IOWA

Dickinson County

Antlers Hotel, 1703 Hill Ave., Spirit Lake, 07000452

Ringgold County

Beaconsfield Supply Store, 1621 Main St., Beaconsfield, 07000451

LOUISIANA

Calcasieu Parish

Muller's Department Store (Boundary Increase), 619 Ryan St., Lake Charles, 07000433

MINNESOTA

Dakota County

Holz Family Farmstead, 4665 Manor Dr., Eagan, 07000459

St. Louis County

Stuntz Bay Boathouse Historic District, At the northern of Stuntz Bay Rd., Breitung Township, 07000460

MISSOURI

Pulaski County

Osage Hills School, 1110 Glenwood S, Kirkwood, 07000462

St. Louis Independent City

General American Life Insurance Company National Headquarters, 706 Market St., St. Louis (Independent City), 07000461

Lowell School, 1409 E. Linton, St. Louis (Independent City), 07000464

Watcher Motor Car Company Building, (Auto-Related Resources of St. Louis, Missouri MPS) 2600–2614 Nebraska Ave., St. Louis (Independent City), 07000463

MONTANA

Fergus County

Hogeland, Abraham and Mary Walton, House, (Lewistown MRA) 620 W. Montana St., Lewistown, 07000465

PENNSYLVANIA

Adams County

Horner House and Barn, 20 Horner Rd., Cumberland Township, 07000468

Delaware County

Chester Waterside Station of the Philadelphia Electric Company, 2501 Seaport Dr., Chester, 07000467

Washington County

Wright, Enoch, House, 815 Venetia Rd., Peters Township, 07000466

[FR Doc. E7–8124 Filed 4–27–07; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Amsted Industries, Inc.; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act (''APPA''), 15 U.S.C. 16(b)–(h), that a proposed Final Judgment, Hold Separate Stipulation and Order, and Competitive Impact Statement have been filed with the United States District Court for the District of Columbia in *United States of America* v. *Amsted Industries. Inc.*, Civil Action No. 1:07–cv–00710. On April 18, 2007, the United States filed a Complaint alleging that the acquisition by Amsted Industries (''Amsted'') of the end-of-car cushioning assets (''EOCCs'') of FM Industries (''FMI''), a subsidiary of Progress Rail Services Holding Corporation, violated Section 7 of the Clayton Act, 15 U.S.C. 18, and Section 2 of the Sherman Act, 15 U.S.C. 2. The proposed Final Judgment, filed at the same time as the Complaint, requires Amsted to divest without compensation all FMI intangible assets and all FMI tools and patterns used for imparting the shape, form, or finish to EOCCs. The proposed Final Judgment also requires Amsted to license royalty free and in perpetuity certain Amsted intangible assets and to make available all Amsted tools and patterns used for imparting the shape, form, or finish to EOCCs. Finally, the proposed Final Judgment requires Amsted to release market participants from restrictive covenants, as well as to notify the United States of future transactions.

Copies of the Complaint, proposed Final Judgment, and Competitive Impact Statement are available for inspection at the U.S. Department of Justice, Antitrust Division, Antitrust Documents Group, 325 7th Street, NW., Room 215, Washington, DC 20530 (telephone: 202–514–2481), on the Department of Justice's Web site at *http://www.usdoj.gov/atr*, and at the Clerk Office of the Clerk of the United States District Court for the District of Columbia. Copies of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Public comment is invited within 60 days of the date of this notice. Such comments, and responses thereto, will be published in the **Federal Register** and filed with the Court. Comments should be directed to Maribeth Petrizzi, Chief, Litigation II, Antitrust Division, Department of Justice, Washington, DC 20530, (telephone: 202–307–0924).

J. Robert Kramer II,
Director of Operations, Antitrust Division.

United States District Court for the District of Columbia

United States of America, Department of Justice, Antitrust Division, 1401 H Street, NW., Suite 3000, Washington, DC 20530, Plaintiff, v. Amsted Industries, Inc., Two Prudential Plaza, 180 North Stetson Street, Suite 1800, Chicago, IL 60601, Defendant. Case No. 1:07–CV–00710. Judge: Bates, John D. Deck Type: Antitrust. Date Stamp: April 18, 2007.

Complaint

The United States of America, acting under the direction of the Attorney General of the United States, brings this civil antitrust action to obtain equitable and other relief against defendant Amsted Industries, Inc. (''Amsted'') to remedy the harm to competition caused by Amsted's acquisition of FM Industries (''FMI''). The United States alleges as follows:

I. Nature of Action

1. Prior to Amsted's acquisition of FMI on December 1, 2005, the two firms vigorously competed with each other to sell new and reconditioned end-of-car cushioning units (''IEOCCs'') to railroads throughout the United States.

2. Amsted's acquisition of FMI has reduced the number of new EOCC suppliers from two to one, resulting in a merger to monopoly. The transaction also has reduced the number of reconditioned EOCC suppliers from three to two. Amsted's acquisition of FMI consolidated 90 percent of all EOCC sales in the United States.

3. The transaction has substantially lessened competition in the design, manufacture, and sale of new and reconditioned EOCCs and has created a monopoly in the design, manufacture, and sale of new EOCCs. As a result, prices for new and reconditioned EOCCs have increased and likely will continue to increase, the quality of EOCCs likely will decline, innovation relating to EOCCs likely will decline, and services currently offered in the EOCC markets have become and will continue to be less favorable to railroad customers. The United States, through this suit, asks the court to declare the defendant's conduct illegal and to restore the benefits of competition that were lost as a result of the transaction.

II. Jurisdiction and Venue

4. The United States brings this action against defendant Amsted under Section 15 of the Clayton Act, 15 U.S.C. 25, as

amended, to prevent and restrain Amsted from continuing to violate Section 7 of the Clayton Act, 15 U.S.C. 18, and Section 2 of the Sherman Act, 15 U.S.C. 2.

5. Defendant designs, manufactures, and sells new and reconditioned EOCCs in the flow of interstate commerce. Defendant's activities in designing, manufacturing, and selling EOCCs substantially affect interstate commerce. This Court has subject matter jurisdiction over this action and over the defendant pursuant to Section 12 of the Clayton Act, 15 U.S.C. 22, and 28 U.S.C. 1331, 1337(a), and 1345.

6. Venue is proper in this district pursuant to 28 U.S.C. 1391(c). Defendant has consented to venue and personal jurisdiction in this judicial district.

III. Parties to the Transaction

7. Amsted is a Delaware corporation with its principal place of business in Chicago, Illinois. Amsted's EOCC sales in the United States are made through its wholly owned subsidiary, ASF-Keystone. ASF-Keystone is a Delaware corporation with its principal place of business in Granite City, IL. Amsted is a diversified manufacturer of industrial components for the railroad, vehicular, and construction markets. Amsted's products include a range of railroad car parts, including couplers, side frames, bolsters, draft gears, and EOCCs. In 2005, Amsted had approximately $2.5 billion in sales. Amsted's EOCC manufacturing facility is located in Camp Hill, PA. Amsted's new and reconditioned EOCCs are shipped to customers throughout the United States and account for approximately $22 million in sales.

8. Progress Rail Services Holding Corporation (''Progress Rail'') is a Delaware corporation with its principal place of business in Albertville, AL and is a wholly owned subsidiary of Caterpillar, Inc., a Delaware corporation. Progress Rail is one of the largest suppliers of new and reconditioned railroad car parts, rail and trackwork components, and railroad car repair services to the railroad industry in the United States. Progress Rail has manufacturing facilities in 23 states, Canada, and Mexico. In 2005, Progress Rail had approximately $1.2 billion in sales.

9. Progress Rail's EOCC sales in the United States were made through its wholly owned subsidiary, FMI, formerly a Texas corporation with its principal place of business and EOCC manufacturing facility in Fort Worth, TX. FMI shipped new and reconditioned EOCCs to customers throughout the United States. In 2005, FMI had sales of approximately $24 million.

IV. The Transaction

10. On December 1, 2005, Amsted and Progress Rail completed an asset swap by which Progress Rail conveyed to Amsted its wholly owned subsidiary, FMI. On April 25, 2006, Amsted dismantled FMI by firing its employees and disposing of virtually all FMI plant equipment through an auction.

V. Trade and Commerce

A. The Relevant Product Markets

11. All freight cars undergo considerable stress from ''longitudinal'' forces, or forces exerted along the length of the train. During transit, freight cars are subjected to alternating longitudinal forces called draft and buff forces. Draft forces are pulling forces caused by train acceleration when freight cars are stretched or pulled apart. Buff forces are compressive forces caused by train deceleration when freight cars are pushed together. Freight cars also undergo considerable stress during switching and coupling at train depots. In order for a railroad to connect one freight car to another, it must collide the cars at significant speed. The impacts sustained during switching and coupling, like draft and buff forces, can cause serious damage to sensitive cargo inside a freight car.

