Reports of Cases

JUDGMENT OF THE COURT (Fourth Chamber)

18 October 2018 *

(Appeal — Dumping — Regulation (EC) No 397/2004 — Imports of cotton-type bed linen originating in Pakistan — Continuing interest in bringing proceedings)

In Case C-100/17 P,

APPEAL under Article 56 of the Statute of the Court of Justice of the European Union, brought on 24 February 2017,

Gul Ahmed Textile Mills Ltd, established in Karachi (Pakistan), represented by L. Ruessmann, avocat, and J. Beck, Solicitor,

appellant,

the other parties to the proceedings being:

Council of the European Union, represented by J.-P. Hix, acting as Agent, and by R. Bierwagen and C. Hipp, Rechtsanwälte.

defendant at first instance,

European Commission, represented by J.-F. Brakeland and N. Kuplewatzky, acting as Agents,

intervener at first instance,

THE COURT (Fourth Chamber),

composed of T. von Danwitz, President of the Seventh Chamber, acting as President of the Fourth Chamber, K. Jürimäe, C. Lycourgos, E. Juhász (Rapporteur) and C. Vajda, Judges,

Advocate General: E. Sharpston,

Registrar: L. Hewlett, Principal Administrator,

having regard to the written procedure and further to the hearing on 25 January 2018,

after hearing the Opinion of the Advocate General at the sitting on 22 March 2018,

gives the following

* Language of the case: English.

Judgment

1 By its appeal, Gul Ahmed Textile Mills Ltd ('Gul Ahmed') seeks to have set aside the judgment of the General Court of the European Union of 15 December 2016, *Gul Ahmed Textile Mills* v *Council* (T-199/04 RENV, not published, 'the judgment under appeal', EU:T:2016:740), by which the General Court dismissed its action for annulment of Council Regulation (EC) No 397/2004 of 2 March 2004 imposing a definitive anti-dumping duty on imports of cotton-type bed linen originating in Pakistan (OJ 2004 L 66, p. 1; 'the regulation at issue'), in so far as it concerns it.

Background to the dispute and the regulation at issue

2 For the purposes of these proceedings, the background to the dispute may be summarised as follows:

3 Gul Ahmed is a company incorporated under Pakistani law which manufactures and exports bed linen to the European Union.

4 Following a complaint lodged on 4 November 2002, the European Commission initiated an anti-dumping investigation regarding imports of bed linen of cotton fibres, pure or mixed with man-made fibres or flax (flax not being the dominant fibre), bleached, dyed or printed, originating in Pakistan and covering the period from 1 October 2001 to 30 September 2002. The examination of the trends relevant for the assessment of injury covered the period from 1999 to the end of the investigation period.

5 On 10 December 2003, the Commission sent the appellant a definitive disclosure document setting out the facts and grounds on which it proposed the adoption of definitive anti-dumping measures, as well as a specific definitive disclosure document for the appellant. By letter of 5 January 2004, the appellant disputed the Commission's submissions as set out in those documents. Other information was submitted to the Commission by the appellant in letters dated 16 February 2004.

6 On 17 February 2004, the Commission replied to the letter of 5 January 2004. Although it had made some corrections to its calculations, the Commission confirmed the findings it had set out in the information documents mentioned in the previous paragraph. By letter of 27 February 2004, the appellant drew particular attention to the errors allegedly made by the Commission in its analysis.

7 On 2 March 2004, the Council of the European Union adopted the regulation at issue.

8 In recital 70 of the regulation at issue, the Council found an overall average dumping margin of 13.1%, applicable to all Pakistani exporting producers.

9 Then, in the section on price analysis, the Council, in the general context of the study of the injury suffered by the EU industry, observed in essence, in recital 92 of that regulation, that average sales prices per kilogramme charged by EU producers had gradually increased during the period considered and that it was necessary to recall, to assess that development, that that average price covered both high value and low value items of the product concerned and that 'the [EU] industry has been forced to shift to more sales of higher value niche products as their sales in the high volume, mass market were taken over by imports from low price countries'.

10 In recital 101 of the regulation at issue, the Council stated that the situation of the EU industry had deteriorated, whilst observing that, as regards average sales prices of the sampled producers, 'they [had shown] an upward trend over the period considered, which is, however, partly a result of a shift to more sales of higher value niche products'.

