



Reports of Cases

Judgment of the General Court (Second Chamber) of 21 March 2012 — Fiskeri og Havbruksnæringens Landsforening and Others v Council

(Case T-115/06)

(Dumping — Imports of salmon originating in Norway — Lesser duty rule — Calculation of minimum import prices and fixed duties)

1. *Actions for annulment — Natural or legal persons — Measures of direct and individual concern to them — Regulation imposing anti-dumping duties — Varying duties imposed on a series of undertakings — Admissibility limited, for each undertaking, to the provisions of the regulation concerning imports arising from its production (Art. 230, fourth para., EC; Art. 263, fourth para., TFEU; Council Regulation No 85/2006) (see paras 27-29)*
2. *Common commercial policy — Protection against dumping — Imposition of a variable duty calculated by reference to a minimum import price — Determination of the reference minimum price, while complying with the minimum duty rule, by comparing a minimum import price without dumping with a minimum import price not causing injury — Legality (Council Regulations No 384/96, Art. 9(4), No 85/2006, Art. 1(5), and No 1225/2009, Art. 9(4)) (see paras 39-42)*
3. *Common commercial policy — Protection against dumping — Imposition of a fixed duty — Determination, while complying with the lesser duty rule, by comparing a weighted average dumping margin with a weighted average injury margin — Comparison distorted by reason of an erroneous calculation of the weighted average dumping margin — Illegality (Council Regulations Nos 384/96, Art. 9(4), No 85/2006, Art. 1(5), and No 1225/2009, Art. 9(4)) (see paras 45-49, 52, 55, 58)*
4. *Common commercial policy — Protection against dumping — Imposition of a variable duty — Calculation by reference to a minimum import price — Determination of that price using a minimum import price without dumping taking account of production costs in the non-member country concerned — Conversion into euros of the production cost expressed in national currency — Use of an average conversion rate over an insufficient period having regard to the production cycle of the product concerned — Illegality (Council Regulations No 384/96, Arts 2(5), and 9(4), No 85/2006, Art. 1(5), and No 1225/2009, Arts 2(5), and 9(4)) (see paras 75, 79-82)*

Re:

APPLICATION for annulment of Council Regulation (EC) No 85/2006 of 17 January 2006 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of farmed salmon originating in Norway (OJ 2006 L 15, p. 1).

Operative part

The Court:

1. Annuls Council Regulation (EC) No 85/2006 of 17 January 2006 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of farmed salmon originating in Norway in so far as it concerns Fiskeri og Havbruksnæringens Landsforening, Norske Sjømatbedrifters Landsforening, Salmar Farming AS, Hydroteck AS, Hallvard Lerøy AS and Lerøy Midnor AS;
2. Dismisses the action as to the remainder;
3. Orders the Council of the European Union to bear its own costs and to pay those of Fiskeri og Havbruksnæringens Landsforening, Norske Sjømatbedrifters Landsforening, Salmar Farming, Hydroteck, Hallvard Lerøy and Lerøy Midnor;
4. Orders the European Commission to bear its own costs.