

***Case No COMP/M.4165 -  
SONAE INDUSTRIA /  
HORNITEX***

Only the English text is available and authentic.

**REGULATION (EC) No 139/2004  
MERGER PROCEDURE**

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Article 6(1)(b) NON-OPPOSITION  
Date: 28/06/2006

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 28.06.2006

SG-Greffe (2006)D/203385

In the published version of this decision, some information has been omitted pursuant to Article 17(2) of Council Regulation (EC) No 139/2004 concerning non-disclosure of business secrets and other confidential information. The omissions are shown thus [...]. Where possible the information omitted has been replaced by ranges of figures or a general description.

MERGER PROCEDURE  
ARTICLE 6(1)(b) DECISION

PUBLIC VERSION

To the notifying parties

Dear Sir/Madam,

**Subject: Case No COMP/M.4165 – SONAE INDÚSTRIA / HORNITEX 19.05.2006  
pursuant to Article 4 of Council Regulation No 139/2004<sup>1</sup>**

1. On 19.05.2006, the Portuguese company Sonae Indústria - SGPS, SA (“Sonae”) notified its intention to acquire sole control of the whole of the business of Hornitex-Werke Beeskow GmbH, the assets of Hornitex-Werke Gebr. Cloos GmbH and the assets of Hornitex-Werke Gebr. Künnemeyer GmbH, all belonging to the Hornitex Group (“Hornitex”, Germany), within the meaning of article 3(1)(b) of the EC Merger Regulation (“the Merger Regulation”).

## **I. THE PARTIES**

2. Sonae’s main activities relate to manufacturing and selling wood-based panels, chemicals and other value-added products for the wood-based products industry at a world-wide level. Sonae is part of the Sonae conglomerate group, which is engaged in a number of different economic activities in Portugal.
3. Hornitex is also a wood-based boards’ producer active in Europe. Hornitex is mainly focused in the production of particleboard, high- and medium density fibreboards (hereinafter “HDF/MDF”) and decorative laminates (HPL/CPL). Hornitex is a relatively small manufacturer of wood-based boards and is suffering financial distress, being involved in bankruptcy proceedings.<sup>2</sup>

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<sup>1</sup> OJ L 24, 29.1.2004 p. 1.

<sup>2</sup> In 2001 the Hornitex Group has been subject to insolvency procedure and is being actually managed under receivership. The financial recovery proceedings on Hornitex-Werke Beeskow GmbH ended in August 2004

## II. THE OPERATION AND THE CONCENTRATION

4. The transaction concerns the acquisition of sole control by Sonae of the whole of the business of Hornitex-Werke Beeskow GmbH, the assets of Hornitex-Werke Gebr. Cloos GmbH located in Duisburg and the assets of Hornitex-Werke Gebr. Künnemeyer GmbH located in Meinberg, by way of purchase of shares and assets.
5. The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 billion<sup>3</sup> (Sonae, EUR [...] million; Hornitex, EUR [...] million). Each of them has a Community-wide turnover in excess of EUR 250 million (Sonae, EUR [...] million; Hornitex, EUR [...] million). Sonae achieves more than two-thirds of its aggregate Community-wide turnover within one and the same Member State (Portugal, EUR [...] million), whereas Hornitex achieves more than two-thirds of its aggregate Community-wide turnover within Germany (EUR [...] million).<sup>4</sup> The notified operation therefore has a Community dimension.

## III. COMPETITIVE ASSESSMENT

### A. THE RELEVANT PRODUCT MARKETS

6. The transaction affects some markets in the wood-based industry, where both Sonae and Hornitex are present. The products mostly affected by the operation, are raw and coated-particleboards, medium- and high density fibre boards (“MDF/HDF”). The parties produce decorative laminates (HPL or CPL) and components for the furniture and construction industry, as well, although their sales are modest.
7. *Particleboard* is an engineered wood-product made of wood particles such as chips or shavings which are pressed and bonded together with resin or other binder. It is used mainly in the furniture and in the construction industry. Based on their characteristics and intended use, particleboards might be divided into two product markets: raw particleboards and coated particleboards. Whereas raw particleboard can serve some specific low-end uses and application for instance in the construction industry, coated particleboard represent a considerably higher value-added product.
8. *MDF and HDF* are engineered wood-products made from compressed wood fibres. Whereas MDF is mainly used in the furniture industry, HDF, due to its enhanced resistance, is employed as a raw material for laminate flooring. The parties claim that as the two types of fibreboards, HDF and MDF are produced on the same production line and since switching from one to the other product can be effected without significant additional costs, they are completely interchangeable from a supply-side point of view.

