

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, DC 20549

**FORM 8-K**

**Current Report**  
**Pursuant to Section 13 or 15(D) of the**  
**Securities Exchange Act of 1934**

**July 27, 2005**  
(Date of earliest event reported)

**BALL CORPORATION**

(Exact name of Registrant as specified in its charter)

Indiana  
(State of  
Incorporation)

1-7349  
(Commission  
File No.)

35-0160610  
(IRS Employer  
Identification No.)

10 Longs Peak Drive, P.O. Box 5000, Broomfield, CO 80021-2510  
(Address of principal executive offices, including ZIP Code)

(303) 469-3131  
(Registrant's telephone number, including area code)

Not Applicable  
(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

- ☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- ☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- ☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- ☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Ball Corporation  
Current Report on Form 8-K  
Dated July 28, 2005

**Item 2.02. Results of Operations and Financial Condition**

On July 28, 2005, Ball Corporation (the “Company”) issued a press release announcing its second quarter and first half earnings for 2005, which results are set forth in the press release dated July 28, 2005 and attached hereto as Exhibit 99.

The earnings information regarding the second quarter, as well as the information regarding the use of non-GAAP financial measures, is set forth in the attached press release.

The information in this Report shall not be deemed to be “filed” for purposes of Section 18 of the Securities Exchange Act of 1934, as amended, (the “Exchange Act”) or otherwise subject to the liability of that section, and shall not be deemed incorporated by reference in any filing under the Securities Act of 1933, as amended, or the Exchange Act, except as may be expressly set forth by specific reference in such filing.

**Item 2.05. Costs Associated With Exit or Disposal Activities**

On July 28, 2005, the Company announced that it would upgrade and streamline the Company’s North America beverage can end manufacturing capabilities. This provision will result in productivity improvements and cost reductions. An accounting charge in the range of \$20 million after tax associated with obsolescing equipment and reducing manning will be taken when the overall plan is completed later this year.

**Item 5.03. Amendments to Articles of Incorporation or Bylaws**

On July 27, 2005, the Board of Directors of the Company amended the Bylaws to provide new Sections D, E, and F in Article Two which require advance notice to the Company of shareholder proposals for director nominees and for other proposed business at the Annual Meeting of Shareholders and to add a new Article Five providing for more certain indemnification of directors and officers of the Company. The Bylaws, as amended, are attached hereto as Exhibit 3(ii).

**Item 9.01. Financial Statements and Exhibits**

(Exhibits).

The following are furnished as exhibits to this report:

Exhibit 3(ii)	Bylaws as amended as of July 27, 2005, including the changes referred to in Section 5.03 above.
---------------	---

Exhibit 99	Ball Corporation Press Release dated July 28, 2005.
------------	---

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

BALL CORPORATION  
(Registrant)

By: /s/ Raymond J. Seabrook  
Name: Raymond J. Seabrook  
Title: Senior Vice President and  
Chief Financial Officer

Date: July 28, 2005

**Ball Corporation**  
**Form 8-K**  
**July 28, 2005**

**EXHIBIT INDEX**

<b><u>Description</u></b>	<b><u>Exhibit</u></b>
Bylaws as amended as of July 27, 2005	3(ii)
Press Release dated July 28, 2005	99

**Bylaws  
of  
Ball Corporation  
(As of July 27, 2005)**

**Article One**

**Capital Stock**

**Section A. Classes of Stock.** The capital stock of the corporation shall consist of shares of such kinds and classes, with such designations and such relative rights, preferences, qualifications, limitations and restrictions, including voting rights, and for such consideration as shall be stated in or determined in accordance with the Amended Articles of Incorporation and any amendment or amendments thereof, or the Indiana Business Corporation Law. Consistent with the Indiana Business Corporation Law, capital stock of the corporation owned by the corporation may be referred to and accounted for as treasury stock.

**Section B. Certificates for Shares.** All share certificates shall be consecutively numbered as issued and shall be signed by the chairman and the corporate secretary or assistant corporate secretary of the corporation.

**Section C. Transfer of Shares.** The shares of the capital stock of the corporation shall be transferred only on the books of the corporation by the holder thereof, or by his attorney, upon the surrender and cancellation of the stock certificate, whereupon a new certificate shall be issued to the transferee. The transfer and assignment of such shares of stock shall be subject to the laws of the State of Indiana. The board of directors shall have the right to appoint and employ one or more stock registrars and/or transfer agents in the State of Indiana or in any other state.

**Section D. Control Share Acquisition Statute Inapplicable.** Chapter 42 of the Indiana Business Corporation Law (IC 23-1-42) shall not apply to control share acquisitions of shares of the corporation.

**Article Two**

**Shareholders**

**Section A. Annual Meetings.** The regular annual meeting of the shareholders of the corporation shall be held on the fourth Wednesday in April of each year, or on such other date within a reasonable interval after the close of the corporation's last fiscal year as may be designated from time to time by the board of directors, for the election of the directors of the corporation, and for the transaction of such other business as is authorized or required to be transacted by the shareholders.

**Section B. Special Meetings.** Special meetings of the shareholders may be called by the chairman of the board or by the board of directors or as otherwise may be required by law.

**Section C. Time and Place of Meetings.** All meetings of the shareholders shall be held at the principal office of the corporation or at such other place within or without the State of Indiana and at such time as may be designated from time to time by the board of directors.

**Section D. Notice of Shareholder Nominations of Directors.** Only persons who are nominated in accordance with the following procedures shall be eligible for election as directors of the corporation, except as may be otherwise provided in the Amended Articles of Incorporation of the corporation with respect to the right of holders of preferred stock of the corporation to nominate and elect a specified number of directors in certain circumstances. Nominations of persons for election to the board of directors may be made at any annual meeting of shareholders (a) by or at the direction of the board of directors (or any duly authorized committee thereof) or (b) by any shareholder of the corporation (i) who is a shareholder of record on the date of the giving of the notice provided for in this Section D and on the record date for the determination of shareholders entitled to vote at such annual meeting and (ii) who complies with the notice procedures set forth in this Section D.

In addition to any other applicable requirements, for a nomination to be made by a shareholder, such shareholder must have given timely notice thereof in proper written form to the Secretary of the corporation.

To be timely, a shareholder's notice to the Secretary must be delivered to or mailed and received at the principal executive offices of the corporation not less than ninety (90) days nor more than one hundred twenty (120) days prior to the anniversary date of the immediately preceding annual meeting of shareholders; provided, however, that in the event that the annual meeting is called for a date that is not within thirty (30) days before or after such anniversary date, notice by the shareholder in order to be timely must be so received not later than the close of business on the tenth (10th) day following the day on which such notice of the date of the annual meeting was mailed or such public disclosure of the date of the annual meeting was made, whichever first occurs. In no event shall the public disclosure of an adjournment of an annual meeting commence a new time period for the giving of a shareholder's notice as described above.

