2. Orders the applicant to bear, in addition to its own costs, the costs incurred by the Council and the Commission;

3. Orders the Kingdom of Spain to bear its own costs.

Judgment of the Court of First Instance (Grand Chamber) of 14 December 2005 — Groupe Fremaux and Palais Royal v Council and Commission

(Case T-301/00)

Non-contractual liability of the Community — Incompatibility of the Community regime governing the import of bananas with the rules of the World Trade Organisation (WTO) — Imposition by the United States of America of retaliatory measures in the form of increased customs duty levied on imports from the Community, pursuant to a WTO authorisation — Decision of the WTO Dispute Settlement Body — Legal effects — Community liability in the absence of unlawful conduct of its institutions — Causal link — Unusual and special damage

1. *Non-contractual liability — Conditions — Sufficiently serious breach of a rule of law conferring rights on individuals — No discretion for the institution — Mere infringement of Community law sufficient (Art. 288, second para., EC) (see paras 79-83)*

2. *Actions for damages — World Trade Organisation — Not possible to rely on the WTO Agreements in order to contest the lawfulness of a Community act — Exceptions — Community measure intended to implement a WTO Agreement or expressly and specifically referring thereto — Community regime governing the import of bananas — Incompatibility with the WTO*

rules established by the Dispute Settlement Body of the WTO — Judicial review of the lawfulness of that regime under the WTO rules — Excluded (Art. 288, second para., EC; Council Regulations Nos 404/93 and 1637/98; Commission Regulation No 2362/98) (see paras 102, 105-107)

3. *Non-contractual liability — Conditions — No unlawful conduct on the part of the Community institutions — Real damage, causal link and unusual and special damage — Cumulative requirements (Art. 288, second para., EC) (see para. 149)*

4. *Non-contractual liability — Conditions — Retention of a Community banana import regime incompatible with the WTO Agreements — Damage arising from the adoption of a retaliatory measure by the United States authorities — Causal link (Art. 288, second para., EC) (see paras 166-167, 172-174, 178)*

5. *Non-contractual liability — Conditions — No unlawful conduct on the part of the Community institutions — Damage arising from the incompatibility of the Community regime governing the import of bananas with the WTO Agreements — Unusual damage — None — Liability of the Community — Excluded (Art. 288, second para., EC) (see paras 183-184, 186, 191, 193)*

Re

ACTION for compensation in respect of the damage allegedly caused by the levying by the United States of America of increased customs duty on imports of the applicants' cotton bed linen, as authorised by the Dispute Settlement Body of the World Trade Organisation (WTO), following a finding that the Community regime governing the import of bananas was incompatible with the agreements and understandings annexed to the Agreement establishing the WTO.

Operative part

The Court:

1. Dismisses the action;

2. Orders the applicants to bear, in addition to their own costs, the costs incurred by the Council and the Commission;

3. Orders the Kingdom of Spain to bear its own costs.

Judgment of the Court of First Instance (Grand Chamber) of 14 December 2005 — CD Cartondruck v Council and Commission

(Case T-320/00)

Non-contractual liability of the Community — Incompatibility of the Community regime governing the import of bananas with the rules of the World Trade Organisation (WTO) — Imposition by the United States of America of retaliatory measures in the form of increased customs duty levied on imports from the Community, pursuant to a WTO authorisation — Decision of the WTO Dispute Settlement Body — Legal effects — Community liability in the absence of unlawful conduct of its institutions — Causal link — Unusual and special damage

1. *Non-contractual liability — Conditions — Sufficiently serious breach of a rule of law conferring rights on individuals — No discretion for the institution — Mere infringement of Community law sufficient (Art. 288, second para., EC) (see paras 81-85)*

2. *Actions for damages — World Trade Organisation — Not possible to rely on the WTO Agreements in order to contest the lawfulness of a Community act — Exceptions — Community measure intended to implement a WTO Agreement or expressly and specifically referring thereto — Community regime governing the import of bananas — Incompatibility with the WTO rules established by the Dispute Settlement Body of the WTO — Judicial*