

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

IN RE: ETHYLENE PROPYLENE DIENE  
MONOMER (EPDM) ANTITRUST LITIGATION

THIS DOCUMENT RELATES TO:

**Crompton Settlement**

Case No. 3:03 MD 1542 (SRU)

ALL ACTIONS

**NOTICE OF PROPOSED SETTLEMENT IN CLASS ACTION AND  
HEARING ON SETTLEMENT APPROVAL, PLAN OF ALLOCATION AND  
REQUEST FOR ATTORNEYS' FEES AND REIMBURSEMENT OF COSTS**

**TO: ALL PERSONS OR ENTITIES (EXCLUDING GOVERNMENT ENTITIES) WHO PURCHASED  
ETHYLENE PROPYLENE DIENE MONOMER ("EPDM") DIRECTLY FROM ANY DEFENDANT LISTED  
BELOW DURING THE PERIOD JANUARY 1, 1997 TO DECEMBER 31, 2001:**

Bayer AG	DSM Elastomers Europe B.V.
Bayer Corporation	DSM Elastomers Americas
Bayer MaterialScience LLC	(formerly DSM Copolymer, Inc.)
(f/k/a Bayer Polymers LLC)	Exxon Mobil Chemical Corporation
Crompton Corporation	Polimeri Europa S.p.A.
(n/k/a Chemtura Corporation)	(f/k/a Polimeri Europa Srl)
Uniroyal Chemical Company, Inc.	Polimeri Europa Americas, Inc.
(n/k/a Chemtura USA Corporation)	(f/k/a EniChem Americas, Inc.)
The Dow Chemical Company	Syndial S.p.A.
DuPont Dow Elastomers LLC	(f/k/a Enichem S.p.A)
DSM Elastomers B.V.	

Please read this Notice carefully and in its entirety. Your rights may be affected by this settlement. If you are a member of the Class (defined below in Paragraph 1), you may be entitled to a portion of the settlement fund resulting from a settlement with defendants Crompton Corporation (now known as Chemtura Corporation) and Uniroyal Chemical Company (now known as Chemtura USA Corporation) (collectively, "Crompton"). To participate, you must submit the enclosed Proof of Claim form postmarked **no later than May 31, 2007**.

This Notice has been sent pursuant to Rule 23 of the Federal Rules of Civil Procedure and an Order of the United States District Court for the District of Connecticut (the "Court"). Its purpose is to inform you of the pending class action lawsuit (the "Action") and the settlement with Crompton. To resolve the claims against them, Crompton has deposited twenty-one million dollars (\$21,000,000) for the benefit of the plaintiff Class and have agreed to cooperate with Class Plaintiffs and their counsel in their continued prosecution of claims against the remaining, non-settling Defendants in this action.

If you are a member of the Class, you have the right to share in the settlement fund, object to the proposed settlement, and/or enter an appearance through your own counsel at your own expense. You also have the right to exclude yourself from the Settlement Class, in which case you will **not** be entitled to share in this settlement fund or object to this settlement.

**DEFINITIONS**

1. "Class" means all persons and entities who purchased EPDM in the United States directly from any of the Defendants at any time during the Class Period, January 1, 1997 through December 31, 2001. Excluded from the Class are all governmental entities, Defendants, their respective parents, predecessors, subsidiaries and affiliates, and each of the Excluded Entities identified in Paragraph 8 herein.

2. "Class Counsel" means the law firms of Gold Bennett Cera & Sidener LLP, 595 Market Street, Suite 2300, San Francisco, CA 94105; Cohen, Milstein, Hausfeld & Toll, P.L.L.C., 1100 New York Avenue, N.W., Washington, D.C. 20005; Bolognese & Associates, LLC, One Penn Center, 1617 JFK Blvd., Suite 650, Philadelphia, PA 19103; and Levin Fishbein Sedran & Berman, 510 Walnut Street, Suite 500, Philadelphia, PA 19106.

