JUDGMENT OF THE COURT (SECOND CHAMBER)
30 SEPTEMBER 1982 [1]

International Flavors and Fragrances IFF (Deutschland) GmbH v Hauptzollamt Bad Reichenhall (reference for a preliminary ruling from the Bundesfinanzhof)

Case 295/81

Common Customs Tariff — Tariff headings — Interpretation — General Rule 2 (a) — Article imported unassembled or disassembled — Concept — Fruit-juice concentrates and flavour concentrates — Products not covered by that concept

The second sentence of Rule 2 (a) of the General Rules for the Interpretation of the Nomenclature of the Common Customs Tariff must be interpreted as meaning that mahaleb-cherry concentrate and black-currant concentrate, on the one hand, and, on the other, mahaleb-cherry flavour concentrate and black-currant flavour concentrate, extracted from those fruits may not be regarded as articles imported unassembled or disassembled, even if the fruit-juice concentrates and flavour concentrates, dealt in at the same price, are mixed together again immediately before use or bottling.

In Case 295/81

REFERENCE to the Court under Article 177 of the EEC Treaty by the Bundesfinanzhof [Federal Finance Court], Federal Republic of Germany, for a preliminary ruling in the action pending before that court between

INTERNATIONAL FLAVORS AND FRAGRANCES IFF (DEUTSCHLAND) GMBH, 62, Reeser Straße, Emmerich,

and

HAUPTZOLLAMT [Principal Customs Office] BAD REICHENHALL,

1 — Language of the Case: German.

on the interpretation of the second sentence of General Rule 2 (a) for the Interpretation of the Nomenclature of the Common Customs Tariff,

THE COURT (Second Chamber)

composed of: O. Due, President of Chamber, A. Chloros and F. Grévisse, Judges,

Advocate General: Sir Gordon Slynn
Registrar: H. A. Rühl, Principal Administrator

gives the following

JUDGMENT

Facts and Issues

The facts of the case, the course of the procedure and the observations submitted pursuant to Article 20 of the Protocol on the Statute of the Court of Justice of the EEC may be summarized as follows:

I — Facts and procedure

It appears from the order making the reference that International Flavors and Fragrances IFF (Deutschland) GmbH (hereinafter referred to as "International Flavors"), the plaintiff in the main proceedings, procured clearance through customs on 15 October 1974, for release into free circulation, of a consignment of mahaleb cherry concentrate and flavour concentrate of mahaleb cherries, and on 26 March 1975 a consignment of black-currant concentrate and flavour concentrate of black currants, from Yugoslavia.

Those products are obtained immediately after the fruit is pressed, in order to extract the flavour concentrate, by heating the fruit juice in a heat exchanger to a temperature higher than its boiling point under atmospheric pressure. The vapours from the juice which escape from the evaporator are directed into a fractionating column in which the flavour concentrates are enriched. By means of fractional distillation the vapours are separated into flavour concentrate and water. The remaining fruit juice is concentrated in evaporators. In order to avoid losses of the extremely volatile flavour concentrates, the fruit juice concentrate and the flavour concentrate are stored and transported separately and are not re-mixed until immediately before use or bottling.

The Schwarzbach-Autobahn customs office issued provisional notices and classified the mahaleb cherry concentrate in subheading 20.07 B II (a) 6 (aa) (preferential rate of 17%), the black-currant concentrate in subheading 20.07 B II (a) 6 (bb) (preferential rate of 18%) and the flavour concentrates in heading 33.04 (preference: duty-free) of the Common Customs Tariff. Since analysis of the samples taken at the time of customs clearance showed that the mahaleb cherry concentrate had a density of 1.37 at 15° C and that the black-currant concentrate had a density of 1.381, the customs office amended the provisional notices by decisions of 30 January and 22 May 1975 and classified the fruit juice concentrates in subheading 20.07 A III (a) (rate of 42%) and in addition applied the normal rate of 8% to the mahaleb cherry flavour concentrate because, in the case of the first consignment, no supporting document proving entitlement to preferential treatment had been produced.

An objection made to the Bad Reichenhall customs office was dismissed as unfounded.

An application to the Finanzgericht München [Finance Court, Munich] was also unsuccessful.

