

FEDERAL COURT  
TRIAL DIVISION

BETWEEN:

HER MAJESTY THE QUEEN

- and -

ARTEVA SPECIALTIES S.a.r.l.,  
c.o.b. KoSa

Accused

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STATEMENT OF ADMISSIONS  
pursuant to section 655 of the *Criminal Code*

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**Arteva Specialties S.a.r.l.**

1. Arteva Specialties S.a.r.l. ["Arteva"] is an entity organized and existing under the laws of Luxembourg, having its principal place of business in Charlotte, North Carolina. During the relevant period, Arteva was a producer of polyester staple and was engaged in the sale of polyester staple in North America.
2. Arteva manufactured polyester staple fibre in Canada until February 2000, when its plant in Millhaven Ontario ceased production. Arteva had acquired the polyester staple business in Canada from Hoechst Celanese AG in December 1999.

**DuPont-Akra**

3. DuPont-Akra Polyester, LLC, currently known as DAK Fibres, LLC ["DAK"] (prior to 1999, known as DuPont) is an American / Mexican joint-venture formed in 1999 by E.I. DuPont De Nemours & Co. of the United States and Alpek S.A. de C.V., a subsidiary of Alfa S.A. de C.V. of Mexico.
4. DAK is located in Charlotte, North Carolina. DAK and DuPont Dacron manufactured polyester fibre in the United States during the relevant time.

DuPont Canada sells DAK polyester staple fibre in Canada and has a place of business in Montreal, Quebec.

5. Prior to the formation of the joint-venture, DuPont Dacron sold polyester staple fibre directly in Canada through DuPont Canada.

#### **Hoechst**

6. Hoechst Celanese AG ["Hoechst"] is a German company that manufactured and sold polyester staple fibre in Canada during the relevant time period through its wholly-owned subsidiaries Celanese Inc. and Celanese Canada Ltd.
7. Through its subsidiaries, Hoechst manufactured and sold polyester staple fibre at facilities in the US and Mexico until December 1998, and, until December 1999 in Canada, when it sold the Celanese Canada facility in Millhaven Ontario and its polyester staple business in Canada to Arteva.
8. In 1999, Hoechst and Rhône-Poulenc merged to create Aventis S.A. which is headquartered in Strasbourg, France. Aventis has a place of business in Montreal, Quebec and a subsidiary, Celanese Canada Inc., in Edmonton, Alberta.

#### **Wellman, Inc.**

9. Wellman, Inc. ["Wellman"] is an American company with ventures in France and the Netherlands. Wellman manufactures polyester staple fibre in New Jersey and South Carolina, and sells the product in Canada and elsewhere.

#### **Nan Ya Plastics Corporation**

10. Nan Ya Plastics Corporation ["Nan Ya"] is a Taiwanese company with a plant in Lake City, South Carolina, United States. Nan Ya is part of the Formosa Plastics Group, the largest private business enterprise in Taiwan. During the relevant time, Nan Ya was engaged in the manufacture and sale of polyester staple to customers in North America.

#### **Nan Ya Plastics Corporation, America**

11. Nan Ya Plastics Corporation, America is a wholly owned American subsidiary of Nan Ya, with a manufacturing plant in Lake City, South Carolina.

#### **The offence**

12. Polyester staple fibre [the "product"] is a man-made, petroleum-based fibre that is manufactured in varying thicknesses and cut into short lengths for processing into spun yarns.

13. Polyester staple fibre is sold to textile manufacturers which process it into spun yarns thereafter woven into fabric for sheets, shirts and other wearing apparel, and home furnishings. The relevant product for these purposes is first quality fine denier polyester staple fibre.
14. During the relevant period of the offence, Arteva, Wellman, Nan Ya and DAK were the principal producers and suppliers of polyester staple fibre in North America. After February 2000 when the Millhaven facility ceased to manufacture polyester staple fibre, all supplies of the product to the Canadian market consisted of imports from the United States.
15. During the relevant period of the offence, sales of polyester staple fibre in the Canadian market amounted to approximately Cdn\$17.6 million.
16. During the relevant period of the offence, Arteva was an important supplier to the Canadian polyester staple fibre market.
17. From approximately September 1999, and continuing until approximately June 2000, the exact dates being unknown, responsible employees of Arteva, DAK, Wellman and Nan Ya [the "parties"] participated in meetings, engaged in discussions and entered into agreements to engage in a common course of conduct, the substantial purpose and effect of which were to:
  - a) coordinate their offers on price and other terms for contracts for the supply of the product to particular customers;
  - b) allocate among the parties specific customers and particular business at specific customers;
  - c) announce price increases for the product at agreed ranges that differed for each competitor but, through individual negotiations with individual customers, aimed to achieve increased price levels; and
  - d) exchanged information with each other in order to implement and monitor their agreements.
18. Pursuant to their agreements, the parties engaged in the agreed course of conduct. During the relevant period, Arteva and the other parties coordinated their offers to particular customers, negotiated prices for supply contracts with individual customers and allocated those customers among themselves through a process of non-competitive offers and they announced and implemented price increases for the supply of the product in Canada.
19. Although certain natural fibres can be substituted for polyester fibre, it is often not economically feasible to do so, subject to market conditions. In addition, other fibres do not have precisely the same characteristics as polyester.
20. High transportation costs relative to the product value make imports not a

significant competitive factor.

21. Accordingly, the agreement between the accused and the other co-conspirators lessened unduly competition in the production, manufacture, purchase, sale and supply of polyester staple fibre.
22. Arteva admits these facts, pursuant to section 655 of the *Criminal Code*, solely for the purpose of dispensing with their proof at trial in this proceeding.
23. Arteva 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.

Arteva Specialties S.a.r.l.  
by its duly authorized officer

August 7<sup>th</sup>, 2003

  
Stephen W. Duffy