Reports of Cases

JUDGMENT OF THE COURT (First Chamber)

26 March 2026*

(Reference for a preliminary ruling – Customs union – Regulation (EEC) No 2913/92 – Community Customs Code – Import and export procedures – Determining the customs value – Article 32(1)(a)(ii) and (b)(iv) – Adjustment depending on costs incurred by the buyer – Costs arising from intangible services for the design of templates for labels affixed on food cans – Concept of 'container' – Intangible services within the European Union)

In Case C-307/23,

REQUEST for a preliminary ruling under Article 267 TFEU from the Bundesfinanzhof (Federal Fiscal Court, Germany), made by decision of 17 January 2023, received at the Court on 17 May 2023, in the proceedings

G GmbH

v

Hauptzollamt H,

THE COURT (First Chamber),

composed of F. Biltgen, President of the Chamber, I. Ziemele (Rapporteur), A. Kumin, S. Gervasoni and M. Bošnjak, Judges,

Advocate General: M. Szpunar,

Registrar: A. Calot Escobar,

having regard to the written procedure,

after considering the observations submitted on behalf of:

– G GmbH, by L. Harings, Rechtsanwalt,

– Hauptzollamt H, by S. Hein,

– the French Government, by G. Bain, J.-L. Carré and B. Fodda, acting as Agents,

– the European Commission, by B. Eggers and F. Moro, acting as Agents,

* Language of the case: German.

after hearing the Opinion of the Advocate General at the sitting on 16 October 2025,

gives the following

Judgment

1 This request for a preliminary ruling concerns the interpretation of Article 32(1)(a)(ii) and (b)(iv) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ 1992 L 302, p. 1) ('the Customs Code').

2 The request has been made in proceedings between G GmbH and Hauptzollamt H concerning the post-clearance recovery of import duties on labels affixed on food cans.

Legal context

3 Article 29(1) of the Customs Code provides:

'The customs value of imported goods shall be the transaction value, that is, the price actually paid or payable for the goods when sold for export to the customs territory of the [European Economic] Community, adjusted, where necessary, in accordance with Articles 32 and 33 …

…'

4 Article 32 of the code provides:

'1. In determining the customs value under Article 29, there shall be added to the price actually paid or payable for the imported goods:

(a) the following, to the extent that they are incurred by the buyer but are not included in the price actually paid or payable for the goods:
   (i) commissions and brokerage, except buying commissions,
   (ii) the cost of containers which are treated as being one, for customs purposes, with the goods in question,
   (iii) the cost of packing, whether for labour or materials;

(b) the value, apportioned as appropriate, of the following goods and services where supplied directly or indirectly by the buyer free of charge or at reduced cost for use in connection with the production and sale for export of the imported goods, to the extent that such value has not been included in the price actually paid or payable:
   (i) materials, components, parts and similar items incorporated in the imported goods,
   (ii) tools, dies, moulds and similar items used in the production of the imported goods,
   (iii) materials consumed in the production of the imported goods,
   (iv) engineering, development, artwork, design work, and plans and sketches undertaken elsewhere than in the Community and necessary for the production of the imported goods;

…'

5 The combined nomenclature set out in 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 (OJ 1987 L 256, p. 1) contains, in Section I of its first part, paragraph A, which is entitled 'General rules for the interpretation of the combined nomenclature'. General Rule 5, concerning the classification of goods, is worded as follows:

'In addition to the foregoing provisions, the following rules shall apply in respect of the goods referred to therein:

(a) Camera cases, musical instrument cases, gun cases, drawing-instrument cases, necklace cases and similar containers, specially shaped or fitted to contain a specific article or set of articles, suitable for long-term use and presented with the articles for which they are intended, shall be classified with such articles when of a kind normally sold therewith. The rule does not, however, apply to containers which give the whole its essential character.

(b) Subject to the provisions of rule 5 (a) above, packing materials and packing containers … presented with the goods therein shall be classified with the goods if they are of a kind normally used for packing such goods. However, this provision is not binding when such packing materials or packing containers are clearly suitable for repetitive use.'

6 Footnote 1, under General Rule 5, states that the terms 'packing materials' and 'packing containers' mean any external or internal containers, holders, wrappings or supports other than transport devices (for example, transport containers), tarpaulins, tackle or ancillary transport equipment. The term 'packing containers' does not cover the containers referred to in General Rule 5(a).

