



## Reports of Cases

**Judgment of the General Court (Second Chamber) of 20 May 2015 —**

**Yuanping Changyuan Chemicals v Council**

**(Case T-310/12)**

(Dumping — Imports of oxalic acid originating in India and China — Definitive anti-dumping duty — Community industry — Determination of injury — Article 9(4), Article 14(1) and Article 20(1) and (2) of Regulation (EC) No 1225/2009 — Obligation to state reasons — Right to make representations — Article 20(5) of Regulation (EC) No 1225/2009)

1. *Judicial proceedings — Lodging of the defence — Time-limit — Claim barred by lapse of time — Unforeseeable circumstances or force majeure — Concept — Pleading sent by fax and original lodged late by reason of an exceptional malfunctioning of postal services — Included (Statute of the Court of Justice, Art. 45, second para.; Rules of Procedure of the General Court, Arts 46(3), and 122; practical instructions to the parties, point 7) (see paras 80, 86-93)*
2. *Common commercial policy — Protection against dumping — Injury — Scope of the Community industry — Choice between the two branches of the alternative provided by Article 4(1) of Regulation No 1225/2009 — Discretion of the institutions — Judicial review — Limits (Council Regulation No 1225/2009, Arts 3(1), and 4(1)) (see paras 97-100, 120)*
3. *Common commercial policy — Protection against dumping — Injury — Scope of the Community industry — Inclusion of producers not supporting the complaint or not co-operating with the investigation — Lawfulness — Inclusion of a producer which ceased producing the similar product during the period in question and before the beginning of the investigation period — Lawfulness (Council Regulation No 1225/2009, Arts 4(1), and 5(4)) (see paras 103-106, 114-117)*
4. *Common commercial policy — Protection against dumping — Injury — Period to be taken into consideration — Discretion of the institutions — Scope (Council Regulation No 1225/2009, Art. 6(1)) (see paras 109, 110)*
5. *Common commercial policy — Protection against dumping — Discretion of the institutions — Change of approach concerning inclusion of producers in the EU industry — Lawfulness — No possibility for economic operators to invoke the principle of the protection of legitimate expectations (or combine with previous headwords) (Council Regulation No 1225/2009, Art. 4(1)) (see para. 120)*

6. *Common commercial policy — Protection against dumping — Injury — Factors to be taken into consideration — Impact of the dumping on EU production — Discretion of the institutions — Judicial review — Limits — Manifest error of assessment — Burden of proof* (Council Regulation No 1225/2009, Arts 1(1), and 3(1), (2) and (5)) (see paras 124-131)
7. *Common commercial policy — Protection against dumping — Injury — Factors to be taken into consideration — Impact of the dumping on EU production — Existence of factors and indicators showing a positive tendency — Fact not excluding the conclusion that significant injury caused to the EU industry* (Council Regulation No 1225/2009, Art. 3(5)) (see para. 135)
8. *Common commercial policy — Protection against dumping — Injury — Factors to be taken into consideration — Impact of the dumping on EU production — Criteria for assessment — Interpretation in the light of the 1994 GATT Anti-Dumping Agreement — Account taken of macro- and micro-economic data showing different tendencies or not being available for all producers of the EU industry — Lawfulness* (Agreement on the implementation of Article VI of the General Agreement on Tariffs and Trade, '1994 Anti-dumping Agreement', Art. 3.4; Council Regulation No 1225/2009, art. 3(5)) (see paras 140, 143, 144, 147)
9. *Common commercial policy — Protection against dumping — Course of the investigation — Obligation of the Commission to check the accuracy of information provided by the interested parties — Limits — Voluntary cooperation of the interested parties* (Council Regulation No 1225/2009, Arts 6(8), 16(1), and 18) (see paras 150-152)
10. *Acts of the institutions — Statement of reasons — Obligation — Scope — Regulation imposing anti-dumping duties — Insufficient statement of reasons for the calculation of the loss margin and the determination of the profit margin — Regularisation during the proceedings — Not permissible — Annulment of regulation* (Art. 296 TFEU) (see paras 170-175, 182-187, 191-196, 202-204)
11. *Common commercial policy — Protection against dumping — Injury — Reexamination after an earlier order acknowledging admissibility — Margin reasonably to be counted on in the absence of dumping* (Council Regulation No 1225/2009, Arts 3(1), and 9(4)) (see para. 189)
12. *Common commercial policy — Protection against dumping — Anti-dumping proceeding — Rights of defence — Right to be heard — Scope — Communication by the Commission of the final information to undertakings — Non-compliance with the minimum 10-day time-limit for the submission of observations — Consequences for the validity of the regulation imposing definitive anti-dumping duties* (Charter of Fundamental Rights of the European Union, Art. 41(2)(a); Council Regulation No 1225/2009, Art. 20(5)) (see paras 209-214, 224, 225)

**Re:**

APPLICATION for annulment of Council Implementing Regulation (EU) No 325/2012 of 12 April 2012 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of oxalic acid originating in India and the People's Republic of China (OJ 2012 L 106, p. 1).

**Operative part**

The Court:

1. Annuls Council Implementing Regulation (EU) No 325/2012 of 12 April 2012 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of oxalic acid originating in India and the People's Republic of China in so far as it concerns Yuanping Changyuan Chemicals Co. Ltd;
2. Orders the Council of the European Union to bear its own costs and to pay those incurred by Yuanping Changyuan Chemicals Co. Ltd, other than the costs incurred by the latter as a result of the European Commission's intervention;
3. Orders the European Commission to bear its own costs and to pay those incurred by Yuanping Changyuan Chemicals Co. Ltd as a result of the European Commission's intervention.