

**Judgment of the Court of First Instance (Seventh Chamber) of 23 September
2009 — Dongguan Nanzha Leco Stationery v Council**

(Case T-296/06)

(Dumping — Imports of lever arch mechanisms originating in China — Determination of the dumping margin — Market economy treatment — Comparison between the normal value and the export price — Application of a different method to that used during the initial investigation — Article 2(7)(a) and (10) of Regulation (EC) No 384/96)

1. *Common commercial policy — Protection against dumping — Dumping margin — Comparison between the normal value and the export price — Adjustments (Council Regulation No 384/96, Art. 2(10)) (see paras 42-45, 51)*

2. *Common commercial policy — Protection against dumping — Dumping margin — Determination of the normal value — Imports from countries not having a market economy as referred to in Article 2(7)(b) of Regulation No 384/96 — Application of the rules for countries with a market economy — Application reserved for producers satisfying the conditions set out in Article 2(7)(b) of Regulation No 384/96 (Council Regulations Nos 384/96, Arts 2(1) to (6), and 7(b) and (c), and 1136/06) (see paras 47-50)*

3. *Common commercial policy — Protection against dumping — Dumping margin — Determination of the normal value — Recourse to the constructed value — Discretion of the institutions — Limits (Council Regulation No 384/96, Arts 2(3), 6(8) and 16) (see paras 58-63)*

4. *Common commercial policy — Protection against dumping — Normal value of products — Calculation — Difference between the provisional and final conclusions as to the choice of the calculation method — Lawfulness — Limits (Council Regulation No 384/96, Arts 2(7)(a) and 9(4)) (see paras 71-75)*

Re:

APPLICATION for partial annulment of Council Regulation (EC) No 1136/2006 of 24 July 2006 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of lever arch mechanisms originating in the People's Republic of China (OJ 2006 L 205, p. 1), in so far as it applies to the applicant.

Operative part

The Court:

1. Dismisses the action;
2. Orders Dongguan Nanzha Leco Stationery Mfg. Co., Ltd, to bear its own costs and to pay those incurred by the Council of the European Union, IML Industria Meccanica Lombarda Srl, Interkov spol. s r.o., MI.ME.CA. Srl and NIKO — kovinarsko podjetje, d.d. Železniki;
3. Orders the Commission of the European Communities to bear its own costs.

Judgment of the Court of First Instance (Seventh Chamber) of 23 September 2009 — Arcandor v OHIM — dm drogerie markt (S-HE)

(Case T-391/06)

(Community trade mark — Opposition proceedings — Application for the Community word mark S-HE — Earlier national word mark SHE, earlier national and international figurative trade mark She — Relative ground for refusal — No likelihood of confusion — Lack of similarity between the signs — Article 8(1)(b) of Regulation (EC) No 40/94 (now Article 8(1)(b) of Regulation (EC) No 207/2009)