Bar, with an address for service in Luxembourg at the Chambers of Evelyne Korn, 21 Rue Nassau.

The applicant claims that the Court should:

— declare the action admissible,

— declare notice of competition COM/T/B/95 illegal and inapplicable to the applicant,

— annul the decision of the selection board of 7 November 1994 refusing to admit her to competition COM/T/B/95,

— declare that the decisions by which the Commission adopted its general policy regarding temporary staff in March 1992 and February 1994 are in breach of the principles referred to in the applicant's pleas, and declare them inapplicable to the applicant,

— annul the decision of the Commission of 27 July 1995 refusing to admit her to any competition leading to establishment other than competition COM/T/B/95,

— order the Commission to pay her damages on account of the erroneous and prejudicial nature of the contested decisions; the applicant reserves the right to submit later on in the proceedings detailed calculations of the loss suffered by her,

— order the defendant to pay the costs.

Pleas in law and main arguments adduced in support:

The applicant, formerly a member of the temporary staff in category B and currently a member, in the same category, of the auxiliary staff of the Commission, contests the refusal by the selection board in internal competition COM/T/B/95 to admit her to the tests in that competition on the ground that she was not a member of the temporary staff on the date when she submitted her application. That decision was taken on the basis of a notice of competition requiring candidates to have completed, by 30 September 1994 at the latest, a minimum of three years' service as a servant of the Communities, as defined in the Conditions of Employment of other Servants, and to be a member of the temporary staff in category B on that date.

The applicant points out in that regard that she signed, in accordance with the indications given by the administration, a contract of employment as a member of the auxiliary staff of one month's duration, in order to be eligible to take part in a competition leading to establishment. It was in fact for that reason that the applicant, legitimately believing on the basis of what she had been told that she would be admitted to the tests, did not lodge a complaint against the notice of competition in question.

The applicant maintains, first, that there has been a breach of the principle of legitimate expectations, inasmuch as she was given clear assurances by the competent departments of the Commission that she had the right to take part in the competition in question as a member of the auxiliary staff.

Moreover, the Commission itself decided to allow all members of the temporary staff whose entry into service commenced after July 1988 and before March 1992 — as in the case of the applicant — to take part in two competitions, provided that they could show that they had completed not less than three years' service as members of the temporary staff. Since the Commission restricted its powers by stating that the category of servants eligible for equal treatment as regards access to competitions leading to establishment was to comprise servants who entered into service within those two dates, the applicant's inability to obtain an extension until 30 September 1994 of her status as a member of the temporary staff cannot constitute objective justification for the difference in treatment.

Lastly, the applicant pleads a breach in the present case of the duty to have regard for the welfare and interests of officials.

Action brought on 3 November 1995 by Miwon Co. Ltd against the Commission of the European Communities

(Case T-208/95)

(95/C 351/37)

(Language of the case: English)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 3 November 1995 by Miwon Co. Ltd, represented by Mr Jean-François Bellis, with an address for service in Luxembourg at the Chambers of A. F. Brausch, 8 Rue Zithe.

The applicant claims that the Court should:

— annul Commission Regulation (EC) No 1754/95 of 18 July 1995 imposing a provisional anti-dumping duty on imports of monosodium glutamate originating, *inter alia*, in the Republic of Korea in so far as it considers that the applicant violated its undertaking and imposes a provisional anti-dumping duty on imports of monosodium glutamate manufactured by the applicant, and

— order the Commission to pay the costs of these proceedings.

Pleas in law and main arguments adduced in support:

The applicant, a limited company established under the laws of the Republic of Korea, produces a wide range of food and chemical products, including monosodium glutamate (hereinafter 'MSG'), a product used as a flavour enhancer in food products. It states that on 27 June 1990, the Council adopted Regulation (EEC) No 1798/90 imposing a definitive anti-dumping duty on imports of MSG

originating in Indonesia, the Republic of Korea, Taiwan and Thailand and collecting definitively the provisional duty. MSG produced and exported to the Community by companies which offered undertakings which had been accepted by the Commission was exempted from definitive duties and the applicant was among the companies exempted from the definitive anti-dumping duty. Following a request for a review under Article 14 of Council Regulation (EEC) No 2423/88 lodged by Orsan, the sole Community producer of MSG, the Commission on 9 July 1994 published notice 94/C 187/06 concerning the initiation of a review of all the anti-dumping measures applicable to imports of MSG originating in Indonesia, the Republic of Korea, Taiwan and Thailand. On 8 June 1995 the Commission sent a disclosure letter to the applicant announcing its intention to withdraw its price undertakings and to replace it by a provisional anti-dumping duty based on the facts established before the acceptance of the price undertaking. The Commission considered that 'even if the export prices, taken at their face value, did correspond to the terms of the undertakings, the level of the resale prices of the merchandise in the Community nevertheless constitute a clear indication of the violation of the undertakings'. On 18 July the Commission adopted Regulation (EC) No 1754/95, the act contested in the present application.

The applicant asserts that the contested Regulation is manifestly unlawful in that it is based on invalid grounds. It explains that the Commission based its decision on Article 10 (6) of Council Regulation (EEC) No 2423/88, that is, on the finding that the applicant was in breach of its undertaking. The applicant maintains that this finding is manifestly unlawful:

(1) to the extent that it is based on facts which do not individually concern the applicant;

(2) in that it rests on a fundamental error of law, namely the notion that a finding of a breach of a price undertaking can be based on an analysis of the resale prices of the product concerned by independent importers in the Community;

(3) in that it is based on a secret file of which no details have been disclosed to the applicant, thus depriving it of its fundamental right to be heard; and

(4) in that it is unjustified for the Commission to consider that the importer in Germany referred to in point 6 of the contested Regulation was related to the applicant during the investigation period and that, in any event, this question is unrelated to the question of whether the applicant was in breach of its undertaking.

Action brought on 3 November 1995 by Windstar Sail Cruises Limited, Wind Star Limited and Wind Spirit Limited against the Commission of the European Communities

(Case T-209/95)

(95/C 351/38)

(Language of the case: English)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 3 November 1995 by Windstar Sail Cruises Limited, Wind Star Limited and Wind Spirit Limited, represented by Alfred Merckx, of the Brussels Bar (Sinclair Roche & Temperley), Broadwalk House, 5 Appold Street, London.

The applicants claim that the Court should:

— annul pursuant to Articles 173 and 174 of the EC Treaty the Commission decision of 21 June 1995 in so far as it considers the aid granted by the French government for the building of the 'Tahiti Nui' as development aid under Article 4 (7) of the shipbuilding Directive and compatible with the common market,

— order the Commission to pay the costs.

Pleas in law and main arguments adduced in support:

The applicants who operate cruises between various EC ports in the Mediterranean and between ports of call in the Caribbean and French Polynesia are challenging the Commission's decision not to raise objections to State aid granted to their French competitor 'Services et Transports' for the building, by the French shipbuilding yard Ateliers et Chantiers du Havre, of a ship to be named 'Tahiti Nui' which would go into operation in French Polynesia from 1996. The Commission has considered this aid to be development aid as within the meaning of Article 4 (7) of the shipbuilding Directive and therefore to be compatible with Community law.

In support of their application the applicants state as follows:

— the decision infringes Article 93 of the EC Treaty, in so far as the Commission can only take a decision to raise no objections without initiating the procedure under Article 93 (2) when it is *prima facie* manifestly apparent that the aid is compatible with Community law. However, in the present case whilst the defendant institution had initially expressed serious doubts about opening the Article 93 (2) procedure, it had *de facto* taken this aid out of the scope of this procedure and examined it under the simplified verification procedure