

Case number:	Vj-102/2004	
Short title (party, conduct, type of case):	Alstom Holding S.A., VA Tech T&D GmbH, Siemens AG, Areva T&D Holding S.A. and Areva T&D S.A., ABB Power Technologies Management Ltd. and ABB Switzerland Ltd. — gas-insulated high-tension electric switchgears — Agreement restricting economic competition	
Type of case:	Restrictive agreement	Horizontal

Description:

For some 15 years there was a cartel on the market of so-called *gas-insulated high-tension electric switchgears*, European and Japanese undertakings took part in that. In 1988 nine European and five Japanese undertakings had signed the so-called GIS-agreement (Gas-Insulated Switchgears), which shared the worldwide market of the relevant products between European and Japanese groups. As an enforcement of the GIS-agreement, European participants had settled the factual mechanism of sharing, the quotes to be allocated to individual undertakings in the so-called E-agreement.

The investigation of the Hungarian Competition Authority (GVH - Gazdasági Versenyhivatal) revealed that during the investigated period between 1991 and 2004 at least 13 Hungarian projects were negotiated by the participants of the cartel. Among them there were such projects that were withdrawn by the undertakings inviting to tender, following the discussion (e.g. development projects invited to tender by ELMÜ in 1990 and 1992, or the project of the switching station in Lackovich street in 1993, or the project invited to tender by Dunafer in 1999), some others were not shared (e.g. the project of Paks Nuclear Power Plant in 1998). In the cases of City Park project in 2002 and Middle Buda project in 2003 both invited to tender by ELMÜ, the GVH could produce evidence that they had been discussed by the cartel and one of the projects had been actually shared between cartel members.

Based on these all in the trial held on 22 December 2005 the Competition Council established that concerning all cartel members, their conduct continued in the frame of the cartel were likely to have an impact restricting competition in the GIS market of Hungary, and imposed a HUF 702 million competition supervision fine as a total on the defending undertakings Alstom (HUF 440 million), Siemens (HUF 80 million), VA Tech (HUF 159 million) and those of the Areva group (HUF 23 million). The fines imposed reflect the duration of membership in the cartel, and in the case of Siemens the fact that it left the cartel in 1999, so its conduct restricting competition before this date could no more be taken into consideration according to the Hungarian competition law in force. Early 2004 Areva has taken over the T&D branch participating indirectly in the cartel from Alstom, and in the short period following that date Areva was also responsible for the activity of the cartel.

In the frame of leniency policy of GVH, in the summer of 2004 ABB entirely revealed the activity of the cartel, submitted evidence to establish infringement, so ABB was established to take part in the infringement but it was not fined.

In the present case the immunity from the fine relating to ABB was based on the so-called leniency policy of GVH, which is similar to that of the European Commission. Its essence is that there might be such participants of secret agreements who are ready to terminate their participation and to submit information on the existence and activity of the cartel to GVH. When undertakings participating in the agreement restricting economic competition co-operate with the competition authority this way, GVH will grant immunity from any fine or a reduction of fine.

The GVH will grant an undertaking participating in a cartel immunity from any fine which may be imposed if the undertaking applying for immunity in the frame of leniency policy is the first to submit information and evidence about a cartel hitherto unknown to the GVH which will enable the GVH to open an investigation. The undertaking is also granted an immunity of fine if in the proceedings already commenced by the GVH, the undertaking is the first to submit new evidence and information which will enable the GVH to establish an infringement, on the condition that the GVH did not have, at the time of the submission, sufficient evidence to find an infringement.

Decision:

In its decision adopted in the trial held on 22 December 2005 the Competition Council of the Gazdasági Versenyhivatal established that defending undertakings of Alstom, Siemens, VA Tech and those of the Areva group had formed a market sharing cartel on the market of gas-insulated high-tension electric switchgears, committing a serious infringement of competition law. The Competition Council imposed a HUF 702 million competition supervision fine as a total on undertakings committing the illegal conduct. The defending undertakings were as follows.

- Alstom Holding S.A.: fined HUF 440;
- VA Tech T&D GmbH: fined HUF 159 million;
- Siemens AG.: fined HUF 80 million;
- Areva T&D Holding S.A. and Areva T&D S.A.: order to pay a HUF 23 million competition supervision fine as joint obligor.
- no fine was imposed on ABB Power Technologies Management Ltd. and ABB Switzerland Ltd. (beyond establishment of their infringement), due to the leniency policy of GVH.
- The Competition Council of the GVH terminated the competition supervision proceedings against the following undertakings:
 - ABB Kft.
 - Areva Hungária Villamos Kapcsolóberendezések Kft.
 - Siemens Rt.
 - Tessag Hungária Kft.

Date:

Budapest, 22 December 2005