

- in most cases, the extermination of the entire herd where a cow is found to be infected;
- a decrease in consumption of beef and a lack of consumer confidence resulting from the unpopularity of veal in the market, with the consequent direct economic cost arising from the repercussions of reports in the media of the discovery of each new case of mad cow disease or of persons afflicted by Creutzfeld-Jakob disease in any Member State of the European Union; and
- the removal of the spinal column in calves aged over 12 months.

The applicants maintain that the abovementioned damage, to which must be added the collateral and non-material damage with which they have also been faced, results primarily from a lack of action, alternatively tardy and inadequate action, on the part of the Council and the Commission, which allowed BSE to develop into the most serious agricultural and food crisis to affect the Union since its creation. The absence of a resolute policy to control that disease with a view to its total eradication, which allowed it to spread from the United Kingdom throughout Europe, constitutes an unlawful act on the part of the Community institutions in question, since those institutions had the requisite powers, from the appearance of the very first signs of the crisis, to adopt all the legal measures needed to resolve it.

**Action brought on 7 December 2001 by Thalassa Seafoods SA against Commission of the European Communities**

**(Case T-305/01)**

(2002/C 56/25)

*(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 7 December 2001 by Thalassa Seafoods SA, whose registered office is at Antwerp (Belgium), represented by Jean-Pierre Brusseleers, lawyer.

The applicant claims that the Court should:

- order the Commission to pay it EUR 256 179,10 in damages, together with interest at the statutory rate of 8 % per annum as from the date on which notice was served;

- order the Commission to pay all the costs.

*Pleas in law and main arguments*

The applicant in the present case, a company incorporated under Belgian law carrying on business as importer into the Community of frozen fishery products originating in China, has brought an action seeking compensation for damage allegedly suffered as a result of the immediate entry into force of Commission Decision 2000/86/EC of 21 December 1999 laying down special conditions governing imports of fishery products originating in China and repealing Decision 97/368/EC<sup>(1)</sup>, with no transitional period applicable to goods covered by contracts in force at the date of its publication. Annex B of that decision fundamentally amended the list of list of Chinese establishments approved for the export of fishery products to the Community to such an extent that almost all the suppliers with whom the applicant had concluded its contracts were no longer listed.

From September 1999 to January 2000, the applicant company concluded with several Chinese suppliers a number of purchase contracts for several containers of frozen prawns valued in excess of USD 2 000 000. Those contracts all stipulated that the goods were to be shipped between the end of September 1999 and mid-April 2000.

In support of its arguments, the applicant claims:

- that the Commission acted wrongly inasmuch as Decision 2000/86/EC was not published until 2 February 2000, although it was of immediate application and should therefore have been published without delay, that is to say by 22 December 1999 at the latest, in order to allow traders to take all appropriate measures in order to minimise their losses;
- breach of the principle of legitimate expectations;
- breach of the principle of proportionality in that the Commission itself, on the one hand, introduced transitional measures, by Decision 2000/300/EC of 18 April 2000 amending Decision 2000/86/EC<sup>(2)</sup> and, on the other, published on 11 September 2000 a new list in which the supplier of the goods under the purchase contracts which were annulled was again admitted as an approved establishment.

<sup>(1)</sup> OJ 2000 L 26, p. 26.

<sup>(2)</sup> OJ 2000 L 97, p. 15.