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Judgment in Case E-1/22 *G. Modiano Limited and Standard Wool (UK) Limited v EFTA Surveillance Authority*

ACTION FOR ANNULMENT OF ESA'S DECISION CONCERNING NORWEGIAN WOOL INDUSTRY SUBSIDIES DISMISSED

In a judgment delivered today, the Court dismissed an application brought by G. Modiano Limited and Standard Wool (UK) Limited (“the applicants”) for the annulment of the EFTA Surveillance Authority’s (“ESA”) decision of 9 November 2021 concerning alleged State aid in the Norwegian wool industry subsidy scheme in its entirety.

In the contested decision, ESA had concluded that the scheme constitutes existing aid that was put into effect before the entry into force of the EEA Agreement.

In their application, the applicants sought annulment based on four pleas. First, that ESA erred in law and erred in its assessment when concluding that the subsidy system constitutes existing aid. Second, that ESA failed to take into account all relevant information submitted by the applicants in their complaint and their letter to ESA of 25 October 2021 and breached its duty to state reasons. Third, that ESA failed to investigate and assess to what extent the companies operating the wool collecting stations received unlawful aid. Fourth, that ESA failed to investigate and assess the adverse competitive effects of the scheme.

The Court dismissed the application in its entirety on substance.

As regards the first plea, the Court found that it had not been demonstrated that the regulatory changes entailed a substantial alteration to the scheme since it was instituted in 1993. On the second plea, the Court noted that the applicants, for a substantive discussion of most of the arguments under that plea, had referred to other documents than the application, primarily to their complaint. The Court therefore found that the application did not comply with the necessary legal requirements. Further, the Court held that the submission that ESA should have collected concrete information concerning how the aid scheme is actually administered in order to assess whether the aid scheme had been altered, did not indicate any incorrect factual basis in ESA’s assessment. The Court also noted that it had already addressed, and dismissed, the matter of whether the aid scheme has been altered under the first plea.

On the third plea, the Court observed that it had dealt with the merits of the contested decision in the context of the first plea. Finally, the fourth plea was based on the assertion that the operators of the wool collecting stations derive a competitive advantage from the aid scheme that distorts competition. The Court found that the applicants, had not demonstrated in their application to the requisite legal standard sufficient factual indications for the alleged distortion of the competition that would justify objective doubts or serious difficulties concerning the compatibility of the aid scheme with the functioning of the EEA Agreement and thereby discharge their burden of proof.

The full text of the judgment may be found on the Court’s website: www.eftacourt.int.

This press release is an unofficial document and is not binding upon the Court.