JUDGMENT OF THE COURT (Sixth Chamber)
16 October 1997 *

In Case C-177/96,

REFERENCE to the Court under Article 177 of the EC Treaty by the Rechtbank van Eerste Aanleg te Antwerpen (Belgium) for a preliminary ruling in the proceedings pending before that court between

Belgian State

and

Banque Indosuez and Others,

European Community,

on the interpretation of Commission Decision No 2131/88/ECSC of 18 July 1988 imposing a definitive anti-dumping duty on imports of certain sheets and plates, of iron or steel, originating in Yugoslavia and definitively collecting the provisional anti-dumping duty imposed on those imports (OJ 1988 L 188, p. 14),

* Language of the case: Dutch.

THE COURT (Sixth Chamber),

composed of: H. Ragnemalm, President of the Chamber, R. Schintgen, G. F. Mancini, P. J. G. Kapteyn (Rapporteur) and G. Hirsch, Judges,

Advocate General: F. G. Jacobs,
Registrar: R. Grass,

after considering the written observations submitted on behalf of:

— the Belgian Government, by Jan Devadder, General Adviser in the Ministry of Foreign Affairs, External Trade and Development Cooperation, acting as Agent, assisted by Bernard van de Walle de Ghelcke, of the Brussels Bar,

— the Commission of the European Communities, by Hubert van Vliet and Nicholas Khan, of its Legal Service, acting as Agents,

having regard to the report of the Judge-Rapporteur,

after hearing the Opinion of the Advocate General at the sitting on 3 July 1997,

gives the following

Judgment

1 By order of 13 May 1996, received at the Court on 22 May 1996, the Rechtbank van Eerste Aanleg (Court of First Instance), Antwerp, referred to the Court for a

preliminary ruling under Article 177 of the EC Treaty two questions on the interpretation of Commission Decision No 2131/88/ECSC of 18 July 1988 imposing a definitive anti-dumping duty on imports of certain sheets and plates, of iron or steel, originating in Yugoslavia and definitively collecting the provisional anti-dumping duty imposed on those imports (OJ 1988 L 188, p. 14).

2 Those questions were raised in proceedings between, on the one hand, the Banque Indosuez (hereinafter 'Indosuez'), a company incorporated under Swiss law, Stahlhandel Schmitz GmbH (hereinafter 'Schmitz'), a company incorporated under German law, and Rijn- en Kanaalvaart Expeditie SA, a company incorporated under Belgian law (hereinafter 'Rijn- en Kanaalvaart Expeditie') and, on the other, the Belgian State concerning anti-dumping duties collected by that State pursuant to Decision No 2131/88, in respect of imports into the Community of certain steel products originating in the Former Yugoslav Republic of Macedonia (hereinafter 'the FYROM').

3 Schmitz imported the products at issue into the Belgian-Luxembourg Economic Union between 1 May 1992 and 31 July 1992. According to the documents before the Court, the products came from Rudnici i Zelezarnica Skopje (hereinafter 'Rudnici'), a company established in Skopje (FYROM).

4 Decision No 2131/88 was initially based on Commission Decision No 2177/84/ECSC of 27 July 1984 (OJ 1984 L 201, p. 17) and subsequently on Commission Decision No 2424/88/ECSC of 29 July 1988 (OJ 1988 L 209, p. 18), both of which concerned protection against dumped or subsidized imports from countries not members of the European Coal and Steel Community. Decision No 2424/88 repealed and replaced Decision No 2177/84.

5 According to the eighth recital in the preamble to Decision No 2177/84 and the third recital in the preamble to Decision No 2424/88, the anti-dumping arrangements introduced by those decisions were adopted in accordance with existing

international obligations, in particular those arising from Article VI of the General Agreement on Tariffs and Trade ('the GATT') and from the Agreement on Implementation of Article VI of the GATT (1979 Anti-Dumping Code).

6 On the basis of Article 11 of Decision No 2177/84, the Commission adopted Decision No 2767/86/ECSC of 5 September 1986 (OJ 1986 L 254, p. 18) imposing a provisional anti-dumping duty of ECU 68 per 1 000 kilograms on imports of certain sheets and plates, of iron or steel, 'originating in Yugoslavia'. Paragraph 14 of the grounds of Decision No 2767/86 expressly referred to Rudnici as one of the Yugoslav exporters of those products.

7 By Decision No 86/639/ECSC of 23 December 1986 accepting an undertaking given in connection with the anti-dumping investigation concerning imports of certain sheets and plates, of iron or steel, originating in Yugoslavia and terminating the investigation (OJ 1986 L 371, p. 84), the Commission accepted an undertaking from three Yugoslav exporters — one of whom was Rudnici — to eliminate any injury caused by the dumped products. However, following complaints that the undertaking had been breached, the Commission adopted Decision No 229/88/ECSC of 25 January 1988 imposing a provisional anti-dumping duty on imports of certain sheets and plates, of iron or steel, originating in Yugoslavia (OJ 1988 L 23, p. 13), thereby repealing the decision accepting the undertaking given by those exporters and re-imposing the provisional anti-dumping duty in regard to them.

