

Action brought on 19 October 2011 — BSI v Council

(Case T-551/11)

(2011/C 370/46)

*Language of the case: Italian***Parties**

Applicant: Brugola Service International Srl (BSI) (Cassano Magnago, Italy) (represented by: S. Baratti and M. Farneti, lawyers)

Defendant: Council of the European Union

Form of order sought

— Annul Council Implementing Regulation (EU) No 723/2011 of 18 July 2011 extending the definitive anti-dumping duty imposed by Regulation (EC) No 91/2009 on imports of certain iron or steel fasteners originating in the People's Republic of China to imports of certain iron or steel fasteners consigned from Malaysia, whether declared as originating in Malaysia or not (OJ 2011 L 194, p. 6);

— Declare inapplicable, under Article 277 TFEU, Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community (OJ 2009 L 343, p. 51);

— Declare inapplicable, under Article 277 TFEU, Council Regulation (EC) No 91/2009 of 26 January 2009 imposing a definitive anti-dumping duty on imports of certain iron or steel fasteners originating in the People's Republic of China (OJ 2009 L 29, p. 1);

— Order the Council to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant argues that Implementing Regulation (EU) No 723/2011 should be annulled under Article 263 TFEU, since legally and logically it is based on Regulation (EC) No 1225/2009 and Regulation (EC) No 91/2009, whose inapplicability the applicant invokes under Article 277 TFEU on the basis of the following pleas in law:

1. First plea in law, concerning the illegality of Regulation (EC) No 1225/2009 and, as a consequence, of Regulation (EC) No 91/2009 on account of unlawfulness in the form of an infringement of Articles 6(10) and 9(2) of the WTO Anti-Dumping Agreement in so far as a duty is imposed on a national scale for suppliers located in non-market-economy countries which cannot show that the requirements of Article 9(5) of Regulation (EC) No 1225/2009 are met.

2. Second plea in law, concerning the illegality of Regulation (EC) No 91/2009 on the grounds of an inadequate statement of reasons and a manifest error of assessment, since the Commission incorrectly made the grant of individual treatment conditional upon the Chinese producers showing that the requirements laid down in Article 9(5) of Regulation (EC) No 1225/2009 were met, in breach of Articles 6(10) and 9(2) of the WTO Anti-Dumping Agreement.

3. Third plea in law, alleging that the interpretation given, in Regulation (EC) No 91/2009, to the concept of 'major proportion' of Community industry, referred to in Article 4(1) of Regulation (EC) No 1225/2009, was unlawful in that it infringed Articles 4(1) and 3(1) of the WTO Anti-Dumping Agreement and in that it entailed a manifest error of assessment.

4. Fourth plea in law, concerning the illegality of Regulation (EC) No 91/2009 on account of unlawfulness in the form of an infringement of Articles 2(4) and 6(2) and (4) of the WTO Anti-Dumping Agreement and of Articles 2(10), 6(8) and 20(2) and (4) of Regulation (EC) No 1225/2009, as well as on account of a manifest error of assessment, since the Commission determined the dumping margin on the basis of an inappropriate comparison between the normal value and the export price and failed to communicate, in sufficient time, to the producers of the People's Republic of China the information necessary to ensure that they could exercise their rights of defence.

5. Furthermore, the applicant also claims that Implementing Regulation (EU) No 723/2011 is unlawful in that, independently, it is vitiated by a lack of proper inquiry and by an inadequate statement of reasons, since the Commission failed to provide information about the average export prices, products and product categories on the basis of which normal value was determined and the dumping margin thus calculated.

Action brought on 18 October 2011 — Evropaiki Dynamiki v Commission

(Case T-554/11)

(2011/C 370/47)

*Language of the case: English***Parties**

Applicant: Evropaiki Dynamiki — Proigmena Systimata Tilepikoinonion Pliroforikis kai Tilematikis AE (Athens, Greece) (represented by: N. Korogiannakis and M. Dermitzakis, lawyers)

Defendant: European Commission