

Case C-149/96

Portuguese Republic

v

Council of the European Union

(Commercial policy — Access to the market in textile products — Products originating in India and Pakistan)

Opinion of Advocate General Saggio delivered on 25 February 1999 I-8397
Judgment of the Court, 23 November 1999. I-8425

Summary of the Judgment

1. *Actions for annulment of measures — Pleas in law — Not possible to rely on the GATT rules in order to contest the lawfulness of a Community act — Exceptions — Community measure intended to implement a GATT rule or expressly and specifically referring thereto*
(EC Treaty, Art. 173 (now, after amendment, Art. 230 EC))
2. *Acts of the institutions — Publication — Belated publication — Whether the validity of the measure is affected — No effect*
3. *Acts of the institutions — Council resolution concerning the quality of the drafting of Community legislation — No binding effect*

4. *Common commercial policy — Community rules — Whether traders have a legitimate expectation that an existing situation will be maintained — No legitimate expectation*
5. *Community law — Principles — Equal treatment — Discrimination — Meaning*

1. Having regard to their nature and structure, World Trade Organisation (WTO) agreements are not in principle among the rules in the light of which the Court is to review the legality of measures adopted by the Community institutions.
3. The Council resolution of 8 June 1993 concerning the quality of the drafting of Community legislation has no binding effect and places no obligation on the institutions to follow any particular rules when drafting legislative measures.

It is for the Court to review the legality of a Community measure in the light of the WTO rules only where the Community intended by means of that measure to implement a particular obligation assumed in the context of the WTO, or where the measure refers expressly to the precise provisions of the WTO agreements.

4. The principle of the protection of legitimate expectations cannot be relied upon to make a regulation unalterable, especially in sectors such as that of textile imports from non-member countries, where it is necessary constantly to adjust the rules to accommodate changes in the economic situation, and where, accordingly, such changes are reasonably to be expected.
5. The principle of non-discrimination requires that 'comparable situations should not be treated in a different manner unless the difference in treatment is objectively justified'.
2. The belated publication of a Community measure in the *Official Journal of the European Communities* does not affect the validity of that measure.