

*Pleas and main arguments:*

The appeal concerns the order of the Court of First Instance of 27 May 2004 in Case T-358/02 (DPAG and Others v Commission). By this order, the Court of First Instance dismissed the action brought on 3 December 2002 by Deutsche Post AG and DHL Express (Italy) S.r.l. as inadmissible. In the Court's view the applicants were unable to show that the conditions for locus standi were fulfilled. Conversely, the applicants assert on appeal that the Commission's decision is of direct and individual concern to them and that they therefore have standing for the purposes of the fourth paragraph of Article 230 EC. Since the applicants also possess the necessary legal interest, the above mentioned order of the Court of First Instance of 27 May 2004 should, in the applicants' submission, be set aside and the action brought by Deutsche Post AG and DHL Express (Italy) on 3 December 2002 be declared admissible.

(<sup>1</sup>) OJ C 228 of 11.9.2004.

**Reference for a preliminary ruling by the High Court of Justice (England & Wales), Queen's Bench Division (Administrative Court), by order of that court dated 24 August 2004, in the case of The Queen on the application of South Western Fish Producers' Organisation Ltd and others against Secretary of State for Environment, Food and Rural Affairs**

**(Case C-388/04)**

(2004/C 284/18)

Reference has been made to the Court of Justice of the European Communities by order of the High Court of Justice (England & Wales), Queen's Bench Division (Administrative Court), dated 24 August 2004, which was received at the Court Registry on 10 September 2004 for a preliminary ruling in the case of The Queen on the application of South Western Fish Producers' Organisation Ltd and others and Secretary of State for Environment, Food and Rural Affairs on the following questions:

Are Article 12 and paragraph 6 of Annex V of Council Regulation (EC) 2287/2003 (<sup>1</sup>), insofar as they apply to vessels carrying gear in the class referred to in paragraph 4(b) of that Annex, unlawful in their application to 'chain mat' beam trawlers operating in the Eastern Channel because they are:

(a) contrary to Articles 33 and 34 EC;

(b) disproportionate;

(c) contrary to the principle of equal treatment; and/or

(d) contrary to the Claimant's right to earn a living free from unnecessary constraint?

(<sup>1</sup>) Regulation of 19 December 2003 fixing for 2004 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where catch limitations are required (OJ L 344, 31.12.2003, p. 1).

**Appeal brought on 22 September 2004 by Sumitomo Metal Industries Ltd against the judgment delivered on 8 July 2004 by the Second Chamber of the Court of First Instance of the European Communities in joined cases T-67/00, T-68/00, T-71/00 and T-78/00 between JFE Engineering Corp., Nippon Steel Corp., JFE Steel Corp. and Sumitomo Metal Industries Ltd and the Commission of the European Communities**

**(Case C-403/04 P)**

(2004/C 284/19)

An appeal against the judgment delivered on 8 July 2004 by the Second Chamber of the Court of First Instance of the European Communities in joined cases T-67/00, T-68/00, T-71/00 and T-78/00 between JFE Engineering Corp., Nippon Steel Corp., JFE Steel Corp. and Sumitomo Metal Industries Ltd and the Commission of the European Communities, was brought before the Court of Justice of the European Communities on 22 September 2004 by Sumitomo Metal Industries Ltd, established in Osaka, Japan, represented by C. Vajda QC and G. Sproul, Solicitor.

The Appellant claims that the Court should:

(i) allow the Appeal, in whole or in part, against the judgment in joined cases T-67/00, T-68/00, T-71/00 and T-78/00 and set aside, in whole or in part, the said judgment;

(ii) annul, in whole or in part, Articles 1 and 3 to 6 of the Decision in so far as they are addressed to SMI;

(iii) order, if appropriate, the Commission to pay compensation to SMI for the breach of Article 6(1) of the ECHR a sum of not less than EUR 1,012,332, being the aggregate of EUR 217,183 (the extra cost of the bank guarantee), EUR 620,249 (the extra cost of the default interest), and EUR 175,000; and

(iv) order the Commission to pay SMI's costs, both before the Court and the Court of First Instance.