

Cases in which the Judge-Rapporteur is assigned to another Chamber as a result of the amendment of the composition of the Chambers shall be reallocated, with effect from 13 September 2004, to the Chamber to which the Judge-Rapporteur belongs from that date.

In cases where the written procedure was completed and a hearing in the oral procedure was held or fixed before 13 September 2004, the Chamber shall continue to sit with the same composition as previously for the oral procedure, the deliberation and the judgment.

### Composition of the Grand Chamber

On 13 September 2004 the Court of First Instance decided, in accordance with Article 10(1) of the Rules of Procedure, that for the period from 13 September 2004 to 30 September 2005 the Grand Chamber shall be composed of: Mr Vesterdorf, President of the Court of First Instance; Mr Jaeger, Mr Pirrung, Mr Vilaras and Mr Legal, Presidents of Chambers; the Judges of the Chamber (Extended Composition) who would have had to hear the case in question if it had been assigned to a Chamber composed of five Judges; and four other Judges designated by the President of the Court of First Instance in turn from among the Judges of each of the other Chambers, in the order of precedence of those Judges within their Chambers according to seniority in office under Article 6 of the Rules of Procedure of the Court of First Instance.

As regards cases where the written procedure was completed and, in the oral procedure, a hearing before the Grand Chamber was held or fixed before 13 September 2004, the Grand Chamber shall continue to sit with the same composition as previously for the oral procedure, the deliberation and the judgment.

### Plenary session

On 13 September 2004 the Court of First Instance decided, in accordance with the second subparagraph of Article 32(1) of the Rules of Procedure, that where, following the designation of an Advocate General pursuant to Article 17 of the Rules of Procedure, there is an even number of Judges in the Court of First Instance sitting in plenary session, the rota established in advance in accordance with which the President of the Court is to designate the Judge who will not take part in the judgment of the case shall be in reverse order to the order in which the Judges rank according to their seniority in office under Article 6 of the Rules of Procedure unless the Judge who would thus be designated is the Judge-Rapporteur. In that event, it is the Judge ranking immediately above him who shall be designated.

### Designation of the Judge replacing the President of the Court of First Instance as the Judge hearing an application for interim measures

On 13 September 2004 the Court of First Instance decided, in accordance with Article 106 of the Rules of Procedure, to designate Judge García-Valdecasas to replace the President of the Court of First Instance for the purpose of deciding applications for interim measures where the latter is absent or prevented from dealing with them, in respect of the period from 13 September 2004 to 30 September 2005.

### Criteria for assigning cases to the Chambers

On 13 September 2004 the Court of First Instance laid down criteria as follows for the assignment of cases to the Chambers for the period from 13 September 2004 to 30 September 2005, in accordance with Article 12 of the Rules of Procedure.

1. Cases shall be assigned, as soon as applications have been lodged and without prejudice to any subsequent application of Articles 14 and 51 of the Rules of Procedure, to Chambers of three Judges.
2. Cases shall be allocated to the Chambers in turn, in accordance with the date on which they are registered at the Registry, following four separate rotas, namely:
  - for cases concerning application of the competition rules applicable to undertakings, the rules on State aid and the rules on trade protection measures;
  - for the cases referred to in Article 236 of the EC Treaty and Article 152 of the EAEC Treaty;
  - for cases concerning intellectual property rights, as envisaged by Article 130(1) of the Rules of Procedure;
  - for all other cases.

In applying those rotas, the First Chamber shall not be taken into consideration at each fifth turn.

The President of the Court of First Instance may derogate from the rotas on the ground that cases are related or with a view to ensuring an even spread of the workload.

## JUDGMENT OF THE COURT OF FIRST INSTANCE

of 29 April 2004

**in Joined Cases T-236/01, T-239/01, T-244/01 to T-246/01, T-251/01 and T-252/01: Tokai Carbon Co. Ltd and Others v Commission of the European Communities <sup>(1)</sup>**

*(Competition — Appeal — Cartel — Graphite electrodes market — Price-fixing and market-sharing — Calculation of fines — Concurrent sanctions — Guidelines on the method of setting fines — Applicability — Gravity and duration of the infringement — Aggravating circumstances — Attenuating circumstances — Ability to pay — Cooperation during the administrative procedure — Arrangements for payment)*

(2004/C 251/24)

(Language of the case: German and English)

In Joined Cases T-236/01, T-239/01, T-244/01 to T-246/01, T-251/01 and T-252/01: Tokai Carbon Co. Ltd, established in Tokyo (Japan), represented initially by G. Van Gerven, T. Franchoo and M. De Grave and, subsequently, by G. Van Gerven and T. Franchoo, lawyers, with an address for service in