12. All freight cars are equipped with some type of energy absorption device to mitigate the effects of draft, buff, and coupling stresses. The most common device is a draft gear, which provides the minimum protection required for safe railroad operation. Draft gears rely on friction between two steel plates to absorb and dissipate the energy created by longitudinal forces impacting the freight car. Another type of device is commonly referred to as an ''elastomeric device.'' Elastomeric devices are lightweight and low cost, but they are not suitable for all applications as they return much of the absorbed energy back into the draft system.

13. Railroads must use EOCCs, a specialized energy absorption device, when transporting sensitive cargos on freight cars. These shock absorbing devices use hydraulics (e.g., pressurized nitrogen gas and oils) to minimize longitudinal forces by absorbing and dissipating the maximum buff, draft, and coupling forces experienced during transit. By reducing and absorbing the forces exerted on freight cars, EOCCs ensure that sensitive cargo is not damaged during transit. Each EOCC unit consists of a piston, shaft, cylinder, end bells, and a rod that attaches the piston to the freight car coupler. Each EOCC-equipped freight car requires two EOCCs, one at each end of the freight car.

14. Other energy absorption devices, such as draft gears and elastomeric devices, do not provide the necessary level of cushioning required by customers shipping sensitive goods on freight cars. EOCCs therefore are critical components for freight cars carrying sensitive commodities, such as steel coils, automobile products, electronics, lumber, and paper products. Railroads and new freight car builders do not consider the price or availability of draft gears or elastomeric devices when soliciting prices for EOCCs from prospective suppliers.

15. Though sensitive cargos can be transported by ''intermodal'' freight cars with articulated connectors, railroads cannot substitute intermodal transportation for freight cars equipped with EOCCs. Intermodal freight cars are specially designed railcars that allow standard cargo containers to be stacked for rail transport. The cars must travel in groups connected by a ''slackless'' articulated coupling system. The coupling system transfers longitudinal forces to the ends of the intermodal group, protecting the containers from damage. Intermodal freight cars with articulated connectors do not provide sufficient cushioning for sensitive commodities, cannot physically transport certain sensitive commodities (such as automobiles and certain lumber products), and are subject to additional costs and operational constraints. When soliciting prices for EOCCs from prospective suppliers, railroad customers do not consider the cost or availability of transporting goods using intermodal freight cars.

16. Accordingly, railroad customers can use only freight cars equipped with EOCCs to carry certain sensitive goods and cannot substitute draft gears, elastomeric devices, or intermodal transport for EOCCs on freight cars.

17. Railroad customers use either new or reconditioned EOCCs when equipping freight cars. However, customers building new freight cars almost always are required to use only new EOCCs in construction. Thus, customers building new freight cars would be unable to substitute reconditioned EOCCs in building new cars.

18. Similarly, customers servicing older freight cars that have been in service for more than a decade almost always choose reconditioned EOCCs because the cost of reconditioned units is substantially lower than the cost of

new units. Thus, customers are unlikely to substitute new EOCCs for reconditioned EOCCs for use on older freight cars.

19. A small but significant increase in the price of new EOCCs would not cause purchasers to substitute draft gear, elastomeric devices, intermodal cars, or reconditioned EOCCs so as to make such a price increase unprofitable. Accordingly, the design, manufacture, and sale of new EOCCs is a separate and distinct line of commerce and a relevant product market for the purpose of analyzing the effects of the acquisition under Section 7 of the Clayton Act and Section 2 of the Sherman Act.

20. A small but significant increase in the price of reconditioned EOCCs would not cause purchasers to substitute draft gear, elastomeric devices, intermodal cars, or new EOCCs so as to make such a price increase unprofitable. Accordingly, the design, manufacture, and sale of reconditioned EOCCs is a separate and distinct line of commerce and a relevant product market for the purpose of analyzing the effects of the acquisition under Section 7 of the Clayton Act and Section 2 of the Sherman Act.

B. The Relevant Geographic Market

21. All EOCCs in the United States are designed, manufactured, and sold in the United States. Amsted sells, and FMI sold, EOCCs to customers located throughout the United States.

22. The United States is the relevant geographic market for purposes of analyzing the effects of the acquisition under Section 7 of the Clayton Act and Section 2 of the Sherman Act.

C. Anticompetitive Effects

23. Before Amsted's acquisition of FMI, the markets for EOCCs were highly concentrated. For new EOCCs, the merging entities were the only two suppliers. For reconditioned EOCCs, the market was limited to three suppliers, and the merging parties had a combined market share of over 80%. The markets became substantially more concentrated following the acquisition. Using the Herfindahl-Hirschman Index (''HHI''), an explanation of which appears in Appendix A attached hereto, the transaction resulted in a post-merger concentration of over 7000 (an increase of over 2700) in the market for reconditioned EOCCs, while the consolidation in the market for new EOCCs resulted in a monopoly.

24. Amsted and FMI directly constrained each other's prices, limiting overall price increases for new and reconditioned EOCCs despite significant materials cost increases. Before the transaction, Amsted created forecasts that contemplated significant price increases resulting from the merger. These price increases were aimed at achieving certain margin targets each year that would result in total additional profits of over $17 million during the first three years following the acquisition. According to the forecasts, achieving this goal would require an overall price increase of 4% in 2006, 10% in 2007, and 5% in 2008, beyond increases in costs.

25. Amsted pricing data shows that Amsted raised prices substantially following its acquisition of FMI. For new EOCCs, customers who did not have the pricing protection of long-term contracts paid on average approximately 14% more in February 2006 than they did in November 2005. For reconditioned EOCCs, customers without long-term contracts paid an average increase of approximately 5% during the same time period.

26. Purchasers of new and reconditioned EOCCs in the United States benefitted from the vigorous and aggressive competition between Amsted and FMI through lower prices, higher quality, more innovation, and better service. Without the competitive constraint of head-to-head competition from FMI, Amsted has had and will continue to have the ability to exercise market power by raising prices, lowering product quality, decreasing services, and lessening product innovation.

27. The acquisition by Amsted of FMI has removed a significant competitor in the already highly concentrated new and reconditioned EOCC markets. The resulting substantial increase in concentration and loss of competition has denied EOCC customers the benefits of competition, in violation of Section 7 of the Clayton Act and Section 2 of the Sherman Act.

D. Entry Into the Production and Sale of New and Reconditioned EOCCs

28. Entry into the design, manufacture, and sale of new or reconditioned EOCCs will not be timely, likely, or sufficient to counter the anticompetitive effects of the transaction. A new entrant to either market would require certifications and approvals from the Association of American Railroads (''AAR''), including facility certification and design certification for each EOCC model to be manufactured or reconditioned. Additionally, the AAR requires that a new entrant undergo a conditional approval period during which production is monitored and significantly limited.

29. It is essential that a new entrant into either the new or reconditioned EOCC markets have sufficient technical know-how regarding the product in order to design and sell EOCCs. Thus, a new entrant must invest in significant design and engineering expertise in order to create the necessary tooling and intellectual property required to successfully manufacture new or reconditioned EOCCs according to AAR standards and railroad customer requirements.

30. A new entrant into the new or reconditioned EOCC markets also must produce EOCCs in sufficient quantities and with sufficiently consistent quality to assure railroad customers that the new and reconditioned EOCCs will provide the necessary level of cushioning required to protect sensitive cargo. Achieving this quality reputation requires an additional investment in time and money by any new entrant.

31. Although the manufacturing processes for new and reconditioned EOCCs are similar, both require unique inputs that are not readily available in the marketplace. For example, the manufacture of new EOCCs requires the use of patented designs and proprietary molds that are not needed in the reconditioning process. Similarly, the manufacture of reconditioned EOCCs requires the application of certain machining techniques and testing processes that are unique to the EOCC reconditioning market.

32. Therefore, entry by any firm into the new or reconditioned EOCC markets would not be timely, likely, or sufficient to counter anticompetitive price increases imposed by Amsted.

VI. First Cause of Action (Violation of Section 7 of the Clayton Act)

33. The United States incorporates the allegations of paragraphs 1 through 32 above.

34. On or about December 1, 2005, Amsted acquired FMI and its associated EOCC assets used in the manufacture of new and reconditioned EOCCs. The effect of this acquisition has been substantially to lessen competition in interstate trade and commerce in violation of Section 7 of the Clayton Act.

35. The transaction has had the following effects, among others:

a. Competition in the new and reconditioned EOCC markets has been lessened substantially;

b. Actual and potential competition between Amsted and FMI in the design, manufacture, and sale of new and reconditioned EOCCs in the United States has been eliminated; and

c. Prices for new and reconditioned EOCCs have increased and likely will continue to increase, the quality of EOCCs likely will decline, innovation relating to EOCCs likely will decline, and services currently offered in the EOCC markets have become and will continue to be less favorable to railroad customers.

