Reports of Cases

JUDGMENT OF THE COURT (Sixth Chamber)

20 November 2025 *

(Reference for a preliminary ruling – Customs union – Regulation (EEC) No 2658/87 – Tariff classification – Common Customs Tariff – Combined Nomenclature – Classification under subheading 9018 90 84 – Tourniquets – Regulation (EU) No 952/2013 – Delegated Regulation (EU) 2015/2446 – Second sentence of Article 252 – Validity)

In Case C-631/23,

REQUEST for a preliminary ruling under Article 267 TFEU from the Finanzgericht Düsseldorf (Finance Court, Düsseldorf, Germany), made by decision of 4 October 2023, received at the Court on 18 October 2023, in the proceedings

Servoprax GmbH

v

Hauptzollamt Duisburg,

THE COURT (Sixth Chamber),

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

Advocate General: J. Richard de la Tour,

Registrar: A. Calot Escobar,

having regard to the written procedure,

after considering the observations submitted on behalf of:

– Servoprax GmbH, by H. Bleier, Rechtsanwalt,

– the European Commission, by B. Eggers and M. Salyková, acting as Agents,

having decided, after hearing the Advocate General, to proceed to judgment without an Opinion,

gives the following

* Language of the case: German.

Judgment

1 This request for a preliminary ruling concerns (i) the interpretation of heading 9018 of the Combined Nomenclature 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), as amended by Council Regulation (EC) No 254/2000 of 31 January 2000 (OJ 2000 L 28, p. 16) ('Regulation No 2658/87'), in the versions resulting, successively, from Commission Implementing Regulation (EU) 2016/1821 of 6 October 2016 (OJ 2016 L 294, p. 1), Commission Implementing Regulation (EU) 2017/1925 of 12 October 2017 (OJ 2017 L 282, p. 1) and Commission Implementing Regulation (EU) 2018/1602 of 11 October 2018 (OJ 2018 L 273, p. 1) ('CN'), and (ii) the validity of the second sentence of Article 252 of Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code (OJ 2015 L 343, p. 1).

2 The request has been made in proceedings between Servoprax GmbH and Hauptzollamt Duisburg (Principal Customs Office, Duisburg, Germany) concerning the tariff classification of tourniquets (*Venenstauer*) originating from China, on account of the finding by the Finanzgericht Düsseldorf (Finance Court, Düsseldorf, Germany) that the tourniquets fell within subheading 9018 90 84 of the CN and not subheading 6307 90 98 of the CN.

Legal context

International law

The HS

3 The Harmonized Commodity Description and Coding System ('the HS') was drawn up by the Customs Cooperation Council, now the World Customs Organization (WCO), and established by the Convention establishing a Customs Cooperation Council, signed in Brussels on 15 December 1950. The HS was established by the International Convention on the Harmonized Commodity Description and Coding System, concluded in Brussels on 14 June 1983 (*United Nations Treaty Series*, Vol. 1503, p. 4, No 25910 (1988)), and approved, with its Protocol of Amendment of 24 June 1986, on behalf of the European Economic Community by Council Decision 87/369/EEC of 7 April 1987 (OJ 1987 L 198, p. 1) ('the HS Convention').

4 The WCO approves, under the conditions laid down in Article 8 of the HS Convention, the Explanatory Notes and Classification Opinions adopted by the HS Committee established in Article 6 of that convention.

5 Under Article 3(1)(a) of the HS Convention, each Contracting Party undertakes that its customs tariff and statistical nomenclatures will be in conformity with the HS (i) by using all the headings and the subheadings of the HS without addition or modification, together with their related numerical codes, (ii) by applying the General Rules for the interpretation of the HS and all the Section, Chapter and Subheading Notes without modifying their scope and (iii) by following the numerical sequence of the HS.

The HS Explanatory Notes concerning heading 9018 thereof

6 On the dates when the import declarations at issue in the main proceedings were filed, the HS Explanatory Notes concerning heading 9018 were worded as follows:

‘…

This heading covers a very wide range of instruments and appliances which, in the vast majority of cases, are used only in professional practice (e.g., by doctors, surgeons, dentists, veterinary surgeons, midwives), either to make a diagnosis, to prevent or treat an illness or to operate, etc. … The instruments of the heading may be made of any material (including precious metals).

