

Decision of the Board of Appeal: Dismissal of the appeal

Pleas in law: Infringement of Article 7(1)(b) of Council Regulation No 40/94 ⁽¹⁾, in that, contrary to the finding of the Board of Appeal of OHIM in the contested decision, the mark for which registration is sought has no strictly laudatory connotation and does not describe a characteristic or quality of the goods or services which it serves to designate.

⁽¹⁾ Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark (OJ 1994 L 11, p. 1)

Action brought on 17 April 2007 — Ireland v Commission

(Case T-129/07)

(2007/C 140/59)

Language of the case: English

Parties

Applicant: Ireland (represented by: D. O'Hagan, E. Alkin, Agents, and P. McGarry, Barrister)

Defendant: Commission of the European Communities

Form of order sought

- Annul pursuant to Article 230 of the Treaty, in whole or in part, Commission Decision C(2007) 286 final of 7 February 2007 concerning the exemption from excise duty on mineral oils used as fuel for alumina production in Gardanne, in the Shannon region and in Sardinia, implemented by France, Ireland and Italy respectively, insofar as it concerns the exemption from excise duty on mineral oils used as fuel for alumina production in the Shannon region implemented by Ireland;
- order the Commission to pay the costs of these proceedings.

Pleas in law and main arguments

The applicant seeks the annulment of Commission Decision C (2007) 286 final of 7 February 2007 by which the Commission found that the exemptions from excise duty granted by France, Ireland and Italy in respect of heavy fuel oils used in the production of alumina as from 1 January 2004 constitute State aid within the meaning of Article 87(1) EC and that a certain part of this aid was incompatible with the common market.

In support of its application, the applicant invokes four pleas in law.

Firstly, the applicant submits that the Commission was wrong when it concluded that Ireland had not demonstrated that the

exemptions fall within the nature and logic of the domestic taxation system.

Secondly, the applicant claims that the Commission failed to carry out a proper competition analysis in support of its conclusion that the Irish measure can be assumed to affect intra-community trade and to distort or threaten to distort competition.

Thirdly, the applicant alleges that the contested decision infringes the principle of legal certainty in circumstances where the Council had already authorised the specific derogation until the end of 2006.

Finally, the applicant contends that the Commission erred in law in concluding that the State aid concerned constitutes new aid, as opposed to existing aid.

Action brought on 19 April 2007 — Aughinish Alumina v Commission

(Case T-130/07)

(2007/C 140/60)

Language of the case: English

Parties

Applicant: Aughinish Alumina Ltd (Askeaton, Ireland) (represented by: J. Handoll, C. Waterson, Solicitors)

Defendant: Commission of the European Communities

Form of order sought

In the light of its submissions, AAL respectfully requests the Court:

- to annul the Commission decision of February 2007 concerning the exemption from excise duty on mineral oils used as fuel for alumina production in Gardanne, in the Shannon Region and in Sardinia insofar as it relates to AAL;
- to order the Commission to pay the costs incurred by AAL in the current proceedings.

Pleas in law and main arguments

By means of this application the applicant requests the partial annulment of Commission Decision C(2007)286 final of 7 February 2007 concerning the exemption from excise duty on mineral oils used as fuel for alumina production in Gardanne, in the Shannon Region and in Sardinia respectively implemented by France, Ireland and Italy, insofar as it relates to Aughinish Alumina Ltd (hereinafter 'AAL').