



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 4 March 2013

7079/13

**JUR 115
COMER 54**

INFORMATION NOTE

from: Council Legal Service
to: Permanent Representatives' Committee (part 2)
Subject: **Case C-602/12 P before the Court of Justice - Appel brought by Gem-Year Industrial Co. Ltd and Jinn-Well Auto-Parts (Zhejiang) Co. Ltd against the judgment of the General Court of 10 October 2012**

1. By application lodged with the Court of Justice on 20 December 2012 and notified to the Council on 8 January 2013, the appellants have lodged an appeal against the Order of the General Court in Case T-172/09 of 10 October 2012 in 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. This appeal is based on the following two grounds:
 - a) Firstly, in view of the facts before the General Court, it is clear that there is no evidence that the Union industry manufacturing fasteners was suffering injury caused by dumped imports from China, meaning that the General Court has breached Article 3 (2), (5) and (6) of the basic anti-dumping Regulation No 2026/97;

- b) Secondly, the General Court erred in law when it considered that a claim for market economy treatment under Article 2 (7) (c) of the basic Regulation No 2026/97 could be rejected on the basis of finding that an upstream industry was subsidised.
3. 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).
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