

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

COMMISSIONERS: **Joseph J. Simons, Chairman**
 Noah Joshua Phillips
 Rohit Chopra
 Rebecca Kelly Slaughter
 Christine S. Wilson

In the Matter of

**Corpus Christi Polymers LLC,
a limited liability company,**

**Alfa S.A.B. de C.V.,
a corporation,**

**Indorama Ventures Plc,
a corporation,**

**Aloke and Suchitra Lohia,
natural persons,**

and

**Far Eastern New Century Corporation,
a corporation.**

Docket No. C-4672

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act (“FTC Act”), and by virtue of the authority vested in it by said Act, the Federal Trade Commission (“Commission”), having reason to believe that Respondent Corpus Christi Polymers LLC (“CCP”), a joint venture between corporate entities under the control of Respondents Alfa S.A.B. de C.V. (“DAK”), Indorama Ventures Plc (“Indorama”), controlled by Aloke and Suchitra Lohia, and Far Eastern New Century Corporation (“FENC”), intends to acquire certain assets from M&G Resins USA LLC and its affiliates (“M&G”) in bankruptcy, in violation of Section 5 of the FTC Act, as amended, 15 U.S.C. § 45, and which, if the acquisition is consummated, may substantially lessen competition in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18, and Section 5 of the

FTC Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint pursuant to Section 5(b) of the FTC Act, 15 U.S.C. § 45(b), and Section 11(b) of the Clayton Act, 15 U.S.C. § 21(b), stating its charges as follows:

I. RESPONDENTS

1. Respondent Corpus Christi Polymers LLC is a limited liability company organized, existing, and doing business under, and by virtue of, the laws of the State of Delaware, with its executive offices and principal place of business located at 7001 Joe Fulton International Trade Corridor, Corpus Christi, TX 78409. CCP is a joint venture entity formed by the corporate subsidiaries of Respondents DAK, Indorama, and FENC.

2. Respondent Alfa S.A.B. de C.V. is a corporation organized, existing, and doing business under, and by virtue of, the laws of Mexico, with its executive offices and principal place of business located at Ave. Gómez Morin Sur No. 1111, Col. Carrizalejo, San Pedro Garza Garcia, N.L., Mexico C.P. 66250.

3. Respondent Indorama Ventures Plc is a corporation organized, existing, and doing business under, and by virtue of, the laws of the Thailand, with its executive offices and principal place of business located at 37th Floor, Ocean Tower 2, Soi Sukhumvit 19, Wattana, Bangkok, Thailand.

4. Respondents Alope Lohia, Executive Director, Vice Chairman of the Board, and Group Chief Executive Officer of Indorama; and Suchitra Lohia, Executive Director and Chairperson of the Corporate Social Responsibility Committee of Indorama, are natural persons and the ultimate parent entities of Indorama, with their executive offices and principal place of business located at 37th Floor, Ocean Tower 2, Soi Sukhumvit 19, Wattana, Bangkok, Thailand.

5. Respondent Far Eastern New Century Corporation is a corporation organized, existing, and doing business under, and by virtue of, the laws of the Taiwan, with its executive offices and principal place of business located at 36F, Taipei Metro Tower 207, Tun Hwa South Road, Sec. 2, Taipei, Taiwan.

II. JURISDICTION

6. Respondents, either directly or through corporate entities under their control, are, and at all relevant times have been, engaged in commerce or in activities affecting “commerce” as defined in Section 4 of the FTC Act, 15 U.S.C. § 44, and Section 1 of the Clayton Act, 15 U.S.C. § 12.

III. PROPOSED ACQUISITION

7. Pursuant to an Asset Purchase Agreement dated March 28, 2018, CCP proposes to acquire from M&G an under-construction polyethylene terephthalate resin (“PET”) and purified terephthalic acid (“PTA”) production facility in Corpus Christi, Texas and related assets (the “Corpus Christi Assets”), for \$1.1 billion (the “Acquisition”).

