IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	)	
	)	Criminal No. 03-652
v.	)	
	)	Filed: October 24, 2003
BJORN SJAASTAD,	)	
	)	Violation: 15 U.S.C. § 1
Defendant.	)	
	)	

PLEA AGREEMENT

The United States of America and Bjorn Sjaastad ("defendant") hereby enter into the following Plea Agreement pursuant to Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure ("Fed. R. Crim. P."):

RIGHTS OF DEFENDANT

1. The defendant understands his rights:

(a) to be represented by an attorney;

(b) to be charged by Indictment;

(c) as a citizen and resident of Norway, to decline to accept service of the Summons in this case, and to contest the jurisdiction of the United States to prosecute this case against him in the United States District Court for the Eastern District of Pennsylvania;

(d) to plead not guilty to any criminal charge brought against him;

(e) to have a trial by jury, at which he would be presumed not guilty of the charge and the United States would have to prove every essential element of the charged offense beyond a reasonable doubt for him to be found guilty;

(f) to confront and cross-examine witnesses against him and to subpoena witnesses in his defense at trial;

(g) not to be compelled to incriminate himself;

(h) to appeal his conviction, if he is found guilty at trial; and

(i) to appeal the imposition of sentence against him.

AGREEMENT TO PLEAD
GUILTY AND WAIVE CERTAIN RIGHTS

2. The defendant waives the rights set out in Paragraph 1(b)-(h) above, including all jurisdictional defenses to the prosecution of this case, and agrees voluntarily to consent to the jurisdiction of the United States to prosecute this case against him in the United States District Court for the Eastern District of Pennsylvania. The defendant also waives the right to appeal the imposition of the sentence against him, so long as the sentence imposed is consistent with the recommended sentence contained in Paragraph 8 of this Plea Agreement. Further, pursuant to Fed. R. Crim. P. 7(b), the defendant will waive indictment and plead guilty at arraignment to a one-count Information to be filed in the United States District Court for the Eastern District of Pennsylvania. The Information will charge the defendant with participating in a conspiracy to suppress and eliminate competition by allocating customers, rigging bids and fixing prices for contracts of affreightment for parcel tanker shipping of products to and from the United States and elsewhere beginning at least as early as August 1998 and continuing until as late as November 2002, in violation of the Sherman Antitrust Act, 15 U.S.C. § 1.

3. The defendant, pursuant to the terms of this Plea Agreement, will plead guilty to the criminal charge described in Paragraph 2 above and will make a factual admission of guilt to the Court in accordance with Fed. R. Crim. P. 11, as set forth in Paragraph

4 below. The United States agrees that at the arraignment, it will stipulate to the release of the defendant on his personal recognizance, pursuant to 18 U.S.C. § 3142, pending the sentencing hearing in this case.

FACTUAL BASIS FOR OFFENSE CHARGED

4. Had this case gone to trial, the United States would have presented evidence to prove the following facts:

(a) For purposes of this Plea Agreement, the "relevant period" is that period beginning at least as early as August 1998 and continuing until as late as November 2002. During the relevant period, the defendant was the President and Chief Executive Officer of Odfjell ASA (hereinafter "Odfjell"), a corporation organized and existing under the laws of Norway with its principal place of business in Bergen, Norway. During the relevant period, defendant also was Chairman of Odfjell's wholly-owned subsidiary, Odfjell Seachem AS. Through Odfjell Seachem AS, Odfjell was a provider of parcel tanker shipping services and was engaged in parcel tanker shipping of products to and from the United States and elsewhere. Parcel tanker shipping is the ocean transport of bulk liquid chemicals, edible oils, acids and other specialty liquids. Parcel tankers are deep sea vessels equipped with compartments designed to carry shipments of various sizes. The temperature and other specifications of the compartments can be regulated according to the specific requirements of the type of liquid being transported.

(b) During the relevant period, the defendant participated in a conspiracy among major providers of parcel tanker shipping, the substantial terms of which were to allocate customers, rig bids, and fix prices for contracts of affreightment for parcel

tanker shipping of products to and from the United States and elsewhere. A contract of affreightment is a contract between a customer and a parcel tanker shipping company for the transportation of bulk liquids from one port to another. A contract of affreightment typically covers multiple shipments during a certain time period and specifies the price, cargo, destinations and other terms and conditions.

