

The applicant contends further that in assessing the price, the Commission incorrectly, and in breach of the requirements of paragraph 1.3 of the instructions to tenders based its decision solely on the basic tender price and thus, in spite of their relevance, the pricing of spare parts and maintenance costs were not taken into consideration.

Finally, the applicant submits that the competitor All Trade S.r.l. does not provide any guarantee, either by its expertise or financial standing or by its technical experience, that it will successfully carry out the project in question.

Action brought on 24 March 2005 by Lootus Teine Osühing against the Council of the European Union

(Case T-127/05)

(2005/C 115/67)

(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 24 March 2005 by Lootus Teine Osühing, established in Tartu (Estonia), represented by T. Sild and K. Martin, lawyers.

The applicant claims that the Court should:

- annul the annex to Council Regulation (EC) No 2269/2004 of 20 December 2004 amending Regulations (EC) Nos 2340/2002 and 2347/2002 as concerns fishing opportunities for deep sea species for the new Member States which acceded in 2004 ⁽¹⁾, as regards fishing opportunities allocated to Estonia;
- annul Part 2 of the Annex to Council Regulation (EC) No 2270/2004 ⁽²⁾ of 22 December 2004 fixing for 2005 and 2006 the fishing opportunities for Community fishing vessels for certain deep-sea fish stocks, as regards fishing opportunities allocated to Estonia;
- order the defendant to pay the costs.

Pleas in law and main arguments

The applicant is an Estonian fishing company which practises deep sea fishing in the area of the North East Atlantic Fisheries

Convention. Estonia was a party to that Convention prior to its accession to the European Union. Article 6(9) of the Act of Accession of Estonia and the other new Member States to the European Union ⁽³⁾ provides that as from the date of accession, fisheries agreements concluded by the new Member States shall be managed by the Community and that the rights and obligations resulting for the new Member States from those agreements shall not be affected during the period in which the provisions of those agreements are provisionally maintained. It is in this context that the contested measures were issued, allocating Estonia fishing opportunities, measured in metric tons of allowable catch of certain stocks in 2004, 2005 and 2006.

According to the applicant these allocations constitute only a fraction of what Estonia legally harvested before accession. On this basis the applicant contends that the contested measures violated Article 6(9) of the Act of Accession as well as the principle of proportionality, and should therefore be annulled.

⁽¹⁾ OJ L 396, 31.12.2004, p. 1.

⁽²⁾ OJ L 396, 31.12.2004, p. 4.

⁽³⁾ OJ L 236, 23.09.2003.

Action brought on 23 February 2005 by Wal-Mart Stores Inc. against the Office for Harmonisation in the Internal Market (Trade Marks and Designs)

(Case T-129/05)

(2005/C 115/68)

(Language of the case to be determined pursuant to Article 131(2) of the Rules of Procedure — language in which the application was submitted: Spanish)

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 February 2005 by Wal-Mart Stores Inc., represented by Fernand de Visscher, Emmanuel Cornu, Eric de Gryse, Donatienne Moreau, Jorge Grau Mora, Alejandro Angulo Labora, Maite Ferrándiz Avendaño, María Baylos Morales and Antonio Velásquez Ibáñez, lawyers.