

Pleas in law and main arguments:

The Appellant submits that the judgment of the Court of First Instance should be set aside on the following grounds:

- (a) the Court of First Instance erred in law by applying the wrong standard of proof in a case where the Appellant has demonstrated that the Commission's allegation is incompatible with the Appellant's commercial interest and therefore irrational;
- (b) the Court of First Instance erred in law by applying the wrong standard of proof in a case where the documentary evidence is ambiguous and the Appellant has offered a plausible alternative explanation of the conduct at issue;
- (c) the Court of First Instance erred in law by applying the wrong legal standard of proof as to the level of corroboration required in support of contested statements which the Commission uses as principal evidence but which are implausible, highly ambiguous and contradicted by other evidence;
- (d) the Court of First Instance erred in law by giving contradictory and inadequate reasons in concluding that the statement of Mr Becher (an employee of Mannesmann) of 21 April 1997 could corroborate the statements of Mr Verluca, Head of Vallourec Oil & Gas, regarding the alleged infringement in respect of project line pipe.

Appeal brought on 22 September 2004 by Nippon Steel Corp. against the judgment delivered on 8 July 2004 by the Second Chamber of the Court of First Instance of the European Communities in joined cases T-67/00, T-68/00, T-71/00 and T-78/00 between JFE Engineering Corp., Nippon Steel Corp., JFE Steel Corp. and Sumimoto Metal Industries Ltd and the Commission of the European Communities

(Case C-405/04 P)

(2004/C 284/20)

An appeal against the judgment delivered on 8 July 2004 by the Second Chamber of the Court of First Instance of the European Communities in joined cases T-67/00, T-68/00, T-71/00 and T-78/00 between JFE Engineering Corp., Nippon Steel Corp., JFE Steel Corp. and Sumimoto Metal Industries Ltd and the Commission of the European Communities, was brought before the Court of Justice of the European Communities on 22 September 2004 by Nippon Steel Corp., established in

Tokyo, Japan, represented by J.-F. Bellis and K. Van Hove, lawyers, with an address for service in Luxembourg.

The Appellant claims that the Court should:

- set aside the judgment of the Court of First Instance of the European Communities of 8 July 2004 in joined cases T-67/00, T-68/00, T-71/00 and T-78/00 *JFE Engineering Corp., Nippon Steel Corp., JFE Steel Corp. and Sumimoto Metal Industries Ltd v Commission* in so far as it concerns Nippon Steel Corporation;
- annul the decision of the European Commission of 8 December 1999 relating to a proceeding under Article 81 of the EC Treaty (Case IV/E-1/35.860-B *Seamless steel tubes*) in so far as it concerns Nippon Steel Corporation; or
- in the alternative, if the Appellant is successful in its appeal only in so far as it concerns project line pipe, reduce the fine imposed on Nippon Steel Corporation by two-thirds; and
- order the Commission to bear all the costs before the Court of First Instance and the Court of Justice.

Pleas in law and main arguments:

The Appellant submits that the judgment of the Court of First Instance should be set aside on the following grounds:

- (a) the Court of First Instance erred in law by applying the wrong standard of proof in a case where the Appellant has demonstrated that the Commission's allegation is incompatible with the Appellant's commercial interest and therefore irrational;
- (b) the Court of First Instance erred in law by applying the wrong standard of proof in a case where the documentary evidence is ambiguous and the Appellant has offered a plausible alternative explanation of the conduct at issue;
- (c) the Court of First Instance erred in law by applying the wrong legal standard of proof as to the level of corroboration required in support of contested statements which the Commission uses as principal evidence but which are implausible, highly ambiguous and contradicted by other evidence;
- (d) the Court of First Instance erred in law by giving contradictory and inadequate reasons in concluding that the statement of Mr Becher (an employee of Mannesmann) of 21 April 1997 could corroborate the statements of Mr Verluca, Head of Vallourec Oil & Gas, regarding the alleged infringement in respect of project line pipe.