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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 C. ITOH & CO., LTD.;)
 KYOKUYO CO., LTD.;)
 MITSUI & CO., LTD.;)
 NIPPON REIZO KAISHA, LTD.;)
 NIPPON SUISAN KAISHA, LTD.;)
 SHINKO SANGYO TRADING CO. LTD.;)
 TAIYO FISHERY CO., LTD.; and)
 TOSHOKU LTD.,)
)
 Defendants.)

No. C-82-810
FINAL JUDGMENT
Filed: June 30, 1982
Entered: October 20, 1982

Plaintiff, United States of America, having filed its complaint in this case, and plaintiff and defendants, by their respective attorneys having consented to waive, solely for the purpose of this Final Judgment, their rights to contest the jurisdiction of the Court over their persons, and having further consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence against or an admission by any party with respect to any such issue;

NOW, THEREFORE, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby,

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IV.

Each defendant is enjoined from:

(A) Entering into, adhering to, maintaining, furthering, participating in, or enforcing any agreement, arrangement, understanding, combination, or conspiracy with any other importer or group of importers to fix, maintain, establish, or adhere to the prices, range of prices, or other terms or conditions for the purchase of processed seafood from any U.S. person or persons;

(B) Communicating with any other importer or group of importers to exchange information or opinions concerning (i) current season or future prices for the purchase of processed seafood from any U.S. person or persons; (ii) current season or future price offers or counteroffers made or received, to be made, or under consideration for the purchase of processed seafood from any U.S. person or persons; (iii) strategy, timing, or conduct of negotiations for the current season or future purchases of processed seafood from any U.S. person or persons; or (iv) quantity of processed seafood being or to be purchased from any U.S. person or persons; and

(C) Attending or participating in any meeting with any other importer or group of importers during which such defendant knows or has been advised that any importer will discuss any subject listed in paragraph IV(B) hereof.

V.

Except to the extent undertaken for the purpose of circumventing the prohibitions of Section IV hereof, nothing contained in this Final Judgment shall prohibit:

(A) Any necessary communication or negotiation between a defendant and any other person in connection with a contemplated or actual purchase or sale of processed seafood between such persons;

1 (H) Participation in a meeting called and chaired or
2 vice-chaired by an official of the Japanese Fisheries Agency at
3 which participants discuss their estimates of the total amount of
4 any processed seafood product or products that will be imported
5 into the Japanese market during a particular period, provided
6 that such meetings do not include discussions by individual firms
7 of their own import plans; or

8 (I) Provision by a defendant of any information concerning
9 the purchase of processed seafood to the Government of Japan or
10 any agency or department thereof, provided that in the course of
11 transmitting such information it is not divulged to any other
12 importer.

13 VI.

14 For a period of five years from the date of entry of this
15 Final Judgment, each defendant is ordered to file annually with
16 the plaintiff an affidavit, prepared without direct or indirect
17 communication with any other defendant, identifying each JMPIA
18 meeting that defendant attended at which processed seafood was
19 discussed and each meeting with any other importer or group of
20 importers during which any subject listed in paragraph IV(B) was
21 discussed. Such affidavit shall contain a detailed account of
22 all discussions at such meetings relating to the purchase and
23 importation of processed seafood, the date of such meetings, and
24 to the extent known, the names and company affiliation of each
25 person in attendance. If the defendant attended no such
26 meetings, the affidavit shall so state. Such affidavit, if in
27 Japanese, shall be accompanied by an English translation.
28 Nothing in this Section VI shall require reports of discussions
29 permitted by Section V hereof.

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1 (D) Within thirty (30) days after the date of entry of this
2 Final Judgment, furnish each member company of the JMPIA with a
3 copy of this Final Judgment, together with a Japanese
4 translation, by mailing a copy to the president or other
5 appropriate officer of such member company or ascertaining that
6 either the JMPIA or another defendant has done so; and

7 (E) File with this Court and serve upon the plaintiff,
8 within sixty (60) days from the date of entry of this Final
9 Judgment, a statement as to the fact and manner of its compliance
10 with paragraphs VII(A), (C) and (D) hereof, and the measures that
11 it has taken to assure compliance with paragraph VII(B) hereof.

12 VIII.

13 (A) For the purpose of determining or securing compliance
14 with this Final Judgment:

15 (1) Upon receipt of a written request of the Attorney
16 General or the Assistant Attorney General in charge of the
17 Antitrust Division, each defendant shall, on reasonable notice
18 and subject to any legally recognized privilege:

19 (a) Provide within sixty (60) days to the
20 Department of Justice in Washington, D.C., copies of any books,
21 ledgers, accounts, correspondence, memoranda, and other documents
22 or records in the possession or under the control of such
23 defendant relating to any subjects covered by this Final Judgment;

24 (b) Submit written reports, under oath if
25 requested, in English or accompanied by an English translation,
26 with respect to its compliance with this Final Judgment as may,
27 from time to time, be requested; and

28 (c) Permit any duly authorized representative of
29 the Department of Justice, subject to the reasonable convenience
30 of each defendant and without restraint or interference from it,
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1 than a duly authorized representative of the Executive Branch of
2 the United States, except in the course of legal proceedings to
3 which the United States is a party, or for the purpose of
4 securing compliance with this Final Judgment, or as otherwise
5 required by law. The defendant from which such documents or
6 information was obtained shall be given twenty (20) days written
7 notice prior to the disclosure of such documents or information
8 in any legal proceeding (other than a grand jury proceeding) to
9 which such defendant is not a party or pursuant to a request
10 under the Freedom of Information Act.

11 IX.

12 Jurisdiction is retained by this Court for the purposes of
13 enabling any of the parties to this Final Judgment to apply to
14 this Court at any time for such orders or directions as may be
15 necessary or appropriate for the construction or implementation
16 of this Final Judgment, for the modification of any of its
17 provisions, for the enforcement of compliance with its terms, and
18 for the punishment of violations of its terms.

19 X.

20 Each defendant shall appoint a person located in the United
21 States as its agent for service of process in any proceeding for
22 the purpose of the construction, implementation, modification,
23 enforcement of compliance, or punishment of any violation of this
24 Final Judgment. Each defendant shall maintain such agent for the
25 life of this Final Judgment and, within ten (10) days from the
26 date of entry of this Final Judgment, file with this Court and
27 serve on plaintiff a statement identifying such agent. In the
28 event of a need to appoint a successor agent, defendant shall
29 immediately file with this Court and serve on plaintiff a
30 statement identifying the successor agent.

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