Reports of Cases

JUDGMENT OF THE COURT (First Chamber)

5 September 2024*

(Reference for a preliminary ruling – Common foreign and security policy – Restrictive measures in respect of Burma/Myanmar – Prohibition on the import of goods originating in or exported from Burma/Myanmar – Regulation (EC) No 194/2008 – Article 2(2)(a) – Teak logs originating in Burma/Myanmar exported to and processed in Taiwan before being transported to the European Union – Regulation (EEC) No 2913/92 – Community Customs Code – Article 24 – Concept of 'substantial processing or working' – Teak logs that have been debranched, debarked, sawn into the shape of wooden cuboids or cut into sawn teak wood in Taiwan – Certificate of origin issued by the Taiwanese authorities – Value of that certificate for the determination, by the customs authorities of the Member States, of the origin of those teak logs)

In Case C-67/23,

REQUEST for a preliminary ruling under Article 267 TFEU from the Bundesgerichtshof (Federal Court of Justice, Germany), made by decision of 17 November 2022, received at the Court on 8 February 2023, in the criminal proceedings against

S.Z.,

intervening parties:

W. GmbH,

Generalbundesanwalt beim Bundesgerichtshof,

THE COURT (First Chamber),

composed of A. Arabadjiev, President of the Chamber, T. von Danwitz, P.G. Xuereb (Rapporteur), A. Kumin and I. Ziemele, Judges,

Advocate General: M. Campos Sánchez-Bordona,

Registrar: A. Calot Escobar,

having regard to the written procedure,

* Language of the case: German.

after considering the observations submitted on behalf of:

– S.Z., by G. Schwendinger, Rechtsanwalt,

– W. GmbH, by K. Göcke, Rechtsanwältin,

– the Generalbundesanwalt beim Bundesgerichtshof, by P. Frank, acting as Agent,

– the European Commission, by M. Carpus Carcea, C. Hödlmayr and F. Moro, acting as Agents,

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

gives the following

Judgment

1 This request for a preliminary ruling concerns the interpretation of Article 2(2)(a) of Council Regulation (EC) No 194/2008 of 25 February 2008 renewing and strengthening the restrictive measures in respect of Burma/Myanmar and repealing Regulation (EC) No 817/2006 (OJ 2008 L 66, p. 1).

2 The request has been made in criminal proceedings brought against S.Z. for failure to comply with the prohibition on imports of goods originating in or exported from Burma/Myanmar.

Legal context

European Union law

The CN

3 The customs classification of goods imported into the European Union is governed by 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), as amended by Commission Regulation (EC) No 1214/2007 of 20 September 2007 (OJ 2007 L 286, p. 1) ('the CN'), which is based on the Harmonised Commodity Description and Coding System ('the HS') established by the International Convention on the Harmonised Commodity Description and Coding System, concluded in Brussels on 14 June 1983 in the framework of the World Customs Organisation (WCO) and approved, together with the Protocol of Amendment thereto 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).

4 According to Article 3(1) of Regulation No 2658/87, the CN reproduces the HS six-digit headings and subheadings, with only the seventh and eighth digits creating further subheadings which are specific to it.

5 Headings 4403 and 4407 of the CN, which correspond to the same HS headings, respectively read 'Wood in the rough, whether or not stripped of bark or sapwood, or roughly squared' and 'Wood sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or end-jointed, of a thickness exceeding 6 mm'.

Community Customs Code

6 Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ 1992 L 302, p. 1; 'the Community Customs Code'), was repealed and replaced, from 1 May 2016, 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). However, in view of the date of the facts of the dispute in the main proceedings, the Community Customs Code remains applicable thereto.

7 Title II of the Community Customs Code, entitled 'Factors on the basis of which import duties or export duties and the other measures prescribed in respect of trade in goods are applied', contained Chapter 1, entitled 'Customs tariff of the European Communities and tariff classification of goods', which included Article 20 of that code, which was worded as follows:

'1. Duties legally owed where a customs debt is incurred shall be based on the Customs Tariff of the European Communities.

…

3. The Customs Tariff of the European Communities shall comprise:

…

(d) the preferential tariff measures contained in agreements which the Community has concluded with certain countries or groups of countries and which provide for the granting of preferential tariff treatment;

(e) preferential tariff measures adopted unilaterally by the Community in respect of certain countries, groups of countries or territories;

…'

8 Chapter 2 of Title II, entitled, 'Origin of goods', contained Section 1, entitled 'Non-preferential origin', and Section 2, entitled 'Preferential origin of goods'.

