

2. If the answer to the first question is in the negative, does Article 5, in conjunction with Article 2, of Council Directive 2011/64/EU on the structure and rates of excise duty applied to manufactured tobacco (codification) preclude national legislation of a Member State which extends excise duty on manufactured tobacco to tobacco that is not referred to in Articles 2 and 5 of Council Directive 2011/64/EU on the structure and rates of excise duty applied to manufactured tobacco (codification) and that, while not intended for smoking, can be smoked (is capable of and appropriate for being smoked) and has been prepared for sale to the final consumer?

⁽¹⁾ OJ 2011 L 176, p. 24.

**Request for a preliminary ruling from the College van Beroep voor het Bedrijfsleven (Netherlands)
lodged on 7 December 2015 — Robeco Hollands Bezit NV and Others v Stichting Autoriteit
Financiële Markten (AFM)**

(Case C-658/15)

(2016/C 098/24)

Language of the case: Dutch

Referring court

College van Beroep voor het Bedrijfsleven

Parties to the main proceedings

Appellants: Robeco Hollands Bezit NV, Robeco Duurzaam Aandelen NV, Robeco Safe Mix NV, Robeco Solid Mix NV, Robeco Balanced Mix NV, Robeco Growth Mix NV, Robeco Life Cycle Funds NV, Robeco Afrika Fonds NV, Robeco Global Stars Equities, Robeco All Strategy Euro Bonds, Robeco High Yield Bonds, Robeco Property Equities

Respondent: Stichting Autoriteit Financiële Markten (AFM)

Question referred

Must a system in which multiple fund agents and brokers participate who, within that system, represent respectively 'open end' investment funds and investors in commercial transactions, and which, in fact, facilitates exclusively those 'open end' investment funds in their obligation to execute the purchase and selling orders for shares placed by investors, be regarded as a regulated market within the meaning of Article 4(1).14 of the MiFID ⁽¹⁾ and, if so, what characteristics are determinant in that regard?

⁽¹⁾ Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments, amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC (OJ 2004 L 145, p. 1).

**Request for a preliminary ruling from the Hoge Raad der Nederlanden (Netherlands) lodged on
4 December 2015 — X BV; Other party: Staatssecretaris van Financiën**

(Case C-661/15)

(2016/C 098/25)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Appellant: X BV

Other party: Staatssecretaris van Financiën

Questions referred

1. (a) Should Article 145(2) of the Regulation implementing the Community Customs Code (CCIP), ⁽¹⁾ read in conjunction with Article 29(1) and (3) of the Community Customs Code (CCC), ⁽²⁾ be interpreted as meaning that the rule laid down therein also applies in a case where it is established that, at the time of acceptance of the declaration for specific goods, there was a manufacture-related risk that a component of the goods might become defective during use, and in view of this the seller, pursuant to a contractual warranty towards the buyer, grants the latter a price reduction in the form of reimbursement of the costs incurred by the buyer in modifying the goods in order to exclude that risk?
1. (b) In the event that the rule laid down in Article 145(2) of the CCIP does not apply in the case referred to above, are the provisions of Article 29(1) and (3) of the CCC, read in conjunction with Article 78 of the CCC, sufficient, without more, to reduce the declared customs value after the aforementioned price reduction has been granted?
2. Is the condition laid down in Article 145(3) of the CCIP for adjustment of the customs value referred to therein, namely that the adjustment of the price actually paid or payable for the goods must have been made within a period of twelve months following the date of acceptance of the declaration for entry to free circulation, contrary to the provisions of Articles 78 and 236 of the CCC, read in conjunction with Article 29 of the CCC?

⁽¹⁾ 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).

⁽²⁾ Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ 1992 L 302, p. 1).

Action brought on 18 December 2015 — European Commission v Grand Duchy of Luxembourg

(Case C-684/15)

(2016/C 098/26)

Language of the case: French

Parties

Applicant: European Commission (represented by: M. Heller and K.-Ph. Wojcik, acting as Agents)

Defendant: Grand Duchy of Luxembourg

Form of order sought

The applicant claims that the Court should:

- declare that, by not adopting every law, regulation and administrative provision necessary for compliance with Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012 of the European Parliament and of the Council, ⁽¹⁾ or, in any event, by not notifying those provisions to the Commission, the Grand Duchy of Luxembourg has failed to fulfil its obligations under Article 130(1) of that directive;