



# Department of Justice

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## **INTERNATIONAL CHEMICAL CORP. AGREES TO PLEAD GUILTY, PAY FINES FOR PARTICIPATING IN MULTIPLE CRIMINAL ANTITRUST CONSPIRACIES**

### **French Executive Agrees to Serve a Jail Sentence in the United States**

WASHINGTON, D.C.-- Elf Atochem S.A., an international French-based chemical conglomerate, has agreed to plead guilty and pay fines totaling \$8.5 million for participating in two international conspiracies that suppressed competition in the industrial chemical markets for monochloroacetic acid (MCAA) and organic peroxides, the Department announced today. Patrick Stainton, an Elf Atochem executive and a citizen and resident of France, also has agreed to plead guilty, to serve a 90-day jail sentence in the United States, and to pay a \$50,000 criminal fine for his role in the MCAA conspiracy.

MCAA is a reactive chemical compound used in the production of numerous commercial and consumer products, including pharmaceuticals, herbicides, and plastic additives. Annual U.S. sales of MCAA are approximately \$50 million. Organic peroxides are used in the manufacture of polyvinyl chloride, low-density polyethylene, and most polystyrene products such as containers and packaging. Annual U.S. sales of organic peroxides are approximately \$300 million.

In a two-count felony case filed in U.S. District Court in San Francisco, Elf Atochem was charged with one count of fixing prices and allocating market shares of MCAA sold in the U.S. and elsewhere from 1995 until 1999, and one count of fixing the prices of certain organic peroxides sold in the U.S. and elsewhere from 1997 until 1998. Elf Atochem agreed to pay criminal fines totaling \$8.5 million--\$5 million for its role in the MCAA conspiracy and \$3.5 million for its role in the organic peroxides conspiracy.

In a separate one-count felony case, also filed today in U.S. District court in San Francisco, Stainton was charged with participating in the MCAA conspiracy from 1995 to 1996.

Elf Atochem is the second company to plead guilty to participating in the international MCAA conspiracy, and it is the first to be implicated in the international conspiracy involving organic peroxides. In June 2001, Akzo Nobel Chemicals BV pleaded guilty and was sentenced to pay a \$12 million fine for its role in the MCAA conspiracy. In Elf Atochem's plea agreement, which must be approved by the court, the company has pledged to cooperate fully with ongoing federal investigations of anticompetitive behavior in these product markets.

"The Antitrust Division is committed to identifying and prosecuting all companies, whether domestic or foreign, that harm American businesses and consumers," said Charles A. James, Assistant Attorney General in charge of the Department's Antitrust Division.

Elf Atochem and Stainton are charged with conspiring to suppress and eliminate competition among MCAA producers by:

- Participating in meetings and conversations to discuss the prices and market shares of MCAA sold in the United States and elsewhere;
- Agreeing, during those meetings and conversations, to charge prices at certain levels and otherwise to increase and maintain prices of MCAA sold in the United States and elsewhere;
- Agreeing, during those meetings and conversations, to allocate among major MCAA producers the market shares of MCAA to be sold in the United States and elsewhere;
- Issuing price announcements and price quotations in accordance with the agreements reached; and
- Exchanging information on sales of MCAA in the United States and elsewhere, for the purpose of monitoring and enforcing adherence to the agreed-upon prices and market shares.

Similarly, Elf Atochem is charged with conspiring to suppress and eliminate competition among organic peroxide producers by:

- Participating in meetings and conversations to discuss the prices and market shares of certain organic peroxides sold in the United States and elsewhere;
- Agreeing, during those meetings and conversations, to charge prices at certain levels and otherwise to increase and maintain prices of certain organic peroxides sold in the United States and elsewhere; and
- Issuing price announcements and price quotations in accordance with the agreement reached.

James M. Griffin, the Antitrust Division's Deputy Assistant Attorney General for Criminal Enforcement, emphasized that "the Justice Department is continuing to gather information about these and other violations of U.S. antitrust laws by international cartels. Today's guilty pleas, and the cooperation that we will obtain through them, will enhance and further our efforts."

Both Elf Atochem and Stainton are charged with violating Section 1 of the Sherman Act, which carries a maximum fine of \$10 million for corporations and a maximum penalty of three years imprisonment and a \$350,000 fine for individuals. The maximum fines may be increased to twice the gain derived from the crime or twice the loss suffered by the victims of the crime if either of those amounts is greater than the statutory maximum.

The charges and plea agreements announced today stem from continuing investigations being conducted by the Antitrust Division's San Francisco Field Office and the Federal Bureau of Investigation in San Francisco.

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