9 That Section 1 contained Article 22 of the Community Customs Code, which provided:

'Articles 23 to 26 define the non-preferential origin of goods for the purposes of:

(a) applying the Customs Tariff of the European Communities with the exception of the measures referred to in Article 20(3)(d) and (e);

(b) applying measures other than tariff measures established by Community provisions governing specific fields relating to trade in goods;

(c) the preparation and issue of certificates of origin.'

10 Article 23 of that code stated:

'1. Goods originating in a country shall be those wholly obtained or produced in that country.

2. The expression "goods wholly obtained in a country" means:

…

(b) vegetable products harvested therein;

…'

11 Under Article 24 of that code:

'Goods whose production involved more than one country shall be deemed to originate in the country where they underwent their last, substantial, economically justified processing or working in an undertaking equipped for that purpose and resulting in the manufacture of a new product or representing an important stage of manufacture.'

12 Article 26 of that code provided:

'1. Customs legislation or other Community legislation governing specific fields may provide that a document must be produced as proof of the origin of goods.

2. Notwithstanding the production of that document, the customs authorities may, in the event of serious doubts, require any additional proof to ensure that the indication of origin does comply with the rules laid down by the relevant Community legislation.'

Regulation (EEC) No 2454/93

13 Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (OJ 1993 L 253, p. 1) was repealed by Commission Implementing Regulation (EU) 2016/481 of 1 April 2016 repealing Commission Regulation (EEC) No 2454/93 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (OJ 2016 L 87, p. 24). However, in view of the date of the facts of the dispute in the main proceedings, Regulation No 2454/93 remains applicable thereto.

14 That regulation contained Annex 13a, which was inserted into that regulation by Commission Regulation (EU) No 1063/2010 of 18 November 2010 (OJ 2010 L 307, p. 1), which contained Part II, entitled 'List of products and working or processing operations which confer originating status', which provided, inter alia, the following:

Harmonised System heading	Description of product	Qualifying operation (Working or processing, carried out on non-originating materials, which confers originating status)
…	…	…
ex Chapter 44	Wood and articles of wood; wood charcoal; except for:	Manufacture from materials of any heading, except that of the product or Manufacture in which the value of the materials used does not exceed 70% of the ex-works price of the product
ex Chapter 4407	Wood sawn or chipped lengthwise, sliced or peeled, of a thickness exceeding 6 mm, planed, sanded or end-jointed	Planing, sanding or end-jointing
…	…	…

Regulation 194/2008

15 Regulation No 194/2008 was repealed, from 3 May 2013, by Council Regulation (EU) No 401/2013 of 2 May 2013 concerning restrictive measures in respect of Myanmar/Burma and repealing Regulation (EC) No 194/2008 (OJ 2013 L 121, p. 1). However, in view of the date of the facts of the dispute in the main proceedings, Regulation No 194/2008 remains applicable thereto.

16 Under recitals 6 and 7 of Regulation No 194/2008:

'(6) For more than a decade, the Council [of the European Union] and members of the international community have repeatedly condemned the Burmese/Myanmar regime's practice of torture, summary and arbitrary executions, forced labour, abuse of women, political arrests, forced displacement of the population and restrictions on the fundamental rights of freedom of speech, movement and assembly. Taking into account the regime's longstanding, continuing serious violations of fundamental rights, including the recent brutal repression of peaceful demonstrations, the restrictive measures in this Regulation are instrumental in promoting respect for fundamental human rights and thus serve the purpose of protecting public morals.

(7) The new restrictive measures target sectors which provide sources of revenue for the military regime of Burma/Myanmar. Therefore the new restrictive measures apply to wood and wood products, and to coal, gold, silver, certain base metals and precious and semi-precious stones. In these sectors, certain measures restrict imports, exports and investments. The list of entities to which the new restrictions on investment and financial assistance for exports should correspond to the list established in Annex I to [Council Common Position

2007/750/CFSP of 19 November 2007 amending Common Position 2006/318/CFSP renewing restrictive measures against Burma/Myanmar (OJ 2007 L 308, p. 1)] which lists entities in Burma/Myanmar involved in these targeted sectors.'

17 In Chapter 1 of that regulation, entitled 'Definitions', Article 1 of that regulation provided:

'For the purposes of this Regulation, the following definitions shall apply:

(a) "import" means any entry of goods into the customs territory of the Community or other territories to which the [EC] Treaty applies, under the conditions laid down in Article 299 [EC]. …

…'

18 In Chapter 2 of Regulation No 194/2008, entitled 'Import and purchase restrictions', Article 2 of that regulation provided, in paragraphs 1 to 3 thereof:

'1. Annex I shall include goods belonging to the following categories:

(a) round logs, timber and timber products;

(b) coal and certain metals; and

(c) precious and semi-precious stones.

