

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

v.

CIBA CORPORATION, GEIGY CHEMICAL
CORPORATION, CIBA LIMITED,
J. R. GEIGY S.A., and
GEIGY INTERNATIONAL A.G.

Defendants.

CIVIL ACTION

No. 70 Civ. 3078

FINAL JUDGMENT

Plaintiff, United States of America, having
filed its complaint herein on July 17, 1970, and de-
fendants having appeared and plaintiff and defendants
by their respective attorneys having consented to the
entry of this Final Judgment:

NOW, THEREFORE, before the taking of any testi-
mony and without trial or adjudication of any issue of
fact or law herein and without this Final Judgment con-
stituting any evidence or admission by any party hereto
with respect to any such issue, and upon consent of all
parties hereto, it is hereby,

ORDERED, ADJUDGED AND DECREED as follows:

I

This Court has jurisdiction of the subject matter
of this action. This Court has jurisdiction over defendants
CIBA Corporation and Geigy Chemical Corporation. Defend-
ants CIBA Limited, Geigy International A.G. and J. R. Geigy

S.A., while denying that this Court would have jurisdiction over them in the absence of their voluntary submission to its jurisdiction, appear generally and, solely for all purposes of this case, voluntarily submit to the jurisdiction of this Court and consent to the entry of this Final Judgment. The complaint states claims under which relief may be granted against defendants under Section 7 of the Act of Congress of October 15, 1914, as amended, entitled "An act to supplement existing laws against unlawful restraints and monopolies and for other purposes", commonly known as the Clayton Act.

II

As used in this Final Judgment:

(A) "CIBA" shall mean the defendant CIBA Corporation, a Delaware corporation;

(B) "Geigy" shall mean the defendant Geigy Chemical Corporation, a New York corporation;

(C) "CIBA-Geigy" shall mean the corporation or corporations formed by a merger of CIBA and Geigy, or CIBA and Geigy, respectively, in the event they do not merge or have not merged;

(D) "Merger" shall mean the merger referred to in (C) above or any merger of CIBA Limited and J. R. Geigy S.A.;

(E) "CIBA-Geigy (Basle)" shall mean CIBA Ltd., a corporation of Switzerland, J. R. Geigy S.A., a corporation of Switzerland, and any corporation or corporations formed as a result of a merger of said CIBA Ltd. and said J. R. Geigy S.A., and each of them;

(F) "Defendants" shall mean CIBA, Geigy, CIBA-Geigy, CIBA Limited, J. R. Geigy S.A., CIBA-Geigy (Basle) and Geigy International A.G. as may be applicable and shall mean "New Company" as hereinafter defined until sold pursuant to Section VI of this Final Judgment;

(G) "Domestic patents" shall mean United States Letters Patent (and all reissues, divisions and extensions thereof) and all applications for domestic patents, and patents issued thereon, owned or controlled by any defendant or TRC on March 19, 1970;

(H) "TRC" shall mean Toms River Chemical Corporation, a Delaware corporation;

(I) "New Company" shall mean the corporation formed by defendants as ordered in Section IV hereof and its successors, including any purchaser of its stock, business or assets pursuant to Section VI hereof;

(J) "Sale of New Company" shall mean the sale of all of the stock, or the business and related assets, of New Company as hereinafter required by Section VI hereof;

(K) "Eligible Purchaser" shall mean any one or more persons approved by plaintiff or this Court if plaintiff fails so to approve after notice to plaintiff and opportunity to be heard;

(L) "Person" shall mean an individual, partnership, association, firm, corporation or any other legal entity.

III

The provisions of this Final Judgment applicable to any defendant shall apply to such defendant, its officers, directors, agents, employees, subsidiaries, successors and assigns, and to those other persons in active concert or participation with any defendant who receive actual notice of this Final Judgment by personal service or otherwise. Any person not a defendant herein who acquires by purchase, grant, exchange or otherwise any assets pursuant to this Final Judgment shall not by such acquisition be considered to be a successor bound by this Final Judgment.

