

***Case No COMP/M.2818 -
NESTLE / FONTERRA /
JV***

Only the English text is available and authentic.

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

Article 6(1)(b) NON-OPPOSITION
Date: 20/12/2002

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 20/12/02

SG (2002) D/233493/233494

PUBLIC VERSION

MERGER PROCEDURE
ARTICLE 6(1)(b) DECISION

SIMPLIFIED PROCEDURE

To the notifying parties

Dear Sirs,

**Subject: Case No. COMP/M.2818 – NESTLÉ / FONTERRA / JV
Notification of 22 November 2002 pursuant to Article 4 of Council Regulation (EEC) No. 4064/89¹
Publication in the Official Journal of the European Communities No. C 301, 05/12/2002, page 4.**

1. On 22 November 2002, the Commission received notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No. 4064/89 by which the undertaking Nestlé S.A. (“Nestlé”, Switzerland) and Fonterra Cooperative Group Ltd (“Fonterra”, New Zealand) will acquire within the meaning of Article 3(1)(b) of the Council Regulation joint control of a number of newly created companies constituting joint ventures (“JV’s”), located in a limited number of countries in South and Central America, the Caribbean and in the NAFTA countries by way of purchase of shares.
2. The business activities of the undertakings concerned are :
 - for Nestlé: production, marketing and sale of a large variety of food products such as dairy products, soluble coffee, roast and ground coffee, mineral water, beverages, cereals, instant and frozen foods, diet and culinary products, ice creams, chocolate and pet care.

¹ OJ L 395, 30.12.1989 p. 1; corrected version OJ L 257 of 21.9.1990, p. 13, as last amended by Regulation (EC) No 1310/97, OJ L 180, 9.7.1997, p. 1, corrigendum in OJ L 40, 13.2.1998, p. 17.

- for Fonterra: manufacturing and supply of dairy ingredients for the production of milk food and beverages, including milk and whey proteins, milk powders, cream products, cheese and cheese ingredients.
 - for the JV's: manufacturing and selling of: (i) chilled dairy products, such as yoghurts, dairy desserts, short shelf-live fermented and cultured drinks, short shelf-live cream and cream cheese and (ii) liquid milk products such as pasteurised, flavoured, long shelf-live processed milks and UHT cream, as well as (iii) the sourcing of raw milk and (iv) the production of whole milk powder.
3. 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 of paragraph 4, subparagraph (a) of the Commission Notice on a simplified procedure for treatment of certain concentrations under Council Regulation (EEC) No 4064/89².
 4. For the reasons set out in the Notice on a simplified procedure, 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

Mario MONTI
Member of the Commission

² OJ C 217, 29.07.2000, p. 32.