…

It should also be noted that a number of the instruments used in medicine or surgery (human or veterinary) are, in effect, tools (e.g. hammers, mallets, saws, chisels, gouges, forceps, pliers, spatulae, etc.), or articles of cutlery (scissors, knives, shears, etc.). Such articles are classified in this heading only when they are clearly identifiable as being for medical or surgical use by reason of their special shape, the ease with which they are dismantled for sterilisation, their better quality manufacture, the nature of the constituent metals or by their get-up (frequently packed in cases or boxes containing a set of instruments for a particular treatment: childbirth, autopsies, gynaecology, eye or ear surgery, veterinary cases for parturition, etc.).’

European Union law

The CN

7 The customs classification of goods imported into the European Union is governed by the CN. The CN is based on the HS. The CN sets out the six-digit headings and subheadings of the HS; only the seventh and eighth digits create further subdivisions which are specific to it.

8 Article 2 of Regulation No 2658/87 provides:

‘An Integrated Tariff of the European Communities, hereinafter referred to as the “Taric”, which meets the requirements of the Common Customs Tariff, external trade statistics, the commercial, agricultural and other Community policies concerning the importation or exportation of goods, shall be established by the [European] Commission.

The tariff shall be based on the [CN] and include:

…

(d) the rates of customs duty and other import and export charges, including duty exemptions and preferential tariff rates applicable to specific goods on importation or exportation;

…’

9 Pursuant to Article 12(1) of Regulation No 2658/87, the Commission is to adopt each year a regulation setting out the complete version of the CN and the rates of duty, as resulting from measures adopted by the Council of the European Union or the Commission. That regulation is to apply from 1 January of the following year.

10 The various versions of the CN applicable to the facts at issue in the main proceedings, which occurred during the period from 2017 to 2019, are, for 2017, the version resulting from Implementing Regulation 2016/1821, for 2018, the version resulting from Implementing Regulation 2017/1925, and, for 2019, the version resulting from Implementing Regulation 2018/1602.

11 The wording of the General rules for the interpretation of the CN, which are found in Part One, Section I(A) thereof ('the General rules for the interpretation of the CN'), as well as the titles of Section XI of Part Two of the CN and Chapter 60 thereof, Section XVIII of Part Two of the CN and Chapter 90 thereof and the headings and subheadings 6037, 6037 90 98, 9018 and 9018 90 84 of the CN, to which the first question refers, do not differ in those different versions.

12 The General rules for the interpretation of the CN provide:

'Classification of goods in the [CN] shall be governed by the following principles:

1. The titles of sections, chapters and sub-chapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative section or chapter notes and, provided such headings or notes do not otherwise require, according to the following provisions.

2. (a) Any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as presented, the incomplete or unfinished article has the essential character of the complete or finished article. It shall also be taken to include a reference to that article complete or finished (or falling to be classified as complete or finished by virtue of this rule), presented unassembled or disassembled.

(b) Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of rule 3.

3. When, by application of rule 2(b) or for any other reason, goods are prima facie classifiable under two or more headings, classification shall be effected as follows:

(a) the heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods;

(b) mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3(a), shall be classified as if they consisted of the material or component which gives them their essential character, in so far as this criterion is applicable;

(c) when goods cannot be classified by reference to 3(a) or (b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration.

…’

13 Part Two of the CN contains Section XI, entitled ‘Textiles and textile articles’, which contains Chapter 63, entitled ‘Other made-up textile articles; sets; worn clothing and worn textile articles; rags’.

14 Tariff heading 6307 of the CN in Chapter 63 thereof is worded as follows:

‘…

CN Code	Description	Conventional rate of duty (%)
…	…	…
6307	Other made-up articles, including dress patterns:	
…	…	…
6307 90 98	– – – – Other	6.3
…	…	…

…’

15 In addition, Part Two of the CN contains a Section XVIII entitled ‘Optical, photographic, cinematographic, measuring, checking, precision, medical or surgical instruments and apparatus; clocks and watches; musical instruments; parts and accessories thereof’, which contains Chapter 90, entitled ‘Optical, photographic, cinematographic, measuring, checking, precision, medical or surgical instruments and apparatus; parts and accessories thereof’.

