

JUDGMENT OF THE COURT
26 November 1996 *

In Case C-68/95,

REFERENCE to the Court under Article 177 of the EC Treaty by the Hessischer Verwaltungsgerichtshof, Germany, for a preliminary ruling in the proceedings pending before that court between

T. Port GmbH & Co. KG

and

Bundesanstalt für Landwirtschaft und Ernährung

supported by **Federal Republic of Germany**

on the interpretation of Articles 16 and 30 of Council Regulation (EEC) No 404/93 of 13 February 1993 on the common organization of the market in bananas (OJ 1993 L 47, p. 1), on the validity of Article 19 of that regulation and on the interpretation of the EC Treaty, with particular regard to a national court's power to order interim measures until rules dealing with cases of hardship are adopted,

* Language of the case: German.

THE COURT,

composed of: G. C. Rodríguez Iglesias, President, G. F. Mancini, J. C. Moitinho de Almeida (Rapporteur), J. L. Murray and L. Sevón (Presidents of Chambers), C. N. Kakouris, P. J. G. Kapteyn, C. Gulmann, D. A. O. Edward, J.-P. Puissechot, G. Hirsch, P. Jann and H. Ragnemalm, Judges,

Advocate General: M. B. Elmer,
Registrar: H. von Holstein, Deputy Registrar,

after considering the written observations submitted on behalf of:

- T. Port GmbH & Co. KG, by G. Meier, Rechtsanwalt, Cologne,
- the German Government, by E. Röder, Ministerialrat at the Federal Ministry of Economic Affairs, acting as Agent,
- the Spanish Government, by A. Navarro González, Director General for Community Legal and Institutional Coordination, and Rosario Silva de Lapuerta, Abogado del Estado, of the State Legal Service, acting as Agents,
- the French Government, by C. de Salins, Deputy Director of Legal Affairs at the Ministry of Foreign Affairs, and by G. Mignot, Secretary for Foreign Affairs at the same Ministry, acting as Agents,
- the United Kingdom Government, by L. Nicoll, of the Treasury Solicitor's Department, acting as Agent, and D. Anderson, Barrister,

- the Council of the European Union, by A. Brautigam, Legal Adviser, and J.-P. Hix, of its Legal Service, acting as Agents,
- the Commission of the European Communities, by D. Boöf, Legal Adviser, and K.-D. Borchardt, of its Legal Service, acting as Agents,

having regard to the Report for the Hearing,

after hearing the oral observations of T. Port GmbH & Co. KG, represented by G. Meier, the German Government, represented by B. Kloke, Oberregierungsrat at the Federal Ministry of Economic Affairs, acting as Agent, the Spanish Government, represented by A. Navarro González and Rosario Silva de Lapuerta, the French Government, represented by F. Pascal, Central Administration Attaché at the Legal Affairs Directorate of the Ministry of Foreign Affairs, acting as Agent, the Council, represented by A. Brautigam and J.-P. Hix, and the Commission, represented by K.-D. Borchardt, at the hearing on 30 April 1996,

after hearing the Opinion of the Advocate General at the sitting on 9 July 1996,

gives the following

Judgment

1 By order of 9 February 1995, received at the Court on 13 March 1995, the Hessischer Verwaltungsgerichtshof (Higher Administrative Court, Hesse) referred to the Court for a preliminary ruling under Article 177 of the EC Treaty three questions on the interpretation of Articles 16 and 30 of Council Regulation (EEC) No 404/93 of 13 February 1993 on the common organization of the market in

bananas (OJ 1993 L 47, p. 1, hereinafter 'the Regulation'), on the validity of Article 19 of the Regulation and on the interpretation of the EC Treaty, with particular regard to a national court's power to order interim measures until rules dealing with cases of hardship are adopted.

- 2 The questions have been raised in proceedings between T. Port GmbH & Co. KG (hereinafter 'Port') and the Bundesanstalt für Landwirtschaft und Ernährung (Federal Office for Agriculture and Food) concerning the grant of import quotas for third-country bananas.
- 3 With effect from 1 July 1993, the Regulation introduced common arrangements for the importation of bananas, which replaced the various national arrangements.
- 4 Title IV of the Regulation, which concerns trade with third countries, provides in Article 18(1), as amended by Council Regulation (EC) No 3290/94 of 22 December 1994 on the adjustments and transitional arrangements required in the agriculture sector in order to implement the agreements concluded during the Uruguay Round of multilateral trade negotiations (OJ 1994 L 349, p. 105), that a tariff quota of 2.1 million tonnes (net weight) is to be opened for 1994 and of 2.2 million tonnes (net weight) for subsequent years for imports of third-country bananas and non-traditional ACP bananas. Under that quota, non-traditional ACP bananas are subject to a zero duty and imports of third-country bananas to a levy of ECU 75 per tonne.
- 5 The last subparagraph of Article 18(1) provides for an increase in the volume of the annual quota where demand determined on the basis of the forecast supply balance increases and refers to the procedure laid down in Article 27 for detailed rules in that regard.

6 Article 19(1) allocates the tariff quota: 66.5% is for the category of operators who marketed third-country and/or non-traditional ACP bananas, 30% for the category of operators who marketed Community bananas or traditional ACP bananas and 3.5% for the category of operators established in the Community who started marketing bananas other than Community or traditional ACP bananas from 1992.

7 The second subparagraph of Article 19(2) of the Regulation provides that:

‘For the second half of 1993, each operator shall be issued licences on the basis of half of the annual average quantity marketed between 1989 and 1991.’

8 Article 19(4) provides that:

‘If the tariff quota is increased, the additional available quantity shall be allocated to importers in the categories referred to in paragraph 1 ...’.

9 Article 16(1) of the Regulation provides for the preparation, each year, of a forecast supply balance of production and consumption in the Community and of imports and exports.

10 Article 16(3) of the Regulation provides that:

‘Where necessary, in particular to take account of the effects of exceptional circumstances affecting production or import conditions, the balance may be adjusted during the marketing year. In such a case, the tariff quota provided for in Article 18 shall be adapted in accordance with the procedure laid down in Article 27.’

11 Article 21(2) of the Regulation discontinues the annual tariff quota for imports of bananas free of duty to which the Federal Republic of Germany was entitled by virtue of the protocol annexed to the Implementing Convention on the Association for the Overseas Countries and Territories provided for in Article 136 of the EEC Treaty.

12 Article 30 of the Regulation provides that:

‘If specific measures are required after July 1993 to assist the transition from arrangements existing before the entry into force of this Regulation to those laid down by this Regulation, and in particular to overcome difficulties of a sensitive nature, the Commission, acting in accordance with the procedure laid down in Article 27, shall take any transitional measures it judges necessary.’

13 Article 27 of the Regulation, to which Articles 16, 18 and 30 refer, authorizes the Commission to adopt implementing measures in accordance with the ‘Management Committee procedure’.

- 14 In accordance with Community rules, Port, a traditional importer of third-country bananas, obtained from the Bundesanstalt licences to import third-country bananas for the second half of 1993 and for 1994 and 1995 on the basis of quantities sold during the reference years 1989, 1990 and 1991.
- 15 In 1994 Port, pleading that it was suffering hardship, requested additional licences from the Bundesanstalt.
- 16 Port claimed that it had been able to import only an unusually small quantity of bananas during the reference years, owing to a Colombian supplier's breach of contract. Furthermore, the company was committed to Ecuadorean producers under long-term contracts and would run the risk of losing advance payments already made if it were unable to import the volumes fixed by those contracts. Access to the market for Community and ACP bananas had remained closed. The sale of third-country bananas in Austria, Sweden and Finland had ceased to be possible after the accession of those States to the Community. The refusal to grant additional import licences was therefore likely to make the company bankrupt.
- 17 Port's initial application for interim relief was dismissed on 27 May 1994 by the Verwaltungsgericht (Administrative Court) Frankfurt am Main, that decision being confirmed on appeal by the Hessischer Verwaltungsgerichtshof.
- 18 A fresh application by Port for an interim order granting it further import licences for 1994 or, alternatively, for 1995, was also dismissed by a decision of the Verwaltungsgericht Frankfurt am Main of 8 December 1994, which was confirmed by judgment of the Hessischer Verwaltungsgerichtshof of 23 December 1994.

