

ORDER OF THE COURT (Fifth Chamber)
20 January 1994 *

(Costs — Rectification of the judgment)

In Joined Cases C-89/85,

(1) **A. Ahlström Osakeyhtiö**, Helsinki,

(2) **United Paper Mills Ltd**, Valkeakoski, successor in title to Jutseno-Pulp Osakeyhtiö, Joutseno,

(3) **Kaukas Oy**, Lappeenranta, successor in title to Oy Kaukas AB, Lappeenranta,

(4) **Oy Metsä-Botnia AB**, Espoo, successor in title to Kemi Oy, Kemi,

(5) **Oy Metsä-Botnia AB**, Espoo,

(6) **Metsä-Serla Oy**, Helsinki, successor in title to Metsäliiton Teollisuus Oy, Espoo,

* Languages of the case: in Case C-89/85: German; in Cases C-104, C-114, C-116, C-117 and C-125 to C-129/85: English.

- (7) Veitsiluoto Oy, Kemi, successor in title to Oulu Oy, Oulu,
- (8) Wisaforest Oy AB, Pietarsaari, successor in title to Oy Wilh. Schauman AB, Helsinki,
- (9) Sunilä Osakeyhtiö, Sunila,
- (10) Veitsiluoto Oy, Kemi,
- (11) Finncell, Helsinki,
- (12) Enso-Gutzeit Oy, Helsinki,

all undertakings governed by Finnish law, represented by A. von Winterfeld, Rechtsanwalt, Cologne, with an address for service in Luxembourg at the Chambers of E. Arendt, 8-10 Rue Mathias Hardt,

applicants,

Commission of the European Communities, represented by A. McClellan and G. zur Hausen, Legal Advisers, and by P.J. Kuyper, a member of its Legal Service, acting as Agents, assisted by S. Böse, of the Belmont European Community Law

Office in Brussels, with an address for service in Luxembourg at the office of G. Kremlis, a member of the Commission's Legal Service, Wagner Centre, Kirchberg,

defendant,

and C-104/85,

Bowater Inc., Darien, Connecticut, USA, represented by D. Vaughan QC and by D.F. Hall, Solicitor, of Linklaters & Paines, London, with an address for service in Luxembourg at the Chambers of Messrs Elvinger & Hoss, 15 Côte d'Eich,

applicant,

v

Commission of the European Communities, represented by A. McClellan and H.P. Hartvig, Legal Advisers, by B. Clarke-Smith and P.J. Kuyper, members of its Legal Service, acting as Agents, and by N. Forwood QC, with an address for service in Luxembourg at the office of G. Kremlis, a member of the Commission's Legal Service, Wagner Centre, Kirchberg,

defendant,

and C-114/85,

The Pulp, Paper and Paperboard Export Association of the United States, Bethlehem, Pennsylvania, USA, comprising the United States undertakings

- (1) The Chesapeake Corporation, West Point, Virginia,
- (2) Crown Zellerbach Corporation, San Francisco, California,
- (3) Federal Paper Board Co. Inc., Montvale, New Jersey,
- (4) Georgia-Pacific Corporation, Atlanta, Georgia,
- (5) Scott Paper Co., Delaware County, Pennsylvania, and
- (6) Weyerhaeuser Co., Tacoma, Washington,

represented by M. Waelbroeck and A. Vandencastele, of the Brussels Bar, with an address for service in Luxembourg at the Chambers of E. Arendt, 8-10 Rue Mathias Hardt,

applicants,

Commission of the European Communities, represented by A. McClellan and H.P. Hartvig, Legal Advisers, by B. Clarke-Smith and P.J. Kuyper, members of its Legal Service, acting as Agents, and by N. Forwood QC, with an address for

service in Luxembourg at the office of G. Kremlis, a member of the Commission's Legal Service, Wagner Centre, Kirchberg,

defendant,

supported by

United Kingdom of Great Britain and Northern Ireland, represented by Timothy Pratt, Principal Assistant Treasury Solicitor, and by Lucinda Hudson of the Treasury Solicitor's Department, acting as Agents, assisted by Professor Rosalyn Higgins QC, with an address for service in Luxembourg at the British Embassy, 14 Boulevard Roosevelt,

intervener,

and C-116/85,

St Anne-Nackawic Pulp and Paper Co. Ltd, Nackawic, New Brunswick, Canada, represented by D. Voillemot, of the Paris Bar, with an address for service in Luxembourg at the Chambers of J. Loesch, 11 Rue Goethe,

applicant,

v

Commission of the European Communities, represented by A. McClellan and H.P. Hartvig, Legal Advisers, by B. Clarke-Smith and P.J. Kuyper, members of its