When the plaintiff appealed on a point of law, the Bundesfinanzhof [Federal Finance Court] held that adjudication on the legality of the contested decisions depended on the interpretation of the second sentence of General Rule 2 (a) for the Interpretation of the Nomenclature of the Common Customs Tariff; the wording of that rule is as follows:

"Any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as imported, 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), imported unassembled or disassembled ['zerlegt gestellt wird']"

It is a question therefore of determining whether the fruit juice concentrates, on the one hand, and the flavour concentrates, on the other, are to be regarded as "unassembled or disassembled" articles ["zerlegte" Waren] within the meaning of that provision. If they are not, fruit juice concentrates which, according to the results of the customs administration's analyses, have a density greater than 1.33 at 15° C — as in the present case — must be classified in subheading 20.07 A III (A) and the flavour concentrates in heading 33.04. On the other hand, if they are to be considered as "unassembled or disassembled", it follows that, pursuant to the second sentence of General Rule 2 (a) for the Interpretation of the Nomenclature of the Common Customs Tariff, the proportionally appropriate mixture of fruit juices and flavour concentrate has an aggregate density, in view of the low density of the flavour concentrate, of 1.33 at 15° C, or an even lower density, which entails classification in subheading 20.07 B II (a) 6 (aa) or (bb), as the case may be.

In those circumstances, the Bundesfinanzhof decided, by order of 20 October 1981, to stay the proceedings and to ask the Court of Justice to give a ruling on the following question:

"Is the second sentence of Rule 2 (a) of the general Rules for the Interpretation of the Nomenclature of the Common Customs Tariff to be interpreted as meaning that mahaleb cherry concentrate and black-currant concentrate made of mahaleb cherry juice and black-currant juice respectively, on the one hand, and mahaleb cherry flavour concentrate and black-currant flavour concentrate, on the other, are to be regarded as articles imported unassembled or disassembled ['zerlegt'], if the fruit juice concentrates and flavour concentrates, dealt in at the same price, are mixed together again immediately before use or bottling?"

The order making the reference was received at the Court Registry on 25 November 1981.

Pursuant to Article 20 of the Protocol on the Statute of the Court of Justice of the EEC, written observations were sub-

mitted by International Flavors, represented for that purpose by Mr Kulmsee and Mr Thorneshoff, and by the Commission of the European Communities, represented by Mr R. Wägenbaur, acting as Agent.

Upon hearing the report of the Judge-Rapporteur and the views of the Advocate General, the Court decided to open the oral procedure without any preparatory inquiry. Nevertheless, it requested the Commission of the European Communities to answer the following questions in writing before 28 May 1982:

1. Do the markets for fruit juice concentrates on the one hand and for flavour concentrates on the other, in the form in which those products are imported, constitute a single market or two separate markets, one for each of the products?

2. (a) What is the precise process whereby the two substances (the concentrate and the corresponding flavour concentrates) are separated?

   (b) What is the process whereby those substances are subsequently mixed in order to reconstitute non-concentrated fruit juice?

3. Why is it necessary to separate the flavour concentrates from the fruit juice concentrates? What losses are avoided by that separation?

4. Can the Commission confirm that the two components (juice concentrates and flavour concentrates) are dealt in and sold together?

Answers were given to those questions within the prescribed period

II — Written observations submitted pursuant to Article 20 of the Protocol on the Statute of the Court of Justice of the EEC

1. According to the *plaintiff* in the main proceedings, General Rule 2 for the Interpretation of the Nomenclature of the Common Customs Tariff attributes decisive importance to the concept of "article". It points out that the rule deals with "articles" which must be mentioned, incomplete or unfinished, in a specific heading of the tariff provided that they have "as imported, ... the essential character of the complete or finished article" (first sentence of General Rule 2 (a) for the Interpretation of the Nomenclature of the Common Customs Tariff). In that context, the concept of article is therefore universal, and is not subject to any limitation, in any form whatever, and all "blanks" of articles are covered. It points out that that fact is also properly stressed in the Explanatory Notes to the Customs Cooperation Council Nomenclature (hereinafter referred to as "the Explanatory Notes") in respect of General Rule 2 (a). Any limitation of that provision to specific goods is expressly avoided and therefore all the articles in Sections I to XXI are covered by the concept of "article" in the first sentence in General Rule 2 (a) for the Interpretation of the Nomenclature of the Common Customs Tariff. That universal definition of "article" laid down in the first sentence of General Rule 2 (a) for the Interpretation of the Nomenclature of the Common Customs Tariff thus also covers liquids. That wide view of the concept of article is supported by the opinion of the Commission and of the Advocate General in Case 165/78 *IMCO-Michaelis* (judgment of the Court of Justice of 29 May 1979, [1979] ECR 1837). In that regard, the plaintiff in the main proceedings observes that there has been support for the view that prior to the introduction of General Rule 2 (a), which was adopted on 1 January 1972, a provision of the same kind existed only with respect to the articles in Sections XVI and XVII of the Common Customs

Tariff and that the latter rule was extended, by the adoption of General Rule 2 (a) for the Interpretation of the Nomenclature of the Common Customs Tariff, to all the goods in that tariff.

