the financial situation of the customers and local economic structures. Local insurers as a rule are better prepared to meet these requirements than their foreign competitors. Big groups like Allianz and Coface which are present world-wide also fulfil these criteria. Other big insurers expand their network and/or their services in order to meet those requirements.

28. Summarising the above-mentioned developments it can be concluded that domestic and export credit insurance represent a driving force in internationalisation and concentration of the market. Multinational customers prefer to obtain groupwide coverage from a single source. On the other hand, small firms and local business partners usually turn to local firms. Accordingly there are elements to support either a conclusion that the market is international in scope, or that it is national. The final definition of geographical markets, however, can be left open because the Commission, for the purposes of the present case, had to appraise the effects of the concentration on any alternative market affected.

Impact of the concentration on a national level

29. In delcredere, the concentration will produce an addition of market shares in several national markets: the UK, Belgium, Italy, and Ireland due to existing activities of AGF/Euler's subsidiaries.

30. In the UK, the Euler subsidiary Trade Indemnity (TI) has approximately 50% shares in delcredere, whereas Hermes has only minor activities amounting to about 2%. The main competitors are NCM (36%), Coface LBF (5%) and AIG Europe (3%).

31. Despite a considerable degree of concentration and the fact that the two main players have about 80% of the market shares in credit insurance, the UK market for credit insurance seems to be a highly competitive one. The short term credit insurance market has been fully privatised in 1991. One consequence of this privatisation was the entrance of several new companies since the early nineties.

32. The major part of credit insurance policies are underwritten with brokers acting as intermediaries between the clients and the insurers. Brokers usually have a profound knowledge of their markets and contribute to effective competition in the UK by helping customers to exercise and consolidate their buying power. Any attempt by Hermes/Euler/TI to impose, together with

NCM, unfair market conditions would be likely to provoke a loss of customers. As confirmed by clients and competitors a large number of broker have in the past 8 years contributed to reducing consumer fidelity.

33. The UK market can be regarded as "commission" driven. Clients are therefore able to seek out the best rates. Over the last years, premiums have fallen and market penetration has grown faster than premium income. The investigation of the Commission confirmed that the pressure of new competitors and the strong presence of brokers are stimulating competition. Therefore the creation or strengthening of a dominant position of the new entity as well as an oligopolistic dominance of both the new entity and NCM on the UK market can be excluded.

34. In Italy, AGF/Euler through its recently acquired subsidiary SIAC has between 66 and 70% in delcredere. The concentration will produce a rather small increment of 1.2%. There are three other competitors in the market with market activities of a certain relevance. Those are LA VISCONTEA with around 10% and Fiat-Toro and SIC with around 7% each. However, Fiat-Toro is mainly operating for Fiat group as a captive. The remaining 10% is shared among a dozen small competitors. Some of those small players are even tied to AGF/SIAC by co-insurance agreements. Therefore, given the importance of combined market shares, the absence of comparable competitors and the fact that Hermes will disappear as a competitor, it has to be examined if the concentration would strengthen a dominant position in Italy.

35. It has to be taken into account that Hermes entered the It alian market only recently and is mainly present in other credit insurance segment than delcredere. In delcredere its market shares are limited to 1.2%. With regard to the disappearance of Hermes as a potential strong player on the Italian market it has to be considered that the market situation in real terms did not change significantly when Hermes started its direct sales. SIAC has been market leader since 1929 and was the only firm active in delcredere for many years. Therefore, even with the strong support of Allianz, Hermes would not have been in the position, in the short or medium run, to seriously challenge the market position of SIAC. The only strong credit insurer currently able to successfully compete with SIAC is LA VISCONTEA.

36. This view was reflected in the decision of the Italian Antitrust Authority approving the take over of SIAC by AGF/Euler dated 31, March 1998. This approval was notably subject to undertakings submitted by the acquirer: AGF committed itself to divest its controlling interest in LA VISCONTEA (58%) held via Coface, notably without transfer to one of AGF's subsidiaries or the Allianz group. According to the information supplied by the Italian Authorities, competitive concerns regarding a possible single market dominance of the parties could be removed by such a divestiture. In line with the appreciation of the national authority the Commission concludes that the impact of the concentration on the Italian market has to be assessed with a view to the structural links persisting between the two main players in Italy, Allianz/AGF/SIAC and Coface/LA VISCONTEA.

