

***Case No COMP/M.1933 -
CITIGROUP / FLENDER***

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

Article 6(1)(b) NON-OPPOSITION
Date: 20/06/2000

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 20.06.2000
SG (2000) D/104332

PUBLIC VERSION

MERGER PROCEDURE
ARTICLE 6(1)(b) DECISION

To the notifying party

Dear Sirs,

Subject: Case No COMP/M.1933 – Citigroup/Flender

Notification of 12/05/2000 pursuant to Article 4 of Council Regulation No 4064/89

- (1) On the 12/05/2000 the Commission received a notification of a proposed concentration pursuant of Article 4 of Council Regulation (EEC) No. 4064/89¹, whereby Citicorp Venture Capital Ltd. (CVC), US, proposed to acquire, within the meaning of Article 3(1)(b) of Council Regulation, sole control of A. Friedr. Flender Aktiengesellschaft (Flender), Germany, by way of purchase of shares.
- (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 functioning of the EEA Agreement.

¹ OJ L 395, 30.12.1989 p.1 corrigendum OJ L 257 of 21.09.1990, p.13; Regulation as last amended by Regulation (EC) No 1310/97 (OJ L 180, 9.7.1997, p1, corrigendum OJ L 40, 13.2.1998, p 17)

I THE PARTIES

- (3) CVC is a wholly-owned subsidiary of Citigroup Inc. (Citigroup) which was created pursuant to the 1998 merger between Travelers Group Inc and Citicorp (M 1184). Citigroup is a diversified holding company whose businesses provide a broad range of financial services to consumer and corporate customers around the world.
- (4) Flender belongs to the Babcock Borsig AG (Babcock) group, and is active in the development, manufacture and sale of mechanical power transmission components and assemblies designed for a wide variety of industrial applications.

II THE OPERATION

- (5) CVC intends to acquire indirectly 75.46% of the total share capital of Flender presently owned by Babcock. Of the remaining shares 10% are held by Westdeutsche Landesbank and the rest is held by the public. Babcock wishes to sell Flender as its activities do not form part of Babcock's core business. CVC views the transaction as an investment opportunity.

III CONCENTRATION

- (6) The operation is a concentration in the sense of Article 3(1)(b) of the Merger Regulation since CVC will acquire sole control of Flender.

IV COMMUNITY DIMENSION

- (7) The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 billion² (Citigroup: EUR 68 175 million, Flender: EUR 772 million). Each have a Community-wide turnover in excess of EUR 250 million (Citigroup: EUR 4 381 million, Flender: EUR 552 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.

V COMPETITIVE ASSESSMENT

- (8) The notified operation will not have any competitive impact in any markets. There is no horizontal overlap of activities of the parties to the concentration. Flender is active in the supply of power transmission equipment. Citigroup is active in financial services and does not hold an interest for investment purposes in any of Flender's competitors. Nor are Citigroup and Flender engaged in business activities in product markets which are upstream or downstream to each other. There are consequently no horizontal or vertical relationships between Citigroup and Flender.

² Turnover calculated in accordance with Article 5(1) of the Merger Regulation and the Commission Notice on the calculation of turnover (OJ C66, 2.3.1998, p25). To the extent that figures include turnover for the period before 1.1.1999, they are calculated on the basis of average ECU exchange rates and translated into EUR on a one-for-one basis.

VI ANCILLARY RESTRAINTS

- (9) In the Sale and Purchase agreement Babcock undertakes for a period of five years not to be engaged in activities which are competing against Flender's activities, it also undertakes for a period of three years not to hire away any employee of Flender.
- (10) The non-compete clause in the Sale and Purchase Agreement does not go beyond what is necessary to guarantee the value of the shares being transferred. The need for a five year restriction is justified by relatively long development cycles and product life cycles. The condition not to hire away any employee of Flender is justified on the basis that the concentration includes the transfer of know-how. The Commission regards these provisions directly related and necessary to the implementation of the concentration.

VII CONCLUSION

- (11) 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 and Article 57 of the EEA Agreement.

For the Commission,
Signed by Mario Monti
Member of the Commission