7. Does the SPC Regulation and, in particular, Article 3(b), permit the grant of a Supplementary Protection Certificate for a single active ingredient where:

   a) a basic patent in force protects the single active ingredient within the meaning of Article 3(a) of the SPC Regulation; and

   b) a medicinal product containing the single active ingredient together with one or more other active ingredients is the subject of a valid authorisation granted in accordance with Directive 2001/83/EC ([2]) or 2001/82/EC ([3]) which is the first marketing authorization that places the single active ingredient on the market?

8. Does the answer to Question 7 differ depending on whether the authorisation is for the single active ingredient admixed with the one or more other active ingredients rather than being delivered in separate formulations but at the same time?

([1]) Regulation (EC) No 469/2009 of the European Parliament and of the Council of 6 May 2009 concerning the supplementary protection certificate for medicinal products (Codified version) (Text with EEA relevance)
OJ L 152, p. 1

([2]) Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use
OJ L 311, p. 67

([3]) Directive 2001/82/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to veterinary medicinal products
OJ L 311, p. 1

Reference for a preliminary ruling from Upper Tribunal (Tax and Chancery Chamber) (United Kingdom) made on 12 January 2011 — The Commissioners for Her Majesty's Revenue & Customs v Philips Electronics UK Ltd

(Case C-18/11)

(2011/C 89/20)

Language of the case: English

Referring court

Upper Tribunal (Tax and Chancery Chamber) (United Kingdom)

Parties to the main proceedings

Applicant: The Commissioners for Her Majesty's Revenue & Customs

Defendant: Philips Electronics UK Ltd

Questions referred

1. Where a Member State (such as the UK) includes in its tax base the profits and losses of a company incorporated and tax resident in another Member State (such as the Netherlands) to the extent that the profits are attributable to a business carried on by the Netherlands company in the UK through a permanent establishment situated in the UK, is it a restriction on the freedom of a national of a Member State to establish in the UK under Article 49 TFEU (ex Article 43 EC) for the UK to prevent the surrender of the UK losses of a permanent establishment situated in the UK of a non-UK resident company to a UK company by way of group relief where any part of those losses or any amount brought into account in computing them 'corresponds to, or is represented in, any amount which, for the purposes of any foreign tax is (in any period) deductible from or otherwise allowable against non-UK profits of the company or any person' Le. to permit the surrender of UK losses in the case of a permanent establishment situated in the UK only where it is clear that at the time of the claim there can never be any deduction or allowance in any State outside the UK (including another Member State (such as the Netherlands)), and it being insufficient that relief available overseas has not in fact been claimed, and in circumstances where there is no equivalent condition applicable to the surrender of UK losses of a UK resident company?

2. If so, is that restriction capable of being justified:

   a) solely on the basis of the need to prevent the double use of losses, or

   b) solely on the basis of the need to preserve the balanced allocation of taxing powers between Member States, or

   c) on the basis of the need to preserve the balanced allocation of taxing powers between Member States in conjunction with the need to prevent the double use of losses?

3. If so, is the restriction proportionate to such justification or justifications?

4. If any restriction on the rights of the Netherlands company is not justified or to the extent that it is not proportionate to any justification, does EU Jaw require the UK to provide the UK company with a remedy such as the right to claim group relief against its profits?

Reference for a preliminary ruling from the Supreme Administrative Court (Finland) lodged on 21 January 2011 — A Oy

(Case C-33/11)

(2011/C 89/21)

Language of the case: Finnish

Referring court

Supreme Administrative Court

Parties to the main proceedings

Applicant: A Oy

Defendant: Veronsaajien oikeudenvalvontayksikkö

Questions referred

1. Is Article 15(6) of the Sixth VAT Directive 77/388/EEC [1] to be interpreted as meaning that the concept 'airline operating for reward chiefly on international routes' also refers to a commercial airline operating for reward chiefly on international charter routes for the requirements of companies and private persons?

2. Is Article 15(6) of the Sixth VAT Directive 77/388/EEC to be interpreted as meaning that the exemption provided therein only applies to that supply of aircraft which takes place directly to airlines operating for reward chiefly on international routes, or does this exemption also apply to the supply of aircraft to a operator which does not itself operate for reward chiefly on international routes, but which in turn supplies the aircraft for the use of such an operator?

3. Having regard to the reply given to the second question above, is it of significance that the owner of the aircraft in turn makes a charge for the use of the aircraft to a private person who is its shareholder, who uses the procured aircraft for his own business and/or private use, taking into account the fact that the airline has also been able to use the aircraft for other flights?

(1) Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (OJ 1977 L 145, p. 1).

Reference for a preliminary ruling from the Consiglio di Stato — Second Chamber (Italy) lodged on 24 January 2011 — Pioneer HI-Bred Italia Srl v Ministero delle Politiche Agricole e Forestali

(Case C-36/11)

(2011/C 89/22)

Language of the case: Italian

Referring court

Consiglio di Stato — Second Chamber

Parties to the main proceedings

Applicant: Pioneer HI-Bred Italia Srl

Defendant: Ministero delle Politiche Agricole e Forestali

Question referred

Where a Member State has chosen to make authorisation to cultivate GMOs, even those listed in the European common catalogue, conditional upon compliance with appropriate general measures for ensuring coexistence with conventional and organic farming, must Article 26a of Directive 2001/18/EC, [1] read in the light of Recommendation 2003/556/EC [2] and subsequent Recommendation [2010/C 200/01], [3] be interpreted as meaning that, in the period preceding adoption of the general measures: (a) authorisation must be issued where the application concerns GMOs listed in the European common catalogue; or (b) consideration of the application for authorisation must be suspended until such time as the general measures have been adopted; or (c) authorisation must be issued, but coupled with appropriate requirements for preventing, in the specific case, contact — including unintended contact — between authorised GM crops and surrounding conventional or organic crops?

(1) OJ 2001 L 106, p. 1.
(2) OJ 2003 L 189, p. 36.
(3) OJ 2010 C 200, p. 1.

Order of the President of the Third Chamber of the Court of 14 December 2010 — European Commission v Republic of Poland

(Case C-349/09) [1]

(2011/C 89/23)

Language of the case: Polish

The President of the Third Chamber has ordered that the case be removed from the register.

(1) OJ C 312, 19.12.2009.

Order of the President of the Court of 17 November 2010 — European Commission v Italian Republic

(Case C-486/09) [1]

(2011/C 89/24)

Language of the case: Italian

The President of the Court has ordered that the case be removed from the register.

(1) OJ C 24, 30.1.2010.