

Judgment of the Court (Third Chamber) of 10 December 2009 (Reference for a preliminary ruling from the Bundesgerichtshof — Germany) — Bundesfinanzdirektion West v Heko Industrieerzeugnisse GmbH

(Case C-260/08) ⁽¹⁾

(Community Customs Code — Article 24 — Non-preferential origin of goods — Definition of ‘substantial processing or working’ — Criterion for a change of tariff heading — Steel cables manufactured in North Korea using stranded steel wire originating in China)

(2010/C 24/11)

Language of the case: German

Referring court

Bundesgerichtshof

Parties to the main proceedings

Applicant: Bundesfinanzdirektion West

Defendant: Heko Industrieerzeugnisse GmbH

Re:

Reference for a preliminary ruling — Bundesfinanzhof — Interpretation of Article 24 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ 1992 L 302, p. 1) — Determining the origin of steel cables manufactured in North Korea under a process using steel wires originating in China — Criteria to be taken into consideration for the purpose of treating a given manufacturing stage as establishing the non-preferential origin of a product — Potential significance of the fact that the tariff heading remains unchanged subsequent to the processing at issue.

Operative part of the judgment

With regard to goods classified under heading 7312 of the Combined Nomenclature constituting Annex I to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff, as amended by Commission Regulation (EC) No 1719/2005 of 27 October 2005, ‘substantial processing or working’ within the meaning of Article 24 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code, may cover not only such processing or working as leads to the goods which have undergone the process being classified under a different heading of the Combined Nomenclature, but also such processing or working as results, without such a change of heading, in the creation

of a product with properties and a composition of its own which it did not have before the process.

⁽¹⁾ OJ C 247, 27.9.2008.

Judgment of the Court (Second Chamber) of 19 November 2009 (reference for a preliminary ruling from the Svea Hovrätt (Sweden)) — Kemikalieinspektionen v Nordiska Dental AB

(Case C-288/08) ⁽¹⁾

(Reference for a preliminary ruling — Directive 93/42/EEC — Medical devices — Prohibition on the exportation of dental amalgam containing mercury and bearing the ‘CE’ conformity marking — Protection of health and the environment)

(2010/C 24/12)

Language of the case: Swedish

Referring court

Svea Hovrätt

Parties to the main proceedings

Applicant: Kemikalieinspektionen

Defendant: Nordiska Dental AB

Re:

Reference for a preliminary ruling — Svea Hovrätt — Interpretation of Articles 29 EC and 30 EC and of Article 4(1) of Council Directive 93/42/EEC of 14 June 1993 concerning medical devices (OJ 1993 L 169, p. 1) — National legislation prohibiting export of dental amalgam containing mercury

Operative part of the judgment

Article 4(1) of Council Directive 93/42/EEC of 14 June 1993 concerning medical devices, as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council of 29 September 2003, must be interpreted as precluding legislation of a Member State, such as the legislation at issue in the main proceedings, under which the commercial exportation of dental amalgams containing mercury and bearing the ‘CE’ marking provided for in Article 17 of that directive is prohibited on grounds relating to protection of the environment and of health.

⁽¹⁾ OJ C 209, 15.8.2008.