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INFORMATION NOTE

From: Legal Service
To: Permanent Representatives Committee (Part 2)
Subject: Case before the Court of Justice of the European Union
- C-371/14 (APEX) Reference for a preliminary ruling from the
Finanzgericht Hamburg (Germany)

1. By decision of 17 June 2014, notified to the Council on 3 September 2014, the Finanzgericht Hamburg (Germany), 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 Implementing Regulation (EU) No 260/2013 of 18 March 2013 extending the definitive anti-dumping duty imposed by Regulation (EC) No 1458/2007 on imports of gas-fuelled, non refillable pocket flint lighters originating in the People's Republic of China to imports of gas-fuelled, non-refillable pocket flint lighters consigned from the Socialist Republic of Vietnam, whether declared as originating in the Socialist Republic of Vietnam or not (OJ 2013 L 82, pp. 10-17) in the case involving the company APEX GmbH Internationale Spedition.

2. The applicant in the national proceedings, APEX GmbH Internationale Spedition, submits that the Finanzgericht Hamburg (Germany), should cancel the anti-dumping duty which the German authorities have re-imposed in respect of the applicant's imports of gas-fuelled, non refillable pocket flint lighters originating in the People's Republic of China to imports of gas-fuelled, non-refillable pocket flint lighters consigned from the Socialist Republic of Vietnam, whether declared as originating in the Socialist Republic of Vietnam or not, on the ground that Council Implementing Regulation (EU) No 260/2013, which established the anti-dumping duty in question, is invalid.

3. The Finanzgericht Hamburg (Germany) has put the following questions to the Court of Justice:

"1. Is Council Implementing Regulation (EU) No 260/2013 of 18 March 2013 extending the definitive anti-dumping duty imposed by Regulation (EC) No 1458/2007 on imports of gas-fuelled, non refillable pocket flint lighters originating in the People's Republic of China to imports of gas-fuelled, non-refillable pocket flint lighters consigned from the Socialist Republic of Vietnam, whether declared as originating in the Socialist Republic of Vietnam or not (OJ 2013 L 82, pp. 10-17; 'Regulation No 260/2013') invalid because the antidumping duty introduced by Regulation (EC) No 1458/2007, and which was to be extended, was no longer in force at the time when Regulation No 260/2013 was adopted?"

If the answer to Question 1 is in the negative:

2. Is Regulation No 260/2013 invalid because there is no evidence of circumvention, within the meaning of Article 13(1) of Regulation No [1225/2009], of the measure imposed by Regulation (EC) No 1458/2007 (OJ 2007 L 326, p. 1)?"

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 these cases. She is assisted by Mr Damien GERADIN and Ms Nicoleta TUOMINEN (Covington & Burling - Brussels).
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