(c) The charged conspiracy began when the defendant met with co-conspirators and discussed and agreed not to compete for contracts of affreightment for each others' customers and further agreed to create and exchange customer lists in order to implement and monitor this agreement. Pursuant to the agreement, the co-conspirators also agreed either not to submit prices or bids to certain customers or to submit intentionally high prices or bids to certain customers. Pursuant to the agreement, the co-conspirators also discussed and exchanged prices to certain customers so as not to undercut one another's prices.

(d) During the relevant period, products shipped by Odfjell, and parcel tanker shipping vessels, equipment and supplies necessary to providing such parcel tanker shipping, as well as payments for such parcel tanker shipping, traveled in interstate and foreign commerce. The activities of the defendant and his co-conspirators in connection with the parcel tanker shipping services affected by this conspiracy were within the flow of, and substantially affected, interstate and foreign trade and commerce.

(e) The conspiracy was carried out, in part, within the Eastern District of Pennsylvania. Contracts of affreightment for parcel tanker shipping services affected by

this conspiracy were entered into by one or more of the conspirators with customers located in this District.

POSSIBLE MAXIMUM SENTENCE

5. The defendant understands that the maximum penalty which may be imposed against him upon conviction for a violation of Section One of the Sherman Antitrust Act is:

(a) a term of imprisonment for three (3) years (15 U.S.C. § 1);

(b) a fine in an amount equal to the greatest of (1) $350,000, (2) twice the gross pecuniary gain the conspirators derived from the crime, or (3) twice the gross pecuniary loss caused to the victims of the crime by the conspirators (15 U.S.C. § 1; 18 U.S.C. § 3571(b) and (d)); and

(c) a term of supervised release of one (1) year following any term of imprisonment. If the defendant violates any condition of supervised release, the defendant could be imprisoned for the entire term of supervised release (18 U.S.C. § 3559(a)(5); 18 U.S.C. § 3583(b)(3) and (e)(3); and United States Sentencing Guidelines ("U.S.S.G.") § 5D1.2(a)(3)).

6. In addition, the defendant understands that:

(a) pursuant to U.S.S.G. § 5E1.1, the Court may order him to pay restitution to the victims of the offense; and

(b) pursuant to 18 U.S.C. § 3013(a)(2)(A) and U.S.S.G. § 5E1.3, the Court is required to order the defendant to pay a $100.00 special assessment upon conviction for the charged crime.

SENTENCING GUIDELINES

7. Sentencing for the offense to be charged will be conducted pursuant to the U.S.S.G. Manual in effect on the day of sentencing. U.S.S.G. § 1B1.11. Pursuant to U.S.S.G. § 1B1.8, the United States agrees that self-incriminating information that the defendant provides to the United States pursuant to this Plea Agreement will not be used to increase the volume of affected commerce attributable to the defendant or in determining the defendant's applicable sentencing guidelines range, except to the extent provided in U.S.S.G. § 1B1.8(b).

SENTENCING AGREEMENT

8. Pursuant to Fed. R. Crim. P. 11(c)(1)(C), the United States and the defendant agree that the appropriate disposition of this case is, and agree to recommend jointly that the Court impose, a sentence requiring the defendant to pay to the United States a criminal fine of $250,000, payable in installments as set forth below with interest accruing under 18 U.S.C. § 3612(f)(1)-(2), a period of incarceration of four months**,** and no period of supervised release ("the recommended sentence"). The United States will not object to the defendant's request that the Court make a recommendation to the Bureau of Prisons that the Bureau of Prisons designate that the defendant be assigned to a Federal Minimum Security Camp (if possible at FPC Eglin, Eglin Air Force Base, Eglin, Florida) to serve his sentence of imprisonment and that the defendant be released following the imposition of sentence to allow him to self-surrender to the assigned correctional facility on a specified date on or after January 12, 2004.

(a) The United States and the defendant agree to recommend, in the interest of justice pursuant to 18 U.S.C. § 3572(d)(1), that the fine be paid in the following installments: within fifteen (15) days of imposition of sentence – $100,000; at one hundred and eighty (180) days after the imposition of sentence – $75,000 (plus any accrued interest); and at the one-year anniversary of the imposition of sentence – $75,000

(plus any accrued interest); provided, however, that the defendant shall have the option at any time before the one-year anniversary of prepaying the remaining balance (plus any accrued interest) then owing on the fine.

(b) The defendant understands that the Court will order him to pay a $100 special assessment pursuant to 18 U.S.C. § 3013(a)(2)(A) and U.S.S.G. § 5E1.3 in addition to any fine imposed.

