

- if the judgment under appeal is not set aside in full, set aside paragraph 4 of the operative part of the judgment insofar as it deals with the appellant's fourth plea and the second part of the appellant's seventh plea;
- annul the Commission Decision C(2017) 1742 final of 17 March 2017 relating to a proceeding under Article 101 TFEU, Article 53 of the EEA Agreement and Article 8 of the Agreement between the European Community and the Swiss Confederation on Air Transport (Case AT.39258 — Airfreight) (the Decision) in whole or in part, specifically the first sentence of recital 1045 and recital 1046 in its entirety; and
- award the appellant the costs of the appeal.

Pleas in law and main arguments

The appellant seeks to set aside, in whole or in part, the judgment under appeal. The judgment under appeal resolved the appellant's application to annul, in whole or in part, the Decision.

In support of the action, the applicant relies on the three following pleas in law.

First plea, that the General Court erred in law by substituting its own reasoning for that of the Commission and failed to identify any qualified effects on competition in the EU/EEA. This plea has two parts. First, that the Commission's cursory reasoning was plainly inadequate and the General Court erred by impermissibly substituting its own detailed reasoning in place of that reasoning. Second, that the Commission's substituted reasoning is in any event insufficient as it fails to identify a relevant and sufficient effect on competition in the EU/EEA.

Second plea, that the General Court erred in law in arriving at its conclusions on price effects in downstream goods markets located in the EU/EEA. The General Court distorted the evidence before it, improperly placed the burden of proof on the appellant to disprove material factual propositions and exceeded its competence by substituting its own reasoning for altogether different reasoning of the Commission.

Third plea, that the General Court erred in law and misconstrued the Decision mentioned above by relying on certain aspects of a single and continuous infringement, which had effects within the EU/EEA to establish jurisdiction over distinct foreign conduct, which was not shown to have generated qualified effects within EU/EEA territory.

Appeal brought on 9 June 2022 by Singapore Airlines Ltd, Singapore Airlines Cargo Pte Ltd against the judgment of the General Court (Fourth Chamber, Extended Composition) delivered on 30 March 2022 in Case T-350/17, Singapore Airlines and Singapore Airlines Cargo v Commission

(Case C-379/22 P)

(2022/C 303/31)

Language of the case: English

Parties

Appellants: Singapore Airlines Ltd, Singapore Airlines Cargo Pte Ltd (represented by: J.-P. Poitras and J. Wileur, avocats, and J. Ruiz Calzado, abogado)

Other party to the proceedings: European Commission

Form of order sought

The appellants claim that the Court should:

- set aside the judgment under appeal, in full or partially;

- annul the Commission Decision C(2017) 1742 final of 17 March 2017 relating to a proceeding under Article 101 TFEU, Article 53 of the EEA Agreement and Article 8 of the Agreement between the European Community and the Swiss Confederation on Air Transport (Case AT.39258 — Airfreight) (the Decision) in its entirety insofar as it concerns the appellants or, in the alternative, partially annul the Decision insofar as:
 - Articles 1(2)(q)/(r) and 1(3)(q)/(r) of the Decision are based on the Commission having jurisdiction to apply Article 101 TFEU and Article 53 EEA Agreement to inbound EU/EEA airfreight services and, accordingly, reduce the fine imposed on the appellants to EUR 64 600 000 or to such amount as the Court sees fit;
 - the Decision finds that conduct adopted in the contest of the WOW alliance forms part of the single and continuous infringement and, accordingly, further reduce the fine imposed on the appellants by 15 % based on the General Court's limited involvement analysis or any other basis that the Court deems appropriate;
 - the Decision finds that conduct related to commissioning of surcharges forms part of the single and continuous infringement and, accordingly, further reduce the fine imposed on the appellants by 15 % consistent with the approach to limited involvement taken in both the Decision and the judgment under appeal or to whatever other amount the Court deems appropriate;
- annul Articles 1(1)(r)/(s) and 1(4)(r)/(s) of the Decision and further reduce the fine imposed on the appellants by 15 % applying the same methodology used by the General Court to reduce the respective fines in the cases Cathay Pacific Airways Ltd v European Commission (T-343/17, EU:T:2022:184) and Japan Airlines Co. Ltd v European Commission (T-340/17, EU:T:2022:181);
- order the Commission to pay the appellant's costs before the Court and the remaining two thirds of the costs of the proceedings before the General Court.

Pleas in law and main arguments

In support of their action, the appellants rely on four pleas in law.

First plea, alleging several errors in law concerning the General Court's assessment of the Commission's jurisdiction under Article 101(1) TFEU.

Second plea, alleging errors of law and a failure to reason concerning the assessment of conduct in the context of a procompetitive and lawful global joint venture.

Third plea, alleging several errors in law concerning the assessment of whether coordination between competitors of their position in response to actual or threatened litigation constitutes a restriction of Article 101(1) TFEU 'by object'.

Fourth plea, alleging an error in law of the General Court for not raising of its own motion an issue of public policy related to the Commission's lack of power to impose penalties.

Appeal brought on 9 June 2022 by Deutsche Lufthansa AG, Lufthansa Cargo AG, Swiss International Air Lines AG against the judgment of the General Court (Fourth Chamber, Extended Composition) delivered on 30 March 2022 in Case T-342/17, Deutsche Lufthansa and Others v Commission

(Case C-380/22 P)

(2022/C 303/32)

Language of the case: English

Parties

Appellants: Deutsche Lufthansa AG, Lufthansa Cargo AG, Swiss International Air Lines AG (represented by: S. Völcker, Rechtsanwalt, and R. Benditz, avocat)