Summary of Commission Decision
of 28 January 2009
relating to a proceeding under Article 81 of the Treaty and Article 53 of the EEA Agreement
(Case COMP/39.406 — Marine Hoses)
(Only the English and German texts are authentic)
(Text with EEA relevance)
(2009/C 168/05)

I. INTRODUCTION
1. On 28 January 2009, the Commission adopted a decision relating to a proceeding under Article 81 of the EC Treaty. In accordance with the provisions of Article 30 of Council Regulation (EC) No 1/2003, the Commission herewith publishes the names of the parties and the main content of the decision, including any penalties imposed, having regard to the legitimate interest of undertakings in the protection of their business secrets.

2. A non-confidential version of the decision is available on the Directorate-General for Competition’s website at the following address: http://ec.europa.eu/competition/cartels/cases/cases.html

3. The Decision was addressed to following legal entities which belong to six undertakings: Bridgestone Corporation and Bridgestone Industrial Ltd; the Yokohama Rubber Company Limited; Dunlop Oil & Marine Limited, ContiTech AG, and Continental AG; Trelleborg Industrie SAS and Trelleborg AB, Parker ITR Srl and Parker Hannifin Corporation; Manuli Rubber Industries SpA.

II. THE MARINE HOSES INDUSTRY
4. The product to which the infringement relates is marine hoses. Marine hoses are used to load sweet or processed crude oil and other petroleum products from offshore facilities (for example buoys, floating production storage and offloading systems) onto vessels and to offload them back to offshore or onshore facilities (for example buoys or jetties).

III. PROCEDURE
5. Yokohama applied for immunity under the Commission’s 2006 Leniency Notice (1).

6. On 2 May 2007, the Commission launched surprise inspections at the premises of Dunlop Oil & Marine, Trelleborg, Parker ITR, Manuli and PW Consulting and at the private home of the owner/manager of the latter. In the following months a series of requests for information under Article 18 of Regulation (EC) No 1/2003 were sent to the parties involved and other undertakings that could provide information.

7. On […] Manuli made an application for leniency under the Leniency Notice. On […] Parker ITR made an application under the Leniency Notice which it subsequently completed. Finally, on […], Bridgestone made an application under the Leniency Notice.

8. On 28 April 2008, the Commission adopted a Statement of Objections. All parties replied to the Statement of Objections before the deadline. All parties with the exception of Dunlop Oil & Marine, ContiTech AG, and Continental AG asked to be heard at an Oral Hearing which was subsequently held on 23 July 2008.

IV. FUNCTIONING OF THE CARTEL
9. The investigation of the Commission uncovered evidence showing that the addressees of this Decision participated during the relevant period in anticompetitive arrangements which consisted of:

(a) allocating tenders;
(b) fixing prices;
(c) fixing quotas;
(d) fixing sales conditions;
(e) geographic market sharing;
(f) exchanging sensitive information on prices, sales volumes and procurement tenders.

10. Evidence uncovered shows that at least since 1986 members of the marine hose cartel ran a scheme to allocate among themselves the tenders issued by their customers. Under the scheme, a member of the cartel who obtained a customer inquiry would report it to the cartel coordinator, who would in turn allocate the customer to a ‘champion’, which means the cartel member who was

supposed to win the tender. In order to ensure that the tender was allocated to the ‘champion’ in the tendering procedure, the cartel members adopted a reference price list and agreed on the prices that each of them should quote so that all bids would be above the price quoted by the champion.

11. Moreover, evidence shows that the cartel members agreed to several measures to facilitate this process. They agreed to reference prices, quotas and sales conditions as well as a system of penalties to compensate cartel members who lost a tender which the cartel had allocated to them but which was won by other cartel members.

V. REMEDIES

1. Basic amount of the fine

12. According to the 2006 Guidelines on fines (1), in determining the basic amount of the fine to be imposed, the Commission starts from the value of the undertaking’s sales of the goods or services to which the infringement relates in the relevant geographic area within the EEA.

13. In order to reflect both the aggregate size of the relevant sales within the EEA and the relative weight of each undertaking in the infringement, the Commission calculates the value of sales for the purpose of setting the basic amount of the fine to be imposed on each undertaking concerned by applying the worldwide market share of each undertaking to the aggregate sales within the EEA of the undertakings concerned, in line with Point 18 of the Guidelines on fines.

14. The criteria that were considered to determine the percentage of the undertakings' sales were the nature of the infringement, the joint market share of the cartel members, the geographic scope of the cartel and the implementation of the cartel. On this basis the percentage for the variable amount and the additional amount (‘entry fee’) was set.

15. The cartel lasted for more than 19 years so that the variable amount was multiplied by up to 19. While the anti-competitive agreement lasted more than 21 years, a period of 2 years of limited activity of the cartel was excluded for the purpose of calculating fines.

2. Adjustments of the basic amount

16. There were no attenuating circumstances and no other aggravating circumstances (such as recidivism) than leadership. Neither was a specific increase for deterrence deemed to be necessary. The fines of two undertakings were increased for leadership.

3. Application of the 10 % turnover limit

17. The final individual amounts of the fines calculated prior to the application of the Leniency Notice were below 10 % of the worldwide turnovers of the addressed undertakings.

4. Application of the 2006 Leniency Notice: immunity and reduction of fines

18. Yokohama was the first undertaking to submit information and evidence which enabled the Commission to carry out a targeted inspection in connection with the alleged cartel. The fine to be imposed on Yokohama was reduced by 100 %.

19. Manuli was granted a 30 % reduction.

20. Parker ITR's and Bridgestone's contributions could not be qualified as being of ‘significant added value’. Therefore the Commission did not grant these two companies a reduction of the fine.

VI. DECISION

21. The addressees of the Decision and the duration of their involvement were as follows:

(a) Bridgestone Corporation: from 1 April 1986 until 2 May 2007;

(b) Bridgestone Industrial Ltd: from 19 December 1989 until 2 May 2007;

(c) The Yokohama Rubber Company Limited: from 1 April 1986 until 1 June 2006;

(d) Dunlop Oil & Marine Limited: from 12 December 1997 until 2 May 2007;

(e) ContiTech AG: from 28 July 2000 until 2 May 2007;

(f) Continental AG: from 9 March 2005 until 2 May 2007;

(g) Trelleborg Industrie SAS: from 1 April 1986 until 2 May 2007;

(h) Trelleborg AB: from 28 March 1996 until 2 May 2007;

(i) Parker ITR Srl: from 1 April 1986 until 2 May 2007;

(j) Parker Hannifin Corporation: from 31 January 2002 until 2 May 2007; and


22. For the above-mentioned infringements, the following fines were imposed:

(a) Bridgestone Corporation: EUR 58 500 000
of which jointly and severally with Bridgestone Industrial Limited for EUR 48 100 000;
(b) The Yokohama Rubber Company Limited: EUR 0;
(c) Dunlop Oil & Marine Ltd: EUR 18 000 000
of which jointly and severally with ContiTech AG for EUR 16 000 000,
(d) Trelleborg Industrie SAS: EUR 24 500 000
of which jointly and severally with Trelleborg AB for EUR 12 200 000;
(e) Parker ITR Srl: EUR 25 610 000
of which jointly and severally with Parker Hannifin Corporation for EUR 8 320 000;
(f) Manuli Rubber Industries SpA: EUR 4 900 000.