

Press and Information Division

**PRESS RELEASE No 82/03**

2 October 2003

Judgments of the Court of Justice in the "Steel Beams" Cases (C-176/99 P, C-179/99 P, C-182/99 P, C-194/99 P, C-195/99 P, C-196/99 P, C-198/99 P and C-199/99 P)

*Arbed and others / Commission*

**THE COURT DISMISSES SIX OF THE EIGHT APPEALS BROUGHT BY STEEL UNDERTAKINGS AND THEIR TRADE ASSOCIATION EUROFER WHICH HAD BEEN FOUND GUILTY OF ENGAGING IN A CARTEL**

*The Court annuls two judgments of the Court of First Instance: that concerning ARBED SA in its entirety and that concerning Siderúrgica Aristrain in part*

Steel beams are essential components in steel structures. By a decision adopted in 1994, the Commission found that 17 European steel undertakings and their trade association Eurofer had participated in a series of agreements, decisions and concerted practices designed to fix prices, share markets and exchange confidential information on the Community market for steel beams. The Commission then imposed on 14 of those undertakings fines exceeding ECU 104 000 000 in total.

Ten of those undertakings and Eurofer brought actions before the Court of First Instance of the European Communities for annulment of the decision and/or reduction of the fines imposed on them.

In judgments delivered in 1999, the Court of First Instance in the main upheld the Commission decision; however, it reduced the individual fines by between 9% and 33%.<sup>1</sup>

Seven undertakings and Eurofer brought actions before the Court of Justice for annulment of the judgments of the Court of First Instance.

---

<sup>1</sup> See Press Release No 14/99.

The Court has today dismissed the appeals brought by Salzgitter AG, Thyssen Stahl AG, Krupp Hoesch Stahl AG, Empresa Nacional Siderúrgica SA and Corus UK Ltd and that brought by Eurofer.

**The Court has, however, annulled in its entirety the judgment of the Court of the First Instance concerning the Luxembourg undertaking ARBED SA and the Commission decision in so far as it concerns that undertaking.**

Before the Court of First Instance, ARBED SA had claimed that, after having sent its subsidiary TradeARBED a statement of objections which were attributed to that subsidiary, the Commission then took the decision against ARBED SA as the parent company, without first informing it of its intention or its reasoning and without giving it an opportunity to make known its point of view. According to ARBED SA, the Court of First Instance was wrong to reject its line of argument.

The Court pointed out that, in all proceedings in which financial sanctions (fines or penalties) may be imposed, observance of the rights of the defence is a fundamental principle of Community law. That principle requires, in particular, the inclusion, in the statement of objections addressed by the Commission to an undertaking on which it intends to impose a penalty for infringement of competition rules, of the essential factors taken into consideration against that undertaking so that it may submit its arguments effectively.

The statement of objections must **specify unequivocally the legal person** on whom a fine may be imposed and must be addressed to that person.

**The Court has annulled in part the judgment given by the Court of First Instance in the case of the Spanish undertaking Siderúrgica Aristrain Madrid SL and has referred the matter back to the Court of First Instance.**

In the Commission decision, the Aristrain companies are described as "steel-producing companies belonging to the Aristrain group whose shares are held by members of the Aristrain family". According to the decision, the Commission had established that: "In the case of the two Aristrain companies, both of which produce beams, this Decision is addressed to one of them, Siderúrgica Aristrain, Madrid SL, ... The fine imposed also takes into account the behaviour of Siderúrgica Aristrain Olaberría SL". The fine was therefore calculated on the basis of the latter company's turnover also.

The Court observed that the anti-competitive conduct of an undertaking can be attributed to another undertaking where the former has not determined independently its own market conduct but carried out, in all material respects, the instructions given to it by the other undertaking, having regard in particular to the economic and legal links between them.

The Court noted, however, that **the Commission decision states no reasons in that regard and even contains a contradiction.**

The Court of First Instance therefore erred in law in upholding the position adopted by the Commission. The Court annulled the judgment of the Court of First Instance in so far as the latter Court declared the action against the Commission decision to be unfounded as regards the order that Siderúrgica Aristrain Madrid SL pay a fine which also took into account the conduct of Aristrain Olaberría SL. The Court found that the Commission decision had to be

annulled in respect of the surplus of the fine, that is to say, the amount which was calculated on the basis of the second company's turnover but payment of which was claimed from the first, but stated that it did not have the accounts necessary to do so. **It therefore referred the matter back to the Court of First Instance so that it may determine the amount of the share of the fine which Siderúrgica Aristrain Madrid SL is still required to pay.**

CASE No	NAME OF THE APPELLANT	COUNTRY	FINE IMPOSED BY THE COMMISSION (ECU)	FINE REVISED BY THE COURT OF FIRST INSTANCE (EURO)	DECISION OF THE COURT OF JUSTICE ON APPEAL
C-176/99P against judgment T-137/94	ARBED SA	L	11 200 000	10 000 000	– annulment of the judgment of the C.F.I. – annulment of the Commission decision
C-179/99P against judgment T-136/94	Eurofer ASBL	—	—	—	appeal dismissed
C-182/99P against judgment T-148/94	Salzgitter AG, formerly Preussag Stahl AG	D	9 500 000	8 600 000	appeal dismissed
C-194/99P against judgment T-141/94	Thyssen Stahl AG	D	6 500 000	4 400 000	appeal dismissed
C-195/99P against judgment T-147/94	Krupp Hoesch Stahl AG	D	13 000	9 000	appeal dismissed
C-196/99P against judgment T-156/94	Siderúrgica Aristrain Madrid SL	E	10 600 000	7 100 000	partial annulment of the judgment of the C.F.I.
C-198/99P against judgment T-157/94	Empresa Nacional Siderúrgica SA (Ensidesa)	E	4 000 000	3 350 000	appeal dismissed
C-199/99P against judgment T-151/94	Corus UK Ltd, formerly British Steel plc	UK	32 000 000	20 000 000	appeal dismissed

*Unofficial document, for media use only, which does not bind the Court of Justice.*

*Available languages: DE, EN, ES, FR.*

*The full texts of the judgments can be found on the internet ([www.curia.eu.int](http://www.curia.eu.int)).  
In principle they will be available from midday CET on the day of delivery.*

*For additional information please contact Christopher Fretwell.*

*Tel: (00352) 4303 3355 Fax: (00352) 4303 2731*

*Pictures of the hearing are available on "Europe by Satellite"  
European Commission, Press and Information Service, L-2920 Luxembourg  
Tel: (00 352) 4301 35177; Fax: (00 352) 4301 35249,  
or B-1049 Brussels, Tel: (00 32) 2 2964106, Fax: (00 32) 2 2965956, or (00 32) 2 301280*