

Opinion of the Advisory Committee on restrictive practices and dominant positions given at its 420th meeting on 8 December 2006 concerning a draft decision relating to Case COMP/38.899 — Gas Insulated Switchgear

(2008/C 5/04)

1. The Advisory Committee agrees with the European Commission's assessment of the facts as an agreement and/or concerted practice within the meaning of Article 81 of the Treaty and Article 53 of the EEA Agreement.
 2. The Advisory Committee agrees with the European Commission's assessment that the measures agreed and taken pursuant to the GQ and E-Group Operation Agreements are to be considered as a coherent set of measures of the arrangements agreed at both the global and the European level.
 3. The Advisory Committee agrees with the European Commission's assessment that the agreement and/or concerted practices between the producers of GIS were capable of having an appreciable effect upon trade between EU member states and between contracting parties of the EEA.
 4. The Advisory Committee agrees with the European Commission's assessment that the infringement is to be seen as single and continuous in light of the evolution of the cartel over the period from 1988-2004.
 5. The Advisory Committee agrees with the European Commission's assessment that the Japanese companies were a party to the common understanding that they would not bid for European projects and that certain 'Home Countries' were allocated amongst the European companies.
 6. The majority of the Advisory Committee agrees that Siemens, Alstom and Areva, within the group of suppliers played the role of leader and that this justifies an increase in the basic amount of the fine to be imposed on these undertakings for leadership. A minority of the Advisory Committee abstains.
 7. The Advisory Committee agrees with the European Commission's assessment that the participation in the Cartel by Siemens, Hitachi/Jaeps & VA Tech are to be considered as repeated participation to the same infringement given the temporary interruption in their participation.
 8. The Advisory Committee agrees with the European Commission's assessment of the applications made under the 2002 Leniency Notice.
 9. The majority of the Advisory Committee agrees with the European Commission's draft decision as regards the addressees of the decision, specifically with reference to imputation of liability to parent companies of the groups concerned. A minority of the Advisory Committee abstains.
 10. The Advisory Committee recommends the publication of its opinion in the *Official Journal of the European Union*.
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