Reports of Cases

JUDGMENT OF THE COURT (Fourth Chamber)

16 March 2023 *

(Appeal – Dumping – Imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from China – Implementing Regulation (EU) 2016/2146 withdrawing the acceptance of the undertaking for two exporting producers under Implementing Decision 2013/707/EU – Admissibility of the action at first instance – Fourth paragraph of Article 263 TFEU – Criterion of direct concern – Article 277 TFEU – Plea of illegality – Admissibility – Interest in bringing proceedings against the acts which served as the legal basis for the contested measure – Regulation (EU) 2016/1036 – Article 8(9) – Regulation (EU) 2016/1037 – Article 13(9) – Consequences of the withdrawal by the European Commission of acceptance of an undertaking – Implementing Regulation (EU) No 1238/2013 – Article 3 – Implementing Regulation (EU) No 1239/2013 – Article 2 – Loss of entitlement to exemption from duties – Implementing Regulation (EU) 2016/2146 – Article 2 – Invalidation of the undertaking invoices – Chargeability of duties on all the transactions concerned – Lack of retroactivity)

In Joined Cases C-439/20 P and C-441/20 P,

TWO APPEALS under Article 56 of the Statute of the Court of Justice of the European Union, brought on 18 and 21 September 2020, respectively,

European Commission, represented by G. Luengo and T. Maxian Rusche, acting as Agents,

appellant in Case C-439/20 P,

the other parties to the proceedings being:

Jiangsu Seraphim Solar System Co. Ltd, established in Changzhou (China), represented initially by P. Heeren, advocaat, Y. Melin and B. Vigneron, avocats, and subsequently by P. Heeren, advocaat, and Y. Melin, avocat,

applicant at first instance,

Council of the European Union, represented by H. Marcos Fraile, acting as Agent, and by N. Tuominen, avocată,

intervener at first instance,

and

* Language of the case: English.

Council of the European Union, represented by H. Marcos Fraile, acting as Agent, and by N. Tuominen, avocată,

appellant in Case C-441/20 P,

the other parties to the proceedings being:

Jiangsu Seraphim Solar System Co. Ltd, established in Changzhou, represented initially by P. Heeren, advocaat, Y. Melin and B. Vigneron, avocats, and subsequently by P. Heeren, advocaat, and Y. Melin, avocat,

applicant at first instance,

European Commission, represented by G. Luengo and T. Maxian Rusche, acting as Agents,

defendant at first instance,

THE COURT (Fourth Chamber),

composed of C. Lycourgos, President of the Chamber, L.S. Rossi, J.-C. Bonichot, S. Rodin (Rapporteur) and O. Spineanu-Matei, Judges,

Advocate General: G. Pitruzzella,

Registrar: M. Longar, Administrator,

having regard to the written procedure and further to the hearing on 6 April 2022,

after hearing the Opinion of the Advocate General at the sitting on 14 July 2022,

gives the following

Judgment

1 By their respective appeals, the European Commission and the Council of the European Union (together, 'the institutions') seek to have set aside the judgment of the General Court of the European Union of 8 July 2020, *Jiangsu Seraphim Solar System* v *Commission* (T-110/17, 'the judgment under appeal', EU:T:2020:315), by which the General Court annulled Article 2 of Commission Implementing Regulation (EU) 2016/2146 of 7 December 2016 withdrawing the acceptance of the undertaking for two exporting producers under Implementing Decision 2013/707/EU confirming the acceptance of an undertaking offered in connection with the anti-dumping and anti-subsidy proceedings concerning imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China for the period of application of definitive measures (OJ 2016 L 333, p. 4; 'the regulation at issue'), in so far as it concerns Jiangsu Seraphim Solar System Co. Ltd ('Jiangsu Seraphim').

Legal context

The basic anti-dumping regulation

2 On the date on which the anti-dumping duties at issue were imposed, the provisions governing the adoption of the anti-dumping measures by the European Union were laid down in Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community (OJ 2009 L 343, p. 51, and corrigenda OJ 2010 L 7, p. 22, and OJ 2016 L 44, p. 20).

3 In accordance with Article 23 thereof, that regulation repealed Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community (OJ 1996 L 56, p. 1), which had been amended, inter alia, by Council Regulation (EC) No 461/2004 of 8 March 2004 (OJ 2004 L 77, p. 12).

4 Recitals 18 and 19 of Regulation No 461/2004 stated:

‘(18) Article 8(9) of [Regulation No 384/96] stipulates, inter alia, that in case of withdrawal of undertakings by any party, a definitive duty is to be imposed in accordance with Article 9 on the basis of the facts established within the context of the investigation which led to the undertakings. This provision has led to a time consuming double-proceeding consisting of both a Commission Decision withdrawing the acceptance of the undertaking and a Council Regulation re-imposing the duty. Taking into account that this provision does not leave any discretion to the Council as to the introduction of a duty to be imposed following the breach or withdrawal of an undertaking or as to its level, it is considered appropriate to modify the provisions in Articles 8(1), (5) and (9) in order to clarify the Commission’s responsibility and to allow withdrawal of an undertaking and application of the duty by one single legal act. It is also necessary to ensure that the withdrawal procedure is terminated within a time limit of normally six months and in no case more than nine months in order to ensure a proper enforcement of the measure in force.

(19) Recital 18 applies, *mutatis mutandis*, to undertakings under Article 13 of [Council Regulation (EC) No 2026/97 of 6 October 1997 on protection against subsidised imports from countries not members of the European Community (OJ 1997 L 288, p. 1), as amended by Council Regulation (EC) No 1973/2002 of 5 November 2002 (OJ 2002 L 305, p. 4)].’

5 On the date of adoption of the regulation at issue, the adoption of anti-dumping measures by the European Union was governed by Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union (OJ 2016 L 176, p. 21; ‘the basic anti-dumping regulation’). In accordance with the first paragraph of Article 24 thereof, the basic anti-dumping regulation repealed Regulation No 1225/2009. Pursuant to Article 25 thereof, the basic anti-dumping regulation entered into force on 20 July 2016.

6 Article 8 of the basic anti-dumping regulation, entitled ‘Undertakings’, provided:

‘1. On the condition that a provisional affirmative determination of dumping and injury has been made, the Commission may, in accordance with the advisory procedure referred to in Article 15(2), accept satisfactory voluntary undertaking offers submitted by any exporter to revise

its prices or to cease exports at dumped prices, if it is satisfied that the injurious effect of the dumping is thereby eliminated.

In such a case and as long as such undertakings are in force, provisional duties imposed by the Commission in accordance with Article 7(1), or definitive duties imposed in accordance with Article 9(4), as the case may be, shall not apply to the relevant imports of the product concerned manufactured by the companies referred to in the Commission decision accepting undertakings, as subsequently amended.

Price increases under such undertakings shall not be higher than necessary to eliminate the margin of dumping and they should be less than the margin of dumping if such increases would be adequate to remove the injury to the Union industry.

…

9. In the case of breach or withdrawal of undertakings by any party to the undertaking, or in the case of withdrawal of acceptance of the undertaking by the Commission, the acceptance of the undertaking shall be withdrawn by Commission Decision or Commission Regulation, as appropriate, and the provisional duty which has been imposed by the Commission in accordance with Article 7 or the definitive duty which has been imposed in accordance with Article 9(4) shall automatically apply, provided that the exporter concerned has, except where that exporter has withdrawn the undertaking, been given an opportunity to comment. The Commission shall provide information to the Member States when it decides to withdraw an undertaking.

Any interested party or Member State may submit information showing prima facie evidence of a breach of an undertaking. The subsequent assessment of whether or not a breach of an undertaking has occurred shall normally be concluded within six months, but in no case later than nine months following a duly substantiated request.

The Commission may request the assistance of the competent authorities of the Member States in the monitoring of undertakings.

10. A provisional duty may be imposed in accordance with Article 7 on the basis of the best information available where there is reason to believe that an undertaking is being breached, or in the case of breach or withdrawal of an undertaking, where the investigation which led to the undertaking has not been concluded.'

7 Article 10 of that regulation, entitled 'Retroactivity', provided in paragraph 5:

'In cases of breach or withdrawal of undertakings, definitive duties may be levied on goods entered for free circulation no more than 90 days before the application of provisional measures, provided that the imports have been registered in accordance with Article 14(5), and that any such retroactive assessment shall not apply to imports entered before the breach or withdrawal of the undertaking.'

8 Article 14 of that regulation, entitled 'General provisions', provided, in paragraph 1:

'Provisional or definitive anti-dumping duties shall be imposed by regulation, and collected by Member States in the form, at the rate specified and according to the other criteria laid down in the regulation imposing such duties. Such duties shall also be collected independently of the customs duties, taxes and other charges normally imposed on imports.

…’

The basic anti-subsidy regulation

9 On the date on which the countervailing duties at issue were imposed, the provisions governing the adoption of anti-subsidy measures by the European Union were laid down in Council Regulation (EC) No 597/2009 of 11 June 2009 on protection against subsidised imports from countries not members of the European Community (OJ 2009 L 188, p. 93).

10 In accordance with Article 34 thereof, that regulation repealed Regulation No 2026/97, which had been amended, inter alia, by Regulation No 461/2004.

