

- second, in the alternative, on the fact that the Commission incorrectly applied that judgment of the Court.
2. Second plea in law, alleging misinterpretation of the concept of State aid within the meaning of Article 107 TFEU when the Commission found, for the sake of completeness, that the French authorities have not proved that, considered in isolation, the two loans proposed by SNCF would have been granted at a market rate. That plea is divided into two branches based on:
- first, the fact that the Commission incorrectly excluded the two loans at issue from the application of the Commission Communication of 19 January 2008 on the revision of the method for setting the reference and discount rates; ⁽¹⁾ and
- second, the fact that the Commission incorrectly found that, to be compatible with the market, the rate of the loans in question should have been around 14 %.
3. Third plea in law, alleging errors of law and of fact when the Commission found that the restructuring aid is incompatible with Article 107(3)(c) TFEU, interpreted in the light of the guidelines on State aid for rescuing and restructuring.
4. Fourth plea in law, alleging infringement of Article 345 TFEU which provides that the Treaties are not in any way to prejudice the rules in Member States governing the system of property ownership.

⁽¹⁾ OJ 2008 C 14, p. 6.

Action brought on 9 January 2012 — Interbev v European Commission

(Case T-18/12)

(2012/C 80/36)

Language of the case: French

Parties

Applicant: Association Nationale Interprofessionnelle du Bétail et des Viandes (Interbev) (Paris, France) (represented by: P. Morrier and A. Bouviala, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul the European Commission's decision of 13 July 2011, State aid SA. 14974 (C 46/2003) — France — concerning the levies for INTERBEV, C(2011) 4923 final, not yet published in the *Official Journal of the European Union*, in so far as it classifies as State aid the measures adopted by INTERBEV between 1996 and 2004 concerning publicity, promotion, technical assistance and research and development, on the one hand, and the extended voluntary levies which finance that action as State resources forming an integral part of the abovementioned State aid measures, on the other hand;
- in the alternative, annul the European Commission's decision of 13 July 2011, State aid SA. 14974 (C 46/2003) — France — concerning the levies for INTERBEV, C(2011) 4923 final, not yet published in the *Official Journal of the European Union*, in so far as it encourages the national courts to order repayment of the extended voluntary levies (contested decision, recitals 201 and 202);
- order the European Commission to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on four pleas in law.

1. First plea in law, alleging that the reasoning of the contested decision is insufficient in the light of Article 296 TFEU and with regard to the conditions concerning: (i) a selective economic advantage for operators in the cattle and sheep sectors; (ii) the State origin of the measures adopted by the applicant; (iii) the distortion of competition and the effect on trade between Member States; and (iv) the direct connection between the action taken by the applicant and the extended voluntary levies, also known as binding voluntary levies, charged between 1996 and 2004.
2. Second plea in law, alleging infringement of Article 107(1) TFEU, in so far as the measures adopted by the applicant between 1996 and 2004:
 - cannot be imputed to the State and the extended voluntary levies which financed them do not constitute State resources and cannot in any way be imputed to the French State;
 - do not constitute an economic advantage for one or more recipients;
 - do not affect, even potentially, competition or trade between Member States.

3. Third plea in law, in the alternative, alleging a manifest error of assessment with regard to the existence of a direct causal connection between the extended voluntary levies and the measures adopted by the applicant.
4. Fourth plea in law, in the further alternative, alleging a manifest error of assessment with regard to the consequences which the national courts should draw from the lack of notification of the extended voluntary levies. The Commission, in paragraph 202 of the contested decision, encourages national courts to order repayment of the extended voluntary levies and to declare the aid invalid, and calls upon the persons affected to bring their cases before the national courts, whereas the national courts are not obliged to order repayment of the aid and the extended voluntary levies because such repayment would be inappropriate and impossible in practice.

Action brought on 16 January 2012 — Fomanu v OHIM (Qualität hat Zukunft)

(Case T-22/12)

(2012/C 80/37)

Language of the case: German

Parties

Applicant: Fomanu AG (Neustadt a.d. Waldnaab, Germany) (represented by T. Raible)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs)

Form of order sought

The applicant claims that the Court should:

- annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 27 October 2011 in Case R 1518/2011-1;
- order OHIM to pay the costs of the these proceedings and those incurred before the Board of Appeal.

Pleas in law and main arguments

Community trade mark concerned: Word mark 'Qualität hat Zukunft' for goods and services in Classes 9, 16 and 40.

Decision of the Examiner: Registration refused.

Decision of the Board of Appeal: Appeal dismissed.

Pleas in law: Infringement of Article 7(1)(b) of Regulation No 207/2009, since the Community trade mark concerned is distinctive.

Action brought on 20 January 2012 — PT Musim Mas v Council

(Case T-26/12)

(2012/C 80/38)

Language of the case: English

Parties

Applicant: PT Perindustrian dan Perdagangan Musim Semi Mas (PT Musim Mas) (Medan, Indonesia) (represented by: D. Luff, lawyer)

Defendant: Council of the European Union

Form of order sought

- Annul Articles 1 and 2 of Council implementing Regulation (EU) No 1138/2011 of 8 November 2011 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain fatty alcohols and their blends originating in India, Indonesia and Malaysia (OJ L 293, 11.11.2011, p. 1) (hereafter referred to as 'the contested regulation'), in so far as it applies to the applicant;
- Order the defendant to pay the applicant's costs.

Pleas in law and main arguments

In support of the action, the applicant relies on five pleas in law.

1. First plea in law, alleging

- that the General Court has jurisdiction to review Articles 1 and 2 of the contested regulation and their conformity with the Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community⁽¹⁾ (hereafter referred to as 'the basic Regulation') and the general principles of European law.

2. Second plea in law, alleging

- that the Council violated Article 2(10)(i) of the basic Regulation in that:

- (a) it committed a manifest error in the assessment of facts and a misuse of powers by denying the existence of a 'single economic entity' between the applicant and its related sales subsidiary in Singapore. During its investigation, the Commission deliberately ignored the facts put forward by the applicant concerning related companies;