To be in proper written form, a shareholder's notice to the Secretary must set forth (a) as to each person whom the shareholder proposes to nominate for election as a director (i) the name, age, business address and residence address of the person, (ii) the principal occupation or employment of the person, (iii) the class or series and number of shares of capital stock of the corporation which are owned beneficially or of record by the person and (iv) any other information relating to the person that would be required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for election of directors pursuant to Section 14 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and the rules and regulations promulgated thereunder; and (b) as to the shareholder giving the notice (i) the name and record address of such shareholder, (ii) the class or series and number of shares of capital stock of the corporation which are owned beneficially or of record by such shareholder, (iii) a description of all arrangements or understandings between such shareholder and each proposed nominee and any other person or persons (including their names) pursuant to which the nomination(s) are to be made by such shareholder, (iv) a representation that such shareholder intends to appear in person or by proxy at the meeting to nominate the persons named in its notice and (v) any other information relating to such shareholder that would be required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for election of directors pursuant to Section 14 of the Exchange Act and the rules and regulations promulgated thereunder. Such notice must be accompanied by a written consent of each proposed nominee to being named as a nominee and to serve as a director if elected.

No person shall be eligible for election as a director of the corporation unless nominated in accordance with the procedures set forth in this Section D. If the Chairman of the meeting determines that a nomination was not made in accordance with the foregoing procedures, the Chairman shall declare to the meeting that the nomination was defective and such defective nomination shall be disregarded.

Notwithstanding anything in the third paragraph of this Section D to the contrary, in the event that the number of directors to be elected to the board of directors of the corporation is increased and there is no public disclosure by the corporation naming all of the nominees for director or specifying the size of the increased board of directors at least 100 days prior to the first anniversary of the preceding year's annual meeting, a shareholder's notice required by this Bylaw shall also be considered timely, but only with respect to nominees for any new positions created by such increase, if it shall be delivered to the Secretary at the principal executive offices of the corporation not later than the close of business on the 10th day following the day on which such public disclosure is first made by the corporation.

**Section E. Notice of Shareholder Proposals of Business.** No business may be transacted at an annual meeting of shareholders, other than business that is either (a) specified in the notice of meeting (or any supplement thereto) given by or at the direction of the Board of Directors (or any duly authorized committee thereof), (b) otherwise properly brought before the annual meeting by or at the direction of the board of directors (or any duly authorized committee thereof) or (c) otherwise properly brought before the annual meeting by any shareholder of the corporation (i) who is a shareholder of record on the date of the giving of the notice provided for in this Section E and on the record date for the determination of shareholders entitled to vote at such annual meeting and (ii) who complies with the notice procedures set forth in this Section E.

In addition to any other applicable requirements, for business to be properly brought before an annual meeting by a shareholder, such shareholder must have given timely notice thereof in proper written form to the Secretary of the corporation.

To be timely, a shareholder's notice to the Secretary must be delivered to or mailed and received at the principal executive offices of the corporation not less than ninety (90) days nor more than one hundred twenty (120) days prior to the anniversary date of the immediately preceding annual meeting of shareholders; provided, however, that in the event that the annual meeting is called for a date that is not within thirty (30) days before or after such anniversary date, notice by the shareholder in order to be timely must be so received not later than the close of business on the tenth (10th) day following the day on which such notice of the date of the annual meeting was mailed or such public disclosure of the date of the annual meeting was made, whichever first occurs. In no event shall the public disclosure of an adjournment of an annual meeting commence a new time period for the giving of a shareholder's notice as described above.

To be in proper written form, a shareholder's notice to the Secretary must set forth as to each matter such shareholder proposes to bring before the annual meeting (i) a brief description of the business desired to be brought before the annual meeting and the reasons for conducting such business at the annual meeting, (ii) the name and record address of such shareholder, (iii) the class or series and number of shares of capital stock of the corporation which are owned beneficially or of record by such shareholder, (iv) a description of all arrangements or understandings between such shareholder and any other person or persons (including their names) in connection with the proposal of such business by such shareholder and any material interest of such shareholder in such business and (v) a representation that such shareholder intends to appear in person or by proxy at the annual meeting to bring such business before the meeting.

No business shall be conducted at the annual meeting of shareholders except business brought before the annual meeting in accordance with the procedures set forth in this Section E; provided, however, that, once business has been properly brought before the annual meeting in accordance with such procedures, nothing in this Section E shall be deemed to preclude discussion by any shareholder of any such business. If the Chairman of an annual meeting determines that business was not properly brought before the annual meeting in accordance with the foregoing procedures, the Chairman shall declare to the meeting that the business was not properly brought before the meeting and such business shall not be transacted.

**Section F. Definitions.** For purposes of this Bylaw, “public disclosure” shall mean disclosure in a press release reported by the Dow Jones News Service, Associated Press or comparable national news service or in a document publicly filed by the corporation with the Securities and Exchange Commission pursuant to Section 13, 14 or 15(d) of the Exchange Act.

### **Article Three**

#### **Directors**

**Section A. Number and Terms of Office.** The business of the corporation shall be controlled and managed in accordance with the Indiana Business Corporation Law by a board of ten directors, divided into classes as provided in the Amended Articles of Incorporation.

**Section B. Eligibility.** No person shall be eligible for election or reelection as a director after having attained the age of seventy prior to or on the day of election or reelection. A director who attains the age of seventy during his term of office shall be eligible to serve only until the annual meeting of shareholders of the corporation next following such director’s seventieth birthday.

**Section C. Regular Meetings.** The regular annual meeting of the board of directors shall be held immediately after the adjournment of each annual meeting of the shareholders. Regular quarterly meetings of the board of directors shall be held on the fourth Wednesday of January, July, and October of each year, or on such other date as may be designated from time to time by the board of directors.

**Section D. Special Meetings.** Special meetings of the board of directors may be called at any time by the chairman of the board or by the board, by giving to each director an oral or written notice setting the time, place and purpose of holding such meetings.

**Section E. Time and Place of Meetings.** All meetings of the board of directors shall be held at the principal office of the corporation, or at such other place within or without the State of Indiana and at such time as may be designated from time to time by the board of directors.

**Section F. Notices.** Any notice, of meetings or otherwise, which is given or is required to be given to any director may be in the form of oral notice.