3. "Class Member" or "Class Members" mean, individually or collectively, members of the Class who do not timely and validly request exclusion from the Class.
4. "Class Period" means the period from January 1, 1997 through December 31, 2001.
5. "Defendant" means any person or entity named as a defendant in this Action.
6. "EPDM" means ethylene propylene diene monomer synthetic rubber.
7. "Effective Date" means the date on which Final Approval has been obtained in this Action.
8. "Excluded Entities" means Bridgestone Americas Holding, Inc.; Carlisle Companies Incorporated; Parker Hannifin Corporation; PolyOne Corporation; RBX Industries, Inc.; The Goodyear Tire & Rubber Company; The Lubrizol Corporation; and each of their respective predecessors, successors, subsidiaries or affiliates.
9. "Final Approval" means (a) the entry by the Court in the Action of a final order approving this Agreement under Rule 23(e) of the Federal Rules of Civil Procedure together with entry of a final judgment dismissing the Action and all claims asserted therein against Crompton on the merits with prejudice as to Class Members ("Final Judgment"), and (b) the expiration of the time for appeal or to seek permission to appeal from the Court's approval of this Agreement and entry of the Final Judgment in the Action or, if an appeal from the Final Judgment is taken, the affirmance of the Final Judgment in its entirety, without modification, by the court of last resort to which an appeal of such Final Judgment may be taken. It is agreed that neither the provisions of Rule 60 of the Federal Rules of Civil Procedure nor the All Writs Act, 28 U.S.C. §1651, shall be taken into account in determining the above-stated times.
10. "Plaintiffs" means Alco Industries, Inc.; Diamond Holding Corporation; Durapias Corporation; Functional Products, Inc.; Industrial Rubber Products, Inc.; Polymerics, Inc.; Precision Associates, Inc.; Richard Immerman; Schlegel Corporation; and Synaflex Rubber Products Co., Inc.
11. "Released Claims" means any and all claims, demands, actions, suits, and causes of action (whether class, individual or otherwise in nature) that any Releasors, or any one of them, ever had, now has, or hereafter can, shall, or may have against the Releasees, whether known or unknown, on account of or arising out of, resulting from or related to in any respect the pricing, selling, discounting, marketing, manufacturing, offering, or distributing of EPDM in the United States during the Class Period and includes any conduct alleged, or which could have been alleged in this Action including, but not limited to, claims arising under federal or state antitrust, unfair competition, unfair practices, price discrimination, unitary pricing, trade practice, or civil conspiracy law, including, without limitation, the Sherman Antitrust Act, 15 U.S.C. §1 *et seq.* However, "Released Claims" does not include claims based on: (a) product defect or breach of contract; (b) purchases of EPDM outside the United States; or (c) indirect purchases of EPDM. The Releasors shall not, after the Effective Date, seek to recover against any of the Releasees for any of the Released Claims.
12. "Releasees" means Crompton, its past and present officers, directors, employees, agents, attorneys, servants, representatives, parents, subsidiaries, affiliates and partners and the predecessors, successors, heirs, executors, administrators, and assigns of each of the foregoing. As used in this definition, "affiliates" means entities controlling, controlled by or under common control with a Releasee.
13. "Releasors" means the Class Plaintiffs and the Class Members, as well as their past and present parents, subsidiaries, affiliates, and agents. As used in this definition, "affiliates" means entities controlling, controlled by or under common control with a Releasor.
14. "Settlement Class" means all members of the Class who do not timely and validly elect to be excluded from the Class.

#### **SUMMARY OF THE ACTION**

15. Beginning in March 2003, class action complaints alleging violations of the federal antitrust laws by the major manufacturers of EPDM were filed in multiple federal District Courts. Motions were made to the Judicial Panel on Multidistrict Litigation ("JPML") to centralize the cases in a single court to promote the just and efficient conduct of the litigation. On August 12, 2003, the JPML entered a Transfer Order centralizing the cases in the United States District Court for the District of Connecticut for coordinated or consolidated pretrial proceedings. By Order dated September 11, 2003, the Court appointed Class Counsel as Co-Lead Counsel for Plaintiffs.

16. The operative complaint in this Action is the Second Consolidated Amended Complaint ("Complaint"), which was filed on July 1, 2004. The Complaint alleges that the Defendants conspired to fix or maintain the prices of, and/or allocate markets for, EPDM sold in the United States in violation of Section 1 of the Sherman Antitrust Act, 15 U.S.C. §1. The Complaint further alleges that, as part of the conspiracy, the Defendants agreed

to limit the supply of EPDM and to allocate markets and customers for the sale of EPDM. As a result of this conduct, the Complaint alleges that members of the Class paid artificially inflated prices for EPDM and, therefore, have suffered injury.