IV

Defendants are ordered and directed not later than sixty (60) days following the date of the Merger, as follows:

(A) Defendant CIBA-Geigy shall establish a new corporation (hereinafter referred to as New Company) and shall transfer, sell and assign to New Company the dyestuffs and detergent optical brightening agents businesses of CIBA as listed in Appendix A hereto in order to constitute New Company as a fully operative, viable, going business;

(B) Defendant CIBA-Geigy shall transfer to New Company, when formed, personnel theretofore engaged in the dyestuffs and optical brightening agents for the detergent and textile trades businesses of CIBA in the United States, such personnel to include salesmen, technicians, administrative

and other personnel to the extent necessary for New Company to be a fully operative, viable, going business, and shall grant to any such transferred personnel rights and benefits substantially similar to or better than those to which they would have been entitled had they remained CIBA employees. For three (3) years following the formation of New Company, defendants are enjoined and restrained from employing or offering to employ any of such transferred personnel except with the prior consent of plaintiff or this Court if plaintiff fails so to consent;

(C) Defendant CIBA-Geigy shall furnish to New Company, when formed, and continuing until the date of Sale of New Company, such supplementary accounting, data processing and other services (including computer time) as New Company may request, without retaining any information resulting from furnishing such services after Sale of New Company;

(D) Defendant CIBA-Geigy shall cause TRC to enter into a contract with New Company, when formed, to supply to it for a period, unless sooner terminated pursuant to Section IV(F) hereof, continuing (i) until ten (10) years from Sale of New Company unpatented dyestuffs which have been or will be manufactured by TRC for its customers during the period commencing on March 19, 1970, and ending ten (10) years from Sale of New Company, and (ii) until five (5) years from Sale of New Company, defendants' patented

dyestuffs which have been or will be manufactured by TRC during the period commencing on March 19, 1970, and ending five (5) years from Sale of New Company, all at prices and upon terms and conditions no less favorable to New Company than those of the contracts between TRC and its other customers on March 19, 1970, including the right to have patented products of New Company manufactured by TRC for New Company until ten (10) years after Sale of New Company;

(E) Defendants shall sell to New Company, when formed, or otherwise make available, under appropriate supply contracts as provided in Section V of this Final Judgment, for a period of five (5) years after Sale of New Company, any and all patented and unpatented dyestuffs not supplied to New Company by TRC pursuant to subsection (D) above and any and all types of textile auxiliary products sold in the United States by any defendant during said period at prices and upon terms and conditions as provided in Section V hereof. As used herein and in Appendix A hereto, the term "textile auxiliary products" means leveling agents, dispersing agents, wetting agents, coacivating agents, softeners, scouring agents, printing assistants and fixing agents used or useful in the process of dyeing textiles;

(F) Upon notice from New Company within five (5) years from date of Sale of New Company that it has a bona fide interest in producing in the

United States the types of dyestuffs manufactured by TRC, defendant CIBA-Geigy shall make available to New Company (i) such information technical or otherwise as may be required in order for New Company to decide whether so to produce such dyestuffs; and if within one (1) year thereafter New Company decides to so produce, then defendant CIBA-Geigy shall make available to New Company (ii) such technical information, design and engineering data which CIBA-Geigy or TRC has and which either at that time may lawfully disclose, as may be needed by New Company for the production of such dyestuffs or the construction of such a dyestuffs plant, and (iii) such manufacturing know-how and technical information which CIBA-Geigy or TRC has and which either at that time may lawfully disclose, as may be needed by New Company for the production of the unpatented dyestuffs then being produced by TRC;

Any and all information furnished hereunder shall be furnished and used only for such production of dyestuffs by or for New Company. In the event New Company decides not to produce dyestuffs after receipt of the information furnished pursuant to (i) above and/or in the event New Company does not produce dyestuffs after receipt of information furnished pursuant to (ii) and (iii) above, New Company shall keep all such information confidential and shall return all such information to CIBA-Geigy. In the event New Company constructs and

operates such a dyestuffs plant, or so produces dyestuffs, TRC's supply obligations under Section IV(D) hereof shall terminate one (1) year from the start-up of such plant or production.

New Company shall reimburse CIBA-Geigy for its costs and expenses in furnishing the above technical information, designs, engineering data and manufacturing know-how.

(G) Defendant CIBA-Geigy shall

(1) sell to, or procure for, New Company when formed and continuing for a period of three (3) years from the date of Sale of New Company under appropriate supply contracts at prices and upon terms and conditions as provided in Section V hereof all of the detergent optical brightening agents being sold in the United States by defendant CIBA on March 19, 1970, or the chemical compounds necessary for formulating any of such products; and

(2) sell to, or procure for, New Company when formed and continuing for a period of ten (10) years from the date of Sale of New Company under appropriate supply contracts at prices and upon terms and conditions as provided in Section V hereof all of the textile optical brightening agents being sold in the United States by defendant CIBA on March 19, 1970.