8 Subsequently, by Decision No 2131/88, the Commission imposed a definitive anti-dumping duty of ECU 48 per 1 000 kilograms on imports of the products in question 'originating in Yugoslavia' (Article 1). That decision entered into force on 20 July 1988 for a period of five years from that date.

9 Following a request lodged in February 1990 by the Yugoslav Coal and Steel Federation, the Commission re-opened — on the basis of Article 14 of Decision No 2424/88 — the investigation concerning the imports of the products in question.

10 On 17 September 1991, while that investigation was in progress, the FYROM declared its independence.

11 At the close of its review investigation, the Commission found that dumping persisted, even though the dumping margin had decreased. It accordingly adopted Decision No 2297/92/ECSC of 31 July 1992 amending Decision No 2131/88/ECSC, accepting undertakings offered in connection with imports of certain sheets and plates, of iron or steel, originating in the Republic of Slovenia and the Yugoslav republics of Macedonia, Montenegro and Serbia, and terminating the anti-dumping proceeding with regard to the Republic of Croatia and the Republic of Bosnia-Herzegovina (OJ 1992 L 221, p. 36). Decision No 2131/88 was amended by the imposition of a definitive anti-dumping duty at the slightly reduced level of ECU 44 per 1 000 kilograms. That decision, as amended, concerns — according to the wording of Article 1 — imports of the products in question 'originating in the Republic of Slovenia ... and the Yugoslav republics of Macedonia ..., Montenegro ... and Serbia'. Article 1 of that decision also states that the definitive anti-dumping duty is not to apply to products originating from three particular exporters — one of which is Rudnici — in view of the undertakings offered by those companies in the course of the review investigation.

12 However, Decision No 2297/92 did not enter into force until 7 August 1992 and does not therefore apply to the imports at issue in the main proceedings.

13 Schmitz, together with its guarantor Banque Indosuez and the customs agent Rijnen Kanaalvaart Expeditie, brought proceedings before the Rechtbank van Eerste Aanleg te Antwerpen seeking recovery from the Belgian State of the anti-dumping duties paid.

14 By judgment given in default of appearance on 29 June 1994, that court ordered the Belgian State to reimburse those duties.

15 The Belgian State disputed that judgment and joined the European Community to the proceedings, in which the latter did not, however, appear. In those proceedings, Schmitz, Indosuez and Rijn- en Kanaalvaart Expeditie maintain that Decision No 2131/88 does not apply to the imports at issue. They argue, first, that since the FYROM was recognized in 1991 as an independent State, the products in question — which were obtained from a producer established in Skopje in 1992 — no longer came from Yugoslavia but from the FYROM. Secondly, under the rules of international law governing State succession, the Federal Republic of Yugoslavia (Serbia and Montenegro) was the sole successor of the former Socialist Federal Republic of Yugoslavia, to the exclusion of the FYROM, and thus inherited the former republic's liability to duties; accordingly, no anti-dumping duty could be imposed on products coming from the FYROM in respect of the period in question.

16 In those circumstances, the national court decided to stay proceedings and to refer the following questions to the Court for a preliminary ruling:

'1. Does the name "Yugoslavia" in Commission Decision No 2131/88/ECSC also refer to the State of Macedonia-Skopje after it had broken away from (what remained of) Yugoslavia?

2. Are the anti-dumping duties which are to be levied in accordance with Decision No 2131/88/ECSC on imports into the Belgian-Luxembourg Economic Union of steel products originating in Yugoslavia also applicable to such imports originating in the State of Macedonia-Skopje between 1 May 1992 and 31 July 1992 inclusive?'

17 It is clear from the facts of the case that, in those two questions, the national court is essentially asking whether the anti-dumping duties imposed by Decision

No 2131/88 on imports of certain steel products 'originating in Yugoslavia' (Article 1) also apply to products of that kind manufactured by a producer/exporter who had been established in the Socialist Federal Republic of Yugoslavia, but was in fact — by reason of the FYROM's declaration of independence — situated in the FYROM at the time when the products in question were imported.

18 As the Court has emphasized on numerous occasions, in interpreting a provision of Community law it is necessary to consider its wording, its context and its aims (Case C-84/95 *Bosphorus* v *Minister for Transport, Energy and Communications, Ireland and the Attorney General* [1996] ECR I-3953, paragraph 11).

19 The purpose of the anti-dumping measures at issue was to protect Community industry from products imported into the Community from non-member countries at a price below their normal value and hence liable to injure Community producers.

20 Consequently, anti-dumping measures focus on the products and their origin. In order to prevent injury to Community production, they provide for anti-dumping duties to be imposed on imports from a specified geographical area. Thus Article 13(2) of Decision No 2424/88 provides that any measure imposing an anti-dumping duty, whether provisional or definitive, is to indicate in particular the product covered, the country of origin or export and, if practicable, the name of the supplier.

