

UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION

\_\_\_\_\_) )  
In the Matter of ) )  
 ) )  
The Dow Chemical Company, ) )  
a corporation, and ) Docket No. C-3999  
 ) )  
Union Carbide Corporation, ) )  
a corporation. ) )  
\_\_\_\_\_)

PETITION OF THE DOW CHEMICAL COMPANY  
FOR APPROVAL OF CERTAIN AMENDMENTS TO THE  
HUNTSMAN AGREEMENT AND THE INEOS AGREEMENT

Pursuant to Section 2.41 of the Federal Trade Commission ("Commission") Rules of Practice and Procedure, 16 C.F.R. §2.41 (2001), the Dow Chemical Company ("Dow") hereby petitions the Commission to approve certain amendments to the Huntsman Agreement and the Ineos Agreement, both of which are incorporated into the Decision and Order (the "Order") in the above-captioned matter.<sup>1</sup>

The proposed amendments have been reviewed and accepted by Huntsman and Ineos, as applicable, and in each case, Richard M. Klein, the Commission-appointed Monitor Trustee. This petition describes the terms of the proposed amendments and explains how the proposed amendments satisfy the purposes of the Commission's Order.

<sup>1</sup> All capitalized terms used but not otherwise defined in this petition have the meanings ascribed to them in the Commission's Order.

For the convenience of maintaining the public record, Dow is submitting this petition in two versions – one that includes confidential and proprietary information (the “Confidential Version”) and another that is the same as the Confidential Version, but with Confidential Appendices A through F redacted (the “Public Version”). Pursuant to Section 21 of the Federal Trade Commission Act, 15 U.S.C. §57b-2, and the Commission’s Rules of Practice 4.10-4.11, 16 C.F.R. §§4.10-4.11, Dow hereby requests that all of the information and documents provided in Confidential Appendices A through F be treated by the Commission as strictly confidential and not be made available to the public. Confidential Appendices A through F contain commercially and competitively sensitive information relating to the Dow Global Ethanolamines Business, which was divested to Ineos, and the Dow Global Ethyleneamines Business, which was divested to Huntsman. Disclosure of the information contained in these Confidential Appendices to the public will prejudice Dow, Huntsman and Ineos.

**I. Proposed Amendments to Huntsman Agreement**

Pursuant to paragraph II.A of the Order, on February 9, 2001, Dow divested, absolutely and in good faith, as an ongoing business, the Dow Global Ethyleneamines Business to Huntsman in accordance with the Huntsman Agreement. Since the divestiture, Dow believes it has complied with its obligations under the Huntsman Agreement, including the supply agreement by which Dow sells ethyleneamines to Huntsman (the “Terneuzen Supply Agreement”) and the license agreement by which Huntsman licenses certain know-how to Dow for use at Dow’s facility in Terneuzen, The Netherlands (the “Know-How License Agreement”).

As stated in paragraph II.C of the Order, the purpose of the divestiture of the Dow Global Ethyleneamines Business is to ensure the continued operation of the Dow Global Ethyleneamines Business in the same businesses in which the assets and businesses of the Dow

Global Ethyleneamines Business were engaged at the time of the acquisition by Dow of Union Carbide Corporation, and to remedy the lessening of competition resulting from the acquisition as alleged in the Commission's complaint. As explained below, the proposed amendments to the Terneuzen Supply Agreement and the Know-How License Agreement satisfy the purposes of the Commission's Order.

**A. Terneuzen Supply Agreement**

As part of the divestiture of the Dow Global Ethyleneamines Business, Dow and Huntsman entered into the Terneuzen Supply Agreement by which Dow supplies Huntsman with up to 30 million pounds of ethyleneamines annually from Dow's plant in Terneuzen, The Netherlands. Dow believes that the Terneuzen Supply Agreement, which was reviewed and incorporated into the Order by the Commission, is consistent with the language and purposes of the Order. At the request of Huntsman, however, Dow agreed to revise the pricing formula in the Terneuzen Supply Agreement. The amended Terneuzen Supply Agreement (the "Amended Terneuzen Supply Agreement"), which has been executed by Dow and Huntsman, but will not become effective until the Commission approves the proposed amendments, is provided at Confidential Appendix A. As explained in Confidential Appendix B, the proposed amendments to the Terneuzen Supply Agreement will enable Huntsman to continue purchasing ethyleneamines from the Terneuzen plant at Dow's cost.

