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Judgment in Case E-6/07 *Faxaflóahafnir*

PORT CHARGES IN CERTAIN ICELANDIC PORTS – HIGH TARIFFS FOR ALCOHOLIC BEVERAGES

In a judgment delivered today, the EFTA Court gave an advisory opinion on two questions referred to it by the Supreme Court of Iceland, relating to a case pending before that court between HOB vín ehf. and Faxaflóahafnir sf.

Faxaflóahafnir is a partnership founded by several municipalities around the bay of Faxaflói in south-western Iceland. The partnership operates four ports where the port charges for loading and unloading alcoholic beverages are higher than those for non-alcoholic beverages. HOB vín imports alcoholic beverages to Iceland from other EEA States and it has had to pay the higher charges for alcoholic beverages. Domestically, alcoholic beverages in Iceland are transported by road rather than by sea.

The first question dealt with by the Court concerned whether the levying of port charges in such a case would fall within the scope of Article 10, 11 or 14 of the EEA Agreement. These articles concern, respectively, customs duties and any charges having equivalent effect; quantitative restrictions and measures having equivalent effect; and internal taxation. The Court found that port charges levied by a partnership owned by several municipalities fall to be assessed under the provisions of Article 14 on internal taxation.

The second question concerned whether the higher port charges for alcoholic beverages give rise to discrimination contrary to Article 14. Comparing imported alcoholic beverages to domestic alcoholic beverages, the Court found no such discrimination when the reason why only imported alcoholic beverages become subject to the charge is the fact that domestic alcoholic beverages are not transported by sea and so do not need port services. The condition is, however, that the body setting the tariff for the port services must not be a body which is also setting the tariff for comparable services needed in relation to domestic alcoholic beverages. Comparing imported alcoholic beverages to domestic non-alcoholic beverages, the Court also found no such discrimination provided that the charge is not of such a kind as to have the effect of reducing potential consumption of the imported products to the advantage of competing domestic products.

The full text of the judgment may be found on the Internet at: www.eftacourt.lu.

This press release is not an official document. Please note that the Court may not comment on the case.