11 On the date of adoption of the regulation at issue, the adoption of anti-subsidy measures by the European Union was governed by Regulation (EU) 2016/1037 of the European Parliament and of the Council of 8 June 2016 on protection against subsidised imports from countries not members of the European Union (OJ 2016 L 176, p. 55; ‘the basic anti-subsidy regulation’). In accordance with Article 35 thereof, the basic anti-subsidy regulation repealed Regulation No 597/2009. Pursuant to Article 36 thereof, the basic anti-subsidy regulation entered into force on 20 July 2016.

12 The basic anti-subsidy regulation lays down provisions on undertakings and retroactivity drafted in terms substantially identical to the corresponding provisions of the basic anti-dumping regulation.

13 Thus, in particular, the second subparagraph of Article 13(1), Article 13(9), Article 13(10), Article 16(5) and Article 24(1) of the basic anti-subsidy regulation correspond, in essence, to the second subparagraph of Article 8(1), Article 8(9), Article 8(10), Article 10(5) and Article 14(1) of the basic anti-dumping regulation, respectively.

14 Furthermore, in so far as the relevant provisions of the basic anti-dumping and anti-subsidy regulations (together, ‘the basic regulations’) are, in essence, identical to those of Regulation No 1225/2009 and Regulation No 597/2009 respectively, reference will be made, for the purposes of examining the appeals, to the basic regulations, as was done by the General Court in the judgment under appeal, unless Regulations No 1225/2009 and No 597/2009 diverge from those regulations or the context so requires.

Implementing Regulation (EU) No 1238/2013

15 Article 3(2) of Council Implementing Regulation (EU) No 1238/2013 of 2 December 2013 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People’s Republic of China (OJ 2013 L 325, p. 1), provides.

‘A customs debt shall be incurred at the time of acceptance of the declaration for release into free circulation:

(a) whenever it is established, in respect of imports described in paragraph 1, that one or more of the conditions listed in that paragraph are not fulfilled; or

(b) when the Commission withdraws its acceptance of the undertaking pursuant to Article 8(9) of Regulation [No 1225/2009] in a Regulation or Decision which refers to particular transactions and declares the relevant undertaking invoices as invalid.'

Implementing Regulation (EU) No 1239/2013

16 Article 2(2) of Council Implementing Regulation (EU) No 1239/2013 of 2 December 2013 imposing a definitive countervailing duty on imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China (OJ 2013 L 325, p. 66) provides:

A customs debt shall be incurred at the time of acceptance of the declaration for release into free circulation:

(a) whenever it is established, in respect of imports described in paragraph 1, that one or more of the conditions listed in that paragraph are not fulfilled; or

(b) when the Commission withdraws its acceptance of the undertaking pursuant to Article 13(9) of Regulation [No 597/2009] in a Regulation or Decision which refers to particular transactions and declares the relevant undertaking invoices as invalid.'

Background to the dispute

17 The background to the dispute is set out in paragraphs 1 to 12 of the judgment under appeal in the following terms:

'1 [Jiangsu Seraphim] manufactures crystalline silicon photovoltaic modules in China and exports them to the European Union.

2 On 4 June 2013, the … Commission adopted Regulation (EU) No 513/2013 imposing a provisional anti-dumping duty on imports of crystalline silicon photovoltaic modules and key components (i.e. cells and wafers) originating in or consigned from the People's Republic of China and amending Regulation (EU) No 182/2013, making these imports originating in or consigned from the People's Republic of China subject to registration (OJ 2013 L 152, p. 5).

3 By Decision 2013/423/EU of 2 August 2013 accepting an undertaking offered in connection with the anti-dumping proceeding concerning imports of crystalline silicon photovoltaic modules and key components (i.e. cells and wafers) originating in or consigned from the People's Republic of China (OJ 2013 L 209, p. 26), the Commission accepted a price undertaking ("the undertaking") offered by the China Chamber of Commerce for Import and Export of Machinery and Electronic Products ("CCCME") on behalf of [Jiangsu Seraphim] and a number of other exporting producers.

4 On 2 December 2013, the Council … adopted Implementing Regulation [No 1238/2013].

5 On 2 December 2013, the Council also adopted Implementing Regulation [No 1239/2013].

6 Article 3(2) of Implementing Regulation No 1238/2013 and Article 2(2) of Implementing Regulation No 1239/2013 provide, in the same terms, that the Commission may identify transactions for which "a customs debt shall be incurred at the time of acceptance of the declaration for release into free circulation" in cases where the acceptance of the price undertaking is withdrawn.

7 By Implementing Decision 2013/707/EU of 4 December 2013 confirming the acceptance of an undertaking offered in connection with the anti-dumping and anti-subsidy proceedings concerning imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China for the period of application of definitive measures (OJ 2013 L 325, p. 214), the Commission confirmed the acceptance of the undertaking, as amended at the request of the CCCME, on behalf of the Chinese exporting producers. On 10 September 2014, the Commission adopted Implementing Decision 2014/657/EU accepting a proposal made by a group of exporting producers together with the [CCCME] for clarifications concerning the implementation of the undertaking referred to in Implementing Decision 2013/707/EU (OJ 2014 L 270, p. 6).

8 The total *ad valorem* duty applicable to imports of photovoltaic cells and modules originating in China for non-sampled cooperating companies listed in Annex I to Implementing Regulation No 1238/2013 and in Annex 1 to Implementing Regulation No 1239/2013 is 47.7%. It corresponds to an anti-dumping duty of 41.3% (Article 1(2) of Implementing Regulation No 1238/2013), plus a countervailing duty of 6.4% (Article 1(2) of Implementing Regulation No 1239/2013). Imports covered by the undertaking and Implementing Decision 2013/707 are exempt from those duties under Article 3(1) of Implementing Regulation No 1238/2013 and Article 2(1) of Implementing Regulation No 1239/2013.

9 By letter of 11 October 2016, the Commission informed [Jiangsu Seraphim] that it was proposing to withdraw its acceptance of the undertaking and disclosed the essential facts and considerations forming the basis of that proposal. A general disclosure document and a disclosure document specific to [Jiangsu Seraphim] were annexed to that letter.

10 In the disclosure document specific to [Jiangsu Seraphim], the Commission indicated that it was proposing to withdraw its acceptance of the undertaking and informed [Jiangsu Seraphim], under heading 4 "Invalidation of undertaking invoices", that it would, first, invalidate the undertaking invoices which accompanied the sales made to the importer and, second, instruct the customs authorities to recover the customs debt that would have been incurred had [Jiangsu Seraphim] failed to present valid undertaking invoices when the declaration for release of the goods for free circulation was accepted.

11 By letter of 28 October 2016, [Jiangsu Seraphim] submitted comments on the general disclosure document and on the Commission's disclosure document specific to [Jiangsu Seraphim]. [Jiangsu Seraphim] stated, in essence, that the Commission did not have the power to invalidate the invoices or to instruct the customs authorities to collect duties as if no undertaking invoice had been presented. According to [Jiangsu Seraphim], that in fact amounted to giving retroactive effect to the withdrawal of the undertaking.

…'

The regulation at issue

18 The Commission confirmed its position in the regulation at issue which it adopted on the basis of Article 8 of the basic anti-dumping regulation and Article 13 of the basic anti-subsidy regulation. In Article 1 of the regulation at issue, the Commission withdrew its acceptance of the price undertaking which it had agreed to, inter alia, for Jiangsu Seraphim ('the undertaking concerned').

19 Article 2 of the regulation at issue provides:

'1. The undertaking invoices listed in Annex I to this Regulation are declared invalid.

2. The anti-dumping and countervailing duties due at the time of acceptance of the customs declaration for release into free circulation under Article 3(2)(b) of Implementing Regulation [No 1238/2013] and Article 2(2)(b) of Implementing Regulation [No 1239/2013] shall be collected.'

The procedure before the General Court and the judgment under appeal

20 By application lodged at the Registry of the General Court on 18 February 2017, Jiangsu Seraphim brought an action for annulment of Article 2 of the regulation at issue. In the context of that action, it raised a single plea in law, alleging that, by the regulation at issue, the Commission had infringed Article 8(1), (9) and (10) and Article 10(5) of the basic anti-dumping regulation, Article 13(1), (9) and (10) and Article 16(5) of the basic anti-subsidy regulation, the applicant at first instance claiming that that institution had invalidated undertaking invoices and subsequently instructed the national customs authorities to collect duties as if no undertaking invoice had been issued and communicated to those customs authorities at the time the goods had been released for free circulation.

21 In the context of that action, Jiangsu Seraphim moreover raised a plea of illegality in respect of Article 3(2) of Implementing Regulation No 1238/2013 and Article 2(2) of Implementing Regulation No 1239/2013, based on an alleged infringement of Article 8 and Article 10(5) of Regulation No 1225/2009 and Article 13 and Article 16(5) of Regulation No 597/2009, as those latter provisions were applicable on the date on which Implementing Regulations No 1238/2013 and No 1239/2013 were adopted.

22 In that regard, first of all, the General Court stated, in paragraph 27 of the judgment under appeal, that the subject matter of the action concerned the legality of the invalidation of Jiangsu Seraphim's undertaking invoices and the consequences to be drawn from that, in particular as regards the recovery of the anti-dumping and countervailing duties due, and not whether the Commission had been entitled to withdraw its acceptance of the undertaking concerned.

23 Ruling, next, in the first place, in paragraphs 28 to 49 of the judgment under appeal, on the plea of inadmissibility raised by the Commission, supported by the Council, alleging that the action before it was inadmissible, the General Court held that Jiangsu Seraphim was directly and individually concerned by Article 2 of the regulation at issue, within the meaning of the fourth paragraph of Article 263 TFEU, and that it moreover had an interest in bringing proceedings in that regard.

