



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 14 June 2013

11029/13

**JUR 305
COMER 147**

INFORMATION NOTE

from: Council Legal Service
to: Permanent Representatives' Committee (part 2)
Subject: **Case C-216/13 P before the Court of Justice - Appeal brought by Acron
OAO against the judgment of the General Court of 7 February 2013**

1. By application lodged with the Court of Justice on 23 April 2013 and notified to the Council on 26 April 2013, the Appellant has lodged an appeal against the judgment of the General Court in Case T-118/10 of 7 February 2013 by which the General Court dismissed the application for annulment of Council Regulation (EC) No 236/2008 of 10 March 2008 imposing a definitive anti-dumping duty on imports of ammonium nitrate originating in Russia .
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) Firstly, the General Court misinterpreted the first sentence of Article 2(5) of the Basic Anti-Dumping Regulation, first subparagraph, and thereby the corresponding provision of Article 2.2.1.1, first subparagraph of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 in Annex 1A to the Agreement Establishing the World Trade Organisation ("ADA");
 - b) Secondly, the General Court upheld an erroneous legal interpretation and upheld a breach of Article 2(3) of the Basic Anti-Dumping Regulation and thereby of the corresponding provision of Article 2.2 ADA;
 - c) Finally, the General Court failed to make a correct legal assessment of the relationship between Article 2(5), second sentence, on the one hand, and Article 2(7)(b) of the Basic Anti-Dumping Regulation, on the other hand, and as a result upheld an erroneous legal interpretation of Recitals 3 and 4 of the preamble to Regulation (EC) 1972/2002 and therefore of the second sentence of Article 2(5), first subparagraph, and did not ensure the consistency of the latter interpretation/provision with the ADA
4. The Director General of the Legal Service of the Council has appointed Ms. Sonja BOELAERT, legal advisor in the Legal Service of the Council, as the Council's agent in this case. She will be assisted by Mr. Georg BERRISCH and Mr. Brian BYRNE (Covington & Burling in Brussels).
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