The dispute in the main proceedings and the question referred for a preliminary ruling

7 From 12 December 2012 to 30 May 2013, G, the owner of a customs warehouse located in Germany, performed 10 customs clearance operations for preserved foodstuffs in cans sold by third-country suppliers, with a view to their release for free circulation under the local clearance procedure for the benefit of a buyer. The buyer made printing templates for labels to be affixed to cans available free of charge and in electronic form to suppliers. Those labels were printed and affixed to cans by the suppliers. The printing templates for the labels were produced by various design studios in Germany on behalf of and at the expense of the buyer.

8 The declared customs values specified the amount to be paid by the buyer to the suppliers in accordance with the contractual provisions binding them, including, in addition to the costs of foodstuffs, the cost of packing for retail sale as canned goods, and the cost linked to printing and affixing the labels, excluding the costs relating to the design of the templates, to be borne by the buyer.

9 By a notice, issued on 20 February 2014, Hauptzollamt H subsequently recovered the customs duties in the amount of EUR 1 412.61, corresponding to the inclusion in the declared customs values of the costs relating to the design of the templates of the labels affixed on the cans.

10 The action brought by G against that notice was dismissed by a court of first instance on the ground that the label on which the contents of the can are described and advertised is inseparable from the can itself as a container, within the meaning of Article 32(1)(a)(ii) of the Customs Code.

11 G brought an appeal against the judgment at first instance before the Bundesfinanzhof (Federal Fiscal Court, Germany), which is the referring court. That court notes that the customs value of goods imported into the European Union is to be determined on the basis of the transaction value, to which are added the costs referred to in Article 32 of the Customs Code.

12 According to that court, there is no doubt that the cans used by G are 'containers' within the meaning of Article 32(1)(a)(ii) of that code, the manufacturing costs of which, including those linked to the can itself and to printing and affixing the label, must be taken into account for the purpose of determining the customs value because that label forms an indivisible unit with the can.

13 It observes, however, that such a conclusion is not obvious as regards the costs linked to the intangible services for the design of the templates for the labels affixed on those cans. The services necessary for the design may come under the 'engineering, development, artwork, design work, and plans and sketches' referred to in Article 32(1)(b)(iv) of that code.

14 That said, according to the referring court, in that situation, under that provision, the adjustment of the customs value depending on the costs relating to those services would be required only on condition that those services were undertaken outside the European Union, which is not the case here, as the templates at issue were designed in Germany.

15 In those circumstances, the Bundesfinanzhof (Federal Fiscal Court) decided to stay the proceedings and to refer the following question to the Court of Justice for a preliminary ruling:

'Must the cost of production, in the customs territory of the European Union, of printing templates for labels be added to the transaction value under Article 32(1)(a)(ii) or Article 32(1)(b)(iv) of [the Customs Code] if the buyer established in the customs territory of the European Union makes the printing templates available free of charge in electronic form to the suppliers in the third country?'

Consideration of the question referred

16 By its question referred for a preliminary ruling, the referring court asks, in essence, whether Article 32(1)(a)(ii) and (b)(iv) of the Customs Code must be interpreted as meaning that the costs arising from intangible services for the design of templates for labels affixed on food cans imported into the European Union must be added to the price actually paid or payable for those imported goods, where those templates were prepared at the request and at the expense of the buyer in the European Union and made available free of charge in electronic form to suppliers.

17 Since the Customs Code does not expressly define the manner in which such costs are to be treated for customs purposes, it is necessary to interpret the provisions referred to in that question by considering not only their wording but also their context and the objectives pursued by the legislation of which they form part (see, to that effect, judgment of 18 December 2025, *Storstockholms Lokaltrafik*, C-422/24, EU:C:2025:980, paragraph 28 and the case-law cited).

18 In the first place, as regards the wording of those provisions, Article 32(1)(a)(ii) of the Customs Code provides that, when determining the customs value, 'the cost of containers which are treated as being one, for customs purposes, with the goods in question' is to be added to the price actually paid or payable for the imported goods.

