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Press and Information

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Judgment of the Court of First Instance in Case T-257/04

Poland v Commission

THE COURT OF FIRST INSTANCE DISMISSES THE ACTION BROUGHT BY POLAND AGAINST THE SYSTEM UNDER WHICH CHARGES WERE IMPOSED ON THE NEW MEMBER STATES IN RESPECT OF CERTAIN AGRICULTURAL PRODUCTS

The contested regulation, by which charges were imposed on traders holding surplus stocks of certain agricultural products imported into the new Member States or originating in those States, forms part of the transitional measures which the Commission was entitled to adopt by reason of the accession of those States to the European Union and does not infringe the principles of proportionality and non-discrimination on grounds of nationality.

Regulation (EC) No 1972/2003¹ introduced, inter alia, an obligation for the new Member States to impose a charge for deterrent purposes, with effect from the date of their accession to the European Union, on holders of surplus stocks of certain listed agricultural products present on their territory on the date of accession. It also imposed an identical charge on the agricultural products featuring on that list which were under a suspensive customs regime within the territory of the enlarged Community on the date of accession.

By its action brought before the Court of First Instance against Regulation No 1972/2003, as amended in particular by Regulation No 735/2004, Poland has challenged the legality of those charges.

Admissibility

The Court points out that the action against Regulation No 1972/2003 was brought even though the period laid down by the fifth paragraph of Article 230 EC for bringing such an action had already expired. The Court rejects Poland's argument that that period did not begin to run before it had acquired Member-State status. The Court points out that the Act of Accession provided for

¹ Commission Regulation (EC) No 1972/2003 of 10 November 2003 on transitional measures to be adopted in respect of trade in agricultural products on account of the accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia (OJ 2003 L 293, p. 3), as amended by Commission Regulation (EC) No 230/2004 of 10 February 2004 (OJ 2004 L 39, p. 13) and Commission Regulation (EC) No 735/2004 of 20 April 2004 (OJ 2004 L 114, p. 13).

the possibility for the Community institutions to adopt certain measures prior to the accession of new Member States to the European Union, but without providing for temporary derogations from the system of review of the legality of Community measures, and stresses that the Community rules on procedural time-limits must be strictly applied, derogations from them being permissible only in quite exceptional circumstances, which have not been pleaded by Poland. Finally, the Court notes that a country preparing for accession may, even though it does not yet have Member-State status, challenge the legality of a Community measure within the period prescribed in its capacity as a legal person if it is directly and individually affected by the measure in question.

The Court accordingly takes the view that the action is inadmissible with regard to the legality of the imposition of the disputed charges on all of the products featuring on the list contained in Regulation No 1972/2003 at the time of its adoption.

However, the Court considers the action to be admissible in so far as it also challenges the imposition of the disputed charges on seven agricultural products added to that list by Regulation No 735/2004, as the period for bringing an action against that regulation had not yet expired at the time when the action was brought.

The charge in respect of surplus stocks

The powers of the Commission to adopt the measures in question and the principle of proportionality

The Court finds that prevention of the build-up of stocks for speculative purposes and the neutralisation of the economic advantages which would have accrued to traders who had built up surplus stocks at low prices were capable of justifying the adoption of transitional measures by the Commission under Article 41 of the Act of Accession. The Court takes the view that the levying of a charge on surplus stocks must be regarded as intended to facilitate the transition of the new Member States to the common organisation of the markets, and concludes that the first paragraph of Article 41 of the Act of Accession allowed the Commission to require the new Member States to levy a charge on surplus stocks of the products at issue which existed in their respective territories.

The Court finds that paragraphs 1 and 2 of Chapter 4 of Annex IV to the Act of Accession obliged the new Member States to eliminate both surplus stocks resulting from national production and those resulting from trade, and it concludes that Poland has not succeeded in demonstrating that the fixing of the amount of the contested charges was manifestly inappropriate or disproportionate in relation to the end objective of preventing the build-up of surplus stocks inasmuch as, while a lower amount might have been sufficient to discourage the build-up of surplus stocks arising from international trade, such a lower amount would not have been sufficient to discourage the build-up of stocks resulting from national production.

Infringement of the principle of non-discrimination on grounds of nationality

The Court notes that the agricultural situation in the new Member States was radically different from that in the old Member States and that, consequently, the situation of Polish traders and that of traders established in the Community before 1 May 2004 could not be regarded as comparable.

The Court also takes the view that the transitional measures to be adopted in regard to agriculture at the time of each enlargement of the European Union must be adapted to the actual risks of disturbance of the agricultural markets which that enlargement may involve, and that the institutions are not required to apply equivalent transitional measures in the context of two successive enlargements.

The possibility of imposing the charge on holders of individual stocks even though the existence of surplus stocks at national level has not been established

The Court points out that both the prevention of the build-up of stocks for speculative purposes and the neutralisation of the economic advantages which would have accrued to traders who had built up surplus stocks at low prices were capable of justifying the adoption by the Commission of a measure under Article 41 of the Act of Accession. It follows that the transitional measures designed to prevent individual traders established in the new Member States from building up surplus stocks of the products concerned prior to 1 May 2004 with a view to marketing them at higher prices after that date are among those which the Commission was entitled to adopt under that provision.

The Court also takes the view that, as the purpose of Regulation No 1972/2003 was to prevent the build-up of surplus stocks, and as the Commission took account of the statistical information supplied by Poland itself in order to identify the categories of products which might be stored for speculative purposes, the Commission cannot be criticised for the fact that the existence, at national level, of surplus stocks in regard to some of the products at issue was not established on 1 May 2004, as this could have been attributable to the deterrent effect of the regulation itself.

The charge in respect of products subject to a suspensive customs regime

The Court takes the view that the levying of the charge imposed by Regulation No 1972/2003 on products subject to a suspensive customs regime is not at variance with the prohibition of customs duties and charges having equivalent effect laid down in Article 25 EC because the charge in question is not a charge imposed unilaterally by a Member State but a Community measure adopted, on a temporary basis, in order to address certain difficulties for the common agricultural policy arising from the accession of ten new States to the European Union. The Court also takes the view that the imposition of that charge was necessary in order to safeguard the effectiveness of the charge levied on surplus stocks of the products in question.

As none of the pleas in law raised by Poland can be accepted, the Court dismisses the action in its entirety.

REMINDER: An appeal, limited to points of law only, may be brought before the Court of Justice of the European Communities against a decision of the Court of First Instance, within two months of its notification.

Unofficial document for media use, not binding on the Court of First Instance.

Languages available: FR, EN, PL

The full text of the judgment may be found on the Court's internet site

<http://curia.europa.eu/jurisp/cgi-bin/form.pl?lang=EN&Submit=rechercher&numaff=T-257/04>

It can usually be consulted after midday (CET) on the day judgment is delivered.

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