

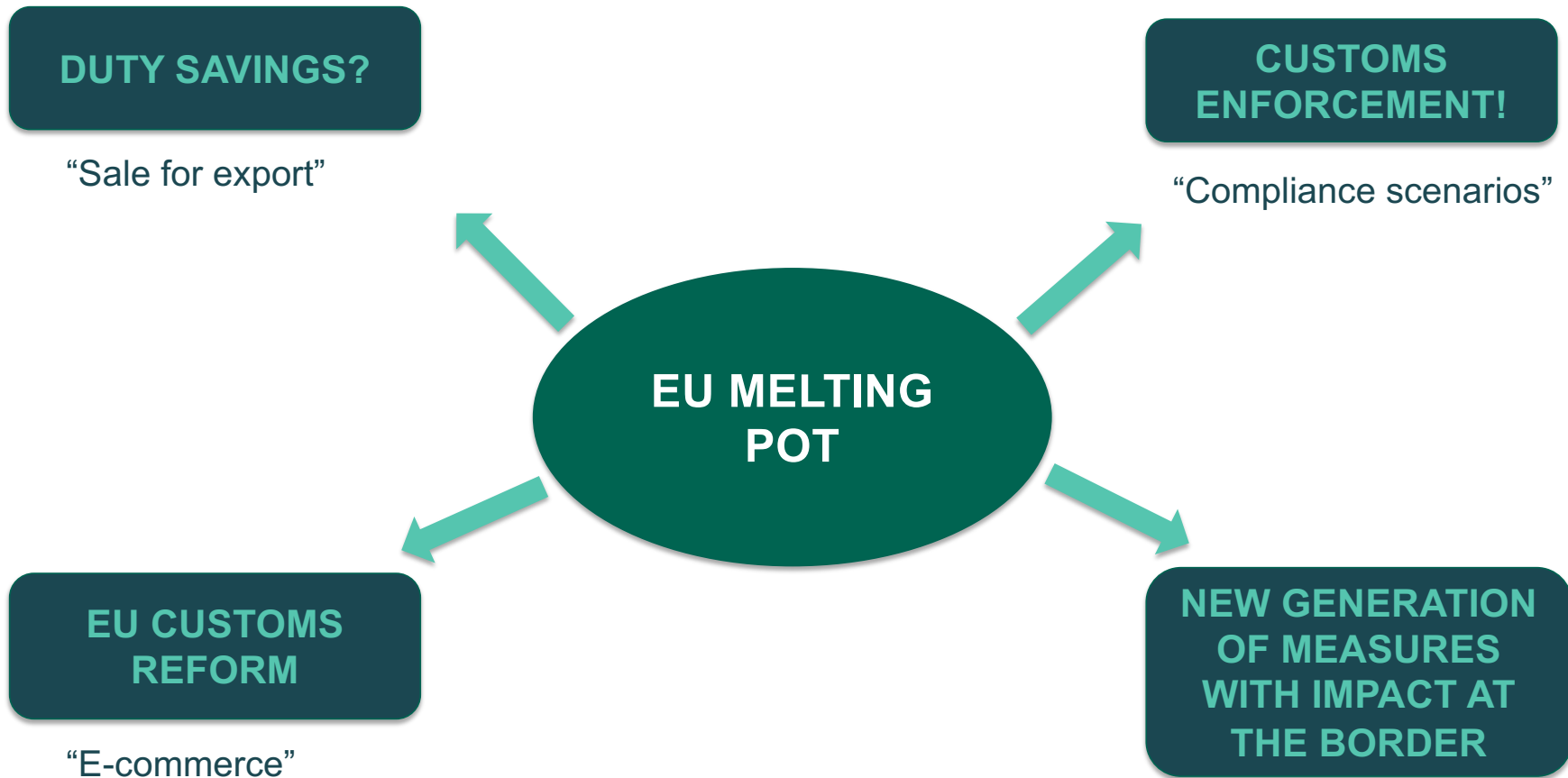
# ATCC 2026 Houston

## EU Trade and Customs at a Crossroads: Reform, Court Rulings and Transatlantic Tensions

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# Customs warehouse

“Sale for export”