The plaintiff in the main proceedings admits that the application of that general rule to liquids presupposes in addition the existence of the other characteristics referred to in the first sentence of General Rule 2 (a) for the Interpretation of the Nomenclature of the Common Customs Tariff. It thus points out that the article (in this case the liquid) must be "incomplete or unfinished", such being the case if it has "as imported, ... the essential character of the complete or finished article". It adds in that respect that the article may also be "unassembled or disassembled" ["zerlegt"], in accordance with the second sentence of General Rule 2 (a).

According to the plaintiff in the main proceedings, the interpretation of the expression "unassembled or disassembled" ["zerlegt"] must take into account the fact that that concept is very wide and that, according to linguistic usage, it may also extend to the separation, brought about by physical means, of the components of a liquid. That fact is also explained in paragraph X of of the Explanatory Notes (p. IR 2/). It states that the wording of the Explanatory Notes makes clear that "any goods consisting of several materials or substances" may also fall within the scope of General Rule 2 (a). It adds that proof is thereby provided that, in the Explanatory Notes, liquids are also considered as articles within the meaning of General Rule 2 (a), since it is only on the basis of that rule that classification of an article made up of more than one component in a single specific heading of the tariff is possible. The fact that articles in a "mixed or composite state" are treated in the same way in the Explanatory Notes also shows that the definition of "article" laid down in General Rule 2 (a) is universal and therefore, specifically, that liquids too may be "imported unassembled or disassembled" ["zerlegt"].

In that regard, the plaintiff in the main proceedings states that, in its judgment of 29 May 1979 in Case 165/78, the Court of Justice has already held that General Rule 2 (a) covers articles not yet assembled as well as articles which have been disassembled. Thus, the answer to the question now submitted to the Court of Justice cannot be dependent on the fact that fruit juice is a natural product and *prima facie* constitutes a complete article. Consequently, the fact that no assembly of that natural product took place before it was separated into its component parts is, on the basis of a decided case, namely Case 165/78, without importance in the context of General Rule 2 (a).

According to the plaintiff in the main proceedings, the meaning and purpose of General Rule 2 (a) show that the particular means of transport used for the importation of goods is a matter to which no importance must be attached as regards customs clearance. It points out that the second sentence of General Rule 2 (a) for the Interpretation of the Nomenclature of the Common Customs Tariff takes account of that general concept of customs law in so far as goods "imported unassembled or disassembled" must, taken as a whole, be accorded the same tariff classification as the various separate parts, that is to say the same tariff classification as goods which are not unassembled or disassembled when imported. In consequence, that general tariff-classification rule disregards the various means of transport used for importation of goods and, according to paragraph V of the Explanatory Notes on Rule 2 (a), articles are to be classified in the same heading when they are imported unassembled or disassembled solely for reasons connected with packaging, handling or transport.

The plaintiff in the main proceedings maintains that that view, namely that articles constituting a single entity must be classified in the same heading upon importation, regardless of differing means of transport and even where they are imported "unassembled or disassembled", applies as a matter of

principle to all articles which, for purely technical reasons, it is quite possible to import "unassembled or disassembled". As regards fruit juice, it is appropriate to mention that the importation of that product is not technically possible, in usual commercial quantities, without "dissassembly". According to the plaintiff in the main proceedings, the volume necessarily involved in transport and the costs of such transport would inevitably be so considerable, in the case of unprocessed fruit juice, that importation of it on that basis would be economically senseless. It points out that the importation of fruit juice is not possible unless the juice obtained in the first place by pressing the fruit is concentrated; then, to avoid losses of aroma, the concentrated juice and the flavour concentrate must be separated. It states that the fruit concentrate thus obtained (separated into concentrated juice and flavour concentrate) is then usually dealt in as an article constituting a single entity — which in any case is apparent from the commercial invoices produced, on which the price for the concentrated juice and the flavour concentrate is the same, and the article is also imported as a single entity, being thereafter restored, for use, to its original state, namely fruit juice concentrate, by the mixing of the concentrated juice and the flavour concentrate.

