



Reports of Cases

JUDGMENT OF THE COURT (Sixth Chamber)

16 November 2023*

(Reference for a preliminary ruling – Customs union – Common Customs Tariff – Combined Nomenclature – Tariff headings – Headings 2304 and 2309 – soya meal)

In Case C-366/22,

REQUEST for a preliminary ruling under Article 267 TFEU from the Pécsi Törvényszék (Pécs High Court, Hungary), made by decision of 29 April 2022, received at the Court on 7 June 2022, in the proceedings

Viterra Hungary Kft.

v

Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatósága,

THE COURT (Sixth Chamber),

composed of T. von Danwitz, President of the Chamber, P.G. Xuereb (Rapporteur) and I. Ziemele, Judges,

Advocate General: G. Pitruzzella,

Registrar: A. Calot Escobar,

having regard to the written procedure,

after considering the observations submitted on behalf of:

- Viterra Hungary Kft., by B. Balog, D. Kelemen and Z. Várszegi, ügyvédek,
- the Hungarian Government, by Zs. Biró-Tóth, M.Z. Fehér and K. Szíjjártó, acting as Agents,
- the European Commission, by B. Béres and M. Salyková, acting as Agents,

having decided, after hearing the Advocate General, to proceed to judgment without an Opinion,

gives the following

* Language of the case: Hungarian.

Judgment

- 1 This request for a preliminary ruling concerns the interpretation of tariff headings 2304 and 2309 of the Combined Nomenclature set out in Annex I to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ 1987 L 256, p. 1), in the version resulting from Commission Implementing Regulation (EU) 2016/1821 of 6 October 2016 (OJ 2016 L 294, p. 1) ('the CN').
- 2 The request has been made in proceedings between Viterra Hungary Kft. and Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatósága (Appeals Directorate of the National Tax and Customs Authority, Hungary) concerning the tariff classification of goods imported into Hungary by that company and described as soya meal.

Legal context

The HS

- 3 The Harmonised Commodity Description and Coding System ('the HS') was established by the International Convention on the Harmonised Commodity Description and Coding System, concluded in Brussels on 14 June 1983 within the framework of the World Customs Organisation (WCO) and approved, together with its Protocol of Amendment of 24 June 1986, on behalf of the European Economic Community by Council Decision 87/369/EEC of 7 April 1987 (OJ 1987 L 198, p. 1). The Explanatory Notes to the HS are drawn up within the WCO in accordance with the provisions of that convention.
- 4 Under Article 3(1)(a)(ii) of that convention, each contracting party undertakes to apply the general rules for the interpretation of the HS and all the section, chapter and subheading notes of the HS, and not to modify the scope of the sections, chapters, headings or subheadings.
- 5 Chapter 23 of the HS, entitled 'Residues and waste from the food industries; prepared animal fodder', includes the following Note 1:

'Heading 23.09 includes products of a kind used in animal feeding, not elsewhere specified or included, obtained by processing vegetable or animal materials to such an extent that they have lost the essential characteristics of the original material, other than vegetable waste, vegetable residues and by-products of such processing.'
- 6 The general remarks in the Explanatory Notes to Chapter 23 of the HS are worded as follows:

'This Chapter covers the various residues and wastes derived from vegetable materials used by food-preparing industries, and also certain products of animal origin. The main use of most of these products is as animal feeding stuffs, either alone or mixed with other materials, although some of them are fit for human consumption. Certain products (e.g., wine lees, argol, oil-cake) also have industrial uses.

...'

- 7 The Explanatory Note in respect of heading 23.04 of the HS, which is entitled ‘Oil-cake and other solid residues, whether or not ground or in the form of pellets, resulting from the extraction of soya-bean oil’, states:

‘This heading covers oil-cake and other solid residues remaining after the extraction of oil from soya beans by solvents or in a press or rotary expeller. These residues constitute valuable animal foods.

The residues classified in this heading may be in the form of slabs (cakes), meal or pellets ...

This heading also includes non-textured defatted soya-bean flour fit for human consumption.

This heading excludes:

...

- (b) Protein concentrates obtained by the elimination of certain constituents of defatted soya-bean flour (used as additives in food preparations) and textured soya-bean flour (heading 21.06).’