17. This Action has been vigorously litigated. Defendants, including Crompton, deny any wrongdoing and that any member of the Class has suffered damages as a result of Defendants' conduct. Class Counsel have analyzed millions of documents produced by the Defendants. They have also conducted an independent investigation of the facts and analyzed the sales and pricing data produced by the Defendants.

18. The Class Plaintiffs' motion for class certification has been briefed, and is pending before the Court. The Class Plaintiffs appeared for deposition in connection with that motion. The Class Plaintiffs and Defendants retained expert economists to analyze data, and their respective economists submitted detailed written reports to the Court and their depositions have been taken.

19. The Court has previously approved settlements reached by Class Plaintiffs and the Class with three groups of Defendants: Defendant Dupont Dow Elastomers, LLC ("DDE"); Defendants Polimeri Europa S.p.A. (f/k/a Enichem Americas, Inc.) and Syndial S.p.A. (f/k/a Enichem S.p.A.) (collectively, "Syndial"); and Bayer AG, Bayer Corporation and Bayer MaterialScience LLC (f/k/a Bayer Polymers LLC) (collectively, "Bayer"). By Order dated June 29, 2005, the Court approved Class Plaintiffs' Settlement with DDE for the principal amount of \$25.4 million in cash. Under the DDE Settlement, DDE is required to cooperate with Class Counsel in their prosecution of claims against the remaining Defendants. By Order dated December 13, 2005, the Court approved Class Plaintiffs' Settlement with Syndial for the principal amount of \$3.17 million in cash. Under the Syndial Settlement, Syndial is required to cooperate with Class Counsel in their prosecution of claims against the remaining Defendants. By Order dated November 28, 2006, the Court approved Class Plaintiffs' Settlement with Bayer for the principal amount of \$32 million. Under the Bayer Settlement, Bayer is required to cooperate with Class Counsel in their prosecution of claims against the remaining Defendants. Settlement notices and claim forms have been disseminated to members of the DDE, Syndial and Bayer Settlement Classes.

20. While the Plaintiffs believe they have meritorious claims against Crompton, Crompton has asserted that it has meritorious defenses which would serve to undercut their liability and economic exposure to the Class. The parties entered into the settlement to eliminate the burden, expense and risk of further litigation. Class Counsel have determined that settling the claim against Crompton is in the best interest of the Class. The settlement provides an immediate and substantial cash benefit to the Class Members and avoids the risk of a trial relating to the liability and the amount of provable damages. Not only will the Class Members receive compensation for their claims against Crompton, they will have the benefit of Crompton's cooperation (in addition to the cooperation of DDE, Syndial and Bayer) in litigating claims against the remaining, non-settling Defendants.

21. No determination has been made by the Court in this case as to liability of any of the Defendants or the amount of damages, if any, suffered by the Class.

#### **THE PROPOSED SETTLEMENT WITH CROMPTON**

22. Crompton and Class Counsel negotiated vigorously and at arm's-length for a protracted period of time to reach a fair and reasonable resolution of the claims brought in this action. The Crompton Settlement totals twenty-one million dollars (\$21,000,000) and consists of three separate funds: (i) the Class Fund of \$15,750,000 is the amount available for payment to all members of the Class; (ii) the Fee and Cost Fund of \$5 million which, subject to Court approval, shall be paid to Class Counsel and other counsel on account of attorneys' fees and costs (any portion of this fund not awarded shall be returned to Crompton); and (iii) a Notice and Administration Costs Fund of \$250,000 for the payment of notice and administration costs which is designed to cover the costs of administering this settlement.

23. This settlement follows more than one year after Crompton terminated a \$30 million settlement payable over time as a result of excessive opt-outs. Since that time, Crompton has settled separately with most of those opt-outs. Those opt-outs therefore are excluded from the Class in this settlement, and they have already been paid by and have released Crompton. The Excluded Entities are identified above in ¶8. As a result, the Class, as defined in the current Crompton settlement, directly purchased approximately 50% of the amount of EPDM from Defendants that the Class, as defined in the prior Crompton settlement, had purchased. Therefore, this settlement represents 6.3% of Crompton's sales of EPDM during the class period as defined in the current Crompton settlement. This equates to a 35% improvement on the return to Class Members over the previous settlement that Crompton terminated.