(H) Defendants shall grant to or obtain for New Company, when formed, an unrestricted, non-

exclusive license to make, have made, use and sell dyestuffs under any, some or all, as New Company may request, domestic patents relating to any dyestuffs manufactured in the United States on March 19, 1970, by or for CIBA or Geigy together with manufacturing and technical information relating thereto, provided, however,

(1) licensor shall not include any restriction whatsoever in any patent license granted to New Company pursuant to this subsection (H) except:

(a) a reasonable royalty may be charged and collected, which royalty shall be finally determined at the time of Sale of New Company pursuant to Section VI;

(b) reasonable provision may be made for periodic royalty reports by New Company and inspection of the relevant books and records of New Company by an independent auditor or other person acceptable to the licensor and New Company (or, in the absence of agreement, a person appointed by the Court), who shall report to the licensor defendant only the amount of the royalty due and payable;

(c) reasonable provision may be made for cancelation of the license upon failure of New Company to make the reports, pay the royalties, or permit the

inspection of its books and records as hereinabove provided;

(d) the license shall provide that New Company may cancel the license as to any, some or all specified patents at any time after one (1) year from the date of Sale of New Company pursuant to Section VI of this Final Judgment by giving thirty (30) days' notice in writing to the licensor.

(2) if such licensor and the purchaser of New Company are unable to agree upon reasonable royalties at the time of Sale of New Company, such purchaser or the licensor may, upon notice to plaintiff, apply to this Court for the determination of (1) reasonable royalties and (2) such reasonable interim royalties (pending the completion of any such proceeding) as the Court may deem appropriate. In any such proceeding, the burden of proof shall be upon such licensor to establish the reasonableness of the royalties requested by it. Pending the completion of negotiations or any such proceedings, such purchaser shall have the right to make, have made, use and sell under the patent or patents to which its patent license pertains, subject to the payment of reasonable interim royalties. A final Court determination of reasonable royalties shall be applicable to such purchaser

from the date of Sale of New Company. If such purchaser fails to accept a license, such purchaser shall pay any royalties found by the Court to be due to licensor and such costs as the Court may determine to be just and reasonable;

(3) nothing in this subsection (H) shall prevent the licensee from attacking, in the aforesaid proceedings or in any other controversy, the validity or scope of any patent or patents, nor shall this Final Judgment be construed as imputing any validity to any of said patents;

(4) no defendant shall make any sale or other disposition of any patent to which this subsection (H) may apply which deprives it of the power or authority to grant licenses in accordance with the provisions hereof, unless the purchaser, transferee or assignee shall file with this Court, prior to the consummation of said transaction, an undertaking to be bound by its provisions.

V

The supply contracts required by this Final Judgment shall be subject to termination by New Company at any time on nine (9) months' notice; shall be between New Company and CIBA-Geigy or, in the case of products not manufactured by CIBA-Geigy, may be between New Company and the manufacturer of such products; shall be on a nonexclusive basis; and shall not require any supplier to continue production of any product which, absent

this Final Judgment, it would otherwise discontinue. Sales pursuant to such contracts shall be at reasonable, non-discriminatory prices, terms and conditions, provided that (i) in the case of products supplied to CIBA-Geigy by CIBA-Geigy (Basle) or other third parties, the prices and terms and conditions of sales shall be no less favorable to New Company than those at or upon which such products are, from time to time, supplied to CIBA-Geigy, and (ii) in the case of products manufactured by CIBA-Geigy and sold to third parties, the prices and other terms and conditions of sale shall be no less favorable to New Company than those at or upon which such products are, from time to time, so sold to third parties on the same functional level as New Company. Subject as aforesaid, in the event the parties to any such contract shall be unable to agree on any price, term or provision thereof, the same shall be determined by arbitration within the standards set forth above.

VI

Defendant CIBA-Geigy is ordered and directed, within two (2) years following the date of the Merger, to sell all of the stock of New Company to an Eligible Purchaser, or business and related assets of New Company to a single Eligible Purchaser, provided that the detergent optical brightening agent business may be sold to another Eligible Purchaser.

