

ECJ Decides on Existence of Fixed Establishment Where Services Are Supplied in a Place Other Than Where Taxable Person Carries Out Its Economic Activities: *Cabot Plastics Belgium* (Case C-232/22) (VAT)

29 June 2023

Report from IBFD Knowledge Centre

On 29 June 2023, the Court of Justice of the European Union (ECJ) gave its decision in *Cabot Plastics Belgium SA v. État belge* (Case C-232/22) based on a number of grounds.

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

Article 44 of [Council Directive 2006/112/EC](#) of 28 November 2006 on the common system of value added tax, as amended by Council Directive 2008/8/EC of 12 February 2008, and Article 11 of Council Implementing Regulation (EU) No 282/2011 of 15 March 2011 laying down implementing measures for Directive 2006/112, must be interpreted as meaning that a taxable person receiving services, whose business is established outside the European Union, does not have a fixed establishment in the Member State in which the provider of the services concerned – which is legally independent from that recipient – is established, where that recipient does not have a suitable structure in terms of human and technical resources capable of constituting that fixed establishment, even where the taxable person providing the services provides to that taxable person receiving services, pursuant to an exclusive contractual undertaking, tolling services and a series of ancillary or additional services, contributing to the business of that taxable person receiving services in that Member State."

For a previous TNS regarding the case, see [Belgium-1, News 1 June 2022](#).

A more substantial report containing details of the ECJ's decision will be published in the ECJ Case Law collection in due course.

