

## Case T-117/95

**N. Corman SA**

**v**

**Commission of the European Communities**

(Action for annulment — Regulations (EEC) No 570/88 and (EC) No 455/95 —  
Aid for butter for use in the manufacture of certain categories of products —  
Definition of butter — Definition of intermediate product —  
Legal interest in bringing proceedings — Inadmissibility)

Judgment of the Court of First Instance (Fifth Chamber), 30 January 1997 ..... II - 98

### Summary of the Judgment

1. *Agriculture — Common organization of the markets — Milk and milk products — Aid for cream, butter and concentrated butter for use in the manufacture of pastry products, ice-cream and other foodstuffs — Conditions for granting aid — Intermediate products — Definition — Obligation to add tracers*  
(Commission Regulation No 570/88, Art. 9a)

2. *Agriculture — Common organization of the markets — Milk and milk products — Aid for cream, butter and concentrated butter for use in the manufacture of pastry products, ice-cream and other foodstuffs — Conditions for granting aid — Butter — Definition*  
(Council Regulations No 985/68, Art. 1(3)(a) and (b), and No 2991/94; Commission Regulation No 570/88, Art. 1(2)(a))
3. *Actions for annulment — Legal interest in bringing proceedings — Act not concerning the product manufactured by the applicant — Inadmissible*  
(EC Treaty, Art. 173, para. 4; Commission Regulations No 570/88, Arts 1 and 9a, and No 455/95, Art. 1(4))

1. A product consisting of 82% butterfat, 16% water and 2% fat-free dried milk extract, obtained by concentrating, fractionating and recomposing raw materials consisting of 65% butter and 35% cream, must be regarded as an intermediate product within the meaning of Article 9a of Regulation No 570/88 on the sale of butter at reduced prices and the granting of aid for butter and concentrated butter for use in the manufacture of pastry products, ice-cream and other foodstuffs.

The fact that an intermediate product within the meaning of that article may, in addition, be classified as butter under the domestic legislation of one Member State cannot displace the conditions laid down by Article 9a in order for one of the products referred to therein to qualify for aid under Regulation No 570/88.

Failure to incorporate tracers, as required by Article 9a in order for an intermediate product to have access to the aid provided for by that regulation, does not alter the actual nature of the product, but merely makes it ineligible for Community aid. Tracing is intended to prevent fraud and is not a necessary process in the manufacture of the product.

2. Although, in defining the conditions to be satisfied in order for butter to qualify for aid under Article 1 of Regulation 570/88, Article 1, second paragraph, (a) makes express reference only to Article 1(3)(b), on the grading of butter, of Regulation No 985/68 concerning intervention on the market in butter and cream, it requires in addition that the product should meet a certain 'definition'. That definition is set out in Article 1(3)(a) of Regulation No 985/68 and refers to technical conditions for the production and composition of butter.

The fact that a certain product does not fall within the category of butter for the application of Regulation No 570/88 cannot be altered by the fact that Regulation No 2991/94 laying down standards for spreadable fats contains a broader definition of butter which includes that product. That regulation does not fall within the scope of the intervention measures intended to encourage the disposal of Community butter surpluses but pursues the objective of protecting and informing consumers.

3. Article 1(4) of Regulation No 455/95, regarding in particular the grant of aid for buying in butter, amends Article 1 of Regulation No 570/88 only and therefore does not concern the intermediate products referred to in Article 9(a) of that regulation, with the result that an action for the annulment of Article 1(4), brought by a manufacturer of intermediate products, must be dismissed as inadmissible for want of any legal interest in bringing proceedings.