

***Case No COMP/M.5394 -  
MAUSER HOLDING  
INTERNATIONAL /  
REYDE / JV***

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: 21/01/2009

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## COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 21.1.2009  
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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 Where possible the information omitted has been replaced by ranges of figures or a general description.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

### To the notifying party

Dear Sir/Madam:

**Subject : Case No. COMP/M.5394 – Mauser Holding International/ Reyde/ JV  
Notification of 5.12.2008 pursuant to Article 4 of Council Regulation  
No 139/2004<sup>1</sup>**

#### **I. INTRODUCTION**

1. On 05 December 2008, the European Commission received a notification of a proposed transaction by which Mauser Holding International ("Mauser", Germany) and Reyde S.A. ("Reyde", Spain) intend to establish a full-function joint venture for the production and sale of intermediate bulk containers ("IBCs") within the Iberian Peninsula and the South of France. Furthermore, Mauser will sell the assets of its plastic drums' business in the South of France to Reyde (asset transfer).

#### **II. THE PARTIES AND THE CONCENTRATION**

2. **Mauser Holding International** is an entity of the Mauser group, which is mainly active in the production and sale of rigid industrial packaging products. Its rigid industrial packaging products include plastic cans and bottles, plastic jerrycans, plastic, metal and fiber drums, as well as plastic IBCs (new and reconditioned) and metal IBCs. Mauser markets these products on a global scale and is ultimately controlled by Dubai Holding.
3. **Reyde** is active in the production and sale of rigid industrial packaging products. It offers a broad range of rigid industrial packaging products mainly within Spain,

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

including plastic cans and bottles, plastic jerrycans, plastic and metal drums, plastic IBCs and fuel tanks. Reyde is ultimately controlled by the Armando Álvarez Group.

4. Mauser and Reyde intend to establish a jointly controlled, 50/50, full-function joint venture in Spain – Mauser Reyde Ibérica, S.L.- (the “JV”), for the production and sale of IBCs within the Iberian Peninsula and the South of France.
5. The transaction is a result of Mauser's intention to close its production site in Coursan in the South of France. This site mainly supplies customers in Spain. It produces plastic IBCs and other rigid industrial packaging products (plastic drums). Whereas the IBC activities will be contributed to the JV, the remaining Coursan business (the production of plastic drums) will be sold to Reyde. The asset transfer does not include the transfer of any type of tangible assets or know-how. It is limited to customers' lists and goodwill for a value of € [...] millions. After the transfer, Mauser customers transferred to Reyde will remain free to choose whether they will want to be supplied by Reyde or not.
6. The JV transaction and the asset transfer are contained in separate agreements. However, the two transactions are economically linked, both being a consequence of the intended closing of the Coursan site, as well as *de jure*<sup>2</sup> linked. Therefore, the transactions are interdependent and should be treated as a single concentration.

### **III. COMMUNITY DIMENSION**

7. Dubai Holding LLC group (including Mauser) worldwide turnover amounted to € [...] billion and the Community-wide turnover amounted to € [...] billion in the 2007 financial year. The Armando Alvarez Group (including Reyde) worldwide turnover amounted to € [...] million and the Community-wide turnover amounted to € [...] million in the 2007 financial year. The Armando Alvarez Group (including Reyde) achieved two-thirds of its Community-wide turnover in Spain. However, the Dubai Holding LLC group (including Mauser) did not derive more than two-thirds of its aggregated Community-wide turnover within one member state. The transaction therefore has Community dimension pursuant to Article 1(2) of the Merger Regulation.

### **IV. RELEVANT MARKETS**

#### **A. Relevant product markets**

8. Rigid industrial packaging products are hollow bodies made from plastic, metal or fiber, and have one or two openings. They are used to protect, store or transport finished or unfinished products. To fulfil their purpose, the packaging products need to be rigid, stackable, heat resistant, air tight, closable, easily fillable and drainable, chemically neutral, durable and standardized. The parties submit that the aforementioned characteristics are met by a number of products such as: (i) blow-molded plastic

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<sup>2</sup> The parties have made the JV and asset purchase agreements legally conditional upon each other, see sec. 3.2 of the Asset Purchase Agreement.

jerrycans, fassets<sup>3</sup> and drums<sup>4</sup>, (ii) new and reconditioned metal drums<sup>5</sup>, (iii) fiber drums<sup>6</sup>, as well as (iv) new and reconditioned plastic IBCs<sup>7</sup>.

