



Council of the
European Union

Brussels, 19 February 2015
(OR. en)

6383/15

JUR 125
COMER 31

INFORMATION NOTE

From: Legal Service
To: Permanent Representatives Committee (Part 2)
Subject: Case before the Court of Justice of the European Union
- Case C-31/15 P - Appeal brought by Photo USA Electronic Graphic, Inc.
against the judgment of the General Court of 18 November 2014 in Case
T-394/13

1. By application lodged with the Court of Justice on 27 January 2015 and notified to the Council on 3 February 2015, the Appellant has lodged an appeal against the judgment of the General Court in Case T-394/13 of 18 November 2014 by which the General Court dismissed the application for annulment of Council Implementing Regulation (EU) No 412/2013 of 13 May 2013 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of ceramic tableware and kitchenware originating in the People's Republic of China (OJ L 131, 15.5.2013 at p.1).

2. By its appeal, the Appellant requests that the contested judgment be set aside on the following six main grounds:

In respect of the first plea made before the General Court:

- (1) the General Court erroneously placed the burden of proof of the errors of assessment made by the institutions on the Appellant;
- (2) the General Court distorted the evidence and the facts;

In respect of the third and fourth pleas made before the General Court:

- (3) the General Court misinterpreted the provisions of Article 3(2) and 3(7) of Council Regulation (EC) No. 1225/2009 of 30 November 2009 on protection of dumped imports from countries not members of the European Community OJ L 343/51 ("basis Regulation");
- (4) the General Court distorted the evidence on record and erred in law by concluding that it could carry out judicial review without the knowledge of the identities of the sampled Union procedures.
- (5) the General Court misinterpreted Articles 3(2) and 3(7) of the Basic Regulation and imposed an unreasonable burden of proof on the Appellant by imposing on the Appellant an obligation to adduce positive evidence of the impact of anti-competitive practices on the sampled Union procedures in a situation where the identities of the sampled producers are kept secret;
- (6) the General Court misinterpreted Articles 3(2) and 3(7) of the Basic Regulation by concluding that the relevant obligations can be discharged simply by relying on unelaborated assumptions instead of the performance of an actual analysis.

3. The Director General of the Legal Service of the Council has appointed Ms. Sonja BOELAERT and Mr. Bart DRIESSEN, legal advisors in the Legal Service of the Council, as the Council's agents in this case. They will be assisted by Mr. Bernard O'CONNOR and Mr. Sébastien GUBEL (NCTM O'Connor Brussels).
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