VII

(A) Defendant CIBA-Geigy is ordered and directed, within two years from the date of the Merger,

to sell to a single Eligible Purchaser the following pharmaceutical assets (hereinafter referred to as Pharmaceutical Assets):

- (1) the following United States Letters Patents:
No. 2,700,671 (sulfipyrazone), No. 3,055,904 (chlorthalidone), No. 2,648,682 (acenocoumarol), No. 2,745,783 (oxyphenbutazone), No. 2,948,718 (carbamazepine) and No. 3,415,937 (clortermine hydrochloride); reserving, however, and subject to, a nonexclusive, royalty-free, license to CIBA-Geigy for the respective lives thereof to make, have made, use and sell the products, and to practice the methods, covered by all of the claims of such patents;
- (2) the following United States trademarks:
"Hygroton", Registration No. 437,263, and
"Regroton", Registration No. 748,677;
- (3) (a) All of CIBA-Geigy's right, title, interest and privileges with respect to the "FDA materials" (hereinafter defined) relating to all of the pharmaceutical products listed in paragraphs (1) and (3) of Appendix B hereto, so that such FDA materials shall be the sole property of and controlled exclusively by such Eligible Purchaser, together with copies of all such materials and all necessary authorizations or approvals for the development, manufacture, sale or distribution of all of such pharmaceutical products, subject, however, to a continuing right of CIBA-Geigy to use, have access to, refer to

and authorize the FDA to refer to such FDA materials in connection with the development, manufacture, sale or distribution of pharmaceutical products by CIBA-Geigy;

The term "FDA materials" as used herein means all applications, notices, data and information relating to all of the pharmaceutical products listed in Appendix B hereto and filed (and any relevant information available but not filed) before the date of the Merger by CIBA-Geigy with the United States Food and Drug Administration. "FDA materials" concerning the Geigy owned pharmaceutical products specifically identified as Hygroton and Regroton in paragraph (1) of Appendix B hereto shall also include applications, notices, data and information filed by Geigy or available but not filed for a period of five (5) years following the date of the Merger.

(b) The right to use, have access to, refer to and authorize the FDA to refer to the FDA materials (as above defined) relating to the licensed pharmaceutical product described in paragraph (2) of Appendix B hereto, in connection with the development, manufacture, sale or distribution thereof by the purchaser, together with copies of all such materials and all necessary authorizations or approvals

as such purchaser may request;

- (4) manufacturing know-how, technical information and customer lists and sales records with respect to the pharmaceutical products described in Appendix B hereto, and information regarding their manufacture, use and application, to the extent that CIBA-Geigy now has or shall have after the Merger the right to do so;

(B) Defendants are ordered and directed to sell to the purchaser of the Pharmaceutical Assets, or procure for such purchaser, under appropriate supply contracts and at prices and upon terms and conditions as provided in Section V hereof, the active ingredients for or formulations of all of the pharmaceutical products described in Appendix B hereto. Such obligation shall continue for five (5) years from the date of the sale of the Pharmaceutical Assets. Each such supply contract shall be subject to termination by the purchaser at any time on nine (9) months' notice and shall obligate the manufacturer of such products to continue deliveries notwithstanding that it might otherwise discontinue production;

(C) (1) At the time of the sale of the Pharmaceutical Assets, CIBA-Geigy is ordered and directed to grant to the purchaser thereof an option to purchase the Geigy plant at Cranston, Rhode Island, described in Appendix C hereto. Such option shall be exercisable

at any time during the period of four (4) years from the date of sale of the Pharmaceutical Assets upon at least eighteen (18) months' notice prior to the expiration of the option. In the event such option shall be exercised, the transfer of the Geigy Cranston plant pursuant thereto need not include any manufacturing know-how, technical information or patent rights with respect to any product or patents not otherwise covered by this Final Judgment other than patents on machinery and equipment incorporated in said plant. In the event CIBA-Geigy and the purchaser cannot agree upon the price, terms or conditions for the sale of the Geigy Cranston plant, the same shall be determined by arbitration on a fair and reasonable basis;

(2) In the event said option shall be exercised, CIBA-Geigy is ordered and directed to make available for selection and employment by the purchaser personnel theretofore engaged in the operation and management of said plant to the extent requested by the purchaser, on condition that the purchaser offers to such personnel employee rights and benefits substantially similar to or better than those to which they would have been entitled as CIBA-Geigy employees. For three (3) years following the employment of any such personnel by the purchaser, defendants are enjoined and restrained from employing any of such transferred personnel except with the prior consent of plaintiff or this Court if the plaintiff fails so to consent;

(3) Pending the exercise or expiration of said option, CIBA-Geigy and the purchaser of the Pharmaceutical Assets shall have co-manufacturing rights at said Geigy Cranston plant with respect to such of the Geigy pharmaceutical products as shall have been manufactured at said plant on March 19, 1970. Such co-manufacturing rights shall entitle such purchaser to have its requirements of the respective products manufactured at said plant. In the event CIBA-Geigy and said purchaser shall be unable to agree upon the price, terms or conditions of such co-manufacturing rights, the same shall be determined by arbitration on a fair and reasonable basis.