2. It shall be prohibited:

(a) to import goods listed in Annex I, if such goods
(i) originate in Burma/Myanmar; or
(ii) have been exported from Burma/Myanmar;

(b) to purchase goods located in Burma/Myanmar which are listed in Annex I;

(c) to transport goods listed in Annex I, if such goods originate in Burma/Myanmar or are being exported from Burma/Myanmar to any other country, and their final destination is in the Community; or

(d) to participate, knowingly and intentionally, in activities whose object or effect is, directly or indirectly, to circumvent the prohibitions in points (a), (b) or (c).

3. The origin of goods shall be determined in accordance with the [Community Customs Code].'

19 Annex I to that regulation was entitled 'List of goods subject to import and purchase restrictions as referred to in Article 2'. The goods covered by CN headings 4403 and 4407 were set out in paragraph A of that annex, entitled 'Round logs, timber and timber products'.

German law

20 Paragraph 34(4)(2) of the Außenwirtschaftsgesetz (Law on foreign trade and payments), in the version of 27 May 2009 ('the Law on foreign trade and payments'), provided:

'A person shall be liable to a custodial sentence of six months to five years if he or she

…

(2) fails to comply with a directly applicable prohibition, published in the *Bundesanzeiger* [Federal Gazette], on exports, imports, transit, removal, sales, supply, making available, transmission, provision of services, investment, support or circumvention of that prohibition, provided for in a legislative measure of the European Communities which serves to implement an economic sanction adopted by the Council of the European Union in the field of the Common Foreign and Security Policy …'

21 Regulation No 194/2008, which was directly applicable in the territory of the Federal Republic of Germany, was, in so far as concerns Article 2(2)(a) thereof which is at issue in the dispute in the main proceedings, published in the *Bundesanzeiger* on 22 October 2009.

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

22 S.Z. was the sole managing director of a company with its registered office in Hamburg (Germany), which traded in teak wood originating in Burma/Myanmar ('the company concerned'). That wood was used primarily in boat construction. That company was the predecessor in law to W. GmbH, the company that owned the confiscated goods and the party concerned in the confiscation procedure at issue in the main proceedings.

23 By judgment of the Landgericht Hamburg (Regional Court, Hamburg, Germany) of 27 April 2021, S.Z. was sentenced to a custodial sentence of one year and nine months for infringing Paragraph 34(4)(2) of the Law on foreign trade and payments. The Landgericht Hamburg (Regional Court, Hamburg) also ordered the confiscation, from W., of teak logs ('the products at issue') and a sum of EUR 3 310 902.98, corresponding to the value of the profits resulting from the infringement.

24 In that regard, that court found that, at the instigation of S.Z., the company concerned continued to import and market teak wood from Burma/Myanmar between October 2009 and May 2011, after the entry into force of Regulation No 194/2008, which prohibited imports of goods originating in or exported from Burma/Myanmar. That company's supplier, established in Taiwan, had felled the teak trees in Burma/Myanmar, transported the logs from those trees to Taiwan, where it processed them in sawmills.

25 That court also found that those logs had undergone three types of processing in Taiwan. Some had merely been debranched and debarked there. Others had been debranched and debarked, and then sawn into the shape of wooden cuboids. Lastly, some logs had been sawn into planks or boards, that is to say into sawn teak wood. After that processing, the wood, bearing certificates of origin issued by the Taiwanese authorities, was transported by ship to Hamburg, where it was received by the company concerned.

26 That court considered that the teak wood at issue had, as a consequence of the processing it underwent in Taiwan, originated in that country, with the result that Article 2(2)(a)(i) of Regulation No 194/2008 which prohibited imports of goods originating in Burma/Myanmar, had not been infringed. That said, it took the view that, despite its removal to Taiwan and the sawing work it had undergone there, that teak wood remained a product exported from Burma/Myanmar within the meaning of Article 2(2)(a)(ii) of that regulation, and accordingly found that that provision had been infringed.

27 S.Z. and W. brought an appeal on a point of law (*Revision*) against the judgment of the Landgericht Hamburg (Regional Court, Hamburg) of 27 April 2021 before the Bundesgerichtshof (Federal Court of Justice, Germany), which is the referring court. According to them, first, the logs at issue were not merely transported from Burma/Myanmar to Germany via Taiwan, but underwent, in that third country, working or processing which conferred a new origin on them, for which reason the Taiwanese authorities had issued certificates of origin which identified Taiwan as the country of origin. The products at issue, they argue, are therefore not wood originating in Burma/Myanmar, but Taiwanese timber products, which have been imported into Germany. Accordingly, the import of the products at issue does not infringe Article 2(2)(a)(i) of Regulation No 194/2008. Secondly, they argue that the teak wood at issue, which was imported into the territory of the European Union, had been exported not from Burma/Myanmar, within the meaning of Article 2(2)(a)(ii), but from Taiwan.