## Customs value: last sale principle | Legal framework

### Article 70 (1) of Regulation 952/2013 (Union Customs Code, UCC):

1. *The primary basis for the customs value of goods shall be the transaction value, that is the price actually paid or payable for the goods when sold for export to the customs territory of the Union, adjusted, where necessary.*

## Customs value: last sale principle | Legal framework

### Article 128 Commission Implementing Regulation (EU) 2015/2447 (UCC IA):

- 1. The transaction value of the goods sold for export to the customs territory of the Union shall be determined at the time of acceptance of the customs declaration on the basis of the sale occurring immediately before the goods were brought into that customs territory.*
2. Where the goods are sold for export to the customs territory of the Union not before they were brought into that customs territory but while in temporary storage or while placed under a special procedure other than internal transit, end-use or outward processing, the transaction value will be determined on the basis of that sale.

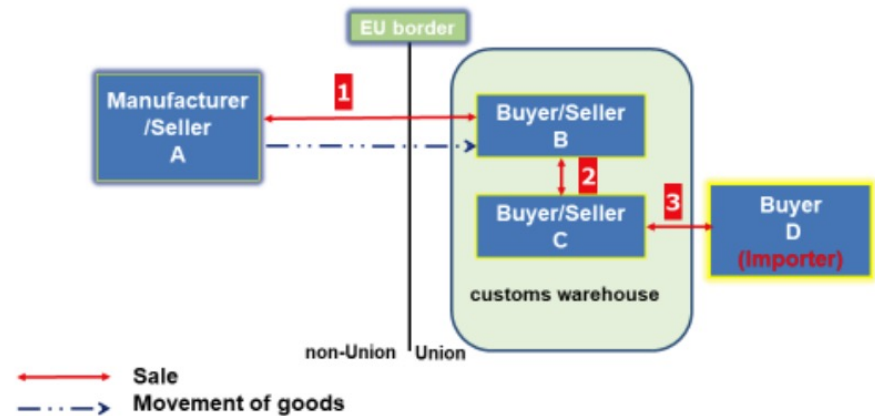
# Scenario 1 (EU Compendium of Customs Valuation Texts)

- “Sale for export” 1 takes places before the goods arrive in the EU
- Customs value is determined based on sale 1

EXAMPLE 4.b

### Article 128 (1) UCC IA

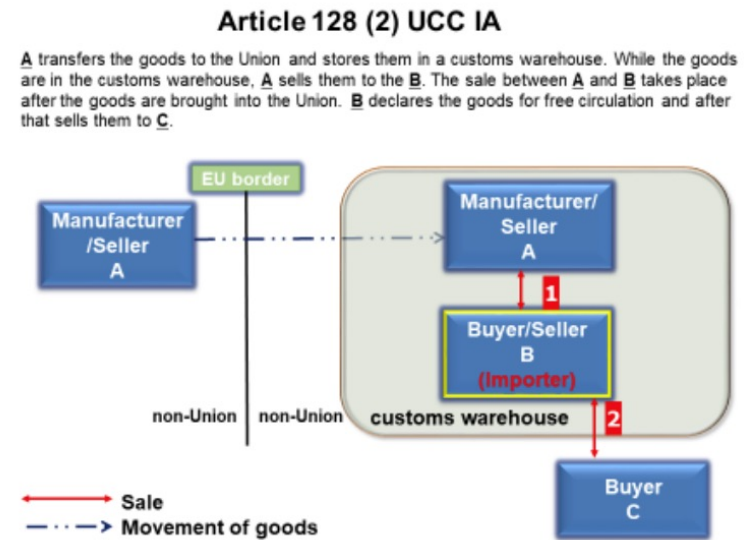
A sells the goods to B before the goods are brought into the customs territory of the Union. The goods are delivered directly from A to the Union, where B stores them in a customs warehouse. While the goods are stored in the customs warehouse B sells them to C. Then C sells the goods to D. D declares the goods for free circulation.