9. The parties consider that these products are interchangeable and belong to the same relevant market due to the following reasons: 1) they are commodity products fulfilling the same purpose, 2) Plastic, metal and fiber packaging products are interchangeable (95% of all customers can switch between different materials), 3) the size of products is irrelevant for market definition, 4) the shape, colour and design are also irrelevant, and 5) the prices for the different rigid industrial packaging products are similar throughout the EU.
10. Regarding the above mentioned products, the parties' activities only overlap in the markets for: (i) manufacturing of plastic IBCs, and (ii) manufacture of large plastic drums<sup>8</sup>. In previous decisions<sup>9</sup> the Commission considered that a certain degree of substitution exists between the plastic and metal drum products, as well as between drums and IBCs. Nevertheless, it ultimately left open the product market definition.

*Substitution between Plastic Drums, Jerrycans and Fassets*

11. The results of the market investigation revealed that there is a limited degree of substitutability between plastic drums and fassets, since their volume is significantly different and, therefore, they are frequently used in different industries. Drums are more used in industry markets, whilst fassets are primarily used in DIY (Do it yourself) and trade markets.
12. As regards the substitutability of drums and jerrycans, the market investigation did not demonstrate, neither contradict, that these products are substitutes. Some third parties

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<sup>3</sup> Plastic jerrycans and fassets are blow-molded from High Density Polyethylene (“HDPE”). They are used to store or transport substances such as chemicals, acids, lubricants and other chemical additives. Their size can vary between 10 and 60 liters (jerrycans) and 1 to 10 liters (fassets).

<sup>4</sup> Plastic drums are blow-moulded from high molecular weight high density polyethylene. They are subject to vigorous quality testing in line with their UN certification and are used for the transportation and storage of mainly hazardous industrial liquids, for use primarily in the chemical and food industries. The sizes of the drums range from 20 liters up to 300 liters, approximately.

<sup>5</sup> Metal drums are usually made of steel. They are primarily used to store and transport liquids such as oil, coatings, acids and certain other chemicals, as well as solid materials such as agrochemical products. Reconditioned steel drums are used drums that have undergone cleaning, repair and refurbishment to meet with the same regulatory and safety requirements as new steel drums.

<sup>6</sup> Fiber drums are made from craft paper or fiber, and they are regularly used by the chemical, pharmaceutical, glue, paint and food industry for solid fillings.

<sup>7</sup> IBCs are large plastic containers with bottles made of HDPE which are inserted into a metal cage (for stability reasons) and placed on a pallet (for easy transport and stacking). The IBCs are used for the storage and transport of liquids with different degrees of viscosity, as well as powders and granulates. Main purchasers of IBCs are the chemical, pharmaceutical, food and lubricant industries.

<sup>8</sup> Volume >120 liters.

<sup>9</sup> Case No IV/M.1349 – CVC Capital Partners / Dynoplast

pointed out that they are rather complementary than substitutes, whilst others underlined that from a technical point of view they are substitutes, but not from a demand-side perspective, since some customers have a preference for one of the products.