21 Since the geographical origin of the products is the relevant criterion with regard to anti-dumping duties, a change in the name or political organization of the geographical area referred to as the country of origin or of export in a decision impos-

ing a provisional or definitive anti-dumping duty has no impact on the economic purpose of the duty imposed and cannot therefore by itself remove products originating in that geographical area from the duty's field of application.

22 Furthermore, as the Commission has rightly pointed out, if a supplier whose products were being dumped could avoid anti-dumping duties solely because the authorities of the territory in which he was situated had declared it independent, the anti-dumping measures could well fall short of their objective, which is to shield an established Community industry from injury. Even if, as a matter of public international law, the supplier came within the jurisdiction of a new State, that does not mean that his dumping practices would cease to injure Community industry.

23 In the present case, Decision No 2131/88 which, according to its wording, imposed a definitive anti-dumping duty on imports of certain steel products 'originating in Yugoslavia', was intended at the time of its adoption to apply to the entire territory of the Socialist Federal Republic of Yugoslavia. Although that republic has meanwhile split into several States, the expression 'Yugoslavia' used in Decision No 2131/88 cannot but designate the same geographical area which was once co-extensive with that republic and now corresponds to the territory of those new States collectively, including that of the FYROM.

24 It follows that the anti-dumping duties provided for in Decision No 2131/88 apply to steel products manufactured by a producer/exporter who had been established in the Socialist Federal Republic of Yugoslavia, but was in fact — by reason of the FYROM's declaration of independence — situated in the FYROM at the time when the products in question were imported.

25 As regards the argument put foward by Schmitz, Indosuez and Rijn- en Kanaalvaart Expeditie that Decision No 2131/88 does not apply to products originating in the FYROM under the rules of international law governing State succession, suffice it to note that those principles are not directly applicable to anti-dumping duties, since such duties do not constitute State debts but charges payable by individuals.

26 Lastly, as the Advocate General stated in paragraph 33 et seq. of his Opinion, it must be determined whether interpretation of the expression 'Yugoslavia' as encompassing all the States existing on the territory of the former Socialist Federal Republic of Yugoslavia is compatible with the principle of legal certainty.

27 The principle of legal certainty is a fundamental principle of Community law which requires in particular that rules imposing charges on a taxpayer be clear and precise so that he may be able to ascertain unequivocally what his rights and obligations are and take steps accordingly (Case C-143/93 *Van Es Douane Agenten* v *Inspecteur der Invoerrechten en Accijnzen* [1996] ECR I-431, paragraph 27).

28 It must therefore be determined whether Decision No 2131/88 enables those concerned to ascertain their legal position with precision, so far as concerns the payment of anti-dumping duties on products which they imported from the FYROM at the material time.

29 It is clear from Decision No 2131/88 that references therein to the expression 'Yugoslavia' indicate all the territory lying within the boundaries of the Socialist Federal Republic of Yugoslavia. At the time when the decision was adopted, the expression 'Yugoslavia' was not capable of bearing any other interpretation.

30 However, as the Court has pointed out in paragraph 23 above, since the fragmentation of the Socialist Federal Republic of Yugoslavia, that expression in the decision cannot but designate the territory of the former republic.

31 Consequently, the parties concerned are in a position to ascertain with precision the scope of Decision No 2131/88 and, in particular, their obligation to pay anti-dumping duties on products imported from the FYROM.

32 In the light of the foregoing, the answer to the questions raised must be that the anti-dumping duties imposed pursuant to Article 1 of Decision No 2131/88 on imports of certain steel products 'originating in Yugoslavia' also apply to products of that kind manufactured by a producer/exporter who had been established in the Socialist Federal Republic of Yugoslavia, but was in fact — by reason of the FYROM's declaration of independence — situated in the FYROM at the time when the products in question were imported.

Costs

33 The costs incurred by the Belgian Government and by the Commission of the European Communities, which have submitted observations to the Court, are not recoverable. Since these proceedings are, for the parties to the main proceedings, a step in the proceedings pending before the national court, the decision on costs is a matter for that court.

On those grounds,

THE COURT (Sixth Chamber)

in answer to the questions referred to it by the Rechtbank van Eerste Aanleg te Antwerpen by order of 13 May 1996, hereby rules:

The anti-dumping duties imposed pursuant to Article 1 of Commission Decision No 2131/88/ECSC of 18 July 1988 — imposing a definitive anti-dumping duty on imports of certain sheets and plates, of iron or steel, originating in Yugoslavia and definitively collecting the provisional anti-dumping duty imposed on those imports — on imports of certain steel products 'originating in Yugoslavia' also apply to products of that kind manufactured by a producer/exporter who had been established in the Socialist Federal Republic of Yugoslavia, but was in fact — by reason of the Former Yugoslav Republic of Macedonia's declaration of independence — situated in the FYROM at the time when the products in question were imported.

Ragnemalm Schintgen Mancini

Kapteyn Hirsch

Delivered in open court in Luxembourg on 16 October 1997.

R. Grass H. Ragnemalm

Registrar President of the Sixth Chamber