



**COUNCIL OF
THE EUROPEAN UNION**

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INFORMATION NOTE

from : Council Legal Service

to : COREPER (2nd part)

Subject : **Case before the General Court of the European Union**
– Case T-169/12 (Chelyabinsk Electrometallurgical Integrated Plant Joint-Stock Company OAO "CHEMK" and Kuznetskie Ferrosplavy OAO "KF" against Council of the European Union)

1. By an application notified to the Council on 30 April 2012, the above-mentioned companies have brought an action for annulment, pursuant to Article 263 TFEU, of Council Implementing Regulation (EU) No 60/2012 of 16 January 2012 terminating the partial interim review pursuant to Article 11(3) of Regulation (EC) 1225/2009 of the anti-dumping measures applicable to imports of ferro-silicon originating, inter alia, in Russia¹ (the "contested Regulation"), insofar as it affects the applicants.

¹ OJ L 25.1.2012, p. 1.

2. The applicants invoke the following grounds in support of their claim for annulment:
- the institutions breached Article 11(9) in connection with Article 2(12) of the Basic Anti-dumping Regulation² by failing to establish the amount of the dumping margin of the applicants; in addition, or in the alternative, the institutions erred in law and exceeded their margin of appreciation in their prospective assessment under Article 11(3) of the Basic Anti-dumping Regulation; furthermore, the institutions infringed the applicants' rights of defence through the failure to disclose the final calculation of dumping to the applicants;
 - the institutions made a manifest error of assessment in concluding that an adjustment for SG&A costs and for the profit of a related trader had to be made to the applicants' export price and in finding that the applicants and the related trader did not constitute a single economic entity;
 - the institutions breached Article 11(3), third subparagraph, of the Basic Anti-dumping Regulation and/or made manifest errors of assessment in concluding that there was no lasting change of circumstances with respect to the reduced dumping margin of the applicants.
3. In accordance with Article 46(1) of the Rules of Procedure of the 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 Mr. Jan-Peter Hix, member of the Legal Service, as the Council's agent in this case. He will be assisted by Mr. Georg Berrisch and Ms Agnieszka Polcyn (Covington & Burling in Brussels).

² Council Regulation (EC) No 1225/2009 of 30 November 2009, OJ L 343 of 22.12.2009, p. 51