(c) The United States agrees that it will not seek a restitution order because determining complex issues of fact related to the cause or amount of the victim's losses would complicate or prolong the sentencing process to a degree that the need to provide restitution to any victim is outweighed by the burden on the sentencing process. 18 U.S.C. § 3663(a)(1)(B)(ii), U.S.S.G. 5E1.1(b)(2).

(d) The United States and the defendant jointly submit that this Plea Agreement, together with the record that will be created by the United States and the defendant at the plea and sentencing hearings, and the further disclosure described in Paragraph 10, will provide sufficient information concerning the defendant, the crime charged in this case, and the defendant's role in the crime to enable the meaningful exercise of sentencing authority by the Court under 18 U.S.C. § 3553. Subject to the cooperation of the defendant as described in Paragraph 12 below, the United States and the defendant will jointly request that the Court accept the defendant's guilty plea and immediately impose sentence on the date of arraignment pursuant to the provisions of Rule 32(c)(1)(A)(ii), Fed. R. Crim. P., and U.S.S.G. § 6A1.1. The Court's denial of the request to impose sentence immediately based upon the record provided by the defendant and the United States will not void this Plea Agreement.

9. The United States and the defendant agree that the applicable sentencing guidelines fine and incarceration ranges exceed the fine and term of imprisonment contained in the recommended sentence set out in Paragraph 8 above. Subject to the full and continuing cooperation of the defendant, as described in Paragraph 12 of this Plea Agreement, and prior to sentencing in this case, the United States agrees that it will make a motion, pursuant to U.S.S.G. § 5K1.1, for a downward departure from the guidelines sentence in this case and will request that the Court impose the fine and term of imprisonment contained in the recommended sentence set out in Paragraph 8 of this Plea Agreement because of the defendant's substantial assistance in the government's investigation and prosecutions of violations of federal criminal law in the parcel tanker shipping industry.

10. Subject to the ongoing, full, and truthful cooperation of the defendant described in Paragraph 12 of this Plea Agreement, and before sentencing in the case, the United States will fully advise the Court and the Probation Office of the fact, manner, and extent of the defendant's cooperation and his commitment to prospective cooperation with the United States' investigation and prosecutions, all material facts relating to the defendant's involvement in the charged offense, and all other relevant conduct.

11. The United States and the defendant understand that the Court retains complete discretion to accept or reject the recommended sentence provided for in Paragraph 8 of this Plea Agreement.

(a) If the Court does not accept the recommended sentence, the United States and the defendant agree that this Plea Agreement, except for Paragraph 11(b) below, shall be rendered void. Neither party may withdraw from this Plea Agreement, however, based

on the type or location of the correctional facility to which the defendant is assigned to serve his sentence.

(b) If the Court does not accept the recommended sentence, the defendant will be free to withdraw his guilty plea (Fed. R. Crim. P. 11(c)(5) and(d)). If the defendant withdraws his plea of guilty, this Plea Agreement, the guilty plea, and any statement made in the course of any proceedings under Fed. R. Crim. P. 11 regarding the guilty plea or this Plea Agreement or made in the course of plea discussions with an attorney for the government shall not be admissible against the defendant in any criminal or civil proceeding, except as otherwise provided in Fed. R. Evid. 410. In addition, the defendant agrees that, if he withdraws his guilty plea pursuant to this subparagraph of the Plea Agreement, the statute of limitations period for any Relevant Offense, as defined in Paragraph 13 below, will be tolled for the period between the date of the signing of the Plea Agreement and the date the defendant withdrew his guilty plea or for a period of sixty (60) days after the date of the signing of the Plea Agreement, whichever period is greater. For a period of three (3) consecutive days following such a withdrawal of the guilty plea under this subparagraph, the United States shall take no action, based upon either a Relevant Offense or any actual or alleged violation of the Plea Agreement, to revoke the defendant's release on his personal recognizance, to subject the defendant to service of process, arrest, or detention, or to prevent the defendant from departing the United States.