(D) Upon request by the purchaser of the Pharmaceutical Assets, CIBA-Geigy is ordered and directed to provide to such purchaser co-manufacturing rights at the Geigy pharmaceutical formulation plant at Suffern, New York, with respect to all of the pharmaceutical products described in Appendix B hereto, for a period of five (5) years following purchase of such Pharmaceutical Assets. Such co-manufacturing rights shall entitle such purchaser to have said products formulated at said plant and shall be subject to termination by the purchaser at any time on six months' notice. In the event CIBA-Geigy and said purchaser shall be unable to agree upon the price, terms or conditions of such co-manufacturing rights, the same shall be determined by arbitration on a fair and reasonable basis.

(E) The purchaser of the Pharmaceutical Assets shall have the right to select and employ up to 50% of the

personnel to be equitably selected in each job classification and rating engaged in the marketing of Geigy pharmaceutical products in each marketing district in the United States at the time of such purchase on condition that such purchaser offers to such personnel employee rights and benefits substantially similar to or better than those to which they would have been entitled as CIBA-Geigy employees. For three (3) years following the employment of any such personnel by the purchaser, defendants are enjoined and restrained from employing any of such transferred personnel, except with the prior consent of plaintiff or this Court if the plaintiff fails so to consent.

VIII

(A) CIBA-Geigy is ordered and directed, within two (2) years from the date of the Merger, to grant to a single Eligible Purchaser rights and licenses with respect to the CIBA agrochemical products described in Appendix D hereto ("CIBA agrochemical products"), as follows:

(1) an unrestricted and nonexclusive license, under any, some or all, as the Eligible Purchaser may request, of the patents referred to in said Appendix D (including patents which may be issued on patent applications referred to in said Appendix), to make, have made, use and sell CIBA agrochemical products, and to practice the methods, covered by the claims of said patents. Any such patent license shall be subject to all of the provisions of subsection (H) of Section IV of this Final Judgment with appropriate substitutions so that said provisions shall apply to the aforesaid license;

(2) manufacturing know-how and technical information with respect to CIBA agrochemical products and information regarding their use and application; and

(3) a nonexclusive right to use, have access to and refer to, materials filed by CIBA prior to the date of the Merger with the U.S. Food and Drug Administration and the U.S. Department of Agriculture and any relevant information available but not filed relating to any of the CIBA agrochemical products. CIBA-Geigy shall authorize specific reference by departments or agencies of the Federal Government to such materials and any label registrations issuing thereon as such purchaser may request in connection with the development, manufacture, sale or distribution of the above-mentioned products.

(B) Defendants are ordered and directed, upon written request of the purchaser of the CIBA agrochemical products, to sell to, or procure for, such purchaser said products or the chemical compounds necessary for formulating the same, under appropriate supply contracts and at prices and upon terms and conditions as provided in Section V hereof. Any such supply contract shall be for a period of three years from the date of the grant referred to in subsection (A) of this Section VIII;

(C) CIBA-Geigy is ordered and directed to furnish upon request to such purchaser copies of CIBA's customer lists and sales records relating to the sale of CIBA agrochemical products;

(D) CIBA-Geigy shall make available for employment by such purchaser personnel engaged in the marketing of CIBA agrochemical products in the United States to the extent requested by the purchaser, on condition that purchaser offers such personnel, employee rights and benefits substantially similar to or better than those to which they would have been entitled as CIBA-Geigy employees. For three (3) years following the employment of any such personnel by the purchaser, defendants are enjoined and restrained from employing any of such transferred personnel, except with the prior consent of plaintiff or this Court if plaintiff fails so to consent.

(E) At the time of the grant referred to in subsection (A) of this Section VIII, CIBA-Geigy is ordered and directed to grant to the purchaser an option to purchase the CIBA agrochemical testing facilities at Vero Beach, Florida, as described in Appendix E hereto. Such option shall be exercisable at any time within two (2) years from the date of the grant upon at least six (6) months' notice prior to the expiration of the option. In the event CIBA-Geigy and the purchaser cannot agree upon the price, terms or conditions for the purchase of said facilities, the same shall be determined by arbitration on a fair and reasonable basis.

IX

If CIBA-Geigy shall not have sold or otherwise disposed of any of the assets to be sold or disposed of pursuant to Sections VI, VII and VIII hereof within two (2) years from the date of the merger or

any extension of said period pursuant to Section XVIII hereof, at any time thereafter, upon reasonable notice to CIBA-Geigy and opportunity to be heard, plaintiff may move this Court for an order requiring a trustee to be appointed by this Court, at the cost and expense of CIBA-Geigy, to sell such assets to an Eligible Purchaser at the best offer obtainable at a public or private sale, as this Court shall determine, provided that if any such sale requires registration under the Securities Act of 1933, as amended, the cost of such registration shall be borne by the purchaser.