8. M&G and its affiliates filed for Chapter 11 bankruptcy in October 2017, pursuant to which M&G endeavored to sell certain assets. Respondents DAK, Indorama, and FENC formed CCP and submitted a joint bid in the bankruptcy proceeding to acquire the Corpus Christi Assets. On March 29, 2018, the bankruptcy court approved the sale of the Corpus Christi Assets to CCP.

9. Through CCP, Respondents DAK, Indorama, and FENC intend to complete construction of the Corpus Christi Assets. Upon completion of the plant, CCP will serve as a toll manufacturing entity. DAK, Indorama, and FENC will each have rights to one-third of the PET capacity at the plant and will pay a tolling fee to CCP for each unit they produce. Each joint venture member will independently procure its own raw materials and will independently sell and distribute the corresponding PET.

10. The Acquisition constitutes an acquisition subject to Section 7 of the Clayton Act, 15 U.S.C. § 18.

IV. THE RELEVANT MARKET

11. PET is a plastic polymer used to make packaging for consumer goods, primarily plastic water and soda bottles and packaging for food and other products. Articles made with PET are strong, lightweight, clear, transparent, and sterile. PTA is the primary input in making PET.

12. A relevant market in which to assess the effects of the Acquisition is the manufacture and sale of PET. Customers cannot switch to other products without incurring significant costs, as customers have large investments in production lines that can use only PET as an input. Furthermore, in many applications, end users disfavor potential substitutes such as glass, aluminum, and polypropylene, because these materials can be heavier, bulkier, and more expensive. Customers thus have no viable or economic substitute for PET.

13. A relevant geographic market in which to assess the effects of the Acquisition is no larger than North America. Imported PET, which accounts for approximately 15% of North American sales, primarily serves customers located close to the coasts and does not constrain prices throughout North America. Duties on imported PET have made many foreign PET sources uncompetitive even for North American customers who might otherwise have competitive freight logistics from coastal ports.

V. MARKET STRUCTURE

14. The market for the manufacture and sale of PET in North America is highly concentrated.

15. DAK, Indorama, and FENC are three of only four North American PET producers. Together, these three Respondents control nearly 90% of North American PET capacity. Upon completion, the Corpus Christi plant will be the largest PET plant in North America and will account for roughly 20% of North American PET capacity.

16. DAK and Indorama are two of only three significant North American PTA producers. Vertical integration into the PTA market gives DAK and Indorama an advantage over other, non-integrated PET producers.

VI. ENTRY CONDITIONS

17. Entry, repositioning, or fringe firm growth would not be timely, likely, or sufficient to deter or counteract the anticompetitive effects of the Acquisition. Significant barriers to entry or expansion include the time and cost of either constructing a new PET plant or converting an existing plant into PET use. Two-tier entry in both the PET and PTA markets would likely be necessary for an entrant to become truly competitive.

VII. EFFECTS OF THE ACQUISITION

18. Absent relief, the Acquisition may substantially lessen competition or tend to create a monopoly in the relevant market, by:

- a. facilitating or increasing the likelihood of collusive or coordinated interaction between and among any of the Respondents; and
- b. increasing the likelihood that DAK, Indorama, and FENC, acting alone or in concert, will exercise market power in the relevant market.

19. Absent relief, CCP lacks adequate safeguards to prevent DAK, Indorama, and FENC from using the relationships occasioned by their joint ownership of CCP, and by CCP's acquisition of the Corpus Christi Assets, to transmit competitively sensitive information beyond the minimum degree reasonably necessary to accomplish CCP's legitimate purposes.

VIII. VIOLATIONS CHARGED

20. The Acquisition agreement constitutes an unfair method of competition in violation of Section 5 of the FTC Act, as amended, 15 U.S.C. § 45. The Acquisition, if consummated, may substantially lessen competition in the relevant market in violation of Section 7 of the Clayton Act, as amended, 15.U.S.C. § 18, and is an unfair method of competition in violation of Section 5 of the FTC Act, as amended, 15 U.S.C. § 45.

WHEREFORE, THE PREMISES CONSIDERED, the Federal Trade Commission on this twentieth day of February, 2019, issues its complaint against Respondents.

By the Commission.

April J. Tabor
Acting Secretary

SEAL: