

By means of the present application, the applicant seeks, pursuant to Article 230 EC, the annulment of the Commission's decision of 19 June 2008, granting partial access to its request and refusing to allow access to one of the documents for which the applicant applied under Regulation (EC) No 1049/2001 of the European Parliament and of the Council.

The applicant claims that the Commission committed an error of law by applying Article 4(1)(a), third indent of Regulation (EC) No 1049/2001 to a purely intra-EU relationship. Moreover, the applicant submits that the Commission committed a manifest error of law in considering that the content of Mr Schröder's letter was confidential to such an extent that its disclosure would jeopardise the economic policy of Germany and other EU Member States. Further, the applicant contends that the Commission committed manifest errors of assessment in considering that the disclosure of the letter would compromise the decision-making process and, finally, by not considering public interest as overriding the confidential nature of its decision-making process.

<sup>(1)</sup> Case C-64/05 P *Kingdom of Sweden v Commission* [2007] ECR I 11389.

<sup>(2)</sup> Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ 1992 L 206, p. 7).

<sup>(3)</sup> Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ 2001 L 145, p. 43).

### Action brought on 2 September 2008 — Federcoopescas and Others v Commission

(Case T-366/08)

(2008/C 301/73)

*Language of the case: Italian*

#### Parties

*Applicants:* Federazione Nazionale delle Cooperative della Pesca (Federcoopescas) (Rome, Italy); Pappalardo (Cetara, Italy); Pescatori La Tonnara (Cetara, Italy); Fedemar (Cetara, Italy); I Ciclopi di Tudisco Matteo (Catania, Italy); Testa (Catania, Italy); Pescatori San Pietro Apostolo, Camplone (Pescara, Italy), and Pesca (Pescara, Italy) (represented by: P. Cavatola, V. Cannizzaro and G. Micucci, lawyers)

*Defendant:* Commission of the European Communities

#### Form of order sought

— annul Commission Regulation (EC) No 530/2008 of 12 June 2008 establishing emergency measures as regards purse

seiners fishing for bluefin tuna in the Atlantic Ocean, east of longitude 45° W, and in the Mediterranean Sea;

— order the Commission to pay the costs.

#### Pleas in law and main arguments

The pleas in law and principal arguments are similar to those relied on in Case T-305/08 *Italian Republic v Commission* and Case T-313/08 *Veromar di Tudisco Alfio & Salvatore snc v Commission*.

### Action brought on 26 August 2008 — Atlantean v Commission

(Case T-368/08)

(2008/C 301/74)

*Language of the case: English*

#### Parties

*Applicant:* Atlantean Ltd (Killybegs, Ireland) (represented by: M. Fraser, D. Hennessy, Solicitors, G. Hogan SC, E. Regan, and C. Toland, Barristers)

*Defendant:* Commission of the European Communities

#### Form of order sought

— Annul Commission Decision C(2008) 3236 of 26 June 2008 addressed to Ireland responding to the request by Ireland concerning the Atlantean;

— Order the Commission to pay the applicant's costs of these proceedings.

#### Pleas in law and main arguments

In the present case, the applicant is bringing an action for partial annulment of Commission Decision C(2008) 3236 final of 26 June 2008 which provided for the rejection of the request by Ireland in respect of the applicant's vessel Atlantean to increase capacity under the fourth multi-annual guidance programme (MAGP IV) applicable for the reasons of improvements in safety, navigation at sea, hygiene, product quality and working conditions for vessels of more than 12 m in length overall. The first Commission Decision 2003/245/EC of 4 April 2003 <sup>(1)</sup> rejecting the request by Ireland was annulled by the Court's judgment of 13 June 2006 in so far as it applied to the applicant's vessel Atlantean <sup>(2)</sup>.