16 Tariff heading 9018 of the CN in Chapter 90 thereof is worded as follows:

‘…

CN Code	Description	Conventional rate of duty (%)
…	…	…
9018	Instruments and appliances used in medical, surgical, dental or veterinary sciences, including scintigraphic apparatus, other electromedical apparatus and sight-testing instruments	
	– Electro-diagnostic apparatus (including apparatus for functional exploratory examination or for checking physiological parameters)	
…	…	…
9018 90 84	– – Other	Free’

Explanatory notes to the Combined Nomenclature of the European Union

17 The Explanatory Notes to the Combined Nomenclature of the European Union (OJ 2019 C 119, p. 1) are worded as follows:

‘…

9018 90 84	…
	This subheading does not cover so-called “tourniquets”. These generally consist of a strap and a buckle system. They are used, by tightening the strap, to control the blood circulation to an extremity for a short period. Other kinds of tourniquets may have, for example, a rod for tightening. Due to their simple construction and materials used, they are not similar to instruments and appliances covered by the present subheading although they fulfil a medical purpose (generally, classified according to the constituent material of the strap). See in particular the HS Explanatory Note to heading 9018, fourth paragraph.  

…’

The Customs Code

18 In the present case, binding tariff information ('BTI') was issued in accordance with Article 12 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ 1992 L 302, p. 1), which, in the version applicable in the main proceedings, provided:

'1. The customs authorities shall issue binding tariff information or binding origin information on written request, acting in accordance with the [Customs Code] committee procedure.

2. [BTI] or binding origin information shall be binding on the customs authorities as against the holder of the information only in respect of the tariff classification or determination of the origin of goods.

[BTI] or binding origin information shall be binding on the customs authorities only in respect of goods on which customs formalities are completed after the date on which the information was supplied by them.

…'

19 Regulation No 2913/92 was repealed by Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ 2013 L 269, p. 1, and corrigendum OJ 2013 L 287, p. 90) ('the Customs Code'). Pursuant to Article 286(2) and Article 288(2) of the Customs Code, Article 12 of Regulation No 2913/92 was repealed with effect from 1 May 2016.

20 Article 36 of the Customs Code, which deals with the Commission's power to adopt delegated acts, provides:

'The Commission shall be empowered to adopt delegated acts, in accordance with Article 284, in order to determine:

(a) the specific cases referred to in point (b) of Article 34(7) and point (b) of Article 34(8), where BTI and [binding origin information (BOI)] decisions are to be revoked;

(b) the cases referred to in Article 35, where decisions relating to binding information are taken with regard to other factors on the basis of which import or export duty and other measures in respect of trade in goods are applied.'

21 Article 284 of the Customs Code provides:

'1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in [Article] 36 … shall be conferred on the Commission for a period of five years from 30 October 2013. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

…’

Delegated Regulation 2015/2446

22 Article 252 of Regulation 2015/2446 is worded as follows:

‘Decisions relating to binding information already in force on 1 May 2016 shall remain valid for the period set out in those decisions. Such a decision shall as of 1 May 2016 be binding both on the customs authorities and on the holder of the decision.’

German law

23 The referring court states that, in order to rule on the second question referred for a preliminary ruling, two provisions of the Abgabenordnung (Tax Code), in the version applicable to the dispute in the main proceedings (BGBl. 2002 I, p. 3866, and BGBl. 2022 I, p. 2730) (‘the AO’), are significant, in particular point 1 of Paragraph 347(1) and Paragraph 355(1) of the AO. Those two provisions concern, respectively, the admissibility of an objection to BTI and the time limit in which such objection must be lodged.

24 Point 1 of Paragraph 347(1) of the AO provides for an objection (*Einspruch*) to administrative decisions (*Verwaltungsakte*) in cases concerning contributions. Such objection is to be submitted within one month pursuant to Paragraph 355 of the AO.

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

25 On 11 March 2016, the applicant in the main proceedings, an undertaking which markets medical devices, requested the Hauptzollamt Hannover (Principal Customs Office, Hanover, Germany) (‘the Hanover Customs Office’) to issue it with BTI in respect of tourniquets in the form of elastic straps fitted with a clip closure and a sliding buckle, intended to be placed on the arm of a patient to compress his or her veins in order to block the patient’s blood circulation.

26 In its BTI of 15 April 2016 (‘the BTI at issue in the main proceedings’), the Hanover Customs Office did not, contrary to the request of the applicant in the main proceedings, classify those tourniquets under subheading 9018 90 84 of the CN, which is subject to a rate of customs duty of 0%, but under subheading 6307 90 98 thereof, which is subject to a rate of customs duty of 6.3%.