- 19 Port brought a constitutional appeal before the Bundesverfassungsgericht (Federal Constitutional Court), which, by order of 25 January 1995, quashed the decision of the Hessischer Verwaltungsgerichtshof of 23 December 1994 on the ground that the latter decision had not taken into account the fact that, irrespective of the question of its validity, in view of its broad terms the Regulation, and in particular Articles 16 and 30 thereof, was capable of covering cases of hardship. The Bundesverfassungsgericht held that the Verwaltungsgerichtshof should have considered whether the fact that Port was threatened with bankruptcy constituted an irreparable infringement of the right to property guaranteed by Article 14 of the Grundgesetz (Basic Law).
- 20 Pursuant to the order of the Bundesverfassungsgericht, the Hessischer Verwaltungsgerichtshof, by order of 9 February 1995, varied the decision of the Verwaltungsgericht Frankfurt am Main of 8 December 1994 and ordered the Bundesanstalt to issue to Port, for 1995, further import licences for 2 500 tonnes of bananas. In setting that amount, the Verwaltungsgerichtshof took account of Port's imports between 1983 and 1988.
- 21 The grant of those licences was made conditional on Port's accepting that, if it was unsuccessful in the main proceedings, those further quotas would be set off against quotas allocated to it in subsequent years.
- 22 The Hessischer Verwaltungsgerichtshof held that the possibility of further import licences being granted could be entertained only if the Commission was under a duty, under either Article 16(3), or Article 30 in conjunction with Article 27, of the Regulation, to open additional quotas subject to a levy of ECU 100 per tonne. The position would be the same if it were held that Article 19(2) of the Regulation was ineffective on the ground that it did not lay down rules governing cases of hardship.

23 In its order of 9 February 1995 the Hessischer Verwaltungsgerichtshof also referred the following questions to the Court for a preliminary ruling:

1. Does Article 16(3) or Article 30 of Council Regulation (EEC) No 404/93 of 13 February 1993 (OJ 1993 L 47, p. 1) put the Commission under a duty to deal with cases of hardship arising because operators of category A have difficulties in continuing trading owing to the fact that, on the basis of the reference years to be taken into account under Article 19(2) of that regulation, they are allocated an exceptionally low quota and cannot switch to the market for ACP and Community bananas?
2. Is Article 19(2) of Regulation (EEC) No 404/93 invalid in so far as it makes no provision for taking other reference years into account in cases of hardship in the transitional period?
3. In the event that one of the above two questions is answered in the affirmative: on what conditions is the national court authorized to take provisional measures in proceedings for the grant of interim relief until such time as hardship arrangements are introduced or Article 19 of Regulation (EEC) No 404/93 is amplified?

24 In Case C-465/93 *Atlanta Fruchthandelsgesellschaft and Others (I) v Bundesanstalt für Landwirtschaft* [1995] ECR I-3761 (hereinafter '*Atlanta*'), the Court specified the conditions in which a national court may, in relation to a national administrative measure based on a Community regulation which is itself the subject of a reference for a preliminary ruling on its validity, grant interim measures to settle or regulate contested legal situations or relationships.

25 When asked to assess whether it was necessary, in the light of that judgment, for a reply to be given to its third question, the Hessischer Verwaltungsgerichtshof, by order of 10 January 1996, maintained its third question, reformulating it as follows:

‘If the first question is answered in the affirmative: on what conditions is the national court authorized to take provisional measures in proceedings for the grant of interim relief until such time as hardship arrangements are introduced in accordance with Article 16(3) or Article 30 of Regulation No 404/93?’

The first question: cases of hardship

26 By its first question the Verwaltungsgerichtshof is essentially asking whether Article 16(3) or Article 30 of the Regulation requires the Commission to lay down rules catering for cases of hardship arising from the fact that importers of third-country bananas or non-traditional ACP bananas meet difficulties threatening their existence when an exceptionally low quota is allocated to them on the basis of the reference years to be taken into consideration under Article 19(2) of the Regulation.

27 As far as Article 16(3) of the Regulation is concerned, the Court has already held in its order of 29 June 1993 in Case C-280/93 R *Germany v Council* [1993] ECR I-3667, paragraph 44, that that provision requires the institutions to adjust the tariff quota if this proves necessary during a marketing year to take account of exceptional circumstances affecting import conditions in particular. In such a case, the adjustment is to be effected in accordance with the procedure laid down in Article 27, that is, it is for the Commission to adopt measures in accordance with the opinion of the Management Committee for Bananas. If the measures adopted are not in accordance with the opinion of that committee, the Council may take a different decision within one month.