- 8 The Explanatory Note in respect of heading 23.09 of the HS, which is entitled ‘Preparations of a kind used in animal feeding’, states:

‘This heading covers sweetened forage and prepared animal feeding stuffs consisting of a mixture of several nutrients designed:

...

- (2) to achieve a suitable daily diet by supplementing the basic farm-produced feed with organic or inorganic substances (supplementary feed); or

- (3) for use in making complete or supplementary feeds.

...

The heading excludes:

...

- (c) Preparations which, when account is taken, in particular, of the nature, purity and proportions of the ingredients, the hygiene requirements complied with during manufacture and, when appropriate, the indications given on the packaging or any other information concerning their use, can be used either for feeding animals or for human consumption (headings 19.01 and 21.06, in particular).

...’

The CN

- 9 As is apparent from Article 1(1) of Regulation No 2658/87, as amended by Council Regulation (EC) No 254/2000 of 31 January 2000 (OJ 2000 L 28, p. 16) ('Regulation No 2658/87'), the Combined Nomenclature, established by the European Commission, governs the tariff classification of goods imported into the European Union. According to Article 3(1) of that regulation, that nomenclature reproduces the six-digit headings and subheadings of the HS, with only the seventh and eighth digits creating further subheadings which are specific to it.
- 10 Under Article 12(1) of Regulation No 2658/87, the Commission is to adopt each year a regulation reproducing the complete version of the Combined Nomenclature, together with the rates of duty in accordance with Article 1, as resulting from measures adopted by the Council of the European Union or the Commission. The said regulation is to be published not later than 31 October in the *Official Journal of the European Union* and it is to apply from 1 January of the following year.
- 11 It is apparent from the file before the Court that the version of the Combined Nomenclature applicable in the case in the main proceedings is that resulting from Implementing Regulation 2016/1821.
- 12 As provided in the general rules for the interpretation of the CN, set out in Annex I, Part One, Section I(A) of that implementing regulation:

'Classification of goods in the [CN] shall be governed by the following principles:

1. The titles of sections, chapters and sub-chapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative section or chapter notes and, provided such headings or notes do not otherwise require, according to the following provisions.

2.(a) 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.

...

4. Goods which cannot be classified in accordance with the above rules shall be classified under the heading appropriate to the goods to which they are most akin.

...'

- 13 Part Two of the CN, entitled ‘Schedule of customs duties’, contains a Section IV, entitled ‘Prepared foodstuffs; beverages, spirits and vinegar; tobacco and manufactured tobacco substitutes’, which includes Chapter 23, entitled ‘Residues and waste from the food industries; prepared animal fodder’. Note 1 to that chapter states:

‘Heading 2309 includes products of a kind used in animal feeding, not elsewhere specified or included, obtained by processing vegetable or animal materials to such an extent that they have lost the essential characteristics of the original material, other than vegetable waste, vegetable residues and by-products of such processing.’

- 14 In Chapter 23, heading 2304 reads as follows:

CN Code	Description	Conventional rate of duty (%)	Supplementary unit
2304 00 00	Oilcake and other solid residues, whether or not ground or in the form of pellets, resulting from the extraction of soya-bean oil	Free	–

- 15 Heading 2309 is structured as follows:

CN Code	Description	Conventional rate of duty (%)	Supplementary unit
2309	Preparations of a kind used in animal feeding:		
2309 10	– Dog or cat food, put up for retail sale:		
...			
2309 90	– Other:		
2309 90 10	– – Fish or marine mammal solubles	3,8	–
2309 90 20	– – Products referred to in additional note 5 to this chapter	Free	–
	– – Other, including premixes:		
	– – – Containing starch, glucose, glucose syrup, maltodextrine or maltodextrine syrup of subheadings 1702 30 50, 1702 30 90, 1702 40 90, 1702 90 50 and 2106 90 55 or milk products:		

	---- Containing starch, glucose, glucose syrup, maltodextrine or maltodextrin syrup:		
	----- Containing no starch or containing 10% or less by weight of starch:		
2309 90 31	----- Containing no milk products or containing less than 10% by weight of such products	23 €/t ...	–
...			