27 During the period from August 2017 to December 2019, the applicant in the main proceedings declared, for the purposes of release for free circulation, tourniquets imported from China under subheading 6307 90 98 of the CN. Based on the applicant’s declarations, the Principal Customs Office, Duisburg imposed customs duties on the applicant in the main proceedings at a rate of 6.3%.

28 On 8 July 2020, the applicant in the main proceedings requested that those customs duties be repaid. It submitted that the tourniquets at issue in the main proceedings ought to have been classified under subheading 9018 90 84 of the CN, relying on an action pending before the Finanzgericht Düsseldorf (Finance Court, Düsseldorf), in which it was seeking repayment of customs duties on account of the classification of the same type of tourniquet, in respect of customs declarations which it had submitted up until September 2015. In those legal proceedings, the

Finanzgericht Düsseldorf (Finance Court, Düsseldorf) classified the tourniquets under subheading 9018 90 84 of the CN and, by judgment of 11 March 2022, ordered the Principal Customs Office, Duisburg to repay the customs duties to the applicant.

29 Since that principal customs office did not comply with the request for repayment of customs duties submitted by the applicant in the main proceedings on 8 July 2020, the latter made a complaint and ultimately lodged an action, in which it asserts, inter alia, that the tourniquets at issue in the main proceedings ought to have been classified under subheading 9018 90 84 of the CN given that they are used by doctors to make a diagnosis.

30 The applicant in the main proceedings believes that the BTI at issue in the main proceedings does not prevent the tourniquets concerned being classified in that subheading of the CN. While acknowledging that the BTI issued before 1 May 2016 was also binding on the authorisation holder, in accordance with the second sentence of Article 252 of Delegated Regulation 2015/2446, it asserts that the Commission was, however, not entitled to adopt a rule which is so far-reaching, retroactive and binding, and which is therefore invalid. After receiving the BTI at issue in the main proceedings, the applicant in the main proceedings decided not to challenge it because, under Article 12 of Regulation No 2913/92, that regulation was not binding on it. It argues that it should be recognised as benefiting from the position under the law as it previously stood, in accordance with the principle of the protection of legitimate expectations.

31 While the Finanzgericht Düsseldorf (Finance Court, Düsseldorf), which is the referring court, is of the view, shared by the applicant in the main proceedings, that the tourniquets at issue in the main proceedings ought to have been classified under heading 9018 of the CN, submitting that it is common ground that those tourniquets are intended for medical purposes, that court nevertheless has doubts as to the interpretation of that heading.

32 In addition, that court has uncertainties regarding the validity of Delegated Regulation 2015/2446.

33 In that regard, the referring court notes that, in the present case, the BTI at issue in the main proceedings was issued in accordance with Article 12 of Regulation No 2913/92, which was repealed only with effect from 1 May 2016 pursuant to Article 286(2) of the Customs Code. Under the first subparagraph of Article 12(2) of Regulation No 2913/92, BTI was binding only on the customs authorities as regards their holder. However, the second sentence of Article 252 of Delegated Regulation 2015/2446, subsequently and by way of derogation, established that BTI issued before 1 May 2016 was binding not only on the customs authorities but also on its holder.

34 The referring court is uncertain whether the Commission had the power to adopt the latter provision. The requirements of the second subparagraph of Article 290(1) TFEU imply that the purpose of granting a delegated power is to achieve the adoption of rules coming within the regulatory framework as defined by the basic legislative act concerned. The referring court, however, does not see on which rule of jurisdiction the Commission could have relied in order to adopt the second sentence of Article 252 of Delegated Regulation 2015/2446. In particular, Article 36 of the Customs Code contained no provision conferring on the Commission the power to provide, by way of derogation from Article 12(2) of Regulation No 2913/92, that BTI issued before 1 May 2016 was nevertheless also binding on its holder as from 1 May 2016.

35 However, the referring court is of the view that the applicant in the main proceedings could not rely on the application of the principle of the protection of legitimate expectations in order to argue that the decision of the Hanover Customs Office was not binding on it.

36 In those circumstances the Finanzgericht Düsseldorf (Finance Court, Düsseldorf) decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

'(1) Is the [CN] to be interpreted as meaning that tourniquets, of the type described more precisely in the [order for reference], are to be classified under subheading 9018 90 84 of the [CN]?

(2) If the first question referred is answered in the affirmative: Is the second sentence of Article 252 of [Delegated Regulation 2015/2446] valid?'

