

Pleas in law and main arguments

By its action, the Commission complains that the defendant has frequently not complied with the obligation to stock petroleum products under Directive 68/414/EEC, as amended and then codified by Council Directive 2006/67/EC of 24 July 2006 ⁽¹⁾, as regards the products in the second category under that directive, namely gas oil, diesel oil, kerosene and jet-fuel of the kerosene type. The Commission points out, particularly, in that regard, that a sometimes considerable discrepancy exists between the figures relating to internal consumption of the products in question provided by the defendant in its monthly returns and the data available to the Commission via Eurostat.

⁽¹⁾ OJ English Special Edition, Series I, Chapter 1968 II, p. 586.

⁽²⁾ OJ 2006 L 217, p. 8.

Action brought on 21 November 2007 — Commission of the European Communities v Grand Duchy of Luxembourg

(Case C-511/07)

(2008/C 22/59)

Language of the case: French

Parties

Applicant: Commission of the European Communities (represented by: G. Rozet and U. Wölker, acting as Agents)

Defendant: Grand Duchy of Luxembourg

Form of order sought

The applicant claims that the Court should:

— declare that, by failing to communicate the information required under Article 3(1)(f) of Decision No 280/2004/EC of the European Parliament and of the Council of 11 February 2004 concerning a mechanism for monitoring Community greenhouse gas emissions and for implementing the Kyoto Protocol ⁽¹⁾, in conjunction with Articles 2 and 4(1)(b) and (d) of Commission Decision No 2005/166/EC of 10 February 2005 laying down rules implementing Decision No 280/2004/EC ⁽²⁾, the Grand Duchy of Luxembourg has failed to fulfil its obligations under those provisions;

— order the Grand Duchy of Luxembourg to pay the costs.

Pleas in law and main arguments

By its action, the Commission accuses the defendant of not fully implementing the obligations contained in Decision No 280/2004/EC, read in conjunction with Decision No 2005/166/EC. First, the defendant has failed to provide in its annual report the information relating to the methods and to the types of activity data and emissions factors used in the Community's principal sources. Second, the Grand Duchy of Luxembourg has not communicated to the Commission a general uncertainty assessment affecting the elements of the Luxembourg national inventory report.

⁽¹⁾ OJ 2004 L 49, p. 1.

⁽²⁾ OJ 2005 L 55, p. 57.

Reference for a preliminary ruling from the Hoge Raad der Nederlanden lodged on 22 November 2007 — Vereniging Noordelijke Land- en Tuinbouw Organisatie v Staatssecretaris van Financiën

(Case C-515/07)

(2008/C 22/60)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Appellant: Vereniging Noordelijke Land- en Tuinbouw Organisatie

Respondent: Staatssecretaris van Financiën

Questions referred

1. Are Articles 6(2) and 17(1), (2) and (6) of the Sixth VAT Directive ⁽¹⁾ to be interpreted as permitting a taxable person to allocate wholly to his business not only capital goods but all goods and services used both for business purposes and for purposes other than business purposes and to deduct immediately and in full the VAT due on the acquisition of those goods and services?

2. If the answer to Question 1 is affirmative, does the application of Article 6(2) of the Sixth Directive to services and goods other than capital goods mean that VAT is collected once during the tax period over which the deduction in respect of those services and goods is enjoyed, or must collection also occur in ensuing periods and, if so, how is the taxable amount to be determined in respect of goods and services which the taxable person does not write off?

(¹) Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (OJ 1977 L 145, p. 1).

3. Do fuel additives such as those at issue, which are not intended for use, offered for sale or used as motor fuel but which are added to motor fuel for purposes other than powering the vehicle in which the fuel is used, fall to be taxed under the second paragraph of Article 2(3) of Directive 2003/96/EC (²)?

4. If the answer to the third question is affirmative, are such additives excluded from the scope of Directive 2003/96/EC by virtue of the first indent of Article 4(b) of that Directive?

5. Is the duty imposed by the UK on the above fuel additives precluded by Community law and in particular, by Article 3 of Directive 92/12/EEC (³)?

(¹) OJ L 316, p. 12.

(²) OJ L 283, p. 51.

(³) OJ L 76, p. 1.

Reference for a preliminary ruling from High Court of Justice (Chancery Division) (United Kingdom) made on 22 November 2007 — Afton Chemical Limited v The Commissioners of Her Majesty's Revenue & Customs

(Case C-517/07)

(2008/C 22/61)

Language of the case: English

Referring court

High Court of Justice (Chancery Division)

Parties to the main proceedings

Applicant: Afton Chemical Limited

Defendant: The Commissioners of Her Majesty's Revenue & Customs

Questions referred

1. Do fuel additives such as those at issue, which are not intended for use, offered for sale or used as motor fuel but which are added to motor fuel for purposes other than powering the vehicle in which the fuel is used, fall to be taxed under Article 2(3) of Directive 92/81/EC?

2. If the answer to the first question is affirmative, do such additives fall within the scope of the exemption under Article 8(1) of Directive 92/81/EC (¹)?

Appeal brought on 22 November 2007 by the Commission of the European Communities against the judgment of the Court of First Instance (Fourth Chamber, Extended Composition) delivered on 12 September 2007 in Case T-196/02 MTU Friedrichshafen GmbH v Commission of the European Communities

(Case C-520/07 P)

(2008/C 22/62)

Language of the case: German

Parties

Appellant: Commission of the European Communities (represented by: K. Gross, B. Martenczuk)

Other party to the proceedings: MTU Friedrichshafen GmbH

Form of order sought

— Annul the contested judgment of the Court of First Instance delivered on 12 September 2007 in Case T-196/02 MTU Friedrichshafen GmbH v Commission of the European Communities,