24 The General Court therefore held that the action was admissible.

25 In the second place, the General Court ruled, in paragraphs 50 to 64 of the judgment under appeal, on the admissibility of the plea of illegality raised by Jiangsu Seraphim in respect of Article 3(2) of Implementing Regulation No 1238/2013 and Article 2(2) of Implementing Regulation No 1239/2013.

26 In that regard, taking the view, in particular, that Jiangsu Seraphim could not be considered to be entitled, for the purpose of the case-law arising from the judgment of 9 March 1994, *TWD Textilwerke Deggendorf* (C-188/92, EU:C:1994:90), to challenge those provisions on the basis of Article 263 TFEU directly following their adoption, the General Court held that there was nothing to prevent the applicant from raising a plea of illegality against those provisions in the action brought before it.

27 In the third place, the General Court examined, in paragraphs 65 to 152 of the judgment under appeal, the merits of the single plea in law raised in that action.

28 To that effect, the General Court stated, first of all, in paragraph 130 of the judgment under appeal, that the issue which arose in the present case, namely that of the temporal imposition of the anti-dumping and countervailing duties which would have been due in the absence of an undertaking which in the meantime had been breached or withdrawn, had to be examined in the light of the express provisions of Article 8(10) and Article 10(5) of the basic anti-dumping regulation and of Article 13(10) and Article 16(5) of the basic anti-subsidy regulation.

29 The General Court then rejected, in paragraphs 137 and 138 of the judgment under appeal, the interpretation proposed by the institutions that their power, in so far as they were entrusted with the implementation of the basic regulations to require, when exercising that implementing power, that the companies concerned pay all duties due in respect of the transactions covered by undertaking invoices, which by that point had been invalidated, was to be inferred from those provisions.

30 Taking the view, lastly, in paragraphs 139 to 151 of the judgment under appeal, that none of the other arguments put forward by the institutions was capable of altering that conclusion, the General Court found, in paragraph 152 of that judgment, that the basic regulations cannot constitute a sufficient legal basis for the adoption of the provisions claimed to be unlawful.

31 In the fourth place, in order to examine whether, despite that absence of a sufficient legal basis in the basic regulations, Article 3(2) of Implementing Regulation No 1238/2013 and Article 2(2) of Implementing Regulation No 1239/2013 could provide a legal basis for the regulation at issue, the General Court ruled, in paragraphs 154 to 157 of the judgment under appeal, on the plea of illegality which Jiangsu Seraphim had raised in respect of those provisions.

32 For reasons similar to those set out in the examination of the substance of the single plea in law raised in the action before it, concerning the general scheme of the basic regulations, the General Court upheld that plea of illegality and therefore concluded, in paragraph 158 of the judgment under appeal, that those provisions were inapplicable in the present case.

33 Accordingly, in paragraph 160 of that judgment, the General Court upheld the single plea in law raised in the action before it and therefore annulled Article 2 of the regulation at issue.

The procedure before the Court of Justice and the forms of order sought by the parties to the appeals

34 By its appeal in Case C-439/20 P, the Commission, supported by the Council, claims that the Court should:

– set aside the judgment under appeal;

– dismiss the action at first instance as inadmissible;

– in the alternative, dismiss the action at first instance as unfounded, and

– order Jiangsu Seraphim to pay the costs.

35 By its appeal in Case C-441/20 P, the Council, supported by the Commission, claims that the Court should:

– set aside the judgment under appeal;

– dismiss the action at first instance, and

– order Jiangsu Seraphim to pay the costs, or

– in the alternative, refer the case back to the General Court, and

– reserve the decision on the costs at first instance and those relating to the appeal proceedings.

36 Jiangsu Seraphim contends that the Court should:

– dismiss the appeals and

– order the institutions to pay the costs.

37 By decision of the President of the Court of Justice of 7 January 2021, Cases C-439/20 P and C-441/20 P were joined for the purposes of the oral part of the procedure and the judgment.

The appeals

38 In support of its appeal in Case C-439/20 P, the Commission, supported by the Council, raises four grounds of appeal, which overlap, to a large extent, with the two grounds which the Council, supported by the Commission, raises in support of its appeal in Case C-441/20 P. It is therefore appropriate to examine those grounds of appeal together to that extent.

39 The first grounds of appeal raised in these cases allege errors of law in that the General Court declared admissible, first, the action brought before it and, second, the plea of illegality raised by Jiangsu Seraphim. The second and third grounds of appeal raised in Case C-439/20 P and the first part of the second ground of appeal raised in Case C-441/20 P allege errors of law in that the General Court held that the basic regulations did not constitute a sufficient legal basis for the adoption of Article 2 of the regulation at issue. The fourth ground of appeal raised in Case

C-439/20 P and the second part of the second ground of appeal raised in Case C-441/20 P allege misinterpretation of Article 14(1) of Regulation No 1225/2009 and Article 24(1) of Regulation No 597/2009 in so far as the General Court held that those provisions did not authorise the Council to set up a monitoring system for undertakings that included the invalidation of the invoices concerned.

The first grounds of appeal

Arguments of the parties

40 By the first grounds of appeal raised in Cases C-439/20 P and C-441/20 P, which are divided into two parts, the institutions complain that the General Court erred in law in holding that, first, the action before it and, second, the plea of illegality raised by Jiangsu Seraphim in that action were admissible.

41 By the first part of those first grounds of appeal, which comprises two grounds of challenge, the institutions complain that the General Court erred in law in finding that Jiangsu Seraphim was directly concerned, within the meaning of the fourth paragraph of Article 263 TFEU, by Article 2 of the regulation at issue, and that Jiangsu Seraphim had an interest in bringing proceedings to seek the annulment of that Article 2.

42 As regards, in the first place, the ground of challenge, concerning paragraphs 37, 38, 44 and 45 of the judgment under appeal, alleging that Jiangsu Seraphim was not directly concerned by that Article 2, the institutions state that it was not Jiangsu Seraphim, as exporting producer, but Seraphim Solar System GmbH, as related importer, that made the customs declarations in respect of the products for which the invoices issued by Jiangsu Seraphim were invalidated by that regulation and which is therefore the debtor of the anti-dumping and countervailing duties due as a result of the invalidation of those invoices. Consequently, the legal position of Jiangsu Seraphim, as exporting producer, was not modified by Article 2 of the regulation at issue. Thus, in so far as paragraphs 37, 38 and 44 of the judgment under appeal must be understood as meaning that Jiangsu Seraphim's legal position was modified or that such an exporting producer is still directly concerned by a regulation withdrawing an undertaking and invalidating the relevant invoices, that finding is incorrect and has no basis in the case-law cited in those paragraphs.

43 In the second place, by a ground of challenge raised in the alternative relating to paragraphs 47 and 48 of the judgment under appeal, the institutions complain that the General Court erred in law in holding that Jiangsu Seraphim had an interest in bringing proceedings against Article 2 of the regulation at issue.

44 First, in paragraph 47 of the judgment under appeal, the General Court confused the concepts of 'standing to bring proceedings' and 'interest in bringing proceedings'. That paragraph of the grounds of the judgment under appeal is based, moreover, on a misinterpretation of the condition that the applicant must be directly concerned, within the meaning of the fourth paragraph of Article 263 TFEU, and on an incorrect analogy with the case of a Commission regulation withdrawing the acceptance of an undertaking and imposing duties for the future.

45 In the present case, the Council imposed duties at the same time as the Commission accepted the undertaking concerned. It follows that if Jiangsu Seraphim wished to challenge the imposition of those duties, it was required to bring an action against the relevant Council regulations instead of challenging only the invalidation of the relevant undertaking invoices and the collection of duties in relation to another economic operator, even though none of those invoices modified its legal position.

46 Second, according to the institutions, in paragraph 48 of the judgment under appeal, the General Court implicitly interpreted the concept of 'interest in bringing proceedings', contrary to the case-law, as if it were sufficient to demonstrate a mere economic advantage resulting from the success of the action brought, whereas the relevant benefit should be capable of being ascertained in the legal position of the applicant. In any event, Jiangsu Seraphim has not adduced any evidence that the annulment of Article 2 of the regulation at issue would have any impact whatsoever on its commercial relationship with Seraphim Solar System. Moreover, that annulment has no legal impact on the existence of Seraphim Solar System's customs debt.

47 By the second part of those first grounds of appeal, which relates to paragraphs 57 to 64 of the judgment under appeal, the institutions complain, in essence, that the General Court erred in finding that the plea of illegality, which Jiangsu Seraphim had raised with regard to Article 3(2)(b) of Implementing Regulation No 1238/2013 and Article 2(2)(b) of Implementing Regulation No 1239/2013 (together, 'the provisions covered by the plea of illegality'), was admissible.

48 The institutions submit, in the first place, that the General Court wrongly held that Jiangsu Seraphim was not entitled to seek the annulment of those provisions and that the applicant at first instance was therefore not 'prevented', within the meaning of the case-law arising from the judgments of 9 March 1994, *TWD Textilwerke Deggendorf* (C-188/92, EU:C:1994:90), and of 15 February 2001, *Nachi Europe* (C-239/99, EU:C:2001:101), from raising that plea of illegality. It is apparent, in particular, from the judgments of 9 November 2017, *SolarWorld* v *Council* (C-205/16 P, EU:C:2017:840), and of 27 March 2019, *Canadian Solar Emea and Others* v *Council* (C-236/17 P, EU:C:2019:258), that the General Court erred in holding that Jiangsu Seraphim could not be regarded as having been directly and individually concerned by those provisions and that it had no interest in bringing proceedings in the action for annulment brought before the General Court.

