

imports from Belarus, Russia,<sup>2</sup> and Ukraine of urea ammonium nitrate solutions, provided for in subheading 3102.80.00 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce (Commerce) to be sold in the United States at less than fair value (LTFV).

### Background

The Commission instituted these investigations effective April 19, 2002, following receipt of a petition filed with the Commission and Commerce by the Nitrogen Solutions Fair Trade Committee, an ad hoc coalition of U.S. urea ammonium nitrate solutions producers, consisting of CF Industries, Inc., Long Grove, IL; Mississippi Chemical Corp., Yazoo City, MS; and Terra Industries, Inc., Sioux City, IA. The final phase of the investigations was scheduled by the Commission following notification of preliminary determinations by Commerce that imports of urea ammonium nitrate solutions from Belarus, Russia, and Ukraine were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of October 23, 2002 (67 FR 65143). Pursuant to Commerce's notice of extension of the time limits for its final antidumping determinations (67 FR 67823, November 7, 2002), the Commission published a notice of revised schedule in the **Federal Register** of November 20, 2002 (67 FR 70093). The hearing was held in Washington, DC, on February 20, 2003, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these reviews to the Secretary of Commerce on April 10, 2003. The views of the Commission are contained in USITC Publication 3591 (April 2003), entitled Urea Ammonium Nitrate Solutions from Belarus, Russia,

and Ukraine: Investigations Nos. 731-TA-1006, 1008, and 1009 (Final).

By order of the Commission.

Issued: April 10, 2003.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

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## DEPARTMENT OF JUSTICE

### Antitrust Division

#### **U.S. v. Archer-Daniels-Midland Company and Minnesota Corn Processors, LLC; Public Comments and Plaintiff's Response**

Notice is hereby given pursuant to section 2(d) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(d), that the Public Comments and Plaintiff's Response thereto have been filed with the United States District Court of the District of Columbia in *United States v. Archer-Daniels-Midland Company*, Case Number: 1:02-cv-1768 (JDB).

On September 6, 2002, the United States filed a civil antitrust Complaint alleging that the proposed acquisition by Archer-Daniels-Midland Company ("ADM") of Minnesota Corn Processors, LLC ("MCP") would violate section 7 of the Clayton Act, 15 U.S.C. 18. The Complaint alleged that ADM and MCP are two of the largest corn wet millers in the United States, competing to manufacture and sell corn syrup and high fructose corn syrup ("HFCS") to many of the same purchasers throughout the United States and Canada. ADM's acquisition of MCP would have eliminated this competition and increased concentration in the already highly concentrated corn syrup and HFCS markets, making anticompetitive coordination among the few remaining corn wet millers in these markets more likely. As a result, the proposed acquisition would have substantially lessened competition for the manufacture and sale of corn syrup and HFCS products in violation of section 7 of the Clayton Act.

Public comment was invited within the statutory 60-day comment period. The three comments received, and the response thereto, are hereby published in the **Federal Register** and filed with the Court. Copies of these materials are available for inspection at the U.S. Department of Justice, Antitrust Division, Suite 215 North, 325 7th Street, NW., Washington, DC 20530 (telephone: 202-514-2692), and at the Clerk's Office of the U.S. District Court for the District of Columbia, 333

Constitution Avenue, NW., Washington, DC 20001.

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*

#### **Response of the United States to Public Comments on the Proposed Final Judgment**

Communications with respect to this document should be addressed to:

Roger W. Fones, Chief, Donna N. Kooperstein, Assistant Chief; Michael P. Harmonis, Jessica K. Delbaum, Attorneys.

Transportation, Energy & Agriculture Section, Antitrust Division, U.S. Department of Justice, 325 Seventh Street, NW., Washington, DC 20530. (202) 307-6357.

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b) ("Tunney Act"), plaintiff, the UNITED STATES OF AMERICA, acting under the direction of the Attorney General, hereby files comments received from members of the public concerning the proposed Final Judgment in this civil antitrust suit and the Response of the United States to those comments.

### I. Factual Background

#### *A. The Parties to the Transaction*

Archer-Daniels-Midland Company ("ADM") and Minnesota Corn Processors, LLC ("MCP") were two of the largest corn wet millers in the United States, competing to manufacture and sell corn syrup, high fructose corn syrup ("HFCS") and other wet-milled products principally to the food and beverage industries in the United States and Canada. In addition, both firms manufactured and sold fuel ethanol, and they also procured, transported, stored, manufactured, processed, and merchandised a wide variety of other agricultural commodities and products.

#### *B. The Proposed Acquisition*

On July 11, 2002, ADM entered into an agreement with MCP to acquire MCP's corn wet milling business, including MCP's two corn wet milling plants in Marshall, Minnesota and Columbus, Nebraska and its network of regional blending, storage, and distribution stations. As a result of the transaction, MCP has become a wholly-owned subsidiary of ADM.

#### *C. The Complaint*

On September 6, 2002, the United States Department of Justice (the "Department") filed a complaint with this Court alleging that ADM's acquisition of MCP substantially would lessen competition in the markets for

<sup>2</sup> On February 19, 2003, Commerce signed a suspension agreement concerning UAN from Russia; however, pursuant to petitioners' request on the following day, Commerce continued its investigation and published notices of suspension, continuance, and completion of the investigation in the **Federal Register** of March 3, 2003 (68 FR 9977-9984). The Commission thus continued its investigation of subject imports from Russia pursuant to 19 U.S.C. 1673c(g).