X

All sales pursuant to this Final Judgment shall be made in good faith and shall be absolute and unqualified; provided, however, that if any assets sold or transferred are not simultaneously paid for in full, nothing herein shall prohibit CIBA-Geigy from retaining, accepting and enforcing a bona fide lien, mortgage, deed of trust or other form of security other than voting stock on such assets for the purpose of securing to CIBA-Geigy full payment of the price at which such assets are sold; and provided further that if, after bona fide disposal pursuant to this Final Judgment, CIBA-Geigy by enforcement or settlement of a bona fide lien, mortgage, deed of trust or other form of security regains ownership or control of any such assets, CIBA-Geigy shall, subject to the provisions of this Final Judgment, dispose of any such assets thus regained within two years from the time of reacquisition.

XI

None of the assets to be sold or otherwise disposed of pursuant to this Final Judgment shall be directly or indirectly sold or otherwise disposed of to any person, other than an Eligible Purchaser, who at that time is an officer, director or employee of any defendant or any of its subsidiaries or affiliates, or is acting for or under the control of any of them, or in which they or any of them own or control beneficially more than one percent of the voting securities (including securities convertible into voting securities).

XII

Until the sale or disposition of any asset required by this Final Judgment is accomplished, defendants shall not knowingly take any action which impairs the value of such asset or defendants' ability to accomplish such sale or disposition.

XIII

(A) Whenever CIBA-Geigy is required to furnish manufacturing know-how and technical information to an Eligible Purchaser with respect to any product or its use or application, such know-how and information shall include (i) all manufacturing know-how and technical information which CIBA-Geigy has and which it may at that time lawfully disclose for use in the manufacture of such product, and (ii) such additional technical information relating to the use and application of such product as CIBA-Geigy then furnishes to

its customers in the United States.

(B) As a condition to furnishing any manufacturing know-how or technical information, CIBA-Geigy may require the Eligible Purchaser to whom it is furnished to agree in writing to use such technical information only in connection with the production of such products in the United States by or for the Eligible Purchaser.

(C) Except as in this Final Judgment expressly provided or as provided by law, no license or right under any patent or to use any trademark or company or trade name with respect to any product shall be granted or, implied in connection with any transaction pursuant hereto.

XIV

Nothing contained in this Final Judgment shall be deemed:

(A) to prohibit any person from

(1) performing any act in any foreign country which is required of it under the law of such foreign country, or

(2) refraining from any act in any foreign country which would be illegal under the law of such foreign country; or

(B) to require any person to accept employment with New Company or an Eligible Purchaser if he shall be unwilling to do so.

XV

Any sale or other disposition of any asset required by this Final Judgment to be made to an Eligible Purchaser other than a single Eligible Purchaser, may be made to two or

more eligible Purchasers if approved by plaintiff or this Court if plaintiff fails so to approve after notice to plaintiff and opportunity to be heard.

XVI

Any matters to be determined by arbitration pursuant to this Final Judgment shall be determined, upon notice to the plaintiff, under the provisions of Articles 75 and 76 of the New York Civil Practice Law and Rules in accordance with the rules then obtaining of the American Arbitration Association, and in the event of such arbitration the periods of time provided herein concerning the duration of the rights and obligations of the parties to the matters being arbitrated shall be extended for a period of time equalling the period required for such arbitration.

XVII

Except as to matters to be arbitrated pursuant to this Final Judgment, any disagreement as to the prices, terms or conditions of any transaction under this Final Judgment shall be determined by this Court upon written application of either party to the transaction and after notice to the plaintiff. Pending the completion of any such proceeding, this Court may determine interim terms, which may be adjusted retroactively at the time of the final determination. In any such proceeding the burden of proof shall be upon the defendant to establish that any price, term or condition requested by it conforms to the requirements of this Final Judgment. In the event of any proceeding con-

cerning the prices, terms or conditions in contracts of supply as required herein, the periods provided herein concerning the duration of such contracts shall be extended for a period of time equalling that from when an application is made and this Court determines interim terms.

