In support of its submissions, the applicants put forward the following pleas in law:

Firstly, by issuing the additional disclosure after the publication of the contested regulation, the Council violated Article 20(4) of the Council Regulation (EC) No 1225/2009 ([2]) and the rights of defence of the applicants. The institutions of the European Union failed to inform the applicants before the contested regulation was finalized and sent to the Council for adoption, about the new facts and considerations underlying the change in the anti-dumping duty and did not provide the applicants any opportunity to present new arguments or to clarify the previously provided information which could have led to a further reduction of the anti-dumping duty.

Secondly, the Council made a manifest error of appraisal and violated Articles 2(9) and 11(10) of Council Regulation (EC) No 1225/2009 while constructing the export price. The Union institutions erroneously deducted the 38,1 % anti-dumping duty in the process of construction of the export price because the requirement of Article 11(10) of the said regulation is not to be proved in case of a new exporter. Moreover, the Union institutions' assessment of the deduction of the anti-dumping duty was based on an erroneous appreciation of the facts.

Thirdly, the Council committed a manifest error of appraisal, breached the principles of diligence and sound administration and non-discrimination, and erred in the application of Article 2(10) of Council Regulation (EC) No 1225/2009 by making incorrect adjustments to the export price and normal value. The Union institutions erroneously deducted from the export price direct costs not paid by the applicants in relation to a portion of the exports of the product concerned, and wrongly increased the normal value to account for the non-refundable VAT on export sales, even though no such adjustment was made in the original investigation.

Finally, the Union institutions committed a manifest error of appraisal, breached the principles of diligence and sound administration, and non-discrimination, and erred in the application of Articles 2(7)(b), 2(7)(c) of Council Regulation (EC) No 1225/2009, by denying market economy treatment to Greenwood Houseware (Zhuhai) Ltd. The Union institutions' refusal of market economy treatment to the applicant Greenwood Houseware (Zhuhai) Ltd. was based on an erroneous appraisal of facts and evidence submitted. Furthermore, there was an absence of diligence and due care on the part of the Union institutions in the assessment of all the relevant aspects concerning the application of criteria 2 and 3 of Article 2(7)(c) of the said regulation.

([1]) Council Implementing Regulation (EU) No 77/2010 of 19 January 2010 amending Regulation (EC) No 452/2007 imposing a definitive anti-dumping duty on imports of ironing boards originating, *inter alia*, in the People's Republic of China (OJ L 24, p. 1).

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

Action brought on 26 April 2010 — Ferracci v Commission

(Case T-192/10)

(2010/C 179/79)

Language of the case: Italian

Parties

Applicant: Pietro Ferracci (San Cesareo, Italy) (represented by: A. Nucara, lawyer)

Defendant: European Commission

Form of order sought

— Annul the Commission decision contained in the letter of 15 February 2010, by which the Commission dismissed the applicant's complaint;

— Order the Commission to pay the costs.

Pleas in law and main arguments

The present action has been brought against the decision contained in the letter of 15 February 2010, by which the applicant's complaint was dismissed.

That complaint concerned the exemption from municipal taxes on immovable property provided for in Article 7(1)(i) of Decree-Law No 504/1992 which, under Article 7(2a) of Decree-Law No 203/2005 as converted into law, is intended

to apply to the activities referred to in Article 7(1)(i) of Decree-Law No 504/1992, regardless of their potentially commercial nature. In the applicant's submission, that rule constitutes State aid in favour of ecclesiastical bodies and non-profit making organisations in so far as they pursue commercial activities, or at least economic activities for the purposes of the Community case-law.

The applicant puts forward two pleas in support of his action:

First of all, the applicant submits that the contested decision is vitiated because it infringes and misapplies, through incorrect interpretation, Article 108(3) TFEU. In fact, on the basis of the applicant's complaint received on 14 June 2006, the Commission initiated a very lengthy preliminary investigation procedure characterised by an intense exchange of letters with the applicant and requests for information from the national authorities, only to conclude finally in the contested decision that there was no doubt that the measures in question did not constitute State aid for the purposes of Article 107 TFEU.

In the applicant's submission, it is clear from the extraordinarily long period which elapsed before the preliminary investigation was closed that the Commission was unable to address the doubts raised in the complaint which it ought to have addressed, and that it should at least have pursued the matter in depth by ordering a formal investigation procedure as provided for under Article 108(2) TFEU.

Moreover, a careful reading of the aforementioned decision on the current tax can only give cause to believe that the Commission had doubts as to whether the disputed measures constituted State aid, but ultimately decided to dismiss the complaint without opening the formal investigation procedure, thereby infringing the applicant's right to submit observations on any justifications which the Italian authorities might have submitted to the Commission in the context of the formal investigation procedure pursuant to Article 108 TFEU and preventing the necessary examination as to compatibility which the Commission would have had to undertake in order to assess the extent to which competition was distorted as a result of the preferential tax regime which was the subject of the complaint.

The applicant submits, secondly, that the contested decision should be annulled on grounds of failure to provide an adequate statement of reasons, contrary to Article 296 TFEU (formerly Article 253 EC).

Action brought on 26 April 2010 — Scuola Elementare Maria Montessori v Commission

(Case T-193/10)

(2010/C 179/80)

Language of the case: Italian

Parties

Applicant: Scuola Elementare Maria Montessori (Rome, Italy) (represented by: A. Nucara, lawyer)

Defendant: European Commission

Form of order sought

— Annul the decision of the Commission contained in the letter of 15 February 2010 by which the defendant rejected the applicant's complaints.

— Order the defendant to pay the costs of the present proceedings.

Pleas in law and main arguments

The present action is brought against the decision contained in the letter of 15 February 2010 rejecting the applicant's complaint.

That complaint concerns not only the exemption from the Imposta Comunale sugli Immobili (Communal Tax on Immovable Property), as in Case T-192/10 *Pietro Ferracci* v *Commission*, but also the partial exemption (at the rate of 50 %) from payment of the Imposta sul reddito delle persone giuridiche (tax on the income of legal persons) provided for under Italian tax law.

The pleas in law and main arguments are similar to those relied on in Case T-192/10.

Action brought on 29 April 2010 — Apotheke DocMorris v OHIM (Representation of a green and white cross)

(Case T-196/10)

(2010/C 179/81)

Language of the case: German

Parties

Applicant: Apotheke DocMorris Holding GmbH (Stuttgart, Germany) (represented by Y. Dick, lawyer)