

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA )  
 ) Criminal No.: 00-033  
 v. )  
 ) Filed: January 19, 2000  
 )  
 ) Violations: 15 U.S.C. § 1 and 18 U.S.C. § 2 (a)  
 MITSUBISHI CORPORATION, )  
 ) Judge: Marvin Katz  
 Defendant. )

**INDICTMENT**

The Grand Jury charges:

**I**

**OFFENSE CHARGED**

1. Mitsubishi Corporation is hereby indicted and made a defendant on the charge stated below.
2. Beginning at least as early as March 1992 and continuing until at least June 1997, the exact dates being unknown to the Grand Jury, UCAR International Inc. and its wholly-owned subsidiary UCAR Carbon Company (collectively UCAR); SGL Carbon Aktiengesellschaft (SGL); Tokai Carbon Co., Ltd. (Tokai); Showa Denko KK (Showa Denko); SEC Corporation (SEC); Nippon Carbon Co., Ltd. (Nippon); and other co-conspirators entered into and participated in a combination and conspiracy to suppress and eliminate competition by secretly fixing the price and allocating the volume of graphite electrodes sold in the United States and elsewhere. The combination and conspiracy unreasonably restrained 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 co-conspirators, the substantial terms of which were:

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

(b) to agree to follow the price increases of respective home market leaders in the United States and elsewhere; and

(c) to agree to maintain the respective market shares of the conspirator companies in various markets in the United States and elsewhere.

## II

### **MEANS AND METHODS OF AIDING AND ABETTING THE CONSPIRACY**

4. Defendant Mitsubishi Corporation aided, abetted, counseled, induced and procured the aforesaid conspiracy by, among other things:

(a) counseling, inducing, and encouraging UCAR to meet with competitors and to agree to fix, maintain and stabilize prices of graphite electrodes;

(b) arranging, facilitating or otherwise providing assistance for conspiratorial meetings and communications between UCAR and

competitors, including Showa Denko, Tokai, SEC and Nippon;

(c) selling graphite electrodes on behalf of Showa Denko, Tokai and SEC, at prices it knew to be fixed pursuant to the conspiracy ; and

(d) concealing the existence of the conspiracy from customers and others to allow the continuation of the conspiracy.

### **III**

#### **DEFENDANT**

5. During the period covered by this Indictment, Mitsubishi Corporation was a corporation organized and existing under the laws of Japan with its principal place of business in Tokyo, Japan. During the period from February 25, 1991 until January 26, 1995, Mitsubishi Corporation owned 50% of the stock of UCAR, the world's largest manufacturer of graphite electrodes. On January 26, 1995, Mitsubishi Corporation sold its ownership interest in UCAR to the Blackstone Group for \$406 million.

6. During the period covered by this Indictment, Mitsubishi Corporation, through various subsidiaries, also distributed graphite electrodes manufactured by Tokai, Showa Denko and SEC.

7. 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.

8. Wherever in this Indictment 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**

9. Graphite electrodes are large columns used primarily in the production of steel in electric arc furnaces, the steel making technology used by “mini-mills,” and for refining steel in ladle furnaces. As conductors of electricity, graphite electrodes generate sufficient heat to melt steel scrap and to further refine molten steel into finished products. Nine electrodes, joined in columns of three each, are used in a typical electric arc furnace to melt scrap steel. Approximately one electrode is consumed every eight hours because of the intense heat.

10. Total sales of graphite electrodes in the United States were in excess of \$1.7 billion during the term of the charged conspiracy. The corporate conspirators sold nearly all of the graphite electrodes bought in the United States during the course of the conspiracy.

11. During the period covered by this Indictment, the co-conspirators sold a substantial quantity of graphite electrodes across state lines and into and out of the United States in a continuous and uninterrupted flow of interstate and foreign trade and commerce.

12. The activities of the defendant and co-conspirators that are the subject of this Indictment were within the flow of, and substantially affected, interstate and

foreign trade and commerce.

V

**JURISDICTION AND VENUE**

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

ALL IN VIOLATION OF TITLE 15, UNITED STATES CODE, SECTION 1  
AND TITLE 18, UNITED STATES CODE, SECTION 2(a).

\_\_\_\_\_/s/\_\_\_\_\_  
FOREPERSON

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