Consideration of the questions referred

The first question

37 By its first question, the referring court is, in essence, asking whether subheading 9018 90 84 of the CN must be interpreted as covering tourniquets in the form of elastic straps fitted with a clip closure and a sliding buckle, intended to be placed on the arm of a patient to compress his or her veins in order to block the patient's blood circulation.

38 In that regard, it should be noted, as a preliminary point, that, when the Court receives a reference for a preliminary ruling on tariff classification, its function is more to advise the referring court on the criteria which, if applied, will enable it to classify the products concerned correctly in the CN, rather than to carry out such classification itself. That classification results, in part, from a purely factual assessment which it is not for the Court to make in the context of a reference for a preliminary ruling (judgment of 12 December 2024, *Golden Omega*, C-388/23, EU:C:2024:1022, paragraph 25 and the case-law cited).

39 Consequently, it is for the referring court to classify the goods concerned in the light of the answers given by the Court of Justice to the questions referred (judgment of 12 December 2024, *Golden Omega*, C-388/23, EU:C:2024:1022, paragraph 26 and the case-law cited).

40 However, in order to give the referring court a useful answer, the Court may, in a spirit of cooperation with national courts, provide it with all the guidance that it deems necessary (judgment of 16 November 2023, *Viterra Hungary*, C-366/22, EU:C:2023:876, paragraph 31 and the case-law cited).

41 According to paragraph 1 of the General rules for the interpretation of the CN, the tariff classification of goods in the CN is to be determined according to the terms of the headings and any relative section or chapter notes, the titles of sections, chapters and subchapters being provided for ease of reference only. In the interests of legal certainty and ease of verification, the decisive criterion for the classification of goods for customs purposes is in general to be sought in their objective characteristics and properties as defined in the wording of the relevant heading of the CN and of the notes to the sections or chapters (judgment of 12 December 2024, *Golden Omega*, C-388/23, EU:C:2024:1022, paragraph 31 and the case-law cited).

42 Moreover, the Explanatory Notes drafted by the Commission in respect of the CN, and those adopted by the WCO in respect of the HS, are an important aid for interpreting the scope of the various tariff headings but do not have legally binding force. The Explanatory Notes to the CN do

not take the place of those to the HS but should be regarded as complementary to them and consulted jointly with them (judgment of 25 May 2023, *Danish Fluid System Technologies*, C-368/22, EU:C:2023:427, paragraph 35 and the case-law cited).

43 In accordance with the wording of heading 9018 of the CN, that heading covers 'Instruments and appliances used in medical, surgical, dental or veterinary sciences, including scintigraphic apparatus, other electromedical apparatus and sight-testing instruments'. More specifically, subheading 9018 90 84 of the CN is worded '– – other'.

44 In that regard, it should be pointed out that neither the CN nor its Explanatory Notes provide a definition of the concept of 'instruments and apparatus' nor do they refer to national law in that respect.

45 It is apparent from settled case-law that the meaning and scope of terms for which EU law provides no definition and for which EU law makes no reference to the law of the Member States must be determined according to their meaning in everyday language, whilst considering the context in which they occur and the purposes of the rules of which they form part (judgment of 12 December 2024, *Golden Omega*, C-388/23, EU:C:2024:1022, paragraph 34 and the case-law cited).

46 As regards the meaning in everyday language of the words 'instruments and apparatus', it must be stated, in the first place, that the term 'apparatus', according to the usual meaning of the term used in the various language versions, is understood as an assembly of parts intended to function together or a set of technical elements organised into a more complete whole than a tool and which has a function (see, to that effect, judgment of 5 September 2024, *BIOR*, C-344/23, EU:C:2024:696, paragraph 41). In the light of the information in the order for reference, it cannot be considered that the tourniquets at issue constitute such an assembly of parts or such a set of technical elements, with the result that they are not capable of falling within that term.

47 In the second place, the concept of 'instrument' covers, according to the usual meaning of the term used in a number of language versions, for example in the English- and French-language versions, a tool or a manufactured object allowing the performance of an operation or activity (judgment of 5 September 2024, *BIOR*, C-344/23, EU:C:2024:696, paragraph 42). That accepted meaning appears sufficiently broad to be capable of covering the tourniquets at issue in the main proceedings, which, according to the information provided by the referring court, are straps consisting mainly of an elastic woven textile material fitted with a clip closure and a sliding buckle, intended to be placed around the arm of a patient to compress his or her veins in order to block the patient's blood circulation.