13. Overall it appears that there is limited substitution between plastic drums, jerrycans and fassets.

#### *Substitution between Plastic and Metal Drums*

14. As regards metal and plastic drums, the market investigation confirmed that these products, to a certain extent, could be considered as substitutes. The respondents indicated that the choice of drums is largely determined by the type of product for which the drum is going to be used. Whilst for the majority of products both plastic and metal drums would be suitable, for some products only one type of packaging could be used (mainly for reasons of chemical compatibility).
15. From a supply-side point of view, it appears there is limited substitution between plastic and metal drums' production, since the facilities and equipment used to manufacture plastic drums are significantly different from those used to produce steel drums.
16. From a demand-side perspective, some replies highlighted that switching from plastic to metal drums production would necessitate an adaptation of the filling lines, which would imply some costs. However, the parties submitted that switching from plastic to metal packaging does not require adjustment of filling lines. Only in the case of switching from metal to plastic packaging production it is required filling line adjustments are required in two areas: (i) Drum detection and transport belt control<sup>10</sup> and (ii) Filling devices<sup>11</sup>.
17. As well, some respondents pointed towards the fact that some customers require or have a strong preference for a specific packaging over possible alternatives. In these cases, and due to customers' needs, customers partially or wholly require the use of a certain packaging. For such customers it would not be feasible or very difficult to switch from the use of metal drums to the use of plastic drums.
18. Along the same line, one third party mentioned that large and small plastic drums cover different customer needs. It appears that customers are influenced by their consumption, as well as their storage and handling capacities when choosing the size of drum to be used. In that sense, the market investigation corroborated that large drums could be considered as having more than 120 liters of capacity/volume and small ones less than

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<sup>10</sup> Typically, filling lines made for the handling of metal drums use the magnetic properties of metal drums to control the actuation of the transport belts. Therefore, the lines are equipped with many switches which all function with metal drums only. These switches need to be exchanged by e.g. light detecting devices which could identify metal and plastic drums. Filling lines were first developed for steel drums and later adjusted - if possible - to be used to recognize plastic drums as well. Only certain plastic drums will run on those lines, because plastic drums are only half of the weight of steel drums.

<sup>11</sup> Metal drums can be produced with much lower tolerances for width, height, positioning of the bungs, ovality of the bungs, verticality of the bungs etc. Automated filling lines capable of handling metal drums are therefore not necessarily capable to reliably handle plastic drums without adjustment to the equipment.

120 liters. Thus, large and small plastic drums could not be considered as belonging to the same product market.

19. In conclusion, it appears that a degree of substitution exists between plastic and metal drums, as well as between small and large drums.

#### *Substitution between Plastic and Metal Drums and IBCs*

20. With regard to the substitutability of plastic IBCs for plastic and metal drums, the market investigation revealed that customers tend to consider large drums (both metal and plastic) and IBCs as substitutes. Nevertheless, it should be mentioned that the market investigation showed that some customers, influenced by factors such as storage and handling capacity, would not consider these products as close substitutes. Of those respondents that in principle do consider them to be substitutes, some pointed out that small drums and IBCs could not be viewed as close substitutes due to their difference in storage capacity<sup>12</sup>.

Therefore, it appears that for some customers IBCs and large drums are substitutes, whilst for other customers they are not interchangeable.

#### *Substitution between IBCs and Reconditioned IBCs*

21. As regards the reconditioned IBCs, the market investigation showed that reconditioned IBCs and new IBCs were not considered as different products by the customers. On the contrary, there was a broad consensus about considering both products as belonging to the same relevant product market.

#### *Conclusion on relevant product market*

22. In the light of the above findings, the Commission considers that there is a degree of substitution between plastic drums and metal drums, both large and small, as well as between drums and IBCs, and to a lesser extent, between plastic drums and jerrycans. As well, it appears that reconditioned IBCs and IBCs are considered as close substitutes and, thus, belonging to the same product market. However, to take a view on whether these products could be considered as belonging to the same product market is not necessary in the present case given that the operation would not result in competition concerns on any of the possible alternative markets.

### **B. Relevant geographic markets**

23. Although packaging products are commodities with a high degree of standardization throughout Europe, transport costs for (empty) industrial packaging products generally limit the distance across which these products can be sold. In that sense, the parties have submitted information confirming that large plastic drums and IBCs could be transported at least 600-700 km far away from their production plant<sup>13</sup>, meanwhile small plastic

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<sup>12</sup> IBC have a capacity of around 800 to 1,200 litres, whilst small drums have a capacity < 120 litres.

