



ECJ on transaction value method in the event of subsequent price adjustments

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In its "Hamamatsu" judgment C-529/16 in 2017 (KMLZ Customs Newsletter 01 | 2019), the ECJ handed down an important decision on the applicability of the transaction value method in determining the customs value. Namely, it may be excluded if a price is initially invoiced and then subsequently adjusted. The decisive factor is whether it is already clear, at the time of the acceptance of the customs declaration, as to whether an adjustment is necessary and, if so, to what extent the adjustment will be made. If this is uncertain, the transaction value method cannot be applied. In a recent decision (judgment of 15 May 2025 – C-782/23 – *Tauritus*), the ECJ provided further guidance on the transaction value method in the event of subsequent price adjustments.

1 Facts

Tauritus released diesel and aircraft turbine fuel for free circulation in Lithuania. The contracts with the suppliers only provided a provisional price for the goods. This was stated on "pro forma" invoices. Tauritus declared the goods, with the provisional price, as the customs value in accordance with the fall-back method pursuant to Art. 74 para. 3 of the UCC. The contracts provided that the provisional price would be subsequently adjusted. The average market price, over a certain period, and the average exchange rate, were to be decisive. The final price could be higher or lower than the provisional price. Final invoices were to be issued for this purpose. After receiving the final invoices, Tauritus submitted applications for amendment of the value of the goods declared in the customs declarations in accordance with Art. 173 of the UCC.



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During a review, the Lithuanian customs administration found that the declarations had not been subsequently amended in every case. In 13 cases, it assessed import duties on the basis of the final price as the transaction value. Tauritus objected to the application of the transaction value method. In subsequent court proceedings, the Supreme Administrative Court of Lithuania referred the matter to the ECJ.

2 Questions referred and decision of the ECJ

The Supreme Administrative Court of Lithuania referred two questions to the ECJ. The first question concerned whether the transaction value method can be applied if only the provisional price to be paid is known at the outset. In the case in question, it was not known whether the final price would be adjusted upwards or downwards. With its second question, the referring court wanted to know whether the declarant is obliged, pursuant to Art. 173 of the UCC, to submit an application for a change in the customs value declared using the fall-back method if the definitive price becomes known after the goods have been released.

The ECJ first answered the question with regard to the fundamental applicability of the transaction value method. In the "Hamamatsu" judgment, the ECJ ruled that the transaction value method is not applicable if the price is subsequently adjusted and it is not clear as to whether the price is to be increased or decreased. The subject matter of the decision were price adjustments following a subsequent division between related companies. In that case, the amount of the profit allocation and the price adjustment were completely uncertain at the time of the acceptance of the customs declaration. In the present case, however, binding and objective criteria for subsequent price adjustment were already in place at the time of the customs declaration. The "determinability" of the price is therefore sufficient for the transaction value method to be applicable. The specific "determination" of the price, on the other hand, can be made retrospectively. The ECJ then states that, in principle, the simplified customs declaration procedure, in accordance with Art. 166 and 167 of the UCC, is provided for in this case. According to this, the declarant may first file an incomplete customs declaration and then declare the final price in a supplementary declaration.

However, the question of how to handle a declaration in which a simplified customs declaration is not used and the provisional price is declared as the customs value, according to the fall-back method, remains unanswered. In particular, it remains unclear whether, in this case, a subsequent amendment of the customs declaration, pursuant to Art. 173 of the UCC, can or even must be made. The ECJ does not answer the referring court's second question. Instead, it points out that there is no scope for amending the customs declaration if the simplified customs declaration procedure is used.

3 Consequences for the practice

While the decision clarifies the principle established in the "Hamamatsu" decision on the applicability of the transaction value method, it also raises further questions. It is now clearer when a price is considered to be sufficiently determinable at the time of the acceptance of the customs declaration. Unfortunately, it remains unclear how to proceed if no simplified customs declaration is lodged. In this case, the final price cannot be used as the customs value in the customs declaration because it is not known. Another problem arises if the supplementary customs declaration is not lodged by the deadline. It remains unclear whether an amendment to the customs declaration, pursuant to Art. 173 of the UCC, is possible or even mandatory. It is also noteworthy in this regard that the ECJ does not link its comments on the simplified customs declaration procedure to the question referred. This is because simplified customs declarations were not submitted in the case referred. Legal certainty therefore remains lacking in this regard.