

Defendants: Council of the European Union and Commission of the European Communities

The applicant claims that in the present case the requirements demanded by case-law to establish the extra-contractual liability of the Community are met.

Forms of order sought

- to uphold the present action for damages, in accordance with Article 288 EC, and declare the applicant is entitled to be financially compensated by the Council and the Commission jointly and severally in the sum total of two hundred and eighty-eight thousand two hundred and thirty-eight euros (EUR 288 238);
- to order the defendant institutions to pay the costs.

(¹) Council Regulation (EC) No 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and amending Regulations (EEC) No 2019/93, (EC) No 1452/2001, (EC) No 1453/2001, (EC) No 1454/2001, (EC) No 1868/94, (EC) No 1251/1999, (EC) No 1254/1999, (EC) No 1673/2000, (EEC) No 2358/71 and (EC) No 2529/2001 (OJ L 270, 21.10.2003, p. 1).

(²) Council Regulation (EC) No 864/2004 of 29 April 2004 amending Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers, and adapting it by reason of the accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia to the European Union (OJ L 161, 30.4.2004, p. 48).

Pleas in law and main arguments

The applicant in the present proceedings, a Spanish firm which gins raw cotton, seeks compensation for losses allegedly suffered as a result of the application, during the 2006/2007 marketing year, of Chapter 10a of Title IV of Regulation (EC) No 1782/2003 (¹), inserted by Article 1(20) of Regulation (EC) No 864/2004 (²). Chapter 10a of Title IV of Regulation (EC) No 1782/2003 establishes common rules for direct support schemes under the common agricultural policy and establishes certain support schemes for farmers.

In that regard it is noted that Chapter 10a of Title IV of Regulation (EC) No 1782/2003 was annulled by judgment of the Court of Justice on 7 September 2006 in Case C-310/04 *Spain v Commission* for breach of the principle of proportionality. That judgment, however, suspended the effects of the annulment until the adoption of a new regulation, so that the provisions in question continued to apply for the 2006/2007 marketing year.

On the basis of two reports carried out by an economic consultancy the application reviews the loss suffered by the sector, since, as a consequence of applying the annulled provisions during the relevant marketing year a large drop occurred in the volume of raw cotton produced and, consequently in the production of industrially ginned cotton. Operation of the support scheme outlined in the relevant provisions results in a significant portion of the support (about 65 %) becoming completely unrelated to the production of cotton, so that the farmer continues to receive it, even though he is using his land for the production of other crops. Accordingly, the estimated profitability of using an area of one hectare to grow cotton becomes lower than the profitability of using it to grow other crops. That situation also meant that the operating revenues obtained by the ginning industry were reduced.

Action brought on 26 June 2007 — Agroquivir v Council and Commission

(Case T-218/07)

(2007/C 211/68)

Language of the proceedings: Spanish

Parties

Applicant: Agroquivir, S. Coop. And. de Segundo Grado (Seville, Spain) (represented by: Luis Ortiz Blanco, lawyer)

Defendants: Council of the European Union and Commission of the European Communities

Forms of order sought

- to uphold the present action for damages, in accordance with Article 288 EC, and declare that the applicant is entitled to be financially compensated by the Council and the Commission jointly and severally in the sum total of two hundred and eighty-eight thousand two hundred and thirty-eight euros (EUR 288 238);
- to order the defendant institutions to pay the costs.

Pleas in law and main arguments

The pleas in law and main arguments are those already put forward in Case T-217/07 *Las Palmeras v Council and Commission*.

Action brought on 25 June 2007 — DSV Road v Commission

(Case T-219/07)

(2007/C 211/69)

Language of the case: Dutch

Parties

Applicant: DSV ROAD N.V. (represented by: A. Poelmans, A. Calewaert and R. de Wit, lawyers)

Defendant: Commission of the European Communities

Form of order sought

- set aside Decision C(2007) 1776 of the Commission of the European Communities of 24 April 2007 in relation to the application of the Kingdom of Belgium (file reference REC 05/02) determining that import duties in the amount of EUR 168 004,65 forming the subject-matter of the application of the Kingdom of Belgium of 12 August 2002 must be recovered and that there are no grounds for remission of those import duties;
- order the Commission to pay the costs of the present proceedings.

Pleas in law and main arguments

The applicant imported diskettes from Thailand. Those diskettes were covered by a preferential rule under the scheme of general tariff preferences on condition that their importation was covered by a form A certificate of origin issued by the competent Thai authorities in accordance with Article 80 of Regulation (EEC) No 2454/93 ⁽¹⁾.

On the occasion of each customs declaration the applicant submitted a form A issued by the Thai authorities, following which the Belgian authorities accorded preferential tariff treatment.

However, a number of the certificates issued by the Thai authorities were declared to be invalid, with the result that the goods concerned were not eligible for preferential tariff treatment when imported into the EU.

In the contested decision the Commission ruled that the resulting customs debt had to be the subject of post-clearance recovery.

The applicant first submits that the Commission should have ruled that the outstanding duties did not have to be the subject of post-clearance recovery, in accordance with Article 220(2)(b) of Regulation (EEC) No 2913/92 ⁽²⁾. The applicant submits that the issue of the form A certificates was attributable to a mistake on the part of the Thai authorities and that there is no indication whatsoever that the exporters incorrectly set out the facts. Moreover, the applicant contends, there was a mistake inasmuch as the Thai authorities knew, or ought to have known, that the goods in question were not eligible for preferential tariff treatment.

Second, the applicant submits that the Commission ought to have remitted the duties in accordance with Article 239 of Regulation (EEC) No 2913/92 on the ground of special circumstances.

⁽¹⁾ Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (OJ 1993 L 253, p. 1).

⁽²⁾ Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ 1992 L 302, p. 1).

Action brought on 29 June 2007 — Thomson Sales Europe v Commission

(Case T-225/07)

(2007/C 211/70)

Language of the case: French

Parties

Applicant: Thomson Sales Europe (Boulogne-Billancourt, France) (represented by: F.Goguel and F. Foucault, lawyers)

Defendant: Commission of the European Communities

Form of order sought

- Before ruling, order disclosure to the parties all of the materials, documents, reports, letters, preparatory works etc which led to the two Regulations No 2376/94 and No 710/95;
- Principally, annul the decision of the Commission REM No 03/05 of 7 May 2007.