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March 24, 2006

VIA E-MAIL

Michael Verne
Premerger Notification Office
Bureau of Competition, Room 303
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, DC 20580

Re: Hart-Scott Informal Interpretation

Dear Mike:

As you may recall, you and I spoke last week concerning what would constitute "sales in or into the United States." The hypothetical facts are as follows:

Ultimate Parent A has three wholly-owned, sister subsidiaries: B, C and D. A, B, C and D are all "foreign" entities under the Hart-Scott rules (i.e., they are not incorporated in the United States, are not organized under the laws of the United States, and do not have their principal offices within the United States). Subsidiary B holds a plant located outside of the United States. Subsidiary C delivers raw materials to Subsidiary B's plant where the raw materials undergo substantial transformation to finished products. Subsidiary C owns the raw materials and the finished products.

Some of the finished products are acquired at the tailgate of the plant by Subsidiary B for its in-country wholesale and retail requirements. None of these products are sold in or into the United States. Some finished products are sold at the tailgate of the plant by Subsidiary C to unrelated third-parties. The vast majority of the finished products are sold at the tailgate of the plant by Subsidiary C to Subsidiary D. Subsidiary D sells the finished products all over the world, including the United States through a U.S. branch office. Subsidiary D's sales of finished products in or into the United States are well in excess of $56.7 million annually.

Subsidiary B is being acquired by X in a proposed transaction. Neither Subsidiary C nor Subsidiary D are being acquired; both will remain subsidiaries

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of Ultimate Parent A. However, as part of the transaction X will purchase all of Subsidiary C's inventory, wherever located.

Presented with these facts, you indicated that sales of finished products from the tailgate of Subsidiary B's plant to Subsidiary D would not constitute sales in or into the United States attributable to Subsidiary B for Hart-Scott purposes (assuming that none of the output was specifically designed for the U.S. market), because (1) the sales are FOB the plant, and (2) Subsidiary D is not being acquired in the proposed transaction. You indicated that this would be the result notwithstanding the fact that Subsidiary D resells more than $56.7 million in finished products annually in the United States.

With respect to X's purchase of C's inventory, you indicated that to the extent the inventory was physically located in the United States it would be considered a U.S. asset, but to the extent it was located outside the United States it would not be considered a U.S. asset or an asset to which U.S. sales were attributable, even if it was under contract to a U.S. purchaser.

Please let me know if I have misstated our discussion or your conclusions in any way. As always, thank you for your time and assistance.

Sincerely,

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AGREE -
N. OVUKA CONCURS -
3/24/06