

UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS:       **Joseph J. Simons, Chairman**  
                              **Noah Joshua Phillips**  
                              **Rohit Chopra**  
                              **Rebecca Kelly Slaughter**  
                              **Christine S. Wilson**

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In the Matter of	)	
	)	
<b>Linde AG</b>	)	
a corporation,	)	
	)	Docket No. C- 4660
<b>Praxair, Inc.</b>	)	File No. 171-0068
a corporation, and	)	
	)	
<b>Linde PLC</b>	)	
a corporation.	)	
	)	
	)	

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**PETITION FOR APPROVAL OF AMENDMENTS TO CERTAIN ANCILLARY  
AGREEMENTS RELATING TO THE DIVESTITURE OF THE INDUSTRIAL GASES  
ASSETS TO MESSER INDUSTRIES, GMBH**

Pursuant to Section 2.41(f) of the Federal Trade Commission (“**Commission**”) Rules of Practice and Procedure, 16 C.F.R. § 2.41(f) (2011), and Paragraphs II.E.2(b) and III.C of the Decision and Order contained in the Agreement Containing Consent Orders issued in this matter (the “**Decision and Order**”), Linde AG, Praxair, Inc. and Linde PLC (together, “**Respondents**”) hereby petition the Commission to approve amendments to certain ancillary agreements relating to the divestiture of the Industrial Gases Assets to Messer Industries, GmbH (“**Messer**”).

Respondents and Messer have agreed to [Redacted from Public Record Version] (the “**Amended Agreement**”).<sup>1</sup> Subject to the Commission’s approval, [Redacted from Public Record Version].

Because, as described in more detail below, the Amended Agreement is unlikely under any plausible facts to affect achieving the remedial purposes of the Decision and Order, Respondents respectfully request that the Commission’s authorized delegates waive the requirement that this Application be approved, or else eliminate the comment period required for such approval, each as provided for under 16 C.F.R. § 2.41(f)(5)(ii).

**I. Introduction**

On October 1, 2018, Respondents executed an Agreement Containing Consent Orders (the “**Consent Agreement**”) to settle the Commission’s charges related to the proposed combination of Linde and Praxair (the “**Transaction**”) and issued a Decision and Order approving the Transaction subject, in pertinent part, to the divestiture of the Industrial Gases Assets to Messer or another suitable buyer. On February 26, 2019, the Commission issued a revised final Decision and Order.

On July 16, 2018 Respondents entered into the Americas Sale and Purchase Agreement and additional ancillary agreements and amendments (together, the “**Messer Divestiture Agreements**”) to sell the Industrial Gases Assets to Messer. The Commission approved the application from Respondents for the sale of the Industrial Gases Assets to Messer on February 26, 2019. On March 1, 2019, Respondents completed the divestiture of the Industrial Gases Assets to Messer. Respondents notified the Commission of the date the divestiture was completed on March 11, 2019, submitting complete Messer Divestiture Agreements consistent with Paragraph IX.A.2. of the Decision and Order.

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<sup>1</sup> [Redacted from Public Record Version].

**II. Respondents and Messer's Requested Amendments**

*[Redacted from Public Record Version]*.

Subject to the Commission's approval, Respondents and Messer have agreed to a *[Redacted from Public Record Version]*.

The requested amendments as outlined above are minor, in the commercial interests of the Parties, and consistent with the Decision and Order. *[Redacted from Public Record Version]*.

**III. Conclusion**

As described above, the Amended Agreement reflects only minor changes that *[Redacted from Public Record Version]*. These changes are unlikely under any plausible facts to affect achieving the remedial purposes of the divestiture of the Industrial Gases Assets. Accordingly, we request that the Commission's authorized delegates waive the requirement that this Application be approved, or else eliminate the comment period required for such approval, each as provided for under 16 C.F.R. § 2.41(f)(5)(ii).

**IV. Request for Confidential Treatment**

This Application and its attachments contain confidential and competitively sensitive business information relating to the Respondents and the divestiture of the Industrial Gases Assets. Disclosure of this information may prejudice the Respondents and Messer, cause harm to the ongoing competitiveness of the Industrial Gases Assets and impair the Respondents' ability to comply with their obligations under the Consent Agreement.

Pursuant to Section 4.2(d)(4) of the Commission's Rules of Practice and Procedure, 16 C.F.R. § 4.2(d)(4), the Respondents are submitting two versions of this Application. The confidential version contains nonpublic or commercially or competitively sensitive information. The public version redacts confidential information. Pursuant to Sections 2.41(f)(4) and 4.9(c) of

**Public Record Version**

the Commission's Rules of Practice and Procedure, 16 C.F.R. §§ 2.41(f)(4) and 4.9(c), the Respondents request, on their own behalf and on behalf of Messer, that the confidential version of this petition and its attachments and the information contained herein be accorded confidential treatment under all applicable statutes and regulations.

Dated: September 4, 2020

Respectfully submitted,



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**Schedule 1**

*[Redacted from Public Record Version]*

**Confidential Appendix 1**  
*[Redacted from Public Record Version]*

**Confidential Appendix 2**  
*[Redacted from Public Record Version]*