Pleas in law and main arguments

In support of the action, the applicant relies on six pleas in law.

1. First plea in law, alleging the violation of procedural requirements including in particular the lack of procedural rules, the infringement of the right of access to the file, the infringement of the right to be heard, and the absence of a proper justification.

2. Second plea in law, alleging the lack of legal basis for the measures proposed since ACER has not followed the procedure provided for in Article 8 of Regulation (EC) N° 713/2009 but instead based its opinion on article 7(4) of Regulation (EC) N° 713/2009 and therefore overstepped the competence provided for in Article 7(4) of Regulation (EC) N° 713/2009 and acted *ultra vires*.

3. Third plea in law, alleging infringement of Regulation (EC) N° 714/2009 since ACER's conclusion that structural congestion exists on the German-Austrian border is not supported by facts and is incompatible with the definition of congestion. Furthermore, the opinion lacks an impact assessment and a thorough evaluation of alternative solutions. Finally, the capacity allocation procedure as set out in the opinion is neither an appropriate nor a proportionate remedy for the problems identified in the opinion.

4. Fourth plea in law, alleging infringement of Commission Regulation (EU) N° 1222/2015 (CACM Guideline) to the extent that the opinion disregards the binding material and procedural requirements of the CACM Guideline, which entered into force before the opinion was adopted.

5. Fifth plea in law, alleging infringement of Article 101 TFEU and Article 102 TFEU, in conjunction with Article 4(3) TEU, since the opinion violates fundamental principles of the European Internal Energy Market by ordering the national regulatory authorities and the TSO's to artificially split the integrated electricity market between Austria and Germany.

6. Sixth plea in law, alleging infringement of Article 34 TFEU and Article 35 TFE because the regulatory measure would impose artificial barriers of trade between Member States and would interfere with the fundamental principle of Freedom of Goods in the meaning of Article 34 TFEU and Article 35 TFE.

Action brought on 20 November 2015 — Shanxi Taigang Stainless Steel v Commission

(Case T-675/15)

(2016/C 038/88)

Language of the case: English

Parties

Applicant: Shanxi Taigang Stainless Steel Co. Ltd (Taiyuan, China) (represented by: F. Carlin, Barrister, and N. Niejahr, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul Commission Implementing Regulation (EU) 2015/1429 of 26 August 2015 imposing a definitive anti-dumping duty on imports of stainless steel cold-rolled flat products originating in the People's Republic of China and Taiwan (OJ 2015 L 224, p. 10), to the extent that it imposes anti-dumping duties on exports by the applicant and collects provisional duties imposed on such exports; and

— order the Commission to pay its own costs and the costs of the applicant in connection with these proceedings.

Pleas in law and main arguments

In support of the action, the applicant relies on three pleas in law.

1. First plea in law, alleging that the Commission infringed the second sub-paragraph of Article 2(7)(a) of Council Regulation (EU) No 1225/2009 ([1]) (the 'Basic Regulation') by identifying and selecting the United States of America ('US') as the appropriate analogue country in this case. This selection was based on an erroneous interpretation and application of the second sub-paragraph of Article 2(7)(a) of the Basic Regulation as well as on manifest errors of appraisal of the facts. Alternatively, the Commission manifestly misapplied Article 2(7)(a) of the Basic Regulation by failing to make certain required adjustments to normal value despite selecting the US as the analogue country.

2. Second plea in law, alleging that the Commission infringed Article 2(10) of the Basic Regulation by failing to make the required adjustment for internal transport costs of a US exporting producer pursuant to section (k) of this provision.

3. Third plea in law, alleging that Commission infringed Articles 3(2), 3(6) and 3(7) of the Basic Regulation. The Commission's analysis of certain injury factors and of causation is vitiated by manifest errors of appraisal of the facts and/or is not in line with the Commission's duty to examine data with care and impartiality.

([1]) Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community (OJ 2009 L 343, p. 51).

Action brought on 20 November 2015 — Les Éclaires v OHIM — L'éclaireur International (L'ECLAIREUR)

(Case T-680/15)

(2016/C 038/89)

Language in which the application was lodged: English

Parties

Applicant: Les Éclaires GmbH (Nürnberg, Germany) (represented by: S. Bund, lawyer)

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

Other party to the proceedings before the Board of Appeal: L'éclaireur International (Luxembourg, Luxembourg)

Details of the proceedings before OHIM

Proprietor of the trade mark at issue: Other party to the proceedings before the Board of Appeal

Trade mark at issue: Community word mark 'L'ECLAIREUR' — Community trade mark No 3 494 028

Procedure before OHIM: Proceedings for a declaration of invalidity

Contested decision: Decision of the First Board of Appeal of OHIM of 3 September 2015 in Case R 2266/2014-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order the defendant to pay the costs.

Pleas in law

— Infringement of Article 15(1) Regulation No 207/2009;