

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

|                                 |   |                                  |
|---------------------------------|---|----------------------------------|
| UNITED STATES OF AMERICA        | ) |                                  |
|                                 | ) | <b>Criminal No.: 96-CR-00640</b> |
| v.                              | ) |                                  |
|                                 | ) | <b>Filed: [10/15/96]</b>         |
| ARCHER DANIELS MIDLAND COMPANY, | ) |                                  |
|                                 | ) | <b>Violation: 15 U.S.C. § 1</b>  |
| Defendant.                      | ) |                                  |
|                                 | ) | <b>Judge: Castillo</b>           |

INFORMATION

COUNT ONE - CONSPIRACY TO RESTRAIN TRADE IN LYSINE

(15 U.S.C. § 1)

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

I.

DESCRIPTION OF THE OFFENSE

1. ARCHER DANIELS MIDLAND COMPANY is made a defendant on the charge stated below.
2. Beginning in or about June 1992 and continuing until June 27, 1995, the exact dates being unknown to the United States, the defendant and co-conspirators, Ajinomoto Co., Inc., Kyowa Hakko Kogyo Co. Ltd., Sewon America, Inc., and other corporations and individuals, entered into and engaged in a combination and conspiracy to suppress and eliminate competition by fixing the price and allocating the sales volumes of lysine offered for sale to customers in the United States and elsewhere. The combination and conspiracy,

engaged in by the defendant and co-conspirators, is an unreasonable restraint of interstate 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 conspirators, the substantial terms of which were:

- (a) to agree to fix and maintain prices and to coordinate price increases for the sale of lysine in the United States and elsewhere; and
- (b) to agree to allocate the volumes of sales of lysine among the corporate conspirators.

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

- (a) participating in meetings and conversations to discuss the prices and volumes of sales of lysine 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 lysine sold in the United States and elsewhere;
- (c) agreeing, during those meetings and conversations, to allocate among the corporate conspirators the volume of sales of lysine to be sold by each corporate conspirator in the United States and elsewhere;
- (d) issuing price announcements and price quotations in accordance with the agreements reached; and

- (e) participating in meetings and conversations to discuss prices and volumes of sales of lysine sold in the United States and elsewhere for the purpose of monitoring and enforcing adherence to the agreed-upon prices and sales volumes.

## II.

### DEFENDANT AND CO-CONSPIRATORS

5. ARCHER DANIELS MIDLAND COMPANY ("ADM") is a corporation organized and existing under the laws of Delaware with its principal place of business in Decatur, Illinois. ADM produces lysine at its plant located in Decatur, Illinois. During the period covered by Count One of this Information, ADM was engaged in the business of producing, selling, and distributing lysine to customers in the United States and elsewhere.

6. Various corporations and individuals, not made defendants in this Count, participated as co-conspirators in the offense charged herein and performed acts and made statements in furtherance of it.

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

III.

TRADE AND COMMERCE

8. Lysine is an amino acid produced through a fermentation process and used primarily as a protein additive in swine and poultry feed. Lysine is used by swine and poultry farmers to supplement a diet of corn and thereby ensure proper growth of swine and poultry.

9. During the period covered by Count One of this Information, the defendant and co-conspirators sold and distributed lysine in a continuous and uninterrupted flow of interstate commerce to customers located in states other than the states or countries in which the defendant and co-conspirators produced lysine.

10. The business activities of the defendant and co-conspirators that are the subject of Count One of this Information were within the flow of, and substantially affected, interstate trade and commerce.

IV.

JURISDICTION AND VENUE

11. The combination and conspiracy charged in Count One of this Information was carried out, in part, in the Northern District of Illinois, Eastern Division, within the five years preceding the filing of this Information.

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

COUNT TWO - CONSPIRACY TO RESTRAIN TRADE IN CITRIC ACID

(15 U.S.C. § 1)

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

I.