- 28 The Court also held in paragraph 45 of that order that if the Commission were to come to the conclusion, on the basis of reliable objective data, that the quota was insufficient to satisfy demand appropriately and if the Council's earlier estimates were to prove incorrect, the Regulation obliges the Commission, and if necessary the Council, to make the necessary adjustments with the possibility for the Member States to make an application to the Court if those institutions do not comply with their obligations.
- 29 Article 16(3) of the Regulation accordingly requires the Commission to revise the forecast supply balance if the assessment of future production and consumption in the Community proves to be incorrect.
- 30 However, according to Article 16(1) and (3) and to the ninth recital in the preamble to the Regulation, a revision of the forecast supply balance is not possible unless there are exceptional circumstances affecting production conditions in the Community or import conditions for traditional ACP bananas.
- 31 That interpretation is confirmed by the scheme of the Regulation. The tariff quota established in Article 18(1) of the Regulation is drawn up on the basis of forecasts of production of Community bananas and imports of traditional ACP bananas and forecasts of total consumption of bananas in the Community. Consequently, an adjustment of that quota in the course of a marketing year is required only if production of Community bananas and imports of traditional ACP bananas do not reach the amounts forecast or if actual consumption of bananas in the Community exceeds those forecasts.
- 32 On the other hand, exceptional circumstances affecting production conditions or import conditions for third-country bananas and non-traditional ACP bananas cannot be taken into account in order to justify an adjustment of the tariff quota under Article 16(3) of the Regulation.

33 Furthermore, 'production or import conditions', referred to in Article 16(3) of the Regulation, cannot encompass the terms of a contract concluded between a producer and an importer of bananas or breach of contract by the producer.

34 As regards Article 30 of the Regulation, the Court held, in its order in Case C-280/93 R *Germany v Council*, cited above, paragraphs 46 and 47, that, as appears from the 22nd recital in the preamble to the Regulation, that provision is intended to deal with any threatened disturbance in the internal market in consequence of replacement of the various national arrangements by the common organization of the market. For that purpose, Article 30 requires the Commission to take any transitional measures it judges necessary.

35 Application of Article 30 is subject to the condition that the specific measures which the Commission must adopt are intended to assist transition from national arrangements to the common organization of the market and that they are necessary for that purpose.

36 Those transitional measures must address difficulties encountered after establishment of the common organization of the market but originating in the state of national markets prior to adoption of the Regulation.

37 The Commission must in this regard also take into account the situation of traders who, under national legislation in force prior to the Regulation, took certain action without being able to foresee the consequences of such action after establishment of the common organization of the market.

38 When assessing whether transitional measures are necessary, the Commission has a broad discretion, which is to be exercised in accordance with the procedure provided for in Article 27 of the Regulation. As the Court held in its order in Case C-280/93 R *Germany v Council*, cited above, paragraph 47, the Commission, or the Council, as the case may be, are, however, obliged to take action if the difficulties associated with the transition from national arrangements to the common organization of the market so require.

- 39 It is for the Court of Justice to review the lawfulness of the Community institutions' action or failure to act.
- 40 The Community institutions are required to act in particular when the transition to the common organization of the market infringes certain traders' fundamental rights protected by Community law, such as the right to property and the right to pursue a professional or trade activity.
- 41 When the transitional difficulties are due to action taken by traders prior to the entry into force of the Regulation, that action must be capable of being seen as displaying ordinary care, with regard both to the prior national arrangements and to the prospect of establishment of the common organization of the market, in so far as the traders concerned could have been aware of this.
- 42 As regards the subject-matter of the transitional measures, Article 30 provides for the adoption of any measures judged necessary. It therefore authorizes the Commission, where necessary, to derogate from the rules concerning the reference period laid down in Article 19 of the Regulation, and to do so to the advantage of individual traders.
- 43 The answer to the first question must therefore be that Article 16(3) of the Regulation does not allow the Commission to lay down rules catering for cases of hardship arising from the fact that importers of third-country bananas or non-traditional ACP bananas meet difficulties threatening their existence when an exceptionally low quota was allocated to them on the basis of the reference years to be taken into consideration under Article 19(2) of the Regulation.

On the other hand, Article 30 of the Regulation authorizes and, depending on the circumstances, requires the Commission to lay down rules catering for cases of hardship arising from the fact that importers of third-country bananas or non-traditional ACP bananas meet difficulties threatening their existence when an exceptionally low quota has been allocated to them on the basis of the reference years to be taken into consideration under Article 19(2) of the Regulation, where those difficulties are inherent in the transition from the national arrangements existing before the entry into force of the Regulation to the common organization of the market and are not caused by a lack of care on the part of the traders concerned.