Second Cause of Action (Violation of Section 2 of the Sherman Act)

36. The United States incorporates the allegations of paragraphs 1 through 32 above.

37. On or about December 1, 2005, Amsted willfully created monopoly power by acquiring FMI, its only competitor in the manufacture and sale of new EOCCs. The effect of this acquisition has been to create a monopoly in violation of Section 2 of the Sherman Act.

38. The transaction has had the following effects, among others:

a. The combination created a monopoly for the sale of new EOCCs in the United States;

b. Actual and potential competition between Amsted and FMI in the design, manufacture, and sale of new EOCCs in the United States has been eliminated; and

c. Prices for new EOCCs have increased and likely will continue to increase, the quality of new EOCCs likely will decline, innovation relating to new EOCCs likely will decline, and services currently offered in the new EOCC market have become and will continue to be less favorable to railroad customers.

VII. Requested Relief

39. The United States requests that this Court:

a. Adjudge and decree the acquisition of FMI and its assets by defendant Amsted to violate Section 7 of the Clayton Act, 15 U.S.C. 18 and Section 2 of the Sherman Act, 15 U.S.C. 2;

b. Compel Amsted to divest all FMI EOCC intangible assets, in addition to all tools and patterns used for imparting the shape, form, or finish of EOCC components, and to take any further actions necessary to restore the market to the competitive position that existed prior to the acquisition;

c. A ward the United States the cost of this action; and

d. Grant the United States such other and further relief as the case requires and the Court deems just and proper.

Respectfully submitted,

April 18, 2007.

For Plaintiff United States:

/s/ ____________________

Gerald F. Masoudi Bar No. 466120,

Deputy Assistant Attorney General.

/s/ ____________________

J. Robert Kramer II,

Director of Operations.

/s/ ____________________

Maribeth Petrizzi Bar No. 435204,

Chief, Litigation II Section.

Dorothy B. Fountain Bar No. 439469,

Assistant Chief, Litigation II Section.

/s/ ____________________

C. Scott Hataway Bar No. 473942,

Raven M. Norris,

Robert W. Wilder,

Attorneys U.S. Department of Justice Antitrust Division, Litigation II Section, 1401 H Street, NW., Suite 3000, Washington, DC 20530.

Appendix A—Herfindahl-Hirschman Index

''HHI'' means the Herfindahl-Hirschman Index, a commonly accepted measure of market concentration. It is calculated by squaring the market share of each firm competing in the market and then summing the resulting numbers. For example, for a market consisting of four firms with shares of thirty, thirty, twenty, and twenty percent, the HHI is 2600 ($30^2 + 30^2 + 20^2 + 20^2 = 2600$). The HHI takes into account the relative size and distribution of the firms in a market and approaches zero when a market consists of a large number of firms of relatively equal size. The HHI increases both as the number of firms in the market decreases and as the disparity in size between those firms increases.

Markets in which the HHI is between 1000 and 1800 points are considered to be moderately concentrated and those in which the HHI is in excess of 1800 points are considered to be highly concentrated. Transactions that increase the HHI by more than 100 points in highly concentrated markets presumptively raise antitrust concerns under the Horizontal Merger Guidelines issued by the U.S. Department of Justice and the Federal Trade Commission. See Horizontal Merger Guidelines § 1.51.

Final Judgment

Whereas, plaintiff, United States of America, filed its Complaint on April 18, 2007, and the United States and defendant, Amsted Industries, Inc. (''Amsted''), by their respective attorneys, have consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law, and without this Final Judgment constituting any evidence against or admission by any party regarding any issue of fact or law;

And whereas, Amsted agrees to be bound by the provisions of this Final Judgment pending its approval by the Court;

And whereas, the essence of this Final Judgment is the prompt and certain divestiture of certain rights and assets by Amsted to assure that competition is substantially restored;

And whereas, the United States requires Amsted to make certain divestitures, grant certain licenses, release all market participants of any Restrictive Covenants, and provide notification of any future transactions within 10 years of this Final Judgment for the purpose of remedying the lost competition alleged in the Complaint;

And Whereas, Amsted has represented to the United States that the divestitures, license grants, release of Restrictive Covenants, and notification of future transactions, as required below, can and will be made and that Amsted will later raise no claim of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained below;

Now Therefore, before any testimony is taken, without trial or adjudication of any issue of fact or law, and upon consent of the parties, it is *Ordered, Adjudged and Decreed:*

I. Jurisdiction

This Court has jurisdiction over the subject matter of and each of the parties to this action. The Complaint states a claim upon which relief may be granted against Amsted under Section 7 of the Clayton Act, 15 U.S.C. 18, as amended, and Section 2 of the Sherman Act, 15 U.S.C. 2.

II. Definitions

As used in this Final Judgment:

A. ''Amsted'' means defendant Amsted Industries, Inc., a Delaware corporation with its headquarters in Chicago, IL, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

B. ''FMI'' means FM Industries, Inc., a Texas corporation and former subsidiary of Progress Rail, engaged in the development, production, and sale of EOCCs until it was acquired by Amsted on December 1, 2005.

C. ''Progress Rail'' means Progress Rail Services Holding Corporation, a Delaware corporation with headquarters in Albertville, AL, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents and employees.

D. ''EOCC'' means end-of-car cushioning unit, a hydraulic energy absorption device used to absorb and dissipate buff, draft, and coupling forces exerted on freight railcars.

E. ''Acquirer'' means Wabtec Corporation, the entity to whom Amsted shall divest the Divested Assets and grant the Supplemental Asset License.

F. ''Alternative Acquirer'' means the entity to whom Amsted shall divest the Divested Assets and grant the Supplemental Asset License in the event that the Acquirer is unable or unwilling to receive the Divested Assets or the Supplemental Asset License.

G. ''Divested Assets'' means all FMI intangible assets owned or controlled by Amsted and all FMI tools and patterns owned or controlled by Amsted and used for imparting the shape, form, or finish to EOCC components, including:

1. All detail and arrangement drawings, customer drawings, schematics, blueprints, designs, design validation testing reports, and design review notes;

2. All specifications, manufacturing plans, assembly instructions, standard operating procedures, and work instructions related to the manufacturing process, including those related to tool speeds, feeds, special cutting tools, materials used, grinding and polishing, plating temperatures and processes, material thicknesses, seals, welding, and heat treatment;

3. All dies, castings, patterns, molds, models, toolings, fixtures, jigs, and gages;

4. All safety procedures and quality assurance documentation and instructions, including quality control plans, inspection frequency and criteria, work instructions, testing criteria, supplier manufacturing requirements, regulatory certifications, testing equipment specifications, surface finish instrument specifications, pressure/leakage testing and specifications, gage specifications, product validation, qualification, acceptance, and rejection criteria, and all related empirical performance measurements, data, and reports;

5. All supplier contact lists, customer contact lists, material lists, materials safety data sheets, substitute material lists, historic pricing and sales volume information, customer complaints, product serialization data, warranty information, product failure reports, market analyses, and all contracts, agreements, leases, commitments, or understandings with suppliers or customers;

6. All intellectual property (''IP'') assets or rights that have been used in the development, production, servicing, and sale of EOCCs, including but not limited to the names ''FMI,'' ''FM Industries,'' and ''Freight Master,'' all patents, including FMI's patented active draft technology (U.S. patent number 6,237,733 ''Internal neutral Positioning Spring''), all licenses, rights, and sublicenses, trademarks, trade names, service marks, service names, technical information, computer software and related documentation, know-how, trade secrets, approvals, certifications, advertising literature, and all manuals and technical information provided to the employees, customers, suppliers, agents, or licensees of FMI; and

7. All research data concerning historic and current research and development efforts, including designs of experiments, and the results of unsuccessful designs and experiments relating to the production and design of EOCCs.

Among the Divested Assets, the divestiture of U.S. Patent number 6,237,733 ''Internal Neutral Positioning Spring'' will be transferred subject to a perpetual, royalty-free license to Amsted.

H. ''Person'' means any natural person, corporate entity, partnership, association, joint venture, government entity, or trust.

I. ''Restrictive Covenants'' means all agreements, contracts, understandings, or arrangements between Amsted and any other person restricting competition in the development, production, and sale of EOCCs, including non-compete agreements between Amsted and former FMI employees; non-compete agreements between Amsted and current or former Amsted employees; and any exclusivity arrangements between Amsted and any of its suppliers or customers. The term Restrictive Covenants does not include Section 8.7 ''Post-Closing Non-Compete'' of Amsted's Asset Purchase Agreement with Progress Rail dated December 1, 2005. The term Restrictive Covenants does not include agreements between Amsted and Amsted's current and former employees to the extent those agreements prevent the disclosure of confidential information.

