

Case C-423/09

Staatssecretaris van Financiën

v

X BV

(Reference for a preliminary ruling
from the Hoge Raad der Nederlanden)

(Common Customs Tariff — Tariff classification — Combined Nomenclature —
Dried vegetables (garlic bulbs) from which not all moisture has been removed)

Judgment of the Court (Fifth Chamber), 28 October 2010 I - 10823

Summary of the Judgment

*Common Customs Tariff — Tariff headings — Dried garlic bulbs from which not all moisture
has been removed*

(Council Regulation No 2658/87, Annex I; Commission Regulation No 1810/2004)

The Combined Nomenclature in Annex I to Regulation No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff, as amended by Regulation No 1810/2004, must be interpreted as meaning that garlic which has undergone an intensive drying process in accordance with a specific treatment as a result of which all, or almost all, of the moisture in the product is removed comes under tariff subheading 07129090 of the Combined Nomenclature, but that partially dried garlic which retains the properties and characteristics of fresh garlic comes under tariff subheading 07032000 of the Combined Nomenclature.

changes, with the result that the product is no longer in the natural state.

Therefore, the removal of water must substantially change the properties and objective characteristics of the product in such a way that that change results in classification under a tariff heading other than heading 0703, which covers fresh or chilled vegetables.

In order to classify garlic bulbs under heading 0712, the process of drying the garlic must give rise to substantial and irreversible

(see paras 25-26, 35, operative part)