11 In the general section on the analysis of causation, the Council, in the context of the study of the effect of the dumped imports, stated, in essence, in recitals 104 and 105 of the regulation at issue, that both the volume of imports of cotton-type bed linen from Pakistan and the corresponding market share of that country had increased within the European Union. The Council further noted that 'the prices of dumped imports were considerably below those of the [EU] industry as well as below those of other third country exporters. Moreover, it was also found that the [EU] industry had to withdraw largely from the low priced market segments, where imports from Pakistan are strong, this also underlining the causal link between the dumped imports and injury suffered by the [EU] industry'.

12 Lastly, in the analysis of the effects of other factors, the Council stated, in recital 109 of the regulation at issue, that imports originating in third countries other than India and Pakistan had increased during the investigation period. In that regard, the Council stated that, 'given the corporate links between Turkish and [EU] companies, there is a certain market integration in the form of inter-company trade between Turkish exporting producers and [EU] operators that suggests that the decision to import from that country is not only linked to the price. This is confirmed by the average prices of imports of bed linen originating in Turkey during the [investigation period], which were higher by almost 45% to those of India and by 34% to those of Pakistan. It is therefore unlikely that imports originating in Turkey broke the causal link between the dumped imports from Pakistan and the injury suffered by the [EU] industry'.

13 In recital 112 of the regulation at issue, the Council observed lastly that 'it was claimed that the demand for bed linen produced by the [EU] industry has diminished in volume terms as the [EU] industry focused on the upper end of the market, where less sales volume is made. However, as pointed out above, the total … consumption of bed linen [within the EU] did not decrease, but rather increased over the period considered. Most of the [EU] producers have different product lines for different market segments. The upmarket brands generate high margins but are only sold in very small quantities. In order to maximise the capacity utilisation and to cover the fixed costs of production, the [EU] industry would need sales of lower priced market segment in big volumes as well. There is no indication that demand has decreased in that market segment. This segment is on the other hand increasingly taken over by low priced imports, which cause injury to the [EU] industry. Given the overall increase in consumption, which is not limited to a particular market segment, the demand situation in the [EU] can therefore not be seen to break the causal link between the dumped imports from Pakistan and the injury suffered by the [EU] industry'.

14 According to Article 1(1) of the regulation at issue, an anti-dumping duty of 13.1% was imposed on imports of bed linen of cotton fibres originating in Pakistan classifiable within the combined nomenclature codes referred to in that regulation.

15 Following a partial interim review, limited to dumping, carried out on the Commission's own initiative in accordance with Article 11(3) of Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community (OJ 1996 L 56, p. 1; 'the Basic Regulation'), on the basis of a new investigation period between 1 April 2003 and 31 March 2004, the Council amended the regulation at issue by adopting Regulation (EC) No 695/2006 of 5 May 2006 (OJ 2006 L 121, p. 14), which established new rates of anti-dumping duties ranging from 0% to 8.5%. Given the large number of cooperating exporting producers, a sample including the appellant was established. The rate of definitive anti-dumping duty applicable to its products was set at 5.6%.

16 In accordance with Article 11(2) of the Basic Regulation, the definitive anti-dumping duty thus established expired on 2 March 2009, that is to say, five years after it was introduced.

The action before the General Court and the judgment under appeal

17 By application lodged at the General Court on 28 May 2004, Gul Ahmed brought an action for annulment of the regulation at issue.

18 That action relied on five pleas in law, alleging respectively:

– infringement, with regard to the initiation of the investigation, of Article 5(7) and (9) of the Basic Regulation, and Articles 5.1 and 5.2 of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (GATT) (OJ 1994 L 336, p. 103, 'the 1994 Anti-dumping Code'), which is contained in Annex 1 A to the Agreement establishing the World Trade Organisation (WTO), signed at Marrakesh on 15 April 1994 (OJ 1994 L 336, p. 1);

– manifest error of assessment and infringement of Article 2(3) and (5) and Article 18(4) of the Basic Regulation, and infringement of the 1994 Anti-dumping Code, with regard to calculation of the normal value;