19 Under Article 32(1)(b)(iv) of that code, the value of 'engineering, development, artwork, design work, and plans and sketches' used in the production and sale for export of the imported goods is also added to the price actually paid or payable for the imported goods, where those goods and services are supplied directly or indirectly by the buyer free of charge or at reduced cost, provided that they were undertaken 'elsewhere than in the Community' and that they are 'necessary for the production of the imported goods'.

20 For the purposes of distinguishing between the respective scopes of those two provisions, it must be pointed out that Article 32(1)(b)(iv) of that code relates to the costs of goods and services necessary for the production of 'imported goods', whereas Article 32(1)(a)(ii) of that code refers to the cost of 'containers which are treated as being one, for customs purposes, with the goods in question'.

21 It is apparent from the order for reference that the customs value of the goods at issue in the main proceedings was declared by G, taking into account, inter alia, the cost of the container, namely the costs of producing the cans and the printing costs of the labels affixed on them, without, however, taking into consideration the costs arising from the intangible services for the design of those labels.

22 The classification as 'goods and services', within the meaning of Article 32(1)(b) of the Customs Code, conferred on the intangible services necessary for the design of the templates made available to the suppliers of the imported goods in electronic form for printing the labels at issue in the main proceedings is not disputed before the referring court. In that regard, the Court has held that, in so far as the wording of that provision expressly refers to 'goods' or 'services', its scope is not limited to tangible assets (judgment of 10 September 2020, *BMW*, C-509/19, EU:C:2020:694, paragraph 18).

23 That said, as recalled in paragraph 20 above, Article 32(1)(b)(iv) of that code refers to the costs of the goods and services necessary for the production of 'imported goods'.

24 The wording of Article 32(1)(a)(ii) of that code, however, draws a distinction between those goods and their 'containers', that provision expressly using that term.

25 In that regard, under footnote 1 under General Rule 5, included in paragraph A of Section I of the first part of the Combined Nomenclature constituting Annex I to Regulation No 2658/87, the term 'container' is associated with the terms 'packing materials' and 'packing containers', in so far as they mean 'external or internal containers, holders, wrappings or supports'. Furthermore, in accordance with the case-law, the term 'packing' refers to containers which are suitable not only for transporting the products but also for storing and marketing them (judgment of 5 October 1988, *Schmid*, 357/87, EU:C:1988:478, paragraph 8).

26 In so far as the intangible services linked to the design of the templates for the labels referred to in the order for reference are intended for the printing of the labels affixed on the imported cans, the wording of Article 32(1)(a)(ii) of the Customs Code does not preclude the costs which they entail from possibly relating to 'containers', within the meaning of that provision, provided that those templates actually constitute an element closely linked to those containers.

27 In that regard, the question whether those labels can be separated from the cans cannot be decisive for such an assessment. The labels provide information, inter alia, on the contents of the imported food can, its shelf life, or recommendations on how to prepare and/or consume its contents, which is necessary for the marketing of that food can and may facilitate its use.

28 However, the absence of labels affixed on the cans does not, as a rule, render the contents of those cans unusable, with the result that those labels cannot be regarded as an integral part of the contents of those cans or as being necessary for their production within the meaning of Article 32(1)(b)(iv) of that code (see, to that effect, judgment of 10 September 2020, *BMW*, C-509/19, EU:C:2020:694, paragraph 20).

29 It follows that, despite the fact that neither the wording of Article 32(1)(a)(ii) of the Customs Code nor that of Article 32(1)(b)(iv) thereof contains any clear indication as to how the costs arising from the intangible services for the design of templates for labels affixed on food cans are to be treated for customs purposes, those costs may fall within the category of the costs of containers, within the meaning of Article 32(1)(a)(ii) of that code, as long as there is a close link between those templates and the containers constituted by those food cans, which it is for the referring court to verify.

30 In the second place, as regards the context of Article 32(1)(a)(ii) and (b)(iv) of the Customs Code, as well as the scheme of that provision, it must be recalled that, by virtue of Article 29 of that code, the customs value of imported goods is the transaction value, that is to say, the price actually paid or payable for the goods when they are sold for export to the customs territory of the European Union, adjusted, where necessary, in accordance, in particular, with Article 32 of the Customs Code (judgment of 9 June 2022, *Baltic Master*, C-599/20, EU:C:2022:457, paragraph 25 and the case-law cited).