49 In the second place, the institutions state that the provisions covered by that plea of illegality cannot be severed from the other provisions of Implementing Regulations No 1238/2013 and No 1239/2013. Where several articles or, as in the present case, the entire operative part of an EU act cannot be severed, all the grounds of challenge of the legality of that act must be raised when contesting that act in its entirety. Thus, the General Court erred in law, in paragraph 57 of the judgment under appeal, by ruling solely on the question whether the applicant at first instance was entitled to challenge the provisions covered by the plea of illegality which it had raised. Jiangsu Seraphim could have challenged Implementing Regulations No 1238/2013 and No 1239/2013 in the entirety, which is the relevant criterion in that context, by pleading, in that connection, the illegality of any individual provision of those regulations. Since Jiangsu Seraphim did not challenge those implementing regulations within the period for bringing proceedings, Jiangsu Seraphim was time-barred from raising a plea of illegality in that regard.

50 In the third place and in the alternative, the General Court erred in law in finding that the same plea of illegality was admissible, in so far as, since the provisions covered by that plea cannot be severed from the remainder of Implementing Regulations No 1238/2013 and No 1239/2013, Jiangsu Seraphim was not entitled to raise a plea of illegality concerning only the provisions covered by the plea of illegality, but was required to raise that plea in relation to those implementing regulations in their entirety, as a 'package'. Furthermore, contrary to the General Court's finding in paragraph 63 of the judgment under appeal, the provisions covered by the plea of illegality are not general provisions, but individual decisions in relation to Jiangsu Seraphim.

51 In the fourth place and in the further alternative, the single plea in law raised at first instance is ineffective inasmuch as it is directed against provisions which do not constitute the legal basis of the regulation at issue. That regulation was based on Article 8 of the basic anti-dumping regulation and Article 13 of the basic anti-subsidy regulation. Furthermore, according to the institutions, the General Court appears to have concluded that Jiangsu Seraphim was not time-barred from raising a plea of illegality under Article 277 TFEU as a result of a misinterpretation of the single plea in law raised by Jiangsu Seraphim, in the sense that, by that plea, the applicant at first instance claimed that the regulation at issue itself infringed the relevant provisions of the basic regulations. In so doing, the General Court clearly ruled *ultra petita*.

52 Jiangsu Seraphim submits that the first grounds of appeal raised in Cases C-439/20 P and C-441/20 P must be rejected as unfounded.

Findings of the Court

53 It should be recalled, first of all, that the admissibility of an action brought by natural or legal persons against an act which is not addressed to them, in accordance with the fourth paragraph of Article 263 TFEU, is subject to the condition that they be accorded standing to bring proceedings, which arises in two situations. First, such proceedings may be instituted if the act is of direct and individual concern to those persons. Second, such persons may bring proceedings against a regulatory act not entailing implementing measures if that act is of direct concern to them (judgment of 15 July 2021, *Deutsche Lufthansa* v *Commission*, C-453/19 P, EU:C:2021:608, paragraph 31 and the case-law cited).

54 By the first part of the first grounds of appeal raised in Cases C-439/20 P and C-441/20 P, the institutions call into question, in the first place, the analysis carried out by the General Court, in particular in paragraphs 37, 38, 44 and 45 of the judgment under appeal, in examining the first of those two situations, namely as regards the question whether the applicant at first instance was directly concerned, within the meaning of the fourth paragraph of Article 263 TFEU, by Article 2 of the regulation at issue.

55 According to settled case-law of the Court of Justice, recalled by the General Court in paragraph 36 of the judgment under appeal, the condition that a natural or legal person must be directly concerned by the decision against which the action is brought, as provided for in the fourth paragraph of Article 263 TFEU, requires two cumulative criteria to be met, namely, first, that that decision must directly affect the legal situation of that person and, second, it must leave no discretion to its addressees who are entrusted with the task of implementing it, such implementation being purely automatic and resulting from the EU rules alone without the application of other intermediate rules (see to that effect, inter alia, judgments of 6 November 2018, *Scuola Elementare Maria Montessori* v *Commission*, *Commission* v *Scuola*

Elementare Maria Montessori and *Commission* v *Ferracci*, C-622/16 P to C-624/16 P, EU:C:2018:873, paragraph 42, and of 15 July 2021, *Deutsche Lufthansa* v *Commission*, C-453/19 P, EU:C:2021:608, paragraph 83).

56 In that regard, the institutions submit, inter alia, that, in the present case, it is not, contrary to what the General Court held, in particular, in paragraphs 44 and 45 of the judgment under appeal, Jiangsu Seraphim as exporting producer which is directly concerned within the meaning of the case-law referred to above by Article 2 of the regulation at issue, but Seraphim Solar System, as related importer, since it was the latter which made the required customs declarations and was liable to pay the anti-dumping and countervailing duties due as a result of the invalidation of the invoices at issue.

57 It is apparent from settled case-law, arising from the judgment of 21 February 1984, *Allied Corporation and Others* v *Commission* (239/82 and 275/82, EU:C:1984:68, paragraph 12), that regulations imposing an anti-dumping duty, although by their nature and scope of a legislative nature, may be of direct and individual concern to those producers and exporters of the product in question who are charged with practising dumping on the basis of information originating from their business activities. Generally, that is so where producers and exporters are able to establish that they were identified in the measures adopted by the institutions, or were concerned by the preliminary investigations (see, most recently, judgment of 28 February 2019, *Council* v *Growth Energy and Renewable Fuels Association*, C-465/16 P, EU:C:2019:155, paragraph 73 and the case-law cited).

58 It is apparent from that case-law that an undertaking cannot be considered directly concerned by a regulation imposing an anti-dumping duty solely on account of its capacity as a producer of the product subject to the duty, since the capacity of exporter is essential in that regard. It is apparent from the wording of the case-law cited in the preceding paragraph that whether certain producers and exporters of the product at issue are directly concerned by a regulation imposing anti-dumping duties is connected, in particular, with the fact that they are alleged to be involved in dumping practices. A producer that does not export its production to the EU market, but simply sells it on its national market, cannot be alleged to be involved in dumping (judgment of 28 February 2019, *Council* v *Growth Energy and Renewable Fuels Association*, C-465/16 P, EU:C:2019:155, paragraph 74).

59 In accordance with those principles, it should be noted, in the first place, that Jiangsu Seraphim is both a producer and an exporter of the products covered by Implementing Regulations No 1238/2013 and No 1239/2013.

60 In the second place, Jiangsu Seraphim was identified in Annex I to Implementing Regulation No 1238/2013 and Annex 1 to Implementing Regulation No 1239/2013, which regulations imposed the definitive anti-dumping duty and the definitive countervailing duty which are the subject matter of the dispute, in the Annex to Decision No 2013/423, by which the Commission accepted the price undertaking to which this dispute relates, in the Annex to Decision No 2013/707, by which the Commission confirmed such acceptance, and in Article 1 of the regulation at issue, by which the Commission withdrew that acceptance in respect of, inter alia, Jiangsu Seraphim.

61 In the third place, it must be pointed out that the withdrawal of acceptance of the undertaking concerned, as made official by the regulation at issue, and from which it follows that Jiangsu Seraphim no longer benefits from the exemptions provided for in Article 3(1) of Implementing

Regulation No 1238/2013 and Article 2(1) of Implementing Regulation No 1239/2013, produces effects on the legal position of the exporting producers concerned which are comparable to the effects of the regulatory provisions imposing the duties in question on the legal position of the exporting producers concerned. It follows from the case-law referred to in paragraph 57 of the present judgment that such exporting producers may be regarded as directly affected by the relevant regulatory provisions.

62 In particular, Article 2 of the regulation at issue provides that the undertaking invoices issued by Jiangsu Seraphim and listed in Annex I to that regulation are declared invalid and, consequently, that the definitive anti-dumping and countervailing duties must be collected in respect of the transactions covered by those invoices, as the General Court noted in paragraph 44 of the judgment under appeal.

63 Accordingly, it must be held that those provisions directly affected Jiangsu Seraphim's legal situation, in that they necessarily affect transactions to which the applicant at first instance is party and the contractual relations which govern them. Moreover, the institutions have not called into question the General Court's finding, also made in paragraph 44 of the judgment under appeal, that those provisions left no discretion to the national customs authorities as regards the invalidation of the invoices at issue and the collection of the duties due in this respect.

64 It follows from the foregoing that the General Court did not err in law in holding, in paragraph 45 of the judgment under appeal, that Jiangsu Seraphim was directly concerned by Article 2 of the regulation at issue.

65 In addition, to the extent that the institutions complain that the General Court erred in law in finding, in paragraphs 47 and 48 of the judgment under appeal, that Jiangsu Seraphim had an interest in bringing proceedings to seek annulment of that Article 2, it should be recalled that it is settled case-law that an action for annulment brought by a natural or legal person is admissible only in so far as that person has an interest in having the contested act annulled. Such an interest requires that the annulment of that act must be capable, in itself, of having legal consequences and that the action may therefore, through its outcome, procure an advantage to the party which brought it (judgments of 17 September 2015, *Mory and Others* v *Commission*, C-33/14 P, EU:C:2015:609, paragraph 55, and of 27 March 2019, *Canadian Solar Emea and Others* v *Council*, C-236/17 P, EU:C:2019:258, paragraph 91).