**B. Know-How License Agreement**

As part of the divestiture of the Dow Global Ethyleneamines Business, Dow and Huntsman entered into the Know-How License Agreement by which Huntsman licenses Dow the right to use certain know-how at Dow's ethyleneamines plant in Terneuzen, The Netherlands.

Dow believes that the Know-How License Agreement, which was reviewed and incorporated into the Order by the Commission, is consistent with the language and purposes of the Order. At the request of Huntsman, however, Dow agreed to amend the Know-How License Agreement so as to increase Dow's incentives to invest in technology upgrades to Dow's ethyleneamines plant in Terneuzen. Dow and Huntsman have agreed to revise certain terms of the Know-How License Agreement to accomplish this. The amended Know-How License Agreement (the "Amended Know-How License Agreement"), which has been executed by Dow and Huntsman, but will not become effective until the Commission approves the proposed amendments, is provided at Confidential Appendix C. The purpose of the proposed amendments to the Know-How License Agreement, which are explained in Confidential Appendix D, is to promote continued investment in technology upgrades to the Terneuzen ethyleneamines plant by Dow.

## II. Proposed Amendments to Ineos Agreement

Pursuant to paragraph III.A of the Order, on February 12, 2001, Dow divested, absolutely and in good faith, as an ongoing business, the Dow Global Ethanolamines Business to Ineos in accordance with the Ineos Agreement. Since the divestiture, Dow believes it has complied with its obligations under the Ineos Agreement, including the supply agreement by which Dow supplies ethylene oxide ("EO") to Ineos for use in the production of ethanolamines at Ineos's plant in Plaquemine, LA (the "EO Supply Agreement").

As stated in paragraph III.C of the Order, the purpose of the divestiture of the Dow Global Ethanolamines Business is to ensure the continued operation of the Dow Global Ethanolamines Business in the same businesses in which the assets and businesses of the Dow Global Ethanolamines Business were engaged at the time of the acquisition by Dow of Union

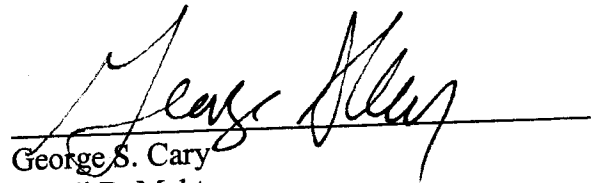
Carbide Corporation, and to remedy the lessening of competition resulting from the acquisition as alleged in the Commission's complaint.

As part of the divestiture of the Dow Global Ethanolamines Business, Dow and Ineos entered into the EO Supply Agreement by which Dow supplies Ineos with EO for use in the production of ethanolamines at Ineos's ethanolamines plant in Plaquemine, LA. Dow believes that the EO Supply Agreement, which was reviewed and incorporated into the Order by the Commission, is consistent with the language and purposes of the Order. At the request of Ineos, however, Dow agreed to amend various terms of the EO Supply Agreement. The amended EO Supply Agreement (the "Amended EO Supply Agreement"), which has been executed by Dow and Ineos, but will not become effective until the Commission approves the proposed amendments, is provided at Confidential Appendix E. The purpose of the proposed amendments is to ensure maximum availability of EO to Ineos and to limit the impact of future EO supply interruptions (if any) at Dow's Plaquemine EO plant. Ineos informed Dow that its purpose in seeking these amendments was to become a more reliable supplier of ethanolamines and a more effective competitor to other ethanolamines producers. A summary of these amendments is provided in Confidential Appendix F.

III. Conclusion

The terms of the Amended Terneuzen Supply Agreement, the Amended Know-How License Agreement and the Amended EO Supply Agreement accomplish the purposes of the Commission's Order. Accordingly, Dow respectfully requests that the Commission approve the proposed amendments as expeditiously as possible.

Respectfully submitted,



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**CONFIDENTIAL APPENDIX A**  
**Amended Terneuzen Supply Agreement**

[REDACTED]

**CONFIDENTIAL APPENDIX B**  
**Proposed Amendments to Terneuzen Supply Agreement**

[REDACTED]



**CONFIDENTIAL APPENDIX C**  
**Amended Know-How License Agreement**

[REDACTED]

**CONFIDENTIAL APPENDIX D**

**Proposed Amendments to Know-How License Agreement**

[REDACTED]

**CONFIDENTIAL APPENDIX E**  
**Amended EO Supply Agreement**

[REDACTED]

**CONFIDENTIAL APPENDIX F**  
**Proposed Amendments to EO Supply Agreement**

[REDACTED]