

## Case T-57/00

**Banan-Kompaniet AB and Skandinaviska Bananimporten AB**

**v**

**Council of the European Union  
and Commission of the European Communities**

(Bananas — Common organisation of the markets — Decision 94/800/EC — Regulation (EC) No 478/95 — Export licence scheme — Action for damages)

Judgment of the Court (Fifth Chamber), 6 March 2003 . . . . . II- 609

### Summary of the Judgment

*Agriculture — Common organisation of the markets — Bananas — Import regime — Introduction of an export licence scheme affecting only Category A and C traders — Breach of the principle of non-discrimination not sufficiently serious — Incurring of non-contractual liability by the Community — None incurred  
(Art. 288 EC; Commission Regulation No 478/95; Council Decision 94/800)*

Non-contractual liability of the Community is not incurred by the introduction of the banana export licence scheme established by Council Decision 94/800 concerning the conclusion on behalf of the European Community, as regards matters within its competence, of the agreements reached in the Uruguay Round multilateral negotiations (1986-1994) and by Regulation No 478/95 on additional rules for the application of Regulation No 404/93 as regards the tariff quota arrangements for imports of bananas into the Community and amending Regulation No 1442/93. Although the existence of a breach of a rule of law must be considered to be established because in Case C-122/95 *Germany v Council* the Court of Justice annulled the first indent of Article 1(1) of Council Decision 94/800 to the extent that the Council thereby approved the Framework Agreement, in so far as the latter exempts Category B operators from the export licence scheme for which it provides and, in Joined Cases C-364/95 and

C-365/95 *T. Port*, the Court declared invalid Article 3(2) of Regulation No 478/95, and although in those two cases, the Court of Justice ruled that the provisions at issue had been adopted in breach of the principle of non-discrimination, which is a general principle of Community law for the protection of individuals, the Council and the Commission, in adopting those provisions, did not manifestly and gravely disregard the limits of their discretion having regard to the international dimension and the complex economic assessments involved in the introduction or amendment of a Community import scheme for bananas and, consequently, the principle of non-discrimination has not been infringed in the present case in a sufficiently serious manner.

(see paras 63-65, 71)