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Case No IV/M.1340 - * BNP / DRESDNER BANK - AUSTRIAN JV

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REGULATION (EEC) No 4064/89
MERGER PROCEDURE

Article 6(1)(b) NON-OPPOSITION
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PUBLIC VERSION

MERGER PROCEDURE
ARTICLE 6(1)(b) DECISION

To the notifying parties

Dear Sirs,

Subject: Case No IV/M. 1340 – BNP / DRESDNER BANK – AUSTRIAN JV
Notification of 20 November 1998 pursuant to Article 4 of Council Regulation No 4064/89

1. On 20 November 1998 the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No. 4064/89 by which Banque Nationale de Paris ("BNP")and Dresdner Bank AG ("Dresdner") will create a joint venture bank in Vienna under the name of BNP – Dresdner European Bank AG, Wien ("the new joint venture").

2. After examination of the notification, the Commission has concluded that the notified operation falls within the scope of Council Regulation (EEC) No. 4064/89 and does not raise serious doubts as to its compatibility with the common market and with the EEA Agreement.

I. THE PARTIES' ACTIVITIES AND THE OPERATION

3. BNP is a French bank whose main activities are commercial banking and other financial services. Dresdner is a German bank whose main activities are commercial and corporate banking and other financial services. Both banks are among the Europe's leading banking groups and are active worldwide.

4. The new joint venture will be established as a stock company (Aktiengesellschaft) under Austrian law. BNP and Dresdner will own 50% each of the share capital and will jointly

control the joint venture. Furthermore, the new joint venture will perform on a lasting basis all the functions of an autonomous economic entity.

5. The setting up of the new joint venture takes place within the framework of a co-operation agreement signed by BNP and Dresdner in 1993 and approved under Article 85(3) of the Treaty by Commission's decision of 1996 (the "Article 85(3) decision")[1]. The corresponding exemption was granted for 10 years (i.e. up to 2005). The co-operation agreement provided, inter alia, that the two banks would combine their activities into joint subsidiaries in European countries other than Germany and France. Pursuant to the agreement BNP and Dresdner have so far established seven banking joint ventures operating in Central and Eastern Europe (Bulgaria, Czech Republic, Croatia, Hungary, Poland, Romania, and Russia). The new joint venture will act as a holding company running the banking joint ventures in Eastern and Central Europe. To this end BNP's and Dresdner's stakes in these banks will be transferred to the new joint venture.

6. The new joint venture will also be active in the wholesale banking sector.

II. CONCENTRATION

7. The notified operation is a concentration under Article 3(1)(b) of the Merger Regulation.

III. COMMUNITY DIMENSION

8. The combined aggregate worldwide turnover of the undertakings concerned exceeds 5,000 million ECU (BNP: 6.7 bn ECU; Dresdner:7.3 bn ECU in 1997). The aggregate Community wide turnover of each of them is in excess of 250 million ECU, but they do not generate more than two thirds of their aggregate Community-wide turnover within one and the same Member State. Hence the notified concentration has a Community dimension.

IV. COMPATIBILITY WITH THE COMMON MARKET

Relevant product market

9. The notifying parties consider that the relevant products market are short and medium term loans, deposit taking, execution of national and international payment transfers, foreign exchange products and advisory service to large corporation and financial institutions. According to the Commission's practice in the banking sector, these activities are considered to be part of the so- called wholesale or corporate banking market[2].In the present case, it is not necessary to delineate further the relevant product market because, even on the narrowest market definition, the concentration 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.

Relevant geographic market

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1 OJ L 188, 27/10/1996, p. 37

2 See, for example, cases IV/M. 1172 - Fortis AG/Generale Bank, IV/M. 1096 - Societé Générale/Hambros Bank, IV/M. 1089- Paribas Belgique/Paribas Nederland, IV/M. - 1029 Merita/Nordbanken and the Art. 85(3) decision, ante.

10. The parties consider that the relevant geographic market is Austria and that, besides cross border transactions, neighbouring markets will be affected only indirectly by the activities of BNP- Dresdner European Bank in Austria. This definition of the relevant geographic market appears appropriate and is coherent with previous decisions where the Commission has considered that banking markets are still essentially national in scope.[3]

Assessment

A. Dominance

11. The concentration will not have any appreciable effect on the Austrian wholesale banking market. BNP has no activities in Austria. Dresdner is present in Austria through a subsidiary mainly active in the retail and corporate banking sectors which has an estimated market share in both markets well below 1%. Moreover, the Austrian banking market is characterised by the strong presence of national players. According to the estimations provided by the parties, the six largest Austrian banks have a combined market share above 80% of the Austrian wholesale banking market.

B. Co-ordination of competitive behaviour

12. The new joint venture will supervise and control the banking joint ventures in Central and Eastern Europe. In this context it is to be borne in mind that the banking joint ventures in Central and Eastern Europe are set up pursuant to the above mentioned co-operation agreement between BNP and Dresdner. That agreement was exempted by the Article 85(3) decision for 10 years. The establishment of the new joint venture acting as the holding company of the Central and Eastern European joint fits in the parents' co-operation agreement and, as such, benefits from the exemption granted under Article 85(3). Therefore there is no need to examine the case under Art. 2.4 of the Merger Regulation.

V. CONCLUSION

13. For the above reasons, 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.

For the Commission,

[3] The Art. 85(3) decision, ante.