

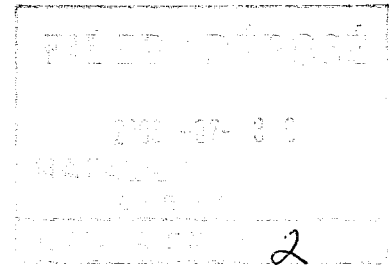
FEDERAL COURT OF CANADA
(TRIAL DIVISION)

BETWEEN:

HER MAJESTY THE QUEEN

- and -

AKZO NOBEL CHEMICALS BV



ACCUSED

AGREED STATEMENT OF FACTS

I. THE ACCUSED

Akzo Nobel Chemicals BV:

1. Akzo Nobel Chemicals BV ("Akzo") is a company organized and existing under the laws of the Netherlands with its principal place of business in Amersfoort, Netherlands. During the relevant period, Akzo exported Monochloroacetic Acid and Monochloroacetate (together, "MCAA") into Canada through an affiliate. Akzo asserts, and the Commissioner of Competition (the "Commissioner") is unaware, but does not contest for purposes of this proceeding that Akzo has a Canadian subsidiary, Akzo Nobel Chemicals Ltd., Mississauga, Ontario, which is not involved or implicated in this matter.

II. OTHER RELEVANT CORPORATIONS

2. The information set out in paragraphs 3 - 5 and paragraph 10 has been obtained from sources available to the Commissioner of which Akzo is unaware, but does not contest for the purposes of this proceeding.

Hoechst AG

3. Hoechst AG ("Hoechst") was a corporation organized and existing under the laws of Germany. Throughout the relevant period, until June 1997, Hoechst produced, manufactured, distributed, sold and supplied MCAA, which it exported into Canada through its Specialty Chemicals Division. On December 15, 1999 the merger of Rhône-Poulenc S.A. and Hoechst A.G. formed a new corporation, Aventis S.A., a large pharmaceutical company based in Strasbourg, France. Hoechst is now an intermediate holding company that operates as an affiliate of Aventis S.A.

Elf Atochem SA

4. Elf Atochem SA ("Elf") was a corporation organized and existing under the laws of France. Throughout the relevant period, Elf produced, manufactured, distributed, sold and supplied MCAA, which it exported into Canada through a distributor based in the United States. During the relevant period, Elf was the chemical subsidiary of Elf Aquitaine, which merged with TotalFina in 1999 to form Total Fina Elf S.A., one of the leading oil companies in the world. Total Fina Elf S.A. is a company based in Paris, France. Elf, as the former chemical subsidiary of Elf Aquitaine, has been combined with the chemical operations of the former TotalFina and is now known as AtoFina.

Clariant Gmbh

5. Clariant Gmbh ("Clariant") is a corporation organized and existing under the laws of Germany. Throughout the relevant period, beginning in June 1997, Clariant produced, manufactured, distributed, sold and supplied MCAA, which it exported into Canada through its Polymer, Cosmetic and Agrochem Division of its Specialty Intermediates Business Unit. Clariant has a Canadian subsidiary, located in Montreal, Québec that sells MCAA.

III. MCAA AND THE CANADIAN MARKET FOR MCAA

6. MCAA product is a chemical intermediate used in the production of herbicides, thioglycolic acid (TGA) and carboxymethylcellulose (CMC). TGA is a stabilizer used in the production of polyvinyl chloride (PVC), a type of plastic. CMC is used in industrial cleaning, pulp and paper, oil drilling and, to a lesser extent, in low fat foods and diet beverages. There are no manufacturing facilities for MCAA in Canada. Akzo and the other companies identified in paragraphs 3 - 5 above produced and supplied a substantial majority of the total volume of MCAA sold in Canada, the United States and Europe.

7. Based on the facts obtained by the Commissioner, of which Akzo is unaware but does not contest for purposes of this proceeding, total sales of MCAA in Canada throughout the period of the offence approximated \$7 million (all figures in Canadian funds). The total volume of sales of MCAA in Canada by Akzo during this period approximated \$4.2 million.

IV. THE 1995 to 1999 AGREEMENT

8. On at least seventeen occasions within the period September 1995 to August 1999 (the Relevant Period), executives of Akzo engaged in conversations and attended meetings with representatives of one or more of the other corporations producing MCAA. Meetings during this period were generally held in Europe, in France, Germany, The Netherlands, and Switzerland.
9. As a result of these conversations and meetings, an unlawful agreement amongst the corporations identified herein was reached in relation to the sale and supply of MCAA in Canada and elsewhere during the Relevant Period. The parties agreed on an allocation amongst themselves of the volume of MCAA that each corporation would supply in Canada. The parties also agreed to certain price increases for MCAA in Canada during the Relevant Period.
10. The Commissioner asserts that the effect of the agreement was to prevent, limit or lessen, unduly, the supply and sale of MCAA to purchasers in Canada during the Relevant Period.

V. OTHER CONSIDERATIONS

11. The decision by Akzo to appear and plead guilty to an offence contrary to section 45 of the *Competition Act* has saved considerable costs of further investigation and trial which would otherwise have been incurred by the Government of Canada.
12. Pursuant to his responsibilities for the administration and enforcement of the *Competition Act*, the Commissioner has conducted and continues to conduct extensive inquiries into the industry of MCAA in Canada. Akzo's cooperation with

this inquiry has assisted the investigation of other corporations and individuals for violations of the *Competition Act* in relation to MCAA and other chemical products presently being investigated by the Competition Bureau.

VI. CONCLUSION

13 Except where specifically indicated above, Akzo admits the above facts, pursuant to section 655 of the *Criminal Code*, solely for the purpose of dispensing with their proof at trial in this proceeding.

14. Akzo 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.

15. The parties agree that this document may be executed by signature conveyed by facsimile transmission or in counterparts.

Andrew J. Roman
Akzo Nobel Chemicals BV
By: Attorney by Power
of Attorney

This 20th day of June, 2003.

[Signature]
The Attorney General of Canada
by his Counsel, D.D. Graham Reynolds, Q.C.

This 30th day of July 2003.

Court File No. T-

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(TRIAL DIVISION)**

BETWEEN:

HER MAJESTY THE QUEEN

- and -

AKZO NOBEL CHEMICALS BV (AKZO)

ACCUSED

AGREED STATEMENT OF FACTS

**DUPLICATE
DUPLICATA**

AUG 26 2003

MONTREAL

**DUPLICATE
DUPLICATA**

AUG 04 2003

TORONTO

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