

*Pleas in law and main arguments*

— In the contested judgment, the Court of First Instance incorrectly found that the appellant's claim was time-barred. Even after the application had been lodged, the respondents had given the appellant a binding assurance that — following the conclusion of certain test cases pending before the Court — they would make him a binding offer of compensation. The respondents were not entitled simply to disregard that assurance and plead that the appellant's claim was time-barred. The Court of First Instance also failed to take into account the fact that the appellant had not been officially informed of his legal rights.

— In the contested judgment, the Court of First Instance incorrectly found that the appellant was denied a reference quantity on different grounds from those provided for by Article 3a of Regulation No 857/84<sup>(2)</sup>. In that respect the Court of First Instance failed to take account of, and evaluate, the totality of the issues raised in the proceedings.

<sup>(1)</sup> Not yet published in the European Court Reports.

<sup>(2)</sup> Council Regulation (EEC) No 857/84 of 31 March 1984 adopting general rules for the application of the levy referred to in Article 5c of Regulation (EEC) No 804/68 in the milk and milk products sector (OJ 1984 L 90, p. 13).

a) 64 % granulated sugar, 1,9 % tea-extract and water and

b) 64 % granulated sugar, 1,9% tea-extract, 0,8 % citric acid and water are not preparations with a basis of extracts of tea?

2) Is Commission Regulation (EC) No 306/2001<sup>(2)</sup> of 12 February 2001 concerning the classification of certain goods in the Combined Nomenclature (OJ 2001 L 44, p. 25) valid in respect of the products identified at points 2 and 3 of the Annex?

<sup>(1)</sup> OJ L 279 of 23.10.2001, p. 1.

<sup>(2)</sup> OJ L 044 of 15.2.2001, p. 25.

**Reference for a preliminary ruling by the Gerechtshof (Douanekamer) te Amsterdam by judgment of that Court of 2 April 2002 in the case of Timmermans Diessen B.V. against head of the Roosendaal Customs district**

(Case C-133/02)

(2002/C 144/36)

**Reference for a preliminary ruling by the Finanzgericht München by order of that Court of 27 February 2002 in the case of Krings GmbH against Oberfinanzdirektion Nürnberg, Zoll- und Verbrauchsteuerabteilung, Dienstort München**

(Case C-130/02)

(2002/C 144/35)

Reference has been made to the Court of Justice of the European Communities by order of the Finanzgericht München (Munich Finance Court) of 27 February 2002, received at the Court Registry on 9 April 2002, for a preliminary ruling in the case of Krings GmbH against Oberfinanzdirektion Nürnberg, Zoll- u. Verbrauchsteuerabteilung, Dienstort München on the following questions:

1) Is the combined nomenclature in the version of Annex I to Commission Regulation (EC) No 2031/2001<sup>(1)</sup> of 6 August 2001, amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ 2001 L 279, p. 1), to be interpreted as meaning that mixtures of

Reference has been made to the Court of Justice of the European Communities by judgment of the Gerechtshof (Douanekamer) te Amsterdam (Amsterdam Regional Court of Appeal) Customs Chamber of 2 April 2002, received at the Court Registry on 10 April 2002, for a preliminary ruling in the case of Timmermans Diessen B.V. against head of the Roosendaal Customs district on the following question:

Does Article 9(1) of the Community Customs Code<sup>(1)</sup>, read in conjunction with Article 12(5)(a)(iii) thereof, provide the customs authorities with a legal basis for withdrawing binding tariff information where they change the position adopted in it with regard to the interpretation of the legal provisions applicable to the tariff classification of the goods concerned even where the change is made within the six-year period referred to?

<sup>(1)</sup> Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ L 302 of 19.10.1992, p. 1.).