

***Case No COMP/M.3699 -
EQT / SMURFIT
MUNKSJÖ***

Only the English text is available and authentic.

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

Article 6(1)(b) NON-OPPOSITION
Date: 16/02/2005

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 16.02.2005

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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 Where possible the information omitted has been replaced by ranges of figures or a general description.

PUBLIC VERSION

MERGER PROCEDURE
ARTICLE 6(1)(b) DECISION

Dear Sir/Madam,

**Subject: Case No COMP/M.3699 - EQT III Limited/Smurfit Munksjö
Notification of 14.01.2005 pursuant to Article 4 of Council Regulation
No 139/2004¹**

1. On 14.01.2005, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004² by which the undertaking EQT III Limited (“EQT III Limited”, Guernsey), controlled by the group Investor AB (“Investor”, Sweden) acquires, through acquisition vehicles, within the meaning of Article 3(1)(b) of the Council Regulation control of the whole of the undertaking Smurfit Munksjö AB (“Munksjö”, Sweden) 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 the Merger Regulation and does not raise serious doubts as to its compatibility with the common market and the EEA Agreement.

I. THE PARTIES

3. EQT III Limited, which manages and controls private equity funds, is [...] controlled by Investor. Investor is Swedish holding company with participations in various industrial companies. Duni AB (“Duni”, Sweden), controlled by Investor, is a Swedish based company offering products and complete concepts for serving and packaging of meals.

¹ OJ L 24, 29.1.2004 p. 1.

² OJ L 24, 29.1.2004 p. 1

4. Munksjö is a Swedish based manufacturer of value-added paper products, active in three main areas: décor paper, specialty paper and pulp.

II. THE OPERATION

5. Under the proposed transaction, Munksjö and its subsidiaries will be acquired by acquisition vehicles Starta Eget Boxen 5404 AB (“Swedish HoldCo AB”) and XAX 509 Verwaltungsgesellschaft mbH, HRB 3944 (German HoldCo GmbH”), which are newly formed companies for the purposes of this transaction and wholly-owned and controlled by EQT III Limited.
6. Pursuant to a Share Purchase Agreement, dated 22 December 2004, Smurfit Holdings AB will sell all the shares of Munksjö to Swedish HoldCo AB. Prior to the closing of the Share Purchase Agreement, Munksjö’s subsidiary Smurfit Munksjö GmbH will be transferred to Smurfit Holdings AB and thereafter acquired by German HoldCo GmbH under a separate share transfer agreement dated 22 December 2004. The latter agreement is conditional on the completion of the sale and purchase of the shares of Smurfit Munksjö AB pursuant to Share Purchase Agreement and thus conditional on the first agreement. As a result of the transaction, EQT III Limited will acquire 100% of the shares in Munksjö.

III. CONCENTRATION

7. Following this transaction, EQT III Limited will acquire 100% of the shares in Munksjö and have sole control over the company. The proposed operation therefore constitutes a concentration within the meaning of Article 3(1)(b) of the Merger Regulation.

IV. COMMUNITY DIMENSION

8. The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 billion (Investor EUR [...] billion in 2003 and Munksjö EUR 440 million in 2003)³. Each of Investor and Munksjö have a Community-wide turnover in excess of EUR 250 million (Investor EUR [...] billion in 2003 and Munksjö EUR [...] million in 2003), 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. COMPATIBILITY WITH THE COMMON MARKET

Relevant product markets

9. The transaction concerns the economic sector for manufacture of pulp, paper and paper products.
10. Munksjö is active in three main businesses: décor paper, specialty paper and pulp.
11. Duni, controlled by Investor, is active in serving and packaging of meals and purchases pulp for its production but, as will be shown below, this does not give rise to any

³ 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.

affected market. According to Investor, it does not have interests in any other company active in the same product market as Munksjö, or on a product market which is upstream or downstream of a product market in which Munksjö is engaged, or in any other product market that could be viewed as an affected market.

12. In the present case, however, the definition of the relevant product markets can be left open, since under all possible alternative market definitions, the transaction will not raise competition concerns.

