— order the Commission to pay the applicant's costs pursuant to Article 87 of the Rules of Procedure of the General Court, including the costs of any intervening parties.

Pleas in law and main arguments

By its present action, the applicant seeks the annulment of the Commission's decision to refuse access to the Commission's Impact Assessment Report, as well as the opinion of the Impact Assessment Board regarding the revision of the EU legal framework on environmental inspections and surveillance at national and EU level.

In support of the action, the applicant relies on three pleas in law which are essentially identical or similar to those relied on in Case T-424/14, *ClientEarth* v *Commission*.

Action brought on 16 June 2014 — Brugg Kabel and Kabelwerke Brugg v Commission

(Case T-441/14)

(2014/C 303/45)

Language of the case: German

Parties

Applicants: Brugg Kabel AG (Brugg, Switzerland), Kabelwerke Brugg AG Holding (Brugg) (represented by: A. Rinne, A. Boos and M. Lichtenegger, lawyers)

Defendant: European Commission

Form of order sought

— Annul, pursuant to Article 264(1) TFEU, Article 1(2), Article 2(b) and, in so far as it concerns the applicants, Article 3 of the defendant's decision of 2 April 2014 in Case AT.39610 — Power Cables;

— In the alternative, reduce, in the discretion of the Court, pursuant to Article 261 TFEU and Article 31 of Regulation No 1/2003, the amount of the fine imposed on the applicants in Article 2(b) of the defendant's decision of 2 April 2014 in Case AT.39610 — Power Cables;

— In any event, order the defendant, pursuant to Article 87(2) of the Rules of Procedure of the Court, to pay the applicants' costs.

Pleas in law and main arguments

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

1. First plea in law, alleging infringement of the rights of the defence and the right to a fair hearing in that access to documents was refused and the requests for information and the statement of objections were written in English

   — The applicants submit in this respect, inter alia, that, as regards access to documents, the defendant ought to have treated the opinions of the other addressees regarding the notification of the statement of objections in the same way as other potentially exculpatory documents.

   — Further, in cases of single and repeated or single and continuous infringement, access to documents as regards the opinions of other participants on the notification of the statement of objections is the procedural counterpart to the allegation of infringements against other participants.

   — Furthermore, the applicants, as undertakings with their head offices in the German-speaking canton of Aargau (Switzerland), are entitled to conduct their correspondence with the defendant in German, since that is one of the defendant's official languages and even one of its working languages.

2. Second plea in law, alleging the defendant's lack of competence as regards third country breaches which do not affect the EEA

— It is claimed here that the merely arbitrary allegation of a single and repeated or single and continuous infringement is not sufficient to found the defendant's competence as regards third country breaches. Rather, in such a case, the defendant ought also to have examined projects or conduct outside the EEA in detail as regards their direct, actual and foreseeable effects in the EEA.

3. Third plea in law, alleging breach of the presumption of innocence by shifting and extending the standard of proof in the context of a single and repeated or single and continuous infringement

— The infringements are not uniform, in particular in so far as land and sea cables are concerned. There is in fact no identity of goods and provision of services or of the working methods and only partial identity of the participating undertakings and natural persons. Furthermore, there is no complementarity of the infringements.

— In respect of the start of the participation, but also in respect of its unbroken duration, the defendant ought to have provided individual, meaningful and consistent proof to each undertaking.

— In the case of a merely partial and indirect participation in a single and repeated or single and continuous infringement, the defendant must prove in concrete terms that the undertaking concerned intended to participate in the achievement of each common goal and knew of all the otherwise unlawful conduct of the other participants in the context of the common plan or was able reasonably to foresee it. Since the defendant failed entirely or in part to show such proof, the applicants ought not, in that regard, to have been held liable for all the unlawful conduct.

4. Fourth plea in law, alleging breach of the duty to investigate and the duty to state reasons by wrongfully establishing facts and falsifying evidence

— In the applicants' view, the decision rests on a series of factual assumptions, in respect of which the defendant has provided no meaningful and consistent proof. In particular, with regard to the supposed start of the applicants' participation, the defendant has falsified evidence, drawn speculative conclusions and failed to consider alternative, equally plausible, explanations.

— Further, the decision is contradictory, since it alleges a single and continuous infringement in the operative part but states grounds for a single and repeated infringement.

5. Fifth plea in law, alleging infringement of the material rights by wrongful application of Article 101 TFEU and Article 53 of the EEA Agreement

The defendant infringes Article 101 TFEU and Article 53 of the EEA Agreement in that it includes the applicants in agreements between other participating undertakings as regards the concept of the single and repeated or single and continuous infringement, in which, objectively, the applicants were not in a position to participate.

6. Sixth plea in law, alleging a manifest error of assessment by incorrect calculation of the fine

— The departure from the basic rule in paragraph 13 of the guidelines on the method of setting fines as regards the establishment of the reference year is arbitrary, since it is not sufficiently substantiated.

— Further, it is contradictory and infringes the prohibition of *ne bis in idem*, in the assessment of the seriousness of the infringement in the context of the calculation of the basic amount to address a single and repeated or single and continuous infringement, the seriousness of which is assessed in a uniform manner at 15 %, and at the same time to establish a further penalty of 2 % in respect of the participation in certain aspects of this global cartel. The defendant ought to have had regard to the fact that the applicants were not responsible for the entire cartel when calculating the basic amount.

— In designating the applicants as ancillary or accessory participants, the defendant should have based its claim on the actual role of the applicants in the global cartel, and not, however, on a random and meaningless amount of evidence.

— The reduction in the fine of 5 % is too small and does not properly reflect the different impact of the cartel organisers and main participants and the only very minor participation of the applicants.

Action brought on 12 June 2014 — Furukawa Electric v Commission

(Case T-444/14)

(2014/C 303/46)

Language of the case: English

Parties

Applicant: Furukawa Electric Co. Ltd (Tokyo, Japan) (represented by: C. Pouncey, A. Luke and L. Geary, Solicitors)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— order the annulment of Article 1(9)(a) of the decision to the extent that it states that an infringement of Article 101 TFEU and Article 53 of the EEA Agreement involving Furukawa occurred during the period 18 February 1999 and 30 September 2001. In the alternative, order the annulment of Article 1(9)(a) of the decision to the extent that it finds that any infringement involving Furukawa commenced on 18 February 1999 and/or that Furukawa's direct involvement in any infringement continued after 11 June 2001;

— order the annulment of Article 2(n) of the decision and/or order a substantial reduction of the fine;

— if the Court should give judgment in an action brought by VISCAS Corporation reducing the fine imposed in Article 2 (p) of the decision for infringements by VISCAS Corporation for which Furukawa is jointly and severally liable, declare that Furukawa is entitled to an equivalent reduction in the amount of the fine for which it is jointly and severally liable; and

— order that the Commission pay the applicant's costs in these proceedings.

Pleas in law and main arguments

By its present action, the applicant seeks the annulment, in part, of Commission Decision C(2014) 2139 final of 2 April 2014 in case AT.39610 — Power Cables.

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

1. First plea in law, alleging that the Commission infringed Article 101 TFEU and Article 53 of the EEA Agreement and/or Regulation No 1/2003 ([1]) by mischaracterising the conduct that occurred during the period 18 February 1999 to 30 September 2001. The applicant submits that:

   — the Commission failed to establish the existence of an infringement involving the applicant in the terms described in the contested decision during this period; and

   — in the alternative, the Commission failed to establish that an infringement involving the applicant commenced on 18 February 1999.