

Case T-47/95

Terres Rouges Consultant SA and Others  
v  
Commission of the European Communities

(Common organization of the markets — Bananas — Import arrangements —  
Framework Agreement on Bananas concluded as part of the Uruguay Round  
of multilateral trade negotiations — Regulation (EC) No 3224/94 — Community  
transitional measures for the implementation of the Framework Agreement —  
Action for annulment — Inadmissibility)

Judgment of the Court of First Instance (Fourth Chamber, Extended  
Composition), 9 April 1997 ..... II - 483

Summary of the Judgment

*Actions for annulment — Natural or legal persons — Measures of direct and individual concern to them — Regulation allocating the tariff quota for imports of non-traditional ACP bananas among the various producer States — Action by traders accounting for a large proportion of banana imports from an ACP State — Inadmissible*

*(EC Treaty, Art. 173, fourth para.; Commission Regulation No 3224/94)*

An action brought by traders accounting for a large proportion of Community imports of bananas from Côte d'Ivoire for annulment

of Commission Regulation No 3224/94, amending Regulation No 404/93 in order to adapt it to the changes introduced by the

Framework Agreement on Bananas concluded by the Commission with Colombia, Costa Rica, Nicaragua and Venezuela as part of the Uruguay Round of multilateral trade negotiations and allocating the tariff quota for imports of non-traditional ACP bananas among the various producer States, is inadmissible.

First, that regulation is a legislative measure of general application and does not have any features which would enable it to be classed as a decision taken in the form of a regulation. It is drafted in general and abstract terms and is applicable in all the Member States, without any regard being had to the situation of individual producers. It is designed to amend the arrangements for the import of bananas laid down by Regulation No 404/93 in order to adapt them to the changes introduced by the Framework Agreement. It therefore applies to situations which have been determined objectively and has legal effects with respect to a category of persons viewed in a general and abstract manner.

Secondly, while a legislative measure applying to the traders concerned in general may, in certain circumstances, concern some of them individually, that is not the case with the regulation at issue. The possibility of determining more or less precisely the number or even the identity of the persons to whom a measure applies by no means implies that it must be regarded as being of individual concern to them. Regulation No

3224/94, which restricts the quantity of bananas which Côte d'Ivoire may export within the quota fixed by Council Regulation No 404/93, affects every importer wishing to import bananas from Côte d'Ivoire. The fact that a restricted number of traders import a large proportion of Côte d'Ivoire's bananas does not amount to circumstances differentiating them from other importers.

Furthermore, Regulation No 3224/94 is not of direct concern to such importers. Article 17 of Regulation No 404/93 requires every importer wishing to import bananas from third countries to obtain an import licence. Under Articles 17 and 19 of the latter regulation, it is for the Member States to determine the number of import licences to be issued to each importer. It follows that only the decisions of the Member States granting or refusing such licences are capable of being of direct concern to importers of bananas from third countries. In those circumstances, the fact that a certain quantity of bananas is allocated to Côte d'Ivoire by the contested regulation is not capable of affecting the importers' legal position directly since they remain free to import bananas from any third country or ACP country within the tariff quota, provided that they have obtained the necessary import licences.

Finally, it is possible for importers to challenge the validity of Regulation No 3224/94 before a national court, for example in an action brought against a refusal by the competent national authorities to issue them with import licences for non-traditional ACP bananas from Côte d'Ivoire.