

Competition Tribunal



Tribunal de la Concurrence

Reference: The Commissioner of Competition v. Agrium Inc., 2010 Comp. Trib. 7

File No.: CT-2010-003

Registry Document No.: 0004

IN THE MATTER OF the Competition Act, R.S.C. 1985, c. C-34, as amended, and the Competition Tribunal Rules, SOR/94-290;

AND IN THE MATTER OF the filing and registration of a Consent Agreement in relation to the proposed acquisition by Agrium Inc. of CF Industries Holdings, Inc.;

AND IN THE MATTER OF an Application pursuant to paragraph 106(1)(b) of the Competition Act;

B E T W E E N:

The Commissioner of Competition
(applicant)

and

Agrium Inc.
(respondent)



Decided on the basis of the written record.

Before: Simpson J. (Chairperson), Gauthier J., H. Lanctôt

Date of Order: May 3, 2010

Order signed by: Madam Justice Sandra J. Simpson,
Madam Justice Johanne Gauthier, Mr. Henri Lanctôt

**ORDER ALLOWING AN APPLICATION UNDER PARAGRAPH 106(1)(b) OF THE
COMPETITION ACT TO RESCIND A CONSENT AGREEMENT**

[1] **FURTHER TO** the consent agreement filed on November 4, 2009, by the Commissioner of Competition (“Commissioner”) in relation to the proposed acquisition by Agrium Inc. (“Agrium”) of CF Industries Holdings, Inc. (“CF”) (“Consent Agreement”);

[2] **AND FURTHER TO** an Application made on consent pursuant to paragraph 106(1)(b) of the Competition Act, R.S.C. 1985, c. C-34 (“Act”), by the Commissioner and Agrium, to rescind the Consent Agreement;

[3] **AND UPON** considering a letter from counsel for the Commissioner and Agrium dated March 31, 2010, explaining that the Consent Agreement is no longer required because Agrium no longer intends to acquire CF;

[4] **AND UPON** being satisfied with the explanation provided;

[5] **AND UPON** noting that the rescission of the Consent Agreement is on consent but is nevertheless a discretionary matter for the Tribunal;

[6] **AND UPON** dispensing therefore with the application of the Competition Tribunal Rules, SOR/2008-141, which require the filing of pleadings in proceedings under section 106 of the Act;

NOW THEREFORE THE TRIBUNAL ORDERS THAT :

[7] The Application made pursuant to paragraph 106(1)(b) of the Act is allowed.

[8] The Consent Agreement is hereby rescinded.

DATED at Ottawa, this 3rd day of May, 2010.

SIGNED on behalf of the Tribunal by the panel members.

(s) Sandra J. Simpson

(s) Johanne Gauthier

(s) Henri Lanctôt

COUNSEL:

For the applicant

The Commissioner of competition

Nikiforos Iatrou

For the respondent

Agrium Inc.

Robert E. Kwinter