## Scenario 2 (EU Compendium of Customs Valuation Texts)

### EXAMPLE 6

- No “sale for export” before goods are placed under EU customs warehousing procedure
- Sale (1) occurring whilst the goods are in the customs warehouse and before release for free circulation can be used for customs valuation purposes



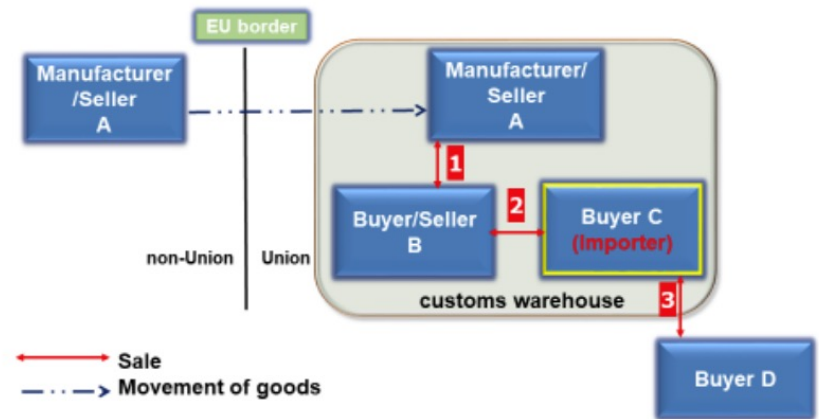
# Scenario 3 (EU Compendium of Customs Valuation Texts)

- Multiple sales take place whilst goods are under EU customs warehousing procedure
- Sale closest to moment of introduction in EU customs warehouse is used for customs valuation purposes

EXAMPLE 7

Article 128 (2) UCC IA

A transfers the goods to the Union and stores them in a customs warehouse. While the goods are in the customs warehouse, A sells them to B. Then B sells the goods to C. The two sales (between A and B, and between B and C) take place after the goods are brought into the Union. C declares the goods for free circulation and after that sells them to D.



## “Sale for export to the EU” concept under pressure | 1

### EUCJ C-348/24 *Compañía de Distribución Integral Logista S.A*

- *Some goods were not imported into the EU.*
- *Absence of clear guidance on sale for export to the EU, other than releasing the goods for free circulation.*
- *Transport of the goods to the EU?*
- *Does the placing of goods in a customs warehouse create a presumption that the goods were sold for export to the EU?*

## “Sale for export to the EU” concept under pressure | 2

### EUCJ C-348/24 *Compañía de Distribución Integral Logista S.A*

*“49 (...) at the time when the goods were placed under the customs warehousing procedure, they had been the subject of a sale which had led to their introduction into the customs territory of the European Union, the customs value of those goods may be determined, (...), by reference to the transaction value of that sale, without there being any need for further proof that the purpose of that sale was export to the customs territory of the European Union.*

*“50 In those circumstances, in so far as the placing of goods under the customs warehousing procedure implies that those goods may be destined for various future customs-approved treatments or uses, the fact that other goods under the same quota that were placed under that procedure were subsequently sold without being released for free circulation is irrelevant (...).”*

## “Sale for export to the EU” concept under pressure | 3

### EUCJ C-500/24 *Grupo Massimo Dutti*

- *Some goods were stored in a bonded warehouse and some goods were released for free circulation. In some cases, goods were exported to third countries from the bonded warehouse.*
- *Spanish customs: for the “first sale”, the purpose of exporting the goods to the EU was not demonstrated – some goods were re-exported.*
- *Does the sale for export to the EU require not only the introduction of the goods in the EU, but also the marketing of the goods in the EU?*
- *Does it require import in the EU in merely a physical sense or also in a full economic sense?*

