

Form of order sought

The applicants claim that the Court should:

- reduce the amount of the fine imposed upon them in the decision of the European Commission of 8 February 2017 (C(2017) 900 final) relating to a proceeding under Article 101 TFUE;
- grant the applicants payment terms, and
- order the defendant to bear the costs of the proceedings.

Pleas in law and main arguments

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

1. First plea in law, alleging that the Commission erred in not applying to the applicants point 26 (final paragraph) of the Leniency Notice ⁽¹⁾ as regards the duration of the infringement.
2. Second plea in law, alleging that the Commission erred in not applying to the applicants point 26 (final paragraph) of the Leniency Notice as regards the infringement concerning France.
3. Third plea in law, alleging that the Commission erred in applying a specific increase of 10 % in the calculation of the fine based on point 37 of the Fining Guidelines ⁽²⁾.
4. Fourth plea in law, alleging that the Commission erred in not granting the applicants a reduction of 50 % in the fine pursuant to the first hyphen of point 26 of the Leniency Notice.
5. Fifth plea in law, alleging that the contested decision violates the principles of proportionality and non-discrimination as well as the principle that the fine must be specific to the offender.
6. Sixth plea in law, alleging that the Court is requested to use its unlimited jurisdiction to grant the applicant payment terms for any part of the fine still due.

⁽¹⁾ Commission Notice on Immunity from fines and reduction of fines in cartel cases (OJ 2006, C 298, p. 17), as last amended by the Communication from the Commission on Amendments to the Commission Notice on Immunity from fines and reduction of fines in cartel cases (OJ 2015, C 256, p. 1).

⁽²⁾ Guidelines on the method of setting fines imposed pursuant to Article 23(2)(a) of Regulation No 1/2003 (OJ 2006, C 210, p. 2).

Action brought on 19 April 2017 — Zhejiang India Pipeline Industry v Commission**(Case T-228/17)**

(2017/C 195/49)

*Language of the case: English***Parties**

Applicant: Zhejiang India Pipeline Industry Co. Ltd (Wenzhou, China) (represented by: S. Hirsbrunner, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul Commission Implementing Regulation (EU) 2017/141 of 26 January 2017 imposing definitive anti-dumping duties on imports of certain stainless steel tube and pipe butt-welding fittings, whether or not finished, originating in the People's Republic of China and Taiwan (OJ 2017, L 22, p. 14) insofar as it concerns the applicant;

- order the Commission, and any intervener who may be allowed to support the Commission in the course of the proceeding, to pay the legal costs of 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 committed various manifest errors of assessment when considering that stainless steel tube and pipe butt-welding fittings (SSBWF) of US and EU technical standards are interchangeable
 - The Commission failed in its duty to assess pertinent evidence in an impartial manner insofar as various factual statements concerning interchangeability in the contested regulation are either inaccurate, contradictory, or misleading. In particular the allegation according to which the only cooperating importer supposedly failed to submit relevant evidence is inaccurate.
 - The Commission wrongly assumed that SSBWF were double certified according to European and US standards. It exclusively based itself on unfounded last minute assertions by the complainant only appearing for the very first time in the contested regulation itself.
 2. Second plea in law, alleging that the Commission committed a manifest error of assessment, and failed to provide an adequate reasoning with regard to the adjustment of the normal value and argued in a contradictory manner.
 - The Commission wrongly relied on EU industry cost and manufacturing data to determine the appropriate level of adjustment. It rejected a proposal for adjustment that was based on Chinese market data for reasons that were not justified.
 - In this respect the contested regulation violated Article 20 of the Basic Regulation and Article 296 of the TFEU and furthermore lacks sufficient statement of reasons.
 3. Third plea in law, alleging that the determination of the period to be considered is vitiated by a manifest error of assessment.
 - The Commission proceeded in an arbitrary manner by not considering an alternative period although it would have been in possession of the relevant data because of a previous investigation.
 4. Fourth plea in law, alleging that the procedure leading up to the contested regulation was not in compliance with general principles of EU law, such as the principles of sound administration, transparency and the applicant's rights of defence.
 - The Commission failed to provide the applicant with 'available information' in a timely fashion following the provisional disclosure. When the Commission finally released that information along with all other data and information for the first time at the final disclosure, it did not provide the applicant sufficient time to carry out a meaningful assessment.
 - It infringed the rights of defence of the applicant by not providing it with an opportunity to comment on key findings based on last minute and unverified assertions of the complainant appearing for the first time in the contested regulation.
 5. Fifth plea in law, alleging that the contested regulation, adopted on 26 January 2017, wrongly establishes the applicant's anti-dumping duty in accordance with the provisions of the Basic Regulation which set out exceptional, analogue country methodology for calculating the normal value of imports from the People's Republic of China, notwithstanding that the EU's right to apply such exceptional treatment expired on 11 December 2016.
 - The European Union has committed itself to the specific terms of China's WTO Accession Protocol via the Council decision approving the accession. As an EU institution, the Commission must respect international commitments entered into by the Union in the exercise of its powers.
 - The contested regulation is further incompatible with the EU's obligation to construe its antidumping rules in conformity with international law, especially where its provisions intend specifically to give effect to an international agreement concluded by the Union.
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