66 In that regard, it should be noted, first of all, that it cannot be ruled out, even if these are separate conditions, that certain factors or evidence may show both that an applicant has standing to bring proceedings against an EU act and, in particular, that one of the criteria for that status, such as being directly concerned by that act, has been established, and that that applicant has an interest in bringing proceedings against that act.

67 Thus, in the present case, the General Court was entitled to take into account, in paragraph 47 of the judgment under appeal, in essence, the same factors in order to determine whether Jiangsu Seraphim had an interest in bringing proceedings and as regards the question, addressed in paragraphs 57 to 63 of the present judgment, whether Article 2 of the regulation at issue directly affected its legal situation, namely the invalidation of the undertaking invoices issued by the applicant at first instance and, consequently, the collection of duties in respect of the transactions covered by those invoices, without it being possible to conclude therefrom in this respect, contrary to what the institutions claim, that the General Court erred in law by confusing the concepts of 'standing to bring proceedings' and 'interest in bringing proceedings' or that the

General Court relied in that regard on a misinterpretation of the condition that an applicant must be directly concerned, within the meaning of the fourth paragraph of Article 263 TFEU, by the act against which the action has been brought.

68 It must be stated, next, that, as the Advocate General observed, in essence, in point 38 of his Opinion, the General Court was fully entitled to consider that the invalidation of the invoices issued by Jiangsu Seraphim and the order to collect the definitive duties due in respect of the transactions covered by those invoices constitute legal circumstances detrimental to the applicant at first instance, as exporting producer of the products concerned, the elimination of which therefore procures an advantage to the latter within the meaning of the case-law recalled in paragraph 65 of the present judgment.

69 It follows that, irrespective of whether or to what extent the case-law referred to by the General Court in paragraph 47 of the judgment under appeal is relevant in the present case, the General Court was fully entitled to conclude, in paragraph 49 of that judgment, that Jiangsu Seraphim had an interest in bringing proceedings for annulment of Article 2 of the regulation at issue.

70 That finding cannot, moreover, be called into question by the ground of challenge raised by the institutions that the duties at issue had already been imposed at the time of acceptance of the undertaking concerned, given that, as regards the condition of an interest in bringing proceedings, it must be determined whether such an interest, and thus, more particularly, the injurious situation which the action brought is capable of mitigating, continues and still exists, in any event, on the date on which the action was brought (see, to that effect, judgments of 6 September 2018, *Bank Mellat* v *Council*, C-430/16 P, EU:C:2018:668, paragraph 50, and of 27 March 2019, *Canadian Solar Emea and Others* v *Council*, C-236/17 P, EU:C:2019:258, paragraph 92).

71 Lastly, in so far as the institutions seek to challenge the findings of the General Court in paragraph 48 of the judgment under appeal, it is sufficient to note, as the General Court itself stated, that that paragraph merely sets out a ground included for the sake of completeness. That ground of challenge must therefore be rejected as ineffective (see, to that effect, judgment of 17 September 2020, *Troszczynski* v *Parliament*, C-12/19 P, EU:C:2020:725, paragraph 60 and the case-law cited).

72 It follows from the foregoing considerations that the first part of the first grounds of appeal raised in Cases C-439/20 P and C-441/20 P must be rejected.

73 By the second part of those first grounds of appeal, the institutions complain that the General Court erred in law in holding, in paragraphs 57 to 64 of the judgment under appeal, that the plea of illegality raised by Jiangsu Seraphim in respect of Article 3(2) of Implementing Regulation No 1238/2013 and Article 2(2) of Implementing Regulation No 1239/2013 was admissible.

74 In so far as the institutions submit, in the first place, in essence, that the General Court was wrong to hold, in the light of the case-law arising from the judgments of 9 March 1994, *TWD Textilwerke Deggendorf* (C-188/92, EU:C:1994:90), and of 15 February 2001, *Nachi Europe* (C-239/99, EU:C:2001:101), that Jiangsu Seraphim was not entitled to bring, under Article 263 TFEU, a direct action against the provisions covered by the plea of illegality following their adoption, with the result that the applicant at first instance was therefore not 'prevented', within the meaning of that case-law, from raising a plea of illegality under Article 277 TFEU in the action at first instance, it should be noted that, although the General Court also examined, in particular in

paragraphs 62 and 63 of the judgment under appeal, whether the applicant at first instance could be regarded as having been directly and, as the case may be, individually concerned by the provisions covered by the plea of illegality, it is apparent, in particular, from paragraph 64 of the judgment under appeal that the General Court found that that plea of illegality was admissible on the ground that Jiangsu Seraphim did not have an interest in bringing proceedings against those provisions directly following their adoption.

75 To that end, the General Court noted, in paragraph 58 of the judgment under appeal, that Article 3 of Implementing Regulation No 1238/2013 and Article 2 of Implementing Regulation No 1239/2013 constituted exemptions of benefit to Jiangsu Seraphim, in that the products in question, imported into the European Union, were not subject to payment of definitive anti-dumping and countervailing duties, provided that the conditions laid down in the undertakings were satisfied.

76 As regards more specifically Article 3(2)(b) of Implementing Regulation No 1238/2013 and Article 2(2)(b) of Implementing Regulation No 1239/2013, the General Court noted, in paragraphs 59 and 60 of the judgment under appeal, that those provisions were intended merely to confer on the Commission a right to withdraw acceptance of specific undertakings and to invalidate relevant undertaking invoices, with the result that the adverse effects of those provisions could arise only through special future measures, namely, inter alia, the withdrawal by the Commission of the acceptance of an undertaking entered into and, subsequently, the invalidation of the relevant undertaking invoices and the collection of the duties due in respect of the transactions covered by those invoices.

77 Accordingly, the General Court was entitled, without erring in law, to find, in essence, in paragraphs 61 and 62 of the judgment under appeal, that, on the date of adoption of the provisions covered by the plea of illegality or directly following that adoption, the question of whether those provisions would apply to Jiangsu Seraphim remained hypothetical and that the interest of the applicant at first instance in bringing proceedings could not be based on that mere possibility, given that, as is recalled in paragraph 70 of the present judgment, such an interest must be vested and present at the date on which the action was brought and may not concern a future and hypothetical situation (see, to that effect, judgment of 27 March 2019, *Canadian Solar Emea and Others* v *Council*, C-236/17 P, EU:C:2019:258, paragraph 92).

78 Moreover, according to settled case-law, Article 277 TFEU gives expression to a general principle conferring upon any party to proceedings the right to challenge, for the purpose of obtaining the annulment of an EU act on the basis of Article 263 TFEU, the validity of previous acts of the institutions which form the legal basis of the act which is being challenged, if that party was not entitled under Article 263 TFEU to bring a direct action challenging those acts by which it was thus affected without having been in a position to ask that they be declared void (see, to that effect, judgments of 6 March 1979, *Simmenthal* v *Commission*, 92/78, EU:C:1979:53, paragraph 39, and of 8 September 2020, *Commission and Council* v *Carreras Sequeros and Others*, C-119/19 P and C-126/19 P, EU:C:2020:676, paragraph 67).

79 It follows from that case-law that the admissibility of the plea of illegality of an act is necessarily subject to the condition that the applicant who relies on that plea did not have the right to bring a direct action for the annulment of that act (judgment of 17 December 2020, *BP* v *FRA*, C-601/19 P, not published, EU:C:2020:1048, paragraph 27).

80 It follows that the General Court was fully entitled to conclude, in paragraph 64 of the judgment under appeal, that, since Jiangsu Seraphim could not have had an interest in bringing proceedings against the provisions covered by the plea of illegality directly following their adoption, Jiangsu Seraphim could not be 'prevented' from raising that plea of illegality in the action at first instance.

81 Any finding of an error of law vitiating paragraph 63 of the judgment under appeal, inasmuch as the General Court might have erred in holding that the provisions covered by the plea of illegality did not have the characteristics of an individual decision but were general provisions, is not capable of undermining that conclusion. Accordingly, the first ground of challenge raised in support of the second part of the first grounds of appeal must be rejected.

82 In so far as the institutions claim, in the second place and in the alternative, in essence, that the General Court erred in law by declaring the plea of illegality raised by the applicant at first instance admissible, whereas it should have found that the provisions covered by the plea of illegality could not be severed from the remainder of Implementing Regulations No 1238/2013 and No 1239/2013 and that that plea of illegality should have been raised with regard to the entirety of those implementing regulations, it must be noted that the ground of inadmissibility based on the case-law arising from the judgments of 9 March 1994, *TWD Textilwerke Deggendorf* (C-188/92, EU:C:1994:90), and of 15 February 2001, *Nachi Europe* (C-239/99, EU:C:2001:101), which the Commission, supported by the Council, had raised at first instance was based on the expiry of the period for bringing proceedings laid down in Article 263 TFEU, and not on the fact that those provisions could not be severed from the other provisions of those implementing regulations.

