

**FEDERAL COURT OF CANADA
(TRIAL DIVISION)**

BETWEEN:

HER MAJESTY THE QUEEN

Applicant

and

RHÔNE-POULENC BIOCHIMIE S.A.

Accused

AGREED STATEMENT OF FACTS

I. THE ACCUSED

Rhône-Poulenc Biochimie S.A.

1. Rhône-Poulenc Biochimie S.A. ("RPBSA") is a wholly owned indirect subsidiary of Aventis S.A. (formerly Rhône-Poulenc S.A.). Aventis S.A. is a French company with its headquarters situated in Strasbourg, France and was formed in 1999 upon Rhône-Poulenc S.A.'s purchase of substantially all of the outstanding shares of Hoescht A.G.
2. During the relevant period of the offence (approximately 1990 through 1999), RPBSA was engaged in the production, sale and supply of methylglucamine throughout the world, including North America. RPBSA ceased production of methylglucamine in April 2002.

II. OTHER RELEVANT CORPORATION

Merck KGaA

3. Merck KGaA. ("Merck") is a corporation based in Europe, with its global headquarters situated in Darmstadt, Germany. During the relevant period of the offence, Merck was engaged in the production, sale and supply of methylglucamine throughout the world, including North America.

III. THE 1990-1999 AGREEMENT

4. During the relevant period of the offence, approximately 1990 through 1999, RPBSA employees periodically engaged in conversations and attended meetings in France and Germany with representatives of Merck, another methylglucamine producer.
5. As a result of these conversations, communications and meetings, the parties agreed to raise, fix and maintain the prices at which both producers would sell methylglucamine. This unlawful agreement began in or about 1990 and continued until the fall of 1999, when RPBSA terminated the agreement.
6. This agreement had the effect or result of unduly lessening competition in the Canadian market for methylglucamine.

IV. THE CANADIAN MARKET FOR METHYLGLUCAMINE

7. Methylglucamine is a specialized chemical ingredient, primarily used to facilitate the recording of high contrast X-ray images when combined with an active contrast imaging agent.
8. More specifically, it produces solubility and viscosity effects within the body that are critical in delaying the action of the active contrast imaging agent. The effects created by methylglucamine allow sufficient time for the X-ray film to record higher contrast images than would otherwise be produced by the active contrast agent.
9. During the relevant period of the offence, RPBSA and Merck were the primary producers and suppliers of methylglucamine in the world. There were no manufacturing facilities for methylglucamine in Canada. Supplies of the product to the Canadian market consisted of imports, primarily from Merck.
10. During the relevant period of the offence, the supply of methylglucamine to the Canadian market was worth approximately \$1.7 million.

V. OTHER CONSIDERATIONS

11. Pursuant to his responsibilities for the administration and enforcement of the *Competition Act*, the Commissioner has conducted and continues to conduct extensive inquiries into this industry sector in Canada. He considers that RPBSA's cooperation with this inquiry has provided significant assistance to the investigation.
12. Rhône-Poulenc S.A., RPBSA's former parent, was also involved in the Vitamins Inquiry in Canada. In September 1999, it pleaded guilty to conspiracy charges under s. 45 of the *Competition Act* with respect to production and sale of Vitamins A and E in Canada.

13. The decision by RPBSA to plead guilty has saved considerable costs of further investigation and trial which would otherwise have been incurred by the Government of Canada.

VI. CONCLUSION

14. RPBSA admits the above facts, solely for the purpose of dispensing with their proof at trial in this proceeding.
15. RPBSA acknowledges, on the basis of its admission of the facts set out herein, with respect to the agreement alleged in the Indictment, that all the constituent elements of an indictable offence under paragraph 45(1)(c) of the *Competition Act* have been established.
16. The parties agree that this document may be executed by signature conveyed by facsimile transmission or in counterparts.

Rhône-Poulenc Biochimie S.A.

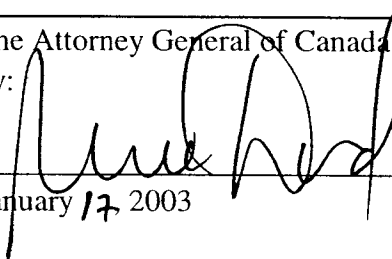
by:



January 22, 2003

The Attorney General of Canada

by:



January 17, 2003

Court File No. T-

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**FEDERAL COURT OF CANADA
(TRIAL DIVISION)**

COUR FÉDÉRALE DU CANADA
OTTAWA, ONTARIO

BETWEEN:

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- and -

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