The grounds and arguments alleged by the applicant against the refusal by the Council to grant (partial) access to the requested documents are similar to those invoked in case T-188/98 [1].

[1] OJ C 71, 13.3.99, p. 28.

Action brought on 11 August 2000 by CMA CGM and thirteen other Liner Shipping Companies against the Commission of the European Communities

(Case T-213/00)

(2000/C 316/54)

(Language of the case: English)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 11 August 2000 by CMA CGM and thirteen other Liner Shipping Companies, represented by John Pheasant, Catherine Barlen and Matthew Levitt of Lovells Boesebeck Droste, Brussels and Denis Waelbroeck and Ute Zinsmeister of Liedekerke Siméon Wessing Houthoff, Brussels.

The applicant claims that the Court should:

— annul the decision in its entirety, or, alternatively, at least in so far as it was adopted under Regulations 17 and 1017/68;

— in any event, that the fines imposed by Article 4 of the decision be annulled or reduced; and

— that the Commission be ordered to pay the costs.

Pleas in law and main arguments

The applicants in the present case are fourteen of the liner shipping operators which were party to the FETTCSA, an agreement between shipping lines operating on the North Europe/Far East trade. The FETTCSA was entered into on 5 March 1991 and was terminated on 10 May 1994. The contested decision finds that the applicants infringed Article 81 EC and Article 2 of Regulation (EC) No 1917/68 [1], by agreeing not to discount from published tariffs for charges and surcharges, and requires the applicants to refrain from agreements on concerted practices having the same or similar effect. The decision imposes fines.

In support of their conclusions, the applicants submit that:

— The Commission's findings that the Regulations 17 and 1017/68 apply to various of the charges and surcharges to which the decision relates is vitiated by breach of essential procedural requirements and substantive errors of law. Concretely, the defects in the Commission's market definition and reasoning vitiate the decision and render it unlawful.

— The decision is vitiated by inadequate and contradictory reasoning in its application of Article 2 and 5 of Regulation 1017/68 and of Articles 81(1) and (3) EC to the alleged agreement not to discount the charges and discharges which it finds to fall within the scope of, respectively, Regulation 1017/68 and Regulation 17.

— There should be no basis for the application of Regulation 17 and Regulation 1017/68 in relation to any alleged agreement not to discount levels of Terminal Handling Charge (TCH). Any agreement by the Applicants relating to TCHs and to be subject to Regulation (EEC) No 4056/86 [2].

— The fines imposed by the Commission are excessive and inappropriate in view of the gravity and duration of the alleged infringment, the cooperation of the FETTCSA parties with the Commission and other mitigation factor and the duration of the Commission's procedure.

— The Commission's methodology for setting the levels of the fines should be considered as irrational and incoherent, resulting in discrimination between the FETTCSA parties.

[1] Applying rules of competition to transport by rail, road and inland waterway (OJEC No L 175, of 23.7.68, p. 1).

[2] Laying down detailed rules for the application of Articles 85 and 86 of the Treaty to maritime transports (OJEC L 378, of 31.12.86, p. 4).

Action brought on 16 August 2000 by 'X' against the Commission of the European Communities

(Case T-214/00)

(2000/C 316/55)

(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 16 August 2000 by 'X', represented by Joëlle Choucroun, of the Luxembourg Bar.