

**Judgment of the Court of First Instance (Eighth Chamber) of 13 November 2008 —
SPM v Council and Commission**

(Case T-128/05)

(Non-contractual liability of the Community — Common organisation of the markets — Bananas — Rules for importing of bananas from ACP countries into the European Union — Lawful or unlawful conduct — Loss allegedly suffered by independent ACP producer)

1. *Non-contractual liability — Conditions — Sufficiently serious breach of a rule of law conferring rights on individuals (Art. 288, second para., EC) (see paras 53-56)*
2. *Procedure — Application initiating proceedings — Formal requirements — Identification of the subject-matter of the dispute (Statute of the Court of Justice, Arts 21, first para., and 53, first para.; Rules of Procedure of the Court of First Instance, Art. 44(1)(c)) (see paras 62-64)*
3. *Agriculture — Common agricultural policy — Discretion of the Community institutions — Scope — Judicial review — Limits (see paras 94, 114)*
4. *International agreements — Agreements concluded by the Community — Direct effect — Conditions — Fourth ACP–EEC Lomé Convention (Fourth ACP–EEC Lomé Convention on 15 December 1989, Art. 168 and Protocol No 5; ACP–EC Cotonou Agreement, Protocol No 5, Art. 1) (see paras 97-106, 119, 131)*
5. *Agriculture — Common organisation of the markets — Bananas — System of importation (Council Regulation No 1637/98; Commission Regulation No 2362/98) (see paras 116, 146-159, 164-170, 178-182)*

6. *Competition — Administrative procedure — Examination of complaints (Council Regulation No 856/1999; ACP-EC Cotonou Agreement, Protocol No 5, Art. 1) (see paras 132, 133)*
7. *Non-contractual liability — Conditions — Legal measure — Real damage, causal link and unusual and special damage — Cumulative nature (Art. 288, second para., EC) (see paras 187, 188)*

Re:

ACTION for damages pursuant to Article 235 EC and the second paragraph of Article 288 EC, based, principally, on the unlawful conduct of the Council and the Commission in the establishment of the rules relating to the import of bananas into the Community and, alternatively, on the liability of the Community in the absence of unlawful conduct by those two institutions.

Operative part

The Court:

1. Dismisses the action;
2. Orders Société des plantations de Mbanga SA (SPM) to pay the costs.

**Order of the Court of First Instance (Eighth Chamber) of 13 November 2008 —
Lemaître Sécurité v Commission**

(Case T-301/06)

(Action for annulment — Dumping — Imports of footwear with a protective toecap originating in the People's Republic of China and India — Commission Decision closing the anti-dumping proceeding — Not individually concerned — Manifest inadmissibility)