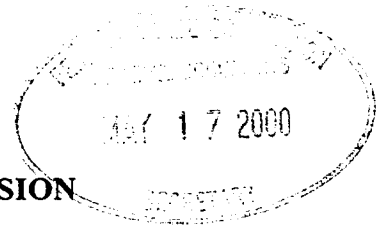


UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION



In the Matter of)
)
Exxon Corporation,)
a corporation,)
)
and)
)
Mobil Corporation,)
a corporation.)

File No. ~~991-0077~~
FTC Docket No. C-3907

**APPLICATION FOR APPROVAL OF PROPOSED DIVESTITURE OF
EXXON JET TURBINE OIL BUSINESS**

Public-Record Version
(Redacted)

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**APPLICATION FOR APPROVAL OF PROPOSED DIVESTITURE OF
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On May 8, 2000, Respondent Exxon Mobil Corporation ("ExxonMobil"), successor to Exxon Corporation and Mobil Corporation, entered into a definitive agreement with BP Exploration & Oil Inc. (a subsidiary of BP Amoco plc), acting by and through its Air BP Division (collectively "Air BP"), pursuant to which ExxonMobil will make the divestitures and assignments, and enter into the agreements, required by Paragraphs XII.A.-XII.B. of the Commission's Decision and Order with respect to the Exxon Jet Turbine Oil Business. That agreement, with schedules, exhibits, and amendment letters thereto, is provided in the Appendix hereto at Tabs A-D.¹ ExxonMobil hereby submits this Application for Approval of Proposed Divestiture pursuant to Rule 2.41(f), 16 C.F.R. § 2.41(f) (1999).

¹ The Agreement appears behind Tab A. The schedules appear behind Tab B. The exhibits appear behind Tab C. Letters modifying certain terms of the Agreement appear behind Tab D.

ExxonMobil requests confidential treatment of this Application and the Appendix hereto, which contains the agreement between ExxonMobil and Air BP and other related materials, pursuant to Rules 2.41(f)(5) & 4.9(c), 16 C.F.R. §§ 2.41(f)(5) & 4.9(c) (1999). This Application and Appendix contain confidential information about the nature of the Exxon Jet Turbine Oil Business and contain commercially sensitive information about the terms of Respondent's agreement with Air BP and the assets Air BP will acquire from ExxonMobil. This information should be accorded confidential treatment under 5 U.S.C. § 552 and Rule 4.10(a)(2), 16 C.F.R. § 4.10(a)(2) (1999), and is also exempt from disclosure under Exemptions 4, 7(A), 7(B), and 7(C) of the Freedom of Information Act and the Hart-Scott-Rodino Antitrust Improvements Act, 15 U.S.C. § 18a(h). Maintaining the confidentiality of the information contained in this Application furthers the public interest by ensuring that the information does not become publicly available to competitors of ExxonMobil and Air BP. The public's interest in strong and robust competition among persons engaged in the production and sale of jet turbine oils is furthered by preventing competitors from obtaining sensitive commercial information about each other. Furthermore, maintaining the confidentiality of proprietary information about the divestiture will accelerate the sale of other assets that ExxonMobil has undertaken to divest by alleviating concerns of potential acquirers that competitors may learn sensitive information about the assets through the divestiture process.

A redacted, public-record version of this Application, which omits the confidential information from the Application and Appendix, is being filed simultaneously herewith.

The parties desire to complete the proposed divestiture as soon as possible, following Commission approval. Prompt consummation will further the purposes of the Decision and Order and is in the interests of the public and the parties, because it will allow Air BP to move forward with its business plan for competing using the business to be acquired. ExxonMobil accordingly requests that the Commission promptly commence the period of public comment provided for by Commission rules, limit the public-comment period to the customary 30-day period, and grant the requested approval of the proposed transactions as soon as possible after the close of the comment period.

I. Name of and Corporate Information About Proposed Purchaser

Air BP has an office at 200 East Randolph Drive, Chicago, Illinois, 60601-7125 (Contact: Karin B. Sinniger, Esq., Mail Code 1907, (312) 856-5570). BP Exploration and Oil, Inc., is an Ohio Corporation and is a wholly owned subsidiary of BP Amoco plc ("BP Amoco"). Air BP is a division of BP Exploration. Air BP has for many years been the marketing arm in the United States of the worldwide aviation fuels marketing business of BP Amoco. Copies of BP Amoco's 1999 annual report is provided in the Appendix hereto, at Tab I. Additional information concerning Air BP's and BP Amoco's finances and business activities is available from Air BP and BP Amoco.