J. ''Supplemental Asset License'' means a perpetual royalty-free license to and copy of all Amsted's intangible assets used in the development, production, or sale of EOCCs, and a limited license to use certain Amsted tangible assets used in the development, production, or sale of EOCCs, including:

1. All detail and arrangement drawings, customer drawings, schematics, blueprints, designs, design validation testing reports, and design review notes;

2. All specifications, manufacturing plans, assembly instructions, standard operating procedures, and work instructions related to the manufacturing process, including those related to tool speeds, feeds, special cutting tools, materials used, grinding and polishing, plating temperatures and processes, material thicknesses, seals, welding, and heat treatment;

3. The use for two (2) years of all Amsted-owned or controlled dies, castings, patterns, molds, models, toolings, fixtures, jigs, and gages employed by Amsted suppliers in the production of EOCC components;

4. All safety procedures and quality assurance documentation and instructions, including quality control plans, inspection frequency and criteria, work instructions, testing criteria, supplier manufacturing requirements, testing equipment specifications, surface finish instrument specifications, pressure/leakage testing and specifications, gage specifications, product validation, qualification, acceptance, and rejection criteria, and all related empirical performance measurements, data, and reports; and

5. Amsted's patented active draft technology, U.S. Patent number 6,357,612 ''Rail Car Cushioning Device;''

The term ''Supplemental Asset License'' shall not include tangible or intangible assets exclusively used in the production or sale of products other than EOCCs, and also shall not include Amsted cost data, price data, revenue data, research and development information, or customer contract information.

III. Applicability

A. This Final Judgment applies to Amsted, as defined above, and all other persons in active concert or participation with it who receive actual notice of this Final Judgment by personal service or otherwise.

B. Amsted shall require, as a condition of the sale or other disposition of all or substantially all of their assets or of lesser business units that include the Divested Assets, or the assets underlying the Supplemental Asset License, that the purchaser will agree to be bound by the provisions of this Final Judgment.

IV. Divestiture

A. Amsted is hereby ordered and directed, within sixty (60) calendar days after the filing of the Complaint in this matter, or five (5) days after notice of the entry of this Final Judgment by the Court, whichever is later, to divest the Divested Assets and grant the Supplemental Asset License to the Acquirer, all in a manner consistent with this Final Judgment. The United States, in its sole discretion, may agree to one or more extensions of this time period not to exceed sixty (60) days in total, and shall notify the Court in such circumstances. Amsted agrees to use its best efforts to divest the Divested Assets and grant the Supplemental Asset License as expeditiously as possible. Amsted also agrees that it shall receive no compensation or anything of value for divesting the Divested Assets or granting the Supplemental Asset License pursuant to this Final Judgment.

B. In accomplishing the divestiture and licenses ordered by this Final Judgment, Amsted promptly shall inform the Acquirer that the Divested Assets and Supplemental Asset License are being conveyed pursuant to this Final Judgment and provide the Acquirer a copy of this Final Judgment. Amsted shall offer to furnish to the Acquirer, subject to customary confidentiality assurances, all information and documents relating to the Divested Assets and Supplemental Asset License customarily provided in a due diligence process, except such information or documents subject to the attorney-client or work-product privileges. Amsted shall make available such information to the United States at the same time that such information is made available to any other person.

C. Amsted shall permit the Acquirer to have reasonable access to personnel and to any and all financial, operational, or other documents and information customarily provided as part of a due diligence process. Amsted shall provide information giving the identity and function of the personnel involved in the operation and management of both Amsted and FMI to enable the Acquirer to make offers of employment. Amsted will not interfere with any negotiations by the Acquirer to employ any Amsted employee.

D. Amsted shall unilaterally release all persons from any Restrictive Covenants related to the production, development, or sale of EOCCs. If after one year from the entry of this Final Judgment, the Acquirer has failed to deliver an EOCC manufactured or reconditioned by the Acquirer to a railroad industry customer, Amsted shall also unilaterally release Progress Rail from Section 8.7 of Amsted's Asset Purchase Agreement with Progress Rail dated December 1, 2005 (''Post-Closing Non-Compete'').

E. Amsted shall preserve and maintain the Divested Assets and the assets licensed under the Supplemental Asset License and shall not license, transfer, encumber, or otherwise impair the value of such assets while the divestiture is pending.

F. Amsted shall use commercially reasonable efforts to facilitate the transfer of EOCC cores from Amsted's facilities at the request of railroad customers. Amsted shall take no action the effect of which is to interfere with or impede the transfer of EOCC cores owned by railroad customers to the Acquirer or the ability of the Acquirer to compete effectively in the sale of reconditioned EOCCs.

G. Amsted shall not take any action that will impede in any way the permitting, operation, or divestiture of the Divested Assets or Supplemental Asset License.

H. Unless the United States otherwise consents in writing, the divestiture pursuant to Section IV of this Final Judgment shall include the entire Divested Assets and Supplemental Asset License, and shall be accomplished in such a way as to satisfy the United States, in its sole discretion, that the Divested Assets and Supplemental Asset License can and will be used by the Acquirer as part of an economically viable, ongoing business engaged in the production and sale of EOCCs in the United States. The divestiture shall be accomplished so as to satisfy the United States, in its sole discretion, that:

1. The Divestiture Assets and Supplemental Asset License will remain viable and that the divestiture will remedy the competitive harm alleged in the Complaint; and

2. None of the terms of any agreement between the Acquirer and Amsted gives Amsted the ability unreasonably to raise the Acquirer's costs, to lower the Acquirer's efficiency, or otherwise to interfere in the ability of the Acquirer to compete effectively in the production and sale of EOCCs.

V. Appointment of Trustee To Effect Divestiture

A. In the event that the Acquirer is unable or unwilling to receive the Divested Assets and Supplemental Asset License, Amsted shall notify the United States of that fact in writing. Upon application of the United States, the Court shall appoint a trustee selected by the United States and approved by the Court to effect the divestiture of the Divested Assets and the grant of the Supplemental Asset License in a manner consistent with this Final Judgment to an Alternative Acquirer approved by the United States in its sole discretion.

B. Amsted shall use commercially reasonable efforts to facilitate the transfer of EOCC cores from Amsted's facilities at the request of railroad customers. Amsted shall take no action the effect of which is to interfere with or impede the transfer of EOCC cores owned by railroad customers to the Alternative Acquirer or the ability of the Alternative Acquirer to compete effectively in the sale of reconditioned EOCCs.

C. Unless the United States otherwise consents in writing, the divestiture pursuant to Section V of this Final Judgment shall include the entire Divested Assets and Supplemental Asset License, and shall be accomplished in such a way as to satisfy the United States, in its sole discretion, that the Divested Assets and Supplemental Asset License can and will be used by the Alternative Acquirer as part of an economically viable, ongoing business engaged in the production and sale of EOCCs in the United States. The divestiture shall be accomplished so as to satisfy the United States, in its sole discretion, that:

1. The Alternative Acquirer has the intent and capability (including the necessary managerial, operational, technical, and financial capability) to compete effectively in the production and sale of EOCCs;

2. None of the terms of any agreement between the Alternative Acquirer and Amsted gives Amsted the ability unreasonably to raise the Alternative Acquirer's costs, to lower the Alternative Acquirer's efficiency, or otherwise to interfere in the ability of the Alternative Acquirer to compete effectively in the production and sale of EOCCs; and

3. The Divested Assets and Supplemental Asset License will remain economically viable and the divestiture will remedy the competitive harm alleged in the Complaint.

D. After the appointment of a trustee becomes effective, only the trustee shall have the right to convey the Divested Assets and Supplemental Asset License. The trustee shall have the power and authority to accomplish the divestiture to an Alternative Acquirer approved by the United States, subject to the provisions of Sections IV, V, and VI of this Final Judgment, and shall have such other powers as this Court deems appropriate. The divestiture of the Divested Assets and the grant of the Supplemental Asset License shall be made without any cost to the Alternative Acquirer or any compensation to Amsted. Subject to Section V(E) of this Final Judgment, the trustee may hire at the cost and expense of Amsted any investment bankers, attorneys, accountants, or any other agents and outside contractors who shall be solely accountable to the trustee, reasonably necessary in the trustee's judgment to assist in the divestiture.

E. Amsted shall not object to a grant or conveyance by the trustee on any ground other than the trustee's malfeasance. Any such objections by Amsted must be in writing to the United States and the trustee within ten (10) calendar days after the trustee has provided the notice required under Section VI.

F. The trustee shall serve at the cost and expense of Amsted, on such terms and conditions as the United States approves, and shall account for all costs incurred from the conveyance of the Divested Assets and Supplemental Asset License. The compensation of the trustee and any professionals and agents retained by the trustee shall be reasonable in light of the fair market value of the Divested Assets and Supplemental Asset License, and based on a fee arrangement providing the trustee with an incentive based on the speed with which the divestiture is accomplished.