Legal Service, acting as Agents, and by N. Forwood QC, with an address for service in Luxembourg at the office of G. Kremlis, a member of the Commission's Legal Service, Wagner Centre, Kirchberg,

defendant,

and C-117/85,

International Pulp Sales Co., New York, represented by I. van Bael and J.F. Bellis, of the Brussels Bar, with an address for service in Luxembourg at the Chambers of Messrs Elvinger & Hoss, 15 Côte d'Eich,

applicant,

v

Commission of the European Communities, represented by A. McClellan and H.P. Hartvig, Legal Advisers, by B. Clarke-Smith and P.J. Kuyper, members of its Legal Service, acting as Agents, and by N. Forwood QC, with an address for service in Luxembourg at the office of G. Kremlis, a member of the Commission's Legal Service, Wagner Centre, Kirchberg,

defendant,

and C-125/85,

Westar Timber Ltd, Canada, represented by C. Stanbrook QC and by M. Siragusa, of the Rome Bar, with an address for service in Luxembourg at the Chambers of Messrs Elvinger & Hoss, 15 Côte d'Eich,

applicant,

v

Commission of the European Communities, represented by A. McClellan, Legal Adviser, by K. Banks and P.J. Kuyper, members of its Legal Service, acting as Agents, and by N. Forwood QC, with an address for service in Luxembourg at the office of G. Kremlis, a member of the Commission's Legal Service, Wagner Centre, Kirchberg,

defendant,

supported by

United Kingdom of Great Britain and Northern Ireland, represented by Timothy Pratt, Principal Assistant Treasury Solicitor, and by Lucinda Hudson of the Treasury Solicitor's Department, acting as Agents, assisted by Professor Rosalyn Higgins QC, with an address for service in Luxembourg at the British Embassy, 14 Boulevard Roosevelt,

intervener,

and C-126/85,

Weldwood of Canada Ltd, Canada, represented by Christopher Prout and Alice Robinson, Barristers, and by J.M. Cochran, of Wilkie Farr and Gallagher, Paris, with an address for service in Luxembourg at the Chambers of Messrs Elvinger & Hoss, 15 Côte d'Eich,

applicant,

v

Commission of the European Communities, represented by A. McClellan, Legal Adviser, by K. Banks and P.J. Kuyper, members of its Legal Service, acting as Agents, and by N. Forwood QC, with an address for service in Luxembourg at the office of G. Kremlis, a member of the Commission's Legal Service, Wagner Centre, Kirchberg,

defendant,

supported by

United Kingdom of Great Britain and Northern Ireland, represented by Timothy Pratt, Principal Assistant Treasury Solicitor, and by Lucinda Hudson of the Treasury Solicitor's Department, acting as Agents, assisted by Professor Rosalyn Higgins QC, with an address for service in Luxembourg at the British Embassy, 14 Boulevard Roosevelt,

intervener,

and C-127/85,

MacMillan Bloedel Ltd, Canada, represented by C. Stanbrook QC and by P. Sambuc and Dr D. Schroeder, Rechtsanwälte, Cologne, with an address for service in Luxembourg at the Chambers of Messrs Elvinger & Hoss, 15 Côte d'Eich,

applicant,

v

Commission of the European Communities, represented by A. McClellan, Legal Adviser, by K. Banks and P.J. Kuyper, members of its Legal Service, acting as Agents, and by N. Forwood QC, with an address for service in Luxembourg at the office of G. Kremlis, a member of the Commission's Legal Service, Wagner Centre, Kirchberg,

defendant,

supported by

United Kingdom of Great Britain and Northern Ireland, represented by Timothy Pratt, Principal Assistant Treasury Solicitor, and by Lucinda Hudson of the Treasury Solicitor's Department, acting as Agents, assisted by Professor Rosalyn Higgins QC, with an address for service in Luxembourg at the British Embassy, 14 Boulevard Roosevelt,

intervener,

and C-128/85,

Canadian Forest Products Ltd, Canada, represented by C. Stanbrook QC and by M. Siragusa, of the Rome Bar, with an address for service in Luxembourg at the Chambers of Messrs Elvinger & Hoss, 15 Côte d'Eich,

applicant,

v

Commission of the European Communities, represented by A. McClellan, Legal Adviser, by K. Banks and P.J. Kuyper, members of its Legal Service, acting as Agents, and by N. Forwood QC, with an address for service in Luxembourg at the office of G. Kremlis, a member of the Commission's Legal Service, Wagner Centre, Kirchberg,

defendant,

supported by

United Kingdom of Great Britain and Northern Ireland, represented by Timothy Pratt, Principal Assistant Treasury Solicitor, and by Lucinda Hudson of the Treasury Solicitor's Department, acting as Agents, assisted by Professor Rosalyn Higgins QC, with an address for service in Luxembourg at the British Embassy, 14 Boulevard Roosevelt,

