The applicant claims that the Court should:

— annul the decision adopted by the General Secretariat of the Council of the European Union rejecting the two tenders entered by the applicant under call for tenders UCA 033/04 for the award of a contract for cleaning and maintenance services of two office buildings in Brussels;

— order the defendant to pay the sum of EUR 1 481 317.65 together with interest, calculated at the rate of 7 % per annum, from the date on which the present action was brought, expressly subject to future increase, reduction or determination;

— order the defendant to pay the costs of the proceedings.

Pleas in law and main arguments:

The applicant in the present case, a company specialising in the cleaning of offices which has been responsible since 1 January 1998 for the cleaning of certain offices of the General Secretariat of the Council, challenges the rejection by the defendant of two tenders submitted by the applicant in respect of a tender relating to the conclusion of a contract for cleaning and general services to be performed in the 'Woluwe Heights' (lot 1) and 'Frère Orban' (lot 2) buildings.

In support of its claims, the applicant alleges:

— the existence in the present case of a manifest error of assessment in that, in order to reject the tender relating to lot 1, the defendant claims that the average hourly rate under that tender is less than the minimum wage laid down by the Union générale belge du nettoyage (Belgian General Cleaning Union) for category 1A, on 1 July 2004, whereas a precise analysis of the figures in the applicant's tender shows that the average hourly rate thereunder is above the minimum figure set by the Union générale belge du nettoyage;

— infringement of the principles of sound administration and non-discrimination and the existence in the present case of a manifest error of assessment in that the tender relating to lot 2 was rejected, without further consideration, on the sole ground that the total number of hours of work under that tender was less by more than 12.5 % than the average number of hours under the other tenders received for the contract in question, whereas by using that criterion the contested decision favours the most expensive tenders providing for invoicing of an elevated number of hours, without any objective purpose.

Action brought on 23 December 2004 by Zhejiang Xinan Chemical Industrial Group Co., Ltd against the Council of the European Union

(Case T-498/04)

(2005/C 57/60)

(Language of the case: English)

An action against the Council of the European Union was brought before the Court of First Instance of the European Communities on 23 December 2004 by Zhejiang Xinan Chemical Industrial Group Co., Ltd, Jiande City (People's Republic of China), represented by D. Horovitz, lawyer with an address for service in Luxembourg.

The applicant claims that the Court should:

— annul Article 1 of the contested Regulation in so far as it concerns the applicant;

— order the Council to pay the costs of the applicant in the present proceeding.

Pleas in law and main arguments

The applicant seeks the annulment of Council Regulation (EC) No 1683/2004 of 24 September 2004 imposing a definitive anti-dumping duty on imports of glyphosate originating in the People's Republic of China ([1]), insofar as it concerns the applicant. The applicant submits that the Community institutions failed to apply properly the market economy treatment test to it.

In support of its application, the applicant invokes a manifest error of assessment in the application of Article 2(7)(c) of Regulation No 384/96 ([2]), as amended.

The applicant claims that the Council did not state in the contested regulation that there has been significant state interference in the applicant's business decisions. Also, the Council did not apply, according to the applicant, the right threshold to assess whether the criteria set in Article 2(7)(c) were fulfilled. The applicant contests that the alleged right of the state to intervene in the company's business decisions, without any materialisation or exercise of that alleged right, was a factor from which it could be inferred that the first criterion of Article 2(7)(c) was not fulfilled. The applicant submits furthermore that the evidence supplied clearly established that the applicant's decisions on prices, costs and inputs responded to market signals reflecting supply and demand, and that there was no state interference in this regard.

Second, the applicant invokes the failure to comply with paragraph 6 of annex II of the WTO's anti-dumping agreement and with Article 18(4) of Regulation No 384/96, as well as with the obligation to protect the applicant's legal rights. The applicant claims that its legal and procedural rights were infringed by not informing it of the reasons for the rejection of its evidence, by failing to grant it an opportunity to provide further information and by failing to publish the reasons for the rejection of the representations that the applicant made.

Finally, the applicant invokes a violation of its legitimate expectations in that the Community institutions failed to come to an expeditious conclusion on the claim for market economy status of the applicant.

([1]) OJ L 303, p. 1

([2]) Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community (OJ 1996 L 56, p. 1)

Action brought on 23 December 2004 by Hammarplast AB against the Office for Harmonisation in the Internal Market (Trade Marks and Designs)

(Case T-499/04)

(2005/C 57/61)

(Language in which the application was lodged: English)

An action against the Office for Harmonisation in the Internal Market (Trade Marks and Designs) was brought before the Court of First Instance of the European Communities on 23 December 2004 by Hammarplast, established in Tingsryd (Sweden), represented by R. Almaraz Palmero, lawyer.

Steninge Slott AB, established in Märsta (Sweden), was also a party to the proceedings before the Board of Appeal.

The applicant claims that the Court should:

1. annul the Decision of the Second Board of Appeal of the OHIM of 25 October 2004 in case R 394/2003-2;

2. order the office to refuse the registration of the term STENINGE SLOTT as a Community trade mark in respect of the goods in class 21 for which registration has been accepted;

3. order the office and the intervening party, Steninge Slott AB, to pay all the costs of the dispute before the Court of First Instance, including those relating to the procedure before the Second Board of Appeal.

Pleas in law and main arguments

Applicant for Community trade mark:	Steninge Slott AB
Community trade mark concerned:	Word mark 'STENINGE SLOTT' for products in class 21 (design products of glass etc.)
Proprietor of mark or sign cited in the opposition proceedings:	The applicant
Trade mark or sign cited in opposition:	National mark 'STENINGE KERAMIK' for products in the same class
Decision of the Opposition Division:	Refusal of registration
Decision of the Board of Appeal:	Appeal allowed
Pleas in law:	Violation of Article 8 paragraph 1 b) of Regulation 40/94 ([1])

([1]) Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark (OJ 11, p. 1)

Action brought on 24 December 2004 by Stéphane Lopparelli against Commission of the European Communities

(Case T-502/04)

(2005/C 57/62)

(Language of the case: French)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 24 December 2004 by Stéphane Lopparelli, residing in Brussels, represented by S. Orlandi, A. Coolen, J.-N. Louis and E. Marchal, lawyers, with an address for service in Luxembourg.