

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS

UNITED STATES OF AMERICA)	
)	Criminal No.: 399-CR-335
v.)	
)	Filed: September 9, 1999
EISAI CO., LTD,)	
)	Violation: 15 U.S.C. § 1
Defendant.)	
)	

INFORMATION

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

I

DESCRIPTION OF THE OFFENSE

1. Eisai Co., Ltd. ("the defendant"), a corporation organized and existing under the laws of Japan, is made a defendant on the charge stated below.
2. Beginning at least as early as January 1991 and continuing into at least February 1999, the exact dates being unknown to the United States, the defendant and co-conspirators entered into and participated in a combination and conspiracy to suppress and eliminate competition by fixing the price and allocating the volume of vitamin E manufactured by the defendant and its co-conspirators and sold by them in the United States and elsewhere. The combination and conspiracy engaged in by the defendant and its co-conspirators was in unreasonable restraint of 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 defendant and co-conspirators regarding vitamin E manufactured by the corporate conspirators and sold by them in the United States and elsewhere, the substantial terms of which were to:

- (a) fix, increase, and maintain prices and to coordinate price increases for the sale of vitamin E in the United States and elsewhere; and,
- (b) allocate among the corporate conspirators the volume of sales and market shares of vitamin E in the United States and elsewhere.

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 vitamin E sold in the United States and elsewhere;
- (b) agreeing, during such meetings and conversations regarding vitamin E, to increase and maintain prices in the United States and elsewhere;
- (c) agreeing, during such meetings and conversations regarding

vitamin E, to allocate among the corporate conspirators the approximate volume of vitamin E to be sold by them in the United States and elsewhere;

- (d) exchanging sales and customer information for the purpose of monitoring and enforcing adherence to the above-described agreements;
- (e) issuing price announcements and price quotations in accordance with the above-described agreements; and
- (f) selling vitamin E at increased prices and in accordance with the agreed-upon sales volume allocations in the United States and elsewhere.

II

BACKGROUND

5. Vitamins are organic compounds required in the diet of humans and animals for normal growth and maintenance of life. Vitamins are essential sources of certain coenzymes necessary for metabolism, the biochemical processes that support life. All known vitamins have been synthesized chemically, and various such synthesized vitamins are manufactured and sold by the defendant and its corporate co-conspirators.

6. Vitamins are necessary for the normal and healthy growth and development of both humans and animals. Large quantities of vitamin E are sold to customers in the human food, pharmaceutical, and animal feed industries.

III

DEFENDANT AND CO-CONSPIRATORS

7. During the period covered by this Information, the defendant was a corporation organized and existing under the laws of Japan, with its principal place of business in Tokyo, Japan. The defendant is engaged in the manufacture and sale of vitamin E in the United States and elsewhere.

8. 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.

9. Wherever in this Information 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

10. During the period covered by this Information, the defendant and its co-conspirators sold and distributed a substantial quantity of vitamin E subject to the charged conspiracy in a continuous and uninterrupted flow of interstate and foreign trade and commerce to customers located in states or countries other than the states or countries in which the vitamin E was produced.

11. During the period covered by this Information, the activities of the defendant and co-conspirators that are the subject of this Information were within

the flow of, and substantially affected, interstate and foreign trade and commerce.

V

JURISDICTION AND VENUE

12. The combination and conspiracy charged in this Information was carried out, in part, within the Northern District of Texas within the five years preceding the filing of this Information.

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

_____/s/_____
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