

Lastly, in connection with the correction in the fruit and vegetables sector, the applicant considers that the Commission has misinterpreted Article 20(5) and (7) of Regulation No 1169/1997.<sup>(7)</sup> In any event, the applicant disputes the reasons given in the contested decision with regard to that chapter and alleges infringement of the principle of proportionality.

<sup>(1)</sup> OJ L 188 of 20.7.2005, p. 36.

<sup>(2)</sup> Regulation (EEC) No 729/70 of the Council of 21 April 1970 on the financing of the common agricultural policy, OJ English Special Edition 1970(I), p. 218.

<sup>(3)</sup> Council Regulation (EC) No 1258/1999 of 17 May 1999 on the financing of the common agricultural policy, OJ L 160 of 26.06.1999, p. 103.

<sup>(4)</sup> Commission Regulation (EC) No 1663/95 of 7 July 1995 laying down detailed rules for the application of Council Regulation (EEC) No 729/70 regarding the procedure for the clearance of the accounts of the EAGGF Guarantee Section, OJ L 158 of 08.07.1995, p. 6.

<sup>(5)</sup> Council Regulation (EEC) No 3508/92 of 27 November 1992 establishing an integrated administration and control system for certain Community aid schemes, OJ L 355 of 05.12.1992, p. 1.

<sup>(6)</sup> Commission Regulation (EC) No 2419/2001 of 11 December 2001 laying down detailed rules for applying the integrated administration and control system for certain Community aid schemes established by Council Regulation (EEC) No 3508/92, OJ L 327 of 12.12.2001, p. 11.

<sup>(7)</sup> Commission Regulation (EC) No 1169/97 of 26 June 1997 laying down detailed rules for the application of Council Regulation (EC) No 2202/96 introducing a Community aid scheme for producers of certain citrus fruits, OJ L 169 of 27.06.1997, p. 15.

definitive anti-dumping duty on imports of ammonium nitrate originating in Russia and Regulation (EC) No 132/2001 imposing a definitive anti-dumping duty on imports of ammonium nitrate originating in, inter alia, Ukraine, insofar as

— it extends the existing anti-dumping measures to products other than the product under investigation in breach of Article 1(1), Article 1(2), Article 3(2), Article 4(1) and Article 5(4) of the basic Regulation; and

— it was adopted in breach of the applicant's right of defence and procedural rights in that (i) the applicant was not granted the hearing it had requested under Article 6(5) of the basic Regulation and (ii) the Commission did not adequately disclose the essential facts and consideration on the basis of which it intended to recommend the modification of the scope of the measures as required by Article 20 of the basic Regulation, and that, had it not been for these breaches, the outcome of the anti-dumping investigation might have been different; and

— order the Council to bear the costs of the proceedings.

### Pleas in law and main arguments

The applicant is a Russian company specialising in the production of fluoroplastics, chemicals, medical products and fertilisers, including ammonium nitrate. The applicant exports ammonium nitrate and other fertilisers to the Community.

It seeks the annulment of the contested Regulation on the grounds that it violates Articles 1(1), 1(2), 3(2), 4(1) and 5(4) of Council Regulation (EC) No 384/96<sup>(2)</sup> in that it extends the existing anti-dumping measures to products which are not the product concerned.

It further contends that the contested Regulation was adopted in breach of its right of defence and of its procedural rights in that (i) it was not granted the hearing it had requested pursuant to Article 6(5) of Council Regulation (EC) No 384/96 and (ii) the Commission did not adequately disclose the essential facts and consideration on the basis of which it intended to recommend the modification of the scope of the measures as required by Article 20 of Council Regulation (EC) No 384/96.

<sup>(1)</sup> OJ L 160, 23/06/2005, p. 1

<sup>(2)</sup> Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community. OJ L 56, 06/03/1996, p. 1

### Action brought on 14 September 2005 — JSC Kirovo-Chepetsky Khimichesky Kombinat/Council

(Case T-348/05)

(2005/C 281/57)

*Language of the case: English*

#### Parties

*Applicant(s):* JSC Kirovo-Chepetsky Khimichesky Kombinat (Kirovo Cheptesk, Russia) [represented by: B. Servais, Y. Melin, lawyers]

*Defendant(s):* Council of the European Union

#### Form of order sought

— Annul Council Regulation (EC) No 945/2005<sup>(1)</sup> of 21 June 2005 amending Regulation (EC) No 658/2002 imposing a