The applicant states in support of its contentions that the contested decision was not made on the basis of criteria set out in Council Decision 97/413/EC <sup>(1)</sup>, which it considers to be the appropriate legal base, but on application of Article 11(5) of Council Regulation 2371/2002/EC <sup>(2)</sup>. The applicant therefore submits that the Commission not only lacked the competence to make the decision but it also infringed the principles of non-retroactivity, legal certainty, protection of legitimate expectations, the principles of non-discrimination and of equal treatment and the principle of proportionality. It states that the Commission breached its obligation to state reasons laid down in Article 253 EC as well as the applicant's right to be heard and its rights to property. The applicant further claims that the Commission misused its powers, acted *mala fides* and made inexcusable and manifest error in its decision. It also submits that the Commission acted in excess in the bounds of its discretion.

Furthermore, the applicant claims that the Commission, in adopting the contested decision, sought to defeat a related claim for damages made by the applicant in Case T-125/08 <sup>(3)</sup>, pending before the Court, and was therefore not *bona fide*.

<sup>(1)</sup> OJ 2003 L 90, p. 48.

<sup>(2)</sup> Case T-192/03, *Atlantean Ltd. v Commission* [2006] ECR II-42.

<sup>(3)</sup> Council Decision of 26 June 1997 concerning the objectives and detailed rules for restructuring the Community fisheries sector for the period from 1 January 1997 to 31 December 2001 with a view to achieving a balance on a sustainable basis between resources and their exploitation, OJ L 175, p. 27.

<sup>(4)</sup> Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy, OJ L 358, p. 59.

<sup>(5)</sup> Case T-125/08, *Atlantean Ltd. v Commission*, OJ C 116, p. 28.

## Action brought on 4 September 2008 — EWRIA and Others v Commission

(Case T-369/08)

(2008/C 301/75)

Language of the case: English

### Parties

*Applicants:* European Wire Rope Importers Association (EWRIA) (Hemer, Germany); Câbleries Namuroises SA (Namur, Belgium); Ropenhagen A/S (Vallensbæk Strand, Denmark); Eisen- und Stahlhandels-gesellschaft mbH (Kaarst, Germany); Heko Industrieerzeugnisse (Hemer, Germany); Interkabel Internationale Seil-

und Kabel-Handels GmbH (Solms, Germany); Jose Casañ Colomar SA (Valencia, Spain); Denwire Ltd. (Dudley, United Kingdom) (represented by: T. Lieber, lawyer)

*Defendant:* Commission of the European Communities

### Form of order sought

- Declare the action admissible;
- Annul the decision of the Commission of 4 July 2008, in which the Commission rejects applicants' request for a partial interim review of the antidumping measures on steel wire ropes (SWR) to adjust the scope of the measures and exclude general purpose ropes (GPR) from the product scope of the measures;
- Require the Commission to initiate a partial interim review of the antidumping measures imposed on imports of SWR to adjust the scope of the measures and exclude GPR from the scope of the measures;
- Order the Commission to pay the costs.

### Pleas in law and main arguments

By means of this application the applicants seek annulment of the Commission decision of 4 July 2008 rejecting the applicants' request for partial interim review of the antidumping duty imposed on certain iron or steel ropes and cables originating in the People's Republic of China, India, South Africa, Ukraine and the Russian Federation <sup>(1)</sup> in view of exclusion of general purpose ropes (GPR) from the product scope of the measure. The Commission refused to initiate the interim measure review on the grounds of lack of evidence that the two product types under the measures, steel wire ropes and general purpose ropes, do not share the same basic physical, technical and chemical characteristics.

The applicants put forward three pleas in law in support of their claims.

First, the applicants claim that the failure of the Community institutions to initiate a partial interim review constitutes a breach of Article 11(3) and Article 21 of the basic regulation <sup>(2)</sup>. They state that the change of circumstances justifying an interim review may also refer to the definition of the product concerned.

Second, the applicants submit that the failure of the Community institutions to initiate a partial interim review constitutes a breach of the applicants' legitimate expectations. They claim that the Commission itself had encouraged the applicants upon termination of expiry review concerning steel wire ropes originating in the People's Republic of China, India, South Africa and Ukraine to file a request for partial interim review to adjust the scope of the measures in question.