

Defendant: Council of the European Union

Form of order sought

- Annul Council Decision 2011/782/CFSP of 1 December 2011 concerning restrictive measures against Syria and repealing Decision 2011/273/CFSP;
- Order the Council of the European Union to pay the costs under Articles 87 and 91 of the Rules of Procedure of the General Court

Pleas in law and main arguments

In support of the action, the applicant relies on seven pleas in law which are, in essence, identical or similar to those raised in Case T-383/11 *Makhlouf v Council*. ⁽¹⁾

⁽¹⁾ OJ 2011 C 282, p. 30.

Action brought on 23 February 2012 — Duff Beer v OHIM — Twentieth Century Fox Film (Duff)

(Case T-87/12)

(2012/C 109/64)

Language in which the application was lodged: German

Parties

Applicant: Duff Beer UG (Eschwege, Germany) (represented by: N. Schindler, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs)

Other party to the proceedings before the Board of Appeal: Twentieth Century Fox Film Corporation (Los Angeles, United States of America)

Form of order sought

The applicant claims that the Court should:

- annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 12 December 2011 (Case R 0456/2011-4) and the decision of the Opposition Division of OHIM of 14 January 2011 (No B 1 603 771);
- order OHIM to bear its own costs and to pay the costs incurred by the applicant;
- in the alternative, stay the proceedings until the delivery of final decisions on the application for revocation pending before OHIM under the reference number 000005227 C and the nullity of Community trade mark No 001341130 declared by the Court of Commerce of Brussels under the reference numbers 2009/6122 and 2009/6129.

Pleas in law and main arguments

Applicant for a Community trade mark: the applicant

Community trade mark concerned: the figurative mark 'Duff' in the colours black, white and red for goods and services in Classes 32, 35 and 41 (application No 8 351 091).

Proprietor of the mark or sign cited in the opposition proceedings: Twentieth Century Fox Film Corporation

Mark or sign cited in opposition: the figurative mark 'Duff BEER' (Community trade mark No 1 341 130) for goods in Class 32

Decision of the Opposition Division: the opposition was upheld in part for goods and services in Classes 32 and 35

Decision of the Board of Appeal: the appeal was dismissed

Pleas in law: Infringement of Article 8(2)(b) of Regulation No 207/2009 as there is no likelihood of confusion between the marks at issue and infringement of rule 20(7)(c) in conjunction with rule 50(1) of Regulation No 2868/95 due to the Board of Appeal's incorrect exercise of its discretion as regards the applicant's application to suspend the appeal proceedings.

Action brought on 20 February 2012 — Charron Inox and Almet v Council

(Case T-88/12)

(2012/C 109/65)

Language of the case: French

Parties

Applicants: Charron Inox (Marseille, France) and Almet (Satolas-et-Bonce, France) (represented by: P.-O. Koubi-Flotte, lawyer)

Defendant: Council of the European Union

Form of order sought

- principally, annul Council Regulation (EU) No 1331/2011 of 14 December 2011 as being based on inadequate economic findings;
- in the alternative, annul Article 2 of Council Regulation (EU) No 1331/2011 of 14 December 2011 which collects definitively the provisional anti-dumping duty already collected, in so far as that collection is inconsistent with the principle of legitimate expectations;
- in the further alternative, acknowledge the European Union's non-contractual liability that validates the direct application of a collection which, in view of the subject-matter, ought to have been announced to the economic operators concerned within reasonable periods of time sufficient to enable them to anticipate their economic options with sufficient legal certainty;

— in each case, order the repayment to and/or indemnification of the applicant companies in the following amounts:

— damage caused to the company CHARRON INOX as a result of payment of the anti-dumping duties at issue: EUR 89 402,15;

— damage suffered by the company ALMET — LE METAL CENTRE as a result of payment of the anti-dumping duties at issue: EUR 375 493;

— damage suffered jointly by the companies CHARRON INOX and ALMET — LE METAL CENTRE as a result of payment of the anti-dumping duties at issue: EUR 58 594, that sum to be divided between them by CHARRON INOX and ALMET — LE METAL CENTRE themselves;

— damage to the company CHARRON INOX as a result of its being required to obtain supplies from Indian suppliers on less favourable terms: EUR 57 883,18;

— damage to the company ALMET — LE METAL CENTRE as a result of its being required to obtain supplies from Indian suppliers on less favourable terms: EUR 66 578,14.

Pleas in law and main arguments

The pleas in law and main arguments on which the applicants rely in support of their action against the regulation imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain seamless pipes and tubes of stainless steel originating in the People's Republic of China⁽¹⁾ are essentially identical or similar to those relied on in Case T-445/11 *Charron Inox and Almet v Commission*,⁽²⁾ concerning the regulation imposing a provisional anti-dumping duty on those imports.⁽³⁾

⁽¹⁾ Council Implementing Regulation (EU) No 1331/2011 of 14 December 2011 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain seamless pipes and tubes of stainless steel originating in the People's Republic of China (OJ 2011 L 336, p. 6).

⁽²⁾ OJ 2011 C 290, p. 18.

⁽³⁾ Commission Regulation (EU) No 627/2011 of 27 June 2011 imposing a provisional anti-dumping duty on imports of certain seamless pipes and tubes of stainless steel originating in the People's Republic of China (OJ 2011 L 169, p. 1).

Action brought on 1 March 2012 — Spain v Commission

(Case T-96/12)

(2012/C 109/66)

Language of the case: Spanish

Parties

Applicant: Kingdom of Spain (represented by: N. Díaz Abad, Agent)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— declare that the Commission has failed to fulfil its obligation to pay the Spanish authorities the outstanding balances within a two-month period from the submission of the documents listed in Article D(2)(d) of Annex II to Regulation No 1164/1994;

— in the alternative, annul the letter of 22 December 2011 containing the Commission's response to the earlier request sent to that institution in relation to the payment of the balance corresponding to the closure procedure of the projects co-financed by the Cohesion Funds, assigned to Spain for the programming period 2000-2006, and order the Commission to proceed with the payment of the outstanding balances referred to; and

— order the European Commission to pay the costs.

Pleas in law and main arguments

In these proceedings, the Kingdom of Spain claims that the Commission failed to fulfil its obligation, which the applicant alleges it to be under, to pay the outstanding balances relating to the closure procedure of the projects co-financed by the Cohesion Funds, assigned to Spain for the programming period 2000-2006.

In the alternative, and if the General Court considers that the letter of 22 December 2011, containing the Commission's response to the Kingdom of Spain's earlier request, puts an end to the Commission's failure to fulfil its obligation, the applicant also seeks the annulment of that letter.

In support of the action, the applicant relies on six pleas in law.