48 However, the term used in other language versions has a narrower usual meaning. For example, in the German-language version, the term '*Instrument*' is defined in the dictionaries referred to by the Commission in its written observations as 'tool, most often finely worked, often complex in construction; tool for scientific and technical work'. Such a meaning does not, prima facie, include design objects as simple as tourniquets.

49 Therefore, the wording of heading 9018 of the CN does not, in itself, make it possible to confirm or rule out that the tourniquets at issue in the main proceedings fall within that heading.

50 As regards the context of subheading 9018 90 84 of the CN, it must be recalled that that subheading falls within CN heading 9018, which is entitled 'Instruments and appliances used in medical, surgical, dental or veterinary sciences, including scintigraphic apparatus, other electromedical apparatus and sight-testing instruments', which forms part of Chapter 90 of the CN, which is entitled 'Optical, photographic, cinematographic, measuring, checking, precision, medical or surgical instruments and apparatus; parts and accessories thereof'. Chapter 90 is included in Section XVIII of Part Two of the CN, entitled 'Optical, photographic, cinematographic, measuring, checking, precision, medical or surgical instruments and apparatus; clocks and watches; musical instruments; parts and accessories thereof'.

51 A brief analysis of the articles which fall within Chapter 90 of the CN shows that they are all highly sophisticated and precise technical instruments or apparatus, or apparatus which can be distinguished from simple utilitarian objects. The Explanatory Notes to the HS which relate to the general part of Chapter 90 confirm that scope in so far as they state that that chapter covers 'a wide variety of instruments and apparatus which are, as a rule, characterised by their high finish and high precision. Most of them are used mainly for scientific purposes (laboratory research work, analysis, astronomy, etc.), for specialised technical or industrial purposes (measuring or checking, observation, etc.) or for medical purposes'.

52 It follows that the instruments or apparatus used in the medical field do not all fall within Chapter 90 of the CN. In order to be classified therein, they must have specific characteristics consisting of the finish of their manufacture and a high degree of precision, which has also been confirmed in the case-law of the Court of Justice (see judgment of 7 November 2002, *Lohmann and Medi Bayreuth*, C-260/00 to C-263/00, EU:C:2002:637, paragraphs 37 and 39). The requirement regarding the finish of manufacture and high degree of precision is therefore essential for that type of instrument or apparatus.

53 That finding is supported by the Explanatory Notes to the HS relating to heading 9018 thereof, which state: 'It should also be noted that a number of the instruments used in medicine or surgery (human or veterinary) are, in effect, tools (e.g. hammers, mallets, saws, chisels, gouges, forceps, pliers, spatulae, etc.) or articles of cutlery (scissors, knives, shears, etc.). Such articles are classified in this heading only when they are clearly identifiable as being for medical or surgical use by reason of their special shape, the ease with which they are dismantled for sterilisation, their better quality manufacture, the nature of the constituent metals or by their get-up (frequently packed in cases or boxes containing a set of instruments for a particular treatment: childbirth, autopsies, gynaecology, eye or ear surgery, veterinary cases for parturition, etc.).'

54 Even if the tourniquets at issue in the main proceedings do not have to be regarded as simple tools, as the referring court points out, the fact remains that the Explanatory Notes to the HS which relate to heading 9018 thereof emphasise the 'better quality manufacture' of the articles referred to in that heading.

55 The referring court itself found that the tourniquets at issue in the main proceedings were used exclusively by medical staff for medical purposes. That said, even if that is so, it is not sufficient to cause the product automatically to be classified under that CN heading.

56 The referring court and the applicant in the main proceedings rely on the judgment of 4 March 2015, *Oliver Medical* (C-547/13, EU:C:2015:139, paragraph 50). It is true that, in that judgment, the Court stated that the goods in question had a medical function. However, in the case which gave rise to that judgment, the classification of the goods concerned as 'instruments

and/or apparatus' was not in doubt. The referring court therefore misconstrues the scope of that judgment when it takes the view that it is sufficient for goods to be intended for medical purposes and used at least in principle or exclusively by medical personnel in order for them to be classified under CN subheading 9018 90 84. As is observed in paragraphs 53 and 54 of the present judgment, the products which fall within Chapter 90 of the CN must be characterised first of all by the finish of their manufacture and a high degree of precision. That is not the case for the tourniquets at issue in the main proceedings, which are of a very simple design, being elastic straps fitted with a clip closure and a sliding buckle, intended to be placed on the arm of a patient to compress his or her veins in order to block the patient's blood circulation.

