JUDGMENT OF THE COURT (Third Chamber)

20 May 2021 (*)

(Reference for a preliminary ruling – Customs union – Assessment of validity – Implementing Regulation (EU) No 1357/2013 – Determination of the country of origin of solar modules assembled in a third country from solar cells manufactured in another third country – Regulation (EEC) No 2913/92 – Community Customs Code – Article 24 – Origin of goods whose production involved more than one third country – Concept of 'last substantial processing or working')

In Case C-209/20,

REQUEST for a preliminary ruling under Article 267 TFEU from the Upper Tribunal (Tax and Chancery Chamber) (United Kingdom), made by decision of 22 May 2020, received at the Court on the same day, in the proceedings

Renesola UK Ltd

v

The Commissioners for Her Majesty's Revenue and Customs,

THE COURT (Third Chamber),

composed of A. Prechal, President of the Chamber, N. Wahl, F. Biltgen, L.S. Rossi and J. Passer (Rapporteur), Judges,

Advocate General: A. Rantos,

Registrar: A. Calot Escobar,

having regard to the written procedure,

after considering the observations submitted on behalf of:

– Renesola UK Ltd, by Y. Melin and B. Vigneron, avocats, and L. Gregory, Solicitor,

– the European Commission, by F. Clotuche-Duvieusart and M. Kocjan, 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 validity of Commission Implementing Regulation (EU) No 1357/2013 of 17 December 2013 amending Regulation (EEC) No 2454/93 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (OJ 2013 L 341, p. 47) and the interpretation of Article 24 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ 1992 L 302, p. 1), as amended by Regulation (EC) No 2700/2000 of the European Parliament and of the Council of 16 November 2000 (OJ 2000 L 311, p. 17) ('the Community Customs Code').

2 The request has been made in proceedings between Renesola UK Ltd ('Renesola') and the Commissioners for Her Majesty's Revenue and Customs (United Kingdom) concerning the imposition

of anti-dumping duty and countervailing duty on solar modules imported into the United Kingdom.

Legal context

The Community Customs Code

3 Title II of the Community Customs Code, headed ‘Factors on the basis of which import duties or export duties and the other measures prescribed in respect of trade in goods are applied’, contains, inter alia, Chapter 2, headed ‘Origin of goods’, Sections 1 and 2 of which are respectively devoted to ‘non-preferential origin’ and ‘preferential origin of goods’. Section 1 of Chapter 2 includes Article 24 of the Community Customs Code, which is worded as follows:

‘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.’

4 Title IX of the Community Customs Code, headed ‘Final provisions’, includes Article 247 thereof, which provides:

‘The measures necessary for the implementation of this Regulation … shall be adopted in accordance with the regulatory procedure referred to in Article 247a(2) in compliance with the international commitments entered into by the [European Union].’

5 Title IX also includes Article 247a of the Community Customs Code, paragraphs 1 and 2 of which state:

‘1. The Commission shall be assisted by a Customs Code Committee (hereinafter referred to as “the Committee”).

2. Where reference is made to this paragraph, Articles 5 and 7 of [Council] Decision 1999/468/EC [of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission (OJ 1999 L 184, p. 23), as amended by Council Decision 2006/512/EC of 17 July 2006 (OJ 2006 L 200, p. 11),] shall apply, having regard to the provisions of Article 8 thereof.

…’

Regulation (EEC) No 2454/93

6 Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of [the Community Customs Code] (OJ 1993 L 253, p. 1) contains in Part I, relating to ‘general implementing provisions’, Title IV, headed ‘Origin of goods’, Chapter 1 of which is devoted to ‘non-preferential origin’ of goods. Section 1 of that chapter, headed ‘Working or processing conferring origin’, includes Articles 35 and 39 of the regulation.

7 Article 35 of Regulation No 2454/93 states:

‘This chapter lays down, for textiles and textile articles falling within Section XI of the combined nomenclature, and for certain products other than textiles and textile articles, the working or processing which shall be regarded as satisfying the criteria laid down in Article 24 of the [Community Customs] Code and shall confer on the products concerned the origin of the country in which they were carried out.

“Country” means either a third country or the [European Union] as appropriate.’

