

**UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION**

COMMISSIONERS: **Deborah Platt Majoras, Chairman
Orson Swindle
Thomas B. Leary
Pamela Jones Harbour
Jon Leibowitz**

In the Matter of)
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CYTEC INDUSTRIES INC.)
 a corporation.)
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Docket No. C-4132

COMPLAINT

Pursuant to the Federal Trade Commission Act and the Clayton Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission (“Commission”), having reason to believe that Cytec Industries Inc. (“Cytec”), a corporation subject to the jurisdiction of the Commission, has entered into an agreement to acquire the Surface Specialties division of UCB S.A. (“UCB”), a corporation subject to the jurisdiction of the Commission, and that the acquisition, if consummated, would result in a violation of Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45, and Section 7 of the Clayton Act, 15 U.S.C. § 18, and it appearing to the Commission that a proceeding in respect thereof would be in the public interest, hereby issues its complaint, stating its charges as follows:

A. THE RESPONDENT

1. Respondent Cytec is a corporation organized, existing, and doing business under and by virtue of the laws of the United States, with its principal office and principal place of business located at 5 Garret Mountain Plaza, West Paterson, New Jersey 07424.

2. Cytec, among other things, engages in the worldwide development, manufacture, and sale of amino resins.

3. Respondent Cytec is, and at all times relevant herein has been and is now engaged in commerce, as “commerce” is defined in Section 1 of the Clayton Act, 15 U.S.C. § 12, and is a corporation whose business is in or affecting commerce as “commerce” is defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.

B. THE ACQUIRED COMPANY

4. "UCB" means UCB S.A., a corporation organized, existing, and doing business under and by virtue of the laws of Belgium, with its registered office located at 60 Allee de la Recherche, B-1070, Brussels, Belgium.

5. Surface Specialties, one of two divisions of UCB, operates through wholly-owned subsidiaries of UCB in North and South America, Europe and Asia. Surface Specialties, which operates more than ten plants in these areas, researches, develops, manufactures, and sells a wide range of products that includes those used in the coating, bonding, and printing of surfaces.

C. THE PROPOSED ACQUISITION

6. On October 1, 2004, Cytec and UCB announced that they had entered into a combined cash-share purchase agreement whereby Cytec would purchase UCB's Surface Specialties division for approximately \$1.8 billion.

D. THE RELEVANT MARKETS

7. For the purposes of this Complaint, the relevant product markets in which to analyze the effects of Cytec's proposed acquisition of UCB's Surface Specialties division is the research, development, manufacture, and sale of amino resins for: (1) industrial liquid coatings; and (2) adhesion promotion in rubber (primarily tire applications). 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, appliance coatings, can coatings, and general maintenance coatings. In addition, these types of resins are used in tires to promote the adhesion of rubber to other materials in the tire and thereby enhance the performance and durability of the tire.

8. There are many different grades of amino resins, each of which will impart specific performance properties. Customers, such as coatings manufacturers or tire manufacturers, typically will qualify a resin for use in a particular formulation. That is, the customers will take resin samples and perform various types of laboratory and product testing to demonstrate that the resin will provide the performance they require in the application.

9. Amino resins provide a critical function for the specialized applications in which they are used, and there are no economic substitutes for amino resins in these applications. In other words, a small but significant and non-transitory price increase would not significantly affect the current level of consumption of amino resins in either of the significant end-use applications of industrial liquid coatings and rubber adhesion promotion.

10. The relevant geographic market in which to assess the impact of the proposed acquisition is no broader than North America and potentially limited to the United States. Imports and exports of the relevant products are very limited, and the potential for interregional

shipping is limited by transportation costs and duties, by the requirements for an effective distribution and service infrastructure, and due to the often time-consuming customer qualification requirements.

E. MARKET STRUCTURE

11. The markets for amino resins for industrial liquid coatings and rubber adhesion promotion are highly concentrated. Cytec and UCB are the two major competitors in the United States, accounting for over 90% of domestic sales for at least the last ten years.

12. Cytec manufactures amino resins at multiple plants in the United States, and at multiple overseas plants. UCB manufactures amino resins at one plant in the United States, one in Canada, and at multiple plants overseas.

13. Other firms also market amino resins for coatings and rubber adhesion applications, but only on a very limited basis with less advanced products.

14. Cytec and UCB, by virtue of their history of participation in the marketplace over a period of many years, have the broadest ranges of commercially available amino resin grades, and the broadest ranges of qualifications in customer applications.

15. As measured by sales, the proposed acquisition would increase concentration significantly for amino resins for industrial liquid coating and adhesion promotion in rubber, as measured by the Herfindahl-Hirschman Index (“HHI”), by almost 4000 points, to over 8000.

F. DIRECT COMPETITION BETWEEN CYTEC AND UCB

16. Cytec and UCB compete directly with each other across an extensive array of amino resin grades used in different applications. Customers often qualify both Cytec and UCB as suppliers in order to ensure competition in pricing and other key aspects of the supply of amino resins.

G. CONDITIONS OF ENTRY AND EXPANSION

17. In order to constrain Cytec’s ability to exercise market power, new entry or expansion must be able to compete on the basis on which UCB is able to compete today so as to restore the competition that exists between Cytec and UCB across the wide range of amino resin grades. Because of the time that would be required to develop the necessary capabilities, and the hurdles a potential entrant would face in trying to develop a business of the scale and scope of UCB, neither new entry nor expansion are likely to be sufficient to provide substantial constraint on Cytec’s ability to exercise market power after the acquisition.

18. Other firms would lack key assets that they would require to compete effectively against Cytec. At a minimum, other firms would need to invest resources over an extended

period of time in developing the formulation expertise to produce the wide range of grades Cytec and UCB have developed, and currently manufacture and market. They would also need to obtain the research and development capability to continue to improve existing product lines to meet the evolving requirements of amino resins in the applications in which they are used. Finally, in order to fully respond to the requirements of major customers at the locations where they use amino resins, firms would need to have plants as close as possible to their major customers in order to be able to supply those grades to the worldwide locations of these customers on a timely basis and at competitive prices.

19. Even if manufacturers were able to develop some grades of amino resins, the rigorous process of qualifying resins in the coating and tire applications in which they are used would likely make it several additional years before new competition could emerge to compete effectively against Cytec in the full range of applications in which Cytec and UCB today compete.

20. In the end, therefore, there would be no assurance that the emerging competition would be sufficient to replace the established competition that has existed between Cytec and UCB over a period of many years in the wide range of applications in which amino resins are used.

H. EFFECTS OF THE PROPOSED ACQUISITION

21. The effect of the acquisition may be to substantially lessen competition and to tend to create a monopoly in the relevant market in violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, in the following ways, among others:

a. It will substantially increase concentration in the markets for amino resins for industrial liquid coatings and promotion of adhesion in rubber, primarily tire applications;

b. It will eliminate UCB as the only other significant competitor in the markets for amino resins for industrial liquid coatings and promotion of adhesion in rubber, primarily tire applications;

c. It will lead to higher prices and a reduced level of innovation in the markets for amino resins for industrial liquid coatings and promotion of adhesion in rubber, primarily tire applications.

I. VIOLATIONS CHARGED

22. The acquisition agreement between Cytec and UCB, as described in paragraph 6, violates Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45.

23. The acquisition of UCB's Surface Specialties division by Cytec, if consummated, would violate Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, and Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18.

WHEREFORE, THE PREMISES CONSIDERED, the Federal Trade Commission on this twenty-eighth day of February, 2005, issues its complaint against said Respondent.

By the Commission.

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Donald S. Clark
Secretary