XVIII

(A) Following the entry of this Final Judgment, CIBA-Geigy shall render reports quarter-annually to the Assistant Attorney General in charge of the Anti-trust Division, outlining in reasonable detail the efforts made by CIBA-Geigy to comply with the provisions of Sections IV, VI, VII and VIII of this Final Judgment. Such reports shall be deemed confidential and shall not be disclosed to others than members of the staff of the Department of Justice, except upon order of this Court or in any proceeding arising out of this Final Judgment.

(B) The complete details of any contemplated sale or other disposition of any assets required by this Final Judgment shall be submitted to plaintiff by CIBA-Geigy. Following the receipt of such information, plaintiff shall have sixty (60) days in which to object thereto by written notice to CIBA-Geigy. If plaintiff does not object, the transaction may be consummated, but if there is objection by the plaintiff, the transaction shall not be consummated until CIBA-Geigy obtains the approval of this Court or until plaintiff withdraws its objection; provided, however, that in case plaintiff objects, the period set forth herein

within which the assets in question must be sold or otherwise disposed of shall be extended by agreement with plaintiff, and if the parties cannot agree, the period of extension shall be determined by this Court after notice to plaintiff and opportunity to be heard.

XIX

For a period of five (5) years after the date of entry of this Final Judgment, the Defendants are enjoined and restrained from acquiring directly or indirectly any other person engaged in the United States in any of the same lines of commerce as CIBA-Geigy, except upon fifteen (15) days' prior notice to the plaintiff. If within such fifteen (15) day period plaintiff requests information authorized by the Antitrust Civil Process Act relating to the proposed transaction, then such transaction shall not be consummated prior to the expiration of sixty (60) days following the submission to the plaintiff of such information.

XX

(A) For the purpose of securing compliance with this Final Judgment, and for no other purpose duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to CIBA-Geigy, made to its principal office, and subject to any legally recognized privilege, be permitted:

(1) access during regular office hours to all books, ledgers, accounts, correspondence,

memoranda and other records and documents in the possession or under the control of CIBA-Geigy relating to any matter contained in this Final Judgment; and

(2) subject to the reasonable convenience of CIBA-Geigy, and without restraint or interference from it, to interview officers or employees of CIBA-Geigy, who may have counsel present, regarding any such matters.

(B) Upon such written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, CIBA-Geigy shall submit such reports in writing with respect to the matters contained in this Final Judgment as from time to time may be requested.

(C) No information obtained by the means provided in this Section XX shall be divulged by any representative of the Department of Justice, to any person other than a duly authorized representative of the Executive Branch of plaintiff, except in the course of legal proceedings to which the United States of America is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

XXI

Jurisdiction is retained for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for construction, carrying out, modification, termination or enforcement of or compliance with the provisions of

this Final Judgment and for the punishment of violations thereof.

United States District Judge

APPENDIX A

CIBA Dyestuff Assets

(1) Inventories of dyestuffs wherever located owned by CIBA at the date of transfer to the New Company.

(2) Inventories of textile auxiliary products wherever located owned by CIBA at the date of transfer to the New Company.

(3) Central headquarters and main office buildings and facilities held by CIBA under lease, located on Route 208, Fair Lawn, New Jersey, comprising office buildings, laboratories, warehouse and mixing facilities (approximately 61,000 sq. ft.), including the relevant machinery and equipment located in these premises.

(4) Branch offices and facilities, including the relevant machinery and equipment located in these premises, as follows:

(a) Dalton, Georgia, 1815 South Hamilton Avenue, comprising buildings (approximately 16,000 sq. ft.) and land (approximately five acres) owned by CIBA, in fee;

(b) Charlotte, North Carolina, 3001 North Graham Street, comprising buildings (approximately 95,000 sq. ft.) and land (approximately 18 acres) owned by CIBA, in fee;

(c) Philadelphia, Pennsylvania, 4241 North Second Street, comprising buildings (approximately 10,000 sq. ft.) held by CIBA under lease;

(d) Rumford, Rhode Island, 331 North Broadway, comprising buildings (approximately 15,000 sq. ft.) held by CIBA under lease;

(e) City of Commerce, California, 6279 East Slauson Avenue, comprising buildings (approximately 2,000 sq. ft.) held by CIBA under lease; and

(f) Skokie, Illinois, 7535 Lincoln Avenue, comprising buildings (approximately 12,000 sq. ft.) held by CIBA under lease.

(5) Dyestuffs accounts receivable and customer orders in process and customer contracts held by CIBA as at the date of the transfer to the New Company.

(6) Originals and all copies (retaining none) of books, records and customer and statistical data relevant to the dyestuffs business being transferred.