Decor paper

13. Decor paper is used mainly in laminated furniture, flooring and interior applications to provide the appearance of wood or other materials. Décor paper is manufactured in a wide variety of colours to suit customers' needs. It is then impregnated and printed by the customers with decors and then laminated onto a wood-base substrate.

Specialty paper

14. Technical paper is manufactured for specific end applications in various industries. Munksjö manufactures three primary paper grades of specialty paper: pre-impregnated paper, thin paper and electro technical paper.
15. Munksjö's pre-impregnated paper is laminated onto the back of hard laminate floors and kitchen worktops to ensure they do not warp or change shape. Munksjö manufactures two different types of pre-impregnated paper: ready-for-use pre-impregnated paper foil is used for furniture with a particle board or fibreboard core whereas balancing pre-impregnated backing foils are used in the manufacturing of floors, furniture and interior décor panelling.
16. Thin papers are high grade, light weight papers mainly used as interleaving paper in the steel and glass industries and for textile printing.
17. Electro technical paper is used to insulate high-tension cables and in transformers for the electro technical industries. They include paper for conductor insulation, transformer paper and converted products.

Pulp

18. Pulp is the predominant raw material for paper. Pulps can be classified by manufacturing processes (chemical or mechanical) or fibre input. Bleached long-fibre softwood pulp ("NBSK") is the primary type of pulp and can be broken down into Total Chlorine Free pulp ("TCF") and Elemental Chlorine Free pulp ("ECF"). Munksjö also produces another type of pulp, Unbleached Kraft Pulp ("UKP"). In previous decisions of the Commission⁴, pulp was considered as a single product market.

Table top products

⁴ See case COMP/M.2245 Metsä-Serla / Zanders.

19. Table top products comprise tissue tablecloths and tissue and airlaid napkins. Table top products may be further divided into disposable tablecloths and tissue and airlaid napkins.

Meal service products

20. Meal service products comprise paper and plastic glasses, paper and plastic cups, paper and plastic plates and plastic cutlery.

Custom-made concepts of serving products and comfort items for airline passengers

21. This activity consists in the provision of various concepts of serving products and comfort items for airline passengers, such as plastic serving trays, plastic glasses, pillows, blankets, tablecloths, porcelain cups, etc.

Relevant geographic markets

22. The parties argue that the décor paper, specialty paper and pulp markets are worldwide, due to extensive trade flows globally. In previous decision concerning other paper products and pulp, the Commission considered the relevant geographic market as at least EEA-wide.
23. As regards tabletop products and meal service products, the parties argue these two product markets are EEA-wide in scope but could be considered as regional due to different cultures, habits and lifestyle.
24. As to custom-made concepts of serving products and comfort items for airline passengers, the parties view the market as world-wide in scope.
25. In the present case, however, the definition of the relevant geographic markets can be left open since under all alternative market definitions, the transaction will not raise competition concerns.

Competitive assessment

26. The proposed operation does not create any horizontal overlap as Investor does not have interests in any company that is active on the same product market as Munksjö.
27. As regards any vertical relationship, Duni, controlled by Investor, is active in offering products and complete concepts for serving and packaging of meals and purchases pulp for its production process. At present, it does not procure pulp from Munksjö.
28. Duni estimates its market share to amount to approximately [30-40%] for tabletop products and approximately [10-20%] for meal service products in the EEA (approximately [30-40%] in Scandinavia). The company estimates its worldwide market share for custom-made concepts of serving products and comfort items for airline passengers to amount to approximately [20-30%] (approximately [20-30%] in the EEA).
29. However, purchases of pulp by Duni represent less than [0-10%] of the demand for pulp at in the EEA. The company's market share as a purchaser for all the various types of pulp is also insignificant at the EEA level. Given that the market share of Munksjö in the market for pulp amounts to approximately [0-10%] in the EEA, it can

be concluded that, as regards the vertical issue, the proposed transaction does not raise competition concerns.

30. In view of the foregoing, it can be concluded that the proposed operation would not, in any of the markets considered, significantly impede effective competition, in particular as a result of creating or strengthening a dominant position in the EEA or any substantial part of it.

VI. CONCLUSION

31. 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