



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 23 September 2013

13924/13

**JUR 488
COMER 214**

INFORMATION NOTE

from : Council Legal Service

to : COREPER (2nd part)

Subject : **Case before the General Court of the European Union**

- Case T-394/13 (Photo USA Electronic Graphic Inc. v. Council)

1. By an application notified to the Council on 13 August 2013, the above-mentioned company has brought an action for the annulment, pursuant to Article 263 of the Treaty on the Functioning of the European Union, of the Council Implementing Regulation, No 412/2013 of 13 May 2013 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of ceramic tableware and kitchenware originating in the People's Republic of China in so far as it affects the Applicant;
2. The Applicant submits four pleas in law in support of its application for the annulment of Regulation 412/2013 insofar as it imposes an antidumping duty on the Applicant.

- By its first plea, the Applicant submits that the EU institutions made a manifest error of assessment by including plain polyester coated ceramic mugs in the scope of the product under investigation.

- By its second plea, the Applicant submits that, by grouping coated ceramic mugs with other types of stoneware tableware and kitchenware, the institutions failed to make a fair comparison in violation of Article 2(10) of Council Regulation (EC) No. 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community (OJ L 343/51) (the "basic Regulation")

- By its third plea, the Applicant submits that the institutions infringed Article 3(7) of the basic Regulation by failing to properly analyze the effects on the situation of the Union industry of the anti-competitive practices investigated by the Bundeskartellamt. In this respect, the Applicant submits that the institutions made a manifest error of assessment by concluding that anti-competitive practices did not have an effect on micro- and macro-economic indicators.

- By its fourth plea, the Applicant submits that the institutions infringed Article 3(2) of the basic Regulation by failing to make an objective examination of the situation of the Union industry. In this respect, the Applicant submits that the institutions made a manifest error of assessment by concluding that anti-competitive practices did not have an effect on micro- and macro-economic indicators.

3. In accordance with Article 46(1) of the Rules of Procedure of the General Court, the Council has to lodge its statement of defence within two months of receipt of the notification of the application. The Director-General of the Council Legal Service has appointed Ms. Sonja Boelaert, member of the Legal Service, as the Council's agent in this case. She will be assisted by Mr. Bernard O'Connor and Mr. Sébastien Gubel (NCTM O'Connor in Brussels).