**Section G. Committees.** The board of directors is expressly authorized to create committees and appoint members of the board of directors to serve on them, as follows:

(1) Temporary and standing committees, including an executive committee, and the respective chairmen thereof, may be appointed by the board of directors, from time to time. The board of directors may invest such committees with such powers and limit the authority of such committees as it may see fit, subject to conditions as it may prescribe. The executive committee shall consist of three or more members of the board. All other committees shall consist of one or more members of the board. All committees so appointed shall keep regular minutes of the transactions of their meetings, shall cause them to be recorded in books kept for that purpose in the office of the corporation, and shall report the same to the board of directors at its next meeting. Within its area of responsibility, each committee shall have and exercise all of the authority of the board of directors, except as limited by the board of directors or by law, and shall have the power to authorize the execution of an affixation of the seal of the corporation to all papers or documents which may require it.

(2) Neither the designation of any of the foregoing committees or the delegation thereto of authority shall operate to relieve the board of directors, or any member thereof, of any responsibility imposed by law.

**Section H. Loans to Directors.** Except as consistent with the Indiana Business Corporation Law, the corporation shall not lend money to or guarantee the obligation of any director of the corporation.

## **Article Four**

### **Officers**

**Section A. Election and Term of Office.** The officers of the corporation shall be elected by the board of directors at the regular annual meeting of the board, unless the board shall otherwise determine, and shall consist of a chairman of the board of directors, if so designated as an officer by the board, a president, one or more vice presidents (any one or more of whom may be designated "corporate," "group," or other functionally described vice president), a corporate secretary, a treasurer, and, if so elected by the board, may include a vice-chairman of the board of directors and one or more assistant secretaries and assistant treasurers. The board of directors shall, from time to time, designate either the chairman of the board of directors, the president or, if elected, the vice-chairman of the board of directors, as the chief executive officer of the corporation, who shall have general supervision of the affairs of the corporation. The board of directors may, from time to time, designate a chief operating officer and a chief financial officer from among the officers of the corporation. Each officer shall continue in office until his successor shall have been duly elected and qualified or until removed in the manner hereinafter provided. Vacancies occasioned by any cause in any one or more of such offices may be filled for the unexpired portion of the term by the board of directors at any regular or special meeting of the board.

**Section B. Chairman of the Board.** The chairman of the board shall be chosen from among the directors and shall preside at all meetings of the board of directors and shareholders. He shall confer from time to time with members of the board and the officers of the corporation and shall perform such other duties as may be assigned to him by the board. Except where by law the signature of the president is required, the chairman of the board shall possess the same power as the president to sign all certificates, contracts, and other instruments of the corporation which may be authorized by the board of directors. During the absence or disability of the president, if the president has been designated chief executive officer, the chairman of the board shall act as the chief executive officer of the corporation and shall exercise all the powers and discharge all the duties of the president.

**Section C. Vice-Chairman of the Board.** The vice-chairman of the board, if elected, shall be chosen from among the directors and shall, in the absence of the chairman of the board, preside at all meetings of the shareholders and directors. He shall have and exercise the powers and duties of the chairman of the board in the event of the chairman's absence or inability to act or during a vacancy in the office of chairman of the board. He shall possess the same power as the chairman to sign all certificates, contracts, and other instruments of the corporation which may be authorized by the board of directors. He shall also have such other duties and responsibilities as shall be assigned to him by the board of directors or chairman.

**Section D. The President.** The president and his duties shall be subject to the control of the board of directors and, if the chairman of the board has been designated chief executive officer, to the control of the chairman of the board. The president shall have the power to sign and execute all deeds, mortgages, bonds, contracts, and other instruments of the corporation as authorized by the board of directors, except in cases where the signing and execution thereof shall be expressly designated by the board of directors or by these bylaws to some other officer, official or agent of the corporation. The president shall perform all duties incident to the office of president and such other duties as are properly required of him by the bylaws. During the absence or disability of the chairman of the board and the vice-chairman of the board, the president shall exercise all the powers and discharge all the duties of the chairman of the board.

**Section E. The Vice Presidents.** The vice presidents shall possess the same power as the president to sign all certificates, contracts, and other instruments of the corporation which may be authorized by the board of directors, except where by law the signature of the president is required. All vice presidents shall perform such duties as may from time to time be assigned to them by the board of directors, the chairman of the board, and the president. In the event of the absence or disability of the president, and at the request of the chairman of the board, or in his absence or disability, at the request of the vice-chairman of the board, or in his absence or disability at the request of the board of directors, the vice presidents in the order designated by the chairman of the board, or in his absence or disability by the vice-chairman of the board, or in his absence or disability by the board of directors, shall perform all of the duties of the president, and when so acting they shall have all of the powers of and be subject to the restrictions upon the president and shall act as a member of, or as a chairman of, any standing or special committee of which the president is a member or chairman by designation or ex officio.



**Section F. The Corporate Secretary.** The corporate secretary of the corporation shall:

- (1) Keep the minutes of the meetings of the shareholders and the board of directors in books provided for that purpose.
- (2) See that all notices are duly given in accordance with the provisions of these bylaws and as required by law.
- (3) Be custodian of the records and of the seal of the corporation and see that the seal is affixed to all documents, the execution of which on behalf of the corporation under its seal is duly authorized in accordance with the provisions of these bylaws.
- (4) Keep a register of the post office address of each shareholder, which shall be furnished to the corporate secretary at his request by such shareholder, and make all proper changes in such register, retaining and filing his authority for all such entries.
- (5) See that the books, reports, statements, certificates and all other documents and records required by law are properly kept, filed, and authenticated.
- (6) In general, perform all duties incident to the office of corporate secretary and such other duties as may from time to time be assigned to him by the board of directors.
- (7) In case of absence or disability of the corporate secretary, the assistant secretaries, in the order designated by the chief executive officer, shall perform the duties of corporate secretary.

**Section G. The Treasurer.** The treasurer of the corporation shall:

- (1) Give bond for the faithful discharge of his duties if required by the board of directors.
- (2) Have the charge and custody of, and be responsible for, all funds and securities of the corporation, and deposit all such funds in the name of the corporation in such banks, trust companies, or other depositories as shall be selected in accordance with the provisions of these bylaws.
- (3) At all reasonable times, exhibit his books of account and records, and cause to be exhibited the books of account and records of any corporation a majority of whose stock is owned by the corporation, to any of the directors of the corporation upon application during business hours at the office of this corporation or such other corporation where such books and records are kept.
- (4) Render a statement of the conditions of the finances of the corporation at all regular meetings of the board of directors, and a full financial report at the annual meeting of the shareholders, if called upon so to do.
- (5) Receive and give receipts for monies due and payable to the corporation from any source whatsoever.
- (6) In general, perform all of the duties incident to the office of treasurer and such other duties as may from time to time be assigned to him by the board of directors.
- (7) In case of absence or disability of the treasurer, the assistant treasurers, in the order designated by the chief executive officer, shall perform the duties of treasurer.
- (8) All acts affecting the treasurer's duties and responsibilities shall be subject to the review and approval of the corporation's chief financial officer.