The dispute in the main proceedings and the questions referred for a preliminary ruling

- 16 Viterra Hungary, the applicant in the main proceedings, applied for the release for free circulation of a product called ‘soya meal’ from Brazil (‘the product at issue’), which it classified under heading 2304 of the CN.
- 17 A sample of that product was examined by the Nemzeti Adó-és Vámhivatal Szakértői Intézete (Committee of Experts of the National Tax and Customs Authority, Hungary) (‘the Committee of Experts’).
- 18 That committee, first of all, found that the product at issue was intended to be used as animal feed. It went on to note that, according to the statements of the applicant in the main proceedings, that product was manufactured in a number of stages consisting in, first, the cleaning of the soya beans and removal of foreign bodies; second, grinding and working of the material to facilitate oil extraction; third, conditioning and pre-heating of the material; fourth, oil extraction using an ordinary solvent, hexane, until the oil content of the soya meal is reduced to its maximum extent; fifth, separation of the oil and the solvent through steam distillation; sixth, heat treatment, during which the soya meal is cooked and, by a process of evaporation, loses its solvent (hexane) content; and, seventh, drying and cooling of the soya meal.
- 19 The Committee of Experts, lastly, found that the aim of the heat treatment (toasting) was removal of the hexane and deactivation of the anti-nutrients because of their harmfulness to the environment and to human and animal health. According to that committee, the toasting process altered the product’s nutritional values. The deactivation of the anti-nutrients made it possible to use that product as animal feed and was an important factor in terms of the tariff classification.
- 20 The Committee of Experts concluded that the product at issue was a preparation resulting from further processing through heat treatment of the vegetable residue with reduced oil content, which was obtained when the soya-bean oil was extracted using hexane. It issued the opinion that that product was to be classified under heading 2309 of the CN.

- 21 By decisions of 1 August 2019, based on the findings of the Committee of Experts and on the judgment of 3 March 2016, *Customs Support Holland* (C-144/15, EU:C:2016:133, paragraphs 22, 36 and 38), the first-tier tax authority found that the tariff classification proposed by Viterra Hungary was incorrect and that the product at issue was to be classified under heading 2309 of the CN. Consequently, it found that additional customs duties and value added tax were payable by Viterra Hungary.
- 22 Viterra Hungary challenged those decisions before the Appeals Directorate of the National Tax and Customs Authority, arguing that the first-tier tax authority had incorrectly found that the requirements which, according to the judgment of 3 March 2016, *Customs Support Holland* (C-144/15, EU:C:2016:133) are relevant in order for a product to be classifiable under heading 2309 of the CN, were met. According to the applicant in the main proceedings, the product at issue was not intended exclusively for animal feeding, did not constitute a preparation and had not undergone final processing, within the meaning of that judgment.
- 23 The Appeals Directorate of the National Tax and Customs Authority upheld the decisions of the first-tier tax authority.
- 24 Viterra Hungary lodged appeals against the decisions of the Appeals Directorate of the National Tax and Customs Authority before the Pécsi Törvényszék (Pécs High Court, Hungary), the referring court.
- 25 By a judgment of 17 September 2021, the referring court dismissed Viterra Hungary's appeals. On the basis of the results of the expert's report which it had ordered, it found that the product at issue was exclusively intended for animal feeding, that it was a preparation and that it had undergone final processing. It also pointed out that, according to that expert's report, that product was identical, for tariff purposes, to soya meal from Argentina, in respect of which the Kúria (Supreme Court, Hungary) had definitively held that it was to be classified under heading 2309 of the CN.
- 26 Viterra Hungary brought an appeal in cassation before the Kúria (Supreme Court) against that judgment of the referring court. In that appeal, it asked for a request for a preliminary ruling to be submitted to the Court of Justice.
- 27 By order of 20 January 2022, the Kúria (Supreme Court) set aside the judgment of 17 September 2021 of the referring court and remitted the case to that court. By that order, the Kúria (Supreme Court) indicated that the referring court was to examine whether the CN classification of the product at issue could be determined on the basis of the existing case-law of the Court of Justice and that if the referring court were to find that the Court of Justice had not yet ruled on that issue, preliminary ruling proceedings could be initiated in order to obtain the correct classification.