II. Description of Contract and Consistency with Terms of Consent Decree

The Asset Sale and Purchase Agreement for the Exxon Jet Turbine Oil Business ("ExxonMobil-Air BP Agreement" or "Agreement") (Tabs A-D of the Appendix hereto), will carry out all of the relief required by Paragraphs XII.A.-XII.B. of the Decision and Order.

1. Paragraph XII.A requires the sale of Exxon's Jet Turbine Oil Business. Air BP will acquire Exxon's Jet Turbine Oil Business as required by Paragraph II.A. See Agreement, § 2.1.

(a) The Exxon Jet Turbine Oil Business is defined to include "all of Exxon's rights, titles, and interests" in a sole and exclusive worldwide perpetual royalty-free license to practice in the Field of Jet Turbine Oils the patents set out in Appendix B and any supplemental patents designated pursuant to Paragraph XII.B.13. of the Decision and Order. See Decision and Order, ¶ I.Z.1.³

² The proposed divestiture to Air BP has already been approved by the European Commission. A copy of the approval letter is attached at Tab E.

³ The manner in which the Agreement satisfies the requirements of Paragraph XII.B.13. is discussed below.

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(b) Paragraph I.Z.2. defines the Exxon Jet Turbine Oil Business to include a grant to the acquirer of an immunity from suit in the Field of Jet Turbine Oils under all other patents held, or applied for, by Exxon as of the date of the Merger, or for which the Held Separate Exxon Jet Turbine Oil Business has filed an application between the date of the Merger and the Effective Date of Divestiture of the Exxon Jet Turbine Oil Business.

(c) Paragraph I.Z.3. defines the Exxon Jet Turbine Oil Business to include a royalty-free sublicense of all rights in the Field of Jet Turbine Oils under any patent license held by Exxon as of the date of the Merger, including the right to transfer such sublicense exclusively or non-exclusively to others through any means, and without reservation to ExxonMobil of any such rights in the Field of Jet Turbine Oils.

(d) Paragraph I.Z.4. defines the Exxon Jet Turbine Oil Business to include a sole and exclusive right to all Jet Turbine Oil Formulations, including all records containing Jet Turbine Oil Formulations.

(e) Paragraph I.Z.5. defines the Exxon Jet Turbine Oil Business to include the sole and exclusive right to all trademarks, service marks, product names, and copyrights (except as provided by Paragraph XII.B.9.).

(f) Paragraph I.Z.6. defines the Exxon Jet Turbine Oil Business to include a sole and exclusive worldwide perpetual royalty-free license in the Field of Jet Turbine Oils, without reservation to ExxonMobil of any rights in the Field of Jet Turbine Oils, to all trade secrets, know-how, inventions, software, and other intellectual property, with certain specified exceptions.

(g) Paragraph I.Z.7. defines the Exxon Jet Turbine Oil Business to include military, customer, and original-equipment manufacturer approvals for products (to the extent transferable).

(h) Paragraph I.Z.8. defines the Exxon Jet Turbine Oil Business to include contracts for supply and distribution (to the extent transferable).⁷

(i) Paragraph I.Z.9. defines the Exxon Jet Turbine Oil Business to include procurement information for products and services used in the research, development, manufacture, quality assurance, marketing, customer support or sale of Jet Turbine Oils.

⁷ Distribution contracts are governed by Paragraph XII.B.12., which is discussed below.

(j) Paragraph I.Z.10. defines the Exxon Jet Turbine Oil Business to include the research and test equipment described in Appendix C.

(k) Paragraph I.Z.11. defines the Exxon Jet Turbine Oil Business to include warehousing services at competitive third-party rates until the acquirer is able to make other arrangements.

(l) Paragraph I.Z.12. defines the Exxon Jet Turbine Oil Business to include Exxon's manufacturing facility in Bayway, New Jersey, and all physical assets located at that facility.

2.

3. Paragraph XII.B.2. requires that ExxonMobil and Air BP agree on terms and conditions governing the Decision and Order's two-year prohibition on solicitation for the purpose of selling Jet Turbine Oils of any commercial customers to which Exxon has sold any Jet Turbine Oils between January 1, 1999, and the Effective Date of Divestiture of

the Exxon Jet Turbine Oil Business.

4. Paragraph XII.B.3. requires ExxonMobil to assign to the acquirer all contracts for the purchase of esters and additives used by Exxon in manufacturing Jet Turbine Oils.

5. Paragraph XII.B.4. requires ExxonMobil to provide the Commission with a copy of the approval by the leaseholder of Exxon's manufacturing facility located in Bayway, New Jersey — the Bayway Refining Company — of the divestiture of the facility.

