

## GENERAL COURT

**Judgment of the General Court of 12 July 2011 — Hitachi and Others v Commission**(Case T-112/07) <sup>(1)</sup>

*(Competition — Agreements, decisions and concerted practices — Market in gas insulated switchgear projects — Decision finding an infringement of Article 81 EC and Article 53 of the EEA Agreement — Market-sharing — Rights of the defence — Proof of the infringement — Single and continuous infringement — Fines — Gravity and duration of the infringement — Deterrent effect — Cooperation)*

(2011/C 252/70)

Language of the case: English

**Parties**

*Applicants:* Hitachi Ltd (Tokyo, Japan); Hitachi Europe Ltd (Maidenhead, United Kingdom); and Japan AE Power Systems Corp. (Tokyo) (represented by: M. Reynolds, P. Mansfield and B. Roy, Solicitors, D. Arts, lawyer, N. Green QC, and S. Singla, Barrister)

*Defendant:* European Commission (represented by: initially F. Arbault, then X. Lewis, and subsequently P. Van Nuffel and J. Bourke, and finally P. Van Nuffel, N. Khan and F. Ronkes Agerbeek, Agents, assisted by J. Holmes, Barrister)

**Re:**

APPLICATION, primarily, for the annulment of Commission Decision C(2006) 6762 final of 24 January 2007 relating to a proceeding under Article 81 [EC] and Article 53 of the EEA Agreement (Case COMP/F/38.899 — Gas insulated switchgear) to the extent to which it concerns the applicants and annulment of the fines imposed on them and, in the alternative, for the annulment of Article 2 of that decision to the extent to which it concerns the applicants and, in the further alternative, for the annulment or a reduction of the fines imposed on the applicants.

**Operative part of the judgment***The Court:*

1. Dismisses the action;
2. Orders the applicants to pay the costs.

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<sup>(1)</sup> OJ C 129, 9.6.2007.

**Judgment of the General Court of 12 July 2011 — Toshiba v Commission**(Case T-113/07) <sup>(1)</sup>

*(Competition — Agreements, decisions and concerted practices — Market in gas insulated switchgear projects — Decision finding an infringement of Article 81 EC and Article 53 of the EEA Agreement — Market-sharing — Rights of the defence — Proof of the infringement — Single and continuous infringement — Fines — Gravity and duration of the infringement — Statement of reasons — Starting amount — Reference year)*

(2011/C 252/71)

Language of the case: English

**Parties**

*Applicant:* Toshiba Corp. (Tokyo, Japan) (represented by: initially J. MacLennan, Solicitor, A. Schulz and J. Borum, lawyers, and subsequently J. MacLennan and A. Schulz)

*Defendant:* European Commission (represented by: initially F. Arbault and J. Samnadda, then X. Lewis, and subsequently J. Bourke and F. Ronkes Agerbeek, and finally F. Ronkes Agerbeek and N. Khan, Agents)

**Re:**

APPLICATION, primarily, for the annulment of Commission Decision C(2006) 6762 final of 24 January 2007 relating to a proceeding under Article 81 [EC] and Article 53 of the EEA Agreement (Case COMP/F/38.899 — Gas insulated switchgear) to the extent to which it concerns the applicant and, in the alternative, for the amendment of Articles 1 and 2 of that decision so as to cancel or reduce the fine imposed on the applicant.

**Operative part of the judgment***The Court:*

1. Annuls Article 2(h) and (i) of Commission Decision C(2006) 6762 final of 24 January 2007 relating to a proceeding under Article 81 [EC] and Article 53 of the EEA Agreement (Case COMP/F/38.899 — Gas insulated switchgear) in so far as it concerns Toshiba Corp;
2. Dismisses the action as to the remainder;
3. Orders Toshiba to bear three quarters of the costs incurred by the parties before the General Court;
4. Orders the European Commission to bear a quarter of the costs incurred by the parties before the General Court.

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<sup>(1)</sup> OJ C 140, 23.6.2007.