

**Re:**

Appeal brought against the judgment of the Court of First Instance (Second Chamber) of 29 April 2004 in Joined Cases T-236/01, T-239/01, T-244/01 to T-246/01, T-251/01 and T-252/01 *Tokai Carbon and Others* as regards Case T-239/01 — Annulment of Commission Decision 2002/271/EC of 18 July 2001 relating to a proceeding under Article 81 EC and Article 53 of the EEA Agreement — Case COMP/E-1/36.490 — Graphite electrodes (OJ 2002 L 100, p. 1)

**Operative part of the judgment**

The Court:

1. Dismisses the appeal;
2. Orders SGL Carbon AG to pay the costs.

(<sup>1</sup>) OJ C 262, 23.10.2004.

**Judgment of the Court (Second Chamber) of 15 June 2006 (references for a preliminary ruling from the Cour d'appel de Liège (Court of Appeal, Liège), Tribunal de première instance de Liège (Court of First Instance, Liège) — Air Liquide Industries Belgium SA v Ville de Seraing (C-393/04) and Province de Liège (C-41/05))**

(Joined Cases C-393/04 and C-41/05) (<sup>1</sup>)

*(State aid — Definition — Exemption from municipal and provincial taxes — Effects of Article 88(3) EC — Charges having equivalent effect — Internal taxation)*

(2006/C 212/06)

Language of the cases: French

**Referring courts**

Cour d'appel de Liège, Tribunal de première instance de Liège

**Parties to the main proceedings**

Applicant: Air Liquide Industries Belgium SA

Defendants: Ville de Seraing (C-393/04), Province de Liège (C-41/05)

**Re:**

References for a preliminary ruling — Cour d'appel de Liège, Tribunal de première instance de Liège — Interpretation of Articles 25 EC, 87 EC and 90 EC — State aid — Exemption from a municipal tax and a provincial tax on motive force

solely for motors used for the distribution of natural gas, to the exclusion of motors used in the distribution of industrial gas

**Operative part of the judgment**

1. The exemption from a municipal or provincial tax on motive force granted solely in respect of motors used in natural gas stations, to the exclusion of motors used for other industrial gases, may be regarded as State aid within the meaning of Article 87 EC. It is for the referring courts to establish whether the conditions relating to the existence of State aid are met.
2. The fact that a tax exemption, such as that at issue in the main proceedings, may be unlawful in the light of Community law on State aid does not affect the legality of the tax itself, so that undertakings liable to pay such a tax cannot rely before national courts on the argument that the exemption was unlawful, in order to avoid payment of the tax or to obtain reimbursement of it.
3. A tax on motive force, levied in particular on motors used for transporting industrial gas through very high pressure pipes, does not constitute a charge having equivalent effect within the meaning of Article 25 EC.
4. A tax on motive force, levied in particular on motors used for transporting industrial gas through very high pressure pipes, does not constitute discriminatory internal taxation for the purposes of Article 90 EC.

(<sup>1</sup>) OJ C 273, 06.11.2004.  
OJ C 93, 16.04.2005.

**Judgment of the Court (Third Chamber) of 6 July 2006 (reference for a preliminary ruling from the Cour de cassation — Belgium) — Axel Kittel v Belgian State**

(Joined Cases C-439/04 and C-440/04) (<sup>1</sup>)

*(Sixth VAT Directive — Deduction of input tax — 'Carousel' fraud — Contract of sale incurably void under domestic law)*

(2006/C 212/07)

Language of the case: French

**Referring court**

Cour de cassation

**Parties to the main proceedings**

Applicants: Axel Kittel (C-439/04) Belgian State (C-440/04)

Defendants: Belgian State (C-439/04) Recolta Recycling SPRL (C-440-04)