28 The Generalbundesanwalt beim Bundesgerichtshof (Federal Prosecutor General at the Federal Court of Justice, Germany) ('the Federal Prosecutor General') concurred with the assessment of the Landgericht Hamburg (Regional Court, Hamburg). He considered, in essence, that, in the present case, the processing of the teak wood exported from Burma/Myanmar had only brought about a change in the origin of that wood without, however, making it different goods.

29 In that context, the referring court states, in the first place, that the import of the products at issue is a punishable offence under Paragraph 34(4)(2) of the Law on foreign trade and payments, read in conjunction with Article 2(2)(a) of Regulation No 194/2008, if the working or processing that took place in Taiwan was insufficient to confer a new origin on the teak wood at issue and that that wood therefore still originates in Burma/Myanmar, within the meaning of Article 2(2)(a)(i) of that regulation.

30 The referring court is uncertain, in light of the judgments of 26 January 1977, *Gesellschaft für Überseehandel* (49/76, EU:C:1977:9), relating to casein, and of 23 February 1984, *Zentrag* (93/83, EU:C:1984:78), relating to beef and veal, whether the processing which the teak wood that was felled in Burma/Myanmar underwent in Taiwan, may be substantial enough for that wood to become, under Article 24 of the Community Customs Code, goods originating in Taiwan. It notes, however, that the act of cutting the raw teak wood to make it into sawn wood brings about a change of heading in the HS since wood in the rough, on the one hand, and wood sawn of a thickness exceeding 6 mm, on the other, come under HS headings 4403 and 4407 respectively. However, no change of heading resulted from the operations which modified the presentation of the beef and veal or the casein which were at issue in the cases which gave rise to those judgments. In the opinion of the referring court, a four-digit change of tariff heading could be an indication that the product has undergone substantial processing, since the HS is based on a system that progresses from natural products to those that have undergone more and more processing.

31 In the second place, the referring court notes that, if the sawing work that the logs underwent in Taiwan brought about a change of origin, the import at issue would constitute a punishable offence if the teak logs at issue were exported from Burma/Myanmar, thereby infringing Article 2(2)(a)(ii) of Regulation No 194/2008.

32 In that regard, in contrast to the Landgericht Hamburg (Regional Court, Hamburg) and the Federal Prosecutor General, the referring court is inclined to take the view that the phrase 'exported from Burma/Myanmar', contained in Article 2(2)(a)(ii) of that regulation, should be interpreted as covering only goods imported into the European Union directly from Burma/Myanmar and not goods transported to a third country – in the present case, Taiwan – and then to the European Union, irrespective of whether those goods have undergone, in that third country, processing or working which has conferred a new origin on them. If that interpretation were to be upheld, S.Z. would not have infringed Article 2(2)(a)(ii) of that regulation.

33 According to the referring court, the interpretation of that expression adopted by the Landgericht Hamburg (Regional Court, Hamburg) and the Federal Prosecutor General would deprive Article 2(2)(a)(i) of Regulation No 194/2008 of any independent scope and have the effect of making goods from third countries, which have been made from raw materials or products from Burma/Myanmar, subject to the prohibition on imports laid down in Article 2(2)(a) of that regulation, which was not the intention of the EU legislature.

34 In the third and last place, the referring court wishes to ascertain whether certificates of origin, such as those issued by the Taiwanese authorities, are binding on the customs authorities of the Member States s when they examine whether the prohibition on imports laid down in Article 2(2)(a) of Regulation No 194/2008 has been infringed.

35 In those circumstances, the Bundesgerichtshof (Federal Court of Justice) decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

'(1) Is the term "originate in Burma/Myanmar" under Article 2(2)(a)(i) of [Regulation No 194/2008] to be interpreted as meaning that none of the following processing operations performed in a third country (in the present case: Taiwan) on teak logs grown in [Burma/Myanmar] brought about a change of origin, to the effect that teak wood processed accordingly remained "goods" that "originate in Burma/Myanmar":

– Debranching and debarking of teak logs;

– Sawing teak logs into teak squares (debranched and debarked logs sawn into the shape of wooden cuboids);

– Sawing teak logs into planks or boards (sawn wood)?

