

- In the alternative, reduce the fine imposed on the Applicant, and;
- Order the Commission to bear the costs of these proceedings.

### **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 could not assert jurisdiction over the applicant's conduct failed to demonstrate that the applicant participated in an infringement that it can sanction under Article 101 of the TFEU, since the object of its alleged anti-competitive behavior did not concern the EEA market and its alleged involvement in the anti-competitive behavior could not have and did not have any effect on trade in the EEA market.
2. Second plea in law, alleging that the Commission erroneously relied on evidence obtained at the inspections held at certain companies, in view of the illegality of the inspection decisions.
3. Third plea in law, alleging that the Commission erroneously determined the duration of the alleged infringement with respect to the applicant, thereby violating inter alia the principles of in dubio pro reo and non-discrimination and failing to produce the relevant evidence.
4. Fourth plea in law, alleging that the different approach taken by the Commission with respect to the applicant and other companies for which similar evidence was available in the file violates the principles of non-discrimination and proportionality vis-à-vis the applicant.
5. Fifth plea in law, alleging that the Commission's determination of the fine to be imposed on the applicant violated the principle of non-discrimination, the principle of proportionality as laid down inter alia in Article 5 TEU, as well as Article 49 of the Charter of fundamental rights of the European Union, Article 23(3) of 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, the Guidelines (including point 18 and point 37 thereof) and the principle of legitimate expectations.

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### **Action brought on 16 June 2014 — nkt cables and NKT Holding v Commission**

(Case T-447/14)

(2014/C 282/61)

*Language of the case: English*

### **Parties**

*Applicants:* nkt cables GmbH (Köln, Germany) and NKT Holding A/S (Brøndby, Denmark) (represented by: M. Kofmann and B. Creve, lawyers)

*Defendant:* European Commission

### **Form of order sought**

The applicants claim that the Court should:

- Annul Commission Decision C(2014) 2139 of 2 April 2014 relating to a proceeding under Article 101 TFEU and Article 53 EEA in case AT.39610 — Power Cables (the 'Decision');
- In the alternative, partially annul the Decision and substantially reduce the fine imposed on them;
- Order the Commission to pay the costs;
- Take any other measures that it considers appropriate.

**Pleas in law and main arguments**

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

1. First plea in law, alleging that the Commission has infringed the applicants' rights of defence and the general principle of equality of arms, by refusing to allow them to access potentially exculpatory evidence received by the Commission after the notification of its Statement of Objections.
2. Second plea in law, alleging that Commission wrongly defined the territorial scope of the single and continuous infringement and erroneously applied the effects criterion.
3. Third plea in law, alleging that the Decision contained manifest errors of assessment in relation to the conduct in which NKT Cables was found to have been involved, and in relation to the conclusion that such conduct proved NKT Cables' participation in or awareness of all activities constituting the single and continuous infringement.
4. Fourth plea in law, alleging that the Commission erred in its findings as to the duration of NKT Cables' participation in the single and continuous infringement.
5. Fifth plea in law, alleging that the level of the fine which was imposed on the Applicants was unjustifiably and disproportionately high.

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**Action brought on 17 June 2014 — Hitachi Metals v Commission**

(Case T-448/14)

(2014/C 282/62)

*Language of the case: English*

**Parties**

*Applicant:* Hitachi Metals Ltd (Tokyo, Japon) (represented by: P. Crowther and C. Drew, Solicitors)

*Defendant:* European Commission

**Form of order sought**

The applicant claims that the Court should:

- Annul the Commission Decision C(2014) 2139 of 2 April 2014 relating to a proceeding under Article 101 TFEU and Article 53 EEA in case AT.39610 — Power Cables (the 'Decision');
- In the alternative, partially annul the Decision and substantially reduce the amount of the fine imposed on J-Power Systems and the applicant; and
- Order the Commission to pay the costs.

**Pleas in law and main arguments**

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

1. First plea in law, alleging that the Decision must be annulled because the Commission has failed to prove a single complex continuous infringement involving an agreement between Asian and European producers to stay out of each other's home territories and an agreement to allocate among European companies projects within the European Economic Area (EEA).
2. Second plea in law, alleging that the Commission has committed errors in fact and in law in the application of Article 101 TFEU, in so far as the Decision fails to prove to the required legal standard the involvement of J-Power Systems Corporation over the entire duration of the infringement.
3. Third plea in law, alleging that the Commission has committed errors of law and assessment in calculating the fine imposed on J-Power Systems Corporation, as such fine does not reflect the gravity of the infringement and J-Power Systems Corporation's substantially limited role for a significant duration thereof.