– infringement of Article 2(10) of the Basic Regulation, of the 1994 Anti-dumping Code, and of the obligation to state adequate reasons under Article 253 EC, with regard to drawback adjustment in the comparison of the normal value and export price;

– manifest error of assessment and infringement of Article 3(1) to (3) and (5) of the Basic Regulation, and of the 1994 Anti-dumping Code, with regard to the determination of material injury;

– manifest error of assessment and infringement of Article 3(6) and (7) of the Basic Regulation, and the 1994 Anti-dumping Code, with regard to the establishment of a causal link between the allegedly dumped imports and the alleged injury.

19 By judgment of 27 September 2011, *Gul Ahmed Textile Mills* v *Council* (T-199/04, not published, EU:T:2011:535), the General Court, without examining the other pleas in law submitted to it, upheld the third part of the fifth plea in law, on the ground that the Council had erred in law by failing to examine whether, pursuant to Article 3(7) of the Basic Regulation, the abolition of the previous anti-dumping duties on products from Pakistan, and the implementation of a scheme of generalised tariff preferences in favour of Pakistan, had had the effect of breaking the causal link between the dumped imports from Pakistan and the injury suffered by the EU industry, and annulled the regulation at issue in so far as it concerns Gul Ahmed.

20 The Council, supported by the Commission, lodged an appeal against that judgment in order to have it set aside.

21 By judgment of 14 November 2013, *Council* v *Gul Ahmed Textile Mills* (C-638/11 P, EU:C:2013:732), the Court set aside the judgment of 27 September 2011, *Gul Ahmed Textile Mills* v *Council* (T-199/04, not published, EU:T:2011:535) and referred the case back to the General Court.

22 On 26 November 2015, the General Court held a hearing in Case T-199/04 RENV. At that hearing, the Council, supported by the Commission, argued that Gul Ahmed no longer had any interest in bringing proceedings.

23 In support of that objection, those two institutions argued that the anti-dumping duties imposed by the regulation at issue had expired on 2 March 2009, so that exports of the product in question were no longer subject to those duties. They further maintained that, in accordance with Article 46 of the Statute of the Court of Justice of the European Union, the time limit for bringing any action for damages for harm caused in the application of those duties had expired on 1 March 2014, and that the right to reimbursement of the anti-dumping duties pursuant to Article 236 of Council Regulation

(EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ 1992 L 302, p. 1) was also time-barred. They argued that the annulment sought was accordingly no longer capable of procuring any benefit to Gul Ahmed.

24 The General Court granted Gul Ahmed a period of two weeks from the date of the hearing to submit its observations on the objection alleging the disappearance of an interest in bringing proceedings thus raised.

25 By letter of 10 December 2015, Gul Ahmed submitted its observations, claiming that it continued to have an interest in bringing proceedings. For that purpose, it relied on, first, its continuing interest in recovering the costs of the proceedings from the Council, second, the possibility of bringing an action in the future for damages caused by the failure by the EU Courts to adjudicate within a reasonable time, third, its chance of obtaining a repayment of the definitive anti-dumping duty paid, fourth, its interest in ensuring that a similar illegality will not recur in the future and, fifth, the possibility of re-establishing its reputation by the continuation of the proceedings.

26 By letters of 6 and 20 January 2016, the Commission and the Council submitted their observations. In essence, they asked the General Court to reject the arguments raised by Gul Ahmed and to rule that that company had lost any interest in pursuing the proceedings.

27 By the judgment under appeal, the General Court dismissed Gul Ahmed's action.

Forms of order sought by the parties to the appeal

28 The appellant claims that the Court should set aside the judgment under appeal and order the Council to pay the costs incurred in the appeal and the proceedings before the General Court.

29 The Council and the Commission contend that the Court should dismiss the appeal and order the appellant to pay the costs of the proceedings.

The appeal

30 In support of its appeal, the appellant puts forward two grounds of appeal, alleging, first, that the General Court, by holding that it was no longer necessary to adjudicate on its second and third pleas, on the ground that the appellant no longer had an interest in bringing proceedings, infringed Article 36 of the Statute of the Court of Justice of the European Union, relating to the requirement to state reasons for judgments, and erred in law and, second, that the General Court made errors of law and distorted the facts so far as concerns the rejection of its fifth plea.

