IICHAEL L. SCOTT (CSBN 165452) ntitrust Division .S. Department of Justice 50 Golden Gate Avenue ox 36046, Room 10-0101 an Francisco, CA 94102					
Attorneys for the United States					
UNITED STATES DISTRICT COURT					
NORTHERN DISTRICT OF CALIFORNIA					
UNITED STATES OF AMERICA) No. CR-01-0019 (SI)				
V.)) SUPERSEDING) INFORMATION				
HITOSHI HAYASHI	 VIOLATION: Title 15, United States Code, Section 1 (Price Fixing, Volume Allocation) 				
Defendant.) San Francisco Venue				
The United States of America, acting through its attorneys, charges: I. <u>DESCRIPTION OF THE OFFENSE</u> 1. HITOSHI HAYASHI ("the defendant") is made a defendant on the charge sta below. 2. From 1992 until 1996, the defendant and co-conspirators participated in a combination and conspiracy to suppress and eliminate competition by fixing the prices and allocating the volumes of sorbates to be sold in the United States and elsewhere. The combin					
and conspiracy engaged in by the defendant and co-conspirators was in unreasonable restraint of					
interstate trade and commerce in violation of Section 1 of the Sherman Act (15 U.S.C. § 1).					
SUPERSEDING INFORMATION Page 1					
	UNITED STATES DIST NORTHERN DISTRICT OF UNITED STATES OF AMERICA v. HITOSHI HAYASHI Defendant. The United States of America, acting through its I. <u>DESCRIPTION OF TH</u> 1. HITOSHI HAYASHI ("the defendant") i below. 2. From 1992 until 1996, the defendant and combination and conspiracy to suppress and eliminate co allocating the volumes of sorbates to be sold in the Unite and conspiracy engaged in by the defendant and co-cons interstate trade and commerce in violation of Section 1 of				

1	3. The charged combination and conspiracy consisted of a continuing agreement,				
2	understanding, and concert of action among the defendant and co-conspirators, the substantial terms				
3	of which were:				
4		(a)	to agree to fix and maintain prices and to coordinate price increases for		
5			sorbates to be sold in the United States and elsewhere; and		
6		(b)	to agree to allocate among sorbates producers the volumes of sorbates to be		
7			sold in the United States and elsewhere.		
8	4.	For th	e purpose of forming and carrying out the charged combination and conspiracy,		
9	the defendant and co-conspirators did those things that they combined and conspired to do,				
10	including, among other things:				
11		(a)	participating in meetings and conversations to discuss the prices and volumes		
12			of sorbates to be sold in the United States and elsewhere;		
13		(b)	agreeing, during those meetings and conversations, to charge prices at certain		
14			levels and otherwise to increase and maintain prices of sorbates to be sold in		
15			the United States and elsewhere;		
16		(c)	agreeing, during those meetings and conversations, to allocate among major		
17			producers the volumes of sorbates to be sold in the United States and		
18			elsewhere;		
19		(d)	issuing price announcements and price quotations in accordance with the		
20			agreements reached; and		
21		(e)	exchanging information on sales of sorbates in the United States and		
22			elsewhere for the purpose of monitoring and enforcing adherence to the		
23			agreed-upon prices and sales volumes.		
24	///				
25			II.		
26			DEFENDANT AND CO-CONSPIRATORS		
27	5. During the period covered by this Superseding Information, the defendant was a				
28	salesman for Daicel Chemical Industries, Ltd. ("Daicel"), a corporation organized and existing				
	SUPERSEDING INFORMATION Page 2				

under the laws of Japan. During the period covered by this Superseding Information, the defendant
 and Daicel were engaged in the business of producing and, through Daicel's trading company,
 selling sorbates for resale to customers in the United States and elsewhere.

6. Various corporations and individuals, not made defendants in this Superseding
Information, participated as co-conspirators in the offense charged in this Superseding Information
and performed acts and made statements in furtherance of it.

7 7. Whenever in this Superseding Information reference is made to any act, deed, or
8 transaction of any corporation, the allegation means that the corporation engaged in the act, deed, or
9 transaction by or through its officers, directors, employees, agents, or other representatives while
10 they were actively engaged in the management, direction, control, or transaction of its business or
11 affairs.

III.

TRADE AND COMMERCE

8. Sorbates are chemical preservatives used primarily as mold inhibitors in highmoisture and high-sugar food products. All references to sorbates in this Superseding Information
include the products potassium sorbate and sorbic acid.

9. During the period covered by this Superseding Information, the defendant and
co-conspirators sold and distributed sorbates in a continuous and uninterrupted flow of interstate
commerce to customers located in states or countries other than the states or countries in which the
defendants and co-conspirators produced sorbates.

10. The business activities of the defendant and co-conspirators that are the subject of
 this Superseding Information were within the flow of, and substantially affected, interstate trade and
 commerce.

IV.

JURISDICTION AND VENUE

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

SUPERSEDING INFORMATION -- Page 3

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1	Indictment in this case (United States v. Komatsu et al., CR 01-0019 (N.D. Ca. 2001)).				
2	ALL IN VIOLATION OF TITLE 15, UNITED STATES CODE, SECTION 1.				
3	Dated: 7/29/04				
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6	R. Hewitt Pate	Phillip H. Warren			
7	Assistant Attorney General	Chief, San Francisco Office			
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9	<u>/s/</u>	Marc Siegel			
10	James M. Griffin Deputy Assistant Attorney General	Marc Slegel Assistant Chief			
11		Michael L. Scott			
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16	Washington, DC 20530				
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18	/s/				
19	Kevin V. Ryan United States Attorney Northern District of California				
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	SUPERSEDING INFORMATION Page 4				