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7
8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA

10
11 UNITED STATES OF AMERICA) No. CR 00 -0392 SI
12)
13 v.) INFORMATION
14) Filed: July 25, 2000
15) VIOLATION:
16 DAICEL CHEMICAL INDUSTRIES,) Title 15, United States Code,
LTD.) Section 1 (Price Fixing,
17) Volume Allocation)
18 Defendant.)
19) San Francisco Venue

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

21 I.

22 DESCRIPTION OF THE OFFENSE

23 1. DAICEL CHEMICAL INDUSTRIES, LTD. ("DAICEL") is made a
24 defendant on the charge stated below.

25 2. From in or about January 1979 until in or about December 1996,
26 defendant DAICEL and its coconspirators, entered into and engaged 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

1 combination and conspiracy engaged in by the defendant and its coconspirators was
2 in unreasonable restraint of interstate and foreign trade and commerce in violation of
3 Section 1 of the Sherman Act (15 U.S.C. § 1).

4 3. The charged combination and conspiracy consisted of a continuing
5 agreement, understanding, and concert of action among the defendant and its
6 coconspirators, the substantial terms of which were:

- 7 (a) to agree to fix and maintain prices and to coordinate price
8 increases for sorbates to be sold in the United States and
9 elsewhere; and
- 10 (b) to agree to allocate among major sorbates producers the volumes
11 of sorbates to be sold in the United States and elsewhere.

12 4. For the purpose of forming and carrying out the charged combination and
13 conspiracy, the defendant and its coconspirators did those things that they combined
14 and conspired to do, including, among other things:

- 15 (a) participating in meetings and conversations to discuss the prices
16 and volumes of sorbates to be sold in the United States and
17 elsewhere;
- 18 (b) agreeing, during those meetings and conversations, to charge
19 prices at certain levels and otherwise to increase and maintain
20 prices of sorbates to be sold in the United States and elsewhere;
- 21 (c) agreeing, during those meetings and conversations, to allocate
22 among major producers of sorbates the volumes of sorbates to be
23 sold in the United States and elsewhere;
- 24 (d) issuing price announcements and price quotations in accordance
25 with the agreements reached; and
- 26 (e) exchanging information on sales of sorbates in the United States

1 and elsewhere, for the purpose of monitoring and enforcing
2 adherence to the agreed-upon prices and sales volumes.

3 II.

4 DEFENDANT AND COCONSPIRATORS

5 5. DAICEL is a corporation organized and existing under the laws of Japan.
6 During the period covered by this Information, DAICEL was engaged in the business
7 of producing and, through DAICEL's trading company, selling sorbates for resale to
8 customers in the United States and elsewhere.

9 6. Various corporations and individuals, not made defendants in this
10 Information, participated as coconspirators in the offense charged in this Information
11 and performed acts and made statements in furtherance of it.

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

17 III.

18 TRADE AND COMMERCE

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

22 9. During the period covered by this Information, the defendant and its
23 coconspirators sold and distributed sorbates in a continuous and uninterrupted flow
24 of interstate and foreign trade and commerce to customers located in states or
25 countries other than the states or countries in which the defendant and its
26 coconspirators produced sorbates.

1 10. The business activities of the defendant and its coconspirators that are
2 the subject of this Information were within the flow of, and substantially affected,
3 interstate and foreign trade and commerce.

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1 IV.

2 JURISDICTION AND VENUE

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

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

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9 _____"/s/"_____
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_____"/s/"_____
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