DEFENDANT'S COOPERATION

12. The defendant will cooperate fully and truthfully with the United

States in the prosecution of this case, the conduct of the current federal investigation of violations of federal antitrust and related criminal laws involving parcel tanker shipping, any other federal investigation resulting therefrom, and any litigation or other proceedings arising or resulting from any such investigation to which the United States is a party ("Federal Proceeding"). The ongoing, full, and truthful cooperation of the defendant shall include, but not be limited to:

(a) producing in the United States and at other mutually agreed-upon locations all documents, including claimed personal documents, and other materials, wherever located, in the possession, custody, or control of the defendant, requested by attorneys and agents of the United States in connection with a Federal Proceeding;

(b) making himself available for interviews in the United States and at other mutually agreed-upon locations, not at the expense of the United States, upon the request of attorneys and agents of the United States in connection with a Federal Proceeding;

(c) responding fully and truthfully to all inquiries of the United States in connection with any Federal Proceeding, without falsely implicating any person or intentionally withholding any information, subject to the penalties of making false statements (18 U.S.C. § 1001) and obstruction of justice (18 U.S.C. § 1503);

(d) otherwise voluntarily providing the United States with any material or information, not requested in (a) - (c) of this paragraph, that he may have that is related to any Federal Proceeding; and

(e) when called upon to do so by the United States in connection with any Federal Proceeding, testifying in grand jury, trial, and other judicial proceeding in the United States, fully, truthfully, and under oath, subject to the penalties of perjury (18 U.S.C. § 1621), making false statements or declarations in grand jury or court proceedings

(18 U.S.C. § 1623), contempt (18 U.S.C. §§ 401 - 402), and obstruction of justice (18 U.S.C. § 1503).

GOVERNMENT'S AGREEMENT

13. Subject to the full, truthful, and continuing cooperation of the defendant, as described in Paragraph 12 of this Plea Agreement, and upon the Court's acceptance of the guilty plea called for by this Plea Agreement and the imposition of the recommended sentence, the United States will not bring further criminal charges against the defendant for any act or offense committed before December 2002 that was undertaken in furtherance of an antitrust conspiracy involving parcel tanker shipping ("Relevant Offense"). The nonprosecution terms of this paragraph do not apply to civil matters of any kind, to any violation of the federal tax or securities laws, or to any crime of violence.

14. The United States agrees that when the defendant travels to the United States for interviews, grand jury appearances, or court appearances pursuant to this Plea Agreement, or for meetings with counsel in preparation therefor, the United States will take no action, based upon any Relevant Offense, to subject the defendant to arrest, detention, or service of process, or to prevent the defendant from departing the United States. This paragraph does not apply to the defendant's commission of perjury (18 U.S.C. § 1621), making false statements (18 U.S.C. § 1001), making false statements or declarations in grand jury or court proceedings (18 U.S.C. § 1623), obstruction of justice (18 U.S.C. § 1503), or contempt (18 U.S.C. §§ 401 - 402) in connection with any testimony or information provided or requested in any Federal Proceeding.

15. (a) Subject to the full and continuing cooperation of the defendant, as described in Paragraph 12 of this Plea Agreement, and upon the Court's acceptance of the defendant's guilty plea and imposition of sentence in this case, the United States

agrees not to seek to remove the defendant from the United States under Section 240 of the Immigration and Nationality Act, based upon the defendant's guilty plea and conviction in this case, should the defendant apply for or obtain admission to the United States as a nonimmigrant (hereinafter referred to as the "agreement not to seek to remove the defendant"). The agreement not to seek to remove the defendant is the equivalent of an agreement not to exclude the defendant from admission to the United States as a nonimmigrant or to deport the defendant from the United States. (Immigration and Nationality Act, § 240(e)(2)).

(b) The Antitrust Division of the United States Department of Justice has consulted with the Bureau of Immigration and Customs Enforcement of the United States Department of Homeland Security ("ICE"). The ICE, in consultation with the United States Department of State, has agreed to the inclusion in this Plea Agreement of this agreement not to seek to remove the defendant.

(c) So that the defendant will be able to obtain any nonimmigrant visa that he may need to travel to the United States, the ICE and the Visa Office, United States Department of State, have concurred in the granting of a nonimmigrant waiver of the defendant's inadmissibility. This waiver will remain in effect so long as this agreement not to seek to remove the defendant remains in effect. While the waiver remains in effect, the Department of State will not deny the defendant's application for a nonimmigrant visa on the basis of the defendant's guilty plea and conviction in this case, and the ICE will not deny his application for admission as a nonimmigrant on the basis of his guilty plea and conviction in this case.

(d) This agreement not to seek to remove the defendant will remain

in effect so long as the defendant:

(I) acts and has acted consistently with his cooperation obligations under this Plea Agreement;

(ii) is not convicted of any felony under the laws of the United States or any state, other than the conviction resulting from the defendant's guilty plea under this Plea Agreement or any conviction under the laws of any state resulting from conduct constituting an offense subject to this Plea Agreement; and

(iii) does not engage in any other conduct that would warrant his removal from the United States under the Immigration and Nationality Act. The defendant understands that should the Antitrust Division become aware that the defendant has violated any of these conditions, the Antitrust Division will notify the ICE. The ICE will then determine, in consultation with the Antitrust Division, whether to rescind this agreement not to seek to remove the defendant.