8 The first paragraph of Article 39 of Regulation No 2454/93 provides:

‘In the case of products obtained which are listed in Annex 11, the working or processing referred to in column 3 of the Annex shall be regarded as a process or operation conferring origin under Article 24 of

the [Community Customs] Code.'

Implementing Regulation No 1357/2013

9 Implementing Regulation No 1357/2013 was adopted on the basis of Article 247 of the Community Customs Code.

10 Recitals 1, 3 to 7 and 13 of Implementing Regulation No 1357/2013 state:

'(1) Non-preferential rules of origin are to be applied to all non-preferential trade policy measures, including anti-dumping and countervailing duties.

…

(3) The declaration for free circulation of crystalline silicon photovoltaic modules or panels and their key components has been made subject to provisional anti-dumping duties by Commission Regulation (EU) No 513/2013 [of 4 June 2013 imposing a provisional anti-dumping duty on imports of crystalline silicon photovoltaic modules and key components (i.e. cells and wafers) originating in or consigned from the People's Republic of China and amending Regulation (EU) No 182/2013 making these imports originating in or consigned from the People's Republic of China subject to registration (OJ 2013 L 152, p. 5)].

(4) In order to ensure the correct and uniform implementation of the provisional anti-dumping duties, a detailed rule for the interpretation of the principle of Article 24 of [the Community Customs Code] for the determination of the origin of the products covered by those measures needs to be laid down with regard to crystalline silicon photovoltaic modules or panels and one of their key components, crystalline silicon photovoltaic cells.

(5) The production process of crystalline silicon photovoltaic modules or panels can be divided into the following major steps: production of silicon wafers; processing of silicon wafers into crystalline silicon photovoltaic cells; assembly of several crystalline silicon photovoltaic cells into a crystalline silicon photovoltaic module or panel.

(6) The most important stage in the manufacture of the crystalline silicon photovoltaic panels or modules is the processing of silicon wafers into crystalline silicon photovoltaic cells. That is the decisive production stage during which the use to which the component parts of the panel or module are to be put becomes definite and where they are given their specific qualities.

(7) That transformation therefore should be considered as constituting the last substantial transformation in the production process of crystalline silicon photovoltaic modules or panels in accordance with Article 24 of [the Community Customs Code]. The country of manufacture of the crystalline silicon photovoltaic cells should thus be the country of non-preferential origin of the crystalline silicon photovoltaic modules or panels.

…

(13) [Regulation No 2454/93] should therefore be amended accordingly.'

11 Implementing Regulation No 1357/2013 amended Annex 11 to Regulation No 2454/93, headed 'List of working or processing operations conferring or non-conferring originating status to manufactured products when they are carried out on non-originating materials – Products other than textiles and textile articles falling within Section XI', by inserting in that annex two new entries (ex 85 01 and ex 85 41) worded as follows:

'Ex 85 01 Crystalline silicon	'Ex 85 01	Crystalline silicon photovoltaic	Manufacture from materials of any heading,

photovoltaic modules or panels Manufacture from materials of any heading, except that of the product and of heading 8541. Where the product is manufactured from materials classified in heading 8501 or 8541, the origin of those materials shall be the origin of the product. Where the product is manufactured from materials classified in heading 8501 or 8541 originating in more than one country, the origin of the major portion in value of those materials shall be the origin of the product.’		modules or panels	except that of the product and of heading 8541. Where the product is manufactured from materials classified in heading 8501 or 8541, the origin of those materials shall be the origin of the product. Where the product is manufactured from materials classified in heading 8501 or 8541 originating in more than one country, the origin of the major portion in value of those materials shall be the origin of the product.’

‘Ex 8541	Crystalline silicon photovoltaic cells, modules or panels	Manufacture from materials of any heading, except that of the product. Where the product is manufactured from materials classified in heading 8541, the origin of those materials shall be the origin of the product. Where the product is manufactured from materials classified in heading 8541 originating in more than one country, the origin of the major portion in value of those materials shall be the origin of the product.’

Background to the dispute in the main proceedings

12 On 4 June 2013, the European Commission adopted Regulation No 513/2013, by which it imposed a provisional anti-dumping duty on imports of crystalline silicon photovoltaic modules and key components (i.e. cells and wafers) originating in or consigned from the People’s Republic of China.

