— 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.

2. Second plea in law, alleging, in the alternative, that the Commission failed to discharge its burden of proof in asserting that the applicant continued its participation in any infringement after 11 June 2001 or that it 'continued' its involvement via VISCAS Corporation after 30 September 2001.

3. Third plea in law, alleging, in the alternative, that the Commission failed to discharge its burden of proof regarding the applicant's level of involvement in the infringement.

4. Fourth plea in law, alleging that the fine imposed on the applicant in respect of the period prior to 1 October 2001 is time-barred.

5. Fifth plea in law, alleging, in the alternative, that the Commission made errors in the calculation of the fine imposed on the applicant by:

   — using an inappropriate value of sales figure to calculate the fine imposed on the applicant;

   — miscalculating the multiplier for duration; and

   — failing to apply a mitigating circumstance to the applicant.

6. Sixth plea in law, asking the Court to extend to the applicant the benefit of any reduction in the fine which the Court may grant to VISCAS Corporation, in any application made by VISCAS Corporation for annulment or variation of the fine imposed on it in the contested decision.

7. Seventh plea in law, alleging that the fine is, in all the circumstances, manifestly disproportionate, excessive and inappropriate and that the Court should therefore exercise its unlimited jurisdiction pursuant to Article 261 TFEU and Article 31 of Regulation No 1/2003 to review the level of the fine and in doing so substantially reduce it.

(1) Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles [101 TFEU] and [102 TFEU] (OJ 2003 L 1, p. 1).

Action brought on 16 June 2014 — ABB v Commission

(Case T-445/14)

(2014/C 303/47)

Language of the case: English

Parties

Applicants: ABB Ltd (Zürich, Switzerland); and ABB AB (Västerås, Sweden) (represented by: I. Vandenborre and S. Dionnet, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— annul in part Article 1 of the decision finding that the applicants participated in a single and continuous infringement in the (extra) high voltage underground and/or submarine power cable sector insofar as the finding extends to all projects for underground power cables with voltages of 110 kV and above (and not only underground power cable projects with voltages of 220 kV and above);