G. Amsted shall use its best efforts to assist the trustee in accomplishing the required divestiture. The trustee and any consultants, accountants, attorneys, and other persons retained by the trustee shall have full and complete access to the personnel, books, records, and facilities relating to the assets to be divested, and the Supplemental Asset License; and Amsted shall develop financial and other information relevant to such business as the trustee may reasonably request, subject to customary confidentiality protection. Amsted shall take no action to interfere with or to impede the trustee's accomplishment of the divestiture.

H. After appointment, the trustee shall file monthly reports with the United States and the Court setting forth the trustee's efforts to accomplish the divestiture ordered under this Final Judgment. To the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. Such reports shall include the name, address, and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Divested Assets or Supplemental Asset License and shall describe in detail each contact with any such person. The trustee shall maintain full records of all efforts made to divest the Divested Assets or grant the Supplemental Asset License.

I. If the trustee has not accomplished such divestiture within six (6) months after its appointment, the trustee shall promptly file with the Court a report setting forth (1) the trustee's efforts to accomplish the required divestiture; (2) the reasons, in the trustee's judgment, why the required divestiture has not been accomplished; and (3) the trustee's recommendations. To the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. The trustee shall at the same time furnish such report to the United States who shall have the right to make additional recommendations consistent with the purpose of the trust. The Court thereafter shall enter such orders as it shall deem appropriate to carry out the purpose of the Final Judgment, which may, if necessary, include extending the trust and the term of the trustee's appointment by a period requested by the United States.

VI. Notice of Proposed Divestiture

A. Within two (2) business days following execution of a definitive divestiture agreement, the trustee shall notify the United States and Amsted of any proposed divestiture required by Section V of this Final Judgment. The notice shall set forth the details of the proposed divestiture and grant of the Supplemental Asset License, and list the name, address, and telephone number of each person not previously identified who offered or expressed an interest in or desire to acquire any ownership interest in the Divested Assets or the Supplemental Asset License together with full details of the same.

B. Within fifteen (15) calendar days of receipt by the United States of such notice, the United States may request from Amsted, the proposed Alternative Acquirer, any other third party, or the trustee if applicable, additional information concerning the proposed divestiture, the proposed Alternative Acquirer, and any other potential Alternative Acquirer. Amsted and the trustee shall furnish any additional information requested within fifteen (15) calendar days of the receipt of the request, unless the parties shall otherwise agree.

C. Within (a) thirty (30) calendar days after receipt of the notice or (b) twenty (20) calendar days after the United States has been provided the additional information requested from Amsted, the proposed Alternative Acquirer, any third party, or the trustee, whichever is later, the United States shall provide written notice to Amsted and the trustee stating whether or not it objects to the proposed divestiture. If the United States provides written notice that it does not object, the divestiture may be consummated, subject only to Amsted's limited right to object to the conveyance under Section V(E) of this Final Judgment. Absent written notice that the United States does not object to the proposed Alternative Acquirer or upon objection by the United States, the divestiture proposed under Section V shall not be consummated. Upon objection by Amsted under Section V(E), the divestiture proposed under Section V shall not be consummated unless approved by the Court.

VII. Financing

Amsted shall not finance all or any part of any purchase or divestiture made pursuant to Section IV or V of this Final Judgment.

VIII. Hold Separate

Until the divestiture required by this Final Judgment has been accomplished, Amsted shall take all steps necessary to comply with the Hold Separate Stipulation and Order entered by this Court. Amsted shall take no action that would jeopardize the divestiture ordered by this Court.

IX. Affidavits

A. Within twenty (20) calendar days of the filing of the Complaint in this matter, and every thirty (30) calendar days thereafter until the divestiture has been completed under Section IV or V, Amsted shall deliver to the United States an affidavit as to the fact and manner of its compliance with Section IV or V of this Final Judgment. Each such affidavit shall describe in detail each contact with any person who, during the preceding thirty (30) days, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Divested Assets or Supplemental Asset License including the Acquirer or any potential Alternative Acquirer. Each such affidavit shall also include a description of the efforts Amsted has taken to convey the Divested Assets and Supplemental Asset License, and to provide required information to the Acquirer, including the limitations, if any, on such information. Assuming the information set forth in the affidavit is true and complete, any objection by the United States to information provided by Amsted, including limitations on the information, shall be made within fourteen (14) calendar days of receipt of such affidavit.

B. Within twenty (20) calendar days of the filing of the Complaint in this matter, Amsted shall deliver to the United States an affidavit that describes all actions Amsted has taken and all steps Amsted has implemented on an ongoing basis to comply with Section VIII of this Final Judgment. Amsted shall deliver to the United States an affidavit describing any changes to the efforts and actions outlined in Amsted's earlier affidavits filed pursuant to this section within fifteen (15) calendar days after the change is implemented.

C. Amsted shall keep all records of all efforts made to preserve the Divested Assets and to convey the Divested Assets and Supplemental Asset License until one year after such divestiture has been completed.

X. Compliance Inspection

A. For the purpose of determining or securing compliance with this Final Judgment, or of determining whether the Final Judgment should be modified or vacated, and subject to any legally recognized privilege, from time to time duly authorized representatives of the United States Department of Justice, including consultants and other persons retained by the United States, shall, upon written request of a duly authorized representative of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to Amsted, be permitted:

1. Access during Amsted's office hours to inspect and copy, or at the United States' option, to require Amsted to provide copies of, all books, ledgers, accounts, records and documents in the possession, custody, or control of Amsted, relating to any matters contained in this Final Judgment; and

2. To interview, either informally or on the record, Amsted's officers, employees, or agents, who may have their individual counsel present, regarding such matters. The interviews shall be subject to the reasonable convenience of the interviewee and without restraint or interference by Amsted.

B. Upon the written request of a duly authorized representative of the Assistant Attorney General in charge of the Antitrust Division, Amsted shall submit written reports, under oath if requested, relating to any of the matters contained in this Final Judgment as may be requested.

C. No information or documents obtained by the means provided in this section shall be divulged by the United States to any person other than an authorized representative of the executive branch of the United States, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by Amsted to the United States, Amsted represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and Amsted marks each pertinent page of such material, ''Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure,'' then the United States shall give Amsted ten (10) calendar days notice prior to divulging such material in any legal proceeding (other than a grand jury proceeding).

XI. Notification of Future Transactions

A. Unless such transaction is otherwise subject to the reporting and waiting period requirements of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, 15 U.S.C. 18a (the ''HSR Act''), Amsted shall not, without notifying the United States, directly or indirectly acquire any assets of or any interest, including any financial, security, loan, equity, or management interest, in the development, production, or sale of EOCCs in the United States if the value of such acquisition exceeds $1,000,000. This notification requirement shall run for a period of ten years.

B. Such notification shall be provided to the United States in the same format as, and per the instructions relating to, the Notification and Report Form set forth in the Appendix to Part 803 of Title 16 of the Code of Federal Regulations as amended, except that the information requested in Items 5 through 9 of the instructions must be provided only about EOCCs. Notification shall be provided at least thirty (30) days prior to acquiring any such assets or interest, and shall include, beyond what may be required by the applicable instructions, the names of the principal representatives of the parties to the agreement who negotiated the agreement, and any management or strategic plans discussing the proposed transaction. If within the 30-day period after notification, representatives of the United States make a written request for additional information, Amsted shall not consummate the proposed transaction or agreement until twenty (20) days after submitting all such additional information. Early termination of the waiting periods in this paragraph may be requested and, where appropriate, granted in the same manner as is applicable under the requirements and provisions of the HSR Act and rules promulgated thereunder. This Section shall be broadly construed and any ambiguity or uncertainty regarding the filing of notice under this Section shall be resolved in favor of filing notice.

XII. No Reacquisition

Amsted may not reacquire any part of the Divested Assets or any right, title or interest in the Supplemental Asset License during the term of this Final Judgment.

XIII. Retention of Jurisdiction

This Court retains jurisdiction to enable any party to this Final Judgment to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify any of its provisions, to enforce compliance, and to punish violations of its provisions.

XIV. Expiration of Final Judgment

Unless this Court grants an extension, this Final Judgment shall expire ten years from the date of its entry.

XV. Public Interest Determination

Entry of this Final Judgment is in the public interest. The parties have complied with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16, including making copies available to the public of this Final Judgment, the Competitive Impact Statement, and any comments thereon and the United States' responses to comments. Based upon the record before the Court, which includes the Competitive Impact Statement and any comments and response to comments filed with the Court, entry of this Final Judgment is in the public interest.

Date: ________

Court approval subject to procedures of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16.

____

United States District Judge.

