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*Case No IV/M.116 -
KELT / AMERICAN
EXPRESS*

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**REGULATION (EEC) No 4064/89
MERGER PROCEDURE**

Article 6(1)(b) NON-OPPOSITION
Date: 20.08.1991

*Also available in the CELEX database
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MERGER PROCEDURE
ARTICLE 6(1)b DECISION

VERSION FOR THE PUBLIC

Registered with advice of delivery
To the notifying parties

Dear Sirs,

Subject: Case No. IV/M116 - Kelt/American Express
Your notification pursuant to Article 4 of Council
Regulation No. 4064/89.

1. Kelt Energy PLC (Kelt) is a UK publicly quoted company engaged in exploration and production in the oil and gas sector. Under a financial restructuring operation, a syndicate of 8 banks, led by American Express Bank Ltd., will through a jointly owned company, Purbeck Petroleum Limited (Purbeck), specifically established for this purpose, acquire the whole of the share capital of Kelt's subsidiary, Kelt Exploration Limited (Keltex) as well as certain other Kelt assets.
2. The financial restructuring is a rescue operation to avoid putting Kelt into receivership. The operation was notified to the Commission on 19/07/1991.
3. After examination of the notification, the Commission has come to the conclusion that the notified operation falls within the scope of Council Regulation N° 4064/89 (the Merger Regulation) and does not raise serious doubts as to its compatibility with the common market.

COMMUNITY DIMENSION

4. The operation has a community dimension. One tenth of the total assets of the parties amounts to more than 5 billions ECU and the amount of these assets attributable to the Community under the method of calculation set out in article 5(3) of the Regulation also exceeds the threshold of article 1(2)b. The amount of these assets attributable to any particular Member State does not exceed two thirds in respect of either bank.

CONCENTRATION

5. After examination of the notification and, in particular, the shareholders and subscription agreement relating to the establishment of Purbeck, the Commission has come to the conclusion that the operation represents the establishment of a concentrative joint venture through which the banks will exercise joint control over Keltex. In effect, unanimity is required for central strategic decisions which determine the development of the company. The jointly controlled company will perform on a lasting basis all the functions of an autonomous economic entity and there is no indication that there will be a coordination of the competitive behaviour of the parties. The notified operation represents a concentration falling within Article 3 of the Merger Regulation.
6. In the specific circumstances of this case, the Commission has concluded that Article 3(5)a is not applicable, in particular since there is no indication that the banks will dispose of the Keltex securities within one year.

COMPATIBILITY WITH THE COMMON MARKET

7. The Commission has examined the latest annual accounts of Kelt and Keltex. It is satisfied of the very serious nature of both undertaking's financial position. Given the specific circumstances of the case it is convinced of the need to swiftly effect the restructuring operation in order to prevent serious damage to one or more undertakings concerned by the concentration. For this reason it has already granted, on being requested, a derogation in accordance with the terms of Article 7(4) of the Merger Regulation allowing the concentration to be put into effect.
8. With the exception of certain minor leases in the USA, the assets being acquired by the banks through the operation all relate to the UK. The UK market shares being acquired are:

	<u>OIL</u>	<u>GAS</u>
UK production	0.19%	0.034%
UK estimated reserves	0.28-0.61%	0.005-0.016%
	<u>ONSHORE</u>	<u>OFFSHORE</u>
UK exploration acreage licences	0.07%	0.23%

9. Crude oil and natural gas are clearly separate product markets. The relevant geographic market for natural gas is likely to be smaller than that for the crude oil. This is because the physical characteristics of natural gas make it difficult to transport and store compared to crude oil. The definition of the relevant geographic market for natural gas depends to a large extent on the existence of natural gas pipelines. The UK has no significant pipeline connection with any other Member State.
10. However, even if the narrowest definition for the relevant geographic market for gas is taken, by restricting the geographic scope to the UK, then on any of the above three measures: production, reserves or acreage, the market shares being acquired are minimal.

11. The Commission has examined the issue of possible overlapping interests by the banks: both horizontally in oil and gas exploration and production and vertically in relevant downstream markets for oil and gas refining, transportation and processing. It has come to the conclusion that there are no affected markets.

ASSESSMENT

12. For the above reasons, the Commission has decided not to oppose the notified concentration and to declare it compatible with the common market. This decision is adopted in application of Article 6(1)b of the Merger Regulation.

For the Commission,