83 It must be borne in mind that, under Article 170(1) of the Rules of Procedure of the Court of Justice, the subject matter of the proceedings before the General Court may not be changed in the appeal. Thus, according to settled case-law, the jurisdiction of the Court of Justice in an appeal is limited to review of the findings of law on the pleas and arguments debated before the General Court. A party cannot, therefore, put forward for the first time before the Court of Justice a ground of challenge which it has not raised before the General Court since that would allow that party to bring before the Court of Justice, whose jurisdiction in appeal proceedings is limited, a wider case than that heard by the General Court (judgment of 6 October 2021, *Sigma Alimentos Exterior* v *Commission*, C-50/19 P, EU:C:2021:792, paragraphs 37 and 38).

84 Accordingly, the institutions' ground of challenge alleging that the provisions covered by the plea of illegality cannot be severed from the other provisions of Implementing Regulations No 1238/2013 and No 1239/2013 must be rejected as inadmissible, since that ground of challenge has been raised for the first time in the appeals.

85 In the third place, the ground of challenge, also put forward in the alternative, that the plea of illegality raised at first instance by Jiangsu Seraphim is ineffective in so far as it is allegedly directed against provisions which do not constitute the legal basis of the regulation at issue is inadmissible for the same reasons.

86 In so far as the institutions claim, lastly and in the further alternative, in essence, that the General Court ruled on that plea of illegality by misinterpreting the single plea in law raised at first instance, in the sense that, by that plea, the applicant at first instance claimed that the regulation at issue directly infringed the relevant provisions of the basic regulations, whereas the application at first instance does not contain that plea, with the result that the General Court ruled *ultra petita*, it is sufficient to note that it is apparent from the wording of that application that that

single plea in law was expressly based on an infringement of Article 8(1), (9) and (10) and Article 10(5) of the basic anti-dumping regulation and of Article 13(1), (9) and (10) and Article 16(5) of the basic anti-subsidy regulation, and that that single plea in law was combined with a plea of illegality raised in respect of Article 3(2)(b) of Implementing Regulation No 1238/2013 and Article 2(2)(b) of Implementing Regulation No 1239/2013.

87 That ground of challenge must therefore be rejected as unfounded.

88 It follows from the foregoing considerations that the second part of the first grounds of appeal raised in Cases C-439/20 P and C-441/20 P must be rejected.

89 In the light of all the foregoing, those first grounds of appeal must therefore be rejected in their entirety.

The second and third grounds of appeal in Case C-439/20 P, and the first part of the second ground of appeal in Case C-441/20 P

Arguments of the parties

90 By the second and third grounds of appeal in Case C-439/20 P and by the first part of the second ground of appeal in Case C-441/20 P, the institutions complain, in essence, that the General Court erred in law, in paragraphs 115 to 152 of the judgment under appeal, in finding that the basic regulations did not constitute a sufficient legal basis for the adoption of Article 2 of the regulation at issue relating to the invalidation of Jiangsu Seraphim's undertaking invoices and the collection of the anti-dumping and countervailing duties due at the time of acceptance of the declaration for release into free circulation of the goods covered by those invoices.

91 In particular, by the second ground of appeal in Case C-439/20 P and by the first part of the second ground of appeal in Case C-441/20 P, the institutions complain that the General Court erred in law, in particular in paragraphs 119, 129 to 132, 138, 140 to 147 and 151 of the judgment under appeal, inasmuch as it classified the collection of duties on the imports concerned as 'retroactive'.

92 According to the institutions, first, the General Court failed to state reasons for the assumption that those duties were collected 'retroactively', even though that assumption underpins those paragraphs of the judgment under appeal and is 'central' to the General Court's interpretation, in paragraphs 128 to 138 of that judgment, of the relevant provisions of the basic regulations.

93 Second, in classifying the collection of the duties at issue as 'retroactive', the General Court erred in law in the interpretation, in particular, of Article 8(10) and Article 10(5) of the basic anti-dumping regulation and of Article 13(10) and Article 16(5) of the basic anti-subsidy regulation. Those provisions constitute a sufficient legal basis for the collection of duties on imports considered to be in breach of the undertaking concerned.

94 In that regard, the institutions state that the relevant question is not when a duty is collected on the individual import, but whether the import was released into free circulation after the imposition of that duty. Thus, the decisive criterion for determining whether the collection of that duty is retroactive is the date on which the measure at issue was imposed. In the present case, it is clear from Implementing Regulations No 1238/2013 and No 1239/2013 that the duties

on the imports at issue were imposed in 2013, that is to say, before the release into free circulation of those imports, which were covered by the invalidated undertaking invoices. The regulation at issue merely triggered the collection of those duties.

95 By the third ground of appeal in Case C-439/20 P, the institutions allege that the General Court, in essence, misinterpreted, in paragraphs 119, 129 to 138, 140 to 147 and 151 of the judgment under appeal, Article 8(1), (9) and (10) and Article 10(5) of the basic anti-dumping regulation and Article 13(1), (9) and (10) and Article 16(5) of the basic anti-subsidy regulation, inasmuch as it held that those provisions were not applicable in the present case. The General Court wrongly rejected the interpretation of those provisions adopted by the institutions.

96 First of all, those provisions, as amended by Regulation No 461/2004, constitute, in reality, a sufficient legal basis for the collection of duties on the imports which were found to be in breach of the undertaking concerned. The General Court completely ignored, in paragraphs 115 to 118 of the judgment under appeal, the fact that, following such a change, a definitive duty is imposed as soon as the undertaking at issue is accepted and not only once that undertaking has been withdrawn. Accordingly, those duties were not imposed retroactively.

97 In particular, paragraph 119 of the judgment under appeal is vitiated by two errors of law, inasmuch as the General Court held that the collection of duties on imports that have breached the undertaking at issue was limited to the two scenarios provided for in Article 8(10) and Article 10(5) of the basic anti-dumping regulation and in Article 13(10) and Article 16(5) of the basic anti-subsidy regulation.

98 First, those provisions concern the retroactive application of duties, that is to say, contrary to what the regulation at issue provides, the collection of duties on imports released into free circulation prior to the imposition of definitive duties. Second, the General Court misconstrued the legislative amendment made in 2004. The two scenarios envisaged relate solely to the situation in which a definitive duty had not been imposed by the Council at the time of acceptance of the undertaking at issue.

99 The institutions submit, next, that the recitals of the basic regulations on which the General Court relies in paragraphs 132 to 137 of the judgment under appeal are irrelevant. Contrary to what the General Court found in paragraph 144 of that judgment, it is recitals 18 and 19 of Regulation No 461/2004 which must be taken into consideration. Consequently, contrary to the view of the General Court in paragraph 138 of the judgment under appeal, the specific provisions on the imposition of provisional duties only after the breach or withdrawal of an undertaking and on the retroactive imposition of those duties do not limit the collection of duties previously imposed on imports which were found not to comply with the formal or substantive conditions of the undertaking concerned.

100 Lastly, the findings made, in particular, by the General Court in paragraphs 141, 145 and 146 of the judgment under appeal are incorrect.

101 Jiangsu Seraphim submits that the General Court was fully entitled to reject the interpretation relied on by the institutions and that the grounds of appeal raised by the institutions must therefore be rejected as unfounded.

102 In that regard, first, the regulation at issue imposes duties retroactively, going beyond what the basic regulations allow. The General Court was therefore right to conclude that those basic regulations do not constitute a sufficient legal basis for the adoption of the provisions of the regulation at issue.

103 Second, in the event of a breach of the terms of an undertaking, it follows from Article 8(9) of the basic anti-dumping regulation and Article 13(9) of the basic anti-subsidy regulation that the duties which did not apply as a consequence of the acceptance of the undertaking will automatically apply to imports made from the date on which that undertaking was withdrawn and not to earlier imports.

104 As the General Court held, in the system created by the basic regulations, duties due on account of breach of the undertakings concerned may not be imposed retroactively outside the procedural limits set by Article 8(10) and Article 10(5) of the basic anti-dumping regulation and Article 13(10) and Article 16(5) of the basic anti-subsidy regulation. EU law in no way authorises the Commission to invalidate the invoices concerned and instruct national customs authorities to collect definitive duties retroactively on earlier imports released for free circulation in the absence of registration and imposition of provisional duties. According to Jiangsu Seraphim, the amendments made in 2004 had the sole purpose, on the one hand, of allowing the withdrawal of an undertaking and the application of the duty concerned by means of a single legal act, putting an end to the 'burdensome double procedure previously in force' involving the intervention of both the Commission and the Council, and, on the other hand, of setting mandatory deadlines for the completion of investigations into alleged breaches of the undertakings concerned.

Findings of the Court

105 The second and third grounds of appeal in Case C-439/20 P and the first part of the second ground of appeal in Case C-441/20 P are directed against the grounds of the judgment under appeal, set out in paragraphs 115 to 152 thereof, by which the General Court upheld on the substance the single plea in law raised by Jiangsu Seraphim in support of its action at first instance, seeking to demonstrate that, by Article 2 of the regulation at issue, the Commission infringed, on the one hand, Articles 8 and 10 of the basic anti-dumping regulation and, on the other hand, Articles 13 and 16 of the basic anti-subsidy regulation, by invalidating the undertaking invoices and ordering the collection of the duties due at the time of acceptance of the declaration for release into free circulation in respect of the imports covered by those invoices.

106 By the grounds of challenge raised by the institutions in support of those grounds of appeal and that part of those grounds of appeal, which it is appropriate to examine together, they complain, in essence, that the General Court misinterpreted the basic regulations, in particular those provisions, read in context, the General Court having held, inter alia, by wrongly characterising the measures referred to in Article 2 of the regulation at issue as 'retroactive', that those regulations did not authorise the institutions to adopt those measures as a result of the withdrawal of acceptance of the undertaking concerned.

