Introduction

1. The draft decision, addressed to Conserve Italia Soc. coop. agricola and Conserve Italia France SA (together, ‘Conserve Italia’), concerns an infringement of Article 101 TFEU and Article 53 of the EEA Agreement relating to the supply of certain types of canned vegetables to retailers and/or food service industry customers within the EEA.

2. In this case, further to a settlement procedure (2), the Commission adopted on 27 September 2019 a decision pursuant to Article 7(1) and 23(2) of Regulation No 1/2003 (3) with regard to [...] (4), [...] (5) and [...] (6) (collectively, the ‘settling parties’) (7).

3. Conserve Italia, after initial participation in the settlement procedure, informed the Commission that it would not introduce a settlement submission pursuant to Article 10a(2) of Regulation (EC) No 773/2004. The Commission therefore continued the investigation into Conserve Italia’s behaviour under the standard procedure.

Written procedure

4. The investigation started as a result of an application for immunity from fines submitted by […] on 11 June 2013, pursuant to points 14 and 15 of the Leniency Notice (8).

5. From 1 to 4 October 2013, the Commission carried out inspections under Article 20(4) of Regulation No 1/2003 at the premises of the settling parties and of Conserve Italia.

6. On 17 October 2013, Conserve Italia applied for immunity from fines under point 14 of the Leniency Notice, or in the alternative for a reduction of fines under point 27 of the Leniency Notice.

7. On 17 February 2017, the Commission initiated proceedings pursuant to Article 11(6) of Regulation No 1/2003 and Article 2(1) of Regulation No 773/2004 against all parties.

8. On 22 February 2017, the Commission informed Conserve Italia of its preliminary intention to apply a reduction of a fine within a specified band, as provided for in point 26 of the Leniency Notice.


The legal entities subject to the proceedings were [...].

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9. Between March 2017 and June 2019, the Commission conducted settlement discussions with the parties in accordance with the provisions set out in points 14 to 19 of the Settlement Notice (9).

10. On 7 May 2019, Conserve Italia informed the Commission that it would not introduce a settlement submission. The Commission therefore continued the investigation into Conserve Italia’s behaviour under the standard procedure.

11. A Statement of Objections (SO) under the standard procedure was adopted on 5 October 2020 and notified to Conserve Italia on 6 October 2020.

12. Conserve Italia was given access to the file at the Commission’s premises from 7 to 11 December 2020, as well as via electronic support on 7 December 2020. The hearing officer did not receive any request regarding access to the file.

13. The Directorate-General for Competition (DG Competition) initially granted a deadline of six weeks to reply to the SO. Conserve Italia requested an extension of the time limit and was granted by DG Competition an extension until 1 March 2021.

14. Conserve Italia submitted its reply to the SO on 1 March 2021. In its reply, Conserve Italia also requested to develop its arguments at an oral hearing.

Oral procedure

15. The oral hearing took place on 4 May 2021 (10). The hearing proceeded smoothly and there were no procedural complaints.

The draft decision

16. The draft decision finds that Conserve Italia infringed Article 101(1) TFEU and Article 53(1) of the EEA Agreement by participating, from 15 March 2000 until 1 October 2013, in a single and continuous infringement covering the whole of the EEA and consisting in price coordination, market sharing and the exchange of commercially sensitive information in relation to the sale of certain types of canned vegetables to retailers and/or the food service industry in the EEA.

17. Pursuant to Article 16 of Decision 2011/695/EU, I have examined whether the draft decision deals only with objections in respect of which the parties have been afforded the opportunity of making known their views. I conclude that it does so.

18. In view of the above, I consider that the effective exercise of the procedural rights of the parties to the proceedings in this case has been respected.

Brussels, 8 November 2021.

Dorothe DALHEIMER


(10) Due to the ongoing coronavirus pandemic, the oral hearing was held remotely by encrypted videoconference as well as via a password protected (web streamed) virtual listening room for persons who did not need to speak at the oral hearing.