37. In Belgium, where the Euler-subsidiary COBAC has a market share in delcredere of about 43%, there is a very small overlap of activities, given the fact that Allianz/Hermes has a market share of only 0.7%. The first player in Belgium is Gerling (with over 50% of market shares). In Ireland, combined market shares amount to 53.7% (AGF/IC 50%, Allianz 38%) but it has to be taken into account that, since 1990, the Irish credit insurance market has become very competitive due to the successful entrance of new companies like NCM, Namur, Gerling, etc. Therefore, the strengthening of a dominant position in Belgium and Ireland cannot be expected.

38. In France, where AGF/Euler has market shares of 43 %, the increment of market shares is negligible since Allianz/Hermes has only 0.4%. Nevertheless, as in Italy, the concentration will lead to the disappearance of a strong potential competitor. The parties state that, as a consequence of the proposed concentration, competition in the French market will on the contrary be further enhanced, given the fact that AGF will sell its controlling interest in Coface and there will be two independent credit insurers active on the French market. At present Euler in the French market is operating in domestic, Coface in export credit insurance. Notwithstanding the existence of high market entrance costs in delcredere, there is no evidence that each of the companies in question could not enter the complementary market segment, given the fact that both dispose of sufficient knowledge on all three delcredere segments. Moreover both companies through their alliance “Eurexel” are familiar with the demand-side of both export and domestic products. For these reasons Coface appears to be able to be in a position to enter the domestic segment without difficulties. On the other hand, Euler is present in export credit insurance via some of its subsidiaries already to date.

39. In much the same way as the analysis applied to the Italian market, the impact of the concentration on the French market has to be assessed with a view to the links persisting between AGF/Euler and Coface.

40. In Germany, where Allianz/Hermes holds about 40% in delcredere, there will be no addition of market shares because both Allianz and AGF will sell their respective shares in the German credit insurer Aachener and Münchener Beteiligungsgesellschaft (AMB) and AGF will further lose control of Allgemeine Kreditversicherungs-AG (AKV), a subsidiary of Coface. Provided that Coface, through AKV, will continue to actively compete with Hermes, no substantial effect on the German market is expected.

Conclusion

41. It can be concluded that, considering market structures, past competitive behaviour and the real effect in market shares produced by the present take-over, a dominant position impeding competition on the Common market is not likely to be created by the mere addition of market shares.

Impact of the concentration on a European level

42. Market shares in delcredere in general are difficult to obtain because of lack of reliable statistics which are only available for the services rendered by specialised

credit insurers. National statistics often do not reflect activities pursued by market participants domiciled abroad. At any rate, it can be said that in Europe, there are only a few big players on the market, accounting for the bulk of market shares: AGF/Euler, the market leader, has between 27 and 32%, Allianz/Hermes has between 12 and 14%, the third player, Coface, has around 16% market shares, Gerling between 13 and 15% and NCM around 12%.

43. For the purposes of the present case, if the European part of delcredere (in particular the export credit business) could be defined as a geographically separated market, the combined market shares of the parties would amount to approximately 39-46, representing almost three times that of the next player (Coface: 16%) and about three times as much as the third competitor, Gerling (13-15%).

44. However, even if there are considerable costs, some recent market entrances show that there are no barriers to entry in the strict sense (see Gothaer, AIG, R und V). Market shares of newcomers in delcredere show a slower growth rate than in other credit insurance segments. But this is due to the need to follow strict underwriting rules and criteria on export risks. Moreover, the new entity will face competition from other players also active at international level, such as Gerling and NCM. Therefore, there is evidence of sufficient competition to dismiss the risk that the concentration as such could raise serious doubts.

Conclusion

45. Summarising the above-mentioned arguments, it can be concluded that the mere addition of market shares produced by the Allianz/AGF take over as such does not result in the creation of a dominant position. Those market shares, however, could present a problem if the number of competitors is further reduced and if traditional big players are in a position to use their competitive advantages resulting from the size of their business in order to keep out potential new competitors and divide up markets. This conclusion is not affected by the fact that Hermes enjoys in Germany a monopoly for the provision of state subsidized policies covering political risks.

Existing links between AGF and Coface

46. In the present case, there is a number of structural and co-operative links between AGF and Coface, the present AGF-subsidiary supposed to be a future competitor. Coface is an internationally active insurer specialising in export credits to the French Government.

47. At present, AGF is active in credit insurance via its subsidiaries Euler in which it holds a 68% participation, and Coface in which it has a 58.06% stake (direct participation amounts to 41.5 % and indirect participation via Euler to 16.5%).

