

Other notes

29. COMMITMENTS AND CONTINGENT LIABILITIES

OPERATING LEASES AND RENTAL PAYMENTS

Fresenius Group's subsidiaries lease office and manufacturing buildings as well as machinery and equipment under various lease agreements expiring on dates through 2101. Rental expense recorded for operating leases for the years ended December 31, 2008 and 2007 was € 379 million and € 372 million, respectively.

Future minimum rental payments under non-cancellable operating leases for the years subsequent to December 31, 2008 are:

for the fiscal years	in million €
2009	329
2010	284
2011	242
2012	195
2013	158
Thereafter	550
Total	1,758

As of December 31, 2008, future investment commitments existed up to the year 2014 from the acquisition contracts for hospitals at projected costs of up to € 173 million. Thereof € 39 million relate to the year 2009.

Besides the above mentioned contingent liabilities, the amount of other commitments is immaterial.

LEGAL PROCEEDINGS

The Fresenius Group is routinely involved in numerous claims, lawsuits, regulatory and tax audits, investigations and other legal matters arising, for the most part, in the ordinary course of its business of providing healthcare services and products. The outcome of litigation and other legal matters is always difficult to accurately predict and outcomes that are not consistent with the Fresenius Group's view of the merits can occur. The Fresenius Group believes that it has valid defenses

to the legal matters pending against it and is defending itself vigorously. Nevertheless, it is possible that resolution of one or more of the legal matters currently pending or threatened could have a material adverse effect on its business, results of operations and financial condition.

Commercial litigation

Fresenius Medical Care was originally formed as a result of a series of transactions pursuant to the Agreement and Plan of Reorganization dated as of February 4, 1996 by and between W.R. Grace & Co. and Fresenius SE (formerly: Fresenius AG) (the Merger). At the time of the Merger, a W.R. Grace & Co. subsidiary known as W.R. Grace & Co.-Conn. had, and continues to have, significant liabilities arising out of product-liability related litigation (including asbestos-related actions), pre-Merger tax claims and other claims unrelated to National Medical Care, Inc. (NMC), which was W.R. Grace & Co.'s dialysis business prior to the Merger. In connection with the Merger, W.R. Grace & Co.-Conn. agreed to indemnify Fresenius Medical Care, Fresenius Medical Care Holdings, Inc. (FMCH) and NMC against all liabilities of W.R. Grace & Co., whether relating to events occurring before or after the Merger, other than liabilities arising from or relating to NMC's operations. W.R. Grace & Co. and certain of its subsidiaries filed for reorganization under Chapter 11 of the U.S. Bankruptcy Code (the Grace Chapter 11 Proceedings) on April 2, 2001.

Prior to and after the commencement of the Grace Chapter 11 Proceedings, class action complaints were filed against W.R. Grace & Co. and FMCH by plaintiffs claiming to be creditors of W.R. Grace & Co.-Conn., and by the asbestos creditors' committees on behalf of the W.R. Grace & Co. bankruptcy estate in the Grace Chapter 11 Proceedings, alleging among other things that the Merger was a fraudulent conveyance, violated the uniform fraudulent transfer act and constituted a conspiracy. All such cases have been stayed and transferred to or are pending before the U.S. District Court as part of the Grace Chapter 11 Proceedings.

In 2003, Fresenius Medical Care reached agreement with the asbestos creditors' committees on behalf of the W.R. Grace & Co. bankruptcy estate and W.R. Grace & Co. in the matters pending in the Grace Chapter 11 Proceedings