

The applicant claims that the Court should:

- join this application with the application lodged by the United Kingdom on 11 April 2005 pursuant to Article 230 EC seeking annulment of the refusal to consider the amended NAP contained in the Commission's letter of 1 February 2005;
- annul Commission Decision C(2005) 1081 final dated 12 April 2005 concerning the proposed amendment to the national allocation plan for the allocation of greenhouse gas emission allowances notified by the United Kingdom in accordance with Directive 2003/87/EC of the European Parliament and of the Council; and
- order the Commission to pay the United Kingdom's costs of this action.

Pleas in law and main arguments

On 30 April 2004, the United Kingdom notified a provisional national allocation plan to the Commission pursuant to Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC⁽¹⁾.

On 7 July 2004, the Commission adopted Decision C(2004)2515/4 final concerning the United Kingdom's national allocation plan under Article 9(3) of the Directive.

Following the completion of the activities identified in the provisional national allocation plan, the United Kingdom notified the Commission on 10 November 2004 that it wished to amend the provisional national allocation plan to take account of the results of this work.

By the challenged decision, the Commission found that the proposed amendment to the national allocation plan notified by the United Kingdom to the Commission on 10 November 2004 and last up-dated on 18 February 2005 implying an increase of the emission allowance allocations by 19.8 Mt CO₂eq was inadmissible.

The United Kingdom submits that this finding of inadmissibility is wrong as a matter of law and should be annulled.

The United Kingdom contends that the challenged decision is wrong as a matter of law on the following grounds:

- the Commission was not entitled to treat the United Kingdom's provisional national allocation plan as definitive in

the decision challenged, given the express terms of the national allocation plan;

- the Commission was obliged to consider the United Kingdom's amendments to the national allocation plan as soon as possible in order to enable the United Kingdom to comply with its obligations under the Directive;
- the Commission's Decision C(2004)2515/4 final cannot prevent or restrict the consideration of the comments of the public required by point 9 of Annex III and Article 11(1) of the Directive, and a Member State must remain free to propose any amendments necessary, following public consultation;
- Article 3 of the Commission's Decision C(2004)2515/4 final permits the United Kingdom to notify any amendment to the Commission, including amendments resulting in an increase to the quantity of allowances allocated.

⁽¹⁾ OJ L 275 of 25 October 2003, p. 32.

Action brought on 6 May 2005 by Stradeblu s.r.l. against the Commission of the European Communities

(Case T-179/05)

(2005/C 155/59)

(Language of the case: Italian)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 6 May 2005 by Stradeblu s.r.l. established in Cagliari, represented by Alberto M. Rossi, lawyer, for annulment of Decision 2005/163/EC of 16 March 2004 on the State aid paid by Italy to the Adriatica, Caremar, Siremar, Saremar and Toremar shipping companies (Tirrenia Group), and particularly Article 1 thereof, which provides that 'without prejudice to the provisions of paragraph 2, the aid granted by Italy to Adriatica as of 1 January 1992 as compensation for providing a public service is compatible with the common market having regard to Article 86(2) of the Treaty'.

The applicant claims that the Court should:

1. annul the contested decision, and particularly Article 1 thereof, in so far as it authorises the aid granted to Adriatica (as it then was, now called Tirrenia di Navigazione S.p.A) in respect of the Genoa (Voltri) to Palermo (Termini Imprese) route;
2. order repayment of the aid unlawfully received by Adriatica (and, as from 26 July 2004, by Tirrenia di Navigazione S.p.A.) in respect of the transport services rendered on the Genoa (Voltri) to Palermo (Termini Imprese) route;
3. order the Commission to pay the costs.

Pleas in law and main arguments

The present proceedings have been instituted against the decision of the Commission in respect of the State aid paid by Italy to the Adriatica, Caremar, Siremar, Saremar and Toremar shipping companies (Tirrenia Group)⁽¹⁾ and particularly Article 1 thereof, which provides that *'without prejudice to the provisions of paragraph 2, the aid granted by Italy to Adriatica as of 1 January 1992 as compensation for providing a public service is compatible with the common market having regard to Article 86(2) of the Treaty'*.

In support of its claims, the applicant points to the inconsistency between the contested decision and Decision 2001/851/EC of 21 June 2001 on the aid paid by Italy to Tirrenia di Navigazione S.p.A. In that decision, the defendant took account of the obligation undertaken by the Italian authorities to eliminate the services provided by Tirrenia on the Genoa (Voltri) to Palermo (Termini Imprese) route, for a further five-year period, with the effect that that route was no longer taken into account in calculating the compensation for providing a public service. It is also stated in that decision that on the route in question the services provided by the private operator satisfy the requirements of public service laid down by the agreements entered into with the State, in terms of their capacity and frequency.

In the contested decision, by contrast, the Commission:

- adopts no measure against the Italian authorities for failing to comply with the obligation formally undertaken in the presence of the defendant to eliminate the service on the route;

- declares that the Voltri/Termini Imprese route, served by Adriatica in competition with other private undertakings, can be subsidised in that *'...these operators' supply cannot be regarded as comparable to Adriatica's in terms of regularity, frequency and type of ship stipulated by the Italian authorities in the public service agreement* (paragraph 103 of the decision).

In short, the applicant alleges a failure to state reasons and/or inconsistency in the statement of reasons given for the contested decision and an infringement of Regulation No 3577/92⁽²⁾.

⁽¹⁾ Commission Decision 2005/163/EC of 16 March 2004 on the State aid paid by Italy to the Adriatica, Caremar, Siremar, Saremar and Toremar shipping companies (Tirrenia Group) (notified under document number C(2004) 470) (OJ 2005 L 53, p. 29).

⁽²⁾ Council Regulation (EEC) No 3577/92 of 7 December 1992 applying the principle of freedom to provide services to maritime transport within Member States (maritime cabotage) (OJ 1992 L 364, p. 7).

Action brought on 3 May 2005 by the Italian Republic against Commission of the European Communities

(Case T-185/05)

(2005/C 155/60)

(Language of the case: Italian)

An action was brought before the Court of First Instance of the European Communities on 3 May 2005 by the Italian Republic, represented by Maurizio Fiorilli, *Avvocato dello Stato*.

The applicant claims that the Court of First Instance should:

- annul the DG ADMIN decision on the use of languages (publications under Article 29(2) — EUR-25 posts) adopted at the 1678th Administrative and Budget Meeting of 10 November 2004;