Luxembourg, SGL Carbon AG, established in Wiesbaden (Germany), represented by M. Klusmann, F. Wiemer and C. Canenbley, lawyers, Nippon Carbon Co. Ltd, established in Tokyo (Japan), represented by H. Gilliams, lawyer, Showa Denko KK, established in Tokyo (Japan), represented by M. Dolmans and P. Werdmuller, lawyers, and J. Temple Lang, Solicitor, GrafTech International Ltd, formerly UCAR International Inc., established in Wilmington, Delaware (United States), represented by K. Lasok QC and B. Hartnett, Barrister, BL, with an address for service in Luxembourg, SEC Corp., established in Amagasaki, Hyogo (Japan), represented by K. Platteau, lawyer, The Carbide/Graphite Group, Inc., established in Pittsburgh (United States), represented initially by M. Seimetz and J. Brücher and, subsequently, by P. Grund, lawyers, with an address for service in Luxembourg, against Commission of the European Communities, represented by W. Mölls and P. Hellström, and, in Case T-246/01, by W. Wils, acting as Agents, with, in Case T-239/01, H.-J. Freund, lawyer, and, in Cases T-244/01, T-246/01, T-251/01 and T-252/01, J. Flynn and C. Kilroy, Barristers, with an address for service in Luxembourg — applications for annulment, in whole or in part, of Commission Decision 2002/271/EC of 18 July 2001 relating to a proceeding under Article 81 of the EC Treaty and Article 53 of the EEA Agreement — Case COMP/E-1/36.490 — Graphite electrodes (OJ 2002 L 100, p. 1) — the Court of First Instance (Second Chamber), composed of N.J. Forwood, President, J. Pirrung and A.W.H. Meij, Judges; J. Plingers, Administrator, for the Registrar, has given a judgment on 29 April 2004, in which it:

1. In Case T-236/01 Tokai Carbon v Commission:

- sets the amount of the fine imposed on the applicant by Article 3 of Decision 2002/271 at EUR 12 276 000;
- dismisses the remainder of the application;
- orders each party to bear one half of its own costs and to pay one half of the costs incurred by the opposing party.

2. In Case T-239/01 SGL Carbon v Commission:

- sets the amount of the fine imposed on the applicant by Article 3 of Decision 2002/271 at EUR 69 114 000;
- dismisses the remainder of the application;
- orders the applicant to bear seven eighths of its own costs and to pay seven eighths of the costs incurred by the Commission and the Commission to bear one eighth of its own costs and to pay one eighth of the costs incurred by the applicant.

3. In Case T-244/01 Nippon Carbon v Commission:

- sets the amount of the fine imposed on the applicant by Article 3 of Decision 2002/271 at EUR 6 274 400;

- dismisses the remainder of the application;
- orders each party to bear one half of its own costs and to pay one half of the costs incurred by the opposing party.

4. In Case T-245/01 Showa Denko v Commission:

- sets the amount of the fine imposed on the applicant by Article 3 of Decision 2002/271 at EUR 10 440 000;
- dismisses the remainder of the application;
- orders the applicant to bear three fifths of its own costs and to pay three fifths of the costs incurred by the Commission and the Commission to bear two fifths of its own costs and to pay two fifths of the costs incurred by the applicant.

5. In Case T-246/01 GrafTech International, formerly UCAR International v Commission:

- sets the amount of the fine imposed on the applicant by Article 3 of Decision 2002/271 at EUR 42 050 000;
- dismisses the remainder of the application;
- orders the applicant to bear four fifths of its own costs and to pay four fifths of the costs incurred by the Commission and the Commission to bear one fifth of its own costs and to pay one fifth of the costs incurred by the applicant.

6. In Case T-251/01 SEC Corporation v Commission:

- sets the amount of the fine imposed on the applicant by Article 3 of Decision 2002/271 at EUR 6 138 000;
- dismisses the remainder of the application;
- orders each party to bear one half of its own costs and to pay one half of the costs incurred by the opposing party.

7. In Case T-252/01 The Carbide/Graphite Group v Commission:

- sets the amount of the fine imposed on the applicant by Article 3 of Decision 2002/271 at EUR 6 480 000;
- dismisses the remainder of the application;
- orders the applicant to bear three fifths of its own costs and to pay three fifths of the costs incurred by the Commission and the Commission to bear two fifths of its own costs and to pay two fifths of the costs incurred by the applicant.

(<sup>1</sup>) OJ C 17, 19.1.2002.