

GENERAL COURT

**Judgment of the General Court of 2 February 2012 —
EI du Pont de Nemours and Others v Commission**(Case T-76/08) ⁽¹⁾

(Competition — Agreements, decisions and concerted practices — Market for chloroprene rubber — Decision finding an infringement of Article 81 EC and Article 53 of the EEA Agreement — Price-fixing — Market-sharing — Imputability of the unlawful conduct — Joint venture — Guidelines on the method of setting fines — Mitigating circumstances — Cooperation)

(2012/C 80/21)

Language of the case: English

Parties

Applicants: EI du Pont de Nemours and Company (Wilmington, Delaware, United States); DuPont Performance Elastomers LLC (Wilmington); and DuPont Performance Elastomers SA (Grand-Sacconnex, Switzerland) (represented by: J. Boyce and A. Lyle-Smythe, Solicitors)

Defendant: European Commission (represented: initially by X. Lewis and V. Bottka, subsequently by V. Bottka and V. Di Bucci, and lastly by V. Bottka, S. Noë and A. Biolan, Agents)

Re:

APPLICATION for, first, annulment of Articles 1 and 2 of Commission Decision C(2007) 5910 final of 5 December 2007 relating to a proceeding under Article 81 [EC] and Article 53 of the EEA Agreement (Case COMP/38.629 — Chloroprene Rubber), as amended by Commission Decision C(2008) 2974 final of 23 June 2008, in that they refer to EI du Pont de Nemours and Company and, second, a reduction in the amount of the fine imposed jointly and severally on the applicants by that decision.

Operative part of the judgment*The Court:*

1. Dismisses the action;
2. Orders EI du Pont de Nemours and Company, DuPont Performance Elastomers LLC and DuPont Performance Elastomers SA to pay the costs.

⁽¹⁾ OJ C 116, 9.5.2008.**Judgment of the General Court of 2 February 2012 — Dow
Chemical v Commission**(Case T-77/08) ⁽¹⁾

(Competition — Agreements, decisions and concerted practices — Market for chloroprene rubber — Decision finding an infringement of Article 81 EC and Article 53 of the EEA Agreement — Price-fixing — Market-sharing — Imputability of the unlawful conduct — Joint venture — Guidelines on the method of setting fines — Mitigating circumstances — Cooperation)

(2012/C 80/22)

Language of the case: English

Parties

Applicant: The Dow Chemical Company (Midland, Michigan, United States) (represented by: D. Schroeder and T. Graf, lawyers)

Defendant: European Commission (represented: initially by X. Lewis and V. Bottka, subsequently by V. Bottka and V. Di Bucci, and lastly by V. Bottka, P. Van Nuffel and L. Malferrari, Agents)

Re:

APPLICATION for, principally, annulment of Commission Decision C(2007) 5910 final of 5 December 2007 relating to a proceeding under Article 81 [EC] and Article 53 of the EEA Agreement (Case COMP/38.629 — Chloroprene Rubber), as amended by Commission Decision C(2008) 2974 final of 23 June 2008, in so far as it concerns the applicant and, in the alternative, a reduction in the amount of the fine imposed on the applicant by that decision.

Operative part of the judgment*The Court:*

1. Dismisses the action;
2. Orders The Dow Chemical Company to pay the costs.

⁽¹⁾ OJ C 116, 9.5.2008.