



## ECJ on the relevant sale for determining the transaction value of goods

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On 30 October 2025, the European Court of Justice (ECJ) handed down two rulings on determining the relevant sale for determining the transaction value of goods. Both rulings (case C-500/24 – *Massimo Dutti* and case C-348/24 – *Logista*) are based on similar facts. In both cases, several sales took place before the goods were released for free circulation. However, the ECJ reached conclusions that cannot easily be reconciled.

### 1 Background and facts

Both cases deal with matters falling within the scope of the old Community Customs Code (Regulation (EEC) No 2913/92 - CCC) and its implementing regulation. The crucial provision for the proceedings was, in each case, Article 29 para. 1 of the CCC, which corresponds to the current Article 70 para 1 of the UCC. The provision stipulates that the customs value of imported goods is the transaction value, i.e. the price paid or payable for the goods when sold for export to the customs territory of the Union. In the case of multiple sales, the relevant sale must be determined and its price used as a basis.

In Case C-348/24 – *Logista*, a Cuban trader sold cigars to the customer *Altadis* (first sale). The seller transported the goods to Spain, where the plaintiff *Logista* stored them in a customs warehouse. Some of the cigars were to be resold in duty-free shops without being subject to any customs procedure. Some of the cigars were to be resold by *Altadis* to *Logista* (second sale). The second sale only took place after *Logista* had found a customer. After the second sale, *Logista* either released the cigars for free circulation in the customs territory of the Union or placed them under the export procedure for dispatch outside the territory of the Union. *Logista* declared the price from the first sale as the customs value when releasing the goods for free circulation. The Spanish tax authorities objected to this.



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In case C-500/24 – *Massimo Dutti*, an Asian manufacturer and seller sold fashion items to a customer based in Switzerland (first sale). The customer then sold the items to *Massimo Dutti* (second sale). The items were then transported from the country of manufacture to Spain, where some were released for free circulation and some were placed under a customs warehousing procedure. All items were either marketed in the customs territory of the Union or exported to third countries. The respective fate of the items was not yet determined at the time of the first sale. Massimo Dutti declared the price from the first sale as the customs value when the goods were released for free circulation. The Spanish tax authorities also objected to this in this case.

## 2 ECJ decision

In both cases, the subject of the questions referred to the ECJ was as to whether the first sale could be regarded as a sale for export to the customs territory of the Union. What both cases had in common was, that at the time of the first sale, it was not yet clear whether the goods in question would be marketed within the customs territory of the Union or re-exported to a third country.

In case C-348/24 – *Logista*, the ECJ ruled that the release for free circulation from the customs warehouse could be based on the price of the first sale. The ECJ held that the placing of goods under the customs warehousing procedure meant that the goods could potentially be subject to different customs provisions in the future. The different fates of different goods from the same quota were irrelevant to the finding that the first sale already constituted an export to the customs territory of the Union – in this case, the customs warehousing procedure.

In case C-500/24 – *Massimo Dutti*, however, the ECJ ruled that the first sale could not be considered a sale for export to the customs territory of the Union. At the time of the first sale, it is only certain that the goods were brought into the customs territory of the Union, but not that they were marketed there. It must be proven that the commercial destination of the goods was already determined at the time of the first sale. However, this proof cannot be provided if it is unclear whether the goods will be re-exported to third countries.

## 3 Classification

The ECJ's two decisions of the same day point in different directions. One difference is that in case C-348/24 – *Logista*, all goods were initially placed under the customs warehousing procedure. There was no direct release for free circulation. However, this does not detract from the fact that the ECJ itself emphasises a different criterion. In its view, it is not the customs procedure used that is decisive, but the question of whether the commercial destination of the goods was determined at the time of the first sale. This was not the situation in either of the two cases.

The German customs administration recognises that the first sale can, in principle, be used to determine the transaction value (see DV Zollwertrecht, Z 51 01, paras. 8-10). Following the ECJ's decisions, it is unclear how proof is to be provided that a sale is made for export to the customs territory of the Union. Mere proof that goods are physically brought into the customs territory of the Union is sometimes insufficient. Taxable persons should check whether they can document their supply chain more comprehensively in order to be able to provide better evidence, in particular regarding the commercial destination of the goods. The documentation of the first sale is decisive.