IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	)	
	)	Criminal No. 99-244
v.	)	
	)	Filed: 05/04/99
SGL CARBON AKTIENGESELLSCHAFT and ROBERT J. KOEHLER,	)	
	)	
	)	Violation: 15 U.S.C. § 1
Defendant.	)	

INFORMATION

The United States of America, acting through its attorneys, charges:

I

DESCRIPTION OF THE OFFENSE

1. SGL Carbon Aktiengesellschaft (hereinafter SGL AG) and Robert J. Koehler, are made defendants on the charge stated below.

2. Beginning at least as early as July 1992 and continuing until at least June 1997, the exact dates being unknown to the United States, the defendants SGL AG and Robert J. Koehler and co-conspirators entered into and participated in a combination and conspiracy to suppress and eliminate competition by fixing the price and allocating the volume of graphite electrodes sold in the United States and elsewhere. The combination and conspiracy engaged in by the defendants and co-conspirators was in unreasonable restraint of interstate and foreign trade and commerce in violation of Section 1

of the Sherman Act (15 U.S.C. § 1).

3. The charged combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among the defendants and co-conspirators, the substantial terms of which were:

(a) to agree to fix and maintain prices and to coordinate price increases for the sale of graphite electrodes in the United States and elsewhere; and

(b) to agree to allocate among the corporate conspirators the volume of sales of graphite electrodes in the United States and elsewhere.

4. For the purpose of forming and carrying out the charged combination and conspiracy, the defendants and co-conspirators did those things that they combined and conspired to do, including, among other things:

(a) participating in meetings and conversations in the Far East, Europe, and the United States to discuss the prices and volume of graphite electrodes sold in the United States and elsewhere;

(b) agreeing, during those meetings and conversations, to charge prices at certain levels and otherwise to increase and maintain prices of graphite electrodes sold in the United States and elsewhere;

(c) agreeing, during those meetings and conversations, to eliminate discounts from the fixed price of graphite electrodes offered to customers in the United States and elsewhere;

(d) agreeing, during those meetings and conversations, to allocate among the corporate conspirators the approximate volume of graphite electrodes to be sold by each corporate conspirator in the United States and elsewhere;

(e) agreeing, during those meetings and conversations, to divide the world market among themselves and to designate on a region-by-region basis, including the United States, the conspirator who would fix the price that others would follow in that region;

(f) agreeing, during those meetings and conversations, to restrict graphite electrode producing capacity among the corporate conspirators;

(g) agreeing, during those meetings and conversations, to restrict non-conspirator companies' access to certain graphite electrode manufacturing technology;

(h) discussing, during those meetings and conversations, methods to conceal the agreement, including the use of code names by the corporate conspirators;

(i) exchanging sales and customer information for the purpose of monitoring and enforcing adherence to the above-described agreement; and

(j) issuing price announcements and price quotations in accordance with the agreements reached.

II

BACKGROUND

5. Graphite electrodes are large columns used primarily in the production of steel in electric arc furnaces, the steel-making technology used by all "mini-mills," and for refining steel in ladle furnaces. As conductors of electricity, graphite electrodes generate sufficient heat to melt steel scrap and further refine molten steel into a finished product. Nine electrodes, joined in columns of three each, are used in the average electric arc furnace to melt scrap steel. Because of the intensity of the melting process, approximately one electrode is consumed every eight hours.

6. Total sales of graphite electrodes in the United States are estimated at approximately $500 million for 1996 and approximately $1.7 billion during the term of the charged conspiracy.

III

DEFENDANTS AND CO-CONSPIRATORS

7. During the period covered by this Information, SGL AG was a

corporation organized and existing under the laws of Germany with its principal place of business in Wiesbaden, Germany. During the relevant period, SGL AG was engaged in the sale of graphite electrodes to customers in the United States and in foreign countries through its subsidiaries. During the period covered by this Information, Robert J. Koehler was engaged in the business of selling graphite electrodes to customers in the United States and foreign countries in his capacity as Chief Executive Officer and Chairman of the Executive Committee of SGL AG.

8. Various corporations and individuals not made defendants herein participated as co-conspirators in the offense charged herein and performed acts and made statements in furtherance thereof.

9. Wherever in this Information reference is made to any act, deed, or transaction of a corporation, the allegation means that the corporation engaged in the act, deed, or transaction by or through its officers, directors, agents, employees, or representatives while they were actively engaged in the management, direction, control, or transaction of its business or affairs.

IV

TRADE AND COMMERCE

10. During the period covered by this Information, the defendants and co-conspirators sold a substantial quantity of graphite electrodes in a continuous and uninterrupted flow of interstate and foreign trade and commerce to

customers located in states or countries other than the states or countries in which the graphite electrodes were produced.

11. During the period covered by this Information, the activities of the defendants and co-conspirators that are the subject of this Information were within the flow of, and substantially affected, interstate and foreign trade and commerce.

V

JURISDICTION AND VENUE

12. The combination and conspiracy charged in this Information was carried out, in part, within the Eastern District of Pennsylvania within the five years preceding the filing of this Information.

ALL IN VIOLATION OF TITLE 15, UNITED STATES CODE, SECTION 1.

Dated:

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