The second question: validity of Article 19(2) of the Regulation

It follows from the answer to the first question that Article 30 allows, and even requires, the Commission in certain circumstances to adopt transitional measures derogating from the three-year period provided for in Article 19(2) of the Regulation.

Consequently, it is not necessary to answer the second question.

The third question: adoption of interim measures

By this question the Verwaltungsgerichtshof seeks to ascertain whether the Treaty authorizes national courts to order provisional measures in proceedings for the grant of interim relief to the traders concerned until such time as the Commission has adopted an act with legal effect to deal, in accordance with Article 30 of the Regulation, with cases of hardship affecting the traders.

47 In its judgments in Joined Cases C-143/88 and C-92/89 *Zuckerfabrik Süderdithmarschen* and *Zuckerfabrik Soest* [1991] ECR I-415 (hereinafter '*Zuckerfabrik*'), and *Atlanta*, cited above, the Court acknowledged that national courts have the power to grant interim relief in the context of the implementation of a national measure based on a Community regulation.

48 As regards the conditions under which that power may be exercised, the Court held in *Atlanta* that such interim relief can be ordered by the national court only if:

- that court entertains serious doubts as to the validity of the Community act and, if the validity of the contested act is not already in issue before the Court of Justice, itself refers the question to the Court of Justice;
- there is urgency, in that the interim relief is necessary to avoid serious and irreparable damage being caused to the party seeking the relief;
- the court takes due account of the Community interest; and
- in its assessment of all those conditions, it respects any decisions of the Court of Justice or the Court of First Instance ruling on the lawfulness of the regulation or on an application for interim measures seeking similar interim relief at Community level.

49 As the Court has held in particular in *Zuckerfabrik*, cited above, paragraph 18, references for preliminary rulings on the validity of a measure, like actions for annulment, allow the legality of acts of the Community institutions to be

reviewed. In the context of actions for annulment, Article 185 of the EC Treaty enables applicants to request enforcement of the contested act to be suspended and empowers the Court to order such suspension. The coherence of the system of interim legal protection therefore requires that national courts should also be able to order suspension of enforcement of a national administrative measure based on a Community regulation, the legality of which is contested.

50 The Court also observed in *Zuckerfabrik*, paragraph 19, that in Case C-213/89 *Factortame and Others* [1990] ECR I-2433, which concerned the compatibility of national legislation with Community law, the Court had held, with reference to the effectiveness of Article 177, that the national court which had referred questions of interpretation for a preliminary ruling in order to enable it to decide that issue of compatibility had to be able to grant interim relief and to suspend application of the disputed national legislation until such time as it could deliver its judgment on the basis of the interpretation given in accordance with Article 177.

51 The interim legal protection which Community law ensures for individuals before national courts must remain the same, irrespective of whether they contest the compatibility of national legal provisions with Community law or the validity of secondary Community law, in view of the fact that the dispute in both cases is based on Community law itself (*Zuckerfabrik*, paragraph 20).

52 However, the situation now raised by the national court is different from the situation at issue in those cases. The present case is not about granting interim measures in the context of the implementation of a Community regulation whose validity is being contested, in order to ensure interim protection of rights which individuals derive from the Community legal system, but about granting traders interim judicial protection in a situation where, by virtue of a Community regulation, the existence and scope of traders' rights must be established by a Commission measure which the Commission has not yet adopted.

- 53 The Treaty makes no provision for a reference for a preliminary ruling by which a national court asks the Court of Justice to rule that an institution has failed to act. Consequently, national courts have no jurisdiction to order interim measures pending action on the part of the institution. Judicial review of alleged failure to act can be exercised only by the Community judicature.
- 54 In a situation such as that in the present case, only the Court of Justice or the Court of First Instance, as the case may be, can ensure judicial protection for the persons concerned.
- 55 It is to be remembered that, under the procedure provided for in Article 27 of the Regulation, the Commission is to adopt transitional measures following an opinion of the Management Committee before which the matter is brought by a representative of the Commission or of a Member State.
- 56 In circumstances such as those in the main proceedings, it is for the relevant Member State, urged if necessary by the trader concerned, to request initiation of the Management Committee procedure, should this be necessary.
- 57 Having regard to the hardship which the applicant in the main proceedings claims to be suffering, the applicant may also approach the Commission directly and request it to adopt, in accordance with the Article 27 procedure, the specific measures which its situation requires.
- 58 Where the Community institution fails to act, the Member State may bring an action for failure to act before the Court of Justice. Likewise, the trader concerned, who would be the addressee of the measure which the Commission is alleged to

have failed to adopt, or at least directly and individually concerned by it, could bring such an action before the Court of First Instance (see Case C-107/91 *ENU v Commission* [1993] ECR I-599).

