



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 23 July 2012

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INFORMATION NOTE

from: Council Legal Service

to: Coreper 2

Subject: **Case before the General Court**

- **Case T-296/12 (The Health Food Manufacturer's Association a.o. v. European Commission)**
 - **Application for annulment** of the Commission Regulation (EU) No 432/2012 of 16 May 2012 establishing a list of permitted health claims made on foods, other than those referring to the reduction of disease risk and to children's development and health and of the Commission Decision of the same date adopting on-hold list of health claims
= **Council intervention** before the General Court in support of the Commission
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1. On 2 July 2012, Health Food Manufacturer's Association and others brought an action under Article 263(4) TFEU against the Commission for annulment of Commission Regulation (EU) No 432/2012 of 16 May 2012 establishing a list of permitted health claims made on foods, other than those referring to the reduction of disease risk and to children's development and health ("Contested Regulation") and of the Commission Decision of the same date adopting on-hold list of health claims ("Contested Decision").

2. The contested Regulation is based on Article 13(3) of Regulation (EC) No 1924/2006 of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on foods ("Claims' Regulation").
3. The applicants submit that the Contested Regulation (and/or the Contested Decision) must be annulled, among others, for the reason of the invalidity of the Claims' Regulation in aspects that are material to the Contested Regulation. In particular, the applicants argue that the Claims' Regulation is void because of breach of the right to be heard and breach of legal certainty.
4. Since the applicants call into question the legality of the Claims' Regulation, the Council has to intervene in this case, in order to defend the legality of this act for which the Council is a co-legislator. In accordance with the Council's practice, the Council agents will limit their arguments to the defence of the legality of this act and will not intervene on other points.
5. The Director-General of the Council Legal Service has appointed Ms. Inese ŠULCE and Mr. Matthew MOORE, legal advisers in the Council Legal Service, as the Council's agents in this case.
6. The agents will present, on behalf of the Council, an application to intervene pursuant to Article 40 of the Statute of the Court of Justice and to Article 115(1) of the Rules of Procedure of the General Court.