48. According to a contract with some of the present shareholders in Coface, namely SCOR, Paribas, Natexis and Crédit Agricole on a redistribution of shares in Coface, AGF at the time of the take-over is supposed to reduce its stakes in Euler to 51% and in Coface to 24.9%. This reduction also forms part of

the public bid and is subject to a written commitment to the French Ministry of Finance. After the reduction AGF will keep control over Euler [...][1] but will at the same time lose sole control over Coface.

49. Whereas AGF with a stake of less than 25% will no longer be able to exercise sole control over Coface, it will retain close links with the company. Coface holds 5% in Euler while AGF/Euler holds 24.9% in Coface. SCOR is one of the main re-insurers of AGF/Euler and the first re-insurer of Coface. SCOR will also be the main shareholder in Coface (45.2%), holding at the same time 14% in Euler. Although there is no shareholder agreement between SCOR and AGF, there is the risk that AGF and SCOR could exercise a decisive influence on the company by pooling their voting rights. The special situation of business interests between the re-insurer and its clients is appropriate to discourage competition between AGF/Euler and Coface. Those aspects are strong indications for a likely de facto joint control of AGF and SCOR over Coface.

50. The fact that SCOR and AGF are the only shareholders in Coface disposing of a sufficient experience in delcredere business provides a further incentive for SCOR and AGF to act in agreement as regards strategic decision marking process in Coface. The other shareholders are: Natexis, the outcome of a merger of Banque de Commerce Extérieur and Crédit National holds 20.2%; Crédit Agricole, representing the organisation of various local and regional savings banks, has 5.1%; SAFR (controlled by the holding company Partner Re, owned by Swiss Re) has 2% and the employees have about 2%. Natexis, the only remaining shareholder with a significant participation is not active in the insurance business and entered the share capital as a financial investor.

51. Moreover, personal links exist on both sides of the managing boards of AGF/Euler and Coface. Several members of the management board of AGF are members of the management or supervisory board of Coface, while members of Coface are also represented in the management board of AGF/Euler.

52. In addition, there are co-operative links existing between Coface and AGF/Euler. The companies in 1991 formed the alliance “Eurexel” with the help of which they offer a combined policy covering both domestic and export credit risks. With the help of this alliance AGF/Euler since 1995 provide a combined credit insurance policy including both domestic and export credit risks to meet the special business requirements of a limited number of multinational clients.

53. The two companies are also co-operating through a European interest group called “Eurogate”. Eurogate is a co-operation of business investigation companies offering business informations also needed for credit insurance. The founding members of Eurogate are Bürgel, a subsidiary of Hermes, Graydon Holding, joint venture between Hermes, Coface and NCM and SCRL S.A., a subsidiary of Coface.

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54. Furthermore Coface and a joint venture between AGF and Turkish Financial Institution Dogus intend to set up a credit insurance joint venture in Turkey.

55. Finally there is a fronting agreement between Coface and AGF/Euler for Japan under which one company can underwrite insurance policies on behalf and for the account of the other.

Impact of existing links between AGF and Coface on national level

56. Due to accumulation of links between AGF/Euler and Coface, there is the risk that the two companies will not compete on the market but act in a complementary manner dividing up product and geographical markets.

57. In Italy, Hermes/Euler/SIAC have a dominant position due to combined market shares of 67%-70%. Assuming that Coface/LA VISCONTEA, being the second largest player with more than 10%, will not compete with the parties due to existing close links and common interests, the next real competitor SIC would only have 7.1%. This fact would raise serious doubts as to its compatibility with the common market or a substantial part of it.

58. In France, Euler and Coface already dominated the credit insurance market. Direct effect of the concentration is the disappearance of Hermes as a potential competitor. This effect would be only counterbalanced if Coface would emerge as a viable competitor.

Impact of existing links between AGF and Coface on a European level

59. Similar to the situation on the Italian and French markets, the accumulation of links between Allianz/AGF and Coface, the number one and two credit insurers in Europe could create or strengthen a dominant position if competition between the two companies is not sufficiently guaranteed. This view has been developed by a complainant.

60. The delcredere market in Europe at present is controlled by a few global players. There are historic reasons for this picture. In some countries like Germany and France, export credit insurance involving political risks was taken on only by quasi-governmental agencies due to the historic separation between domestic and export credit insurance products. In the above-mentioned countries Coface and Hermes still play an important role because they have the exclusive right to offer state subsidised export credit guarantees. This competitive advantage has been pointed out by a competitor.

61. Export credit business contributes to an improved reputation and acceptance of an insurance company by its clients. A business relationship in delcredere often serves as a catalyst to open up business relations on other insurance products provided by the same company. Thus, the conclusion of a credit insurance policy in delcredere involving negotiations with the superior management of a company, frequently paves the way to increasing underwriting capacity.

