

Case T-113/00

DuPont Teijin Films Luxembourg SA and Others

v

Commission of the European Communities

(Action for annulment — Generalised Tariff Preference System (GSP) —
Refusal of request to open investigation — Challengeable act —
Misinterpretation of Regulation (EC) No 2820/98 — Failure to state reasons)

Judgment of the Court of First Instance (Fifth Chamber), 12 September
2002 II-3683

Summary of the Judgment

1. *Actions for annulment — Actionable measures — Definition — Letter of the Commission rejecting a ‘complaint’ requesting initiation of the procedure for temporary withdrawal of the benefit of the generalised tariff preference system — Included — Addressee’s action admissible*
(Art. 230 EC; Council Regulation No 2820/98, Arts 22(1) and 23(1))

2. *Common Customs Tariff — System of generalised tariff preferences for developing countries — Temporary withdrawal of the benefit of the generalised tariff preference system — ‘Complaint’ requesting initiation of the consultation and investigation procedures — Rejection on the ground that anti-subsidy measures have been imposed on the goods concerned — Inadmissible (Council Regulation No 2820/98, Art. 27)*

1. A letter of the Commission which definitively rejects, without examination, a ‘complaint’ lodged under Article 23(1) of Regulation No 2820/98 applying a multiannual scheme of generalised tariff preferences for the period 1 July 1999 to 31 December 2001 and which thus alters the legal position of the ‘complainer’ as a person with an interest in the temporary withdrawal of the European Community’s generalised tariff preference system who has brought to the Commission’s attention a case referred to in Article 22(1) of that regulation has legal effects capable of affecting the interests of that letter’s addressee. It is therefore a measure against which the addressee may bring an action for annulment under Article 230 EC.
2. Article 27 of Regulation No 2820/98 applying a multiannual scheme of generalised tariff preferences for the period 1 July 1999 to 31 December 2001 cannot be construed as meaning that the mere fact that anti-subsidy measures have been imposed on the goods forming the subject-matter of a ‘complaint’ requesting initiation of the procedure for the temporary withdrawal of the benefit of the generalised tariff preference system and that the exception provided for by Article 27 is not applicable precludes the Commission from requesting that consultations be initiated under Article 23 of that regulation and then, if necessary, from opening an investigation under Article 25 of that regulation into the existence of the case envisaged by Article 22(1)(e), namely unfair trading practices. Consequently, the rejection of a ‘complaint’ on the basis of such a misinterpretation of Regulation No 2820/98 must be annulled.

(see para. 55)

(see paras 88-89)