intervener,

and C-129/85,

Fletcher Challenge Canada Ltd, formerly British Columbia Forest Products Ltd, Canada, represented by C. Stanbrook QC, with an address for service in Luxembourg at the Chambers of Messrs Elvinger & Hoss, 15 Côte d'Eich,

applicant,

v

Commission of the European Communities, represented by A. McClellan, Legal Adviser, by K. Banks and P.J. Kuyper, members of its Legal Service, acting as Agents, and by N. Forwood QC, with an address for service in Luxembourg at the office of G. Kremlis, a member of the Commission's Legal Service, Wagner Centre, Kirchberg,

defendant,

supported by

United Kingdom of Great Britain and Northern Ireland, represented by Timothy Pratt, Principal Assistant Treasury Solicitor, and by Lucinda Hudson of the Treasury Solicitor's Department, acting as Agents, assisted by Professor Rosalyn Higgins QC, with an address for service in Luxembourg at the British Embassy, 14 Boulevard Roosevelt,

intervener,

APPLICATION for a declaration that the Commission Decision of 19 December 1984 relating to a proceeding under Article 85 of the EEC Treaty (IV/29.725 - Wood pulp) (Official Journal 1985 L 85, p. 1) is void,

THE COURT (Fifth Chamber),

composed of: J.C. Moitinho de Almeida, President of the Chamber, R. Joliet (Rapporteur), G.C. Rodríguez Iglesias, F. Grévisse and M. Zuleeg, Judges,

Advocate General: M. Darmon,
Registrar: J.-G. Giraud,

after considering the written observations submitted on behalf of:

- A. Ahlström Osaakeyhtiö, United Paper Mills Ltd, Kaukas Oy, Oy Metsä-Botnia AB, Oy Metsä-Botnia AB, Metsä-Serla Oy, Veitsiluoto Oy, Wisaforest Oy AB, Sunilä Osaakeyhtiö, Veitsiluoto Oy, Finncell, Enso-Gutzeit Oy, by A. von Winterfeld;
- Bowater Inc., by D. Vaughan and D.F. Hall;
- The Pulp, Paper and Paperboard Export Association, St. Anne-Nackawic Pulp and Paper Co. Ltd, International Pulp Sales Co., Westar Timber Ltd, MacMillan Bloedel Ltd and Canadian Forest Products Ltd, by J.F. Bellis;
- the Commission of the European Communities, by G. zur Hausen, H.P. Hartvig and K. Banks;

after hearing the Opinion of the Advocate General,

makes the following

Order

- 1 On 31 March 1993 the Court (Fifth Chamber) gave judgment in Joined Cases C-89, C-104, C-114, C-116, C-117 and C-125 to C-129/85 *Ahlström Osakeyhtiö and Others v Commission* [1993] ECR I-1307.
- 2 By application lodged at the Court Registry on 6 April 1993, the Finnish undertakings A. Ahlström Osakeyhtiö, United Paper Mills Ltd, successor in title to Joutseno-Pulp Osakeyhtiö, Kaukas Oy, successor in title to Oy Kaukus AB, Oy Metsä-Botnia AB, successor in title to Kemi Oy, Oy Metsä-Botnia AB, Metsä-Serla Oy, successor in title to Metsäliiton Teollisuus Oy, Veitsiluoto Oy, successor in title to Oulu Oy, Wisaforest Oy AB, successor in title to Oy Wilh. Schauman AB, Sunilä Osakeyhtiö, Veitsiluoto Oy, Finncell and Enso-Gutzeit Oy (hereinafter referred to as 'the Finnish undertakings') applied on the basis of Article 67 of the Rules of Procedure of the Court for a decision on costs. By applications lodged on 9 and 21 April 1993 respectively, the United States undertakings The Chesapeake Corporation, Crown Zellerbach Corporation, Federal Paper Board Co. Inc., Georgia-Pacific Corporation, Scott Paper Co. and Weyerhaeuser Co. (hereinafter referred to as 'the members of KEA') and the Canadian undertaking St Anne-Nackawic Pulp and Paper Co. Ltd (hereinafter referred to as 'St Anne') applied to the Court for rectification with regard to the costs or for an interpretation of paragraph 204 of the judgment on that point. By application lodged at the Court Registry on 6 April 1993, the United States undertaking International Pulp Sales Co. (hereinafter referred to as 'IPS') applied on the basis of Article 66 of the Rules of Procedure for rectification of a clerical mistake in paragraph 204 of the judgment. By applications lodged at the Court Registry between 3 May and 11 June 1993, the Canadian undertakings Westar Timber Ltd (hereinafter referred to as 'Westar') and Canadian Forest Products Ltd (hereinafter referred to as 'Canfor'), the undertaking British Columbia Forest Products Ltd which is now Fletcher Challenge Canada Ltd (hereinafter referred to as 'British Columbia') and the Canadian undertaking Weldwood of Canada Ltd (hereinafter referred to as 'Weldwood') applied on the basis of Articles 67 and 102 of the Rules of Procedure for a decision

on the costs which the Court omitted to determine with respect to certain parties or, if the Court did take those costs into consideration, for an interpretation of the relevant grounds of the judgment.