107 In that regard, it should be noted that, in order to reach the conclusion in paragraph 152 of the judgment under appeal that the basic regulations cannot constitute a sufficient legal basis for the adoption of Article 2 of the regulation at issue, the General Court first of all held, in paragraphs 115 to 119 of the judgment under appeal, that, since the present case in its view concerned the imposition of anti-dumping and countervailing duties which would have been due in the absence of an undertaking which had in the meantime been breached, this case was

governed neither by Article 8(10) of the basic anti-dumping regulation and Article 13(10) of the basic anti-subsidy regulation nor by Article 10(5) of the basic anti-dumping regulation and Article 16(5) of the basic anti-subsidy regulation, with the result that this case did not fall within any of the situations expressly provided for by the basic regulations, and that it was necessary to examine whether there was any other legal basis for the adoption of Article 2 of the regulation at issue.

108 The General Court then ruled out, in paragraphs 130 to 138 of the judgment under appeal, that that could be the case, given that it was apparent from the general scheme and objectives of the basic regulations, and in particular from the recitals thereof, first, that the EU legislature intended to regulate explicitly, in the basic regulations, the manner in which, following a withdrawal of acceptance of an undertaking, the institutions had the power to impose retroactively the duties due and, second, that the abovementioned provisions of those regulations set out an exhaustive list of the situations in which such retroactive imposition was permitted.

109 The General Court concluded, in particular, in paragraphs 137 and 138 of the judgment under appeal, that that power cannot be based either on the wording of Article 8(9) of the basic anti-dumping regulation and Article 13(9) of the basic anti-subsidy regulation, under which duties are to apply automatically following the withdrawal of acceptance of undertakings, or on the wording of Article 14(1) of the basic anti-dumping regulation and Article 24(1) of the basic anti-subsidy regulation, in so far as the 'other criteria' for the collection of duties are set out in those provisions.

110 Lastly, the General Court held, in paragraphs 139 to 151 of the judgment under appeal, that none of the other grounds of challenge raised by the institutions, such as that relating to an effective monitoring and sanctioning of the undertakings concerned, was capable of altering that assessment.

111 For the purposes of examining whether the General Court's interpretation of the basic regulations is vitiated by an error of law, it should be recalled, as a preliminary point, that, by the regulation at issue, the Commission, first, in Article 1 thereof, withdrew the acceptance of the undertaking concerned, in accordance with Article 8(1) of the basic anti-dumping regulation and Article 13(1) of the basic anti-subsidy regulation, and, second, in Article 2 of the regulation at issue, gave due effect to that withdrawal by declaring invalid the undertaking invoices concerned and ordering the collection of the anti-dumping and countervailing duties due at the time of acceptance of the declaration for release into free circulation in respect of the transactions covered by those invoices.

112 Since Article 2 of the regulation at issue therefore concerns the consequences or effects of a withdrawal of acceptance of an undertaking, and since that issue is specifically referred to in Article 8(9) of the basic anti-dumping regulation and Article 13(9) of the basic anti-subsidy regulation, it is necessary to examine the legality of Article 2, in the first place, in relation to those provisions, which the regulation at issue moreover presents as the legal basis for its adoption.

113 As the General Court correctly noted in paragraph 131 of the judgment under appeal, in interpreting a provision of EU law, it is necessary to consider not only its wording, but also the context in which it occurs and the objectives pursued by the rules of which it is part (judgment of 2 December 2021, *Commission and GMB Glasmanufaktur Brandenburg* v *Xinyi PV Products (Anhui) Holdings*, C-884/19 P and C-888/19 P, EU:C:2021:973, paragraph 70 and the case-law cited).

114 In that context, it should be noted, first of all, that it is apparent from the wording of Article 8(9) of the basic anti-dumping regulation and Article 13(9) of the basic anti-subsidy regulation that, in the event, inter alia, of the withdrawal of acceptance of an undertaking by the Commission, the definitive anti-dumping duty or definitive countervailing duty imposed in accordance with Article 9(4) of the basic anti-dumping regulation and Article 15(1) of the basic anti-subsidy regulation respectively, such as the duties imposed in the present case by Article 1 of Implementing Regulations No 1238/2013 and No 1239/2013, 'shall automatically apply'.

115 In order to determine whether those provisions are capable of enabling the adoption of measures such as those provided for in Article 2 of the regulation at issue, namely the invalidation of undertaking invoices and the collection of duties in respect of the transactions covered by those invoices, including those which preceded the entry into force of that regulation, they must be read in conjunction with, first, the provisions of Article 9(4) of the basic anti-dumping regulation and Article 15(1) of the basic anti-subsidy regulation, from which it is apparent that definitive duties are 'imposed' by the Commission, and, second, those of the second subparagraph of Article 8(1) of the basic anti-dumping regulation and the second subparagraph of Article 13(1) of the basic anti-subsidy regulation, which provide that, 'as long as' an undertaking is in force, definitive duties 'shall not apply' to the imports concerned.

116 As the Advocate General observed in point 88 of his Opinion, it is apparent from a combined reading of those provisions that the 'automatic application' of the provisional or definitive duty as provided for in Article 8(9) of the basic anti-dumping regulation and Article 13(9) of the basic anti-subsidy regulation, in the event, inter alia, of the withdrawal of acceptance of an undertaking by the Commission, must be interpreted not as the imposition of a new duty, but as the application of the duty initially imposed, it being understood that the application of that duty was suspended 'as long as' the undertaking was in force.

117 Thus, more specifically, the suspension of the application of the definitive duties provided for in the second subparagraph of Article 8(1) of the basic anti-dumping regulation and in the second subparagraph of Article 13(1) of the basic anti-subsidy regulation, at the time of acceptance of an undertaking, and the automatic application of those duties, which is provided for in the first subparagraph of Article 8(9) of the basic anti-dumping regulation and in the first subparagraph of Article 13(9) of the basic anti-subsidy regulation, as a result of the withdrawal of that undertaking, do not refer to the actual imposition of those duties but to their effects such as, inter alia, their collection.

118 It follows from the foregoing that, contrary to what the General Court held, inter alia, in paragraph 138 of the judgment under appeal, the power of the EU institutions entrusted with the implementation of the basic regulations to require payment, following the withdrawal of acceptance of an undertaking, of the duties due in respect of the transactions covered by the invalidated undertaking invoices, as provided for in Article 2 of the regulation at issue, may legitimately be based on Article 8(9) of the basic anti-dumping regulation and Article 13(9) of the basic anti-subsidy regulation.

119 The same conclusion must moreover be drawn to the extent that Article 2 of the regulation at issue provides for the invalidation of those undertaking invoices.

120 In that regard, it should be noted that, under Article 14(1) of the basic anti-dumping regulation and Article 24(1) of the basic anti-subsidy regulation, anti-dumping or countervailing duties are to be imposed by regulation and collected by Member States in the form, at the rate specified and

according to the other criteria laid down in the regulation imposing such duties. As the Court has held, it follows from that wording that the legislature of the European Union did not intend to set out an exhaustive list of criteria relating to the collection of anti-dumping duties that may be set (see, to that effect, judgment of 15 March 2018, *Deichmann*, C-256/16, EU:C:2018:187, paragraphs 57 and 58).

121 The issuing of undertaking invoices, as required in the present case by Article 3(1) of Implementing Regulation No 1238/2013 and Article 2(1) of Implementing Regulation No 1239/2013, relates to the collection of the definitive anti-dumping duties or countervailing duties imposed by those implementing regulations in so far as the production of those invoices is a condition of the exemption provided for in those articles. Furthermore, those invoices also serve to ensure that the transactions concerned are identified where the collection of those duties is ordered as a result of the withdrawal of acceptance of the undertaking at issue.

122 Consequently, the issuing of undertaking invoices does indeed, as the institutions maintain, fall within the requirements which they may lay down, in a regulation imposing anti-dumping or countervailing duties, pursuant to Article 14(1) of the basic anti-dumping regulation and Article 24(1) of the basic anti-subsidy regulation.

123 As regards, more specifically, the power to invalidate undertaking invoices, that consequently lies with the institutions under those provisions.

124 Thus, where, by an act adopted on the basis of Article 8(9) of the basic anti-dumping regulation and Article 13(9) of the basic anti-subsidy regulation, the Commission gives due effect to the withdrawal of acceptance of an undertaking, there is nothing, contrary to what the General Court suggested in paragraphs 137 and 138 of the judgment under appeal, to prevent the Commission, by that act, from invalidating the undertaking invoices concerned by that undertaking, as a formal precondition for the collection of duties on the transactions covered by those invoices.

125 In addition, it should also be noted that the reasoning set out in paragraphs 130 to 138 of the judgment under appeal is vitiated by errors of law in that it is based on the incorrect premiss that Article 2 of the regulation at issue applies retroactively, inasmuch as it provides, following the withdrawal of acceptance of the undertaking entered into by Jiangsu Seraphim, for the undertaking invoices listed in Annex I to that regulation to be declared invalid and for the payment of anti-dumping and countervailing duties on the transactions covered by those invoices.