The first ground of appeal

Arguments of the parties

31 The first ground of appeal relates to the grounds of the judgment under appeal set out in paragraphs 42 to 60 thereof. It is divided into four parts.

32 By the first part of its first ground of appeal, the appellant complains in essence that, in paragraphs 49, 57 and 60 of the judgment under appeal, the General Court failed to fulfil its obligation to state reasons and infringed Article 129 of the Rules of Procedure of the General Court by requiring it to prove that it had a continuing interest in bringing proceedings in the context of the proceedings for annulment of the regulation at issue, whereas, in its submission, an interest in bringing proceedings

must be proved only at the time when the application for annulment of the act concerned is brought and that, once that interest has been proved, it is for the party relying on the disappearance of such an interest to prove it. It adds that the General Court infringed the rights of the defence by examining solely the arguments put forward to show its continuing interest in bringing proceedings, without taking into account the other material in the file.

33 In the second part of the first ground of appeal, the appellant claims that, contrary to what the General Court stated, in paragraph 58 of the judgment under appeal, the errors relating to the determination of the export price and to that of the normal value, as well as those relating to the dumping calculations were methodological errors liable to recur in the future and are not merely substantive, case-specific errors, which should have resulted in the annulment of the regulation at issue, especially as it is in the overall EU interest that such irregularities, which infringe Article 2 of the Basic Regulation, are penalised.

34 In the third part of its first ground of appeal, the appellant criticises paragraph 58 of the judgment under appeal, inasmuch as, by finding that the adjustment relating to duty drawback under Article 2(10) of the Basic Regulation had been partially rejected since that application was not supported by appropriate evidence, the General Court failed to fulfil its obligation to state reasons.

35 By the fourth part of its first ground of appeal, the appellant complains that the General Court failed to respond to the argument that denying an interest in bringing proceedings for the annulment of acts which have not given rise to the payment of sums of money and which will expire before the General Court adjudicates on the validity of those acts would exclude such acts from any judicial review and would therefore constitute an infringement of Article 263 TFEU, as the General Court held in the judgment of 18 March 2009, *Shanghai Excell M&E Enterprise and Shanghai Adeptech Precision* v *Council* (T-299/05, EU:T:2009:72).

36 The Council and the Commission contest the appellant's arguments.

Findings of the Court

37 As regards the first part of the first ground of appeal, according to the Court's settled case-law, an action for annulment brought by a natural or legal person is admissible only in so far as that person has an interest in having the contested act annulled. Such an interest requires that the annulment of that act must be capable, in itself, of having legal consequences and that the action may therefore, through its outcome, procure an advantage to the party which brought it. The proof of such an interest, which is evaluated at the date on which the action is brought and which is an essential and fundamental prerequisite for any legal proceedings, must be adduced by the applicant (see, to that effect, judgment of 4 June 2015, *Andechser Molkerei Scheitz* v *Commission*, C-682/13 P, not published, EU:C:2015:356, paragraphs 25 to 27 and the case-law cited).

38 That interest must, moreover, continue until the end of the proceedings and the Court hearing the case may raise of its own motion and at any stage of the proceedings the objection that a party has no interest in maintaining its application, by reason of the occurrence of a fact subsequent to the date on which the document instituting the proceedings was lodged (see, to that effect, judgments of 19 October 1995, *Rendo and Others* v *Commission*, C-19/93 P, EU:C:1995:339, paragraph 13, and of 17 September 2015, *Mory and Others* v *Commission*, C-33/14 P, EU:C:2015:609, paragraph 57).

39 If the General Court may raise of its own motion and at any stage of the proceedings a question relating to the lack of a continuing interest of an applicant in bringing proceedings, it may also examine such a question when it has been raised during the proceedings by a party who relies for that purpose on sufficiently serious evidence.

40 In the context of that examination, it is for the General Court to invite the applicant to express its views on that question and to afford it the opportunity of submitting material such as to show in a relevant manner its continuing interest in bringing proceedings.