<sup>13</sup> The parties submit that: [...], delivers drums to customers located in Burgos (650 km), in Valencia (350 km) and in Cantabria (700 km). [...], delivers to many customers in Barcelona (700 km), and also many

drums, jerrycans and fassets could be transport beyond that distance. Therefore, the relevant geographic market for plastic drums and IBCs could be considered to be regional in scope, encompassing at least a radius of 600-700 km around every production plant.

24. Nevertheless, the Parties take the view that the relevant geographic market for the manufacturing of rigid industrial packaging is at least as large as Portugal and Spain, but very likely includes additional countries, such as France, the Benelux countries and Germany. They consider that a wider market definition should be considered because customers are large companies with a worldwide presence that usually negotiate prices on a European level with large packaging manufacturers. In addition, there are 'chain effects' (overlapping circles) in these markets, since the price increases/decreases in any of the 600-700 km regions are passed onto the neighbouring circles.
25. In turn, the market investigation confirmed that large plastic drums, metal drums and IBCs can be delivered within an area of 600-700 km around the production facilities. It also revealed that it sometimes could be feasible to transport both large plastic drums and IBCs up to a distance of 1000 km. In the case of small plastic drums, jerrycans and fassets, all respondents underlined that this kind of small packaging could be transported across longer distances than the large packaging.
26. With regard to price levels, the parties submitted that the prices for large plastic, metal and fiber drums, as well as IBCs, for different regions do not show significant differences. However the market investigation did not confirm this statement, with some customers mentioning price differences between metal and plastic drums, mainly due to the fluctuation of the raw material prices, as well as price differences between all packaging product on the Iberian Peninsula and in the rest of the EU due to transport costs.
27. Given the above mentioned and the findings of the market investigation, it appears that the geographic market for all rigid packaging products could encompass at minimum a perimeter of 600-700 km around a given production plant (Barcelona in the present case<sup>14</sup>). However, the precise market definition can be left open, since no competition concerns would arise under any of the possible market definitions.

## V. COMPETITIVE ASSESSMENT

28. The parties' activities overlap in the following markets: (i) manufacturing of plastic IBCs, and (ii) manufacture of large plastic drums<sup>15</sup>. There are no vertical affected markets in this case.

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customers located in Andalucia. [...], has some customers in the Valencia area (350 km) and Madrid (600 km). [...] supplied to Barcelona (900 km). [...] and Italy supplied Spanish customers (900 km +).

<sup>14</sup> Both the newly created JV and Reyde have their plants in Barcelona. Moreover, Mauser's and Reyde's customers prior to the transaction are located within this area of 600-700 km around Barcelona.

<sup>15</sup> Volume > 120 liters.

***Market for manufacturing of IBCs<sup>16</sup> in an area of 600-700 km around Barcelona***

29. For the narrowest market definition, the parties' combined market share is [20-30]%, with an increment of [5-10]% and with other strong competitors being present in the market: Schütz has a market share of [40-50]%, whilst Werit, Fustiplast and TR Lentz each have a market share between [5-10]% in the same market. In addition, there are also other local competitors in the market, such as Complax, Bidones Egara, Bidones JP García and some reconditioners.
30. If a wider market definition would be taken into consideration, the combined market share would be much lower than [20-30]%.

