

The applicant claims that the Court should:

- annul under Article 230 of the EC Treaty the Commission Decision in case no. COMP/M.2533-BP/E.ON in its entirety and/or insofar it concerns the market for the supply of merchant ethylene;
- order the Commission to pay the costs.

Pleas in law and main arguments

The applicant in the present case is a purchaser of merchant ethylene on the ARG+ pipeline network in Belgium, the Netherlands and western Germany.

The applicant contests the Decision of the Commission declaring an operation where BP, together with E.ON, would acquire joint control of Veba Oel under certain conditions compatible with the common market and the EEA Agreement. These conditions were necessary since the operation gave rise to substantial competition concerns on the ARG+ merchant ethylene market. In particular, there was a risk of creating a joint dominant position of BP/Veba Oel and Shell/DEA (case no. COMP/M. 2389-Shell/DEA⁽¹⁾).

The decisions in the BP/E.ON case is closely related to the decision in the Shell/DEA case. These cases were treated similarly and the remedies imposed in each case are only effective if the remedies in the other case are operative as well. Therefore, the applicant puts forward the same arguments as in Case T-99/02.

⁽¹⁾ Under the operation examined by the Commission in this case, Deutsche Shell would acquire sole control of the undertaking DEA Mineraloel. The decision in case nr COMP/M. 2389-Shell/DEA is also contested by this Applicant in Case T-99/02.

Action brought on 5 April 2002 by EVC International N.V. against the Commission of the European Communities

(Case T-102/02)

(2002/C 156/61)

(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 5 April 2002 by EVC International N.V., represented by Mr Julian Ellison, Mr Mark Clough QC and Mr Matthew Hall of Ashurst Morris Crisp, Brussels (Belgium).

The applicant claims that the Court should:

- annul under Article 230 of the EC Treaty the Commission Decision in case no. COMP/M.2533-BP/E.ON in its entirety and/or insofar it concerns the market for the supply of merchant ethylene;
- order the Commission to pay the costs.

Pleas in law and main arguments

The applicant in the present case is a purchaser of merchant ethylene outside the ARG+ pipeline network.

The applicant contests the Decision of the Commission declaring an operation where BP, together with E.ON, would acquire joint control of Veba Oel under certain conditions compatible with the common market and the EEA Agreement. These conditions were necessary since the operation gave rise to substantial competition concerns on the ARG+ merchant ethylene market. In particular, there was a risk of creating a joint dominant position of BP/Veba Oel and Shell/DEA (case no. COMP/M. 2389-Shell/DEA⁽¹⁾).

The Decision in the BP/E.ON case is closely related to the decision in the Shell/DEA case. These cases were treated similarly and the remedies imposed in each case are only effective if the remedies in the other case are operative as well.

Therefore, the applicant puts forward the same pleas and arguments as in Case T-100/02, which are again the same as those put forward in Case T-99/02.

(1) Under the operation examined by the Commission in this case, Deutsche Shell would acquire sole control of the undertaking DEA Mineraloel. The decision in case no. COMP/M. 2389-Shell/DEA is also contested by this applicant in Case T-100/02.

Action brought on 5 April 2002 by Ineos Phenol GmbH & Co KG against the Commission of the European Communities

(Case T-103/02)

(2002/C 156/62)

(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 5 April 2002 by Ineos Phenol GmbH & Co KG, represented by Mr Julian Ellison, Mr Mark Clough QC and Mr Matthew Hall of Ashurst Morris Crisp, Brussels (Belgium).

The applicant claims that the Court should:

- annul under Article 230 of the EC Treaty the Commission Decision in case no. COMP/M.2533-BP/E.ON insofar as it relates implicitly to the merchant supply of cumene;
- order the Commission to pay the costs.

Pleas in law and main arguments

The applicant is a significant purchaser of a petrochemical product called cumene from BP and Veba Oel AG.

The applicant contests the Decision of the Commission declaring an operation where BP, together with E.ON, would acquire joint control of Veba Oel under certain conditions compatible with the common market and the EEA Agreement. The grounds of the present application relate to the omission of the Commission to consider, in this Decision, the competition issues raised by the combination of BP and Veba Oel, so far as their supply of merchant cumene is concerned.

The contested Decision contains, according to the applicant, several errors of assessment and errors in law. Firstly, the Commission erred in concluding that the merchant supply of cumene to one of the applicant's production sites does not constitute a separate economic market. Secondly, the Commission failed to consider whether a dominant position would be created in this market and failed to conclude that a dominant position had been created. Alternatively, the Commission failed to define a wider relevant market for the sale of cumene and failed to analyse the creation of a dominant position in such a market.

The applicant also puts forward a plea concerning the infringement of an essential procedural requirement, the misuse of powers and the violation of the principle of sound administration. According to the applicant, the Commission should have requested information from third parties in relation to the sale of cumene by BP and Veba Oel.

Finally, the applicant claims that there was a lack of reasoning in the contested Decision since the Commission failed to analyse the supply of merchant cumene by BP and Veba Oel and failed to address the issues raised in the present application.

Action brought on 8 April 2002 by SFT Gondrand Frères against the Commission of the European Communities

(Case T-104/02)

(2002/C 156/63)

(Language of the case: French)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on April 2002 by SFT Gondrand Frères of Paris, represented by Mireille Famchon, lawyer, with an address for service in Luxembourg.