28 In those circumstances, the Pécsi Törvényszék (Pécs High Court) decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

- ‘(1) Must EU law, in particular [the CN], be interpreted as precluding the practice of a Member State whereby a toasting process, which is required in order to remove hexane (used in oil extraction and harmful to animal and human health) from the residue that remains after soya-bean oil has been extracted using the solvent hexane, is deemed to constitute final processing which provides grounds for classifying the product under heading 2309 of the [CN] and prevents it from being classified under heading 2304 of the [CN]?’
- (2) Must EU law, in particular [the CN], be interpreted as meaning that a product is to be considered “unfit for human consumption” when:
 - (a) the use of that product in the food industry is entirely ruled out or impossible, that is to say, that product cannot be used or processed in the food industry or serve as the basis for manufacturing a product which can be consumed by humans; or
 - (b) that product cannot be consumed by humans in its imported state but, once that product has been used or processed in the food industry, it may serve as the basis for manufacturing a product which can be consumed by humans?
- (3) Must EU law, in particular [the CN], be interpreted as meaning that a product may also be considered a valuable animal food where the product imported in the form of pellets or granules must be physically ground and mixed with a compound feed before it can be consumed by animals?
- (4) Must EU law, in particular [the CN], be interpreted as precluding the practice of a Member State whereby the fact that the product has been genetically modified precludes it from being fit for human consumption, that is to say, that genetically modified soya meal cannot be used in the food industry?
- (5) Must EU law, in particular [the CN], be interpreted as meaning that, when classifying a product under heading 2304 or heading 2309 of the [CN], regard must be had:
 - (a) to the actual use made of the product after it has been imported; or
 - (b) to the objective characteristics of the product at the time of importation, that is to say, whether the product can, in its imported state, be used for human and/or animal consumption?
- (6) Must EU law, in particular [the CN], be interpreted as meaning that the fact that soya meal is unfit for human consumption does not prevent it from being classified under heading 2304 of the [CN]?
- (7) Must EU law, in particular [the CN], be interpreted as meaning that soya meal such as that at issue in the present proceedings, that is to say, soya meal which undergoes the toasting process required in order to remove the hexane used in oil extraction (which is harmful to animal and human health), is included under heading 2304 or under heading 2309 of the [CN]?’

Consideration of the questions referred

- 29 By the questions referred for a preliminary ruling, which it is appropriate to examine together, the referring court asks, in essence, whether the CN must be interpreted as meaning that a product imported in the form of pellets or granules, which is obtained following the extraction of soya-bean oil using a solvent and heat treatment to remove that solvent so that the product can be mixed, after being physically ground, with a compound for animal consumption, comes under heading 2304 of that nomenclature or under heading 2309 of that nomenclature.
- 30 As a preliminary point, it should be noted that, when the Court is requested to give a preliminary ruling on a matter of tariff classification, its task is to provide the referring court with guidance on the criteria which will enable it to classify the relevant products correctly in accordance with the CN, rather than to effect such a classification itself. That classification results from a purely factual assessment which it is not for the Court to make in the context of a reference for a preliminary ruling (judgment of 9 February 2023, *LB (Air loungers)*, C-635/21, EU:C:2023:85, paragraph 31 and the case-law cited).
- 31 However, in order to give the referring court a useful answer, the Court may, in a spirit of cooperation with national courts, provide it with all the guidance that it deems necessary (judgment of 26 May 2016, *Invamed Group and Others*, C-198/15, EU:C:2016:362, paragraph 17 and the case-law cited).
- 32 It should also be noted that, in accordance with general rule 1 for the interpretation of the CN, the tariff classification of goods is to be determined according to the terms of the headings and any relative section or chapter notes to that nomenclature.
- 33 According to the settled case-law of the Court, in the interests of legal certainty and ease of verification, the decisive criterion for the tariff classification of those goods is, in general, to be sought in their objective characteristics and properties as defined in the wording of the relevant CN heading and in the corresponding section or chapter notes. The intended use of the product concerned may also constitute an objective criterion for classification if it is inherent to the product, and that inherent character must be capable of being assessed on the basis of the product's objective characteristics and properties (judgment of 9 February 2023, *LB (Air loungers)*, C-635/21, EU:C:2023:85, paragraph 33 and the case-law cited).
- 34 Furthermore, the Court has repeatedly held that, although the Explanatory Notes to the HS and CN do not have binding force, they are an important means of ensuring the uniform application of the Common Customs Tariff and, as such, may be regarded as useful aids to its interpretation (judgment of 9 February 2023, *LB (Air loungers)*, C-635/21, EU:C:2023:85, paragraph 34 and the case-law cited).
- 35 Similarly, although the WCO opinions classifying goods in the HS do not have legally binding force, they amount, as regards the classification of those goods in the CN, to important aids to the interpretation of the scope of the various tariff headings of the CN (see, to that effect, judgments of 6 December 2007, *Van Landeghem*, C-486/06, EU:C:2007:762, paragraph 25, and of 25 July 2018, *Pilato*, C-445/17, EU:C:2018:609, paragraph 26).