13 On 2 December 2013, the Council of the European Union adopted Implementing Regulation (EU) No 1238/2013 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People’s Republic of China (OJ 2013 L 325, p. 1) and Implementing Regulation (EU) No 1239/2013 imposing a definitive countervailing duty on imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People’s Republic of China (OJ 2013 L 325, p. 66).

14 A number of actions for annulment were brought before the General Court of the European Union against those implementing regulations and against various measures adopted in the context of the procedures that led to their adoption or of related procedures, and some of those actions have already

given rise to judgments or orders of the General Court, to appeals, and to judgments or orders of the Court of Justice. In particular, in a judgment of 27 March 2019, *Canadian Solar Emea and Others v Council* (C-236/17 P, EU:C:2019:258, paragraph 64), the Court of Justice observed in essence that, in adopting those implementing regulations, the EU legislature had put in place trade defence measures constituting 'a set or a package' intended to achieve a common goal consisting in the removal of the injurious effect on the EU industry of Chinese dumping relating to solar modules and solar cells.

15 On 17 December 2013, the Commission supplemented that 'set or package' by adopting Implementing Regulation No 1357/2013, the aim of which, as is apparent from paragraphs 10 and 11 of the present judgment, was to specify the origin of solar cells, modules and panels whose production involves more than one third country. The application of that implementing regulation resulted, in particular, in solar modules and panels produced in third countries other than China from solar cells produced in China being subject to the anti-dumping duties and countervailing duties imposed by Implementing Regulation No 1238/2013 and Implementing Regulation No 1239/2013 respectively.

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

16 Renesola imports into the United Kingdom solar modules which are consigned from India. The solar modules are obtained by assembling in India solar cells produced in China.

17 By a decision adopted on 28 December 2016 in accordance with Annex 11 to Regulation No 2454/93, as amended by Implementing Regulation No 1357/2013, the Commissioners for Her Majesty's Revenue and Customs established that the solar modules imported into the United Kingdom by Renesola originated in China and that their import therefore had to give rise to the levying of anti-dumping and countervailing duties, under Implementing Regulations No 1238/2013 and No 1239/2013.

18 Renesola brought an appeal against that decision before the First-tier Tribunal (Tax Chamber) (United Kingdom), in support of which it contended that Implementing Regulation No 1357/2013 was invalid in that it classified solar modules such as those which it imports into the United Kingdom as products originating in China. In its submission, those solar modules must, when Article 24 of the Community Customs Code is interpreted and applied correctly, be regarded as products originating in India.

19 By a decision of 5 November 2018, the tribunal before which the appeal was brought dismissed it as unfounded.

20 Renesola appealed against that decision to the referring tribunal.

21 By a decision of 4 March 2020, the referring tribunal held that the tribunal of first instance had assessed incorrectly the evidence adduced before it by Renesola in order to establish the origin of the solar modules that it imports into the United Kingdom. In its view, if that evidence is assessed correctly, it is apparent that the assembly of those solar modules, which is carried out in India using solar cells produced in China, must be regarded not as a mere change in the presentation of the modules' constituent solar cells, as the tribunal of first instance found, but as a technically complex and delicate process that enables products possessing specific properties to be obtained, in particular in terms of electricity production capacity, resistance potential (in relation to outside air, weather and radiation) and lifespan.

22 The referring tribunal concluded from this that the solar modules which Renesola imports into the United Kingdom should be classified as products originating in India and not in China, for the purposes of Article 24 of the Community Customs Code, if that article were to be directly applicable to the case pending before it.

23 In the light of those considerations, the referring tribunal states in essence, in its order for reference, that the outcome of the case depends, first, on whether Implementing Regulation No 1357/2013 is valid in the light of Article 24 of the Community Customs Code, having regard to the margin of discretion that the Court accords the Commission for the purpose of clarifying on a case-by-case basis

the abstract criteria referred to in that article, and second, if Implementing Regulation No 1357/2013 is invalid, on the interpretation of that article in a situation such as that at issue in the main proceedings.

24 In those circumstances, the Upper Tribunal (Tax and Chancery Chamber) (United Kingdom) decided to stay the proceedings and to refer the following questions to the Court for a preliminary ruling:

‘(1) Is [Implementing Regulation No 1357/2013], to the extent that it purports to determine the country of origin of solar modules manufactured from materials coming from several jurisdictions by ascribing origin to the country where the solar cells were manufactured, contrary to the requirement in Article 24 of [the Community Customs Code], namely that goods whose production involves 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, and hence invalid?

