



Court of Justice of the European Union

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Advocate General's Opinion in Case C-677/11  
SNC Doux Élevage, Société Coopérative Agricole UKL-ARREE v Ministère  
de l'Agriculture, de l'Alimentation, de la Pêche, de la Ruralité et de  
l'Aménagement du territoire, Comité interprofessionnel de la dinde française  
(CIDEF)

Press and Information

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**A compulsory voluntary contribution (CVO), extended by decision of the national authorities to all members of a recognised agricultural inter-trade organisation, is not State aid**

*The contribution is not an advantage granted directly or indirectly through public resources attributable to the State*

EU law prohibits State aid where it affects trade between Member States when it is granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods<sup>1</sup>. In order to ensure implementation of those provisions through a procedure of monitoring and prior authorisation, Member States are required to notify the European Commission of their plans to introduce or modify aid and cannot implement them until approval has been given by the Commission.

The Comité interprofessionnel de la dinde française (French turkey inter trade committee) (CIDEF), a non-profit association, was recognised as an agricultural inter-trade organisation by the French authorities. The CIDEF member trade organisations adopted a trade agreement in 2007 aimed inter alia at promoting and defending the sector's interests and introducing a *cotisation volontaire obligatoire* [contribution which was initially voluntary and later made compulsory by an Inter-ministerial Order] (CVO), which was extended by addendum and made compulsory for all traders in that sector by ministerial decision.

Two undertakings, Doux Élevage SNC and the Coopérative agricole UKL-ARREE were made to pay the contribution, like all other traders in the sector. They brought an action before the French Conseil d'État seeking annulment of that ministerial decision. They argue that the contribution, as extended and made compulsory for all traders in the inter-trade organisation, constitutes State aid and that, consequently, the Commission ought to have received prior notification of the decision.

In those circumstances, the Conseil d'État has asked the Court of Justice whether or not the contribution constitutes State aid.

**In his Opinion delivered today, Advocate General Melchior Wathelet, suggests that in the present case the contribution does not constitute State aid because the two cumulative conditions for doing so, 'State resources' and 'imputability of the measures to the State', are not satisfied.**

The Advocate General observes, first, that there is no doubt that an **agricultural inter-trade organisation** – such as the one in the present case – **cannot be considered to be a public entity**. Rather, it is an association governed by private law, established at the initiative of its members and alone decides its courses of action.

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<sup>1</sup> Article 107 TFEU.

Next, proceeding on the assumption that that agricultural inter-trade organisation is financed solely from **the contribution**, the Advocate General considers that it **cannot be categorised as ‘State resources’** because it does not give rise to any additional expenditure for the State or any other public entity. The contribution comes directly from economic operators who are active on the relevant market. In the same vein, the contribution is not a resource that ought to have been included in the State budget, as is done with tax exemptions. The State has no claim on the funds collected through the contributions.

Lastly, **decisions on the use of funds collected through the contribution are not imputable to the State.** The State has no influence over how the funds are used, its role being restricted to ex post facto control that there has been no fraud or misuse of the funds. Thus, the State is merely fulfilling its responsibilities towards undertakings that have had to pay the contribution because of its decision to extend the effects of the agreement that introduced the contribution.

The Advocate General takes the view that the French rules have put in place a ‘closed system’, in that it is still for the private sector to take the initiative, the funds at stake are managed and controlled by private entities and they are paid in by traders who are members of the inter-trade organisations, who use them for activities aimed at obtaining advantages for them. At no time do the funds fall under public control, since the State has no power to direct or influence when or how the funds are used. There has been no contention, moreover, that the State attempted to exercise decisive influence over the activities of the inter-trade organisations or, in particular, that the public authorities were in any way involved in the adoption of measures taken by those organisations. The public authorities accordingly act merely as a ‘vehicle’ to make compulsory the contributions introduced by the inter-trade organisations to pursue the objectives they themselves determine.

Nor does it follow from the French rules that a genuine public role has been conferred on the inter-trade organisations, even if they do act for interests common to all players in a given sector of activity and obviously make a positive contribution to the implementation of national and EU economic policies in their sector.

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**NOTE:** The Advocate General’s Opinion is not binding on the Court of Justice. It is the role of the Advocates General to propose to the Court, in complete independence, a legal solution to the cases for which they are responsible. The Judges of the Court are now beginning their deliberations in this case. Judgment will be given at a later date.

**NOTE:** A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court’s decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text](#) of the Opinion is published on the CURIA website on the day of delivery.

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