**Section H. The Controller.** The controller of the corporation shall:

- (1) Direct the financial closings and the preparation of monthly, quarterly and annual consolidated historical financial statements and reports to executive and operating management.
- (2) Direct the preparation of financial reports required by federal, state and local regulatory agencies and the preparation of quarterly and annual financial statements and reports to shareholders, the Securities and Exchange Commission and other interested parties.
- (3) Provide primary contact for the corporation's independent accountants and all of its consolidated domestic and foreign subsidiaries and represent management to the corporation's domestic and international independent accountants.
- (4) Perform and/or direct technical accounting and financial reporting research and monitor developments in accounting and regulatory standards (e.g., FASB, SEC, EITF, IRS).
- (5) Direct the corporation's domestic and foreign tax planning, preparation and compliance.
- (6) In general, perform all of the duties incident to the office of controller and such other duties as may from time to time be assigned by the board of directors.

- (7) In case of absence or disability of the controller, the assistant controllers, in the order designated by the chief financial officer, shall perform the duties of controller.
- (8) All acts affecting the controller's duties and responsibilities shall be subject to the review and approval of the corporation's chief financial officer.

## **Article Five**

### **Indemnification**

**Section A. Indemnification of Directors and Officers - General.** Certain of the terms used herein are more specifically defined in Section F of this Article Five.

(1) The corporation shall indemnify an individual made a party to a proceeding because he is or was a director or officer of the corporation against liability incurred in connection with a proceeding to the fullest extent permitted by the Indiana Business Corporation Law (the "IBCL"), as the same now exist or may hereafter be amended (but only to the extent any such amendment permits the corporation to provide broader indemnification rights than the IBCL permitted the corporation to provide prior to such amendment).

(2) The termination of a proceeding by judgment, order, settlement, or conviction, or upon a plea of nolo contendere or its equivalent is not, of itself, determinative that the director or officer did not meet the standard of conduct set forth in the IBCL.

(3) To the extent that a director or officer has been wholly successful, on the merits or otherwise, in the defense of any proceeding to which he was a party, or in defense of any claim, issue, or matter therein, because he is or was a director or officer of the corporation, the corporation shall indemnify the director or officer against reasonable expenses incurred by him in connection therewith regardless of whether the director or officer has met the standards set forth in the IBCL and without any action or determination under Section D of this Article Five.

### **Section B. Advancement of Expenses.**

(1) The corporation shall pay for or reimburse the reasonable expenses incurred by a director or officer who is a party to a proceeding in advance of final disposition of the proceeding if:

(a) The director or officer furnishes the corporation a written affirmation of his good faith belief that he has met the standard of conduct set forth in the IBCL;

(b) The director or officer furnishes the corporation a written undertaking, executed personally or on his behalf, to repay any advances if it is ultimately determined that he is not entitled to indemnification under this Article Five; and

(c) A determination is made that the facts then known to those making the determination would not preclude indemnification under the IBCL.

(2) The undertaking required by paragraph (b) of subsection (1) of this Section B must be an unlimited general obligation of the director or officer but need not be secured and may be accepted without reference to financial ability to make repayment.

### **Section C. Limitations on Indemnification.**

(1) The corporation shall not indemnify a director or officer under Section A of this Article Five unless a determination has been made in the specific case that indemnification of the director is permissible in the circumstances because he has met the standard of conduct set forth in the IBCL. Such determination shall be made within 60 days of the request for indemnification:

(a) By the board of directors by majority vote of a quorum consisting of directors not at the time parties to the proceeding;

(b) If a quorum cannot be obtained under paragraph (a) of this subsection, by majority vote of a committee duly designated by the board of directors (in which designation directors who are parties may participate), consisting solely of two or more directors not at the time parties to the proceeding;

(c) By special legal counsel:

(i) Selected by the board of directors or its committee in the manner prescribed in paragraph (a) or (b) of this subsection; or

(ii) If a quorum of the board of directors cannot be obtained under paragraph (a) of this subsection and a committee cannot be designated under paragraph (b) of this subsection, selected by majority vote of the full board of directors (in which selection directors who are parties may participate); or

(d) By the shareholders, but the shares owned by or voted under the control of the officers and directors who are at the time parties to the proceeding may not be voted on the determination; provided, however, that following a change of control of the corporation, with respect to all matters thereafter arising out of acts, omissions or events prior to the change of control of the corporation concerning the rights of any person seeking indemnification under this Article Five, such determination shall be made by special legal counsel selected by such person and approved by the board of directors or its committee in the manner described in Section C(1)(c) above (which approval shall not be unreasonably withheld), which counsel has not otherwise performed services (other than in connection with similar matters) within the five years preceding its engagement to render such opinion for such person or for the corporation or any affiliates (as such term is defined in Rule 405 under the Securities Act of 1933, as amended) of the corporation (whether or not they were affiliates when services were so performed) ("Independent Counsel"). Unless such person has theretofore selected Independent Counsel pursuant to this Section C and such Independent Counsel has been approved by the corporation, legal counsel approved by a resolution or resolutions of the board of directors of the corporation prior to a change of control of the corporation shall be deemed to have been approved by the corporation as required. Such Independent Counsel shall determine as promptly as practicable whether and to what extent such person would be permitted to be indemnified under applicable law and shall render its written opinion to the corporation and such person to such effect. In making a determination under this Section C, the special legal counsel and Independent Counsel referred to above shall determine that indemnification is permissible unless clearly precluded by this Article Five or the applicable provisions of the IBCL. The corporation agrees to pay the reasonable fees of the Independent Counsel referred to above and to fully indemnify such Independent Counsel against any and all expenses, claims, liabilities and damages arising out of or relating to this Article Five or its engagement pursuant hereto.

(2) Authorization of indemnification or an obligation to indemnify and evaluation as to reasonableness of expenses shall be made as set forth in paragraph (a) above, except that if the determination is made by special legal counsel (pursuant to Section C(1)(c) above), authorization of indemnification and evaluation as to reasonableness of expenses shall be made by those entitled under Section C(1)(c) above to select counsel.

(3) Indemnification under this Article Five in connection with a proceeding by or in the right of the corporation shall be limited to reasonable expenses incurred in connection with the proceeding.