57 That interpretation is confirmed by the case-law of the Court in which the Court has stated, in relation to products of simple manufacture, that it is not sufficient for such products to be intended for medical purposes for them to fall within CN heading 9018. Accordingly, in the case which gave rise to the judgment of 16 June 2011, *Unomedical* (C-152/10, EU:C:2011:402, paragraphs 36 to 39), the Court refused to classify urine drainage bags for catheters and drainage bags intended for dialysers under that heading 9018 ('part' or 'accessory' for a catheter (subheading 9018 39 00) or a dialyser (artificial kidney) (subheading 9018 90 30)). The Court found that neither of those two products was indispensable for the functioning of catheters or dialysers. It follows that not all articles used for medical purposes can automatically be classified under tariff heading 9018.

58 Consequently, the tourniquets at issue in the main proceedings, which take the form described in paragraph 37 of the present judgment, cannot, in accordance with paragraph 1(b) of the notes relating to Chapter 90 of the CN, be classified in that chapter, but rather fall within Section XI of Part Two of the CN, which is entitled 'Textiles and textile articles'. It must be recalled in that regard that the exclusion of support belts and other bandages from Chapter 90 of the CN is justified by the fact that they are very simple products, which also act in a very simple and imprecise manner, and only by means of elasticity. Those products are therefore not comparable with the other products covered by Chapter 90, which are characterised by the finish of their manufacture and a high degree of precision. That is why point 1(b) of the notes relating to Chapter 90 of the CN relates them to Section XI of Part Two of the CN, entitled 'Textiles and textile articles'.

59 Furthermore, as the Commission states in its written observations, the tourniquets at issue in the main proceedings are, like such support belts, very simple products with a very simple mode of action, which is not very precise. While support belts act by means of elasticity, tourniquets put pressure on the arm. Therefore, those tourniquets should, *mutatis mutandis*, also not be classified in Chapter 90 of the CN, but rather should fall within Section XI of Part Two of the CN, in so far as, in accordance with Rule 3(b) of the General rules for the interpretation of the CN, their textile content is the component which gives tourniquets their essential character.

60 It follows from the foregoing that the context of the CN and the Explanatory Notes to the HS relating to heading 9018 thereof preclude a broad interpretation of that heading, by which it would be permissible to classify tourniquets in that heading on the sole ground that they are used for medical purposes.

61 That finding is borne out by the fact that the rate of customs duty has been set at 0% for products covered by heading 9018 of the CN. It is apparent from the case-law that provisions laying down an exemption from customs duties constitute a derogation from the principle that goods imported into the European Union are, as a general rule, subject to customs duties and, as such, must

therefore, as derogating provisions, be interpreted strictly (judgments of 17 February 2011, *Marishipping and Transport*, C-11/10, EU:C:2011:91, paragraph 16, and of 12 December 2024, *Malmö Motorrenovering*, C-781/23, EU:C:2024:1014, paragraph 21).

62 Even if the fact that a product is classified in Chapter 90 of the CN does not constitute, *stricto sensu*, an exemption from customs duties, the fact that the rate of customs duty is set at 0% nevertheless constitutes a systemic exception and therefore precludes that chapter being interpreted broadly, which is, as to its result, confirmed by the case-law cited in paragraphs 52 and 57 of the present judgment.

63 In the light of all the foregoing considerations, the answer to the first question is that subheading 9018 90 84 of the CN must be interpreted as meaning that it does not cover tourniquets in the form of elastic straps fitted with a clip closure and a sliding buckle, intended to be placed on the arm of a patient to compress his or her veins in order to block the patient's blood circulation.

The second question

64 Having regard to the answer to the first question, it is not necessary to answer the second question.

Costs

65 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 (Sixth Chamber) hereby rules:

Subheading 9018 90 84 of the Combined Nomenclature 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, as amended by Council Regulation (EC) No 254/2000 of 31 January 2000, in the versions resulting, successively, from Commission Implementing Regulation (EU) 2016/1821 of 6 October 2016, Commission Implementing Regulation (EU) 2017/1925 of 12 October 2017 and Commission Implementing Regulation (EU) 2018/1602 of 11 October 2018,

must be interpreted as meaning that it does not cover tourniquets in the form of elastic straps fitted with a clip closure and a sliding buckle, intended to be placed on the arm of a patient to compress his or her veins in order to block the patient's blood circulation.

[Signatures]