



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 4 March 2013**

**7074/13**

**JUR 113  
COMER 53**

**INFORMATION NOTE**

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from: Council Legal Service  
to: Permanent Representatives' Committee (part 2)  
Subject: **Case C-601/12 P before the Court of Justice - Appeal brought by Ningbo Yonghong Fasteners Co. Ltd against the judgment of the General Court of 10 October 2012**

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1. By application lodged with the Court of Justice on 20 December 2012 and notified to the Council on 8 January 2013, the appellant has lodged an appeal against the judgment of the General Court in Case T-150/09 of 10 October 2012 by which the General Court dismissed the application for annulment of Council Regulation (EC) No 91/2009 of 26 January 2009 imposing a definitive anti-dumping duty on imports of certain iron or steel fasteners originating in the People's Republic of China.
2. In its appeal, the Appellant submits that the General Court's findings are vitiated by several errors of law as well as a distortion of the evidence.

3. The Appellant invokes three grounds of appeal:
  - a) First, by introducing an "only plausible hypothesis" criterion as a result of which the three-month time-limit in the second paragraph of Article 2 (7) (c) of Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community (hereafter the "basic regulation") allegedly does not apply, the Contested Judgment renders the three-month time limit meaningless. As a result, the Contested Judgment interpreted the second paragraph of Article 2 (7) (c) of the basic Regulation No 2026/97 in a legally impermissible way;
  - b) Second, in examining the legal consequences of a failure to comply with a procedural time-limit, the Contested Judgment applied the incorrect test, thereby imposing an unreasonable burden of proof on the Appellant;
  - c) Finally, in arriving at its findings, the General Court distorted the evidence and the facts before it.
  
4. The Director General of the Legal Service of the Council has appointed Ms. Sonja BOELAERT and Mr. Jan-Peter HIX, legal advisors in the Legal Service of the Council, as the Council's agents in this case. They will be assisted by Mr. Georg BERRISCH, Ms. Nicola CHESAITES and Ms. Agnieszka POLCYN (Covington & Burling in Brussels).