

Case T-262/10 Microban International and Microban (Europe) v Commission [2011] ECR II-7697

Facts: A non-EU manufacturer of chemical additives sought to annul a Commission decision which removed a chemical from a list of permitted additives in foodstuffs. This decision was addressed to the Member States, and was an implementing act following from the Directive laying down the rule. The Commission contended that this was a regulatory act which did not individually concern the applicant.

Held: Following *Inuit Tapiriit Kanatami (Inuit I)*, the Commission's decision was a regulatory act within Art. 263(4) TFEU, as it was a general act and of a non-legislative nature. The decision had been adopted in the exercise of the Commission's implementing powers, and so was non-legislative. However, the applicant had standing: the decision directly concerned the applicant because there was no implementation discretion left to Member States. The decision to remove the additive from the permitted list did not entail implementing measures either, as it effectively imposed a direct prohibition on the use of triclosan. Any transitional measures for implementation were purely optional and would be merely to facilitate the implementation of the contested.