

**Judgment of the Court of First Instance (Second Chamber)  
of 3 October 2006 — Hewlett-Packard v Commission**

**(Case T-313/04)**

Refusal of repayment of import duties — Action for annulment — Importation of printers and printer cartridges from Singapore — Particular circumstances — Equity clause — Article 239 of Regulation (EC) No 2913/92

1. *Acts of the institutions — Temporal application — Immediate application of a new procedural rule — Retrospective effect of a substantive rule — Conditions (Council Regulation No 3093/95; Commission Regulation No 3009/95) (see para. 53)*
2. *Own resources of the European Communities — Repayment or remission of import or export duties (Council Regulation No 2913/92, Art. 239; Commission Regulation No 2454/93, Art. 905) (see paras 55-61)*
3. *Community law — Principles — Legal certainty — Community legislation (see para. 66)*
4. *Community law — Principles — Protection of legitimate expectations — Conditions (see paras 72, 73)*

**Re:**

ACTION for annulment of Commission Decision REM 06/02 of 7 April 2004 advising the German authorities that the applicant should not receive repayment of import duties on printers and printer cartridges from Singapore.

## **Operative part**

The Court:

1. Dismisses the action;
2. Orders the applicant to bear its own costs and pay those of the Commission.

### **Judgment of the Court of First Instance (Third Chamber) of 4 October 2006 — Freixenet v OHIM (Shape of a frosted matt black bottle)**

**(Case T-188/04)**

Community trade mark — Shape of a frosted matt black bottle — Absolute ground of refusal — Article 7(1)(b) of Regulation (EC) No 40/94 — Lack of distinctive character — Infringement of the rights of the defence — Article 73 of Regulation No 40/94

1. *Community trade mark — Appeals procedure (Council Regulation No 40/94, Art. 63(3) and (6)) (see paras 15-18, 44-47)*
2. *Community trade mark — Decisions of the Office — Compliance with rights of the defence (Council Regulation No 40/94, Art. 73) (see paras 28-30, 41, 42)*

**Re:**

ACTION for annulment of the decision of the Fourth Board of Appeal of OHIM of 11 February 2004 (Case R 104/2001-4) concerning registration of a mark in the form of a frosted matt black bottle as a Community trade mark.