**Section D. Enforceability.** The provisions of this Article Five shall be applicable to all proceedings commenced after its adoption, whether such arise out of events, acts, omissions or circumstances which occurred or existed prior or subsequent to such adoption, and shall continue as to a person who has ceased to be a director or officer and shall inure to the benefit of the heirs, executors and administrators of such person. This Article Five shall be deemed to grant each person who is entitled to indemnification hereunder rights against the corporation to enforce the provisions of this Article Five, and any repeal or other modification of this Article Five or any repeal or modification of the IBCL or any other applicable law shall not limit any rights of indemnification then existing or arising out of events, acts, omissions, circumstances occurring or existing prior to such repeal or modification, including, without limitation, the right to indemnification for proceedings commenced after such repeal or modification to enforce this Article Five with regard to acts, omissions, events or circumstances occurring or existing prior to such repeal or modification.

**Section E. Severability.** If this Article Five or any portion hereof shall be invalidated on any ground by any court of competent jurisdiction, then the corporation shall nevertheless indemnify each director or officer of the corporation as to liabilities incurred in connection with any proceeding, including an action by or in the right of the corporation, to the full extent permitted by any applicable portion of this Article Five that shall not have been invalidated and to the full extent permitted by the Articles and by applicable law.

**Section F. Definitions.** As used in this Article, the term

(1) "change of control," for purposes of this Article Five, means (i) an acquisition by any person of 30 percent or more of the corporation's voting shares; (ii) a merger in which the shareholders of the corporation before the merger own 50 percent or less of the corporation's (or the ultimate parent corporation's) voting shares after the merger; (iii) shareholder approval of a plan of liquidation or to sell or dispose of substantially all of the assets of the corporation; and (iv) if, during any two-year period, directors at the beginning of the period (and any new directors nominated by a majority of the directors at the beginning of such period) fail to constitute a majority of the board of directors. Notwithstanding the foregoing, a change of control shall not be deemed to occur solely because thirty percent (30%) or more of the then outstanding voting securities is acquired by (i) a trustee or other fiduciary holding securities under one or more employee benefit plans maintained by the corporation or any of its subsidiaries or (ii) any corporation which, immediately prior to such acquisition, is owned directly or indirectly by the shareholders of this corporation in the same proportion as their ownership of shares in this corporation immediately prior to such acquisition.

(2) “corporation” includes Ball Corporation and any domestic or foreign predecessor entity of the corporation or a corporation in a merger or other transaction in which the predecessor's existence ceased upon consummation of the transaction.

(3) “director” means an individual who is or was a director of the corporation or an individual who, while a director of the corporation, is or was serving at the corporation's request as a director, officer, partner, member, manager, trustee, employee, or agent of another foreign or domestic corporation, partnership, limited liability company, joint venture, trust, employee benefit plan, or other enterprise, whether for profit or not. A director is considered to be serving an employee benefit plan at the corporation's request if his duties to the corporation also impose duties on, or otherwise involve services by, him to the plan or to participants in or beneficiaries of the plan. Director includes, unless the context requires otherwise, the estate or personal representative of a director.

(4) “expenses” include attorneys’ fees.

(5) “liability” means the obligation to pay a judgment, settlement, penalty, fine (including an excise tax assessed with respect to an employee benefit plan), or reasonable expenses incurred with respect to a proceeding.

(6) “party” includes an individual who was, is, or is threatened to be made a named defendant or respondent in a proceeding.

(7) “proceeding” means any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative and whether formal or informal, except for a proceeding (or part thereof) initiated by a person against the corporation or any director, officer, employee or agent thereof (other than to enforce his rights under this Article Five) and not consented to by the corporation.

#### **Article Six**

##### **Corporate Seal**

The corporate seal of the corporation shall be a round, metal disc with the words “Ball Corporation” around the outer margin thereof, and the words “Corporate Seal,” in the center thereof, so mounted that it may be used to impress words in raised letters upon paper.

#### **Article Seven**

##### **Amendment**

These bylaws may be altered, added to, amended, or repealed by the board of directors of the corporation at any regular or special meeting thereof.



---

## News Release

**For Immediate Release**

Investor Contact:

Ann. T. Scott

Media Contact:

Scott McCarty

<http://www.ball.com>303-460-3537, [ascott@ball.com](mailto:ascott@ball.com)303-460-2103, [smccarty@ball.com](mailto:smccarty@ball.com)

---

## Ball Reports Second Quarter Earnings

BROOMFIELD, Colo., July 28, 2005—Ball Corporation [NYSE:BLL] today announced second quarter earnings of \$79 million, or 71 cents per diluted share, on sales of \$1.55 billion, compared to \$90.7 million, or 80 cents per diluted share, on sales of \$1.47 billion in the second quarter of 2004.

For the first six months of 2005, Ball's earnings were \$137.6 million, or \$1.22 per diluted share, on sales of \$2.88 billion, compared to \$137.5 million, or \$1.21 per diluted share, on sales of \$2.7 billion in the first half of 2004. The 2005 second quarter and first half results include an after-tax charge of \$5.9 million, or five cents per diluted share, related to the closing announced during the quarter of a Canadian food can manufacturing plant.

"Our strong first quarter borrowed a bit from the second quarter," said R. David Hoover, chairman, president and chief executive officer. "Through the first six months, our results on a comparable basis are six cents better than the same period last year."

**North American Packaging Segment**

North American packaging segment earnings for the quarter, before pre-tax plant closing costs of \$8.8 million, were \$74.9 million on sales of \$977 million, compared to \$91.4 million on sales of \$945.4 million in the second quarter of 2004. For the first six months, earnings, before the \$8.8 million plant closing costs, were \$153.2 million on sales of \$1.82 billion, compared to \$158 million on sales of \$1.73 billion in the first half of 2004.

- more -

**Ball Corporation**

10 Longs Peak Drive • PO Box 5000 • Broomfield, CO 80021 • (303) 460-2103

---

*"Our Quasiquicentennial Year"*

“We were generally pleased with our second quarter results, with some exceptions,” Hoover said. “As expected, the first quarter performance in food cans resulted in lower second quarter results as our customers worked through inventories they pre-bought. Also, North American 12-ounce beverage can volumes were down from last year, and higher costs for freight, energy and some materials had a negative effect on second quarter segment earnings.

“We also have seen this year the shifts in volumes that occur from time to time in the packaging industry,” Hoover said. “We are closing the food can plant in Quebec after exiting some supply positions in the region, but we have gained business in other regions and year-to-date food can volumes are ahead of last year. On the beverage can side, we have experienced some volume loss in 2005 as certain new, long-term contracts were being negotiated. During the second quarter those negotiations resulted in our restoring those volumes for 2006 and beyond.