(2) If [Implementing] Regulation [No] 1357/2013 is invalid, is Article 24 of the Community Customs Code to be interpreted as meaning that the assembly of solar modules from solar cells and other parts constitutes a substantial processing or working?’

Consideration of the questions referred

First question

25 By its first question, the referring tribunal asks, in essence, whether Implementing Regulation No 1357/2013 is invalid in the light of Article 24 of the Community Customs Code in that it provides that solar modules whose production involved more than one country must be regarded as originating in the country from which their constituent solar cells come.

26 As provided in Article 24 of the Community Customs Code, goods whose production involved more than one country are to 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.

27 In the present instance, Implementing Regulation No 1357/2013 amended Annex 11 to Regulation No 2454/93, which, as is apparent from both Article 39 of that regulation and the heading of Annex 11, lays down the list of products the processing or working of which is regarded as conferring upon them their origin for the purposes of Article 24 of the Community Customs Code.

28 More specifically, that implementing regulation included new products in Annex 11, namely solar cells, modules and panels, and specifies, in respect of solar modules and panels, that they must be regarded as originating in the country in which their constituent solar cells originate, as is apparent from paragraph 11 of the present judgment.

29 In order to substantiate the fact that the origin of the solar cells constitutes the origin of the solar modules and panels manufactured from those cells, the Commission stated, in recitals 6 and 7 of Implementing Regulation No 1357/2013, that the processing of silicon wafers into solar cells is the ‘decisive’ and ‘most important’ stage in the process for producing the solar modules and panels, in that it results in products that have a ‘definite use to which [they] are to be put’ and ‘specific qualities’, and therefore that stage must be classified as the last substantial processing for the purposes of Article 24 of the Community Customs Code.

30 In carrying out that assessment and that legal classification of the facts, the Commission implicitly but necessarily took the view that the other two stages in the process for producing the solar modules and panels, described in recital 5 of Implementing Regulation No 1357/2013, namely the previous stage consisting of the production of silicon wafers and the subsequent stage consisting of the assembly of solar cells into solar modules or panels, do not constitute the last substantial processing of those products.

31 Review of the validity of the enacting terms of Implementing Regulation No 1357/2013 and of the grounds upon which they are based, which the referring tribunal requests the Court to conduct, must take account of the nature and object of that measure, whose legal basis, as has been stated in paragraph 9 of the present judgment, is Article 247 of the Community Customs Code.

32 In that regard, it follows from the settled case-law of the Court that Article 247 of the Community Customs Code, read in conjunction with Article 247a thereof, empowers the Commission to take all the measures which are necessary or useful for the implementation of that code (see, to that effect, judgment of 12 October 2017, *X*, C-661/15, EU:C:2017:753, paragraphs 44 and 45 and the case-law cited) and, in particular, to adopt implementing measures intended to make clear the way in which the abstract criteria set out in Article 24 thereof are to be interpreted and applied in specific situations (see, to that effect, judgments of 23 March 1983, *Cousin and Others*, 162/82, EU:C:1983:93, paragraph 17, and of 13 December 2007, *Asda Stores*, C-372/06, EU:C:2007:787, paragraph 35).

33 Therefore, the Commission is empowered to adopt, on the basis of Articles 247 and 247a of the Community Customs Code, implementing measures, such as Regulation No 1357/2013, for the purpose of specifying, where there are one or more specific categories of goods whose production involved more than one country, which of those countries the goods must be regarded as originating in, provided that the criteria set out in Article 24 of that code are fulfilled and, consequently, that the country thus selected constitutes, inter alia, the country in which the goods underwent their ‘last substantial processing or working’.

34 However, as also follows from settled case-law of the Court, exercise of that power is subject to compliance with certain requirements.

35 In the first place, the implementing measure that the Commission is empowered to adopt must be justified by objectives such as those of ensuring legal certainty and the uniform application of EU customs rules (see, to that effect, judgments of 8 March 2007, *Thomson and Vestel France*, C-447/05 and C-448/05, EU:C:2007:151, paragraphs 36 and 39, and of 13 December 2007, *Asda Stores*, C-372/06, EU:C:2007:787, paragraphs 45 and 48).