(e) The defendant agrees to notify the Assistant Attorney General of the Antitrust Division should the defendant be convicted of any other felony under the laws of the United States or of any state.

(f) Should the United States rescind this agreement not to seek to remove the defendant because of the defendant's violation of a condition of this Plea Agreement, the defendant irrevocably waives his right to contest his removal from the United States under the Immigration and Nationality Act on the basis of his guilty plea and conviction in this case, but retains his right to notice of removal proceedings.

REPRESENTATION BY COUNSEL

16. The defendant has reviewed all legal and factual aspects of this case with his attorney and is fully satisfied with his attorney's legal representation. The defendant has thoroughly reviewed this Plea Agreement with his attorney and has received satisfactory explanations from his attorney concerning each paragraph of this Plea Agreement and alternatives available to the defendant other than entering into this Plea Agreement. After conferring with his attorney and considering all available alternatives, the defendant has made a knowing and voluntary decision to enter into this Plea Agreement.

VOLUNTARY PLEA

17. The defendant's decision to enter into this Plea Agreement and to tender a plea of guilty is freely and voluntarily made and is not the result of force, threats, assurances, promises, or representations other than the representations contained in this Plea Agreement. The United States has made no promises or representations to the defendant as to whether the Court will accept or reject the recommendations contained within this Plea Agreement.

VIOLATION OF PLEA AGREEMENT

18. The defendant agrees that, should the United States determine in good faith, during the period that any Federal Proceeding is pending, that the defendant has failed to provide full and truthful cooperation, as described in Paragraph 12 of this Plea Agreement, or has otherwise violated any provision of this Plea Agreement, the United States will notify the defendant or his counsel in writing by personal or overnight delivery or facsimile transmission and may also notify his counsel by telephone of its intention to void any of its obligations under this Plea Agreement (except its obligations under this paragraph), and the defendant shall be subject to prosecution for any federal crime of which the United States has knowledge including,

but not limited to, the substantive offenses relating to the investigation resulting in this Plea Agreement. The defendant agrees that, in the event that the United States is released from its obligations under this Plea Agreement and brings criminal charges against the defendant for any Relevant Offense, the statute of limitations period for such offense will be tolled for the period between the date of the signing of this Plea Agreement and six (6) months after the date the United States gave notice of its intent to void its obligations under this Plea Agreement.

19. The defendant understands and agrees that in any further prosecution of him resulting from the release of the United States from its obligations under this Plea Agreement based on the defendant's violation of the Plea Agreement, any documents, statements, information, testimony, or evidence provided by him to attorneys or agents of the United States, federal grand juries, or courts, and any leads derived therefrom, may be used against him in any such further prosecution. In addition, the defendant unconditionally waives his right to challenge the use of such evidence in any such further prosecution, notwithstanding the protections of Fed. R. Evid. 410.

20. The defendant agrees to and adopts as his own the factual statement contained in Paragraph 4 above. In the event that the defendant breaches the Plea Agreement, the defendant agrees that the Plea Agreement, including the factual statement contained in Paragraph 4 above, provides a sufficient basis for any possible future extradition request that may be made for his return to the United States to face charges either in the Information referenced in Paragraph 2 of this Plea Agreement or in any related indictment. The defendant further agrees not to oppose or contest any request for extradition by the United States to face charges either in the Information referenced in Paragraph 2 of this Plea Agreement or in any related indictment.

ENTIRETY OF AGREEMENT

21. This Plea Agreement constitutes the entire agreement between the United States and the defendant concerning the disposition of the criminal charge in this case. This Plea Agreement cannot be modified except in writing, signed by the United States and the defendant.

22. The undersigned attorneys for the United States have been authorized by the Attorney General of the United States to enter this Plea Agreement on behalf of the United States.

23. A facsimile signature shall be deemed an original signature for the purpose of executing this Plea Agreement. Multiple signature pages are authorized for the purpose of executing this Plea Agreement.

DATED: September 25, 2003

Respectfully submitted,

BY: /S/
BJORN SJAASTAD
Defendant

BY: /S/
ROBERT E. CONNOLLY
Chief, Philadelphia Office

BY: /S/
JOHN SIFFERT
Counsel for Bjorn Sjaastad

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