**Re:**

APPLICATION for partial annulment of Commission Decision 2009/95/EC of 12 December 2008 adopting, pursuant to Council Directive 92/43/EEC, a second updated list of sites of Community importance for the Mediterranean biogeographical region (OJ 2009 L 43, p. 393) to the extent that it extends the site called 'Estrecho oriental' (ES6120032) to the territorial waters of Gibraltar (both within and outside Site UKGIB0002) and to an area of the high seas.

**Operative part**

1. The action is dismissed as inadmissible.

2. The Government of Gibraltar is ordered to bear its own costs and pay those incurred by the European Commission.

3. The Kingdom of Spain and the United Kingdom of Great Britain and Northern Ireland are ordered to bear their own costs.

**Judgment of the General Court (Third Chamber) of 24 May 2011 — ancotel v OHIM — Acotel (ancotel.)**

**(Case T-408/09)**

(Community trade mark — Opposition proceedings — Application for Community figurative mark 'ancotel' — Earlier Community figurative mark 'ACOTEL' — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009 — Relevant public)

*Community trade mark — Definition and acquisition of the Community trade mark — Relative grounds for refusal — Opposition by the proprietor of an earlier identical or similar mark registered for identical or similar goods or services — Likelihood of confusion with the earlier mark — Assessment of the likelihood of confusion — Determination of the relevant public (Council Regulation No 207/2009, Art. 8(1)(b)) (see paras 37-39*

**Re:**

ACTION brought against the decision of the First Board of Appeal of OHIM of 19 June 2009 (Case R 1385/2008-1) concerning opposition proceedings between Acotel SpA and ancotel GmbH.

**Information relating to the case**

| | |
|---|---|
| Applicant for the Community trade mark: | ancotel GmbH |
| Community trade mark sought: | Figurative mark ancotel for services in Classes 35 and 38 — Application No 3314424 |
| Proprietor of the mark or sign cited in the opposition proceedings: | Acotel SpA |
| Mark or sign cited in opposition: | In particular, Italian figurative mark No 643751 and Community figurative mark No 1442268 ACOTEL for goods and services in Classes 9 and 38 |
| Decision of the Opposition Division: | Opposition partially upheld |
| Decision of the Board of Appeal: | Appeal dismissed |

**Operative part**

The Court:

1. Annuls the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 19 June 2009 (Case R 1385/2008-1);

2. Orders OHIM to bear its own costs and to pay those incurred by ancotel GmbH;

3. Orders Acotel SpA to bear its own costs.

## Order of the General Court (Seventh Chamber) of 24 May 2011 — United Kingdom v Commission

**(Case T-115/10)**

(Action for annulment — Directive 92/43/EEC — Conservation of natural habitats and of wild fauna and flora — Decision 2010/45/EU — List of sites of Community importance for the Mediterranean biogeographical region — Measure not open to challenge — Measure merely confirmatory — Inadmissibility)

1. *Actions for annulment — Action against a decision confirming an earlier decision not challenged within the time-limits — Inadmissibility — Meaning of confirmatory decision — Decision adopted following a re-examination of the earlier decision and on the basis of new factors — Not included (Art. 230 EC) (see paras 25, 27, 29-30, 33-34, 38, 41)*

2. *Procedure — Admissibility of actions — Judged by reference to the situation when the application was lodged — Action inadmissible — Decision replacing the contested decision during the proceedings — No impact on assessment of the admissibility of the action (see paras 46-48)*