



Department of Justice

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TOP JAPANESE EXECUTIVES INDICTED IN PRICE-FIXING CONSPIRACY

Daicel Chemical Industries Ltd. Agrees to Pay \$53 Million Criminal Fine

WASHINGTON, D.C. -- Three top executives of Daicel Chemical Industries Ltd., a large Japanese chemical producer, were indicted today by a federal grand jury for participating in an international price-fixing conspiracy in the food preservatives industry, the Department of Justice announced. In addition, Daicel has agreed to plead guilty and to pay a \$53 million criminal fine for its role in the same conspiracy.

In the indictment, filed in U.S. District Court in San Francisco, the grand jury charged Kunio Kanai, current Managing Director of Daicel, and Hirohisa Ikeda and Takayasu Miyasaka, both current executive officers of Daicel, with conspiring with other corporate and individual co-conspirators to suppress competition by fixing the prices and allocating the volumes of sorbates to be sold in the United States and elsewhere from 1979 to 1996. All three defendants are Japanese citizens.

At the same time, separate charges were also filed in U.S. District Court in San Francisco today against Daicel Chemical Industries Ltd., of Tokyo, Japan for its participation in the sorbates price-fixing and volume-allocation conspiracy. As part of its plea agreement, which must be approved by the court, Daicel has agreed to cooperate with the ongoing sorbates investigation.

The conspiracy affected nearly \$1 billion in U.S. commerce. Roughly \$200 million worth of sorbates -- which include potassium sorbate and sorbic acid -- are sold annually worldwide.

Sorbates are chemical preservatives used primarily in high-moisture and high-sugar foods such as cheese and other dairy products, baked goods, and other processed foods.

“The charges filed today against these high-level Japanese executives makes it clear that no individual who participates in international cartels that defraud American businesses and consumers is beyond the reach of the law,” said Joel I. Klein, Assistant Attorney General in charge of the Department’s Antitrust Division.

The indictment and information charge the defendants and co-conspirators with:

- agreeing to charge sorbate prices at agreed-upon levels and to increase those prices accordingly;
- agreeing to allocate among the major sorbates producers the volumes of sorbates to be sold by each;
- issuing price announcements and quotations in accordance with the agreements; and
- participating in meetings to monitor and enforce adherence to the agreed-upon prices and sales volumes.

The indictment further charges that, among other activities, the three Daicel executives and their co-conspirators attempted to conceal the activities of the conspiracy by avoiding holding meetings in the U.S., agreeing to stagger the order and timing of pricing announcements, and agreeing to destroy evidence of conspiracy meetings.

“The successful prosecution of the sorbates cartel, even in light of the sophisticated efforts used by the conspirators to avoid detection, should make it clear that no international cartel that defrauds American businesses and consumers is beyond detection and successful

prosecution," said James M. Griffin, the Antitrust Division’s Deputy Assistant Attorney General for Criminal Enforcement.

Daicel is the fourth company to be charged with participating in the sorbates conspiracy, following Eastman Chemical Company, Hoechst AG, and Nippon Gohsei. The \$53 million fine against Daicel would bring the total fines imposed in this investigation to more than \$120 million.

Daicel and the three individual defendants are charged with violating Section 1 of the Sherman Act, which carries a maximum fine of \$10 million for corporations, and a maximum penalty of three years imprisonment and a \$350,000 fine for individuals.

The maximum fine for both corporations and individuals may be increased to twice the gain derived from the crime or twice the loss suffered by the victims of the crime, if either of those amounts is greater than the statutory maximum fine.

Today's charges are the result of an investigation being conducted by the Antitrust Division's San Francisco Field Office and the Federal Bureau of Investigation in San Francisco. The matter was originally referred to the Department of Justice by the Federal Trade Commission after it was determined that the conduct involved was likely criminal.

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