24. In addition to the cash payments described above, Crompton has agreed to cooperate with Class Counsel in their continued litigation against the remaining Defendants. The cooperation agreement requires that Crompton provides assistance to Class Counsel in obtaining evidence related to the Plaintiffs' claims regarding

the purchase, sale, and/or pricing of EPDM in the United States, including producing documents, producing declarations and making witnesses available at deposition and/or trial.

25. In exchange for the settlement payment and its cooperation, Crompton and the other Releasees will be released of all Released Claims (as defined above) asserted against them on behalf of the Settlement Class for alleged price fixing of EPDM in the United States prior to the Effective Date.

26. The Settlement Agreement does not allow Crompton to terminate the Settlement Agreement based on opt-outs. Crompton cannot rescind or terminate this settlement.

#### **ATTORNEYS' FEES AND COSTS**

27. Class Counsel will apply to the Court for an award of attorneys' fees and reimbursement of actual costs incurred in the prosecution of this litigation, including the fees of any experts or consultants. In the four years that this litigation has been pending, Class Counsel has not received any payment for the services they have rendered in obtaining these settlements or costs which they have advanced. In compensation for their time and the risk in prosecuting the litigation on a wholly contingent fee basis, plaintiffs' counsel intend to apply to the Court for an award of attorneys' fees in an amount not to exceed 28% of each of the DDE, Syndial, Bayer and Crompton Settlement Funds, plus interest, as well as reimbursement for their costs actually incurred in the prosecution of the litigation, including experts' fees, in an amount not to exceed \$2.5 million.

#### **YOUR OPTIONS**

28. If you are a member of the Crompton Settlement Class, you will remain in the Settlement Class for purposes of this settlement unless you elect to be excluded. As a Class Member, you will be bound by the judgment or other final disposition of this Action as to Crompton, and you will be prevented from bringing or asserting any Released Claims (as defined above) against Crompton and the Releasees. Your interests will be represented by the Plaintiffs and Class Counsel. However, at your own expense, you may have your own attorney appear on your behalf. You may, but are not required to, appear at the hearing at which the Court will decide whether to grant final approval to the settlement and the plan of allocation.

29. **If you remain in the Settlement Class, you must timely and properly submit the enclosed Proof of Claim form to the Claims Administrator, Gilardi & Co., LLC., in order to share in the proceeds of the Crompton Settlement.** Otherwise, your claim may be rejected and you may be precluded from any recovery from Crompton, although you still would be bound by the judgment or other final disposition entered by the Court as to Crompton.

30. To exclude yourself from the Settlement Class in connection with the Crompton Settlement, you must submit a written request which includes the full name of the purchaser of EPDM (including any predecessor entities), your address and your request for exclusion from the Crompton Settlement. If you exclude yourself from the Crompton Settlement, you will not be bound by this settlement and can independently, at your own expense, pursue claims you may have against Crompton. However, you will not receive a portion of the settlement proceeds obtained from Crompton. Requests for exclusion from the Crompton Settlement should be sent by First-Class mail, postmarked so they are **actually received no later than April 13, 2007**, to:

*In re EPDM Antitrust Litigation (Crompton II)*  
c/o Gilardi & Co., LLC  
P.O. Box 8060  
San Rafael, CA 94912-8060

#### **PLAN OF ALLOCATION**

31. The settlement proceeds available for the Class will be distributed on a *pro rata* basis among the members of the Settlement Class who timely and properly file a Proof of Claim. Each claimant's *pro rata* share will be based on the dollar amount of its purchases of EPDM in the United States from all Defendants. Purchases must have been made directly from a Defendant during the Class Period to qualify. The Court retains the power to approve or reject, in full or partially, any individual claim of a Class Member based on equitable grounds. Because the alleged overcharge is only a portion of the price paid for EPDM, your recovery will be less than the total amount you paid.

