

(Agents: J.-M. Stenier, P. Giusta and B. Schäfer) — application for suspension of operation of the decision of 4 December 2000 of the appointing authority concerning the reassignment of the applicant to the translation service — the President of the Court of First Instance, has made an order on 21 September 2001, in which he:

1. *Dismissed the application for interim measures;*
2. *Reserved the costs.*

Action brought on 9 October 2001 by SEC Corporation against the Commission of the European Communities

(Case T-251/01)

(2002/C 31/25)

(Language of the case: English)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 9 October 2001 by SEC Corporation, represented by Mr Koen Platteau of Linklaters & Alliance, Brussels (Belgium).

The applicant claims that the Court should:

- annul Article 3 of the Commission decision of 18 July 2001 in Case COMP/E-1/36.490 — Graphite electrodes, in so far as it imposes a fine of EUR 12,2 million on the applicant, or, at the least, substantially reduce this fine;
- order the Commission to pay the costs.

Pleas in law and main arguments

The applicant is a Japanese manufacturer of graphite electrodes and other graphite products. By the contested decision, fines were imposed on the applicant and seven other companies for having infringed the provisions of Article 81(1) of the EC Treaty and Article 53(1) of the EEA Agreement by participating in a complex of agreements and concerted practices in the graphite electrodes sector. The fine imposed on the applicant was of EUR 12,2 million. Parallel proceedings relating to these agreements and practices have been undertaken in other jurisdictions, e.g. in the United States.

The applicant does not substantially contest the facts mentioned by the Commission in the contested decision, and the pleas in its application relate to the amount of the fine imposed.

The applicant submits that the fine is unlawful, essentially since it violates the duty of proportionality and of equal treatment. It alleges that the Commission has acted unlawfully and in violation of Articles 3(g), 5, 81 and 253 of the EC Treaty by merely determining the basic amount of the fine on the basis of the applicant's world-wide turnover and not taking into account the scope of its activities in the EEA. The categorisation used by the Commission for the establishment of the basic amount of fine and the setting of this amount violate the principles of proportionality and equal treatment.

Furthermore, the applicant submits that the Commission has violated the general principles of fairness and '*non bis in idem*' by not taking into account the sanctions previously imposed on the applicant by the US competition authorities.

Finally, it alleges that, when examining possible mitigating circumstances, the Commission violated the principles of equal treatment and of proportionality by not making sufficient distinction between the Japanese producers, all being regarded as active members of the cartel. By disregarding the applicant's passive role and 'follow my leader' approach, the Commission has disregarded its own Guidelines as well as the case law of the Court of First Instance and the Court of Justice.

Action brought on 4 October 2001 by The Carbide/Graphite Group, Inc. against the Commission of the European Communities

(Case T-252/01)

(2002/C 31/26)

(Language of the case: English)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 4 October 2001 by The Carbide/Graphite Group, Inc., represented by Mr Marc Seimetz and Mr Jean Brücher of Brücher & Seimetz in association with Dechert, Luxembourg (Luxembourg).