

[Trade Regulation Reporter - Trade Cases \(1932 - 1992\), United States v. American Cyanamid Co., U.S. District Court, S.D. New York, 1974-1 Trade Cases ¶74,950, \(Feb. 13, 1974\)](#)

Federal Antitrust Cases

Trade Regulation Reporter - Trade Cases (1932 - 1992) ¶74,950

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United States v. American Cyanamid Co.

1974-1 Trade Cases ¶74,950. U.S. District Court, S.D. New York. 60 Civ. 3857-CLB. Filed February 13, 1974. Case No. 1565, Antitrust Division, Department of Justice.

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**Headnote**

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### Sherman Act

**Department of Justice Enforcement and Procedure—Injunctive Relief—Quantity Production Restrictions—Modification—Mela mine—Consent Order of Modification.**—A, restriction imposed upon a melamine producer, limiting production to 30 million pounds per year, was relaxed to permit production of 50 million pounds in a 10-month period, with the requirement that it offer a stated percentage for sale to non-affiliates.

**Department of Justice Enforcement and Procedure\*—Modification of Consent Decrees—Temporary Lifting of Production Restrictions—Grounds for Modification—Shortage of Commodity—Difficulties of Competitor.**—Quantity production restrictions on melamine, imposed on a producer by an antitrust consent decree, were relaxed for a period of time by modification of the decree in light of a shortage that would affect domestic manufacturers dependent on the commodity. Contributing to the shortage were a competitor's repairs and design or construction difficulties, which limited the ability of the competitor to become a substantial force in the market. If the glut in melamine envisioned by the competitor for the period beyond that of the proposed relaxation actually occurred, or if the defendant acted in an improper manner with respect to the competitor, the government would have all the necessary power to deal with the situation.

**Modifying consent decree,** [1964 Trade Cases ¶ 71,166](#).

**For defendant:** Donovan Leisure Newton & Irvine, New York, N. Y. (John C. Satterfield, of Satterfield, Shell, Williams & Buford, Yazoo City, Miss., of counsel).

### Memorandum

BRIEANT, J.: The Court has heard counsel for Melamine Chemicals, Inc. ("MCI"), and has considered, informally, its "Petition" dated February 7, 1974, and supporting affidavit of Scotty B. Patrick, sworn to February 8, 1974.

Implicit in MCI's presentation to the Court is the fact that repairs required to its melamine production facility, and difficulties in design, construction, or both, of MCI's plant, have limited its ability to become a substantial force in the melamine market, and have contributed to a present shortage which will affect, adversely, domestic manufacturers dependent on this commodity.

It is principally for their relief, that the proposed consent order has been proposed. MCI shows no reason why the proposed consent order should not be signed.

If the glut in melamine envisioned by MCI for 1975 and 1976, a period beyond the effective date of the proposed consent order of modification, actually occurs, or if defendant acts in an improper manner with respect to MCI, plaintiff has all necessary power to deal with such situation as may arise.

Entry of the proposed order does not, nor is it intended to, derogate in any way from MCI's rights, or the public interest in free competition in the supply of mela-mine.

No present need appears to make further changes or additions in the proposed order of modification, or in the Final Judgment of August 4, 1964 itself. This Court is confident that the issues raised by MCI will receive the continuous attention of the United States Department of Justice. The entry of the proposed order, which has been signed today, is without prejudice to such further or other proceedings as may appear reasonable and proper under present or future circumstances.

#### **Consent Order Modifying Final Judgment**

Whereas Section V(A)(2) of the Final Judgment, entered August 4, 1964 [ [1964 TRADE CASES ¶ 71,166](#)], enjoins the Defendant, American Cyanamid Company, from producing more than thirty (30) million pounds of melamine in any calendar year until October 31, 1974; and

Whereas there appears to be an acute excess of demand over the supply of mela-mine; and

Whereas it is in the public interest to have an adequate supply of melamine; and the parties hereto, by their respective counsel, having each consented to the making and entry of this Order modifying Section V (A),(2) of the Final Judgment, and the Court having held a hearing on February 8, 1974, and having filed a Memorandum this date,

It Is Hereby Ordered, Adjudged and Decreed that the Defendant, American Cy-anamid Company, immediately and forthwith shall:

1. Be permitted, pursuant to Section V (A)(2) of the Final Judgment entered August 4, 1964, as herein modified, to produce an amount of melamine not to exceed fifty (50) million pounds during the period January 1, 1974 to October 31, 1974.
2. Offer for domestic sale to others than its affiliates upon reasonable terms and conditions:
  - (A) not less than twenty one percent (21%) of all the melamine which it produces in the United States during the period between January 1, 1974 and Octo-ber 31, 1974. At the beginning of each month of said period, Cyanamid is to estimate its total production for that 10 months and offer for sale during each month an amount of melamine equivalent to not less than twenty one percent (21%) of that estimate, less the amount sold since January 1, 1974, and divided by the number of months remaining until October 31, 1974.
  - (B) not less than twenty one percent (21%) of all the melamine which it produces in the United States during the period between November 1, 1974 and December 31, 1974. At the beginning of each month of said period, Cyanamid is to estimate its total production for that two months and offer for sale during each month an amount of melamine equivalent to not less than twenty one percent (21%) of that estimate, less the amount sold since November 1, 1974, and divided by the number of months remaining until December 31, 1974.