Competitive Impact Statement

Plaintiff United States of America (''United States''), pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (''APPA'' or ''Tunney Act''), 15 U.S.C. 16(b)–(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. Nature and Purpose of the Proceeding

This case was brought because Defendant Amsted Industries, Inc. (''Amsted'') acquired all of the assets of

FM Industries, Inc. (''FMI''), a business unit of Progress Rail Services Holding Corporation, Inc. (''Progress Rail'').[1] On April 25, 2006, Amsted dismantled FMI by firing its employees and disposing of virtually all FMI plant equipment through an auction. The United States filed a civil antitrust Complaint on April 18, 2007, alleging that the acquisition lessened competition substantially for the design, manufacture, and sale of new and reconditioned end-of-car cushioning units (''EOCCs'') in violation of Section 7 of the Clayton Act, 15 U.S.C. 18, and Section 2 of the Sherman Act, 15 U. S. C. 2. This loss of competition has impacted the rail industry through higher prices, reduced services, and decreased innovation.

At the same time the Complaint was filed, the United States also filed a Hold Separate Stipulation and Order and proposed Final Judgment, which are designed to eliminate the anticompetitive effects of the acquisition. Under the proposed Final Judgment, Amsted is required to divest without compensation all intellectual property and other intangible assets that it acquired from Progress Rail. In addition, Amsted is required to grant a perpetual, royalty-free license to certain Amsted-generated intellectual property and notify the United States of future acquisitions related to EOCCs. Under the terms of the Hold Separate Stipulation and Order, Amsted will take steps to ensure that the divested assets remain economically viable during the pendency of the ordered divestiture.

The United States and the defendant have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof.

II. Description of the Events Giving Rise to the Alleged Violation

A. The Parties to the Consummated Transaction

Amsted is a diversified manufacturer of industrial components for the railroad, vehicular, and construction markets. Its products include a range of railroad car parts, including couplers, side frames, bolsters, draft gears; and EOCCs. Amsted's EOCC sales in the United States are made through its wholly owned subsidiary, ASF–Keystone. ASF–Keystone is a Delaware corporation with its principal place of business in Granite City, IL.

Progress Rail, a wholly owned subsidiary of Caterpillar, Inc., is one of the largest suppliers of new and reconditioned railroad car parts, rail and trackwork components, and railroad car repair services to the railroad industry in the United States. Progress Rail's EOCC sales in the United States were made through its wholly owned subsidiary, FMI, formerly a Texas corporation with its principal place of business and EOCC manufacturing facility in Fort Worth, Texas.

Prior to the merger, Amsted and FMI were the only two manufacturers of new EOCCs and two of only three manufacturers of reconditioned EOCCs. The transaction lessened competition substantially for these products. As a result, prices for new and reconditioned EOCCs have increased and likely will continue to increase, the quality of EOCCs likely will decline, innovation relating to EOCCs likely will decline, and services currently offered in the EOCC markets have become and will continue to be less favorable to railroad customers.

B. The Relevant Product Market: End-of-Car Cushioning Units

Railroad freight cars undergo considerable stress during transit due to longitudinal forces known as draft and buff forces. Draft forces are pulling forces caused by train acceleration when freight cars are stretched or pulled apart. Buff forces are compressive forces caused by train deceleration when freight cars are pushed together. If not absorbed and dissipated, the energy from draft and buff forces can cause considerable damage to both car and cargo. Freight cars also undergo considerable stress during switching and coupling at train depots. In order for a railroad to connect one freight car to another, it must collide the cars at significant speed. The impact sustained during switching and coupling, like draft and buff forces, can cause serious damage to sensitive cargo inside a freight car.

Railroads must equip all freight cars with energy absorption devices to mitigate the effects of draft, buff, and coupling stresses. The most common device is known as a draft gear, which provides the minimum protection required for safe railroad operation. Draft gears rely on friction between two steel plates to absorb and dissipate the energy created by longitudinal forces impacting the freight car. Another type of device is commonly referred to as an ''elastomeric'' device. These devices use an elastic substance (e.g., rubber) and steel coils to absorb the draft, buff, and coupling stresses. Elastomeric devices are lightweight and low cost, but they are not suitable for all applications as they return much of the absorbed energy back into the draft system. Neither draft gears nor elastomers are sufficient to protect sensitive cargos.

When transporting sensitive cargos in traditional freight cars, railroads must use EOCCs to absorb and dissipate the maximum buff, draft, and coupling forces. These devices use hydraulics (e.g., pressurized nitrogen gas and oils) to minimize longitudinal forces and ensure that sensitive cargo is not damaged during transit. Each EOCC unit consists of a piston, shaft, cylinder, end bells, and a rod that attaches the piston to the freight car coupler. Each EOCC-equipped freight car requires two EOCCs, one at each end of the freight car. EOCCs are critical components for freight cars carrying sensitive commodities, such as steel products, automobile products, electronics, lumber, and paper products. Other energy absorption devices, such as draft gears and elastomeric devices, do not provide the necessary level of cushioning required by customers shipping sensitive goods on freight cars. Railroads and new freight car builders do not consider prices or availability of draft gears or elastomeric devices when soliciting prices for EOCCs from prospective suppliers.

Though sensitive cargos can be transported by ''intermodal'' freight cars with articulated connectors, railroads cannot substitute intermodal transportation for freight cars equipped with EOCCs, Intermodal freight cars are specially designed railcars that allow standard cargo containers to be stacked for rail transport. The cars must travel in groups connected by a ''slackless'' articulated coupling system. The coupling system transfers longitudinal forces to the ends of the intermodal group, protecting the containers from damage. Despite their suitability for certain applications, intermodal freight cars do not provide sufficient cushioning for some sensitive commodities, cannot physically transport certain sensitive commodities (such as automobiles and certain lumber products), and are typically much more expensive to own and operate than freight cars equipped with EOCCs. The intermodal groups must also travel to the same destination due to their slackless connection. Because of these additional costs and operational constraints, intermodal rail transportation in North America tends to be most economical for large shipments manufactured outside of

[1] Progress Rail was subsequently acquired by Caterpillar Inc. on May 16, 2006.

North America and imported by sea. When soliciting prices for EOCCs from prospective suppliers, railroad customers do not consider the cost of transporting goods using intermodal freight cars with articulated connectors.

Railroad customers may use either new or reconditioned EOCCs when equipping freight cars. However, customers building new freight cars are almost always required to use only new EOCCs in construction. Though higher cost, these new units are highly durable and invariably protected by an industry standard ten-year warranty. The vast majority of customers building new freight cars would be unable to use reconditioned EOCCs in construction. Similarly, customers servicing older freight cars that have been in service for more than a decade almost always choose reconditioned EOCCs because the cost of reconditioned units is substantially lower than the cost of new units. Thus, customers are unlikely to substitute new EOCCs for reconditioned EOCCs for use on older freight cars.

A small but significant increase in the price of new EOCCs would not cause purchasers to substitute draft gear, elastomeric devices, intermodal cars, or reconditioned EOCCs so as to make such a price increase unprofitable. Accordingly, the design, manufacture, and sale of new EOCCs is a separate and distinct line of commerce and a relevant product market for the purpose of analyzing the effects of the acquisition under Section 7 of the Clayton Act, 15 U.S.C. 18, and Section 2 of the Sherman Act, 15 U.S.C. 2. Likewise, a small but significant increase in the price of reconditioned EOCCs would not cause purchasers to substitute draft gear, elastomeric devices, intermodal cars, or new EOCCs so as to make such a price increase unprofitable. Accordingly, the design, manufacture, and sale of reconditioned EOCCs is also a separate and distinct line of commerce and a relevant product market for the purpose of analyzing the effects of the acquisition under Section 7 of the Clayton Act and Section 2 of the Sherman Act.

C. The Relevant Geographic Market

All EOCCs in the United States are designed, manufactured, and sold in the United States. Amsted sells, and FMI sold, EOCCs to customers located throughout the United States. The United States is the relevant geographic market for purposes of analyzing the effects of the acquisition under Section 7 of the Clayton Act and Section 2 of the Sherman Act.

D. The Competitive Effects of the Transaction on End-of-Car Cushioning

Prior to Amsted's acquisition of FMI, the markets for EOCCs were highly concentrated. For new EOCCs, the merging entities were the only two suppliers.[2] For reconditioned EOCCs, the market was limited to three suppliers, and the merging parties controlled over 80% of the market. Thus, the markets were highly concentrated and became substantially more so following the acquisition. Using the Herfindahl-Hirschman Index (''HHI''),[3] the consolidation in the market for reconditioned EOCCs resulted in a post-merger concentration of over 7000 (an increase of over 2700), while the consolidation in the market for new EOCCs resulted in a monopoly.

