

oversee the RMC Tucson business prior to its divestiture and to ensure that Cemex complies with its obligations under the Consent Agreement. Mr. Roebuck has more than 25 years of construction materials industry experience at all levels of management. Most recently, Mr. Roebuck served as Vice President of Sales and Marketing with Southdown, Inc.'s Concrete Products Division. He is also a former member of the Board and Executive Committee of the National Concrete Masonry Association; has authored over 20 industry-specific continuing education programs; and has served as a contributing author and editor for the National Ready Mixed Concrete Association's Certified Concrete Sales Professional program.

The purpose of this analysis is to facilitate public comment on the Consent Agreement, and it is not intended to constitute an official interpretation of the Consent Agreement or proposed Order or to modify the terms of the Consent Agreement or proposed Order in any way.

By direction of the Commission, Chairman Majoras recused.

Donald S. Clark,
Secretary.

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BILLING CODE 6750-01-P

FEDERAL TRADE COMMISSION

[File No. 041 0203]

Cytec Industries Inc.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of Federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before March 30, 2005.

ADDRESSES: Comments should refer to "Cytec Industries Inc., File No. 041 0203," to facilitate the organization of comments. A comment filed in paper form should include this reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission/Office of the Secretary,

Room H-159, 600 Pennsylvania Avenue, NW., Washington, DC 20580. Comments containing confidential material must be filed in paper form, as explained in the **SUPPLEMENTARY INFORMATION** section. The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions. Comments filed in electronic form (except comments containing any confidential material) should be sent to the following e-mail box: consentagreement@ftc.gov.

FOR FURTHER INFORMATION CONTACT:

Robert Tovsky, FTC, Bureau of Competition, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326-2634.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 2.34 of the Commission's Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for March 1, 2005), on the World Wide Web, at <http://www.ftc.gov/os/2005/03/index.htm>. A paper copy can be obtained from the FTC Public Reference Room, Room 130-H, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326-2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. Written comments must be submitted on or before March 30, 2005. Comments should refer to "Cytec Industries Inc., File No. 041 0203," to facilitate the organization of comments. A comment filed in paper form should include this reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission/Office of the Secretary, Room H-159, 600 Pennsylvania Avenue, NW., Washington, DC 20580. If the comment contains any material for which confidential treatment is requested, it must be filed in paper (rather than electronic) form, and the first page of

the document must be clearly labeled "Confidential."¹ The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions. Comments filed in electronic form should be sent to the following e-mail box:

consentagreement@ftc.gov.

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. All timely and responsive public comments, whether filed in paper or electronic form, will be considered by the Commission, and will be available to the public on the FTC Web site, to the extent practicable, at <http://www.ftc.gov>. As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC Web site. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at <http://www.ftc.gov/ftc/privacy.htm>.

Analysis To Aid Public Comment

The Federal Trade Commission ("Commission") has accepted, subject to final approval, an Agreement Containing Consent Orders ("Consent Agreement") from Cytec Industries Inc. ("Cytec"). The Consent Agreement is intended to resolve anticompetitive effects stemming from Cytec's proposed acquisition of the Surface Specialties Business of UCB S.A. ("UCB"). The Consent Agreement includes a proposed Decision and Order ("Order") that would require Cytec to divest UCB assets relating to the research, development, marketing, sale, and production of amino resins ("UCB Amino Resins Business"). The Consent Agreement also includes an Order to Hold Separate and Maintain Assets, which requires Cytec to preserve the UCB Amino Resins Business as a viable, competitive, and ongoing operation until the divestiture is achieved.

The Consent Agreement, if finally accepted by the Commission, would settle charges that Cytec's proposed acquisition of UCB's Surface Specialties

¹ Commission Rule 4.2(d), 16 CFR 4.2(d). The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. See Commission Rule 4.9(c), 16 CFR 4.9(c).

Business may have substantially lessened competition in the markets for amino resins for: (1) Industrial liquid coatings; and (2) adhesion promotion in rubber. The Commission has reason to believe that Cytec's proposed acquisition of UCB's Surface Specialties Business would have violated Section 7 of the Clayton Act and Section 5 of the Federal Trade Commission Act.

The proposed Order has been placed on the public record for thirty (30) days to receive comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will review the Consent Agreement and comments received and decide whether to withdraw its agreement or make final the Consent Agreement's proposed Order and Order to Hold Separate and Maintain Assets.

