

**Action brought on 16 January 2007 — Polimeri Europa v Commission**

(Case T-12/07)

(2007/C 56/69)

*Language of the case: Italian***Parties***Applicant:* Polimeri Europa SpA (Brindisi, Italy) (represented by: M. Siragusa, F.M. Moretti and L. Nascimbene, avvocati)*Defendant:* Commission of the European Communities**Form of order sought**

The applicant claims that the Court should:

- annul the decision in its entirety, as well as all acts inseparably connected therewith and, in consequence, direct the Commission to take steps to recover the copy, forwarded to Michelin, of the non-confidential version of the new statement of objections;
- order the Commission to pay the costs of these proceedings.

**Pleas in law and main arguments**

By the present application, the applicant contests the Commission's decision (COMP/F2/D (2006) 1095) adopted on 6 November 2006 in the proceeding initiated pursuant to Article 81 EC (Case COMP/F38.638 BR/ESBR), by which the Commission forwarded to Manufacture Française des Pneumatiques Michelin (MFP) a copy of the non-confidential version of the statement of objections adopted on 6 April 2006. MFP had previously been admitted to the administrative procedure as an interested third party, since it had been asked to forward possible observations.

In support of the forms of order sought, the applicant submits:

- infringement of its rights of defence. On that point, the applicant maintains that ever since the adoption of the decision, the Commission has concealed the true purpose and nature of Michelin's participation in the procedure, thus limiting the possibilities of defence open to the applicant and negatively affecting the applicant's position in the case;
- the decision is unlawful, regard being had to the legal basis cited, in particular Article 6 of Regulation No 773/2004 <sup>(1)</sup>. The applicant maintains in this connection that Michelin cannot be regarded as a complainant, because the Form C submitted by Michelin is not an act capable of triggering the procedure launched following a complaint for the purposes

of Article 7 of Regulation No 1/2003 <sup>(2)</sup>. The decision is therefore vitiated for infringement of the latter provision, read in conjunction with Article 7 of Regulation No 773/2004.

<sup>(1)</sup> Commission Regulation (EC) No 773/2004 of 7 April 2004 relating to the conduct of proceedings by the Commission pursuant to Articles 81 and 82 of the EC Treaty (OJ L 123, 27.4.2004, p. 18).

<sup>(2)</sup> Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (OJ L 1, 4.1.2003, p. 1).

**Action brought on 12 January 2007 — Cemex UK Cement v Commission**

(Case T-13/07)

(2007/C 56/70)

*Language of the case: English***Parties***Applicant:* Cemex UK Cement Ltd (Thorpe, United Kingdom), (represented by: D. Wyatt QC, S. Taylor, Solicitor, S. Tromans and C. Thomann, lawyers)*Defendant:* Commission of the European Communities**Form of order sought**

- to annul the Commission decision of 29 November 2006, concerning the national allocation plan for the allocation of greenhouse gas emission allowances notified by the United Kingdom in accordance with Directive 2003/87/EC <sup>(1)</sup>; insofar as
  - the latter decision failed to object to/approved an allocation of allowances to the applicant in respect of its Rugby plant which was inadequate and unlawful to the extent of 343 838 tonnes;
  - the latter decision failed to object to/approved an allocation to cement manufacturers in competition with the applicant which was excessive and unlawful to the extent of the 343 838 tonnes comprising as it did the under-allocation to the applicant;