

3. order the Commission, and any intervener who may be allowed to support the Commission in the course of the proceedings, to bear the costs of these proceedings.

Pleas in law and main arguments

In support of the action, the applicant relies on one plea in law:

The Commission breached Article 8(1), (9) & (10) and Article 10(5) of Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union⁽¹⁾, and Article 13(1), (9) & (10) and Article 16(5) of Regulation (EU) 2016/1037 of the European Parliament and of the Council of 8 June 2016 on protection against subsidised imports from countries not members of the European Union⁽²⁾, when it invalidated undertaking invoices and then directed customs to collect duties, as if no valid undertaking invoices had been issued and communicated to customs at the time the goods were declared for release in free circulation.

This plea in law is based on a plea of illegality of Article 3(2) of Council Implementing Regulation (EU) No 1238/2013 of 2 December 2013 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China⁽³⁾, and Article 2(2) of Council Implementing Regulation (EU) No 1239/2013 of 2 December 2013 imposing a definitive countervailing duty on imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China⁽⁴⁾, which give to the Commission the power to declare undertaking invoices invalid.

⁽¹⁾ OJ 2013 L 176, p. 21.

⁽²⁾ OJ 2016 L 176, p. 55.

⁽³⁾ OJ 2013 L 325, p. 1.

⁽⁴⁾ OJ 2013 L 325, p. 66.

Action brought on 1 December 2017 — GE Healthcare v Commission

(Case T-783/17)

(2018/C 042/48)

Language of the case: English

Parties

Applicant: GE Healthcare A/S (Oslo, Norway) (represented by: D. Scannell, Barrister, G. Castle and S. Oryszczuk, Solicitors)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul the European Commission's decision C(2017) 7941 final of 23 November 2017 suspending the applicant's marketing authorisations for Omniscan (INN gadodiamide);
- order the defendant to pay the applicant's legal and other costs and expenses in relation to the present matter.

Pleas in law and main arguments

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

1. First plea in law, alleging that the contested decision infringes Article 116 of Directive 2001/83/EC⁽¹⁾
2. Second plea in law, alleging that the contested decision infringes the precautionary principle.

3. Third plea in law, alleging that the contested decision breaches the principle of non-discrimination.
4. Fourth plea in law, alleging that the contested decision is in any event disproportionate.
5. Fifth plea in law, alleging that the contested decision infringes the general principle of good administration.

⁽¹⁾ Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use (OJ 2001 L 311, p. 67).

Action brought on 4 December 2017 — BTC v Commission

(Case T-786/17)

(2018/C 042/49)

Language of the case: German

Parties

Applicant: BTC GmbH (Bolzano, Italy) (represented by: L. von Lutterotti and A. Frei, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul European Commission Measure Ares (2017) 4799558 of 27 September 2017 concerning the recovery of funds granted and the corresponding Debit Note No 3241712708 of 2 October 2017, together with the notification Ares (2017) 4790311 of 2 October 2017, all of which were notified by email on 4 October 2017 to info@btc-srl.com, as well as all further legal acts (including those which are unknown) which preceded the two mentioned above, which are related thereto or which are designed to ensure their execution;
- in the alternative, declare, in the context of arbitration proceedings on the basis of Article 272 TFEU and Article 5(2) of Grant Agreement No C046311 of 29 June 2007, that the amount which the European Commission requested from the applicant in Debit Note No 3241712708 of 2 October 2017 is not owed, the applicant consequently being entitled to withhold that amount;
- in the further alternative, declare, also in the context of arbitration proceedings on the basis of Article 272 TFEU and Article 5(2) of Grant Agreement No C046311 of 29 June 2007, and only in the event that the applicant might owe an amount to the European Community pursuant to Grant Agreement No C046311 of 29 June 2007, that any sum which may be payable by the applicant is lower than the amount indicated by the European Commission in Debit Note No 3241712708 of 2 October 2017;
- in any event, order the defendant to bear the costs of the proceedings pursuant to Article 134 of the Rules of Procedure, those costs being assessed at EUR 30 000 on the basis of the Italian parameters governing the payment of lawyers' fees, in accordance with Ministerial Decree No 55/2014 of the Italian Justice Ministry, together with a 15 % flat-rate reimbursement of fees under Article 15 of Ministerial Decree No 55/2014 of the Italian Justice Ministry, a 4 % statutory contribution to the lawyers' fund and 22 % VAT, in so far as it is due, subject to a subsequent, more precise assessment, in the course of the proceedings, of the expenditure incurred.

Pleas in law and main arguments

In support of the action, the applicant raises seven pleas in law:

1. First plea in law, alleging that the contested measures are invalid as having been adopted out of time pursuant to the fourth subparagraph of Article 3(1) of Regulation (EC, Euratom) No 2988/95.⁽¹⁾