6. Paragraph XII.B.5. requires, *inter alia*, that ExxonMobil take reasonable steps to cause Exxon Jet Turbine Oil Business employees to accept offers of employment from Air BP.

⁸ Paragraph XII.B.2. expressly permits ExxonMobil to continue to sell and to solicit sales of Mobil Jet Turbine Oils to the customers of the Exxon Jet Turbine Oil Business if Mobil sold them Jet Turbine Oils after January 1, 1999, and before October 1, 1999.

7. Paragraph XII.B.6. provides that ExxonMobil shall require former-Exxon employees who remain employed by ExxonMobil and have knowledge of Jet Turbine Oil formulations, trade secrets, know-how, and other intellectual property that is conveyed to Air BP to enter into non-disclosure agreements with Air BP.

8. Paragraph XII.B.7. specifies certain financial incentives that ExxonMobil must offer to certain key employees of the Exxon Jet Turbine Oil Business.

9. Paragraph XII.B.8. prohibits ExxonMobil from placing any restrictions on Air BP's use of the Exxon Jet Turbine Oil Business, other than specified field-of-use restrictions.

10.

11. Paragraph XII.B.10. requires ExxonMobil to convey to the acquirer various records associated with the Exxon Jet Turbine Oil Business.

12. Paragraph XII.B.12. requires ExxonMobil, at the acquirer's option, to use its best efforts to assist the acquirer in securing contractual rights with distributors of Exxon Jet Turbine Oils comparable to the rights in Exxon's distributor contracts used by Exxon to distribute Jet Turbine Oils.

13. Paragraph XII.B.13. requires ExxonMobil, within one year from the Effective Date of Divestiture, to supplement Appendix B with, and thereby convey all of ExxonMobil's interest in an exclusive worldwide perpetual royalty-free license in the Field of Jet Turbine Oils, any and all additional patents meeting certain criteria selected by the acquirer.

13. Paragraph XII.B.14. requires ExxonMobil, for one year following the Effective Date of Divestiture of the Exxon Jet Turbine Oil Business, promptly upon the acquirer's request to offer technical assistance to the acquirer in transferring and gaining approvals and certifications.

* * *

ExxonMobil is hereby seeking Commission approval of the proposed divestiture pursuant to Paragraph XII.D.

III. The Proposed Divestiture and Related Relief Will Achieve the Purposes of the Decision and Order and Result in No Harm to Competition

The proposed divestiture and related relief will fully accomplish the purpose of Paragraphs XII.A.-XII.B. of the Decision and Order and will result in no harm to competition.

A. Air BP Has the Operational and Financial Capabilities to Compete Effectively Using the Jet Turbine Oil Business

There is no question that Air BP is a competent purchaser possessing the capabilities needed to compete effectively with the business to be acquired.¹⁰ In the aviation field, in particular, which is the principal source of demand for jet turbine oils, BP Amoco, both through Air BP and otherwise, has a major presence. Air BP is a principal supplier of fuels to aviation customers on a world-wide basis. It is involved in the marketing and distribution of aviation fuel globally at approximately 1400 locations (in over 85 countries), and

In addition,

Air BP

thus should be able to integrate the Exxon Jet Turbine Oil Business with its aviation fuels business to provide a comprehensive line of aviation products.

Air BP also will be affiliated with

¹⁰ Because Air BP will be acquiring the entire Exxon Jet Turbine Oil Business, and hiring the employees of that business (other than those who refuse offers from Air BP), there will be no need for Air BP to build a business in this field from the ground up.

Air BP's affiliates, moreover, have extensive global capabilities in a broad range of businesses. Additional information concerning Air BP's capabilities and its business plans relating to the acquired business is available from Air BP.

B. The Proposed Sale of the Jet Turbine Oil Business to Air BP Will Not Adversely Affect Competition

To ExxonMobil's knowledge, neither Air BP nor its BP Amoco affiliates currently produces or sell Jet Turbine Oils.

Thus the acquisition of the Exxon Jet Turbine Oil Business by Air BP/BP Amoco standing alone raises no competitive concerns.

Nor does the sale of the Jet Turbine Oil Business to Air BP pose any competitive concern even if BP Amoco's proposed acquisition of Burmah Castrol ("Castrol") is considered. Castrol has a very small presence in the worldwide Jet Turbine Oil market alleged in the Complaint.

As a result, the sale of the Exxon Jet Turbine Oil Business to Air BP poses no competitive problems.

* * *

For the foregoing reasons, ExxonMobil's proposed divestiture to Air BP of the Exxon Jet Turbine Oil Business should be approved by the Commission.

Respectfully submitted,



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