***Market for manufacturing of large plastic drums in an area of 600-700 km around Barcelona***

31. In the large plastic drums market, the increment to Reyde's market share (of [20-30] %) would at maximum be [10-20] % (i.e., if all customers would accept the transfer and would switch to Reyde). However, a number of sufficiently strong competitors remain active in this market: Schütz has a market share of [5-10]% and Fustiplast [10-20]%, whilst TR Lentz, Plastimol, Bilcam, Bidones Egara, Brambilla and Envaplast among others have a market share between 1-5% each.
32. It should be also taken into account that the asset transfer does not include the transfer of any type of tangible assets or know-how. It is limited to customers' lists and goodwill for a value of € [...] millions. As well, after the transaction, Mauser customers transferred to Reyde will remain free to choose whether they will want to be supplied by Reyde or not.
33. Furthermore, if an alternative broader market would be considered, Reyde's combined market share would be much lower than [30-40]%.
34. In addition to the low (combined) market shares in both aforementioned markets, and the existence of strong players in the market, there are other factors that should be considered in order to assess the impact of the transaction. First, some rigid industrial packaging, as explained in para 11 to 22, could be considered as substitutes to a certain extent. Therefore, if Reyde or the JV would raise prices after the transaction, at least some customers could switch from the use of one product to an alternative one.
35. Second, small producers also provide competition in these markets. In particular, it is not crucial for competitors to be able to supply an entire range of rigid industrial packaging (i.e. metal and plastic drums, IBCs, etc.). In fact, as the market investigation verified, customers diversify their sources of supply and usually do not rely on a single supplier. Moreover, due to the significant proportion of transport costs with regard to the overall product cost, small local producers located close to their major customers may even be in a better competitive position than other competitors.
36. Based on information by the parties, it appears that after the transaction customers would have enough alternative suppliers in the relevant markets<sup>17</sup>. Moreover, the parties'

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<sup>16</sup> Including reconditioned IBCs.



activities only overlap in the supply of [5-10] customers among the top 50 customers<sup>18</sup> in the relevant markets, which also indicates that the loss of an alternative source of supply after the transaction is not significant.

37. As far as entry barriers are concerned, a potential competition by new entrants remains possible, since the investment required, both in terms of time and cost, is low: (i) new machinery required for the production of plastic drums costs about € [0-5] million<sup>19</sup>; (ii) the respective cost for a new plastic IBC production plant is between € [5-10] million<sup>20</sup>. As well, there are no legal or regulatory entry barriers.
38. Still, some customers have raised concerns that the transaction could remove their ability to negotiate prices, since the new entity would have a significant market share in the relevant markets (specifically in the plastic drums market).
39. In that context, the parties argued that [...] % of their production is supplied to large multi-national companies, such as [...] among others, who they consider to exercise significant buyer power, and suggested that these very large customers may be able to sponsor new entries<sup>21</sup>. As well, they demonstrated that some customers do not commit themselves to purchase particular volumes and do not even have any contract. In that regard, the market investigation confirmed that the contracts are usually short term (between 1 and 2 years) and that prices are usually re-negotiated within this time.
40. As well, the parties stated that the new entity will not be able to increase prices since there is a substantial overcapacity in the market for manufacturing plastic drums. This issue was ultimately confirmed by the market investigation, along with the fact that the demand for plastic drums is not increasing. Moreover, competitors have not raised any special concerns about the effect of the notified operation on competition.
41. In light of the above, it appears unlikely that the new entities could increase their prices under the mentioned circumstances: (i) overcapacity in the market, (ii) low entry barriers, (iii) significant countervailing buyer power of some of the customers, (iv) existence of alternative suppliers, (v) a degree of substitution between rigid industrial packaging products.

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<sup>17</sup> Pack-2-Pack (Reconditioning of drums / IBCs), Schütz Iberica S.L. (Drums / IBCs), Bidons Egara (Reconditioning of drums / IBCs), Hersen 5 (Reconditioning of drums / IBCs), Bidones JP García (Reconditioning of drums / IBCs), Sotralentz -TR-Lentz S.A.S, (IBCs, drums), Plásticos de Molina (drums), Envaplast (drums), Bilcam (drums), Servidrum (Reconditioning of drums / IBCs).

<sup>18</sup> Which constituted 90% of Mauser and Reyde's sales, respectively. [...]

<sup>19</sup> With an investment of € [0-5] million, a production for 350,000 plastic drums per year can be established.

<sup>20</sup> With an investment of € [5-10] million a new production line for the production of 250,000 IBCs per year can be established.

<sup>21</sup> [...] had actively supported Mamor to extend its IBC business into Germany.

42. It follows from the above that the proposed concentration would not lead to a significant impediment to effective competition under any alternative market definition, and thus the transaction does not raise serious doubts as to its compatibility with the common market.

## **VI. CONCLUSION**

43. 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 the EC Merger Regulation.

For the Commission,  
(signed)  
Neelie KROES  
Member of the Commission