36 In the second place, reasons must be stated for that implementing measure in such a way as to enable the EU judicature to review its legality, in the context of a direct action, or assess its validity, in the context of a reference for a preliminary ruling, if that issue is brought before it (see to that effect, as regards references for a preliminary ruling, judgments of 23 March 1983, *Cousin and Others*, 162/82, EU:C:1983:93, paragraphs 20 and 21, and of 13 December 2007, *Asda Stores*, C-372/06, EU:C:2007:787, paragraph 44).

37 Furthermore, since, as has been stated in paragraphs 32 and 33 of the present judgment, such an implementing measure is intended to make clear the interpretation and application of Article 24 of the Community Customs Code in a specific situation, judicial review as to whether that measure is well founded consists, first, in verifying that the Commission did not, in adopting it, err in law in the interpretation of that article and its application to the specific situation concerned, for example by departing from the criteria which that article imposes for determination of the origin of the goods (see, to that effect, judgment of 23 March 1983, *Cousin and Others*, 162/82, EU:C:1983:93, paragraph 15 and the case-law cited).

38 That origin must, in any event, be determined in the light of the decisive criterion that is constituted by the ‘last substantial processing or working’ of the goods concerned (see, to that effect, judgments of 13 December 1989, *Brother International*, C-26/88, EU:C:1989:637, paragraph 15, and of 11 February 2010, *Hoesch Metals and Alloys*, C-373/08, EU:C:2010:68, paragraph 38). As is clear from the Court’s case-law, that term must itself be understood as referring to the stage in the production process during which the use to which the goods are to be put is established (see, to that effect, judgment of 13 December 2007, *Asda Stores*, C-372/06, EU:C:2007:787, paragraph 36 and the case-law cited) and they acquire specific properties and composition, which they did not possess previously (see, to that effect, judgments of 26 January 1977, *Gesellschaft für Überseehandel*, 49/76, EU:C:1977:9, paragraph 6, and of 11 February 2010, *Hoesch Metals and Alloys*, C-373/08, EU:C:2010:68, paragraph 46), and which are not required to undergo significant qualitative changes subsequently (see,

to that effect, judgment of 11 February 2010, *Hoesch Metals and Alloys*, C-373/08, EU:C:2010:68, paragraph 47 and the case-law cited).

39 Second, judicial review as to whether an implementing measure such as Regulation No 1357/2013 is well founded may relate to whether, irrespective of any error of law, the Commission, to which the Court accords discretion in the implementation of Article 24 of the Community Customs Code (judgments of 23 March 1983, *Cousin and Others*, 162/82, EU:C:1983:93, paragraph 17, and of 12 October 2017, *X*, C-661/15, EU:C:2017:753, paragraph 45), committed a manifest error of assessment in implementing it, in view of the facts of the specific situation concerned (see, to that effect, judgment of 8 March 2007, *Thomson and Vestel France*, C-447/05 and C-448/05, EU:C:2007:151, paragraph 45).

40 In the light of the considerations thus set out, it is appropriate in the present instance, first of all, to examine the objectives pursued by Implementing Regulation No 1357/2013, next, to ascertain whether that implementing regulation meets the requirement to state reasons to which such a measure is subject and, finally, to decide whether the Commission's assessments relating to determination of the country of origin of the products to which that implementing regulation is applicable, as summarised in paragraphs 28 to 30 of the present judgment, are vitiated by an error of law or a manifest error of assessment in the light of Article 24 of the Community Customs Code.

41 First, it is apparent from recitals 1, 3 and 4 of Implementing Regulation No 1357/2013 that that implementing regulation is intended to make clear the way in which the criteria set out in Article 24 of the Community Customs Code, for the purpose of determining the origin of products, must be applied in relation to solar modules and panels originating in China and one of their key components, namely solar cells, in order to ensure the correct and uniform implementation of the anti-dumping and countervailing duties established by the European Union.

42 Such an objective was, in accordance with the case-law cited in paragraph 35 of the present judgment, such as to justify the adoption of that measure.