41 In this case, at the hearing of 15 November 2015 before the General Court, the Council and the Commission contented that it was no longer necessary to adjudicate on account of the disappearance of the appellant's interest in bringing proceedings, relying, for that purpose, on sufficiently serious evidence. Following that hearing, the appellant was invited to express its views on that question and was afforded the opportunity of submitting any evidence which might contradict the institutions' claims.

42 The General Court did not therefore disregard the burden of proof or fail to fulfil its obligation to state reasons by holding that it was no longer necessary to adjudicate on the second and third pleas on the ground that, after examining all the matters of fact and of law on which the parties had relied regarding the appellant's continuing interest in bringing proceedings and on which they had been able to express their views, it found that the appellant had not shown in a relevant manner that it continued to have an interest in relation to those two pleas seeking annulment of the regulation at issue.

43 In addition, the appellant is wrong to claim that the General Court infringed the rights of the defence, even though, after affording the appellant the opportunity to express its views on the objection alleging disappearance of the interest in bringing proceedings, the General Court responded to all the matters of fact and of law that the appellant had put forward in order to show the continuation of that interest, as the General Court was required to, as was mentioned in paragraphs 39 and 40 of this judgment.

44 It follows from those considerations that the first part of the first ground of appeal must be rejected as unfounded.

45 As regards the second part of the first ground of appeal, it should be pointed out that, according to the Court's settled case-law, an appeal must indicate precisely the contested elements of the judgment which the appellant seeks to have set aside and also the legal arguments specifically advanced in support of the appeal and must not amount in reality to no more than a request for a re-examination of the application brought before the General Court (see, to that effect, order of 17 September 1996, *San Marco* v *Commission*, C-19/95 P, EU:C:1996:331, paragraphs 37 and 38).

46 In the present case, the appellant merely relies in its appeal on methodological errors of calculation without categorising them and inconsistencies in the results of dumping calculations, without showing why those errors would be liable to recur in the future. In addition, as the Advocate General pointed out in point 75 of her Opinion, the appellant claimed, at the hearing before the Court of Justice, that it considered that the Commission had based its findings on arbitrary ad hoc choices, without setting out any particular calculation methodology. Accordingly, at the hearing, the appellant itself acknowledged that the alleged errors were case specific.

47 Consequently, the second part must be rejected as inadmissible.

48 As regards the third part of the first ground of appeal, it should be pointed out that, as the Advocate General observed in point 78 of her Opinion, it rests on an obvious misreading of paragraph 58 of the judgment under appeal, by which the General Court finds merely that the appellant has no interest in bringing proceedings on the ground that the findings of the regulation at issue and whose legality is disputed by the appellant are closely linked to the particular circumstances of the case that was brought before it. It is in that context that, in that paragraph 58, the General Court observed only that the adjustment relating to duty drawback was partially rejected by the Council in the absence of any appropriate evidence adduced by the appellant.

49 It follows that the third part of the first ground of appeal must be rejected as unfounded.

50 As regards the fourth part of the first ground of appeal, it must be stated at the outset that the reasoning set out by the General Court in paragraphs 56 and 57 of the judgment of 18 March 2009, *Shanghai Excell M&E Enterprise and Shanghai Adeptech Precision* v *Council* (T-299/05, EU:T:2009:72), was aimed directly at rebutting the line of argument put forward by the Council in that case, summarised in paragraph 44 of that judgment, according to which the applicants in that case no longer had an interest in bringing proceedings, in so far as, after the action for annulment had been brought, the regulation whose annulment they sought had expired and in so far as they had paid no anti-dumping duty on the basis of that regulation.

51 However, it should be noted that, in the judgment under appeal, the General Court did not find whatsoever that the appellant's interest in bringing proceedings had disappeared solely on the grounds that the regulation at issue no longer produced any effect at the time when it adjudicated on the action for annulment and that the appellant had not shown that it had paid any anti-dumping duties under that regulation.

