



**COUNCIL OF
THE EUROPEAN UNION**

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INFORMATION NOTE

from : Council Legal Service
to : COREPER (2nd part)
Subject : **Case before the Court of Justice of the European Union**
- Case C-21/13 (Simon, Evers & Co)

1. By the decision of 19 September 2012, Finanzgericht Hamburg (Germany) (Finance Court, Hamburg), lodged on 15 January 2013, requested the Court of Justice to give a preliminary ruling pursuant to Article 267 TFEU, pertaining to the validity of Council Regulation (EC) No 499/2009 of 11 June 2009¹ extending the definitive anti-dumping duty imposed by Council Regulation (EC) No 1174/2005 on imports of hand pallet trucks and their essential parts originating in the People's Republic of China to imports of the same product consigned from Thailand, whether declared as originating in Thailand or not, in a case involving the company Simon, Evers & Co as applicants.

¹ Council Regulation (EC) No 499/2009 of 11 June 2009¹ extending the definitive anti-dumping duty imposed by Council Regulation (EC) No 1174/2005 on imports of hand pallet trucks and their essential parts originating in the People's Republic of China to imports of the same product consigned from Thailand, whether declared as originating in Thailand or not (OJ 2009 L 151, 16.6.2009, p. 1-5).

2. The question referred to the Court of Justice is as follows:

Is Council Regulation (EC) No 499/2009 of 11 June 2009 extending the definitive anti-dumping duty imposed by Council Regulation (EC) No 1174/2005 on imports of hand pallet trucks and their essential parts originating in the People's Republic of China to imports of the same product consigned from Thailand, whether declared as originating in Thailand or not, invalid because the Commission, by misjudging the requirements arising from Article 13 of Council Regulation (EC) No 384/96 of 22 December 1995¹ on protection against dumped imports from countries not members of the European Community concerning the finding of a circumvention of anti-dumping duty measures, presumed that there was a circumvention merely because the volume of exports in question from Thailand increased significantly after the imposition of the measures, although the Commission, with reference to the lack of cooperation from Thai exporters, made no further specific findings?

3. The Council is, according to Article 23 of the Statute of the Court of Justice, entitled to submit observations within two months of receipt of the notification, in a case governed by Article 267 of the TFEU if the act, the validity or interpretation of which is in dispute, originates from the Council.
4. The Director-General of the Council Legal Service has appointed Mrs Sonja BOELAERT, member of the Council Legal Service, as the Council's agent in this case. She is assisted by Mr Georg BERRISCH and Ms. Agnieszka POLCYN (Covington & Burling in Brussels).

¹ OJ 1996 L 56, p. 1.