

Final report of the Hearing Officer in Case COMP/39.165 — Flat Glass

(Pursuant to Articles 15 and 16 of Commission Decision 2001/462/EC, ECSC of 23 May 2001 on the terms of reference of Hearing Officers in certain competition proceedings — OJ L 162, 19.6.2001, p. 21)

(2008/C 127/09)

The draft Decision gives rise to the following observations:

INTRODUCTION

On 22 and 23 February and 15 March 2005, the Commission carried out unannounced inspections at the premises of several manufacturers of flat glass belonging to the Pilkington, Asahi/Glaverbel, Saint-Gobain and Guardian groups of companies. On 2 March 2005, the Asahi/Glaverbel group of companies submitted an application for immunity from fines, or in the alternative, reduction of fines pursuant to the 2002 Leniency Notice ⁽¹⁾. On the basis of the information collected during the investigation, the Commission came to the preliminary conclusion that the above companies participated in a single and continuous infringement of Article 81 of the Treaty and Article 53 of the EEA Agreement covering at least the EEA territory, by which they fixed price increases, minimum prices and other commercial conditions for four categories of flat glass products, i.e. float glass, low-E (low emissivity) glass, laminated glass and unprocessed mirrors, in the period between 9 January 2004 and 22 February 2005, and also exchanged sensitive commercial information.

WRITTEN PROCEDURE**Statement of Objections and replies**

On 12 March 2007, the Commission notified a Statement of Objections to the following parties: Asahi Glass Company Limited ('Asahi'), Glaverbel SA/NV ('Glaverbel', which was renamed 'AGC Flat Glass Europe SA' on 1 September 2007), Guardian Europe SARL and its parent company Guardian Industries Corporation (hereinafter jointly referred to as 'Guardian'), Pilkington Deutschland AG, Pilkington Group Limited, Pilkington Holding GmbH (hereinafter jointly referred to as 'Pilkington'), Compagnie de Saint-Gobain SA and Saint-Gobain Glass France SA (hereinafter jointly referred to as 'Saint-Gobain').

The addressees received the SO between 13 and 15 March 2007 and the deadline for replying was 7 May 2007. All parties requested extensions to reply to the SO. Upon reasoned requests of the parties, I granted extensions to Saint-Gobain until 11 May 2007, to Asahi and Glaverbel until 14 May 2007 and to Pilkington until 21 May 2007. All parties replied in due time.

Access to file

The parties had access to the Commission file in the form of DVDs which they received together with the SO. Corporate statements and documents submitted to the Commission in the framework of the Leniency Notice were accessible at the Commission's premises.

ORAL PROCEDURE**Oral Hearing**

An Oral Hearing was held on 7 June 2007, in which Asahi, Glaverbel and Guardian participated and presented their views. Asahi's presentation focused on the issue of parental liability; while Glaverbel emphasized the value of their cooperation with the Commission and Guardian was mainly explaining their specific business structure.

⁽¹⁾ OJ C 45, 19.2.2002, p. 3.

THE DRAFT DECISION

It is my opinion that the draft Decision submitted to the Commission only contains objections in respect of which the parties have been afforded the opportunity of making known their views.

I conclude that the rights of the parties to be heard in writing and orally have been respected in the present case.

Brussels, 21 November 2007.

Serge DURANDE
