



**COUNCIL OF  
THE EUROPEAN UNION**

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**INFORMATION NOTE**

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from : the Legal Service  
to : the Permanent Representatives Committee (Part 2)  
Subject : Case before the Court of Justice of the European Union  
- *C-659/13 C & J Clark International v. The Commissioners For Her Majesty's Revenue & Customs*, Reference for a preliminary ruling from the First Tier Tribunal (Tax Chamber) (United Kingdom)

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1. By decision of 22 November 2013, notified to the Council on 31 January 2014, the First Tier Tribunal (Tax Chamber) (United Kingdom), requested the Court of Justice to give a preliminary ruling pursuant to Article 267 of the TFEU on the validity and the interpretation of Council Regulation (EC) No 1472/2006 of 6 October 2006 (OJ L 275, 6.10.2006, p. 1) concerning the imposition of antidumping duties on imports of certain leather footwear originating in the People's Republic of China and Vietnam.
2. The applicant, C & J Clark International submits that the First Tier Tribunal (Tax Chamber) of the United Kingdom should cancel the anti-dumping duty which the Commissioners for Her Majesty's Customs and Revenue have imposed in respect of C & J Clark International's import of leather footwear from China and Vietnam on the ground that the Council Regulation (EC) No 1472/2006 which imposed the anti-dumping duty in question is invalid.

3. The First-tier Tribunal (Tax Chamber) (United Kingdom) has put the following questions to the Court of Justice:

*"Is Council Regulation (EC) No 1472/2006 invalid in so far as it violates Articles 2(7)(b) and 9(5) of the basic anti-dumping Regulation [Council Regulation (EC) No 384/96] given that the Commission did not examine the market economy treatment and individual treatment claims submitted by exporting producers in China and Vietnam that were not sampled in accordance with Article 17 of the basic anti-dumping Regulation?"*

*- Is Council Regulation (EC) No 1472/2006 invalid in so far as it violates Article 2(7)(c) of the basic anti-dumping Regulation [Council Regulation (EC) No 384/96] given that the Commission did not make a determination within three months of the initiation of the investigation of the market economy treatment claims submitted by exporting producers in China and Vietnam that were not sampled pursuant to Article 17 of the basic antidumping Regulation?"*

*- Is Council Regulation (EC) No 1472/2006 invalid in so far as it violates Article 2(7)(c) of the basic anti-dumping Regulation [Council Regulation (EC) No 384/96] given that the Commission did not make a determination within three months of the initiation of the investigation of the market economy treatment claims submitted by exporting producers in China and Vietnam that were sampled pursuant to Article 17 of the basic anti-dumping Regulation?"*

*- Is Council Regulation (EC) No 1472/2006 invalid in so far as it violates Articles 3, 4(1), 5(4), and 17 of the basic anti-dumping Regulation [Council Regulation (EC) No 384/96] given that insufficient Community industry producers cooperated so as to allow the Commission to make a valid injury assessment and, as a result, a valid. causation assessment?"*

*- Is Council Regulation (EC) No 1472/2006 invalid in so far as it violates Article 3(2) of the basic anti-dumping Regulation [Council Regulation (EC) No 384/96] and Article 253 of the EC treaty given that evidence in the investigation file showed that the Community industry injury was assessed using materially flawed data, and given that the Regulation does not provide any explanation why this evidence was ignored?*

*- Is Council Regulation (EC) No 1472/2006 invalid in so far as it violates Article 3(7) of the basic anti-dumping Regulation [Council Regulation (EC) No 384/96] given that the effects of other factors known to be causing injury were not properly separated and distinguished from the effects of the allegedly dumped imports?*

*- To what extent may Member State courts rely on the interpretation of Council Regulation (EC) No 1472/2006 made by the Court of Justice in the framework of cases C-249/10P Brosmann and C-247/10P Zhejiang Aokang to consider that duties were not legally owed within the meaning of Article 236 of the Community Customs Code [Council Regulation 2913/92] for companies that, just as the Appellants in the Brosmann and Zhejiang Aokang cases, were not sampled but did submit market economy treatment and individual treatment requests that were not examined?"*

4. 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.
5. The Director-General of the Legal service of the Council has appointed Mrs Sonja BOELAERT, member of the Council Legal Service, as the Council's agent in this case. She is assisted by Mr Bernard O'CONNOR and Mr Sébastien GUBEL (NTCM O'CONNOR - Brussels).