- 36 In the present case, the relevant CN headings come under Chapter 23 of the CN and are, first, heading 2304, which is entitled ‘Oilcake and other solid residues, whether or not ground or in the form of pellets, resulting from the extraction of soya-bean oil’, and, second, heading 2309 of the CN, which is entitled ‘Preparations of a kind used in animal feeding’.
- 37 It follows from Note 1 to Chapter 23 of the CN that a product may be regarded as a ‘preparation’ that comes under heading 2309 of the CN only if it is not a residue or waste that comes under another heading of Chapter 23 of the CN or that is elsewhere specified or included. Heading 2309 of the CN is therefore a residual heading in particular in relation to heading 2304 of the CN, as the applicant in the main proceedings and the Commission have noted.
- 38 Consequently, it is necessary to consider, first of all, whether a product, such as the product at issue, comes under the latter heading.
- 39 Heading 2304 of the CN is entitled ‘Oilcake and other solid residues, whether or not ground or in the form of pellets, resulting from the extraction of soya-bean oil’.
- 40 Neither the CN nor its section or chapter notes define exactly what the term ‘residues’ covers. According to the case-law of the Court, in that event, its meaning must be determined according to its meaning in everyday language whilst considering the context in which it is used and the purposes of the rules of which it forms part (judgment of 9 February 2023, *Global Gravity*, C-788/21, EU:C:2023:86, paragraph 46).
- 41 In everyday language, a residue refers to that which remains after a physical or chemical operation or industrial processing.
- 42 That interpretation of the term ‘residues’ is confirmed by the general remarks in the Explanatory Notes in respect of Chapter 23 of the HS, according to which that chapter covers the various residues and wastes derived from vegetable materials used by food-preparing industries.
- 43 It is apparent, moreover, from the Explanatory Note in respect of heading 23.04 of the HS, which corresponds to heading 2304 of the CN, that the residues covered by that heading are what remains after the extraction of oil from soya beans by solvents or in a press or rotary expeller, and that they constitute valuable animal foods.
- 44 In the present case, a product, such as the product at issue, described as soya meal, imported in the form of pellets or granules, obtained after extraction of the oil contained in soya beans using a solvent, hexane, and intended for animal feeding, appears to include all the characteristics of products covered by heading 2304 of the CN, as reflected in the wording of that heading and the explanatory note referred to in paragraph 43 above.
- 45 The referring court queries, however, whether certain other characteristics of that product preclude it from coming within the scope of heading 2304 of the CN, that is, the fact that, after the extraction of soya-bean oil using a solvent, that product has been subjected to heat treatment (toasting) for the removal of that solvent, the fact that the product must be physically ground and be mixed with a compound before it can be consumed by animals or yet the fact that it may be unfit for human consumption.

