



Press and Information

Court of Justice of the European Union

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Judgment in Joined Cases C-239/11 P, C-489/11 P and C-498/11 P  
Siemens AG, Mitsubishi Electric Corp. and Toshiba Corp. v Commission

## **The Court of Justice dismisses the appeals brought by Siemens, Mitsubishi and Toshiba concerning a cartel on the market for gas insulated switchgear**

*The fine of €396.56 million imposed on Siemens and the finding that Mitsubishi and Toshiba participated in the cartel thus become final*

By decision of 24 January 2007<sup>1</sup>, the Commission imposed fines totaling €750.71 million on 20 European and Japanese companies<sup>2</sup> for their participation in a cartel<sup>3</sup> on the market for gas insulated switchgear (GIS) between 1988 and 2004. GIS is used as a major component for electric substations to convert electrical current from high to low tension and vice versa. Its function is to protect the transformer from overload and/or insulate the circuit and any faulty transformer.

The fine of €396.56 million imposed on the German company Siemens AG was the highest. Mitsubishi Electric and Toshiba were fined €113.92 million and €86.25 million respectively. In addition to those two fines, the two Japanese companies were ordered to pay a further amount of €4.65 million joint and severally.

Whilst the General Court of the European Union dismissed the action brought by Siemens AG against the Commission's decision, thus confirming the fine of €396.56 million<sup>4</sup>, it did annul the fines imposed on Mitsubishi and Toshiba. The General Court held that the Commission had infringed the principle of equal treatment in calculating the fines of the Japanese producers. By contrast, the General Court confirmed the Commission's decision in so far as it found that Mitsubishi and Toshiba had participated in the cartel<sup>5</sup>.

In today's judgment, the Court of Justice dismisses the appeals brought by Siemens AG, Mitsubishi and Toshiba against those judgments of the General Court.

The fine imposed by the Commission on Siemens AG thus becomes final, as does the Commission's finding that Mitsubishi and Toshiba participated in the cartel.

In the meantime the Commission has recalculated the fines to be imposed on Mitsubishi and Toshiba and has fixed them at €74.82 million and €56.79 million respectively. The amount to be

<sup>1</sup> Commission Decision C(2006) 6762 final of 24 January 2007 relating to a proceeding under Article 81 EC and Article 53 of the EEA Agreement (Case COMP/38.899 – Gas insulated switchgear), a summary of which has been published in the *Official Journal of the European Union* (OJ 2008 C 5, p. 7).

<sup>2</sup> ABB Ltd, Alstom SA, Areva SA, Areva T & D AG, Areva T & D Holding SA, Areva T & D SA, Fuji Electric Holdings Co., Ltd, Fuji Electric Systems Co., Ltd., Hitachi Ltd., Hitachi Europe Ltd., Japan AE Power Systems Corporation, Mitsubishi Electric Corporation, Nuova Magrini Galileo SpA., Schneider Electric SA, Siemens Electric SA, Siemens AG, Siemens AG Österreich, Siemens Transmission & Distribution SA, Siemens Transmission & Distribution Ltd., Toshiba Corporation and VA Tech Transmission & Distribution GmbH & Co KEG.

<sup>3</sup> The companies which participated in the cartel concluded an agreement with a view to coordinating their commercial activity worldwide and developed a quota system aimed at determining the market shares which each group could share among its members. According to the Commission, the cartel participants also concluded an unwritten understanding to reserve the European market to European undertakings and the Japanese market to Japanese undertakings.

<sup>4</sup> Case [T-110/07 Siemens AG v Commission](#); see also Press Release [No 15/11](#), which also refers to the judgments delivered on the same day concerning other European companies which participated in that cartel.

<sup>5</sup> Case [T-113/07 Toshiba v Commission](#) and Case [T-133/07 Mitsubishi Electric v Commission](#), see also Press Release [No 70/11](#), which also refers to other judgments delivered on the same day concerning Hitachi and Fuji Electric. The latter two companies are not involved in appeal proceedings.

paid joint and severally by those two undertakings has again been fixed at €4.65 million. The actions brought by Mitsubishi and Toshiba against that new decision of the Commission are currently being examined by the General Court<sup>6</sup>.

In parallel, the Court of Justice is examining five further appeals<sup>7</sup> concerning European companies, other than Siemens AG, on which the Commission has also imposed fines for participation in the same cartel<sup>8</sup>.

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**NOTE:** An appeal, on a point or points of law only, may be brought before the Court of Justice against a judgment or order of the General Court. In principle, the appeal does not have suspensive effect. If the appeal is admissible and well founded, the Court of Justice sets aside the judgment of the General Court. Where the state of the proceedings so permits, the Court of Justice may itself give final judgment in the case. Otherwise, it refers the case back to the General Court, which is bound by the decision given by the Court of Justice on the appeal.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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<sup>6</sup> Case [T-404/12](#) *Toshiba v Commission* and Case [T-409/12](#) *Mitsubishi Electric v Commission*.

<sup>7</sup> Joined Cases [C-247/11 P](#) *Areva v Commission* and [C-253/11 P](#) *Alstom and Others v Commission*, and Joined Cases [C-231/11 P](#) *Commission v Siemens Österreich and Others*, [C-232/11 P](#) *Siemens Transmission & Distribution v Commission* and [C-233/11 P](#) *Siemens Transmission & Distribution and Nuova Magrini Galileo v Commission*.

<sup>8</sup> See, to that effect, Press Release [No 15/11](#).