

Form of order sought

- Order the annulment of the Commission decision of 19 September 2007 concerning the non-inclusion of methomyl in Annex I to Council Directive 91/414/EEC and the withdrawal of authorisations for plant protection products containing that substance;
- condemn the Community as represented here by the Commission to repair any damage suffered by the applicants as a result of the contested decision and to set the amount of this compensation for the damage suffered by the applicants currently estimated at approximately EUR 52,5 million; or any other amount reflecting the damage suffered or to be suffered by the applicants as further established by them in the course of this procedure especially to take due account of future damage;
- in the alternative, order the parties to produce to the Court within a reasonable period of time of the date of the judgment figures as to the amount of the compensation arrived at by agreement between the parties or, in the absence of agreement, to order the parties to produce to the Court within the same period their conclusions with detailed figures;
- order an interest at the rate set at the time by the European Central Bank for main refinancing operations, plus two percentage points, or any other appropriate rate to be determined by the Court, be paid on the amount payable as from the date of the Court's judgment until actual payment;
- order the defendant to pay all costs and expenses in these proceedings.

Pleas in law and main arguments

Council Directive 91/414/EEC concerning the placing of plant protection products on the market ⁽¹⁾ provides that Member States shall not authorise a plant protection product unless its active substances are listed in Annex I and any conditions laid down therein are fulfilled. The applicants seek the annulment of Commission Decision 2007/628/EC of 19 September 2007 concerning the non-inclusion of methomyl in Annex I to Council Directive 91/414/EEC and the withdrawal of authorisations for plant protection products containing that substance ⁽²⁾. The applicants further request compensation for the alleged damages caused by the contested decision.

In support of their application for annulment, the applicants submit that the contested decision is adopted on the basis of an incomplete and manifestly incorrect risk assessment of methomyl, whereby the Commission did not take into account information that was available to it since September 2005.

The applicants allege that the Commission misused its powers and infringed the provisions of Directive 91/414/EEC and the principles of proportionality, sound administration, legal certainty, legitimate expectations and non-discrimination as well

as the applicants' right to be heard and the duty to state reasons.

⁽¹⁾ Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market (OJ 1991 L 230, p. 1).

⁽²⁾ OJ 2007 L 255, p. 40.

Action brought on 21 December 2007 — Philips Lighting Poland and Philips Lighting v Council

(Case T-469/07)

(2008/C 51/97)

Language of the case: English

Parties

Applicants: Philips Lighting Poland S.A. (Pila, Poland) and Philips Lighting BV (Eindhoven, Netherlands) (represented by: M. L. Catrain González, lawyer, and E. Wright, Barrister)

Defendant: Council of the European Union

Form of order sought

- Annul the contested regulation in its entirety or in so far as it affects the applicants;
- order the Council to pay the costs of the proceedings.

Pleas in law and main arguments

The applicants, who are producers of integrated fluorescent lamps (CFL-i) in the Community, seek the annulment of Council Regulation (EC) No 1205/2007 of 15 October 2007 imposing anti-dumping duties on imports of integrated electronic compact fluorescent lamps (CFL-i) originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Council Regulation (EC) No 384/96 and extending to imports of the same product consigned from the Socialist Republic of Vietnam, the Islamic Republic of Pakistan and the Republic of the Philippines ⁽¹⁾.

In support of their application, the applicants submit that the Council violated Articles 3(1), 9(4) and 11(2) of the Basic Regulation ⁽²⁾ by imposing anti-dumping duties where it has not been demonstrated that the expiry of the measures would be likely to lead to a continuation or recurrence of injury to the Community industry.

The applicants further allege that the Council committed an error of law in relying on Article 9(1) of the Basic Regulation in a situation that does not fall within the scope of that article, as the complaint leading to the investigation had not been withdrawn.

Finally, the applicants invoke a violation of Article 253 EC in that the contested regulation is inadequately reasoned in respect of the level of support from Community producers and the conclusion on Community interest.

⁽¹⁾ OJ 2007 L 272, p. 1.

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

Action brought on 21 December 2007 — Wella v OHIM (TAME IT)

(Case T-471/07)

(2008/C 51/98)

Language of the case: English

Parties

Applicant: Wella AG (Darmstadt, Germany) (represented by: B. Klingberg, K. Sandberg, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs)

Form of order sought

— That the decision of the Second Board of Appeal of 24 October 2007 in Case R 713/2007-2 be annulled;

— that the defendant be ordered to bear the costs of the proceedings including the costs of the appeal proceedings.

Pleas in law and main arguments

Trade mark concerned: The international word mark ‘TAME IT’ for goods in Class 3 (international registration No 879 186) — request for EC territorial extension of protection in accordance with the Madrid Protocol

Decision of the examiner: Refusal on absolute grounds for all the goods applied for

Decision of the Board of Appeal: Partly upheld the appeal and allowed the EC territorial extension of the protection of international registration No 879 186 to proceed in part

Pleas in law: Infringement of Article 7(1)(b) and 7(1)(c) of Council Regulation 40/94.

According to the applicant, the Board of Appeal based its decision on a purely theoretical philological analysis of the mark applied for with regard to grammar, composition and spelling rules as well as structure and syntax of the trade mark applied for, completely leaving aside the overall impression of the mark to the average consumer.

Action brought on 21 December 2007 — Dow AgroSciences and Others v Commission

(Case T-475/07)

(2008/C 51/99)

Language of the case: English

Parties

Applicants: Dow AgroSciences Ltd (Hitchin, United Kingdom), Makhteshim-Agan Holding BV (Rotterdam, Netherlands), Makhteshim-Agan International Coordination Center (Brussels, Belgium), Dintec Agroquímica — Produtos Químicos Ld.^a (Funchal, Portugal), Finchimica SpA (Manerbio, Italy), Dow Agrosciences BV (Rotterdam, Netherlands), Dow AgroSciences Hungary kft (Budapest, Hungary), Dow AgroSciences Italia Srl (Milano, Italy), Dow AgroSciences Polska sp. z o.o. (Warszawa, Poland), Dow AgroSciences Iberica SA (Madrid, Spain), Dow AgroSciences s.r.o. (Prague, Czech Republic), Dow AgroSciences LLC (Indianapolis, United States), Dow AgroSciences GmbH (Stade, Germany), Dow AgroSciences Export SAS (Mougins, France), Dow AgroSciences SAS (Mougins, France), Dow AgroSciences Danmark A/S (Lyngby-Taarbæk, Denmark), Makhteshim-Agan Poland sp. z o.o. (Warszawa, Poland), Makhteshim-Agan (UK) Ltd (London, United Kingdom), Makhteshim-Agan France SARL (Sevres, France), Makhteshim-Agan Italia Srl (Bergamo, Italy), Alfa Agricultural Supplies SA (Halandri, Greece) (represented by: C. Mereu and K. Van Maldegem, lawyers)

Defendant: Commission of the European Communities

Form of order sought

— Annul the contested decision.

— Order the Commission to take such measures as are necessary to comply with the annulment of the contested decision in accordance with Article 233 EC, including, but not limited to, ordering it to request the Member State competent authorities to reinstate the relevant national trifluralin registrations withdrawn as a result of the contested decision, and extend any relevant deadlines as required to comply with the judgment of the Court.

— Declare the illegality, and inapplicability to the applicants, of Article 3(3) of Regulation (EC) No 850/2004 of the European Parliament and of the Council of 29 April 2004 on persistent organic pollutants and amending Directive 79/117/EEC.