



NATIONAL GRAIN AND FEED ASSOCIATION

# Arbitration Decisions

October 25, 1977

Arbitration Case Number 1535

PLAINTIFF: Bunge Corporation, Minneapolis, Minnesota

DEFENDANT: Louis Dreyfus Corporation, Stamford, Connecticut

On January 8, 1976, Bunge sold Dreyfus 200,000 bushels of Corn C.I.F. New Orleans, Louisiana, delivery in two shipments. Both shipments were later sold to subsequent buyers who unloaded at their own elevators. Bunge issued official loading weights which differed from the unloading weights with a shortage of 204.28 bushels in one barge and 671.43 bushels in the other. The facts are as follows:

<u>Barge</u>	<u>Loaded</u>	<u>Unloaded</u>	<u>Freight Bill Rec'd by Bunge From Barge Co.</u>	<u>Unload Weight Notification Rec'd by Dreyfus</u>	<u>Dreyfus Unload Weight Notification Rec'd by Bunge</u>
ACBL 2620	6-03-76	8-03-76	9-15-76	10-15-76	11-16-76
ACBL 1264	6-23-76	7-14-76	8-02-76	8-03-76	8-13-76

Destination weights were contractually agreed to. The National Grain and Feed Association Rules were incorporated in the Contract. Dreyfus admits violations of Barge Trade Rule 2(a) which states, "The final unloading weight of any barge must be advised by the buyer to his seller within five (5) business days of receipt of it by telephone, telex, or mail." In support of existing trade rules in effect at the time, the rules should be interpreted so as not to allow a first buyer to hold his seller at a disadvantage while a second buyer, buying from the first buyer, can perform infractions of the trade rules. In essence, Dreyfus had a responsibility to his seller (Bunge) to hold Bunge harmless from the late notice of the second buyer, or other buyers in a string. Dreyfus states they do not believe that Bunge should be allowed to collect damages on the basis of an imperfection in the rules that allows different interpretations concerning the time of notice. However, Dreyfus used the imperfection of the rules to trade on Bunge's corn and hence, Bunge's money. It should be pointed out that Bunge's trade was with Dreyfus and not with anyone else involved in the "string" and settlement should be made by the buyer to his seller when the proper weights, invoices and settlements are submitted in accordance with the rules and not based upon the fact that the original buyer might not have been paid or settled with from his buyer or other succeeding buyers.

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While destination weights are recognized in this case, the award must be granted on the basis of a violation of the Trade Rules (Rule 2(a)) which were also part of the contract. Dreyfus failed to give Bunge unloading weights on time, leaving Bunge without recourse to pursue the disparity in weights.

The award is based on the loss Bunge reasonably claims could have been avoided had Barge Rule 2(a) been observed.

CONCLUSION:

The Committee, after considering all the facts, therefore finds for the plaintiff, Bunge Corporation, as follows:

BARGE ACBL 2620

Loss	204.28 bushels at \$2.83 equals	\$578.11
Interest	at 1% over prime rate of $6\frac{1}{4}\%$ - Total $7\frac{1}{4}\%$ for 75 days (Sept. 3- November 16)	78.90

BARGE ACBL 1264

Loss	671.43 bushels at \$2.84 equals	1,906.86
Interest	at 1% over prime rate of $6\frac{1}{4}\%$ - Total $7\frac{1}{4}\%$ for 20 days (July 24- August 13)	<u>26.01</u>
	The total amount claimed and awarded	\$2,589.88

Arbitration Committee:

/s/ Rupert G. Quinn, Chairman  
Benson-Quinn Company  
Minneapolis, Minnesota

/s/ James Layton  
St. Louis Grain Corporation  
St. Louis, Missouri

/s/ Clarence Swaby  
Garvey Grain  
Chicago, Illinois