“The 2005 capital spending program is progressing well in this segment and we expect to earn acceptable returns on those projects once they are complete,” Hoover said. “We had a smooth conversion of a line in our Golden, Colo., beverage can plant from the production of 12-ounce cans to the production of 24-ounce cans. The converted line is running well and yesterday we announced plans for a line conversion in our Monticello, Ind., plant.”

Hoover said another bright spot in the North American packaging segment was the continued improved performance of plastic container operations. Sales for the first six months are up nearly 25 percent over the first half of 2004, due in part to strong demand for carbonated soft drink and water bottles and increased demand for barrier and heat-set containers that provide longer shelf-life for products, as well as higher resin costs that are passed on to customers.

#### **International Packaging Segment**

International packaging segment earnings for the second quarter were \$58.2 million on sales of \$394.3 million, compared to \$62.1 million on sales of \$351.5 million in the second quarter of 2004. For the first half of 2005, earnings were \$88.5 million on sales of \$692.3 million, compared to \$89.7 million on sales of \$635.3 million during the first six months of 2004. The first half 2005 results include a \$3.4 million first quarter charge in China for the full write-off of a minority-owned joint venture.

“International packaging segment performance in the second quarter was somewhat below a year ago while earnings for the first six months were up slightly, excluding the \$3.4 million write-off in China,” Hoover said.

- more -

#### **Ball Corporation**

10 Longs Peak Drive • PO Box 5000 • Broomfield, CO 80021 • (303) 460-2103

---

*“Our Quasiquicentennial Year”*

“In Europe we experienced especially strong volumes in what traditionally is a strong quarter for shipments. Despite few cans being sold in the German market, for the first time since the implementation of the German deposit law, we are running all of our plants in Europe full out, and we are challenged to keep up with the demand that is driven principally by the warm start to the summer. Our new beverage can plant near Belgrade began production during the second quarter after an expedited construction and line startup schedule,” Hoover said.

“While the circumstances in Europe have caused near-term costs to be somewhat higher due to lower finished good inventories, higher freight costs and the startup costs associated with our new plant, we expect such costs to moderate as we move through the balance of the year,” Hoover said. “If the warm weather holds through the summer, we expect current volume trends to continue.

“In China, we continue to increase volumes and improve our operations and results,” Hoover said.

#### **Aerospace and Technologies Segment**

Aerospace and technologies segment earnings for the second quarter were \$14.9 million on sales of \$180.7 million, compared to \$12 million on sales of \$170.3 million in the second quarter of 2004. For the first half of 2005, earnings were \$23.8 million on sales of \$362.7 million, compared to \$23.2 million on sales of \$330.6 million in the first six months of 2004. The first half 2005 results include a \$3.8 million first quarter write-down to net realizable value of a small aerospace equity investment.

“The flawless performance of the Deep Impact mission over the July 4<sup>th</sup> weekend was a tremendous way for our aerospace and technologies segment to end the first half of the year and begin the second,” Hoover said. “We built the two spacecraft and scientific instruments for this extremely challenging assignment of hitting a comet 83 million miles from Earth with an impactor spacecraft and recording the results of the impact with a flyby spacecraft. The success of the mission is a testament to our capabilities and we intend to build on that success with future scientific and defense missions we have under contract or are pursuing.

“Late in the second quarter we broke ground for an expansion of our aerospace manufacturing center in Westminster, Colo., to help accommodate the growth we have experienced in this segment,” Hoover said.

- more -

#### **Ball Corporation**

10 Longs Peak Drive • PO Box 5000 • Broomfield, CO 80021 • (303) 460-2103

---

*“Our Quasiquincentennial Year”*

**Outlook**

“Our first half results, excluding plant closure costs, were up slightly from a year ago, which was sharply higher than the first half of 2003,” Hoover said. “We are working hard to do at least as well in the second half of 2005 as we did in the second half of 2004.

“With the rebound in North American beverage container volumes we expect for next year, the improvements resulting from our capital expenditures, and the cost containment programs we regularly develop and refine, we are optimistic about our future prospects,” Hoover said. “Also, we continue to see encouraging developments on the German deposit front. Cans are beginning to reappear in some of the major retail chains, and the overall climate for cans has improved. These reintroductions help keep the beverage can before the consuming public until an acceptable nationwide redemption system is in place, hopefully in time for the 2006 World Cup soccer championship in Germany.

“We will continue to look at acquisition opportunities and will remain disciplined in that process,” Hoover said. “We have had a lot of success with our recent acquisitions and an important part of that is paying a price that allows us to earn a return in excess of our cost of capital. We do not intend to compete for an acquisition that would result in our paying a price that would not create economic value for our shareholders.”

Raymond J. Seabrook, senior vice president and chief financial officer, said the company’s full-year capital spending and free cash flow estimates for 2005 are unchanged from the first quarter.

“A project to upgrade and streamline our North American beverage can end manufacturing capabilities is underway,” Seabrook said. “This project will result in significant productivity improvements and cost reductions. A predominantly non-cash accounting charge in the range of \$20 million after tax associated with obsolescing equipment and employee costs will be made when the overall project plan is completed later this year.”

Seabrook said the company purchased more than \$175 million worth of its common stock in the second quarter, and that he now expects the total to be repurchased in calendar year 2005 will exceed \$200 million.

- more -

**Ball Corporation**

10 Longs Peak Drive • PO Box 5000 • Broomfield, CO 80021 • (303) 460-2103

---

*“Our Quasiquicentennial Year”*



“We also expect to begin the repatriation of more than \$500 million in foreign earnings and capital in the third quarter. The \$16 million cash tax cost associated with the repatriation will not increase the effective tax rate as it will be more than offset by taxes provided on the foreign earnings in prior years,” Seabrook said. “The funds will be reinvested for uses permitted under the tax laws.”

Ball Corporation is a supplier of metal and plastic packaging products, primarily for the beverage and food industries. The company also owns Ball Aerospace & Technologies Corp., which develops sensors, spacecraft, systems and components for government and commercial markets. Ball Corporation employs more than 13,500 people and reported 2004 sales of \$5.4 billion.