I. Amino Resins for Industrial Liquid Coatings and Adhesion Promotion in Rubber

According to the Commission's proposed complaint, the relevant product markets in which to analyze the effects of Cytec's proposed acquisition of UCB's Surface Specialties Business are the manufacture and sale of amino resins for: (1) Industrial liquid coatings; and (2) adhesion promotion in rubber. The types of amino resins that Cytec and UCB manufacture are used as cross-linking agents in thermoset surface coatings for a variety of applications, including automotive coatings, coil coatings, can coatings, appliance coatings, and general maintenance coatings. These types of resins are also used, primarily in tires, to promote the adhesion of rubber to materials such as steel or fiber. As the proposed complaint describes, there are no effective substitutes for amino resins in the applications in which they are used. The proposed complaint also alleges that the relevant geographic market in which to assess the impact of the proposed acquisition is no broader than North America and is potentially limited to the United States.

The proposed complaint alleges that the markets for amino resins for industrial liquid coatings and adhesion promotion in rubber are highly concentrated, that Cytec and UCB have been for many years the two major competitors in these markets, and that these companies compete with one another across a wide range of amino resin grades and applications in which customers have qualified their resins for use. As the proposed complaint describes, customers have relied on the competition between these companies to maintain competitive amino resin

prices. The proposed complaint alleges that the proposed acquisition of UCB's Surface Specialties division by Cytec would reduce competition by eliminating the direct competition that has existed between these two companies. The proposed complaint further alleges that entry into the relevant markets would not be timely, likely, or sufficient to deter or offset the acquisition's adverse competitive effects. Other firms would not in the foreseeable future be able to offer the range of grades that Cytec and UCB have developed over the years, nor would they be able to meet the requirements necessary to commercially qualify their resins for use in demanding customer applications.

II. The Consent Agreement

The proposed Order requires that Cytec divest the UCB Amino Resins Business to an acquirer approved by the Commission within one-hundred and eighty (180) days from the date upon which the Commission accepts the proposed Order for public comment. The divested business includes two manufacturing facilities, in Massachusetts and in Germany, where UCB manufactures amino resins, together with UCB's rights to obtain amino resins pursuant to a tolling agreement between UCB and Solutia Canada, Inc. The divested business also includes certain lines of additives that are the only other products that UCB manufactures at the plant in Germany. In connection with the divestiture, Cytec is required to divest to an acquirer the set of assets that comprise UCB's amino resins business. In addition to the manufacturing assets, for example, Cytec is required to divest the patents and other intellectual property that UCB has relied upon in its amino resins business, the sales and marketing materials, including customer information, that UCB has relied upon, and the other books and records of the business. Further, Cytec is required to assign the different contracts relating to the amino resins business, and to secure all consents necessary for the divestiture. Cytec is also required, until the divestiture is completed, to take the steps necessary to maintain the viability of the UCB Amino Resins Business. The acquirer of the divested assets would have the opportunity, without interference from Cytec, to interview and potentially hire key UCB personnel who have been involved in supporting all aspects of the company's amino resins business.

The proposed Order also provides that if Cytec does not complete its divestiture within the specified six-

month period, the Commission may appoint a Divestiture Trustee to divest the UCB Amino Resins Business in a manner acceptable to the Commission. The proposed Order also provides for the Commission to appoint a Monitor Trustee to oversee Cytec's compliance with the terms of the proposed Order and the divestiture agreements that Cytec enters pursuant to the proposed Order.

The proposed Order to Hold Separate and Maintain Assets that is also included in the Consent Agreement requires that Cytec hold separate and maintain the viability and marketability of UCB's Amino Resins Business as a viable and competitive operation until the business is transferred to the Commission-approved acquirer. Furthermore, it contains measures designed to ensure that no material confidential information is exchanged between Cytec and the UCB Amino Resins Business (except as otherwise provided in the Order to Hold Separate and Maintain Assets) and measures designed to prevent interim harm to competition in the relevant markets pending divestiture. The Order to Hold Separate and Maintain Assets provides for the Commission to appoint a Hold Separate Trustee who is charged with the duty of monitoring Cytec's compliance with the Order to Hold Separate and Maintain Assets.

The proposed Order requires Cytec to provide the Commission, within thirty (30) days from the date the Order becomes final, a verified written report setting forth in detail the manner and form in which Cytec intends to comply, is complying, and has complied with the provisions relating to the proposed Order and the Order to Hold Separate and Maintain Assets. The proposed Order further requires Cytec to provide the Commission with a report of compliance with the Order every thirty (30) days after the date when the Order becomes final until the divestiture has been completed.

The purpose of this analysis is to facilitate public comment on the proposed Order. This analysis is not intended to constitute an official interpretation of the Consent Agreement, the proposed Order, or the Order to Hold Separate and Maintain Assets, or in any way to modify the terms of the Consent Agreement, the proposed Order, or the Order to Hold Separate and Maintain Assets.

By direction of the Commission.

Donald S. Clark,
Secretary.

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