32. To submit a claim, complete and sign the enclosed Proof of Claim form. It must be postmarked **no later than May 31, 2007** and mailed to:

*In re EPDM Antitrust Litigation (Crompton II)*  
c/o Gilardi & Co., LLC  
P.O. Box 8060  
San Rafael, CA 94912-8060

**THE SETTLEMENT HEARING**

33. The Court will hold a hearing on **May 9, 2007 at 10:00 a.m.** at the Brien McMahon United States Courthouse, 4<sup>th</sup> Floor, Courtroom No. 1, 915 Lafayette Boulevard, Bridgeport, Connecticut 06604 to decide Plaintiffs' motions for final approval of the settlement and the plan of allocation and request for attorneys' fees and reimbursement of costs (the "Motions"). The hearing date and/or time may change without further notice.

34. No later than **April 27, 2007**, Class Counsel shall file their Motions with the Court. You may view these papers in the Court's public file room or by writing to Class Counsel.

35. Any member of the Crompton Settlement Class who objects to the settlement with Crompton or the Plan of Allocation or the request for attorneys' fees and costs must do so in writing. The objection must include the caption of this case, be signed, and be **received** by the Court and Class Plaintiffs' counsel at the following addresses no later than **April 13, 2007**:

Clerk of Court  
United States District Court  
For The District of Connecticut  
915 Lafayette Boulevard  
Bridgeport, CT 06604

Michael D. Hausfeld, Esq.  
Cohen, Milstein, Hausfeld  
& Toll, P.L.L.C.  
1100 New York Avenue, N.W.  
Washington, D.C. 20005-3964

Steven O. Sidener, Esq.  
Gold Bennett Cera & Sidener LLP  
595 Market Street, Suite 2300  
San Francisco, CA 94105

Anthony J. Bolognese, Esq.  
Bolognese & Associates, LLC  
One Penn Center  
1617 JFK Blvd., Suite 650  
Philadelphia, PA 19103

Howard J. Sedran, Esq.  
Levin Fishbein Sedran & Berman  
510 Walnut Street, Suite 500  
Philadelphia, PA 19106

36. Any member of the DDE, Syndial, Bayer or Crompton Settlement Classes who objects to the motion of Class Plaintiffs' counsel for an award of attorneys' fees and costs must do so in writing. The objection must include the caption of this case, be signed, and be **received** by the Court and Class Plaintiffs' counsel at the addresses in ¶35 no later than **April 13, 2007**.

37. If you do not object, you do not need to appear at the hearing. **However, you must complete and return the Proof of Claim form if you want to receive payment for your claim against Crompton.**

**CHANGE OF ADDRESS**

38. If this Notice reached you at an address other than the one on the mailing label, or if your address changes in the future, please send the current information to the Claims Administrator at:

*In re EPDM Antitrust Litigation (Crompton II)*  
c/o Gilardi & Co., LLC  
P.O. Box 8060  
San Rafael, CA 94912-8060

**ADDITIONAL INFORMATION**

39. The Settlement Agreement, Complaint, and other documents filed in this Action are available for review during business hours at the office of the Clerk of Court, United States District Court for the District of Connecticut, 915 Lafayette Boulevard, Bridgeport, Connecticut 06604. If you have questions about this Notice, the Proof of Claim, or the Action in general, contact Class Counsel in writing at the following addresses:

Michael D. Hausfeld, Esq.  
Cohen, Milstein, Hausfeld  
& Toll, P.L.L.C.  
1100 New York Avenue, N.W.  
Washington, D.C. 20005-3964

Anthony J. Bognese, Esq.  
Bognese & Associates, LLC  
One Penn Center  
1617 JFK Blvd., Suite 650  
Philadelphia, PA 19103

Steven O. Sidener, Esq.  
Gold Bennett Cera & Sidener LLP  
595 Market Street, Suite 2300  
San Francisco, CA 94105

Howard J. Sedran, Esq.  
Levin Fishbein Sedran & Berman  
510 Walnut Street, Suite 500  
Philadelphia, PA 19106

**DO NOT CONTACT THE JUDGE OR THE CLERK OF THE COURT.**

Dated: February 15, 2007

BY ORDER OF:  
Clerk of the United States District Court  
for the District of Connecticut