

- in so far as necessary, annul the decision rejecting the applicant's complaint of 11 July 2003;
- order the defendant to pay damages and compensation for the material and non-material damage suffered by the applicant *ex aequo et bono* of up to EUR 2 500;
- order the defendant to pay the costs.

imports of silicon originating in Russia, published on 24 December 2003 in the Official Journal of the European Union, OJ L 339, 24/12/2003, p. 3, insofar as it relates to the applicant

- Order that all the costs occasioned by these proceedings be borne by the defendant.

Pleas in law and main arguments

The applicant in the present case is challenging the validity of his progress report (rapport d'évolution de carrière (REC)) in respect of the reference period running from 1 July 2001 to 31 December 2002.

In support of his claims, the applicant alleges:

- infringement of Article 43 of the Staff Regulations, its general implementing provisions and the Guide to Assessment;
- breach of the duty to provide reasons and the existence, in the present case, of a manifest error of assessment and misuse of powers;
- failure to observe the duty to have regard for the welfare of officials and breach of the principle of sound administration;
- breach of the rights of defence and failure to observe the time-limits laid down in the relevant provisions of the Staff Regulations.

Pleas in law and main arguments:

The contested measure, Council Regulation (EC) No. 2229/2003 ⁽¹⁾, imposed a definitive anti-dumping duty on imports of silicon originating in Russia and as part of that imposed a 22.7 % duty on silicon originating in Russia. The applicant, a Russian company producing silicon, requests the annulment of this application.

In support of its application the applicant contends that the Council violated article 2 paragraphs 8 and 9 of Regulation 384/1996 ⁽²⁾, committed a manifest error of assessment and breached a fundamental procedural requirement by failing to accept that the applicant and its trader in the British Virgin Islands are related. The applicant further contends that it was denied its right to a fair hearing since the Council failed to conduct an additional verification visit in respect to that allegation. According to the applicant the Council also violated Article 18 paragraph 4 of regulation 384/1996 when it rejected evidence supplied by the applicant. The applicant also invokes a violation of article 20 paragraph 4 of Regulation 384/1996 consisting in the Council's failure to provide a proper statement of the essential facts and considerations on the basis of which it was proposed to impose definitive measures. The applicant finally submits that the contested regulation mistakenly considered the applicant's domestic sales as unprofitable and inflated the assessment of dumping, by rejecting the applicant's electricity costs and adjusting them upwards by reference to irrelevant factors. On this basis the applicant contends that the contested regulation violated Article 2 paragraphs 5 and 7 (b and c) of Regulation 384/1996, committed a manifest error of assessment and failed to state proper reasons.

Action brought on 15 March 2004 by OJSC Bratsk Aluminium Plant against the Council of the European Union

(Case T-111/04)

(2004/C 106/171)

(Language of the case: English)

An action against the Council of the European Union was brought before the Court of First Instance of the European Communities on 15 March 2004 by OJSC Bratsk Aluminium Plant, Bratsk, Russia, represented by Dr K. Adamantopoulos, lawyer and Mr J. Branton, Solicitor.

The applicant claims that the Court should:

- Annul Council Regulation (EC) No. 2229/2003 of 22 December 2003 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on

⁽¹⁾ Official Journal L 339 , 24/12/2003 P. 3-13.

⁽²⁾ Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community, Official Journal L 056 , 06/03/1996 P. 1-20.