



Department of Justice

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ARCHER DANIELS MIDLAND CO. TO PLEAD GUILTY AND PAY \$100 MILLION FOR ROLE IN TWO INTERNATIONAL PRICE-FIXING CONSPIRACIES

Largest Criminal Antitrust Fine Ever

WASHINGTON, D.C. -- Archer Daniels Midland Co. today has agreed to plead guilty and pay a \$100 million criminal fine--the largest criminal antitrust fine ever--for its role in two international conspiracies to fix prices to eliminate competition and allocate sales in the lysine and citric acid markets worldwide, the Department of Justice announced today.

"This \$100 million criminal fine should send a message to the entire world," said Attorney General Janet Reno. "If you engage in collusive behavior that robs U.S. consumers, there will be vigorous investigation and tough, tough penalties."

The Department said that feed companies, large poultry and swine producers--and ultimately farmers--paid millions more to buy the lysine additive. Also, the Department said that manufacturers of soft drinks, processed foods, detergents, and others, paid millions more to buy the citric acid additive, which ultimately caused consumers to pay more for those products.

Today's charges arose in connection with extensive investigations into illegal, collusive practices by the producers of lysine and citric acid being conducted by the Chicago and San

Francisco Field Offices of the Antitrust Division, the office of United States Attorney James B. Burns in Chicago, and the Federal Bureau of Investigation in Springfield, Illinois and San Francisco, California.

Lysine is an amino acid used by farmers as a feed additive to ensure the proper growth of livestock. It is a \$600 million a year industry worldwide. Citric acid is a flavor additive and preservative produced from various sugars. It is found in soft drinks, processed food, detergents, pharmaceutical and cosmetic products. Citric acid is a \$1.2 billion a year industry worldwide.

These are the Department's second round of charges brought as a result of its ongoing antitrust investigation into the food and feed additives industries. In August, two Japanese and one U.S.-based Korean subsidiary and their executives agreed to pay more than \$20 million in criminal fines for their participation in the lysine conspiracy.

"These fines should signal to corporations throughout the world that they had better take a hard look at their own behavior," said Joel I. Klein, Acting Assistant Attorney General in charge of the Antitrust Division. "We have reason to believe that international cartels are by no means rare. We will vigorously pursue such violations on our own as well as in cooperation with law enforcement authorities in other countries."

The two-count felony criminal information against ADM was filed in U.S. District Court in Chicago. ADM has authorized the

government to disclose the basic terms of the plea agreement pursuant to which these charges were filed. The plea agreement must be accepted by the court. As part of its plea agreement, ADM has agreed to cooperate in the ongoing government investigations.

"Two of the ADM executives receive no protection from prosecution under this plea agreement," said Gary R. Spratling, the Antitrust Division's Deputy Assistant Attorney General for Criminal Enforcement. "The Department's investigation is continuing."

The felony case charges that ADM conspired with the three previously charged companies--Ajinomoto Co. Inc., Kyowa Hakko Kogyo Co. Ltd., Sewon America Inc.--and other unnamed corporate and individual co-conspirators, to suppress and eliminate competition in the lysine market from June 1992 through June 27, 1995 in violation of the Sherman Antitrust Act. ADM produces lysine at its plant in Decatur, Illinois.

The case also charges ADM with conspiring with others to suppress and eliminate competition in the citric acid market from January 1993 through June 27, 1995. ADM produces citric acid at its plant in Southport, North Carolina.

"Customers in the citric acid and lysine markets were robbed of their ability to bargain for the best price. Higher prices for those products translated into higher prices for American consumers. Today's action ensures that these markets will be competitive," said James B. Burns, U.S. Attorney for the Northern District of Illinois.

The felony case charges that ADM met separately with their co-conspirators in the lysine and citric acid markets to set the prices and allocate the sales volumes of those products.

The two-count felony information charges that ADM:

- Agreed to charge lysine and citric acid prices at certain levels and to increase those prices accordingly.
- Agreed to allocate among the corporate conspirators the volume of lysine and citric acid to be sold by each.
- Issued price announcements and price quotations in accordance with the agreements.
- Participated in meetings and conversations for the purpose of monitoring and enforcing adherence to the agreed-upon prices and sales volumes.

"This \$100 million penalty--the largest ever criminal antitrust fine--should put price fixers around the world on alert, if you engage in criminal collusive behavior, you will pay a high price for your illegal actions," said Klein.

The companies and individuals charged in the lysine conspiracy last month were:

- Ajinomoto Co. Inc. of Tokyo, Japan, and its former General Manager of the Feed Additives Division and current Associate General Manager of the International Division, Kanji Mimoto. Mimoto lives in Japan.
- Kyowa Hakko Kogyo Co. Ltd. of Tokyo, Japan, and its former General Manager of the Agricultural Products Department and current General Manager of the Food Division, Masaru Yamamoto. Yamamoto lives in Japan.
- Sewon America Inc., located in Paramus, New Jersey, and its President, Jhom Su Kim. Sewon America is a subsidiary of Sewon Company Ltd., located in Seoul, South Korea. Kim is from Korea and currently lives in New Jersey.

The corporate defendants previously charged agreed to cooperate fully with the ongoing investigation by providing

documents and witnesses who will be available to testify in the United States. Each of the individual defendants also agreed to cooperate with the investigation, including giving testimony in the United States. The corporate and individual defendants have begun their cooperation with the government's ongoing investigation and have provided valuable information, the Department said.

"The pleas and cooperation of the six defendants charged last month in the lysine conspiracy were highly significant in advancing the Department's investigation, which resulted in ADM's guilty plea," said Spratling.

ADM is charged with violating Section 1 of the Sherman Act, which carries a maximum fine of \$10 million for corporations. The fine may be increased to twice the gain derived from the crime by the defendant or twice the loss suffered by the victims of the crime, if either of those amounts is greater than the statutory maximum fine of \$10 million for corporations. The court will determine the appropriate sentence to be imposed under the United States Sentencing Guidelines.

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