

Action brought on 7 November 2011 — Inaporc v Commission

(Case T-575/11)

(2012/C 25/108)

*Language of the case: French***Parties**

Applicant: Interprofession nationale porcine (Inaporc) (Paris, France) (represented by: H. Calvet, Y. Trifounovitch and C. Rexha, lawyers)

Defendant: European Commission

Form of order sought

— Annul Decision C(2011) 4376 final of 29 June 2011, State aid NN 10/2010 — France — Tax to finance a national pig and pork producers council (not yet published in the *Official Journal of the European Union*) in so far as it classifies (i) as State aid the action taken by INAPORC between 2004 and 2008 in relation to technical support, assistance with the production and marketing of quality products, research and development, as well as advertising, and (ii) the compulsory voluntary contributions used to finance that action as State resources forming an integral part of the State aid measures referred to above;

— order the Commission to pay the costs.

Pleas in law and main arguments

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

1. First plea in law: infringement of essential procedural requirements in so far as the statement of reasons for the contested decision is insufficient having regard to Article 296 TFEU, in that it does not enable the applicant to understand the reasons that led the Commission to consider the criteria established by the case-law of the Court of Justice of the European Union in relation to State aid to be satisfied in this instance.

2. Second plea in law: infringement of Article 107(1) TFEU in that, in the contested decision, the Commission:

— classified as State resources the compulsory voluntary contributions levied by Inaporc, and the action which that professional association takes and finances using those contributions as action imputable to the State;

— found that there was a selective economic advantage arising from the action taken by Inaporc for the benefit of undertakings engaged in production, processing and distribution in the pigmeat sector;

— took the view that the action taken by Inaporc may result in distortion of competition imputable to the State aid.

Action brought on 10 November 2011 — Schenker Customs Agency v Commission

(Case T-576/11)

(2012/C 25/109)

*Language of the case: Dutch***Parties**

Applicant: Schenker Customs Agency BV (Rotterdam, Netherlands) (represented by: A. Jansen and J. Biermasz, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the European Commission's decision of 27 July 2011 in Case REM 01/2010;

— declare that the remission of the post-clearance duties is well founded.

Pleas in law and main arguments

Between 19 February 1999 and 19 July 2001, the applicant, as a customs agent, submitted 52 declarations in its own name for the release for free circulation of the product glyphosate. 'Taiwan' is referred to as the country of origin on all the declarations. It appeared, following an investigation by OLAF, that the glyphosate declared was of Chinese rather than Taiwanese origin. Consequently, anti-dumping duties claimed by the Netherlands customs authorities are due.

The applicant claims that the European Commission was wrong to decide that remission of the import duties was not well founded.

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

1. In the applicant's submission, the European Commission was wrong to consider that breach of the rights of the defence, the late post-clearance recovery of duties and the fact that Schenker was not able to make declarations as a direct representative are arguments that relate to the existence of the customs debt itself. According to the applicant, those arguments could well constitute a specific situation as referred to in Article 239 of Regulation No 2913/92⁽¹⁾ and ought therefore to have been assessed on the substance.