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with the approval of a recovery plan. Hornitex-Werke Gebr. Cloos GmbH and Hornitex-Werke Gebr. Künnemeyer GmbH are still subject to financial recovery proceedings.

<sup>3</sup> 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).

<sup>4</sup> All turnover figures are from 2004.

9. *Decorative laminates (HPL or CPL)* are multiple-layer facings composed of sheets of paper pressed together with a decorative surface paper. Depending on the type of pressuring process used for their manufacture, decorative laminates can be distinguished in High Pressure Laminate (HPL), which are more resistant, and Continuous Pressure Laminate (CPL).
10. *Components* consist of wood-based panels specifically coated and processed into more sophisticated products, which are apt to different uses and applications for the furniture and construction industry.
11. The market investigation has largely confirmed that the different type of wood-based boards such as plywood, hardboard, raw particleboards and coated particleboards, decorative laminates (HPL/CPL) and wood-based panel components for the furniture and construction industry belong to separate product markets. Even if components might be subdivided into subcategories, given the parties' limited activity in this market, the precise product market definition can be left open. Likewise, with respect to MDF and HDF, the respondents to the market investigation confirmed that they can be grouped together given the high level of supply side substitutability.<sup>5</sup> Nonetheless, the exact product market definition can be left open given that the concentration does not give rise to competition concerns under any alternative product market definition.

## **B. THE RELEVANT GEOGRAPHIC MARKETS**

12. According to the parties, given the transportation costs, the relevant geographic market for some products concerned is either national or cross-border regional, while in some instances it can be even EEA-wide. In particular, they submit that the geographic markets for raw particleboards and for HDF/MDF could be considered either national or macro regional as these boards usually do not travel very long distances due to the non insignificant transportation costs. Conversely, coated particleboards, laminates and components can travel longer distances, thus the geographic scope would be the EEA.
13. The market investigation has largely confirmed that the geographic markets for all products concerned are wider than national. The great majority of respondents consider that due to the transportation costs, raw particleboards and MDF/HDF travel between 500 and 1000 km. Regarding coated particleboards, as they are higher value-added products, they can travel longer distances<sup>6</sup>. With regard to decorative laminates (HPL/CPL), the great majority of respondents clearly indicated that market would be at least European. These findings are further underpinned by the important cross-border trade flows.<sup>7</sup>

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<sup>5</sup> This product market definition was confirmed in case COMP/M.4048, Sonae Indústria/Tarkett/JV, paragraph 16.

<sup>6</sup> This geographic market definition was confirmed in case COMP/M.4048, Sonae Indústria/Tarkett/JV, paragraph 19-20.

<sup>7</sup> According to the information published by Eurostat, total particleboards imports into the EU amounted to 8,6 million m<sup>3</sup> in 2005, of which approximately 94% are originated in EEA countries. According to the 2004 Annual Report of the European Panel Federation, total particleboard imports within Europe accounted for 23% of total EU consumption, of which 95% were originated in EU-25. Germany, Austria, Belgium and France are net exporters.

14. In the light of the above, the appropriate geographic market definition seems to be at least cross-border regional. However, the issue of the geographic market definition can be left open given that, on the basis of the alternative geographic market definitions considered, the concentration does not give rise to competition concerns.

