

technique'. Using this technique, the transactions of the applicants that are made at a price higher than the average price, are brought down to a price equal to the average price. According to the applicants, the Commission did not apply the average-to-transaction methodology correctly as a result of using the 'zeroing technique'. The applicants submit that the objective of the average-to-transaction methodology is to ensure a fair comparison and not to yield higher dumping margins.

- (1) Commission Regulation (EC) No 2479/2001 of 17 December 2001 imposing a provisional anti-dumping duty on imports of recordable compact disks originating in Taiwan (OJ L 334, p. 8).
- (2) Council Regulation (EC) No 1050/2002 of 13 June 2002 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of recordable compact disks originating in Taiwan (OJ L 160, p. 2).
- (3) 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 12 September 2002 by Forum 187 asbl against the Commission of the European Communities

(Case T-276/02)

(2002/C 289/52)

(Language of the case: English)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 12 September 2002 by Forum 187 asbl, Brussels, Belgium, represented by Mr Alastair Sutton, barrister and Mr James Killick, barrister.

The applicant claims that the Court should:

- Annul the Commission's Notice of its decision to initiate the procedure laid down in Article 88 (2) of the EC Treaty published in the OJ C 147, p. 2 on 20 June 2002.
- Order the Commission to pay the costs.
- Take such other or further steps as justice may require.

Pleas in law and main arguments

The applicant is an association bringing together more than 230 multinational companies, who together have invested hundreds of millions of euros in the establishment of coordination centres in Belgium, based on legislation dating from the early 1980s permitting the establishment of coordination centres for multinational companies. It explains that this legislation was found by the Commission on two separate occasions in 1984 and 1987 to fall outside Community rules on state aids and that, encouraged by these findings, the coordination centres invested in Belgium and have, over the last 15 years, significantly expanded their presence there.

The applicant states that the Commission's decision to initiate the procedure laid down in Article 88(2) EC in respect of this Belgian legislation (the contested decision) abruptly, arbitrarily and without any adequate reasoning re-classifies it as an aid within the meaning of Article 87(1) and reaches preliminary negative conclusions as to its compatibility with the common market, thereby 'at a stroke' removing legal certainty and infringing the legitimate expectations of the Belgian Coordination Centres.

The applicant submits that the Commission's decision is unlawful, being in breach of Article 1(b)(v) of Regulation 659/1999, and has no other basis in Community law. The Commission's alternative legal basis for its decision to the effect that it is entitled to reverse a decision taken 15 years earlier (either under Article 1(b)(v) or under general administrative principles) is likewise unfounded in Community law and should be annulled. In particular, this alternative legal basis for the Commission decision infringes the principles of legal certainty and legitimate expectations. The applicant considers therefore that, especially taking into account the novel legal basis upon which the decision purports to be taken and the substantial economic interests involved, the decision is inadequately reasoned, in breach of Article 253, and should be annulled.

Action brought on 10 September 2002 by Dyson Limited against the Office for the Harmonisation in the Internal Market

(Case T-278/02)

(2002/C 289/53)

(Language of the case: English)

An action against the Office for the Harmonisation in the Internal Market was brought before the Court of First Instance