62. As pointed out by Allianz, one of the strategic aims of the concentration is the building of a European market leadership. The new entity Hermes/Euler will indeed be the market leader in the European market. After the concentration, the parties will enjoy a very strong market position and have shares amounting to 39-46% which is three times more than their second competitor Coface with 16%. The distance to the next competitor, Gerling (13%) will be significantly larger.

63. Considering the above-described critical addition in market share, any circumstance de facto reducing the number of existing competitors and/or discouraging competition between them could give rise to significant doubts with regard to the creation or strengthening of a dominant position. Supposing that Allianz/AGF and Coface stick to the markets where they have a leading position keeping out other competitors, this would impede effective competition in the Common Market. Such a tendency could as well interfere with the liberalisation of European insurance markets in the long run.

Conclusion

64. Therefore it is the Commission's conclusion that the operation, in its notified form, raises serious doubts as to the creation or strengthening of a dominant position in the European delcredere market.

V. UNDERTAKINGS SUBMITTED BY THE PARTIES

65. In application of Article 6 (2) of the Merger Regulation the parties presented a commitment to the Commission. The text of these undertakings is annexed and forms an integral part of this decision.

66. According to these commitments AGF after clearance of the present concentration will sell [...][2] shares in Coface to buyers not belonging to the AGF/Allianz group. Furthermore, [...][2] the members of the managing board of AGF will leave the management board of Coface. Any other personal links existing between companies owned/controlled by one of the parties and companies belonging to Coface will be removed.

67. Nevertheless, any acquisition of 5% or more shares in Coface is subject to approval of the French Ministry of Economy and Finance. In the case this approval cannot be obtained, the parties would therefore offer to the Commission an equivalent solution excluding any influence of AGF over Coface.

Assessment

68. In line with the Commission's practice concerning commitments in first phase, [...][2] a divestiture of AGF's shares in combination with the removal of all personal links would be appropriate to clearly resolve an identifiable problem, namely the possible creation or strengthening of a dominant position

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impeding effective competition both on the national and international level. The present problem is of limited scope because it only concerns one small part of the overall insurance market affected by the concentration.

69. After the execution of the undertakings proposed by the parties, the remaining links between Coface and AGF will in their present state not in themselves constitute obstacles to effective competition on the Common Market or a substantial part of it.

70. Concerning “Eurexel”, this agreement does not contain any clause excluding competition between the participants. The alliance though showing considerable growth rate has a rather limited scope of activities and annual gross premiums of about ECU [...][3]. Eurexel since introduction of a common policy in 1995 has acquired [...][3] contracts.

71. Concerning Eurogate it can be said that the services rendered by this co-operation are offered to any company interested in investigating the rating of a customer with whom it wants to enter into business, as well as to credit insurance companies who need this information for their credit insurance cover. To the information of the Commission there are no barriers to the access to such information. The fact that the parties and Coface and NCM jointly control the founding members of Eurogate does not have any impact on the principal of open access.

72. Concerning the Turkish joint venture, only a letter of intent has been signed between AGF/Bogus and Coface. In any event the parent company AGF claims not to have been aware of this project, which was decided on a local level, because the AGF/Bogus joint venture is not under AGF’s control. Furthermore the project seems only to be limited to Turkey.

73. Concerning the fronting business the Commission was informed by the parties that such agreements are quite common in the insurance industry in cases where a primary insurance company or a re-insurance company for legal or other reasons is unable to participate directly in granting the insurance cover. Such agreements have also been concluded by other competitors for the same reasons.

74. For the above-mentioned reasons the Commission came to the conclusion that the above-described commitments represent a sufficient remedy to eliminate the effect of the remaining structural links between AGF and Coface in order to ensure that the two companies act as independent competitors on the market. The proposed commitments would eliminate any risk that AGF could exercise decisive influence over Coface together with the main shareholder SCOR (45%) or by other means. Naturally, this is without prejudice of the possible application of Article 85 to the co-operation between AGF and Coface.

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75. The competent authorities of the Member States after having been informed of the parties' commitments agreed that the present proposals would be sufficient to remove competitive concerns.

VI. FINAL CONCLUSION

76. Consequently, the Commission concludes that, subject to full compliance with the commitments made by AGF, as set out in its letter to the Commission of April 1998, the proposed concentration will not create or strengthen a dominant position, as a result of which effective competition would be significantly impeded in the common market or a substantial part of it.

77. For the above reasons, and subject to the full compliance with the commitments made by AGF and Allianz, 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 (as amended by Council Regulation No 1310/97).

For the Commission,