CIBA Detergent Optical Brightening Agents

The CIBA detergent optical brightening agents known as Uvitex SOF and Uvitex SK and related assets, as follows:

(1) the unrestricted transfer of United States patents No. 2,995,564, and No. 2,842,545 and any United States patents that may issue on application No. 3567-S-CIP3, reserving, however, a nonexclusive royalty-free license to manufacture, use and sell the textile optical brightening agents Uvitex EBF and Uvitex ERN;

(2) a nonexclusive royalty-free license under United States patents No. 2,995,605, No. 3,076,812, and No. 3,095,421;

(3) the exclusive right to use the United States trademark "Uvitex" in combination with the letters "SOF" and "SK";

(4) manufacturing know-how and technical information with respect to Uvitex SOF and Uvitex SK and regarding their use and application;

(5) detergent optical brightening agents accounts receivable and customer orders in process and customer contracts held by CIBA as at the date of the transfer to the New Company; and

(6) originals and all copies (retaining none) of books, records and customer and statistical data relevant to the detergent optical brightening agents business being transferred.

APPENDIX B

Pharmaceutical Products

(1) Geigy Owned Pharmaceutical Products

<u>Generic Name</u>	<u>Trademark</u>
Sulfinpyrazone	Anturane
Phenylbutazone	Butazolidin
Combination of phenylbutazone, aluminum hydroxide and magnesium trisilicate	Butazolidin alka
Crotamiton	Eurax
Chlorthalidone	Hygroton
Heptabarbital	Medomin
Combination of chlorthalidone and reserpine	Regroton
Acenocoumarol	Sintrom
Combination of phenylbutazone, prednisone, aluminum hydroxide and magnesium trisilicate	Sterazolidin
Chlorquinaldol	Sterosan
Combination of chlorquinaldol and hydrocortisone	Sterosan-hydro- cortisone
Oxyphenbutazone	Tandearil
Carbamazepine	Tegretol
Imipramine hydrochloride	Tofranil

(2) Licensed Pharmaceutical Product

Desipramine hydrochloride*	Pertofrane
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(3) CIBA Owned Pharmaceutical Product

Clortermine hydrochloride	Voranil
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* Under license from Colgate-Palmolive Company.

APPENDIX C

Geigy Cranston Plant

(1) The site comprising approximately 40 acres of land owned by Geigy in fee in the cities of Cranston and Warwick, Rhode Island, together with the buildings located thereon, which include production facilities (approximately 141,000 sq. ft.), pilot plants (approximately 23,000 sq. ft.), laboratories (approximately 30,000 sq. ft.), office facilities (approximately 11,000 sq. ft.), and other supporting facilities, including shipping and receiving, locker room and cafeteria, warehouse, etc. (approximately 169,000 sq. ft.). A portion of the site is comprised of private dwellings purchased by Geigy for expansion purposes which have not yet been converted to industrial use.

(2) Machinery and equipment owned by Geigy and located on the site described above.

APPENDIX D

CIBA Agrochemical Products

<u>Generic Name</u>	<u>Number of Relevant U.S. Patent or Application</u>
Chloroxuron	Patent No. 3,060,235
Flurodifen	Patents Nos. 3,420,892 and 3,322,525
Fluometuron	Patent No. 3,134,665
Metobromuron	Patents Nos. 3,223,721 (in interference) and 3,288,851
Chlorbromuron	Patent No. 3,497,541 and Application No. 4826- E-CIP/10/DIV
Chlorphenamidine	Patents Nos. 3,284,289 and 3,487,156 and Application No. 5,041-E-DIV/CIP/Cont.

APPENDIX E

CIBA Agrochemical Testing Facilities at Vero Beach, Florida

(1) The site comprising approximately 168 acres of land owned by CIBA in fee located on North Winter Beach Road and Kings Highway, Vero Beach, Florida, together with the buildings located thereon. Such buildings, which together occupy approximately five acres, include a main building containing offices, laboratories and accessory sample storage and preparation facilities (approximately 10,000 sq. ft.); four greenhouses (approximately 4,000 sq. ft.); three storage buildings for machinery, pesticides and solvents, respectively (approximately 6,000 sq. ft., total); a pilot plant formulation building and a three bedroom guesthouse. Of the remaining 163 acres, approximately 75 acres are occupied by experimental field plots, approximately 50 acres are occupied by animal experimental pastures, and approximately 38 acres are held in reserve for future expansion. There are two irrigation ponds (approximately two surface acres each), 2 artesian wells and an irrigation system covering the experimental field plots.

(2) Machinery and equipment owned by CIBA and located on the site described above.