(2) Is the term "exported from Burma/Myanmar" under Article 2(2)(a)(ii) of [Regulation No 194/2008] to be interpreted as meaning that only goods imported into the European Union directly from [Burma/Myanmar] are covered, to the effect that goods initially exported to a third country (in the present case: Taiwan), and then transported onwards from there to the European Union, were not subject to the regulation, irrespective of whether they had undergone working or processing conferring origin in that third country?

(3) Is Article 2(2)(a)(i) of [Regulation No 194/2008] to be interpreted as meaning that a certificate of origin issued by a third country (in the present case: Taiwan) – which states that teak logs originating from [Burma/Myanmar] that have been sawn up or sawn to size have, as a result of that processing in the third country, acquired a status of origin in that State – is not binding for the purposes of assessing whether there has been [a failure to comply with] the [prohibition on imports] laid down in [Article 2(2)(a)] of [Regulation No 194/2008]?'

Consideration of the questions referred

The first question

36 According to settled case-law, in the procedure laid down by Article 267 TFEU providing for cooperation between national courts and the Court of Justice, it is for the latter to provide the national court with an answer which will be of use to it and enable it to decide the case before it. To that end, the Court should, where necessary, reformulate the questions referred to it. The Court may also find it necessary to consider provisions of EU law which the national court has not referred to in its questions (judgment of 7 September 2023, *Groenland Poultry*, C-169/22, EU:C:2023:638, paragraph 47 and the case-law cited).

37 In its first question, the referring court made reference only to Article 2(2)(a)(i) of Regulation No 194/2008.

38 That provision prohibits the import of the goods listed in Annex I to that regulation if they originate from Burma/Myanmar. Paragraph A of that annex relates to the category of 'round logs, timber and timber products'.

39 Under Article 2(3) of that regulation, the origin of those goods is to be determined in accordance with the relevant provisions of the Community Customs Code. In the present case, the relevant provision is Article 24 of that code.

40 Under Article 24, 'goods whose production involved more than one country shall be deemed to originate in the country where they underwent their last, substantial, economically justified processing or working in an undertaking equipped for that purpose and resulting in the manufacture of a new product or representing an important stage of manufacture'.

41 Consequently, it must be held that, by its first question, the referring court is asking, in essence, whether Article 2(2)(a)(i) of Regulation No 194/2008, read in conjunction with Article 24 of the Community Customs Code, must be interpreted as meaning that debranching teak logs, debarking them, sawing them into the shape of wooden cuboids and processing them into sawn wood, constitute processing or working operations that determine the origin of the goods obtained from those operations.

Admissibility

42 W. disputes the admissibility, in part, of the first question, by claiming that the issue of whether debranching and debarking teak logs may bring about a change of origin of such goods is irrelevant since, according to the findings of the Landgericht Hamburg (Regional Court,

Hamburg) – which, it is argued, are binding on the referring court – those goods were not imported into Germany in the case in the main proceedings, since only teak logs sawn into the shape of wooden cuboids and sawn teak wood were imported.

43 In that regard, it must be borne in mind that, in the context of the cooperation between the Court and the national courts provided for in Article 267 TFEU, it is solely for the national court before which a dispute has been brought, and which must assume responsibility for the subsequent judicial decision, to determine in the light of the particular circumstances of the case both the need for a preliminary ruling in order to enable it to deliver judgment and the relevance of the questions which it submits to the Court. Consequently, where the questions referred for a preliminary ruling concern the interpretation of EU law, the Court is in principle bound to give a ruling (judgment of 9 March 2023, *Sogefinancement*, C-50/22, EU:C:2023:177, paragraph 16 and the case-law cited).

44 It follows that questions relating to EU law enjoy a presumption of relevance. The Court may refuse to rule on a question referred by a national court for a preliminary ruling only where it is quite obvious that the interpretation of EU law that is sought bears no relation to the actual facts of the main action or its purpose, where the problem is hypothetical, or where the Court does not have before it the factual or legal material necessary to give a useful answer to the questions submitted to it (judgment of 9 March 2023, *Sogefinancement*, C-50/22, EU:C:2023:177, paragraph 17 and the case-law cited).

45 However, that is not the situation in the present case.

46 Indeed, it is not obvious from the order for reference that the interpretation of EU law that is sought bears no relation to the actual facts of the main action or its purpose. Moreover, it is clear that, first, the first question is not hypothetical and, secondly, the Court has before it the factual and legal material necessary to give a useful answer to that question.

47 It is therefore necessary to rule on the interpretation of Article 2(2)(a)(i) of Regulation No 194/2008, read in conjunction with Article 24 of the Community Customs Code, in relation to the three types of processing listed in the first question.