## “Sale for export to the EU” concept under pressure | 4

### EUCJ C-500/24 *Grupo Massimo Dutti*

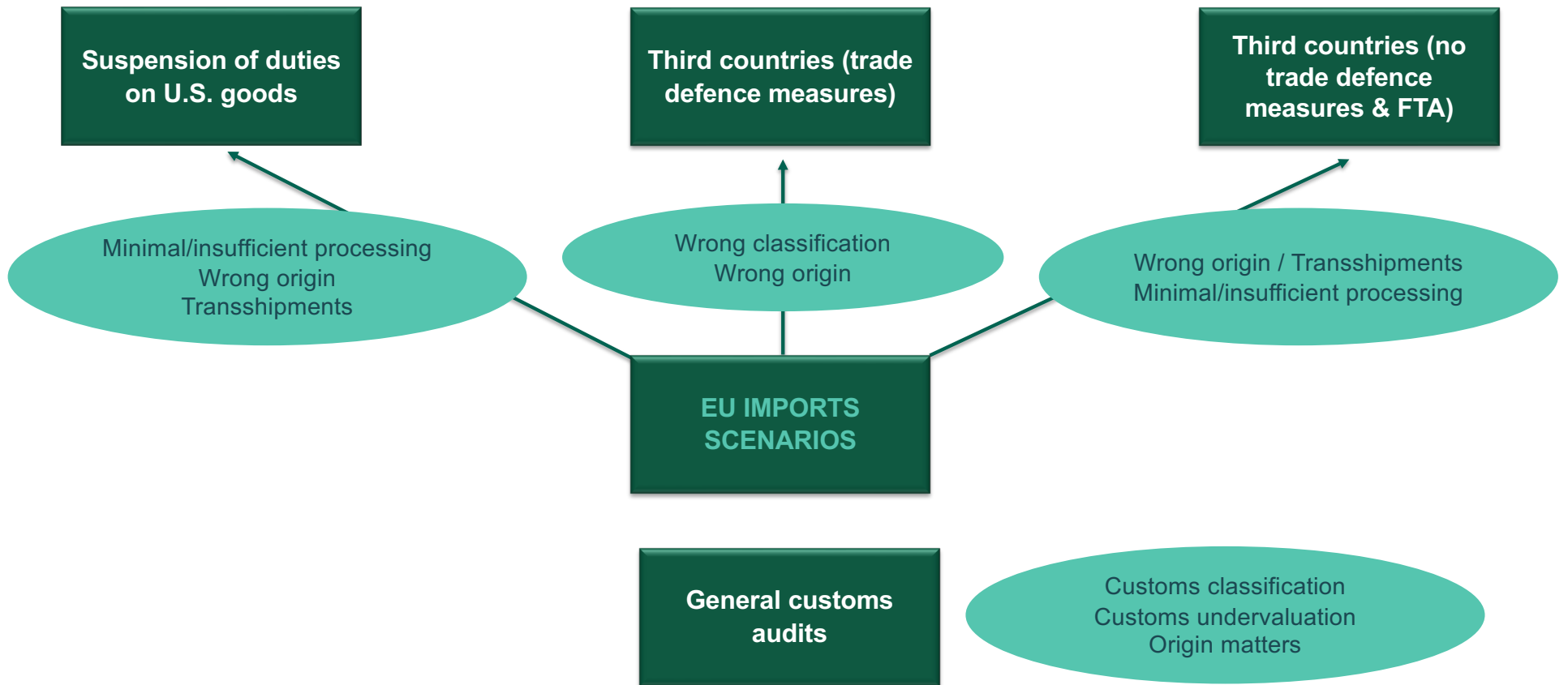
“30. Therefore, even if, at the time of the sale that took place before the last sale on the basis of which the goods were introduced into the customs territory of the European Union, it was agreed that those goods were to be transported to the European Union and introduced into that territory, that information cannot be considered sufficient for the price at which the first sale took place to be taken to be the customs value. If it is to serve to demonstrate that that sale took place for the export of those goods to that territory, that information must be substantiated in order to confirm, beyond any reasonable doubt, that those goods were intended to be marketed in that territory.

31. As it is, proof that such a sale took place for the export of the goods to the customs territory of the European Union cannot be considered to have been adduced if, at the time of that sale, the commercial destination of the goods concerned was not known, and the planned introduction of those goods into that territory was to proceed only pending a decision on their final destination.

32. (...) concerns the situation at the time of the sale, evidence derived from circumstances arising after that sale took place may, in some cases, enable conclusions to be drawn with regard to that situation but are not, as a rule, relevant’

# Customs enforcement in the “tariff” world: the evolution pattern

- EU customs anti-circumvention provision
- “Weaponising” EU customs law



## EU proposal to suspend customs duties on certain imports of goods originating in the U.S.

- Suspend duties on all imports of US industrial goods and grant preferential access for a range of US seafood and non-sensitive agricultural goods
- US origin determined pursuant to EU non-preferential origin rules – until preferential origin rules are adopted

# EU customs anti-circumvention provision

## EU customs anti-circumvention tool

### Article 33 UCC Delegated act:

Any processing or working operation carried out in another country or territory shall be deemed not to be economically justified if it is established on the basis of the available facts that the purpose of that operation was to avoid the application of the measures referred to in Article 59 of the Code.

