

COURT OF FIRST INSTANCE

JUDGMENT OF THE COURT OF FIRST INSTANCE

of 23 October 2003

in Case T-65/98: Van den Bergh Foods Ltd v Commission of the European Communities ⁽¹⁾

(Action for annulment — Competition — Articles 85 and 86 of the EC Treaty (now Articles 81 EC and 82 EC) — Ice creams intended for immediate consumption — Supply of freezer cabinets to retailers — Exclusivity clause — Barriers to entry to the market — Property rights — Article 222 of the EC Treaty (now Article 295 EC))

(2004/C 7/51)

(Language of the case: English)

In Case T-65/98, Van den Bergh Foods Ltd, formerly HB Ice Cream Ltd, established in Dublin (Ireland), represented by M. Nicholson and M. Rowe, solicitors, with an address for service in Luxembourg, v Commission of the European Communities (Agents: W. Wils and A. Whelan), supported by Masterfoods Ltd, established in Dublin represented by P.G.H. Collins, solicitor, and by Richmond Frozen Confectionery Ltd, formerly Treats Frozen Confectionery Ltd, established in Northallerton (United Kingdom), represented by I.S. Forrester, QC, with an address for service in Luxembourg: Application for annulment of Commission Decision 98/531/EC of 11 March 1998 relating to a proceeding under Articles 85 and 86 of the EC Treaty (Case Nos IV/34.073, IV/34.395 and IV/35.436 — Van den Bergh Foods Limited) (OJ 1989 L 246, p. 1), the Court of First Instance (Fifth Chamber), composed of: R. García-Valdecasas, President, P. Lindh and J.D. Cooke, Judges; J. Plingers, Administrator, for the Registrar, has given a judgment on 23 October 2003, in which it:

1. Dismisses the application as unfounded.
2. Orders Van den Bergh Foods Ltd to bear its own costs and to pay those of the Commission, including the costs of the interim proceedings.
3. Orders Masterfoods Ltd and Richmond Frozen Confectionery Ltd to bear their own costs.

⁽¹⁾ OJ C 234 of 25.07.1998.

JUDGMENT OF THE COURT OF FIRST INSTANCE

of 30 September 2003

in Joined Cases T-191/98 and T-212/98 to T-214/98: Atlantic Container Line AB and Others v Commission of the European Communities ⁽¹⁾

(Competition — Liner conferences — Regulation (EEC) No 4056/86 — Block exemption — Individual exemption — Collective dominant position — Abuse — Service contracts — Accession to the conference — Alteration of the competition structure — Withdrawal of block exemption — Fines — Rights of the defence)

(2004/C 7/52)

(Language of the case: English)

In Joined Cases T-191/98 and T-212/98 to T-214/98: Atlantic Container Line AB, established in Gothenburg (Sweden), Cho Yang Shipping Co. Ltd, established in Seoul (South Korea), DSR-Senator Lines GmbH, established in Bremen (Germany), Hanjin Shipping Co. Ltd, established in Seoul (South Korea), Hapag-Lloyd AG, established in Hamburg (Germany), Hyundai Merchant Marine Co. Ltd, established in Seoul (South Korea), A.P. Møller-Mærsk Line, established in Copenhagen (Denmark), Mediterranean Shipping Co. SA, established in Geneva (Switzerland), Orient Overseas Container Line (UK) Ltd, established in London (United Kingdom), Polish Ocean Lines (POL), established in Gdynia (Poland), P & O Nedlloyd BV, established in London (United Kingdom), Sea-Land Service Inc., established in Jersey City, New Jersey (United States of America), Neptune Orient Lines Ltd, established in Singapore (Singapore), Nippon Yusen Kaisha, established in Tokyo (Japan), Transportación Marítima Mexicana SA de CV, established in Mexico City (Mexico), Tecomar SA de CV, established in Mexico City (Mexico), represented by J. Pheasant, N. Bromfield, M. Levitt, D. Waelbroeck, U. Zinsmeister, A. Bentley, C. Thomas, A. Nourry, M. Van Kerckhove, P. Ruttlely and A. Merckx, lawyers, with an address for service in Luxembourg, v Commission of the European Communities (Agents: R. Lyal and J. Flynn), supported by European Council of Transport Users ASBL, represented by M. Clough QC, with an address for service in Luxembourg: Application for the annulment of Commission Decision 1999/243/EC of 16 September 1998 relating to a proceeding pursuant to Articles 85 and 86 of the EC Treaty (Case No IV/35.134 — Trans-Atlantic Conference Agreement) (OJ 1999 L 95, p. 1), the Court of First Instance (Fourth Chamber), composed of: K. Lenaerts, President, J. Azizi and M. Jaeger, Judges; J. Plingers, Administrator, for the Registrar, has given a judgment on 30 September 2003, in which it:

1. *Annuls Article 5 of Commission Decision 1999/243/EC of 16 September 1998 relating to a proceeding pursuant to Articles 85 and 86 of the EC Treaty (Case No IV/35.134 — Trans-Atlantic Conference Agreement).*
2. *Annuls Article 6 of Decision 1999/243 in so far as it applies to mutual disclosure by the applicants of the availability and content of their individual service contracts.*
3. *Annuls Article 7 of Decision 1999/243 to the extent required by the annulment of Articles 5 and 6.*
4. *Annuls Article 8 of Decision 1999/243.*
5. *Dismisses the remainder of the applications.*
6. *Orders the applicants and the Commission each to bear their own costs.*
7. *Orders the European Council of Transport Users ASBL to bear its own costs.*

(¹) OJ C 71 of 27.03.1999 and OJ C 86 of 13.03.1999.

JUDGMENT OF THE COURT OF FIRST INSTANCE

of 16 October 2003

in Case T-148/00: The Panhellenic Union of Cotton Ginners and Exporters v Commission of the European Communities (¹)

(State aid — Compensatory levy — Method of financing aid — Community aid scheme for cotton — Action for annulment — Admissibility — Acts which may be challenged — Commission's refusal to continue infringement proceedings — Principle of independent legal remedies)

(2004/C 7/53)

(Language of the case: English)

In Case T-148/00, The Panhellenic Union of Cotton Ginners and Exporters, established in Thessaloniki (Greece), represented by K. Adamantopoulos, V. Akritidis and J. Gutiérrez Gisbert, lawyers, with an address for service in Luxembourg, v Commission of the European Communities (Agents: M. Condou and D. Triantafyllou), supported by Hellenic Republic (Agents: I. Chalkias and C. Tsiavou): Application for the partial annulment of Commission Decision 2000/206/EC of 20 July 1999 on an aid scheme applied in Greece to cotton by the Greek Cotton Board (OJ 2000 L 63, p. 27), the Court of First Instance

(Fifth Chamber, Extended Composition), composed of: R. García-Valdecasas, President, P. Lindh, J.D. Cooke, P. Mengozzi and H. Legal, Judges; J. Plingers, Administrator, for the Registrar, has given a judgment on 16 October 2003, in which it:

1. *Dismisses the application as inadmissible.*
2. *Orders the applicant to bear its own costs and to pay those of the Commission.*
3. *Orders the Hellenic Republic to bear its own costs.*

(¹) OJ C 259 of 9.9.2000.

JUDGMENT OF THE COURT OF FIRST INSTANCE

of 21 October 2003

in Case T-368/00: General Motors Nederland BV and Opel Nederland BV v Commission of the European Communities (¹)

(Competition — Distribution of motor vehicles — Article 81 EC — Regulations (EEC) No 123/85 and (EC) No 1475/95 — Partitioning of the market — General strategy aimed at restricting exports — Restriction of supply — Restrictive bonus policy — Ban on exports — Fine — Gravity and duration of the infringement — Proportionality — Guidelines for the calculation of fines)

(2004/C 7/54)

(Language of the case: English)

In Case T-368/00, General Motors Nederland BV, established in Sliedrecht (Netherlands), Opel Nederland BV, established in Sliedrecht, represented by D. Vandermeersch, R. Snelders and S. Allcock, lawyers, with an address for service in Luxembourg, v Commission of the European Communities (Agents: W. Mölls and A. Whelan): Application for, as the principal claim, annulment of the Commission's decision 2001/146/EC of 20 September 2000 relating to a proceeding under Article 81 EC (Case COMP/36.653 — Opel) (OJ 2001 L 59, p. 1) or, in the alternative, cancellation or reduction of the fine imposed on the applicants by that decision., the Court of First Instance (Second Chamber), composed of: N.J. Forwood, President, J. Pirrung and A.W.H. Meij, Judges; H. Jung, Registrar, has given a judgment on 21 October 2003, in which it has ruled: