Department of Justice

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FOUR JAPANESE EXECUTIVES INDICTED IN PRICE-FIXING CONSPIRACY

Ueno Fine Chemicals Industry Ltd. Agrees to Pay $11 Million Criminal Fine

WASHINGTON, D.C. -- Three top executives of Ueno Fine Chemicals Industry Ltd. and an executive from the Japanese chemical giant Daicel Chemical Industries Ltd. were indicted today by a federal grand jury for participating in a 17-year international price-fixing conspiracy in the food preservatives industry, the Department of Justice announced. In addition, Ueno, a Japanese chemical producer, has agreed to plead guilty and to pay an $11 million criminal fine for its role in the same conspiracy.

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.

In the indictment, filed in U.S. District Court in San Francisco, the grand jury charged Yuji Komatsu, a member of Ueno's Board of Directors; Yoshihiko Katsuyama, general manager of the Sales Department in Ueno's Chemical Division; Wakao Shinoda, a sales manager in Ueno's Chemical Division; and Hitoshi Hayashi, a salesman in Daicel's Organic Chemicals Division, 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 four executives are Japanese citizens.

At the same time, a separate charge was also filed in U.S. District Court in San Francisco against Ueno Fine Chemicals Industry Ltd., of Osaka, 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, Ueno has agreed to cooperate with the prosecution of the individual sorbates defendants.

Ueno is the fifth company to be charged with participating in the sorbates conspiracy, following Eastman Chemical Company, Hoechst AG, Nippon Gohsei, and Daicel. The $11 million fine against Ueno would bring the total fines imposed in this investigation to more than $130 million.

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 four executives and their co-conspirators attempted to conceal the activities of the conspiracy by avoiding holding meetings within the United States and member countries of the European Union, agreeing to stagger the order and timing of pricing announcements, and agreeing to destroy evidence of conspiracy meetings.

Ueno and the four 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 ongoing 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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