59 It is true that the third paragraph of Article 175 of the Treaty entitles legal and natural persons to bring an action for failure to act when an institution has failed to address to them any act other than a recommendation or an opinion. The Court has, however, held that Articles 173 and 175 merely prescribe one and the same method of recourse (Case 15/70 *Chevalley v Commission* [1970] ECR 975, paragraph 6). It follows that, just as the fourth paragraph of Article 173 allows individuals to bring an action for annulment against a measure of an institution not addressed to them provided that the measure is of direct and individual concern to them, the third paragraph of Article 175 must be interpreted as also entitling them to bring an action for failure to act against an institution which they claim has failed to adopt a measure which would have concerned them in the same way. The possibility for individuals to assert their rights should not depend upon whether the institution concerned has acted or failed to act.

60 In such actions for failure to act, the Community judicature could, at the applicants' request, adopt interim measures under Article 186 of the Treaty. Firstly, that provision is framed in general terms and does not exclude any particular procedures (see, to that effect, the order in Case C-120/94 R *Commission v Greece* [1994] ECR I-3037, paragraph 42). Secondly, since the order in Cases 31/77 R and 53/77 R *Commission v United Kingdom* [1977] ECR 921 it is well settled that the Court may order interim measures in proceedings in which a declaration is sought.

61 Moreover, where the Commission expressly refuses to act or adopts a measure different from that which the persons concerned sought or considered to be necessary, the Member State or the trader concerned may seek annulment of that measure by the Court of Justice or the Court of First Instance (see Case 8/71 *Deutscher Komphonistenverband v Commission* [1971] ECR 705; Joined Cases 166/86 and 220/86 *Irish Cement v Commission* [1988] ECR 6473; *ENU v Commission*, cited above).

62 The answer to the third question must therefore be that the Treaty does not authorize national courts to order provisional measures in proceedings for the grant of interim relief until such time as the Commission has adopted an act with legal effect to deal, in accordance with Article 30 of the Regulation, with cases of hardship affecting traders.

Costs

63 The costs incurred by the French, German, Spanish and United Kingdom Governments and by the Council of the European Union and 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 action pending before the national court, the decision on costs is a matter for that court.

On those grounds,

THE COURT,

in answer to the questions referred to it by the Hessischer Verwaltungsgerichtshof, by order of 9 February 1995, hereby rules:

1. Article 16(3) of Council Regulation (EEC) No 404/93 of 13 February 1993 on the common organization of the market in bananas does not allow the Commission to lay down rules catering for cases of hardship arising from the fact that importers of third-country bananas or non-traditional ACP bananas meet difficulties threatening their existence when an exceptionally low quota was allocated to them on the basis of the reference years to be taken into consideration under Article 19(2) of the regulation.

Article 30 of Regulation No 404/93 authorizes and, depending on the circumstances, requires the Commission to lay down rules catering for cases of hardship arising from the fact that importers of third-country bananas or non-traditional ACP bananas meet difficulties threatening their existence when an exceptionally low quota has been allocated to them on the basis of the reference years to be taken into consideration under Article 19(2) of that regulation, where those difficulties are inherent in the transition from the national arrangements existing before the entry into force of the regulation to the common organization of the market and are not caused by a lack of care on the part of the traders concerned.

2. The EC Treaty does not authorize national courts to order provisional measures in proceedings for the grant of interim relief until such time as the Commission has adopted an act with legal effect to deal, in accordance with Article 30 of Regulation No 404/93, with cases of hardship affecting traders.

Rodríguez Iglesias

Mancini

Moitinho de Almeida

Murray

Sevón

Kakouris

Kapteyn

Gulmann

Edward

Puissochet

Hirsch

Jann

Ragnemalm

Delivered in open court in Luxembourg on 26 November 1996.

R. Grass

G. C. Rodríguez Iglesias

Registrar

President