*Applies retrospectively!*

# EU customs anti-circumvention tool

## EU Commission



### Case study: Harley-Davidson v. EU Commission

Background: Harley-Davidson relocated motorcycle production from the U.S. to Thailand after the EU imposed 25% additional customs duties on U.S.-origin motorcycles.

“If... it appears that the *principal or dominant purpose* of a relocation was to avoid the application of EU commercial policy measures, then that relocation must be considered incapable, as a matter of principle, of being economically justified”

“..at the time when the decision concerning that operation was taken”

“..there was a coincidence in time...”

## EU players: general overview



### 1. EU Commission – OLAF (European Anti-Fraud Office)

- Investigates matters relating to fraud, corruption and other offences affecting EU financial interests



### 2. EPPO (European Public Prosecutor's Office)

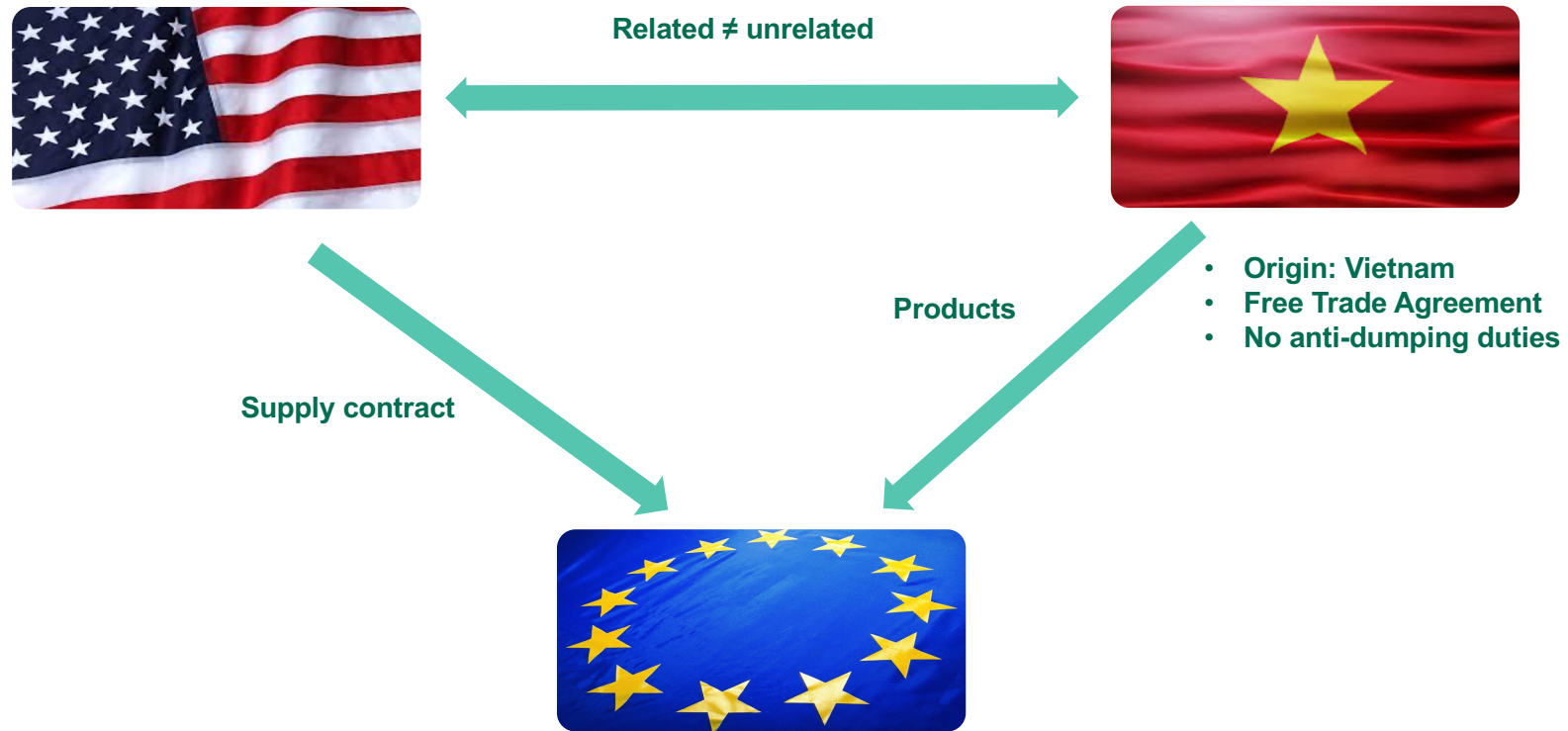
- Investigates and prosecutes crimes that harm EU financial interests



