

Questions referred

1. In the assessment of the validity and/or the interpretation of Regulations No 535/94, ⁽¹⁾ No 1832/2002, ⁽²⁾ No 1871/2003 ⁽³⁾ and No 2344/2003, ⁽⁴⁾ by which additional note 7 (CN) to Chapter 2 was introduced (numbered as note 8 at the time) and amended, is it possible to rely on the decision of 27 September 2005 of the Dispute Settlement Body (DSB) [of the World Trade Organisation] concerning the interpretation of the term 'salted' in heading 0210, even in cases in which the declaration for the customs procedure for 'release for free circulation' was made before that date?

2. If Question 1 is answered in the affirmative:

How is it to be determined whether the character of chicken meat has been altered?

3. If Question 1 is answered in the affirmative:

(a) Having regard to the DSB's decision of 27 September 2005, are the aforementioned regulations valid in so far as they lay down that, for the purposes of heading 0210, meat is deemed to be 'salted' if it has a total salt content by weight of 1,2 % or more?

(b) In the light of the DSB's decision of 27 September 2005, must the aforementioned regulations be interpreted as meaning that additional note 7 (CN) to Chapter 2 lays down that the character of meat with a salt content by weight of 1,2 % or more is deemed to have been altered, that that meat qualifies as 'salted' for the purposes of heading 0210, and that meat with a salt content by weight of less than 1,2 %, the character of which has been demonstrably altered through the addition of salt, is not excluded from classification under heading 0210?

4. If Question 3(a) is answered in the affirmative:

How is it to be determined whether the long-term preservation of chicken meat is guaranteed through the addition of salt?

⁽³⁾ Commission Regulation (EC) No 1871/2003 of 23 October 2003 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ 2003 L 275, p. 5).

⁽⁴⁾ Commission Regulation (EC) No 2344/2003 of 30 December 2003 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ 2003 L 346, p. 38).

Reference for a preliminary ruling from the Rechtbank Haarlem (Netherlands), lodged on 2 July 2010 — X v Inspecteur der Belastingdienst P

(Case C-320/10)

(2010/C 246/46)

Language of the case: Dutch

Referring court

Rechtbank Haarlem

Parties to the main proceedings

Applicant: X BV

Defendant: Inspecteur der Belastingdienst P

Questions referred

1. In the assessment of the validity and/or the interpretation of Regulations No 535/94, ⁽¹⁾ No 1832/2002, ⁽²⁾ No 1871/2003 ⁽³⁾ and No 2344/2003, ⁽⁴⁾ by which additional note 7 (CN) to Chapter 2 was introduced (numbered as note 8 at the time) and amended, is it possible to rely on the decision of 27 September 2005 of the Dispute Settlement Body (DSB) [of the World Trade Organisation] concerning the interpretation of the term 'salted' in heading 0210, even in cases in which the declaration for the customs procedure for 'release for free circulation' was made before that date?

2. If Question 1 is answered in the affirmative:

How is it to be determined whether the character of chicken meat has been altered?

3. If Question 1 is answered in the affirmative:

(a) Having regard to the DSB's decision of 27 September 2005, are the aforementioned regulations valid in so far as they lay down that, for the purposes of heading 0210, meat is deemed to be 'salted' if it has a total salt content by weight of 1,2 % or more?

⁽¹⁾ Commission Regulation (EC) No 535/94 of 9 March 1994 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ 1994 L 68, p. 15).

⁽²⁾ Commission Regulation (EC) No 1832/2002 of 1 August 2002 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ 2002 L 290, p. 1).

(b) In the light of the DSB's decision of 27 September 2005, must the aforementioned regulations be interpreted as meaning that additional note 7 (CN) to Chapter 2 lays down that the character of meat with a salt content by weight of 1,2 % or more is deemed to have been altered, that that meat qualifies as 'salted' for the purposes of heading 0210, and that meat with a salt content by weight of less than 1,2 %, the character of which has been demonstrably altered through the addition of salt, is not excluded from classification under heading 0210?

4. If Question 3(a) is answered in the affirmative:

How is it to be determined whether the long-term preservation of chicken meat is guaranteed through the addition of salt?

(¹) Commission Regulation (EC) No 535/94 of 9 March 1994 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ 1994 L 68, p. 15).

(²) Commission Regulation (EC) No 1832/2002 of 1 August 2002 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ 2002 L 290, p. 1).

(³) Commission Regulation (EC) No 1871/2003 of 23 October 2003 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ 2003 L 275, p. 5).

(⁴) Commission Regulation (EC) No 2344/2003 of 30 December 2003 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ 2003 L 346, p. 38).

Action brought on 5 July 2010 — European Commission v Kingdom of Belgium

(Case C-321/10)

(2010/C 246/47)

Language of the case: French

Parties

Applicant: European Commission (represented by: A. Alcover San Pedro and J. Sénéchal, Agents)

Defendant: Kingdom of Belgium

Form of order sought

— Declare that by failing to adopt the laws, regulations and administrative provisions necessary to comply with Directive 2007/2/EC of the European Parliament and of the Council

of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE), (¹) or in any event by not communicating such measures to the Commission, the Kingdom of Belgium has failed to fulfil its obligations under that directive;

— order the Kingdom of Belgium to pay the costs.

Pleas in law and main arguments

The period prescribed for transposing Directive 2007/2/EC expired on 14 May 2009. As at the date on which the present action was brought, the defendant had not yet adopted all the measures necessary to transpose the directive or, in any event, had not communicated those measures to the Commission.

(¹) OJ 2007 L 108, p. 1.

Reference for a preliminary ruling from Court of Appeal (Civil Division) (England & Wales) made on 5 July 2010 — Medeva BV v Comptroller-General of Patents

(Case C-322/10)

(2010/C 246/48)

Language of the case: English

Referring court

Court of Appeal (Civil Division) (England & Wales)

Parties to the main proceedings

Applicant: Medeva BV

Defendant: Comptroller-General of Patents

Questions referred

1. Regulation 469/2009 (¹) (the Regulation) recognises amongst the other purposes identified in the recitals, the need for the grant of an SPC by each of the Member States of the Community to holders of national or European patents to be under the same conditions, as indicated in recitals 7 and 8. In the absence of Community harmonisation of patent law, what is meant in Article 3(a) of the Regulation by 'the product is protected by a basic patent in force' and what are the criteria for deciding this?