

Furthermore, the Executive Board of the ECB was not competent to adopt Articles 1.4.2, 1.4.3 and 1.4.7 of the Staff Rules. The same is true of the refusal of the application to insert in the Conditions of Employment, by decision of the Governing Council of the ECB, provisions on collective agreements. The refusal of the applicants' requests in that respect could not issue from the Vice-President of the ECB.

The applicants submit, finally, that the decision does not contain a sufficient statement of reasons. It merely states that the defendant finds the applicants' proposal inappropriate. There is no explanation as to the considerations on which the defendant bases that statement.

Action brought on 28 August 2000 by SCI UK Limited against the Commission of the European Communities

(Case T-239/00)

(2000/C 335/85)

(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 28 August 2000 by SCI UK Limited (Irvine, United Kingdom), represented by Mr. Leslie Allen, of Ernst & Young, London.

The applicant claims that the Court should:

- annul the Commission decision of 29 June 2000 (C(2000) 1684 final) addressed to the United Kingdom of Great Britain and Northern Ireland concerning an application for the repayment of import duty.

Pleas in law and main arguments:

The applicant imported computer components, including dynamic random access memories ('DRAMs') originating in Japan. Pursuant to Council Regulation No 2112/90⁽¹⁾, those imports were subject to a 60 % anti-dumping duty, which was, however, not levied upon the presentation of price-undertaking documents issued by the Japanese producers. Subsequent to a criminal investigation it appeared that some certificates issued to the applicant were invalid for various reasons and had been fraudulently used. HM Customs & Excise therefore issued to the applicant post clearance demands in the amount of anti-dumping duty unpaid. Subsequently, the British authorities submitted an application to the Commission for a decision as to whether the repayment of import duties was justified on the basis of Article 13 of Regulation No 1430/79⁽²⁾. That application was rejected by the contested decision.

The applicant submits that the two conditions laid down in Article 13 are satisfied, namely the existence of special circumstances and the absence of any obvious negligence or deception. It claims that it was the Japanese producer who failed properly to execute the undertaking measure. The applicant exercised all due care and was an innocent victim of fraud.

Moreover, the Commission failed to comply with its obligation effectively to monitor the undertaking measures. It is inequitable to require the applicant to bear a loss that it would not otherwise have incurred had the Commission and the Japanese producers properly carried out their obligations as defined in the price-undertaking measures.

⁽¹⁾ Council Regulation (EEC) No 2112/90 of 23 July 1990 imposing a definitive anti-dumping duty on imports of certain types of electronic microcircuits known as DRAMs (dynamic random access memories) originating in Japan and collecting definitively the provisional duty, OJ 1990 L 193, p. 1.

⁽²⁾ Council Regulation (EEC) No 1430/79 of 2 July 1979 on the repayment or remission of import or export duties, OJ 1979 L 175, p. 1.

Action brought on 14 September 2000 by Compagnia Lavoratori Portuali s.c.a r.l. and Others against Commission of the European Communities

(Cases T-242/00, T-243/00, T-257/00, T-258/00, T-259/00, T-265/00 and T-267/00)

(2000/C 335/86)

(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 14 September 2000 by Compagnia Lavoratori Portuali San Marco Venezia a r.l. and Others, represented by Andrea Bortoluzzi and Chiara Montagner, of the Venice Bar.

The applicants claim that the Court should:

- annul Articles 1 and 2 of Commission Decision 2000/394/EEC;
- in the alternative, annul Article 5 of the decision
- order the Commission to pay the costs.

Pleas in law and main arguments

The pleas in law and main arguments are those relied upon in Cases T-234/00 *Fondazione Opera S. Maria della Carità v Commission* and T-235/00 *Codess Sociale and Others*⁽¹⁾.

⁽¹⁾ not yet published.