submits that in a situation where the Commission has previously found that a measure does not constitute aid, the Commission cannot open such proceedings unless it has first conducted a comprehensive preliminary investigation in order to substantiate why the previous finding no longer holds. In addition the Commission must set out its reasons sufficiently clearly in its decision to open formal proceedings. Alcoa submits that the CFI erred in law in holding that the Commission could open formal proceedings without examining whether the original analysis of the 1996 decision had become invalid. The Commission's past finding that the measure did not constitute aid also raises the question of what procedure should apply in the event that the Commission decides to revisit the matter and to open formal proceedings against the measure in question. It follows both from the applicable procedural rules and the fundamental principles of legal certainty as well as from the protection of legitimate expectations that in such circumstances the procedure for investigating existing aid must apply. It is submitted that the CFI erred in law in holding that the Commission's reliance on the procedure for new aid in investigating Alcoa's tariffs was correct.

Reference for a preliminary ruling from High Court of Justice (Chancery Division) (Patents Court) (England and Wales) made on 29 May 2009 — Synthon BV v Merz Pharma Gmbh & Co KG

(Case C-195/09)

(2009/C 193/10)

Language of the case: English

Referring court

High Court of Justice (Chancery Division)

Parties to the main proceedings

Applicant: Synthon BV

Defendant: Merz Pharma Gmbh & Co KG

Questions referred

1. For the purposes of Articles 13 and 19 of Council Regulation (EC) No 1768/92 [1], is an authorisation a 'first authorization to place. on the market in the Community', if it is granted in pursuance of a national law which is compliant with Council Directive 65/65/EEC [2], or is it necessary that it be established in addition that, in granting the authorisation in question, the national authority followed an assessment of data as required by the administrative procedure laid down in that Directive?

2. For the purposes of Articles 13 and 19 of Council Regulation (EC) No 1768/92, does the expression 'first authorization to place. on the market in the Community', include authorisations which had been permitted by national law to co-exist with an authorisation regime which complies with Council Directive 65/65/EEC?

3. Is a product which is authorised to be placed on the market for the first time in the EEC without going through the administrative procedure laid down in Council Directive 65/65/EEC within the scope of Council Regulation (EC) 1768/92 as defined by Article 2?

4. If not, is an SPC granted in respect of such a product invalid?

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[1] Council Regulation (EEC) No 1768/92 of 18 June 1992 concerning the creation of a supplementary protection certificate for medicinal products OJ L 182, p. 1

[2] Council Directive 65/65/EEC of 26 January 1965 on the approximation of provisions laid down by Law, Regulation or Administrative Action relating to proprietary medicinal products OJ 22, p. 369 English special edition: Series I Chapter 1965-1966 p. 24

Reference for a preliminary ruling from the Chambre de recours des Écoles européennes lodged on 29 May 2009 — Paul Miles and Others, Robert Watson MacDonald v Secrétaire général des Écoles européennes

(Case C-196/09)

(2009/C 193/11)

Language of the case: French

Referring court

Chambre de recours des Ecoles européennes

Parties to the main proceedings

Applicants: Paul Miles and Others, Robert Watson MacDonald

Defendant: Secrétaire général des Ecoles européennes

Question(s) referred

1. Is Article 234 of the EC Treaty to be interpreted as meaning that a court or tribunal such as the Chambre de recours, which was established by Article 27 of the Convention defining the Statute of the European Schools, [1] falls within its scope of application and, since the Chambre de recours acts as a tribunal of last instance, is competent to make a reference for a preliminary ruling to the Court of Justice?

2. If the answer to the first question is in the affirmative, must Articles 12 and 39 of the EC Treaty be interpreted as meaning that they prevent the application of a remuneration system such as the system in force within the European Schools inasmuch as, although that system expressly refers to the system applying to Community officials, it does not allow for the taking into account, even retrospectively, of currency devaluation which leads to a decline in purchasing power for teachers who are seconded by the authorities of the Member State concerned?

3. If the answer to the second question is in the affirmative, can a difference in situation such as that established between teachers seconded to the European Schools, whose remuneration is funded both by their national authorities and by the European School in which they teach, on the one hand, and officials of the European Community, whose remuneration is funded by the Community alone, on the other hand, justify a situation in which, in the light of the principles laid down in the articles cited above and although the [Service Regulations for staff seconded to the European School] expressly refer to the Staff Regulations of Officials of the European Community, the exchange rates applied in order to maintain an equivalent purchasing power are not the same?

(1) OJ 1994 L 212, p. 3.

Reference for a preliminary ruling from the Augstākās tiesas Senāts (Republic of Latvia) lodged on 4 June 2009 — Schenker SIA v Valsts ieņēmumu dienests

(Case C-199/09)

(2009/C 193/12)

Language of the case: Latvian

Referring court

Augstākās tiesas Senāts

Parties to the main proceedings

Applicant: Schenker SIA

Defendant: Valsts ieņēmumu dienests

Question referred

Must Article 6(2) of Commission Regulation (EEC) No 2454/93 (1) of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code be interpreted as meaning that, with regard to an application for binding tariff information, binding information must be issued on identical goods, which share the same commercial denomination, article number or any other criterion which distinguishes or identifies the goods concerned?

(1) OJ 1993 L 253, p. 1.

Appeal brought on 27 May 2009 by Commission of the European Communities against the judgment of the Court of First Instance (Second Chamber) delivered on 10 March 2009 in Case T-249/06: Interpipe Nikopolsky Seamless Tubes Plant Niko Tube ZAT (Interpipe Niko Tube ZAT), formerly Nikopolsky Seamless Tubes Plant 'Niko Tube' ZAT, Interpipe Nizhnedneprovsky Tube Rolling Plant VAT (Interpipe NTRP VAT), formerly Nizhnedneprovsky Tube-Rolling Plant VAT v Council of the European Union

(Case C-200/09 P)

(2009/C 193/13)

Language of the case: English

Parties

Appellant: Commission of the European Communities (represented by: H. van Vliet, C. Clyne, Agents)

Other parties to the proceedings: Interpipe Nikopolsky Seamless Tubes Plant Niko Tube ZAT (Interpipe Niko Tube ZAT), formerly Nikopolsky Seamless Tubes Plant 'Niko Tube' ZAT, Interpipe Nizhnedneprovsky Tube Rolling Plant VAT (Interpipe NTRP VAT), formerly Nizhnedneprovsky Tube-Rolling Plant VAT, Council of the European Union

Form of order sought

The appellant claims that the Court should:

— set aside point 1 of the Judgment;

— dismiss the Application in its entirety;

— order the Applicants to pay the Commission's costs in bringing this Appeal

Pleas in law and main arguments

FIRST GROUND OF APPEAL — application of the Single Economic Entity-concept in the determination of the export price

The Commission considers that the Court of First Instance makes two legal errors when it states: 'According to consistent case-law concerning the calculation of normal value, but applicable by analogy to the calculation of the export price, the sharing of production and sales activities within a group formed by legally distinct companies does not alter the fact that one is dealing with a single economic entity which organises in that manner a series of activities which are carried out, in other cases, by an entity which is also a single entity from the legal point of view'.

Firstly, the CFI erred by not providing any reasoning whatsoever as to why the so-called single economic entity concept (SEE-concept) would also be applicable by analogy to the determination of the export price in dumping calculations.