### 3. National customs authorities of EU Member States

- Enforce EU and customs legislation, and collect customs duties

# EU players



# “Weaponising” EU customs law

## Case T-529/25 Prestige Rijwielen NV – GRI 2(a)

### General Rule 2(a) of the General rules for the interpretation of the CN

Any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as presented, the incomplete or unfinished article has the essential character of the complete or finished article. It shall also be taken to include a reference to that article complete or finished (or falling to be classified as complete or finished by virtue of this rule), presented unassembled or disassembled.

- Anti-dumping duties applicable to the complete bicycles

## Case T-529/25 Prestige Rijwielen NV – GRI 2(a)

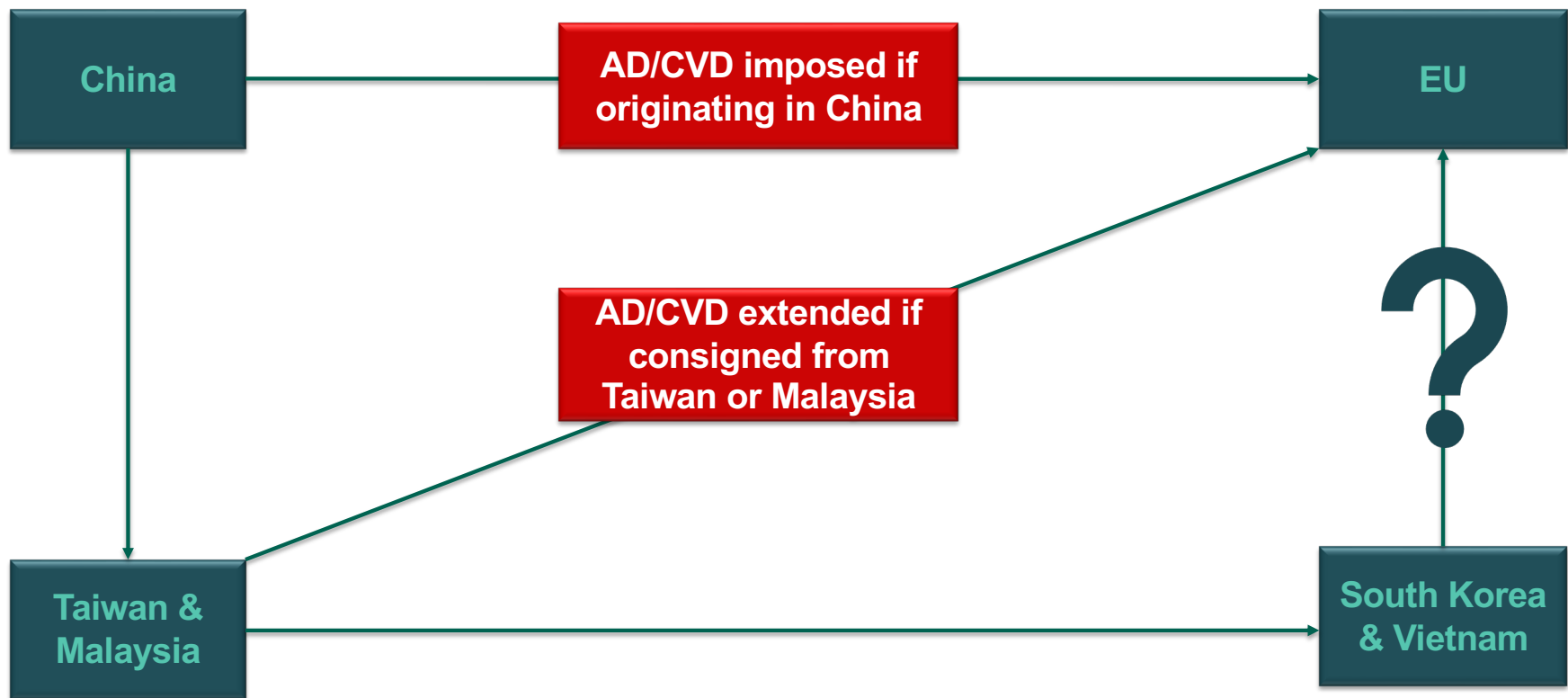
### Preliminary question

Must General Rule 2(a) be interpreted as meaning that components of electric bicycles, supplied by different suppliers but intended for a single recipient, which are imported in **stages**, in different containers, declared by the same declarant at the **same customs office** through separate customs declarations, can be regarded as complete, unassembled bicycles where together they contain all the essential components and it is apparent, based on objective factors, that they form a whole?

#### Case C-107/22 X, 27 April 2023

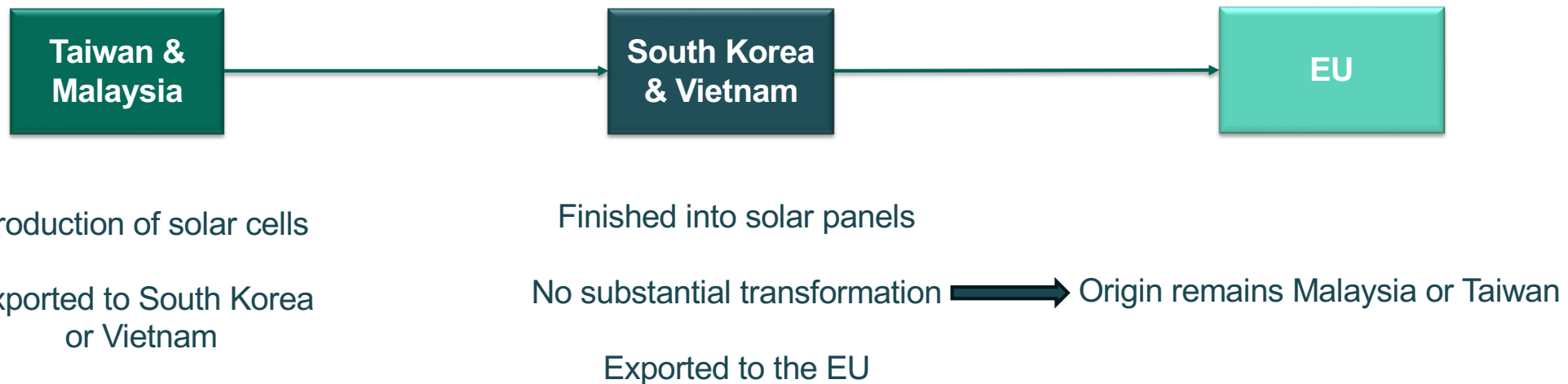