Amsted and FMI directly constrained each other's prices, limiting overall price increases for new and reconditioned EOCCs. Prior to the transaction, Amsted created forecasts that contemplated significant price increases resulting from the merger. These price increases were aimed at achieving certain margin targets each year that would result in total additional profits of over $17 million during the first three years following the transaction. According to the forecasts, achieving this goal would require an overall price increase of 4% in 2006, 10% in 2007, and 5% in 2008, beyond materials cost increase surcharges. Amsted pricing data shows that Amsted raised prices substantially following its acquisition of FMI. For new EOCCs, customers who did not have the pricing protection of long-term contracts paid on average approximately 14% more in February 2006 than they did in November 2005. For reconditioned EOCCs, customers without long-term contracts paid an average increase of approximately 5% more during the same time period.

Purchasers of new and reconditioned EOCCs in the United States benefitted from vigorous and aggressive competition between Amsted and FMI through lower prices, higher quality, more innovation, and better service. Without the competitive constraint of head-to-head competition from FMI, Amsted has had and will continue to have the ability to exercise market power by raising prices, lowering product quality, lessening innovation, and decreasing the level of services.

Entry into the design, manufacture, and sale of new or reconditioned EOCCs will not be timely, likely, or sufficient to counter the anticompetitive effects of the transaction. A new entrant to either market would require certifications and approvals from the Association of American Railroads (''AAR''), including facility certification and design certification for each EOCC model to be manufactured or reconditioned. Additionally, the AAR requires that a new entrant undergo a conditional approval period during which production is monitored and significantly limited.

It is also essential that a new entrant into either the new or reconditioned EOCC markets have sufficient technical know-how regarding the product in order to design and sell EOCCs. Thus, a new entrant must invest in significant design and engineering expertise in order to create the necessary tooling and intellectual property required to successfully manufacture new or reconditioned EOCCs according to AAR standards and railroad customer requirements.

A new entrant into the new or reconditioned EOCC markets also must produce EOCCs in sufficient quantities and with sufficiently consistent quality to assure railroad customers that the new and reconditioned EOCCs will provide the necessary level of cushioning required to protect sensitive cargo. Achieving this quality reputation requires an additional investment in time and money by any new entrant.

Although the manufacturing processes for new and reconditioned EOCCs are similar, both require unique inputs that are not readily available in the marketplace. For example, the manufacture of new EOCCs requires the use of patented designs and proprietary molds that are not needed in the reconditioning process. Similarly, the

[2] American Hydraulics, Inc. is the only other manufacturer certified by the Association of American Railroads (''AAR'') to build new units. However, American Hydraulics historically has had no revenue in this product area, and customers uniformly viewed the merging parties as the only suppliers of new EOCCs.

[3] ''HHI'' means the Herfindahl-Hirschman Index, a commonly accepted measure of market concentration. It is calculated by squaring the market share of each firm competing in the market and then summing the resulting numbers. For example, for a market consisting of four firms with shares of thirty, thirty, twenty, and twenty percent, the HHI is 2600 ($30^2 + 30^2 + 20^2 + 20^2 = 2600$). The HHI takes into account the relative size and distribution of the firms in a market and approaches zero when a market consists of a large number of firms of relatively equal size. The HHI increases both as the number of firms in the market decreases and as the disparity in size between those firms increases. Markets in which the HHI is between 1000 and 1800 points are considered to be moderately concentrated, and those in which the HHI is in excess of 1800 points are considered to be concentrated. Transactions that increase the HHI by more than 100 points in concentrated markets presumptively raise antitrust concerns under the Horizontal Merger Guidelines issued by the U.S. Department of Justice and the Federal Trade Commission. See Merger Guidelines ¶ 1.51.

manufacture of reconditioned EOCCs requires the application of certain machining techniques and testing processes that are unique to the EOCC reconditioning market.

For these reasons, entry by any firm into the new or reconditioned EOCC markets would not be timely, likely, or sufficient to counter anticompetitive price increases imposed by Amsted.

III. Explanation of the Proposed Final Judgment

Because the FMI business was discontinued as a result of the transaction and Amsted now has only one facility that manufactures EOCCs, the divestiture of a going concern in this case would be difficult and potentially disruptive to the railroad industry. Instead, the divestiture and license requirements of the proposed Final Judgment are designed to create an independent and economically viable competitor by providing to a new entrant the market-specific intellectual assets needed for successful competition. The proposed Final Judgment requires that Amsted divest these assets, without compensation, to a pre-approved acquirer operating in the railroad industry. Amsted must divest all of the acquired FMI intangible assets and all of the FMI tangible assets used for imparting the shape, form, or finish to EOCC components. The divestiture includes all trademarks, brands, certifications, patents, blueprints, drawings, castings, dies, molds, toolings, fixtures, specifications, quality assurance plans, manufacturing plans, and related financial data.

The proposed Final Judgment also requires Amsted to provide to the acquirer a royalty-tree, perpetual license to all Amsted-generated intangible assets and a limited license to the use of all Amsted-generated casting patterns needed for the production of EOCC components. The license should effectively fill any intellectual property gaps in the FMI divestiture package and resolve questions concerning the completeness of the available FMI assets. The license includes all patents, blueprints, drawings, castings, dies, molds, toolings, fixtures, specifications, quality assurance plans, manufacturing plans, and product tracking information.

Combined with readily available manufacturing equipment, these assets will provide the acquirer with immediate access to the technical know-how required to make new and reconditioned EOCCs. The engineering information should accelerate the AAR certification process, while also providing customers with assurance that the designs used by the acquirer are field tested and historically successful. The proposed Final Judgment provides that for the divestiture to be approved, it must be demonstrated to the satisfaction of the United States, in its sole discretion, that the acquirer will enter the market to remedy the competitive harm alleged in the Complaint. The divestiture must be made to an acquirer that in the United States' judgment has the intent and capability (including the necessary managerial, operational, technical, and financial capability) to compete effectively in the design, manufacture, and sale of EOCCs; the divestiture also must be accomplished in a manner that satisfies the United States, in its sole discretion, that none of the terms of any agreement between an acquirer and the defendant gives the defendant the ability unreasonably to raise the acquirer's costs, reduce the acquirer's efficiency, or otherwise interfere in the ability of the acquirer to compete effectively in the design, manufacture, and sale of EOCCs. The defendant must take all reasonable steps necessary to accomplish the divestiture quickly and must cooperate with the acquirer.

The proposed Final Judgment requires the defendant, within sixty (60) days after the filing of the Complaint, or five (5) days after notice of the entry of the Final Judgment by the Court, whichever is later, (1) to divest the Divested Assets to the acquirer, and (2) to grant the Supplemental Asset License to the acquirer. The defendant agrees to use its best efforts to accomplish the license grant and divestiture expeditiously.

In the event that the approved acquirer is unable or unwilling to receive the divested assets, the Court will appoint a trustee selected by the United States and approved by the Court to effect the divestiture of the assets to an alternative acquirer acceptable to the United States. Amsted will pay all costs and expenses of the trustee. The trustee's commission will be structured so as to provide an incentive for the trustee based on the speed with which the divestiture is accomplished. After his or her appointment becomes effective, the trustee will file monthly reports with the Court and the United States setting forth his or her efforts to accomplish the divestiture. At the end of 60 days, if the divestiture has not been accomplished, the trustee and the United States will make recommendations to the Court, which shall enter such orders as appropriate, in order to carry out the purpose of the trust, including extending the trust or the term of the trustee's appointment.

The proposed Final Judgment requires Amsted to release all industry participants of restrictive covenants that might otherwise inhibit the acquirer's access to employees, customers, or suppliers. Amsted must also release Progress Rail from an acquisition-related ''covenant not to compete'' if the acquirer is unable to deliver its first manufactured or reconditioned unit within twelve months after the entry of the Final Judgment.

Finally, the proposed Final Judgment prohibits Amsted from acquiring any assets of or any interest in the development, production, or sale of EOCCs in the United States if the value of such acquisition exceeds $1,000,000 without first notifying the United States through procedures set out in the Final Judgment, unless the transaction is otherwise subject to the reporting and waiting period requirements of the Hart-Scott-Rodino Antitrust Improvements Act. This notification requirement runs for a period of ten years.

The provisions of the proposed Final Judgment will facilitate new entry in order to eliminate the anti competitive effects of the acquisition in the design, manufacture, and sale of EOCCs.

IV. Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act (15 U.S.C. 15) provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act (15 U.S.C. 16(a)), the proposed Final Judgment has no *prima facie* effect in any subsequent private lawsuit that may be brought against the defendant.

V. Procedures Available for Modification of the Proposed Final Judgment

The United States and the defendant have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least sixty days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment.

Any person who wishes to comment should do so within sixty days of the date of publication of this Competitive Impact Statement in the **Federal Register**, or the last date of publication in a newspaper of the summary of this Competitive Impact Statement, whichever is later. All comments received during this period will be considered by the Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to the Court's entry of judgment. The comments and the response of the United States will be filed with the Court and published in the **Federal Register**.

