

**Order of the President of the Court of First Instance of 29 October 2009 —
Novácke chemické závody v Commission**

(Case T-352/09 R)

(Interim measures — Competition — Commission decision imposing a fine — Bank guarantee — Application for suspension of enforcement of a measure — Lack of urgency)

1. *Application for interim measures — Suspension of operation of a measure — Interim measures — Conditions for granting — Prima facie case — Urgency — Cumulative nature — Balancing of all the interests involved — Order of examination and method of verification — Discretion of the court hearing the application for interim relief (Arts 225(1) EC, 242 EC and 243 EC; Rules of Procedure of the Court of First Instance, Art. 104(2)) (see paras 12-15)*
2. *Application for interim measures — Suspension of operation of a measure — Interim measures — Conditions for granting — Urgency — Serious and irreparable damage — Situation which could jeopardise the existence of the applicant company — Damage having already arisen at the time of the adoption of the decision by the court hearing the application for interim measures — Lack of urgency (Arts 242 EC and 243 EC; Rules of Procedure of the Court of First Instance, Art. 104(2)) (see paras 38-44)*
3. *Application for interim measures — Suspension of operation of a measure — Interim measures — Conditions for granting — Urgency — Serious and irreparable damage — Applicant company losing an opportunity for redress — Purely hypothetical damage depending on the occurrence of future and uncertain events — Lack of urgency (Arts 242 EC and 243 EC; Rules of Procedure of the Court of First Instance, Art. 104(2)) (see paras 49-51)*
4. *Application for interim measures — Interim measures — Exemption from the obligation to constitute a bank guarantee as a condition for fine not being recovered immediately — Conditions for granting — Exceptional circumstances — Assessment having regard to the situation of the group to which the applicant company belongs — Burden of proof (Art. 243 EC; Rules of Procedure of the Court of First Instance, Art. 104(2)) (see paras 52-59)*

Re:

APPLICATION for suspension of enforcement of the Commission decision of 22 July 2009 relating to a proceeding under Article 81 EC and Article 53 of the EEA Agreement (Case COMP/39.396 — Calcium carbide and magnesium-based reagents for the steel and gas industries), in so far as it concerns the applicant.

Operative part

1. The application for interim measures is dismissed.
2. Costs are reserved.