

**Form of order sought**

- Annul in whole or in part Commission Decision of 30 June 2011 amending Decision C(2009) 8682 final 11 November 2009, relating to a proceeding under Article 81 of the EC Treaty (now Article 101 TFEU) and Article 53 of the EEA Agreement (Case COMP/38.589 — Heat Stabilisers), to the extent it was addressed to the applicants;
- In the alternative, reduce the fine imposed by Article 1, paragraphs 2), 4), 19) and 21) of Commission Decision of 30 June 2011; and
- Order the Commission to pay the costs of the proceedings.

**Pleas in law and main arguments**

In support of the action, the applicants rely on three pleas in law.

1. First plea in law, alleging that the defendant wrongly attributed joint and several liability to the applicants and companies of the Elementis group and wrongly applied the concept of joint and several liability in holding the applicants liable for the share of the fine of the companies pertaining to Elementis group.
2. Second plea in law, alleging that the defendant wrongly amended the 2009 Decision to the detriment of the applicants (while an action for annulment of the 2009 Decision is pending) in violation of the principles of legal certainty and legitimate expectations.
3. Third plea in law, alleging that the defendant wrongly amended the 2009 Decision without the adoption of a new supplementary statement of objections, thereby violating the applicants' rights of deference and in particular the right to be heard.

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**Action brought on 9 September 2011 — Sarc v Commission**

(Case T-488/11)

(2011/C 331/50)

*Language of the case: English*

**Parties**

*Applicant:* Scheepsbouwkundig Advies- en Rekencentrum (Sarc) BV (Bussum, Netherlands) (represented by: H. Speyart, lawyer)

*Defendant:* European Commission

**Form of order sought**

- Annul Commission decision C(2011) 642 final of 10 May 2011 given in the State aid proceedings NN 68/2010 declaring that the aid granted does not constitute State aid; and

- Order the European Commission to pay its own costs and those incurred by the applicant.

**Pleas in law and main arguments**

In support of the action, the applicant relies on five pleas in law.

1. First plea in law, alleging
  - that the Commission failed, where it should have done so, to open the formal investigation procedure within the meaning of Article 108(2) TFEU;
2. Second plea in law, alleging
  - that the Commission, in a further submission, failed to associate SARC in its preliminary assessment in a sufficient manner;
3. Third plea in law, alleging
  - that the Commission misapplied Article 107 (1) TFEU;
4. Fourth plea in law, alleging
  - that the Commission failed, where it should have done so, to order the Dutch authorities to submit an evaluation, or to commission an independent evaluation;
5. Fifth plea in law, alleging
  - that the Commission failed to reason its decision to the required standard.

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**Action brought on 15 September 2011 — Bena Properties v Council**

(Case T-490/11)

(2011/C 331/51)

*Language of the case: French*

**Parties**

*Applicant:* Bena Properties Co. SA (Damascus, Syria) (represented by: E. Ruchat, lawyer)

*Defendant:* Council of the European Union

**Form of order sought**

The applicant claims that the Court should:

- annul (i) Council Decision 2011/273/CFSP of 9 May 2011 concerning restrictive measures against Syria, in so far as those measures concern the applicant, and (ii) the subsequent Implementing Decisions 2011/302/CFSP of 23 May 2011 and 2011/367/CFSP of 23 June 2011 in so far as they include its name in the list of persons and entities referred to in Articles 3 and 4 of Decision 2011/273/CFSP;