- 46 In that regard, it should be noted in the first place that, in so far as it is apparent from the Explanatory Note to heading 23.04 of the HS that the products covered by that heading, including those resulting from the extraction of soya-bean oil by solvent, are ‘valuable animal foods’, those products must be capable of being consumed by animals. Accordingly, to that end, it is necessary for the solvent used to extract the oil to be removed, since it is harmful to animal health. The heat treatment (toasting) to remove that solvent must therefore be considered to be indissociable from the production of the residues referred to in heading 2304 of the CN which result from the extraction of the oil by solvents.
- 47 Furthermore, since oil extraction using solvents is a standard technical process for the production of soya cake, as is apparent from the documents available to the Court, to conclude that the toasting process, to which the product at issue is subjected, constitutes processing that causes the product to lose the character of ‘residue’ would result in all products derived from soya-bean oil extraction using solvents being excluded from that heading and that heading thus being rendered largely meaningless.
- 48 The interpretation of the CN as meaning that the fact that a product, such as the product at issue, has undergone heat treatment does not cause it to lose the character of ‘residue’ under heading 2304 of the CN is also reinforced by the WCO’s 1991 HS Classification Opinion 2304.00/1, attached as Annex 2 to the Commission’s written observations, which, as the case-law cited in paragraph 35 of the present judgment shows, is an important aid to the interpretation of the scope of that heading. That opinion classifies under heading 23.04 of the HS ‘defatted soy-bean flour, with a protein content, on a dry matter basis, of approximately 50%, obtained by dehulling dried soya beans and subjecting them to steam heat treatment, solvent extraction and grinding’.
- 49 In the second place, the applicant in the main proceedings explained that, owing to its high protein content, soya meal in the form of pellets or granules had to be physically reduced, that is to say, ground and mixed in a compound for animal feeding.
- 50 In that regard, it must be recalled that it is apparent from the general remarks in the Explanatory Notes to Chapter 23 of the HS that the majority of products coming within that chapter, and therefore those coming under heading 2304 of the CN, are intended to be used ‘as animal feeding stuffs, either alone or mixed with other materials’. Thus the fact that a product, such as the product at issue, must, after being imported, be ground and mixed with a compound before it can be consumed by animals does not preclude it from coming within the scope of heading 2304 of the CN.
- 51 In the third and last place, as regards the fact that the product at issue may be unfit for human consumption, it should be noted that it is apparent from the general remarks set out in the Explanatory Notes to Chapter 23 of the HS and the Explanatory Notes to heading 2304 of the HS that the ‘residues’ covered by that heading are principally used as animal feed. They may also be fit for human consumption, although that is not a condition of their being covered by that heading.
- 52 In the light of all of the above, it must be held that the CN must be interpreted as meaning that a product such as the product at issue comes under CN heading 2304.
- 53 That interpretation is not called into question by the arguments put forward by the Hungarian Government in its written observations relating to the judgment of 3 March 2016, *Customs Support Holland* (C-144/15, EU:C:2016:133).

- 54 First, with regard to the argument that, in that judgment, the Court ruled that a product similar to the product at issue, namely Imcosoy 62 which is a soya protein concentrate, did not come under heading 2304 of the CN, it should be noted that it follows from paragraphs 33, 35 and 41 of that judgment that that finding was based in particular on the fact that that product was obtained from soya meal, at the end of a process in which the remaining fat from that meal and certain harmful substances were extracted from it and the content of components other than proteins was reduced. The process for transforming soya meal, which results in Imcosoy 62, had a specific animal-related purpose since it was intended to create a protein concentrate which, unlike soya meal, could be ingested by very young calves.
- 55 However, in the present case, the applicant in the main proceedings emphasised that the product at issue had not undergone any processing to increase its protein content, to reduce the fibre structure or to alter its composition, and that the purpose of toasting had been to remove the hexane, which is not a natural component of soya. In the light of that information, which it is for the referring court to verify, a product such as the product at issue must be regarded as having retained the character of residue resulting from soya-bean oil extraction, covered by heading 2304 of the CN, unlike the product that was at issue in the case that gave rise to the judgment of 3 March 2016, *Customs Support Holland* (C-144/15, EU:C:2016:133).
- 56 Second, with regard to the argument that the product at issue satisfies the three conditions, set out in that judgment, for classification of a product under heading 2309 of the CN, it must be recalled that, since that heading is of a residual nature in relation to heading 2304 of the CN, where a product is classified under the latter heading, the fact that it may also satisfy the conditions for being classified under heading 2309 of the CN is of no relevance for the purposes of its classification.
- 57 In the light of all of the above, the answers to the questions referred are that the CN must be interpreted as meaning that a product imported in the form of pellets or granules, which is obtained following the extraction of soya-bean oil using a solvent and heat treatment to remove that solvent so that the product can be mixed, after being physically ground, with a compound for animal consumption, comes under heading 2304 of that nomenclature.

Costs

- 58 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the referring court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

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

The Combined Nomenclature, set out in Annex I to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff, in the version resulting from Commission Implementing Regulation (EU) 2016/1821 of 6 October 2016,

must be interpreted as meaning that a product imported in the form of pellets or granules, which is obtained following the extraction of soya-bean oil using a solvent and heat treatment to remove that solvent so that the product can be mixed, after being physically ground, with a compound for animal consumption, comes under heading 2304 of that nomenclature.

[Signatures]