126 It should be borne in mind that, unlike procedural rules which are generally taken to apply from the date on which they enter into force, the substantive rules of EU law must be interpreted, in order to ensure observance of the principles of legal certainty and the protection of legitimate expectations, as applying to situations existing before their entry into force only in so far as it clearly follows from their terms, their objectives or their general scheme that such effect must be given to them (judgment of 22 June 2022, *Volvo and DAF Trucks*, C-267/20, EU:C:2022:494, paragraph 31 and the case-law cited).

127 It is also apparent from the Court's case-law that, in principle, a new rule of law applies from the entry into force of the act introducing it. While it does not apply to legal situations that have arisen and become definitive under the old law, it does apply to the future effects of a situation which arose under the old rule and to new legal situations too. It is otherwise – subject to the principle

of the non-retroactivity of legal acts – only if the new rule is accompanied by special provisions which specifically lay down its conditions of temporal application (judgment of 22 June 2022, *Volvo and DAF Trucks*, C-267/20, EU:C:2022:494, paragraph 32 and the case-law cited).

128 As regards the regulation at issue, it should be noted, as is apparent from paragraphs 113 to 118 of the present judgment and as the institutions correctly stated, that that regulation did not impose any new duties in respect of the transactions referred to in Article 2 of that regulation, but applied the duties imposed by Implementing Regulations No 1238/2013 and No 1239/2013, it being understood that the application of those duties was suspended only for as long as the undertaking entered into by Jiangsu Seraphim was in force, pursuant to Article 3(1) of Implementing Regulation No 1238/2013 and Article 2(1) of Implementing Regulation No 1239/2013, in accordance with the second subparagraph of Article 8(1) of the basic anti-dumping regulation and the second subparagraph of Article 13(1) of the basic anti-subsidy regulation.

129 Article 2 of the regulation at issue therefore entails an application to the future effects of situations arising prior to its entry into force, rather than a retroactive application to a situation existing before that date, within the meaning of the case-law referred to in paragraphs 126 and 127 of the present judgment.

130 The General Court's argument, in paragraph 138 of the judgment under appeal, that, first, Article 8(10) of the basic anti-dumping regulation and Article 13(10) of the basic anti-subsidy regulation and, second, Article 10(5) of the basic anti-dumping regulation and Article 16(5) of the basic anti-subsidy regulation preclude a power of the Commission to invalidate undertaking invoices and to require, allegedly retroactively, payment of duties on the transactions concerned is also vitiated by an error of law, on the ground that those provisions exhaustively identify the situations in which those duties may be applied retroactively.

131 It is sufficient to note that the measures adopted in Article 2 of the regulation at issue do not have retroactive effect, as stated in paragraph 129 of the present judgment.

132 Furthermore, it has been found, in paragraphs 115 to 118 of the present judgment, that such a power may legitimately be based on Article 8(9) of the basic anti-dumping regulation and Article 13(9) of the basic anti-subsidy regulation.

133 As regards, moreover, Article 3(2)(b) of Implementing Regulation No 1238/2013 and Article 2(2)(b) of Implementing Regulation No 1239/2013, those implementing regulations also cannot be regarded as being retroactive, inasmuch as they imposed anti-dumping and countervailing duties in respect of the imports made, in breach of the undertaking concerned, after their entry into force, and provided, through the invalidation of the undertaking invoices, for the collection of those duties in the future as a result and in the event of such a breach and of the withdrawal of that undertaking.

134 It follows that the judgment under appeal is also vitiated by errors of law in so far as the General Court relied, in particular in paragraphs 132 to 139 of that judgment, on the retroactivity of the regulation at issue or that of the abovementioned implementing regulations in order to conclude that it was apparent from the intention of the EU legislature and the general scheme of the basic regulations that those regulations could not constitute a legal basis for the adoption of the measures referred to in Article 2 of the regulation at issue.

135 Lastly, it must be stated that, as the Advocate General noted, in essence, in points 100 to 104 of his Opinion, the abovementioned interpretation of the basic regulations is borne out by the fact that, contrary to what the General Court held in paragraph 151 of the judgment under appeal, where it is not possible to collect, following the withdrawal of acceptance of an undertaking, anti-dumping and countervailing duties in respect of all imports made in breach of that undertaking, such a breach would not entail sufficiently significant consequences to ensure that the undertakings entered into by the exporting producers were complied with and properly performed, which would thus undermine the effectiveness of the protection systems which the basic regulations seek to establish.

136 It follows from all the foregoing considerations that the General Court erred in law in holding that the basic regulations could not constitute a sufficient legal basis for the adoption of Article 2 of the regulation at issue.

137 Consequently, the second and third grounds of appeal in Case C-439/20 P and the first part of the second ground of appeal in Case C-441/20 P must be upheld and, accordingly, without it being necessary to examine the fourth ground of appeal in Case C-439/20 P and the second part of the second ground of appeal in Case C-441/20 P, the judgment under appeal must be set aside.

The action before the General Court

138 In accordance with the first paragraph of Article 61 of the Statute of the Court of Justice of the European Union, the Court of Justice may, where it has quashed the decision of the General Court, either itself give final judgment in the matter, where the state of the proceedings so permits, or refer the case back to the General Court for judgment.

139 The Court considers that the state of the proceedings permits judgment to be given and that it is appropriate to rule on the application for annulment of the regulation at issue.

140 In that regard, it is apparent, first of all, from the response (i) to the first part of the first grounds of appeal raised in the two cases, in paragraphs 53 to 72 of the present judgment, and (ii) to the second part of those first grounds of appeal, in paragraphs 73 to 88 of the present judgment, that it is necessary to declare admissible, in essence for the reasons given by the General Court, both the action for annulment of Article 2 of the regulation at issue which Jiangsu Seraphim brought before it and the plea of illegality raised by the applicant at first instance in respect of Article 3(2)(b) of Implementing Regulation No 1238/2013 and Article 2(2)(b) of Implementing Regulation No 1239/2013.

141 As regards, next, the single plea in law raised by Jiangsu Seraphim before the General Court, seeking to demonstrate that, by Article 2 of the regulation at issue, the Commission infringed, first, Articles 8 and 10 of the basic anti-dumping regulation and, second, Articles 13 and 16 of the basic anti-subsidy regulation, by invalidating the undertaking invoices and ordering the collection of the duties due at the time of acceptance of the declaration for release into free circulation relating to the imports covered by those invoices, that plea must be rejected as unfounded for the reasons set out in paragraphs 111 to 135 of the present judgment.

142 Lastly, on the basis of those provisions of the basic regulations, Jiangsu Seraphim raised a plea of illegality in respect of Article 3(2) of Implementing Regulation No 1238/2013 and Article 2(2) of Implementing Regulation No 1239/2013.

143 Jiangsu Seraphim submits, in essence, that, acting as an implementing authority, and not as a legislator, the Council cannot delegate to the Commission the power to invalidate undertaking invoices by simply withdrawing acceptance of an undertaking, nor can it instruct the customs authorities to collect duties on goods already released for free circulation in the customs territory of the European Union.

144 In that regard, it is apparent from the grounds set out in paragraphs 111 to 136 of the present judgment that that interpretation is without any legal basis.

145 In particular, for the reasons set out in paragraphs 114 to 118 of the present judgment, it is apparent from the general scheme of the basic regulations, in particular from Article 8(1) and (9) of the basic anti-dumping regulation and from Article 13(1) and (9) of the basic anti-subsidy regulation, that the Council was entitled to authorise the Commission to provide that, following the withdrawal of its acceptance of an undertaking and the invalidation of the relevant undertaking invoices, a customs debt was incurred at the time of acceptance of the declaration for release into free circulation.

146 Furthermore, as is apparent from the reasoning set out in paragraphs 120 to 124 of the present judgment, the Council's power to adopt the provisions covered by the plea of illegality falls within the scope of the power to lay down, in the regulation imposing anti-dumping or countervailing duties, the 'other criteria' relating to the collection of those duties, as provided for in Article 14(1) of the basic anti-dumping regulation and Article 24(1) of the basic anti-subsidy regulation.

147 In the light of the foregoing, the plea of illegality raised by Jiangsu Seraphim must be rejected as unfounded.

148 Since neither the single plea in law of the action brought by Jiangsu Seraphim before the General Court nor the plea of illegality raised in that action is well founded, that action must be dismissed.

Costs

149 Under Article 184(2) of the Rules of Procedure, where the appeal is well founded and the Court itself gives final judgment in the case, the Court is to make a decision as to the costs.

150 Under Article 138(1) of the Rules of Procedure, which is applicable to appeal proceedings by virtue of Article 184(1) thereof, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party's pleadings.

151 Since Jiangsu Seraphim has been unsuccessful, it must be ordered to pay the costs incurred both at first instance and in the appeal proceedings by the institutions, in accordance with the forms of order sought by the latter.

On those grounds, the Court (Fourth Chamber) hereby:

1. **Sets aside the judgment of the General Court of the European Union of 8 July 2020, *Jiangsu Seraphim Solar System* v *Commission* (T-110/17, EU:T:2020:315);**

2. Dismisses the application for annulment lodged by Jiangsu Seraphim Solar System Co. Ltd before the General Court of the European Union;

3. Orders Jiangsu Seraphim Solar System Co. Ltd to pay the costs incurred by the European Commission and the Council of the European Union at first instance and in the appeal proceedings.

Lycourgos Rossi Bonichot

Rodin Spineanu-Matei

Delivered in open court in Luxembourg on 16 March 2023.

A. Calot Escobar
Registrar

C. Lycourgos
President of the Chamber