#### **Conference Call Information**

Ball Corporation will hold its quarterly conference call on the company's second quarter 2005 results today at 9 a.m. Mountain Time (11 a.m. Eastern). The North American toll-free number for the call is 888-328-2938. International callers should dial 415-537-1912. For those unable to listen to the live call, a taped rebroadcast will be available until 10 p.m. Mountain Time on Aug. 4, 2005. To access the rebroadcast, dial 800-633-8284 (domestic callers) or +1-402-977-9140 (international callers) and enter 21250498 as the reservation number. To listen to the call via Web cast, please use the following URL for the live call and for replay:

<http://phx.corporate-ir.net/phoenix.zhtml?p=irol-eventDetails&c=115234&eventID=1092714>

A written transcript of the call will also be posted within 48 hours of the call's conclusion to Ball's Web site at [www.ball.com](http://www.ball.com) in the investor relations section under "presentations."

#### **Forward-Looking Statements**

The information in this news release contains "forward-looking" statements and other statements concerning future events and financial performance. Words such as "expects," "anticipates," "estimates," and variations of same and similar expressions are intended to identify forward-looking statements. Forward-looking statements are subject to risks and uncertainties which could cause actual results to differ materially from those expressed or implied. The company undertakes no obligation to publicly update or revise any forward-looking statements, whether as a result of new information, future events or otherwise. Key risks and uncertainties are summarized in the company's filings with the Securities and Exchange Commission, especially in Exhibit 99.2 in the most recent Form 10-K. These filings are available at our Web site and at [www.sec.gov](http://www.sec.gov). Factors that might affect our packaging segments include fluctuation in consumer and customer demand; availability and cost of raw materials, particularly the recent significant increases in resin, steel, aluminum and energy costs, and the ability to pass such increases on to customers; competitive packaging availability, pricing and substitution; changes in climate and weather; fruit, vegetable and fishing yields; industry productive capacity and competitive activity; failure to achieve anticipated productivity improvements or production cost reductions, including those associated with our beverage can end project; the German mandatory deposit or other restrictive packaging laws; changes in major customer or supplier contracts or loss of a major customer or supplier; international business risks, including foreign exchange rates, tax rates and activities of foreign subsidiaries; and the effect of LIFO accounting on earnings. Factors that might affect aerospace segment include: funding, authorization and availability of government contracts and the nature and continuation of those contracts; and technical uncertainty associated with segment contracts. Factors that could affect the company as a whole include those listed plus: acquisitions, joint ventures or divestitures; regulatory action or laws including tax, environmental and workplace safety; governmental investigations; goodwill impairment; antitrust and other litigation; strikes; boycotts; labor cost changes; rates of return projected and earned on assets of the company's defined benefit retirement plans; reduced cash flow; interest rates affecting our debt; and changes to unaudited results due to statutory audits or management's evaluation of the company's internal control over financial reporting.

16/05

###

#### **Ball Corporation**

10 Longs Peak Drive • PO Box 5000 • Broomfield, CO 80021 • (303) 460-2103

---

*"Our Quasiquicentennial Year"*

## Condensed Financials (2nd quarter 2005)

### Unaudited Statements of Consolidated Earnings

	Three months ended		Six months ended	
	July 3, 2005	July 4, 2004	July 3, 2005	July 4, 2004
(\$ in millions, except per share amounts)				
<b>Net sales</b> (Note 1)	<b>\$ 1,552.0</b>	<b>\$ 1,467.2</b>	<b>\$ 2,876.1</b>	<b>\$ 2,698.7</b>
Costs and expenses				
Cost of sales (excluding depreciation and amortization)	1,302.7	1,193.5	2,399.5	2,206.0
Business consolidation gains (Note 2)	8.8	—	8.8	—
Depreciation and amortization	53.0	52.2	106.4	106.0
Selling, general and administrative	56.0	67.7	119.0	138.8
	<u>1,420.5</u>	<u>1,313.4</u>	<u>2,633.7</u>	<u>2,450.8</u>
<b>Earnings before interest and taxes</b> (Note 1)	<b>131.5</b>	<b>153.8</b>	<b>242.4</b>	<b>247.9</b>
Interest expense	(24.3)	(25.0)	(50.1)	(53.3)
Tax provision	(32.9)	(40.8)	(62.7)	(62.3)
Minority interests	(0.3)	(0.2)	(0.5)	(0.5)
Equity in results of affiliates	5.0	2.9	8.5	5.7
<b>Net earnings</b>	<b>\$ 79.0</b>	<b>\$ 90.7</b>	<b>\$ 137.6</b>	<b>\$ 137.5</b>
<b>Earnings per share</b> (a)(Note 2):				
Basic	<b>\$ 0.72</b>	<b>\$ 0.82</b>	<b>\$ 1.24</b>	<b>\$ 1.24</b>
Diluted	<b>\$ 0.71</b>	<b>\$ 0.80</b>	<b>\$ 1.22</b>	<b>\$ 1.21</b>
Weighted average shares outstanding (000's) (a):				
Basic	109,526	110,736	110,589	111,048
Diluted	111,483	113,700	112,680	114,018

(a) Per share and share amounts have been retroactively restated for the two-for-one stock split on August 23, 2004

## Condensed Financials (2nd quarter 2005)

### Unaudited Statements of Consolidated Cash Flows

	Three months ended		Six months ended	
	July 3, 2005	July 4, 2004	July 3, 2005	July 4, 2004
(\$ in millions)				
<b>Cash Flows From Operating Activities:</b>				
Net earnings	\$ 79.0	\$ 90.7	\$ 137.6	\$ 137.5
Depreciation and amortization	53.0	52.2	106.4	106.0
Business consolidation costs	8.8	—	8.8	—
Prepaid common stock repurchase	108.5	—	—	—
Change in working capital	(15.8)	20.9	(164.4)	(163.2)
Other	(2.3)	5.6	(18.2)	20.2
	<u>231.2</u>	<u>169.4</u>	<u>70.2</u>	<u>100.5</u>
<b>Cash Flows From Investing Activities:</b>				
Additions to property, plant and equipment	(67.7)	(32.5)	(148.3)	(67.4)
Business acquisitions	—	—	—	(17.0)
Other	(1.6)	(0.6)	(9.5)	(6.4)
	<u>(69.3)</u>	<u>(33.1)</u>	<u>(157.8)</u>	<u>(90.8)</u>
<b>Cash Flows From Financing Activities:</b>				

Net change in borrowings	15.7	(106.4)	158.0	48.9
Dividends	(10.7)	(8.3)	(21.8)	(16.7)
Purchase of common stock, net	(176.7)	(27.0)	(168.0)	(42.1)
Other	(0.2)	(0.1)	(0.2)	(0.5)
	<b>(171.9)</b>	<b>(141.8)</b>	<b>(32.0)</b>	<b>(10.4)</b>
Effect of exchange rate changes on cash	(1.1)	0.2	(3.4)	0.1
<b>Decrease in cash</b>	<b>(11.1)</b>	<b>(5.3)</b>	<b>(123.0)</b>	<b>(0.6)</b>
<b>Cash-beginning of period</b>	<b>86.8</b>	<b>41.2</b>	<b>198.7</b>	<b>36.5</b>
<b>Cash-end of period</b>	<b>\$ 75.7</b>	<b>\$ 35.9</b>	<b>\$ 75.7</b>	<b>\$ 35.9</b>

