



Reports of Cases

Judgment of the General Court (Seventh Chamber) of 2 February 2012 — Dow Chemical v Commission

(Case T-77/08)

(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)

1. *Competition — European Union rules — Infringements — Attribution — Parent company and subsidiaries — Economic unit — Criteria for assessment (Art. 81 EC; Council Regulation No 1/2003, Art. 23(2)) (see paras 73-77)*
2. *Competition — Administrative procedure — Statement of objections — Necessary content — Observance of the rights of the defence — Clear indication of the parties liable to be fined and the capacity in which they are to be penalised (Council Regulation No 1/2003, Art. 27(1)) (see para. 110)*
3. *Competition — Fines — Amount — Determination — Judicial review — Assessment of the duration of the infringement by progressive six-month thresholds — Period longer than that of the actual participation in the infringement — Lawfulness — Conditions (Council Regulation No 1/2003, Art. 23(2); Commission Notice 2006/C 210/02) (see paras 92-145)*
4. *Competition — Fines — Amount — Determination — Criteria — Reduction of the amount of the fine for cooperation of the undertaking concerned — Conditions — Discretion of the Commission (Commission Notice 2002/C 45/03) (see paras 157-164, 167)*

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/38629 — 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

The Court:

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