Substance

48 It is apparent from Article 24 of the Community Customs Code that, where two or more countries are involved in the production of goods, the decisive criterion for determining their origin is that of the last substantial processing or working of those goods (see, to that effect, judgment of 20 May 2021, *Renesola UK*, C-209/20, EU:C:2021:400, paragraph 38 and the case-law cited).

49 In addition, the determination of the origin of goods must be based on a real and objective distinction between the basic product and the processed product, depending fundamentally on the specific material qualities of each of those products (judgment of 11 February 2010, *Hoesch Metals and Alloys*, C-373/08, EU:C:2010:68, paragraph 45 and the case-law cited).

50 The Court has already held that the term ‘last substantial processing or working’, within the meaning of Article 24 of the Community Customs Code, must be understood as referring to the stage in the production process during which the use to which the goods concerned are to be put is established, and they acquire specific properties and composition, which they did not possess

previously, and which are not required to undergo significant qualitative changes subsequently (judgment of 20 May 2021, *Renesola UK*, C-209/20, EU:C:2021:400, paragraphs 38 and the case-law cited).

51 Accordingly, activities altering the presentation of a product for the purposes of its use, but which do not bring about a significant qualitative change in its properties, are not of such a nature as to determine the origin of that product (judgment of 11 February 2010, *Hoesch Metals and Alloys*, C-373/08, EU:C:2010:68, paragraph 46 and the case-law cited).

52 Consequently, operations of processing a product which do not bring about a substantial change in its properties and composition, because they consist only in dividing it up and altering its presentation, do not constitute a sufficiently pronounced qualitative change which could be regarded as having brought about the manufacture of a new product or even as an important stage in its manufacture (judgment of 11 February 2010, *Hoesch Metals and Alloys*, C-373/08, EU:C:2010:68, paragraph 47 and the case-law cited).

53 In those circumstances, as regards the first type of processing, namely the debranching and debarking of the teak logs at issue, it is not apparent from the documents before the Court that that processing conferred on those logs the use to which they are to be put or any specific properties or composition, which they did not possess previously, and which are not required to undergo significant qualitative changes subsequently. On the contrary, that type of processing appears, subject to verification by the referring court, to be a straightforward processing operation which affects only the presentation of the wood. However, as has been noted in paragraph 52 above, such an operation cannot be regarded as having brought about the manufacture of a new product or as an important stage in the manufacture of the goods at issue and, accordingly, cannot determine their origin.

54 As regards the second type of processing, namely the sawing of the teak logs at issue, debranched and debarked beforehand, into the shape of wooden cuboids, it also does not appear that, in the present case, that processing operation conferred on those logs the use to which they were to be put or any specific properties or composition, which they did not possess previously, and which would not be required to undergo significant qualitative changes subsequently, within the meaning of the case-law cited in paragraph 50 above. On the contrary, and as S.Z. and W. themselves have observed, that second type of processing is a necessary intermediate step for the production of sawn wood. That second type of processing therefore cannot be regarded as determining the origin of those logs.

55 However, S.Z. and W. maintain that it is apparent from the judgment of 10 December 2009, *HEKO Industrieerzeugnisse* (C-260/08, EU:C:2009:768), and from Annex 22-03 to 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), that a change of origin is, as a rule, established where the working or processing of the wood in the rough brings about a significant increase in the wood's value, which must generally be greater than 30% to be considered significant. In the present case, according to S.Z. and W., the value of the teak logs at issue increased by more than 30% after they were sawn into the shape of wooden cuboids. In any event, they argue, even if the value of those logs had not increased by 30%, since sawing them into the shape of wooden cuboids requires special sawing equipment and can be carried out only by professionals specially trained to do so, that type of processing must be regarded as determining the origin of those logs.

56 In that regard, it should be noted that, in the first place, concerning the value that the sawing of the teak logs at issue into the shape of wooden cuboids conferred on them, the Court has indeed held, as regards the question whether an assembly operation of different elements constitutes substantial processing or working, that there are situations where consideration on the basis of technical criteria may not be decisive in determining the origin of goods and that, in such cases, it is necessary to take account, in the alternative, of other clear and objective criteria, such as such as that of added value, which, in respect of goods composed of many different parts, makes it possible to explain what is meant by the substantial processing that determines their origin (see, to that effect, judgment of 10 December 2009, *HEKO Industrieerzeugnisse*, C-260/08, EU:C:2009:768, paragraphs 30 and 31).

57 However, the operation at issue in the main proceedings is not an assembly operation of different elements which consists of assembling a large number of parts to form a new coherent whole (see, to that effect, judgment of 13 December 1989, *Brother International*, C-26/88, EU:C:1989:637, paragraph 13), but the sawing of a basic product.