## Condensed Financials (2nd quarter 2005)

### Unaudited Consolidated Balance Sheets

(\$ in millions)	July 3, 2005	July 4, 2004
<b>Assets</b>		
<b>Current assets</b>		
Cash and cash equivalents	\$ 75.7	\$ 35.9
Receivables, net	543.0	502.5
Inventories, net	657.6	607.9
Deferred taxes, prepaids and other current assets	88.5	77.0
Total current assets	1,364.8	1,223.3
<b>Property, plant and equipment, net</b>	<b>1,504.5</b>	<b>1,455.9</b>
<b>Goodwill</b>	<b>1,287.9</b>	<b>1,314.4</b>
<b>Other assets</b>	<b>272.8</b>	<b>341.5</b>
<b>Total assets</b>	<b>\$ 4,430.0</b>	<b>\$ 4,335.1</b>
<b>Liabilities and Shareholders' Equity</b>		
<b>Current liabilities</b>		
Short-term debt and current portion of long-term debt	\$ 165.4	\$ 157.8
Payables and accrued liabilities	917.2	863.0
Total current liabilities	1,082.6	1,020.8
<b>Long-term debt</b>	<b>1,588.0</b>	<b>1,584.1</b>
<b>Other liabilities and minority interests</b>	<b>806.7</b>	<b>838.3</b>
<b>Shareholders' equity</b>	<b>952.7</b>	<b>891.9</b>
<b>Total liabilities and shareholders' equity</b>	<b>\$ 4,430.0</b>	<b>\$ 4,335.1</b>

## Notes to Condensed Financials (2nd quarter 2005)

(\$ in millions)	Three months ended		Six months ended	
	July 3, 2005	July 4, 2004	July 3, 2005	July 4, 2004
<b>1. Business Segment Information</b>				
<b>Sales-</b>				
<i>North American packaging-</i>				
Metal beverage	\$ 664.5	\$ 663.8	\$1,208.6	\$1,213.1
Metal food	179.1	173.9	363.3	319.0
Plastic containers	133.4	107.7	249.2	200.7
	<b>977.0</b>	<b>945.4</b>	<b>1,821.1</b>	<b>1,732.8</b>
<i>International packaging-</i>				
Europe metal beverage	352.4	319.0	608.2	561.0
Asia metal beverage and plastic containers	41.9	32.5	84.1	74.3
	<b>394.3</b>	<b>351.5</b>	<b>692.3</b>	<b>635.3</b>
<i>Aerospace and technologies-</i>	<b>180.7</b>	<b>170.3</b>	<b>362.7</b>	<b>330.6</b>
<b>Consolidated net sales</b>	<b>\$1,552.0</b>	<b>\$1,467.2</b>	<b>\$2,876.1</b>	<b>\$2,698.7</b>

<b>Earnings before interest and taxes</b>				
North American packaging	\$ 74.9	\$ 91.4	\$ 153.2	\$ 158.0
Business consolidation costs (Note 2)	(8.8)	—	(8.8)	—
	<hr/>	<hr/>	<hr/>	<hr/>
Total North American packaging	66.1	91.4	144.4	158.0
International packaging	58.2	62.1	88.5	89.7
Aerospace and technologies	14.9	12.0	23.8	23.2
	<hr/>	<hr/>	<hr/>	<hr/>
Segment earnings before interest and taxes	139.2	165.5	256.7	270.9
Undistributed corporate costs	(7.7)	(11.7)	(14.3)	(23.0)
	<hr/>	<hr/>	<hr/>	<hr/>
<b>Earnings before interest and taxes</b>	<b>\$ 131.5</b>	<b>\$ 153.8</b>	<b>\$ 242.4</b>	<b>\$ 247.9</b>
	<hr/>	<hr/>	<hr/>	<hr/>

---

## Notes to Condensed Financials (2nd quarter 2005)

---

### 2. Business Consolidation Activities

In the second quarter of 2005, Ball announced its plan to close its Baie d' Urfe metal food container plant in Canada. In connection with the closure, the company recorded a charge of \$8.8 million (\$5.9 million after tax). A summary of the effects of the above transaction on after-tax earnings follows:

	Three months ended		Six months ended	
	July 3, 2005	July 4, 2004	July 3, 2005	July 4, 2004
<i>(\$ in millions, except per share amounts)</i>				
Net earnings as reported	\$ 79.0	\$ 90.7	\$ 137.6	\$ 137.5
Business consolidation costs, net of tax	5.9	—	5.9	—
	<hr/>	<hr/>	<hr/>	<hr/>
Net earnings before business consolidation costs	\$ 84.9	\$ 90.7	\$ 143.5	\$ 137.5
	<hr/>	<hr/>	<hr/>	<hr/>
Per basic share before business consolidation costs	\$ 0.77	\$ 0.82	\$ 1.29	\$ 1.24
	<hr/>	<hr/>	<hr/>	<hr/>
Per diluted share before business consolidation costs	\$ 0.76	\$ 0.80	\$ 1.27	\$ 1.21
	<hr/>	<hr/>	<hr/>	<hr/>

Ball's management segregates the above items related to closed facilities to evaluate the company's performance of current operations. The above is presented on a non-U.S. GAAP basis and should be considered in connection with the unaudited statement of consolidated earnings. Non-U.S. GAAP measures should not be considered in isolation.

### 3. Free Cash Flow

Management internally uses a free cash flow measure (1) to evaluate the company's operating results, (2) for planning purposes, (3) to evaluate strategic investments and (4) to evaluate the company's ability to incur and service debt. Free cash flow is not a defined term under U.S. generally accepted accounting principles (a non-U.S. GAAP measure). Non-U.S. GAAP measures should not be considered in isolation or as a substitute for net earnings or cash flow data prepared in accordance with U.S. GAAP and may not be comparable to similarly titled measures of other companies.

Free cash flow is typically derived directly from the company's cash flow statements and defined as cash flows from operating activities less additions to property, plant and equipment; however it may be adjusted for items that affect comparability between periods. Cash flow from operating activities is the most comparable GAAP term to free cash flow and it should not be inferred that the entire free cash flow amount is available for discretionary expenditures.

Based on our current 2005 capital spending forecast \$300 million, our projected 2005 free cash flow should be in the \$225 million range.