52 Indeed, in order to find that it was no longer necessary to adjudicate on the second and third pleas, the General Court relied on five grounds, namely that, first, the desire to seek recovery of the costs of the proceedings could not be regarded as justifying the appellant's continuing interest in bringing proceedings (paragraph 52 of the judgment under appeal), second, the alleged excessive duration of those proceedings was not moreover capable of justifying its continuing interest in bringing proceedings (paragraph 53 of the judgment under appeal), third, the appellant failed to show that it had paid anti-dumping duties under the regulation at issue, since the anti-dumping duties paid by its subsidiary were paid not under the regulation at issue, but under Regulation No 695/2006 which had amended the regulation at issue (paragraphs 54 and 55 of the judgment under appeal), fourth, that the unlawfulness allegedly affecting the regulation at issue was not liable to recur independently of the circumstances of the present case (paragraphs 56 to 58) and, fifth, that the line of argument relating to the restoration of the appellant's reputation was not justified (paragraph 59).

53 In addition, it should be pointed out that, in paragraph 54 of that judgment, the General Court held that Regulation No 695/2006 had determined a new normal value and compared that value with the export price, from which it concluded that the appellant no longer had any interest as regards the second and third pleas, alleging errors made in the regulation at issue so far as concerns the determination of the normal value and in the comparison of that value with the export price in the regulation at issue, respectively, in the absence of any application for repayment of the duties collected on the basis of the regulation at issue .

54 The General Court was right to draw such a conclusion, in so far as, as the Advocate General observed in point 99 of her Opinion, the appellant failed to show, within three years of the date of notification of the customs debt, as laid down in Article 121(1)(a) of Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ 2013 L 269, p. 1), that it had applied to the customs authorities for the repayment of the sums on the basis of the act that it considered unlawful (see, to that effect, judgments of 27 September 2007, *Ikea Wholesale*, C-351/04, EU:C:2007:547, paragraph 67, and of 4 February 2016, *C & J Clark International and Puma*, C-659/13 and C-34/14, EU:C:2016:74, paragraph 188 and the case-law cited).

55 It follows that, contrary to what the appellant submits in support of the fourth part of its first ground of appeal in this appeal, the judgment under appeal makes it possible to ascertain the reasons why the General Court did not transpose the reasoning set out in paragraphs 56 and 57 of the judgment of 18 March 2009, *Shanghai Excell M&E Enterprise and Shanghai Adeptech Precision* v *Council* (T-299/05, EU:T:2009:72), in the present case.

56 Accordingly, the fourth part of the first ground of appeal must also be rejected as unfounded, so that this ground of appeal must be rejected in its entirety.

The second plea in law

Arguments of the parties

57 By its second ground of appeal, the appellant takes issue with paragraphs 162, 163, 168, 169 and 170 of the judgment under appeal, by which the General Court rejected its fifth plea in support of its action for annulment, according to which the causal link between imports of bed linen from Pakistan and the material injury suffered by the EU industry in that area is called into question, first, by the shift of that industry towards the high-end sector and, second, by the increase in imports from Turkish producers related to EU producers.

58 By the first part of its second ground of appeal, the appellant submits that the General Court distorted the facts in finding, in paragraphs 162 and 163 of the judgment under appeal, that the shift of the EU industry to the high-end sector of the market could not be considered to be liable to call into question the causal link between the dumped imports from Pakistan and the injury suffered by that industry, even though recitals 92 and 112 of the regulation at issue found that sales volumes were lower in that sector. The appellant adds that the General Court erred in law by failing to respond to its line of argument that the shift of the EU industry had already started before the opening of the investigation period.

59 By the second part of its second ground of appeal, the appellant claims that, in paragraph 168 of the judgment under appeal, the General Court distorted the evidence contained in the regulation at issue by taking the view that the fact that the institutions noted certain links between the EU industry and other countries did not mean, in itself, that they were aware of an offshoring strategy, even though recital 109 of the regulation at issue had found the existence of links between the EU industry and Turkish industry, as well as a certain market integration of the Turkish industry, which demonstrated the existence of an offshoring strategy from the EU industry to Turkey.

60 The appellant adds that, as regards paragraph 169 of the judgment under appeal, the General Court distorted the facts by taking the view that the appellant had claimed that the offshoring of the production of bed linen by the EU industry to other countries had broken the causal link between the injury suffered by that industry and imports from Pakistan. It states, moreover, that the General Court failed to provide reasons for the statement in paragraph 170 of the judgment under appeal, according to which recitals 109 to 111 of the regulation at issue demonstrated that the Council had assessed to the requisite legal standard the impact of imports of the product concerned from Turkey. It claims, lastly, that the judgment under appeal also fails to analyse the combined impact of the EU industry's shift to the high-end sector and the parallel increase of imports from Turkish producers related to the EU industry.

