

The grounds put forward by the applicant are similar to those relied on in that case (infringement of the principle of equal treatment and of Article 23(2) of Regulation No 1/2003).

In particular, it is stated that the Commission applied more severe dissuasive factors against the applicant than against other Spanish processors, in the calculation of the basic amount of the fine imposed. Furthermore, the applicant's conduct cannot be imputed to its parent companies Trans-Continental Corporation Leaf Tobacco, Standard Commercial Tobacco Corporation and Standard Commercial Corporation.

Likewise, the applicant submits that the guidelines on the calculation of fines and the principle of the protection of legitimate expectations have been infringed, in so far as the Commission failed to take into consideration attenuating circumstances that it is the first time that the raw tobacco has been investigated, that the applicant put an end to the infringements as soon as the Commission took action, and in 1996 and 1997 the agreements were not implemented.

(<sup>1</sup>) Not yet published in the Official Journal.

**Action brought on 22 January 2005 by Agroexpansión S.A. against the Commission of the European Communities**

(Case T-38/05)

(2005/C 82/76)

(Language of the case: Spanish)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 22 January 2005 by Agroexpansión S.A., Madrid (Spain), represented by Jaime Folguera Crespo and Patricia Vidal Martínez, of the Madrid Bar.

The applicant claims that the Court should:

1. partially annul Article 3 of the Decision of the Commission of 20 October 2004, reducing the amount of the fine imposed on Agroexpansión;

2. order the Commission to pay the costs.

*Pleas in law and main arguments*

The decision at issue is the same as in Case T-24/05 *Standard Commercial and Others v Commission* (<sup>1</sup>).

The grounds put forward by the applicant are similar to those relied on in that case (infringement of the principle of equal treatment and of Article 23(2) of Regulation No 1/2003).

In particular, it is alleged that the Commission erred in taking into consideration the consolidated turnover of the group of undertakings headed by DIMON INC., in order to determine the amount of the fine imposed on the applicant. Furthermore, AGROEXPANSION only became part of that group in November 1997.

Moreover, the Commission failed to take account of the attenuating circumstance that the applicant ceased to engage in those practices as soon as it became aware of the Commission's measures of inspection.

(<sup>1</sup>) Not yet published in the Official Journal.

**Action brought on 24 January 2005 by Calavo Growers of California against the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)**

(Case T-53/05)

(2005/C 82/77)

(Language in which the application was submitted: Spanish)

An action against the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (O.H.I.M.) was brought before the Court of First Instance of the European Communities on 24 January 2005 by Calavo Growers of California, represented by Enrique Armijo Chavarri and Antonio Castán Pérez-Gómez, lawyers.