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8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10

11 UNITED STATES OF AMERICA )

No. CR-01-0019 (SI)

12 v. )

) SUPERSEDING  
) INFORMATION

13 )  
14 HITOSHI HAYASHI )

) VIOLATION:  
) Title 15, United States Code,  
) Section 1 (Price Fixing,  
) Volume Allocation)

15 )  
16 Defendant. )

) San Francisco Venue  
17

18 The United States of America, acting through its attorneys, charges:  
19

20 I.

21 DESCRIPTION OF THE OFFENSE

22 1. HITOSHI HAYASHI (“the defendant”) is made a defendant on the charge stated  
23 below.

24 2. From 1992 until 1996, the defendant and co-conspirators participated in a  
25 combination and conspiracy to suppress and eliminate competition by fixing the prices and  
26 allocating the volumes of sorbates to be sold in the United States and elsewhere. The combination  
27 and conspiracy engaged in by the defendant and co-conspirators was in unreasonable restraint of  
28 interstate trade and commerce in violation of Section 1 of the Sherman Act (15 U.S.C. § 1).



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

4 6. Various corporations and individuals, not made defendants in this Superseding  
5 Information, participated as co-conspirators in the offense charged in this Superseding Information  
6 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.

### 12 III.

#### 13 TRADE AND COMMERCE

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

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

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

### 24 IV.

#### 25 JURISDICTION AND VENUE

26 11. The combination and conspiracy charged in this Superseding Information was carried  
27 out, in part, in the Northern District of California within the five years preceding the filing of the  
28

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 \_\_\_\_\_ /s/  
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Assistant Attorney General

\_\_\_\_\_ /s/  
Phillip H. Warren  
Chief, San Francisco Office

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