### C. COMPETITIVE ASSESSMENT

#### HORIZONTAL EFFECTS

15. The merger will affect a number of markets in the wood-based board industry due to the horizontal overlaps. Nevertheless, the acquisition of a relatively small, operator like Hornitex will not significantly strengthen Sonae overall position in the wood-based board industry in Europe. The merging entity will still face effective competition from a number of players, such as Kronospan, Pfleiderer, Egger and Swiss Krono.
16. Regarding more specifically the markets concerned by the transaction, with respect to *decorative laminates (HPL/CPL)* and *wood-based panel components*, post merger the parties' combined market shares would not exceed 15% under any geographic market definition.
17. With respect to *raw particleboards*, in the event of EEA-wide markets, the parties' combined market shares would be around [10-20]% and it will face competition from players active all around Europe, including Kronospan, (about [10-20]%), Pfleiderer (about [10-20]%), Egger (about [5-10]%), Swiss Krono (about [5-10]%) and other important suppliers.<sup>8</sup> Should national markets be retained, the markets mostly affected would be that of Germany (with [10-20]% combined market share) and the UK (with [10-20]% combined market share).<sup>9</sup>
18. With respect to *coated particleboards*, in the event of EEA-wide markets the parties' combined market shares would be around [10-20]% with competitors, such as Kronospan, (about [5-10]%), Pfleiderer (about [5-10]%), Egger (about [5-10]%), Mauro Saviola (about [5-10]%), Swiss Krono (about [0-5]%) and Finsa (about [0-5]%).<sup>10</sup> Should national markets be retained, the markets mostly affected would be Germany (with [10-20]% combined market share), France (with [10-20]%) and the Netherlands (with [10-20]%). The only peak would be reached in Ireland, with a combined share slightly above [30-40]% (Sonae [30-40]%; Hornitex [5-10]%).<sup>11</sup>
19. As regards *MDF/HDF*, in the EEA the merged entity will reach a combined share of around [10-20]%, and will face strong competition from an important number of market players, including the European market leader Kronospan, (with [20-30]%), Swiss Krono

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<sup>8</sup> Market shares are best estimates of the parties based on the industry installed capacity in 2005 as reported by an independent source (European Panel Federation), plus estimates provided by third parties competitors to the extent available. (Additional information submitted on 21.06.2006.)

<sup>9</sup> Market shares are best estimates of the parties based on sales volumes.

<sup>10</sup> See *supra* note 8.

<sup>11</sup> See *supra* note 9.

([5-10]%), Fantoni ([5-10]%), Finsa ([5-10]%), Pflleiderer ([0-5]%) and Egger ([0-5]%).<sup>12</sup> In the event of regional markets, the merger would affect only Central Europe (comprising Germany, - France, the Benelux Denmark and Poland), where the parties would reach a market share of around [20-30]%.<sup>13</sup> If markets were national, the operation will lead to moderate overlaps in Germany (with [10-20] combined market share), and Denmark (with [20-30]%).<sup>14</sup> The markets where the combined market share of the parties exceeds [20-30] is France with an overlap of [30-40] (Sonae [20-30]; Hornitex [5-10]), Estonia with an overlap of [30-40] (Sonae [20-30]; Hornitex [5-10]), and Latvia with an overlap of [50-60] (Sonae [40-50]; Hornitex [5-10]).<sup>15</sup>

20. Even in case of the narrowest geographic market definition, the combination of Sonae and Hornitex would give rise to a substantial addition of market shares in a limited number of national markets. However, even in these markets, the merging entity will still face at least one if not more competitors of comparable size as well as additional players. Moreover, high market shares provided on a national basis, especially for those countries of the EU of limited size, considerably overstate the parties' position, as they do not accurately reflect the competitive dynamics in the market-place, in particular the incidence of cross-border trade. For instance the Latvian market for HDF/MDF, - where the combined market share of the parties is above 50% - is characterised by significant cross-border trade flows. As a consequence the parties face significant competitive constraint from other competitors, such as Kronospan, Varioboard, Egger and Agglo. These producers can easily increase their supply, thereby exerting significant competitive constraints vis-à-vis the merging entity.
21. As to the risk of coordinated effects, the investigation did not reveal evidence pointing to a change of market equilibrium as a result of the transaction, possibly leading to tacit collusion in the market. Although some of the respondents to the market investigation generically pointed to the trend of consolidation in the market, none of them considered Hornitex as playing any significant role in the competitive arena. The removal of an already financially weakened competitor does not significantly change the competitive conditions in the market-place.

#### **VERTICAL EFFECTS**

22. Since Sonae is also present in the market for laminate flooring (which is produced from HDF/MDF), vertical effects resulting from the transaction have also been considered. In this respect, it should be noted that Sonae is already vertically integrated and the transaction will not lead to a significant strengthening of Soane's position in the upstream market for HDF/MDF. As a consequence, the transaction is unlikely to give rise to any risk of vertical foreclosure in the downstream market for laminate flooring.

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<sup>12</sup> Market shares are best estimates of the parties based on the industry installed capacity in 2005 as reported by an independent source (European Panel Federation), plus estimates provided by third parties competitors to the extent available.

<sup>13</sup> See *supra* note 12.

<sup>14</sup> See *supra* note 9.

<sup>15</sup> See *supra* note 9.

#### **IV. CONCLUSION**

23. 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 (EC) No 139/2004.

For the Commission  
signed  
Neelie Kroes  
Member of the Commission