Written comments should be submitted to: Maribeth Petrizzi, Chief, Litigation II Section, Antitrust Division, United States Department of Justice, 1401 H Street, Suite 3000, Washington, DC 20530.

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. Alternatives to the Proposed Final Judgment

The United States considered, as an alternative to the proposed Final Judgment, a full trial on the merits against the defendant. The United States could have commenced litigation and sought a judicial order requiring Amsted to recreate FMI as a separate business unit that could be divested as a going concern. This alternative would have substantially delayed relief while introducing a significant risk that the divestiture would be unsuccessful. This alternative may have also increased the potential for harm to the markets through supply disruption and a decrease in available capacity. The United States is satisfied that the divestiture and license described in the proposed Final Judgment will facilitate entry in order to recreate competition for the design, manufacture, and sale of EOCCs in the relevant markets identified by the United States, and thus would achieve substantially all of the relief that the United States would have obtained through litigation, but without the cost and risks associated with trial.

VII. Standard of Review Under the APPA for the Proposed Final Judgment

The APPA requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty-day comment period, after which the Court shall determine whether entry of the proposed Final Judgment ''is in the public interest.'' 15 U.S.C. 16(e)(1). In making that determination, the Court shall consider:

(A) The competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration or relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and

(B) The impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e)(1)(A) & (B). As the United States Court of Appeals for the District of Columbia Circuit has held, under the APPA a court considers, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. *See United States* v. *Microsoft Corp.,* 56 F.3d 1448, 1458–62 (D.C. Cir. 1995).

With respect to the adequacy of the relief secured by the decree, a court may not ''engage in an unrestricted evaluation of what relief would best serve the public.'' *United States* v. *BNS,* Inc., 858 F.2d 456, 462 (9th Cir. 1988) (citing *United States* v. *Bechtel Corp.,* 648 F.2d 660, 666 (9th Cir. 1981)); *see also Microsoft,* 56 F.3d at 1460–62. Courts have held that:

[t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is ''*within the reaches of the public interest.*'' More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.

Bechtel, 648 F.2d at 666 (emphasis added) (citations omitted).[4] In making its public interest determination, a district court must accord due respect to the government's prediction as to the effect of proposed remedies, its perception of the market structure, and its views of the nature of the case. *United States* v. *Archer-Daniels-Midland Co.,* 272 F. Supp. 2d 1, 6 (D.D.C. 2003).

Court approval of a final judgment requires a standard that is more flexible and less strict than the standard required for a finding of liability. ''[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.' '' *United States* v. *Am. Tel. & Tel. Co.,* 552 F. Supp. 131, 151 (D.D.C. 1982) (citations omitted) (quoting *United States* v. Gillette Co., 406 F. Supp. 713, 716 (D. Mass. 1975)), *aff'd sub nom. Maryland* v. *United States,* 460 U.S. 1001 (1983); *see also United States* v. *Alcan Aluminum Ltd.,* 605 F. Supp. 619, 622 (W.D. Ky. 1985) (approving the consent decree even though the court would have imposed a greater remedy). The Court ''must accord deference to the government's predications about the efficacy of its remedies, and may not require the remedies to perfectly match the alleged violations because this may only reflect underlying weaknesses in the government's case or concessions made during negotiations.'' *United States* v. *SBC Commc'ns, Inc.,* Nos. 05–2102 and 05–2103, 2007 WL 1020746, at *16 (D.D.C. Mar. 29, 2007).

Moreover, the Court's role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its Complaint, and does not authorize the Court to ''construct [its] own hypothetical case and then evaluate the decree against that case.'' *Microsoft,* 56 F.3d at 1459. Because the ''court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place, '' it follows that ''the court is only authorized to review the decree itself,'' and not to ''effectively redraft the complaint'' to inquire into other matters that the United States did not pursue. Id. at 1459–60. As this Court recently confirmed in *SBC Commc'ns,* courts ''cannot look beyond the complaint in making the public interest determination unless the complaint is drafted so narrowly as to make a

[4] *Cf. BNS,* 858 F.2d at 463 (holding that the court's ''ultimate authority under the [APPA] is limited to approving or disapproving the consent decree''); *Gillette,* 406 F. Supp. at 716 (noting that, in this way, the court is constrained to ''look at the overall picture not hypercritically, nor with a microscope, but with an artist's reducing glass''). *See generally Microsoft,* 56 F.3d at 1461 (discussing whether ''the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest' '').

mockery of judicial power.'' *SBC Commc'ns,* at *14.

In 2004, Congress amended the APPA to ensure that courts take into account the above-quoted list of relevant factors when making a public interest determination. Compare 15 U.S.C. 16(e) (2004) *with* 15 U.S.C. 16(e)(1) (2006) (substituting ''shall'' for ''may'' in directing relevant factors for court to consider and amending list of factors to focus on competitive considerations and to address potentially ambiguous judgment terms). These amendments, however, did not change the fundamental role of courts in reviewing proposed settlements. To the contrary, Congress made clear its intent to preserve the practical benefits of utilizing consent decrees in antitrust enforcement, adding the unambiguous instruction ''[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene.'' 15 U.S.C. 16 (e)(2). This language codified the intent of the original 1974 statute, expressed by Senator Tunney in the legislative history: ''[t]he court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.'' 119 Cong. Rec. 24,598 (1973) (statement of Senator Tunney). Rather:

> [a]bsent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should . . . carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.

United States v. *Mid-America Dairymen, Inc.,* 1977–1 Trade Cas. (CCH) ¶ 61,508, at 71,980 (W.D. Mo. 1977).

This-Court recently examined the role of the district court in reviewing proposed final judgments in light of the 2004 amendments, confirming that the amendments ''effected minimal changes[] and that this Court's scope of review remains sharply proscribed by precedent and the nature of Tunney Act proceedings.'' See *United States* v. *SBC Commc'ns, Inc.*, Nos. 05–2102 and 05–2103, 2007 WL 1020746, at *9 (D.D.C. Mar. 29, 2007). This Court concluded that the amendments did not alter the articulation of the public interest standard in *Microsoft. Id.* at *15.

VIII. Determinative Documents

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

Dated: April 18, 2007.

Respectfully submitted,

/s/ ________________

C. Scott Hataway Bar No. 473942,

U.S. Department of Justice, Antitrust Division, Lit II Section, 1401 H Street NW., Washington, DC 20530 202–514–8380.

[FR Doc. 07–2087 Filed 4–27–07; 8:45am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances Notice of Application

This is notice that on October 18, 2006, Noramco Inc., 500 Swedes Landing Road, Wilmington, Delaware 19801, made application by renewal to the Drug Enforcement Administration (DEA) for registration as an importer of the basic classes of controlled substances listed in schedule II:

Drug	Schedule
Raw Opium (9600)	II
Concentrate of Poppy Straw (9670).	II

The company plans to import the listed controlled substances to manufacture other controlled substances.

As noted in a previous notice published in the **Federal Register** on September 23, 1975, (40 FR 43745), all applicants for registration to import a basic class of any controlled substances in schedule I or II are, and will continue to be, required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1301.34(b), (c), (d), (e) and (f) are satisfied.

Dated: April 17, 2007.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control Drug Enforcement Administration.

[FR Doc. E7–8132 Filed 4–27–07; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on March 1, 2007, Organichem Corporation, 33 Riverside Avenue, Rensselaer, New York 12144, made application by letter to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of Oxymorphone (9652), a basic class of controlled substance listed in schedule II.

The company plans on manufacturing the listed controlled substance in bulk for sale to its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such a substance may file comments or objections to the issuance of the proposed registration pursuant to 21 CFR 1301.33(a).

Any such written comments or objections being sent via regular mail should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Attention: DEA Federal Register Representative (ODL), Washington, DC 20537, or any being sent via express mail should be sent to Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), 2401 Jefferson-Davis Highway, Alexandria, Virginia 22301; and must be filed no later than June 29, 2007.

Dated: April 17, 2007.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control Drug Enforcement Administration.

[FR Doc. E7–8131 Filed 4–27–07; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances Notice of Application

This is notice that on January 26, 2007, Stepan Company, Natural Products Department, 100 W. Hunter Avenue, Maywood, New Jersey 07607, made application by renewal to the Drug Enforcement Administration (DEA) for registration as an importer of Coca Leaves (9040), a basic class of controlled substance listed in schedule II.

The company plans to import the listed controlled substance for the manufacture of a bulk controlled substance for distribution to its customer.

As noted in a previous notice published in the **Federal Register** on September 23, 1975, (40 FR 43745), all applicants for registration to import a basic class of any controlled substances in schedule I or II are, and will continue to be, required to demonstrate to the