According to the plaintiff, it is clear from the foregoing that by virtue of the rule of interpretation adopted on 1 January 1972, embodied in the second sentence of General Rule 2 (a) for the Interpretation of the Nomenclature of the Common Customs Tariff, that sentence must be construed as meaning that it is appropriate to regard, on the one hand, mahaleb cherry concentrate or black-currant concentrate and, on the other hand, flavour concentrate of mahaleb cherries or black currants, derived from mahaleb cherry juice or black currant juice, as articles imported unassembled or disassembled, since the fruit-juice concentrates and flavour concentrates, which are dealt in at the same price, are re-mixed immediately before use or bottling.

2. The *Commission of the European Communities* points out that if, in defining the concept of an article "imported unassembled or disassembled" ("zerlegt gestellte Ware"), reliance is placed primarily on the literal meaning that the expression would have for a reader without preconceived ideas, it is totally inappropriate, in the case, for example of an article involving two parts, to speak of an article "imported unassembled or disassembled", unless it is still possible to identify the parts of the assembled article (after assembly as well as before).

According to the Commission, that is not the case where fruit juices and flavour concentrates are mixed. The method of manufacturing fruit-juice concentrates, on the one hand, and flavour concentrates, on the other, from fruit juices must be regarded as a rather complex process. Within the meaning of the customs tariff system, the resulting product constitutes a new product which has nothing to do with the basic materials as defined in the customs tariff. Thus according to the Commission, concentrated fruit juices (of a density exceeding 1.33 at 15°C) are covered by the definition in subheading 20.07 A, non-concentrated fruit juices fall within subheading 20.07 B and flavour concentrates are to be classified in heading 33.04.

Moreover, as regards the products derived from mahaleb cherry juice or red-currant juice, the Commission points out that there is certainly no guarantee that the two products are in all cases mixed only with each other and states that the flavour concentrates may in fact be intended for other uses of a certain economic importance. In that case, there can be no question of literally classifying any particular product as an article "imported unassembled or disassembled" — it is not just one article (imported unassembled or disassembled), but several articles with different properties, even if in practice those articles are

usually intended to be mixed with each other in specified proportions (which is not necessarily always the case).

The Commission notes that the above conclusion may be called in question on the ground that — as admitted by the Bundesfinanzhof and earlier by the Finanzgericht Munich — the concepts of "disassembled" and "unassembled" also include separation of the components of a liquid by a physical process. The German version of the second sentence of General Rule 2 (a) for the Interpretation of the Nomenclature of the Common Customs Tariff may therefore give the impression that liquids may also be imported "unassembled or disassembled". However, according to the Commission, the same impression is not given by the other language versions of the second sentence of that rule. It refers to the case-law of the Court of Justice which indicates that the other versions must be taken into account, since the Common Customs Tariff, like all Community law, has binding force not in one language only but in six languages. In that respect, the Commission refers to the rule of interpretation to the effect that any less precise version must be read in the light of the clearer versions (Case 108/76 *Klockner* [1977] ECR 1047, in particular at p. 1055). It points out that, if that procedure is adopted, it becomes clear that the other language versions are formulated with considerably greater clarity than the German version

English: "unassembled or disassembled"

Dutch: "gedemonteerde of in niet gemonteerde staat"

Italian: "smontato o non montato"

French: "à l'état démonté ou non monté"

The Commission agrees with the Finanzgericht Munich whose judgment emphasized that those more precise formulations — as compared with the wording of the German version — clearly show that the articles in question must be ones whose components have been separated after mechanical assembly ("disassembled" or "démonté") or which must in fact be assembled in the first place ("unassembled" or "non monté").

Finally, according to the Commission, the Explanatory Notes clearly favour the interpretation which it proposes to give of the second sentence of General Rule 2 (a) for the Interpretation of the Nomenclature of the Common Customs Tariff.

According to paragraph VI of the Explanatory Notes, articles the components of which are to be assembled either by means of a simple fixing device (screws, nuts and bolts, etc) or, for example by riveting or welding, where only simple assembly operations are involved, must be regarded as unassembled or disassembled.

It is therefore a question of determining whether the unassembled or disassembled article may be converted into a finished article by mere mechanical assembly. It is not stated that the term assembly also covers mixing or stirring.

