

Case T-107/04

Aluminium Silicon Mill Products GmbH

v

Council of the European Union

(Action for annulment — Dumping — Imports of silicon originating in Russia —
Injury — Causal link)

Judgment of the Court of First Instance (Third Chamber), 14 March 2007 . . . II - 672

Summary of the Judgment

- 1. Procedure — Introduction of new pleas during the proceedings
(Rules of Procedure of the Court of First Instance, Arts 44(1)(c) and 48(2))*

2. *Common commercial policy — Protection against dumping — Injury*
(Council Regulation No 384/96, Art. 3(5) and No 2229/2003)
3. *Common commercial policy — Protection against dumping — Injury*
(Council Regulation No 384/96, Arts 3(3), (6) and (7), and No 2229/2003)

1. It follows from Article 44(1)(c) in conjunction with Article 48(2) of the Rules of Procedure of the Court of First Instance that the original application must contain the subject-matter of the proceedings and a summary of the pleas in law relied on, and that new pleas in law may not be introduced in the course of the proceedings unless they are based on matters of law or of fact which come to light in the course of the procedure. However, a submission or argument which may be regarded as amplifying a plea made previously, whether directly or by implication, in the original application, and which is closely connected therewith, will be declared admissible.

during the period which it regards as that during which the injury suffered was most apparent, and thereby adopts a manifestly incorrect premiss for its finding of the existence of that injury, which ought, in accordance with Article 3(5) of the basic anti-dumping Regulation No 384/96, to be the result of weighing up the developments, both positive and negative, of the factors which it considered relevant.

(see paras 43, 44, 66)

(see paras 60, 61)

2. The Council exceeds the wide discretion which it enjoys, when determining in an anti-dumping proceeding the existence of material injury suffered by the Community industry, if it commits an error of fact with regard to the development of the Community industry's market share
3. Notwithstanding the wide discretion which it has when determining, in the context of an anti-dumping proceeding, the existence of a causal link between the dumped imports and the material injury allegedly suffered by the Community industry, the Council will infringe the basic anti-dumping Regulation No 384/96, and more particularly Article 3(3), (6) and (7) thereof, if it commits manifest errors of assessment by failing to take into consideration, for the

periods under investigation, the necessary impact, first, of the contraction in demand on the Community industry's sales volume, second, of the increase in its market share and its sales volume on the level of its prices and, third, of the change in the structure of its sales on the magnitude of the decrease in its average sales price, which errors necessarily lead

it to attribute to the imports in question harmful effects for the Community industry, the origin of which was independent of them.

(see paras 71, 116)