



General Court of the European Union

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Judgments in Cases T-11/05, T-18/05, T-19/05, T-20/05, T-21/05 and T-25/05
Wieland-Werke AG and Others, IMI plc and Others, Boliden AB and Others,
Outokumpu Oyj and Others, Chalkor AE, KME Germany AG and Others v
Commission

Press and Information

The General Court reduces the fines originally imposed on IMI and Chalkor for the copper plumbing tube cartel to €38.556 million and €3.2467 million, respectively

The Commission has not proved to the requisite legal standard that IMI's participation in the cartel was uninterrupted, and infringed the principle of equal treatment when calculating the fines imposed on IMI and Chalkor

By decision of 3 September 2004¹ the Commission imposed fines of a total of €222.3 million on seven companies for their participation in a cartel on the copper plumbing tubes market. The cartel essentially involved the restriction of competition by means of (i) a system of allocation of production volumes and market shares, and (ii) the setting of targets and price increases. According to the Commission, there were three sets of arrangements between those companies, relating to different products: 'the SANCO arrangements', 'the WICU and Cuprotherm arrangements' and 'the broader European arrangements'.

Six of the seven companies concerned, Wieland-Werke AG (fined EUR 27.84 million), the IMI group (EUR 44.98 million), the Boliden group (EUR 32.6 million), Outokumpu (EUR 36.14 million), Chalkor (EUR 9.16 million) and the KME group (EUR 67.08 million) applied to the General Court for cancellation or reduction of their respective fines.

In today's judgments, the Court **upholds the fines imposed on four undertakings** (Wieland-Werke, Boliden, Outokumpu and KME) and **dismisses the Commission's counterclaims for fines to be increased**.

However, the Court finds that the Commission **has not proved to the requisite legal standard that the IMI group participated in the cartel between 1 December 1994 and 11 April 1996**. Accordingly, the duration of IMI's infringement was 10 years and 1 month instead of 11 years and 5 months. The Court therefore holds that the increase in the fine imposed on the IMI group in this respect must be reduced from 110% to 100%.

Furthermore, **the Commission infringed the principle of equal treatment when calculating the fines imposed on Chalkor and IMI**.

In particular, the Commission made a mistake by failing to take into account the fact that **Chalkor and IMI** did not take part in the SANCO arrangements but rather calculated their fines in the same way as those imposed on the companies which had participated in those arrangements. To remedy that mistake, the Court considers that the starting amount of the fines imposed on those two companies must be reduced by 10%.

Accordingly, **the Court sets the fine imposed on Chalkor at €3.2467 million and the fine imposed on IMI at €38.556 million**.

NOTE: An appeal, limited to points of law only, may be brought before the Court of Justice against the decision of the General Court within two months of notification of the decision.

¹ Commission Decision C(2004) 2826 of 3 September 2004 relating to a proceeding pursuant to Article 81 [EC] and Article 53 of the EEA Agreement (Case COMP/E-1/38.069 – Copper plumbing tubes).

NOTE: An action for annulment seeks the annulment of acts of the institutions of the European Union that are contrary to European Union law. The Member States, the European institutions and individuals may, under certain conditions, bring an action for annulment before the Court of Justice or the General Court. If the action is well founded, the act is annulled. The institution concerned must fill any legal vacuum created by the annulment of the act.

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The full text of the judgments in Cases [T-11/05](#), [T-18/05](#), [T-19/05](#), [T-20/05](#), [T-21/05](#) and [T-25/05](#) is published on the CURIA website on the day of delivery

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