61 The Council and the Commission contest the appellant's arguments.

Findings of the Court

62 It should be recalled that, according to the Court's settled case-law, distortion of facts and evidence must be obvious from the documents on the Court's file, without there being any need to carry out a new assessment of those matters (judgment of 2 June 2016, *Photo USA Electronic Graphic* v *Council*, C-31/15 P, not published, EU:C:2016:390, paragraph 52 and the case-law cited).

63 Moreover, by reason of equally settled case-law, in the sphere of the common commercial policy and, most particularly, in the realm of measures to protect trade, the Union institutions enjoy a broad discretion by reason of the complexity of the economic and political situations which they have to examine. The judicial review of such discretion must therefore be limited to verifying whether the procedural rules have been complied with, whether the facts on which the contested choice is based have been accurately stated, and whether there has been a manifest error in the appraisal of those facts or a misuse of powers (see, to that effect, judgments of 7 May 1987, *Nachi Fujikoshi* v *Council*, 255/84, EU:C:1987:203, paragraph 21, and of 14 December 2017, *EBMA* v *Giant (China)*, C-61/16 P, EU:C:2017:968, paragraph 68 and the case-law cited).

64 The Court has also held that the General Court's review of the evidence on which the EU institutions based their findings does not constitute a new assessment of the facts replacing that made by the institutions. That review does not encroach on the broad discretion of the institutions in the field of commercial policy, but is restricted to showing whether that evidence was able to support the conclusions reached by the institutions. The General Court must therefore not only establish whether the evidence put forward is factually accurate, reliable and consistent but also ascertain whether that evidence contained all the relevant information which had to be taken into account in order to assess a complex situation and whether it was capable of substantiating the conclusions reached (judgment of 14 December 2017, *EBMA* v *Giant (China)*, C-61/16 P, EU:C:2017:968, paragraph 69 and the case-law cited).

65 In the present case and as regards the complaint of distortion on which the appellant relies in support of the first part of its second ground of appeal, directed against paragraphs 162 and 163 of the judgment under appeal, it should be noted, with respect to the findings set out in paragraph 162, that recitals 92 and 112 of the regulation at issue observed, first, that 'the [EU] industry has been forced to shift to more sales of higher value niche products as their sales in the high volume, mass market were taken over by imports from low price countries' and, second, that 'most of the [EU] producers have different product lines for different market segments. The upmarket brands generate high margins but are only sold in very small quantities. In order to maximise the capacity utilisation and to cover the fixed costs of production, the [EU] industry would need sales of lower priced market segment in big volumes as well. … Given the overall increase in consumption, which is not limited to a particular market segment, the demand situation in the [EU] can therefore not be seen to break the causal link between the dumped imports from Pakistan and the injury suffered by the [EU] industry'.

66 Contrary to the appellant's assertion, paragraph 162 of the judgment under appeal, according to which the material injury suffered by the EU industry could not be explained by the alleged stagnation of demand in the high-end sector, in so far as demand in the EU had increased in all sectors, in no way contradicts the two recitals mentioned in the previous paragraph, and this complaint must therefore be rejected as unfounded.

67 As regards the complaint directed against paragraph 163 of the judgment under appeal, it should be pointed out that the ground set out in paragraph 162 of the judgment under appeal is sufficient in itself to warrant the rejection of the appellant's claim.

68 It follows that this complaint must be rejected as unfounded. The first part of the second ground of appeal must therefore be rejected.

69 As regards the second part of the second ground of appeal directed against paragraphs 168 to 170 of the judgment under appeal, it should be pointed out that, in recitals 109 and 111 of the regulation at issue, the Council observed that there were links between the EU industry and Turkish industry, as well as a certain market integration in the form of inter-company trade, which suggested that the decision to import from that country was not based solely on price. The Council found that imports from third countries other than Pakistan were not capable of calling into question the causal link

between imports from Pakistan, supported by dumping, and the injury suffered by the EU industry, in so far as the prices of products from the industry of those other countries were higher than those from the Pakistani industry.