31 As the Court has already stated, the customs value must be determined primarily according to the 'transaction value' method of the imported goods. That method of determining the customs value is thus assumed to be the most appropriate and the most frequently used (judgment of 9 June 2022, *Baltic Master*, C-599/20, EU:C:2022:457, paragraph 26 and the case-law cited).

32 The price actually paid or payable for the imported goods therefore, as a general rule, forms the basis for calculating the customs value, even if that price is a factor that potentially must be adjusted (see, to that effect, judgment of 9 June 2022, *Baltic Master*, C-599/20, EU:C:2022:457, paragraph 27 and the case-law cited).

33 In particular, the components to be added to the price actually paid or payable for the imported goods, for the purposes of determining the customs value, are laid down in Article 32 of the Customs Code.

34 In that regard, as has been pointed out in paragraph 20 above, Article 32(1)(a)(ii) of that code refers specifically to the 'containers' of imported goods, while Article 32(1)(b)(iv) of that code relates, by contrast, to the value of the work necessary for the production of 'imported goods' in general.

35 In so doing, Article 32(1)(a)(ii) of the Customs Code establishes a specific rule for adjusting the customs value of imported goods depending on the costs showing a close link to their contents, irrespective of the nature of the services to which those costs relate, as opposed to Article 32(1)(b)(iv) of that code, which provides for an adjustment depending on the intangible services necessary for the production of the imported goods, without any specific distinction between the goods themselves and their containers.

36 While, for the adjustment of the customs value of 'imported goods', within the meaning of Article 32(1)(b) of the Customs Code, that provision includes, in point (iv) thereof, an explicit geographical reference as regards the place of performance of the intangible services referred to therein, Article 32(1)(a)(ii) of that code does not include any equivalent reference as regards the possible adjustment of that value on the basis of the manufacturing costs for the containers of those goods. In those circumstances, the EU legislature intended to introduce a separate adjustment scheme depending on whether the costs at issue relate to intangible services which are closely linked to the containers of the imported goods or whether they relate to such services where they are necessary for the production of the imported goods themselves.

37 The specific nature of the scope of Article 32(1)(a)(ii) of the Customs Code militates in favour of making the costs relating to intangible services closely linked to the containers of the imported goods subject to the same customs value adjustment scheme as that reserved for costs relating to the goods and tangible services necessary for manufacturing those containers. In that context, the application of a different adjustment scheme for the costs arising from those intangible services would have required an express reference to that effect on the part of the EU legislature, like that in Article 32(1)(b)(iv) of that code as regards the goods and services necessary for the production of the imported goods.

38 Accordingly, it must be held that Article 32(1)(a)(ii) of that code applies to all the costs closely linked to manufacturing the containers of the goods, as appears to be the case with the costs arising from the intangible services for the design of the templates at issue in the main proceedings.

39 In the third place, the rules of the Customs Code relating to the determination of customs value pursue the objective of introducing a fair, uniform and neutral system excluding the use of arbitrary or fictitious customs values. The customs value must reflect the real economic value of an imported good and take into account all of the elements of that good that have economic value (judgment of 9 June 2022, *Baltic Master*, C-599/20, EU:C:2022:457, paragraph 24).

40 In that regard, it is not disputed that the intangible services for the design of templates for labels affixed on cans have a certain and quantifiable economic value. Taking into account the costs of such services contributes to the attainment of the objective of determining a customs value corresponding to the real economic value of the imported goods.

41 In the light of the foregoing considerations, the answer to the question referred is that Article 32(1)(a)(ii) and (b)(iv) of the Customs Code must be interpreted as meaning that the costs arising from intangible services for the design of templates for labels affixed on food cans

imported into the European Union must be added to the price actually paid or payable for those imported goods, where those templates were prepared at the request and at the expense of the buyer in the European Union and made available free of charge in electronic form to suppliers, provided that the templates are closely linked to the containers of the imported goods.

Costs

42 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the referring court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (First Chamber) hereby rules:

Article 32(1)(a)(ii) and (b)(iv) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code

must be interpreted as meaning that the costs arising from intangible services for the design of templates for labels affixed on food cans imported into the European Union must be added to the price actually paid or payable for those imported goods, where those templates were prepared at the request and at the expense of the buyer in the European Union and made available free of charge in electronic form to suppliers, provided that the templates are closely linked to the containers of the imported goods.

[Signatures]