43 As regards, second, the reasons stated for Implementing Regulation No 1357/2013, it follows from paragraphs 29 and 30 of the present judgment that the Commission justified its determination of the origin of the solar modules and panels by stating that, from a factual point of view, the processing of silicon wafers into solar cells must be regarded as the 'decisive' and 'most important' stage in the process for producing the solar modules and panels, since it is at that stage that the key components of those products that the solar cells represent acquire their 'specific qualities' and that the 'use to which [they] are to be put' is established. As also follows from those paragraphs, the Commission deduced from that assessment of the facts that, from a legal point of view, that stage must be classified as the last substantial processing for the purposes of Article 24 of the Community Customs Code.

44 Those grounds set out the Commission's reasoning to the requisite legal standard. They enable the operators that manufacture the products concerned by Implementing Regulation No 1357/2013 or that import them into the European Union to understand the purport of that reasoning and to contest its factual and legal merits, as Renesola has done both in the main proceedings and in its written observations before the Court. They also put the Court in a position to assess the validity of that measure.

45 So far as concerns, third, review of the merits of the Commission's reasoning relating to the country of origin of the solar modules and panels covered by Implementing Regulation No 1357/2013, it should be pointed out, first of all, that that reasoning is founded on the criterion of the 'last substantial processing or working' in Article 24 of the Community Customs Code, as has been noted in paragraph 29 of the present judgment.

46 Therefore, contrary to Renesola's contentions in its written observations before the Court, the Commission cannot be considered to have committed an error of law by resorting to a criterion other than that laid down in that article.

47 As regard, next, the question whether the Commission committed a manifest error of assessment, the referring tribunal and Renesola are of the view, in essence, that the assembly of solar cells into solar

modules or panels enables products to be obtained that possess properties different from those of their constituent solar cells, in particular in terms of electricity production capacity, resistance potential in relation to external elements, and lifespan, as follows from the statements in the order for reference that are summarised in paragraphs 21 and 22 of the present judgment.

48 The Commission does not dispute the existence of such a difference in properties, but considers that it is during the previous stage of the process for producing the solar modules and panels, constituted by the processing of silicon wafers into solar cells, that products are obtained that are capable of capturing solar energy and converting it into electricity, in varying quantities and with differing resistance potential and lifespan. It also considers, in essence, that the obtainment of that specific property is decisive and that the improvements which can subsequently be made to the solar cells, by assembling them into solar modules or panels of varying size, production capacity, resistance potential and lifespan, are, in comparison, of lesser importance.

49 That overall assessment of the process for producing the solar modules and panels and of the comparative importance of its various stages does not appear to be manifestly wrong, in the light of the case-law cited in paragraph 38 of the present judgment. The two elements upon which it is based, namely the ability to capture solar energy and then to convert it into electricity, may be regarded, first, as constituting fundamental properties of the solar cells, modules and panels, and second, as determining the use to which those various categories of products are to be put. Furthermore, those two elements, taken together, support the view that the processing of silicon wafers into solar cells possesses an importance that is both substantial and greater than that of the improvements made in the subsequent stage of the production process, during which a greater or lesser number of solar cells are assembled in solar modules or panels.

50 Thus, the Commission was entitled to take the view, on the basis of that assessment of the facts, that the processing of silicon wafers into solar cells had to be classified as the last substantial processing that occurs in the process for producing the solar modules and panels, for the purposes of Article 24 of the Community Customs Code.

51 It follows that Implementing Regulation No 1357/2013, whose adoption is justified, furthermore, by the objective of coherent and uniform implementation of EU customs and anti-dumping rules, cannot be regarded as vitiated by an error of law or a manifest error of assessment.

52 Having regard to all the foregoing considerations, the answer to the question referred is that examination of that question has disclosed no factor of such a kind as to affect the validity of Implementing Regulation No 1357/2013.

Second question

53 In the light of the answer given to the first question, there is no need to answer the second question, which has been put only if Implementing Regulation No 1357/2013 were to be declared invalid.

Costs

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

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

Examination of the first question referred for a preliminary ruling has disclosed no factor of such a kind as to affect the validity of Commission Implementing Regulation (EU) No 1357/2013 of 17 December 2013 amending Regulation (EEC) No 2454/93 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code.

Prechal Wahl Biltgen

Rossi Passer

Delivered in open court in Luxembourg on 20 May 2021.

A. Calot Escobar A. Prechal

Registrar President of the Third Chamber

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* Language of the case: English.