70 As regards, first of all, paragraph 168 of the judgment under appeal, according to which 'the fact that the institutions noted certain economic links between the EU industry and other countries does not mean, in itself, that they were aware of an "offshoring" strategy with the objective of replacing EU production with offshore production', that paragraph does not clearly show that the General Court distorted the matters mentioned in the previous paragraph, in so far as the finding of the existence of links between the EU industry and the Turkish industry, and imports which are not motivated solely by price, is not in itself sufficient to demonstrate an intentional offshoring strategy on the part of the EU industry, capable of calling into question the existence of the injury suffered by that EU industry on account of the imports from Pakistan.

71 Thus, and in accordance with the case-law referred to in paragraph 62 of this judgment, it is necessary to reject as unfounded the appellant's complaint in support of the second part of its second ground of appeal, according to which, in paragraph 168 of the judgment under appeal, the General Court distorted the facts submitted to it.

72 As regards, next, the complaint directed against paragraph 169 of the judgment under appeal, also alleging distortion by the General Court of the facts submitted for its assessment, it should be pointed out that, in paragraph 172 of its application for annulment before the General Court, the appellant asserted that, 'to the extent the increase in the [EU] market share of imports from offshore production controlled by the [EU] industry has compensated the slim loss of market share of its [EU] production, any injury of the [EU] industry has been caused, not by imports from Pakistan, but by the decision of the [EU] producers to source low value bed linen sales in the [EU] from controlled offshore production'.

73 Thus, and contrary to what the appellant claims in the context of this complaint, by the considerations referred to in the previous paragraph, it called into question the causal link between the injury suffered by the EU industry and the imports from Pakistan.

74 That complaint must therefore be rejected as unfounded.

75 So far as concerns the third complaint put forward by the appellant in support of the second part of its second ground of appeal, it must be held that, by finding, in paragraph 170 of the judgment under appeal, that it was apparent from recitals 109 to 111 of the regulation at issue that the Council had assessed to the requisite legal standard the impact of the imports of the product concerned from other third countries, including Turkey, and that it had thus been entitled to conclude, without committing a manifest error of assessment, that the relatively high prices of imports originating in those countries compared with the prices of imports originating in Pakistan precluded the imports originating in third countries from breaking that causal link, the General Court provided a proper statement of reasons for its decision.

76 After noting that the appellant had not adduced any evidence capable of calling into question that causal link, the General Court found that the Council had not committed a manifest error of assessment of the facts and that the material contained in the regulation at issue was such as to prove to the requisite legal standard such a causal link.

77 It follows that that complaint must be rejected as unfounded.

78 As regards, lastly, the complaint alleging failure to analyse the combined impact of the other factors, it should be pointed out that, in paragraphs 178 to 181 of the judgment under appeal, the General Court provided a statement of reasons as to why it was not necessary to analyse those factors, and the appellant does not explain in its appeal the reasons why the General Court might thus have erred in law.

79 Accordingly, it is necessary to reject that complaint as inadmissible and, therefore, to reject the second part of the second ground of appeal as in part inadmissible and in part unfounded.

80 It follows from the foregoing that it is necessary to reject the second ground of appeal as in part inadmissible and in part unfounded, and to dismiss the appeal in its entirety, as in part unfounded and in part inadmissible.

Costs

81 Under Article 138(1) of the Court's Rules of Procedure, which apply to the procedure on appeal by virtue of Article 184(1) of those rules, the unsuccessful party must be ordered to pay the costs if they have been applied for in the successful party's pleadings.

82 Since the Council and the Commission have applied for costs and Gul Ahmed has been unsuccessful, the latter must be ordered to pay the costs.

On those grounds, the Court (Fourth Chamber) hereby:

1. Dismisses the appeal;

2. Orders Gul Ahmed Textile Mills Ltd to pay the costs.

von Danwitz	Jürimäe	Lycourgos
Juhász		Vajda

Delivered in open court in Luxembourg on 18 October 2018.

A. Calot Escobar Registrar	K. Lenaerts President