3 In its application based on Article 66 of the Rules of Procedure, IPS seeks an order that two-thirds of the costs incurred by the applicants, except for those of Mead Corporation, are to be borne by the Commission.

4 In support of the applications based on Article 67 of the Rules of Procedure, the applicants claim that the Court omitted, in the first place, to give a decision on the costs of the applicants who were entirely successful in their pleas and, secondly, to order the Commission to pay part of the costs of the applicants who were partially successful in their pleas. In that connection, the members of The Pulp, Paper and Paperboard Export Association (hereinafter referred to as 'KEA'), St Anne and Westar seek an order requiring the Commission to pay two-thirds of their costs.

5 In that regard, it must be acknowledged first of all that the Court, excessively concise in its approach, did not expressly refer in paragraph 204 to the costs of the Finnish applicants, except for those of Finncell, or to those of Bowater Inc., KEA as such, IPS, Weldwood or British Columbia.

6 It must also be acknowledged that paragraph 204 of the judgment contains an obvious slip. It was never the Court's intention to require the applicants who were entirely successful in their pleas to claim reimbursement of their costs in part from the Commission and in part from the other applicants.

7 It is apparent from paragraph 205 of the judgment that the Court, in accordance with Article 69(2) of the Rules of Procedure, intended in the first place to order the Commission to pay the costs of the parties who were entirely successful in their pleas, and secondly to determine what costs were to be borne by the parties who were partially unsuccessful in their pleas, according to the extent to which they were either successful or unsuccessful.

- 8 In accordance with Article 67 of the Rules of Procedure, therefore, it is necessary to remedy the omission to give a decision on the costs of certain parties and, on the basis of Article 66, to rectify the obvious slip concerning payment of the costs.

On those grounds,

THE COURT, (Fifth Chamber)

hereby orders:

- (1) Paragraph 204 of the grounds and paragraph 10 of the operative part of the judgment shall be replaced by the following:

‘As regards the other costs, they must be apportioned as follows:

- in Case C-89/85, the Commission is ordered to pay the costs of the Finnish applicants, except for those of Finncell; Finncell is to bear its own costs and to pay those of the Commission relating to its application;
- in Case C-104/85 (Bowater Inc.), the Commission is ordered to pay the costs;
- in Case C-114/85, the Commission is ordered to pay the costs of KEA and to bear its own costs relating to KEA’s application; The Chesapeake Corporation, Crown Zellerbach Corporation, Federal Paper Board Co. Inc., Georgia-Pacific Corporation, Scott Paper Co. and Weyerhaeuser Co. are each to bear one-third of their own costs and to pay one-third of the Commission’s costs relating to their application; the Commission is to pay two-thirds of the costs of those six undertakings and to bear two-thirds of its own costs relating to their application;

- in Case C-116/85, St Anne is to bear one-third of its own costs and to pay one-third of the Commission's costs relating to its application; the Commission is to pay two-thirds of St Anne's costs and to bear two-thirds of its own costs relating to that application;
 - in Case C-117/85, IPS is to bear one-third of its own costs and to pay one-third of the Commission's costs relating to its application; the Commission is to pay two-thirds of the costs of IPS and to bear two-thirds of its own costs relating to that application;
 - in Case C-125/85, Westar is to bear one-third of its own costs and to pay one-third of the Commission's costs relating to its application; the Commission is to pay two-thirds of Westar's costs and to bear two-thirds of its own costs relating to that application;
 - in Case C-126/85 (Weldwood), the Commission is ordered to pay the costs;
 - in Case C-127/85, MacMillan Bloedel Ltd is to bear one-third of its own costs and to pay one-third of the Commission's costs relating to its application; the Commission is to pay two-thirds of the costs of MacMillan Bloedel Ltd and to bear two-thirds of its own costs relating to that application;
 - in Case C-128/85, Canfor is to bear one-third of its own costs and to pay one-third of the Commission's costs relating to its application; the Commission is to pay two-thirds of Canfor's costs and to bear two-thirds of its own costs relating to that application;
 - in Case C-129/85 (British Columbia), the Commission is ordered to pay the costs.'
- (2) The original of this order shall be annexed to the original of the rectified judgment and a note of the order shall be made in the margin of the original of the judgment.

Luxembourg, 20 January 1994.

J.-G. Giraud

Registrar

J.C. Moitinho de Almeida

President of the Fifth Chamber