Moreover, the Commission adds that paragraph VII of the Explanatory Notes in question expressly states that that provision does not apply to products in Sections I to VI (Chapters 1 to 38) and that although the French version includes the expression "en général", the English version states categorically: "In view of the scope of the headings of Section I to VI of the Nomenclature, this Rule does not apply to goods of these Sections"

The Commission therefore proposes that the question submitted by the Bundesfinanzhof should be answered as follows:

"Mahaleb cherry concentrate or blackcurrant concentrate derived from

mahaleb cherry or black-currant juice, on the one hand, and the flavour concentrate of mahaleb cherries or black currants, on the other hand, which are re-mixed immediately before use or bottling may not be considered as articles imported "unassembled or disassembled" within the meaning of the second sentence of General Rule 2 (a) for the Interpretation of the Nomenclature of the Common Customs Tariff."

III — Answers to the questions put by the Court

In its written answers to the questions put by the Court the Commission observes, with regard to the markets for fruit-juice concentrates and flavour concentrates, that each of those products can be used separately and consequently, depending on what use is intended, three different markets are available for the juice concentrates and flavour concentrates.

As regards the details of the process for separating the two substances, the Commission quotes an article on the subject and states that the description contained in it reflects the most up-to-date technology. The reverse procedure, namely re-constitution of the non-concentrated fruit juice, is carried out in mixers, with the addition of water.

As regards the reasons for the separation of fruit-juice concentrates, the Commission considers that the decision whether or not to use that process depends on the desired quality, the possibilities of storage and transport and the calculated costs. Where the concentration process is used, it is essential to separate the flavour concentrates since they would otherwise be destroyed during the process.

Finally the Commission observes that in those cases where the juice concentrate and the flavour concentrates are intended to be mixed in order to produce fruit juice, it is usual for them to be dealt in together. Otherwise the products are dealt in separately.

IV — Oral procedure

At the sitting on 17 June 1982 oral argument was presented for the applicant by Lothar Kulmsee, Rechtsanwalt of Düsseldorf, and for the Commission of the European Communities by Rolf Wägenbaur, a member of its Legal Department, acting as Agent and the parties answered questions put by the Court.

The Advocate General delivered his opinion at the sitting on 15 July 1982.

Decision

1 By order of 20 October 1981, received at the Court Registry on 25 November 1981, the Bundesfinanzhof [Federal Finance Court] referred to the Court of Justice for a preliminary ruling, pursuant to Article 177 of the EEC Treaty, a question as to the scope of the second sentence of Rule 2 (a) of the General Rules for the Interpretation of the Nomenclature of the Common Customs Tariff (Official Journal 1974, L 1, p. 11 of 1 January 1974) with a view to the tariff classification of concentrates of mahaleb-

cherry and black-currant juices and of the flavour concentrates thereof, which were imported from Yugoslavia in 1974 and 1975 by the appellant on a point of law in the main proceedings and which, according to the latter, were intended to be mixed in order to be marketed as mahaleb-cherry juice or black-currant juice.

2 The Hauptzollamt [Principal Customs Office) Bad Reichenhall dismissed the objection against the classification made by the Schwarzbach-Autobahn customs office and definitively classified the fruit-juice concentrates in subheading 20.07 A III (a) (rate of duty 42%) and the flavour concentrates in subheading 33.04 (rate of duty 8%).

3 Rule 2 (a) of the General Rules for the Interpretation of the Nomenclature of the Common Customs Tariff provides that "Any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished provided that, as imported, 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), imported unassembled or disassembled".

4 The dispute centres on the question whether the fruit-juice concentrates and flavour concentrates in question must be regarded as articles "imported unassembled or disassembled" as provided for in the above-mentioned general rule for interpretation. If that were the case, the fruit-juice concentrates and flavour concentrates would have to be classified in subheading 20.07 B II (a) 6 (aa) (mahaleb-cherry juice) or (bb) (black-currant juice), the result of which would be to make the applicable rates 17% and 18% respectively.

5 In order to resolve this problem, the Bundesfinanzhof referred the following question to the Court for a preliminary ruling:

"Is the second sentence of Rule 2 (a) of the General Rules for the Interpretation of the Nomenclature of the Common Customs Tariff to be interpreted as meaning that mahaleb-cherry concentrate and black-currant concentrate made of mahaleb-cherry juice and black-currant juice respectively, on the one hand, and mahaleb-cherry flavour concentrate and black-currant flavour concentrate, on the other, are to be regarded as articles imported unassembled or disassembled ('zerlegt'), if the fruit-juice concentrates and flavour concentrates, dealt in at the same price, are mixed together again immediately before use or bottling?"

