

Action brought on 19 June 1998 by A. Alferink and Others against the Commission of the European Communities

(Case T-94/98)

(98/C 358/31)

(Language of the case: Dutch)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 19 June 1998 by A. Alferink and others, all residing in the Netherlands, represented by H. J. Bronkhorst, of the Hague Bar, and E. H. Pijnacker Hordijk, of the Brussels Bar, with an address for service in Luxembourg at the Chambers of T. Loesch, 11 rue Goethe.

The applicants claim that the Court should:

- order the Commission to pay the sums specified in the application by way of compensation for the damage suffered by the applicants as a result of the defective enactment of Article 3(a) of Commission Regulation (EEC) No 1546/88⁽¹⁾, together with interest thereon at the rate of 8% per annum from 23 February 1998 until the date of full settlement;
- order the Commission to pay the costs.

Pleas in law and main arguments adduced in support:

The applicants, all of whom are SLOM farmers who have made use of business assets leased from third parties, complain that the Commission has acted unlawfully by enacting defective legislation. They consider that the interpretation applied to the abovementioned provision — according to which, before a definitive reference quantity can be allocated, milk production must be resumed by the original SLOM undertaking or through the same economic and organisational unit as originally existed at the time when the SLOM undertaking was entered into — is inconsistent with the wording of the article in question, with Council Regulation (EEC) No 1078/77⁽²⁾ and with the rules implementing it. The Commission has not clearly formulated the restriction which it sought to introduce and has thus breached the principle of due diligence.

⁽¹⁾ OJ L 139, 4.6.1988, p. 12.

⁽²⁾ OJ L 131, 26.5.1977, p. 1.

Action brought on 20 August 1998 by Hewlett Packard France against the Commission of the European Communities

(Case T-133/98)

(98/C 358/32)

(Language of the case: French)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 20 August 1998 by Hewlett Packard France, the registered office of which is at Courcouronnes (France), represented by Fabrice Goguel and Anne Trager, of the Paris Bar, with an address for service in Luxembourg at the Chambers of Aloyse May, 31 Grand-rue.

The applicant claims that the Court should:

- annul Commission Decision 98/406/EC published on pages 45 and 46 of the *Official Journal of the European Communities* of 23 June 1998, requiring the revocation of binding Tariff Information No FR 12030199700151, which had correctly classified HP JetDirect EX Plus (and Ex Plus 3) machines under heading 8471.80.10;
- order the Commission to pay all the costs.

Pleas in law and main arguments adduced in support:

The applicant, a company incorporated under French law which imports into France and manufactures in that country hardware and software for use in the operation of 'local area networks' (LANs), contests the revocation of Binding Tariff Information No FR 12030199700151 issued by the French customs authorities, which classified HP JetDirect EX Plus/Ex Plus 3 machines under heading 8471.80.10 in accordance with the combined Community nomenclature. The machines in question consist of an electronic card of the Jet Direct type which is inserted in a unit linked to one or more printers, enabling several computers within a local area network to have access to and control of that printer or those printers. As a result of the contested revocation decision, the French Directorate-General of Customs has had to classify the machine in question under heading 8517.50.

In support of its claims, the applicant maintains that the defendant has incorrectly assessed the general rules for the interpretation of the combined nomenclature, laid down in Section 1.A of Part I of Annex I to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the common customs tariff, as last amended by Regulation (EC) No 2509/97.

In particular, it emphasizes that the attempt to ascribe to local area networks a function which is peculiar to telecommunications is based on an excessively broad interpretation of the concept of telecommunications. In its view, the chief characteristic of telecommunications equipment is that it enables data to be transmitted over unlimited distances; consequently, it is radically different from that used in local area networks. Moreover, that difference in terms of distance is directly linked to a functional difference. Transmissions within a local area network are extremely rapid; such rapidity is technically possible over short distances only. With long-distance telecommunications, by contrast, the maximum speed of transmission is very much slower.

The applicant further claims that the equipment in question simultaneously fulfils the three conditions which, according to Note 5(B) of Chapter 84, must be met in order for a unit to be regarded as forming part of a complete system, and that it thus falls, in accordance with Note 5(C), within the scope of heading No 84.71: it constitutes equipment of the type used exclusively in automatic data processing systems, is connectable to the central processing unit through the local area network or networks and is also able to accept data in a form which can be used by the system.

Action brought on 20 August 1998 by Hewlett Packard Europe BV against the Commission of the European Communities

(Case T-134/98)

(98/C 358/33)

(Language of the case: French)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 20 August 1998 by Hewlett Packard Europe BV, the registered office of which is at Amstelveen (Netherlands), represented by Fabrice Goguel and Anne Trager, of the Paris Bar, with an address for service in Luxembourg at the Chambers of Aloyse May, 31 Grand-rue.

The applicant claims that the Court should:

- annul Commission Decision 98/406/EC of 16 June 1998, published on pages 45 and 46 of the *Official Journal of the European Communities* of 23 June 1998, in so far as it requires the revocation of Binding Tariff Information Nos FR 12030199701394, 12030199702134 and 12030199702135, which had correctly classified the machines in issue under heading 8471.80.10;
- order the Commission to pay all the costs.

Pleas in law and main arguments adduced in support:

The applicant contests the revocation of certain binding tariff information concerning various machines having the functions of commutators and intended for use in local area networks.

The pleas in law and main arguments are the same as Case T-133/98 Hewlett Packard France v. Commission.

Action brought on 7 September 1998 by the Amministrazione Autonoma dei Monopoli di Stato against the Commission of the European Communities

(Case T-139/98)

(98/C 358/34)

(Language of the case: Italian)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 7 September 1998 by the Amministrazione Autonoma dei Monopoli di Stato (Autonomous Administration of State Monopolies), represented by Pier Giorgio Ferri and Danilo Del Gaizo, of the Avvocatura Generale dello Stato, with an address for service in Luxembourg at the Italian Embassy, 5 rue Marie-Adelaïde.

The applicant claims that the Court should:

- annul the contested decision, pursuant to the form of order sought under Heading B (point 8 et seq.);
- in the alternative, annul that part of the decision challenged in the remaining forms of order, and accordingly reduce the scale of the fine imposed;
- order the Commission to pay the costs.

Pleas in law and main arguments adduced in support:

The applicant in the present case ('the AAMS') is a body forming part of the Amministrazione Finanziaria dello Stato Italiano (Financial Administration of the Italian State), which, in addition to performing various administrative functions, is also involved in the production and wholesale distribution of processed tobacco products. Through the contested decision⁽¹⁾, the defendant cast doubt on the compatibility with Article 86 of the EC Treaty of certain conduct by the applicant organisation in relation to a number of clauses in the standard-form contract for the distribution of cigarettes of other manufacturing undertakings and in relation to certain unilateral steps taken in regard to imported cigarettes and