

Case C-248/09

Pakora Pluss SIA

v

Valsts ieņēmumu dienests

(Reference for a preliminary ruling
from the Augstākās tiesas Senāts Administratīvo lietu departaments)

(Act of Accession to the European Union — Customs union — Transitional
measures — Goods free from customs duties when entered for free circulation —
Goods in transport in the enlarged Community on the date of accession of the
Republic of Latvia — Export formalities — Import duties — VAT)

Judgment of the Court (First Chamber), 29 July 2010 I - 7704

Summary of the Judgment

1. *Customs union — Goods free from customs duties when entered for free circulation — Act of Accession 2003*
(*Act of Accession 2003, Annex IV, Chapter 5, paragraph 1; Commission Regulation No 2454/93, Art. 448*)

2. *Customs union — Goods free from customs duties when entered for free circulation — Act of Accession 2003*
(Annex IV, Chapter 5, paragraph 1; Council Regulation No 2913/92; Commission Regulation No 2454/93)
3. *Customs union — Import duties — Scope — Value added tax*
(Council Regulation No 2913/92, Art. 4(10); Council Directive No 77/388, Art. 2(2), 11, B(3)(a), and 21(2))

1. Since the goods were in transport in the enlarged Community on the date of accession to the European Union of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic, the procedure provided for in Annex IV, Chapter 5, paragraph 1 of the Act of Accession applies to the exclusion of the customs procedures. It follows that, in such a situation, the procedure provided for in Annex IV, Chapter 5, paragraph 1 of the Act of Accession being exhaustive, Article 448 of Regulation No 2454/93 laying down provisions to the implementation

of Council Regulation No 2913/93 establishing the Community Customs Code, as amended by Regulation No 2787/2000 concerning simplified procedures for maritime transport in the context of the Community transit rules, is not applicable. Therefore, the actions provided for in Article 448 of implementing Regulations No 2454/93 cannot be subscribed for the export formalities referred to in Annex IV.

(see paras 32-35, operative part 1)

2. Regulation No 2913/92 establishing the Community Customs Code, as amended by Regulation (EC) No 82/97 and Regulation No 2454/93, as amended by Regulation No 2787/2000, are applicable in the new Member States as from 1 May 2004, but the procedure provided for in Annex IV, Chapter 5, paragraph 1 of the Act of Accession to the European Union of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic cannot be relied on where the export formalities set out therein have not been completed with respect to goods in transport in the enlarged Community at the date of accession of those new Member States of the European Union.
3. Article 4(10) of Regulation No 2913/92 establishing the Community Customs Code, as amended by Regulation No 82/97, must be interpreted as meaning that import duties do not include the value added tax to be levied on the importation of goods. When goods are imported, the obligation to pay the value added tax is imposed on the person or persons designated or accepted as being liable by the Member State into which the goods are imported.

(see para. 41, operative part 2)

(see paras 47, 49, 52, operative part 3-4)