



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 3 October 2013

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INFORMATION NOTE

from : Council Legal Service
to : COREPER (1st part)
Subject : **Case before the General Court of the European Union
- Case C-387/13 VAEX Varkens- en Veehandel (Verwijzende rechterlijke
instantie: College van Beroep voor het Bedrijfsleven-Nederland)**

1. By document lodged at the Court of Justice on 8 July 2013, and served on the Council on 26 August 2013, College van Beroep voor het Bedrijfsleven-Nederland requested the Court of Justice to give a preliminary ruling pursuant to Article 98 (1) of the Rules of Procedure on the question whether European Union law precludes payment of the refund applied for and release of the security lodged in the case where, at the time of the export declaration in respect of which the refund had been applied for, the appellant did not yet have the licence for which it had applied, but did have that licence one day later and at the time of actual exportation from the European Union, all other conditions governing payment of the refund applied for having been satisfied.
2. The questions referred to the Court of Justice for preliminary ruling are as follows:
 1. *Does the European legislative framework applicable here preclude, in a case such as the present:*
 - (a) *payment of the refund applied for;*
 - (b) *release of the security lodged in connection with the licence application?*

2. *If one or both questions is/are answered in the affirmative, does that same framework then preclude ex post facto regularisation, in such a way that the exported quantity can still be entered on the licence and, on that basis, the refund still paid and/or, as the case may be, the security lodged still released?*

3. *If question 2 is also answered in the affirmative: is that same framework then invalid in so far as it contains no provision for payment of a refund and/or, as the case may be, release of the security lodged to be granted in a case such as the present, in which use was made of a licence one day too early?*

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 Ms Eva KARLSSON and Mr Bart DRIESSEN as the Council's agents in this case.