(...) components are transported in a single container and are declared for release for free circulation on the same day at the same customs office by the same declarant, (...) by means of **two separate declarations** for release for free circulation, (...) must be regarded as constituting such a receiver, presented unassembled or disassembled (...).

# Case C-157/25 – Jas Forwarding



# Case C-157/25 (preliminary ruling)

## Background



➤ **Incorrectly stating country of consignment as South Korea or Vietnam?**

## EU customs anti-circumvention tool and beyond

### Anti-dumping duties on China goods – Production moves to Vietnam

#### Origin of the goods China

- Customs investigation: retroactive

#### Origin of the goods Vietnam

- Option1: Trade defence anti-circumvention investigation: non retroactive

#### Origin of the goods Vietnam

- Option 2: EU customs anti-circumvention tool: retroactive
- Option 3: Instrumental interpretation of EU customs provisions

# EU Customs Reform

## EU Custom Reform – Pillars



**EU Customs  
Data Hub**



**EU Customs  
Authority**



**Trust and  
Check trader  
scheme**



**Simplifications  
for e-commerce  
transactions**



**Minimum core of  
customs  
infringements  
and non-criminal  
sanctions**

The logo for VBB, consisting of the letters 'VBB' in a white, serif font, positioned in the upper right corner of the slide against a dark teal background.

# Thank you

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