58 It must therefore be held that, in the present case, the alternative criterion of added value, which stems from the case-law cited in paragraph 56 above, is not applicable.

59 In the second place, as regards the indications concerning products coming under HS heading 44 referred to in the table in Part II of Annex 22-03 to Delegated Regulation 2015/2446, on which S.Z. and W. rely, it must be observed that that delegated regulation is not applicable *ratione temporis*. That delegated regulation is applicable from 1 May 2016, whereas the imports at issue in the main proceedings took place between 2009 and 2011. However, those indications are identical to those set out in Annex 13a to Regulation No 2454/93, which was inserted into that regulation by Regulation No 1063/2010, which is applicable from 1 January 2011 and, thus, to the imports that took place from that date.

60 That being the case, it is sufficient to note that that annex only lays down rules concerning the preferential origin of goods, and not rules relating to the non-preferential origin of goods, which is at issue in the present case.

61 Lastly, as regards the fact, relied on by S.Z. and W., that the production of teak logs sawn into the shape of wooden cuboids requires special sawing equipment and can be carried out only by specially trained professionals, it should be observed that it is apparent from the very wording of Article 24 of the Community Customs Code that the processing of goods in an undertaking equipped for that purpose is not sufficient to make it substantial, within the meaning of that article.

62 In those circumstances, it must be held that the sawing of the teak logs at issue into the shape of wooden cuboids, does not constitute substantial processing or working that determines the origin of those goods.

63 As regards the third type of processing, namely the sawing of teak logs to make them into sawn wood, it appears that, contrary to what the Federal Prosecutor General maintains, that sawing does not consist merely of cutting the logs concerned, since it involves several steps; they need to have been debranched, debarked and sawn into the shape of wooden cuboids before being sawn into boards.

64 In addition, the goods resulting from that type of processing are at an advanced stage of the manufacturing of goods intended, as in the present case, for boat construction. The processing logs into sawn wood may be regarded as the stage in the production process during which the use to which the goods concerned are to be put is established, and they acquire specific properties and composition, which they did not possess previously, and which are not required to undergo significant qualitative changes subsequently, within the meaning of the case-law cited in paragraph 50 above.

65 That finding is confirmed by the fact that teak logs and teak logs sawn into the shape of wooden cuboids are classified under CN heading 4403 as wood in the rough, whereas sawn teak wood is classified at a more advanced stage of processing, under CN heading 4407.

66 It is clear from the case-law that the change in the tariff heading of goods, caused by a processing operation, constitutes an indication of the substantial nature of that processing or working (see, to that effect, judgment of 21 September 2023, *Stappert Deutschland*, C-210/22, EU:C:2023:693, paragraph 58 and the case-law cited).

67 Consequently, the third type of processing, which consisted in processing the teak logs into sawn wood, may be regarded as processing which confers Taiwanese origin on those logs, in accordance with Article 24 of the Community Customs Code.

68 In the light of the foregoing, the answer to the first question is that Article 2(2)(a)(i) of Regulation No 194/2008, read in conjunction with Article 24 of the Community Customs Code, must be interpreted as meaning that:

– debranching teak logs, debarking them and sawing them into the shape of wooden cuboids do not constitute processing or working operations that determine the origin of the goods obtained from those operations;

– processing teak logs into sawn wood constitutes a processing or working operation that determines the origin of the goods obtained from that operation.

The second question

69 By its second question, the referring court asks, in essence, whether the expression ‘exported from Burma/Myanmar’ in Article 2(2)(a)(ii) of Regulation No 194/2008 must be interpreted as meaning that that provision covers only goods that have been imported into the European Union directly from Burma/Myanmar.

70 In that regard, according to the Court’s settled case-law, 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 14 May 2024, *Stachev*, C-15/24 PPU, EU:C:2024:399, paragraph 72 and the case-law cited).

71 First, as regards the wording of Article 2(2)(a)(ii) of Regulation No 194/2008, the expression ‘exported from Burma/Myanmar’ may, without further precision, include products imported both directly and indirectly from that country.

72 That being so, concerning, secondly, the context in which Article 2(2)(a)(ii) of Regulation No 194/2008 occurs, it should be noted that that provision contains two prohibitions on imports from Burma/Myanmar, namely the prohibition on importing goods originating in that country, in Article 2(2)(a)(i) of that regulation, and the prohibition on importing goods that have been exported from that country, in Article (2)(2)(a)(ii) thereof.