DESCRIPTION OF THE OFFENSE

12. ARCHER DANIELS MIDLAND COMPANY is made a defendant on the charge stated below.

13. Beginning at least as early as January 1993 and continuing until June 27, 1995, the exact dates being unknown to the United States, the defendant and co-conspirators entered into and engaged in a combination and conspiracy to suppress and eliminate competition by fixing the price and allocating the sales volumes of citric acid offered for sale to customers in the United States and elsewhere. The combination and conspiracy, engaged in by the defendant and co-conspirators, is an unreasonable restraint of interstate trade and commerce in violation of Section 1 of the Sherman Act (15 U.S.C. § 1).

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

- (a) to agree to fix and maintain prices and to coordinate price increases for the sale of citric acid in the United States and elsewhere; and
- (b) to agree to allocate the volumes of sales of citric acid among the corporate conspirators.

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

- (a) participating in meetings and conversations to discuss the prices and volumes of sales of citric acid 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 citric acid sold in the United States and elsewhere;
- (c) agreeing, during those meetings and conversations, to allocate among the corporate conspirators the volume of sales of citric acid to be sold by each corporate conspirator in the United States and elsewhere;
- (d) issuing price announcements and price quotations in accordance with the agreements reached; and
- (e) participating in meetings and conversations to discuss prices and volumes of sales of citric acid sold in the United States and elsewhere for the purpose of monitoring and enforcing adherence to the agreed-upon prices and sales volumes.

II.

DEFENDANT AND CO-CONSPIRATORS

16. ARCHER DANIELS MIDLAND COMPANY ("ADM") is a corporation organized and existing under the laws of Delaware with its principal place of business in Decatur, Illinois. ADM produces citric acid at its plant located in Southport, North Carolina. During the period covered by Count Two of this Information, ADM was engaged in the business of producing, selling and distributing citric acid to customers in the United States and elsewhere.

17. Each and every allegation contained in paragraphs 6 and 7 of Count One of this Information is here realleged with the same full force and effect as though said paragraphs were set forth in full detail.

### III.

#### TRADE AND COMMERCE

18. Citric acid is an organic acid used in various food products and beverages, cosmetics, medicine, detergents, chemicals, and textiles.

19. During the period covered by Count Two of this Information, the defendant and co-conspirators sold and distributed citric acid in a continuous and uninterrupted flow of interstate commerce to customers located in states other than the states or countries in which the defendant and co-conspirators produced citric acid.

20. The business activities of the defendant and co-conspirators that are the subject of Count Two of this Information were within the flow of, and substantially affected, interstate trade and commerce.

### IV.

#### JURISDICTION AND VENUE

21. The combination and conspiracy charged in Count Two of this Information was carried out, in part, in the Northern District of Illinois, Eastern Division, within the five years preceding the filing of this Information.

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

Dated: October 15, 1996

\_\_\_\_\_/s/\_\_\_\_\_  
Joel I. Klein  
Acting Assistant Attorney General

\_\_\_\_\_/s/\_\_\_\_\_  
Gary R. Spratling  
Deputy Assistant Attorney General

Antitrust Division  
U.S. Department of Justice

By:\_\_\_\_\_/s/\_\_\_\_\_  
James M. Griffin      Phillip H. Warren  
Marvin N. Price, Jr.      Barbara J. Nelson  
Robin R. Mann      Marc Siegel  
Susan H. Booker      Michael L. Scott  
James H. Mutchnik      Niall E. Lynch  
Kevin C. Culum      Attorneys  
Attorneys      Antitrust Division  
Antitrust Division      450 Golden Gate Av.  
209 S. LaSalle Street      Room 10-0101  
Suite 600      San Francisco,  
Chicago, Illinois 60604      California 94102  
(312) 353-7530      (415) 436-6660

James B. Burns  
United States Attorney

By:\_\_\_\_\_/s/\_\_\_\_\_  
Scott R. Lassar  
First Assistant U.S. Attorney  
Philip Guentert  
Assistant U.S. Attorney  
  
219 S. Dearborn Street  
Fourth Floor  
Chicago, Illinois 60604  
(312) 353-4224