6 It is necessary therefore to consider whether the fruit-juice concentrates and flavour concentrates in question must, when produced to the customs authorities, be regarded as products which are "unassembled or disassembled" within the meaning of General Rule 2 (a).

7 In that regard, it seems conceivable that the expression used in the German version of the text in question, "zerlegt gestellt wird", can apply to the separation or to the mixing of the constituents of a liquid.

8 The other language versions of the same text appear however to be more restrictive. The French text uses the words "l'état démonté ou non monté, the Italian version the words "smontato o non montato" and the English version refers to an "unassembled or disassembled" article. The Dutch, Danish and Greek versions express the same meaning as the French, Italian and English texts.

9 In these circumstances, the German version must be read in the light of the other language versions.

10 In ordinary language, the concept of assembly is taken to mean the operation whereby the components (of a mechanism, a device or a complex object) are assembled in order to render it serviceable or to make it function.

11 The essential requirement is therefore, on the one hand, that the disassembled article must not be usable for the purposes expected of the finished product and, on the other hand, that the component parts of the product must normally, in order to be of use, be assembled so as to constitute the finished product.

12 It is apparent from the file on the case that the products in question, fruit-juice concentrates and flavour concentrates, have diverse uses in the form in which they are imported and may be marketed separately; mixing them is merely one possibility

13 As a result, for the purposes of tariff classification at the time of importation, it is wholly unnecessary to consider the possibility that the liquids may be mixed or "assembled" when such a procedure is neither necessary nor clearly certain to take place.

14 That interpretation is moreover confirmed by paragraph VI of the Explanatory Notes to the Customs Cooperation Council Nomenclature, according to which articles whose various components are intended to be assembled either by simple means (nuts, bolts and the like) or, for example, by riveting or welding, must be regarded as unassembled or disassembled.

15 Moreover, according to paragraph VII of those Notes, the contested rule does not generally apply to the products in Sections I to VI (Chapters 1 to 38 of the Common Customs Tariff).

16 It is therefore appropriate to state in reply to the national court that the second sentence of Rule 2 (a) of the General Rules for the Interpretation of the Nomenclature of the Common Customs Tariff must be interpreted as meaning that mahaleb-cherry concentrate and black-currant concentrate, on the one hand, and, on the other, mahaleb-cherry and black-currant flavour concentrates, extracted from those fruits, may not be regarded as articles imported unassembled or disassembled, even where the fruit-juice concentrates and the flavour concentrates, which are sold at the same price, are mixed immediately before use or bottling.

Costs

17 The costs incurred by the Commission of the European Communities, which has submitted observations to the Court, are not recoverable. As these proceedings are, in so far as the parties to the main proceedings are concerned, in the nature of a step in the proceedings pending before the national court, the decision on costs is a matter for that court.

On those grounds,

THE COURT (Second Chamber)

in answer to the question referred to it by the Bundesfinanzhof, by order of 20 October 1981, hereby rules:

The second sentence of Rule 2 (a) of the General Rules for the Interpretation of the Nomenclature of the Common Customs Tariff must be interpreted as meaning that mahaleb-cherry concentrate and black-currant concentrate, on the one hand, and, on the other, mahaleb-cherry flavour concentrate and black-currant flavour concentrates, extracted from those fruits may not be regarded as articles imported unassembled or disassembled, even if the fruit-juice concentrates and flavour concentrates, dealt in at the same price, are mixed together again immediately before use or bottling.

Due Chloros Grévisse

Delivered in open court in Luxembourg on 30 September 1982.

J. A. Pompe
Deputy Registrar

O. Due
President of the Second Chamber

OPINION OF ADVOCATE GENERAL SIR GORDON SLYNN DELIVERED ON 15 JULY 1982

My Lords,

in October 1974 International Flavors and Fragrances IFF (Deutschland) GmbH imported into Germany from Yugoslavia a consignment of 40 barrels of mahaleb-cherry concentrate and 4 barrels of mahaleb-cherry flavour concentrate. In March 1975 it imported another consignment, comprising 28 barrels of black-currant concentrate and 4 barrels of black-currant flavour concentrate. The German customs authorities provisionally classified the goods as follows:

(1) the cherry concentrate under sub-heading 20.07 B II a 6 (aa) of the Common Customs Tariff (the CCT);

(2) the black-currant concentrate under sub-heading 20.07 B II a 6 (bb);

(3) the two flavour concentrates under sub-heading 33.04.

Samples of the goods were taken and sent to the customs laboratory for