73 Article (2)(2)(a)(i) of Regulation No 194/2008 was intended, specifically, to ensure that goods that 'originate in Burma/Myanmar' came within the scope of that regulation even if they were imported into the European Union via a third country and not directly from Burma/Myanmar. That provision would be superfluous if Article 2(2)(a)(ii) of that regulation were interpreted as meaning that goods which were at some point present in Burma/Myanmar – even goods that once originated in Burma/Myanmar but no longer originate there due to substantial processing or working in a third country – came within the scope of the latter provision.

74 Thirdly, it is clear from recital 6 of Regulation No 194/2008 that, in view of the longstanding, continuing serious violations of fundamental rights by the military regime of Burma/Myanmar, the aim of the regulation was to be instrumental, by renewing and strengthening the restrictive measures in respect of that country, in promoting respect for fundamental human rights and thus to serve the purpose of protecting public morals. In addition, it follows from recital 7 of that regulation that the new restrictive measures it provided for were intended to target sectors which provide sources of revenue for that military regime like wood and wood products. However, it is not apparent from those objectives of Regulation No 194/2008 that the intention of the EU legislature, when it adopted that regulation targeting Burma/Myanmar, was to subject all goods from third countries that have been made from goods from Burma/Myanmar to the prohibition on imports provided for in Article 2(2)(a) of that regulation.

75 In the light of the foregoing, the answer to the second question is that the expression 'exported from Burma/Myanmar' in Article 2(2)(a)(ii) of Regulation No 194/2008, must be interpreted as meaning that that provision covers only goods that have been imported into the European Union directly from Burma/Myanmar.

The third question

76 By its third question, the referring court asks, in essence, whether Article 2(2)(a)(i) of Regulation No 194/2008 must be interpreted as meaning that, when the customs authorities of the Member States examine whether that provision has been infringed, they are bound by certificates of origin issued by a third country which state that the goods concerned originate in that country.

77 In that regard, it should be observed that Regulation No 194/2008 does not lay down any obligation to produce a document as proof of origin of the goods referred to by that regulation. Article 2(3) of that regulation provides only that the origin of those goods must be determined in accordance with the relevant provisions of the Community Customs Code.

78 As is apparent from Article 26 of the Community Customs Code, although EU legislation provides that the origin of the goods must be evidenced by the production of a document, the production of that document does not prevent, in case of serious doubt, customs authorities from requiring any supplementary evidence to ensure that the indication of origin does comply with the rules established by EU legislation in this field. In that respect, the Court has already ruled that the

purpose of the verification after the event is to check the accuracy of the origin indicated on the certificate of origin (judgment of 30 June 2016, *Selena România*, C-416/15, EU:C:2016:501, paragraph 36 and the case-law cited).

79 It follows that the fact that goods are accompanied by certificates of origin is not a circumstance capable of preventing the recovery of duty due in respect of the import of those goods if, after that import has taken place, those certificates prove to be inaccurate (judgment of 30 June 2016, *Selena România*, C-416/15, EU:C:2016:501, paragraph 37 and the case-law cited).

80 It follows from that case-law relating to Article 26 of the Community Customs Code that, even where there is an obligation to produce a document, such as a certificate of origin, as proof of origin of the goods concerned, the customs authorities are not bound by that document. That is a fortiori the case where such an obligation does not exist.

81 In the light of the foregoing, the answer to the third question is that Article 2(2)(a)(i) of Regulation No 194/2008 must be interpreted as meaning that, when the customs authorities of the Member States examine whether that provision has been infringed, they are not bound by certificates of origin issued by a third country which state that the goods concerned originate in that country.

Costs

82 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:

1. **Article 2(2)(a) of Council Regulation (EC) No 194/2008 of 25 February 2008 renewing and strengthening the restrictive measures in respect of Burma/Myanmar and repealing Regulation (EC) No 817/2006, read in conjunction with Article 24 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code,**

   must be interpreted as meaning that:

   – **debranching teak logs, debarking them and sawing them into the shape of wooden cuboids do not constitute processing or working operations that determine the origin of the goods obtained from those operations;**

   – **processing teak logs into sawn wood constitutes a processing or working operation that determines the origin of the goods obtained from that operation.**

2. **The expression ‘exported from Burma/Myanmar’ in Article 2(2)(a)(ii) of Regulation No 194/2008**

   must be interpreted as meaning that that provision covers only goods that have been imported into the European Union directly from Burma/Myanmar.

3. **Article 2(2)(a)(i) of Regulation No 194/2008**

must be interpreted as meaning that, when the customs authorities of the Member States examine whether that provision has been infringed, they are not bound by certificates of origin issued by a third country which state that the goods concerned originate in that country.

[Signatures]