

GENERAL COURT

Action brought on 15 May 2013 — Growth Energy and Renewable Fuels Association v Council

(Case T-276/13)

(2013/C 226/19)

Language of the case: English

Parties

Applicants: Growth Energy (Washington, United States), Renewable Fuels Association (Washington, United States) (represented by: P. Vander Schueren, lawyer)

Defendant: Council of the European Union

Form of order sought

The applicants claim that the Court should:

— Annul Council Implementing Regulation (EU) No 157/2013 of 18 February 2013 imposing a definitive anti-dumping duty on imports of bioethanol originating in the United States of America (OJ L 49 of 22.2.2013, p. 10), in so far as it affects the applicants and their members; and

— Order the Council to pay the costs of incurred by the applicants in relation to these proceedings.

Pleas in law and main arguments

In support of their action, the applicants rely on the following ten pleas in law.

1. First plea in law, alleging that the Commission acted contrary to the Basic Regulation, since it opted for a countrywide duty and refused to calculate an individual dumping duty, despite the fact that it had all the information it needed to do so. In this regard, the applicants note that the Commission committed a manifest error of assessment of the relevant facts, an error in law, failed to state reasons for its conclusions, breached its duty of care and violated the rights of defence as well as the principle of legal certainty and legitimate expectations of the applicants.
2. Second plea in law, alleging that the Commission's failure to adjust the export price when calculating the dumping

margin, by not making an upward adjustment to export prices for blends of the blender concerned, constitutes a manifest error in the assessment of the relevant facts and an error in law.

3. Third plea in law, alleging that the Commission committed a manifest error of assessment of the relevant facts and infringed the Basic Regulation and the principle of non-discrimination by overestimating the volume of imports of bioethanol from the US and by not treating these imports in a similar way to third country imports of the same product.
4. Fourth plea in law, alleging that the Commission committed a manifest error of assessment and violated the Basic Regulation when performing injury margin calculations.
5. Fifth plea in law, alleging that the Commission committed manifest errors of assessment and infringed the Basic Regulation by basing its material injury determination on a Union industry that does not manufacture a like product and by defining the Union industry before defining the like product.
6. Sixth plea in law, alleging that the Contested Regulation is flawed as a result of manifest errors of assessment and errors of law since the material injury it provides for is determined on data pertaining to a non-representative sample of Union producers.
7. Seventh plea in law, alleging that the Commission committed a manifest error of assessment by concluding that other causes of material injury do not break the causal link between the targeted imports and alleged injury to the Union industry.
8. Eighth plea in law, alleging that the Council erred in law and violated the principle of proportionality by adopting a dumping measure which is not necessary.
9. Ninth plea in law, alleging that the Commission committed errors in law and breached the principles of sound administration and non-discrimination by considering that the investigation into US origin bioethanol was based on an adequate complaint, when the latter did not satisfy the requirements set by the Basic Regulation.
10. Tenth plea in law, alleging that the Commission committed multiple violations of the rights of defence of the applicants and failed to state reasons in the adoption of the Contested Regulation, given that the definitive disclosure on which it is based did not contain essential facts and considerations

for the adoption of the definitive measures. The Commission also changed the period of validity of the measures without stating reasons while it did not allow the applicants to access to the non-confidential file in a timely manner nor did it allow sufficient time for the applicants to submit comments on the definitive disclosure.

Action brought on 15 May 2013 — Marquis Energy v Council

(Case T-277/13)

(2013/C 226/20)

Language of the case: English

Parties

Applicant: Marquis Energy LLC (Hennepin, United States) (represented by: P. Vander Schueren, lawyer)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— Annul Council Implementing Regulation (EU) No 157/2013 of 18 February 2013 imposing a definitive anti-dumping duty on imports of bioethanol originating in the United States of America (OJ L 49 of 22.2.2013, p. 10), in so far as it affects the applicant; and

— Order the Council to pay the costs of incurred by the applicant in relation to these proceedings.

Pleas in law and main arguments

In support of its action, the applicant relies on the following ten pleas in law.

1. First plea in law, alleging that the Commission acted contrary to the Basic Regulation, since it opted for a countrywide duty and refused to calculate an individual dumping duty, despite the fact that it had all the information it needed to do so. In this regard, the applicants note that the Commission committed a manifest error of assessment of the relevant facts, an error in law, failed to

state reasons for its conclusions, breached its duty of care and violated the rights of defence as well as the principle of legal certainty and legitimate expectations of the applicant.

2. Second plea in law, alleging that the Commission's failure to adjust the export price when calculating the dumping margin, by not making an upward adjustment to export prices for blends of the blender concerned, constitutes a manifest error in the assessment of the relevant facts and an error in law.

3. Third plea in law, alleging that the Commission committed a manifest error of assessment of the relevant facts and infringed the Basic Regulation and the principle of non-discrimination by overestimating the volume of imports of bioethanol from the US and by not treating these imports in a similar way to third country imports of the same product.

4. Fourth plea in law, alleging that the Commission committed a manifest error of assessment and violated the Basic Regulation when performing injury margin calculations.

5. Fifth plea in law, alleging that the Commission committed manifest errors of assessment and infringed the Basic Regulation by basing its material injury determination on a Union industry that does not manufacture a like product and by defining the Union industry before defining the like product.

6. Sixth plea in law, alleging that the Contested Regulation is flawed as a result of manifest errors of assessment and errors of law since the material injury it provides for is determined on data pertaining to a non-representative sample of Union producers.

7. Seventh plea in law, alleging that the Commission committed a manifest error of assessment by concluding that other causes of material injury do not break the causal link between the targeted imports and alleged injury to the Union industry.

8. Eighth plea in law, alleging that the Council erred in law and violated the principle of proportionality by adopting a dumping measure which is not necessary.

9. Ninth plea in law, alleging that the Commission committed errors in law and breached the principles of sound administration and non-discrimination by considering that the investigation into US origin bioethanol was based on an adequate complaint, when the latter did not satisfy the requirements set by the Basic Regulation.