

Chamber), composed of: P. Jann (Rapporteur), President of the Chamber, D.A.O. Edward, A. La Pergola, M. Wathelet and C.W.A. Timmermans, Judges; J. Mischo, Advocate General; H.A. Rühl, Principal Administrator, for the Registrar, has given a judgment on 6 June 2002, in which it:

1. *Annuls Commission Decision 1999/187/EC of 3 February 1999 on the clearance of the accounts presented by the Member States in respect of the expenditure for 1995 of the Guarantee Section of the European Agricultural Guidance and Guarantee Fund, in so far as it excludes the Kingdom of the Netherlands from Community financing in the sum of NLG 32 746 529 by way of aid for the processing of skimmed milk into casein and caseinates;*
2. *Dismisses the remainder of the action by the Kingdom of the Netherlands;*
3. *Orders the Commission of the European Communities to pay five sixths of the costs and the Kingdom of the Netherlands to pay one sixth of the cost;*
4. *Orders the French Republic to bear its own costs.*

(<sup>1</sup>) OJ C 226 of 7.8.1999.

## JUDGMENT OF THE COURT

(Fifth Chamber)

11 July 2002

**in Case C-371/99 (Reference for a preliminary ruling from the Hoge Raad der Nederlanden): Liberexim BV v Staatssecretaris van Financiën** (<sup>1</sup>)

*(Sixth VAT Directive — Importation by removal of goods from customs arrangements — Transport by road under the TIR arrangements or the external Community transit arrangements — Changing of tractor — Unloading of trailer and destruction of seals — Removal of goods from customs supervision)*

(2002/C 233/03)

(Language of the case: Dutch)

(Provisional translation; the definitive translation will be published in the European Court Reports)

preliminary ruling in the proceedings pending before that court between Liberexim BV and Staatssecretaris van Financiën on the interpretation of Article 7(3) of the Sixth Council Directive (77/388/EEC) of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (OJ 1977 L 145, p. 1), as amended by Council Directive 92/111/EEC of 14 December 1992 amending Directive 77/388 and introducing simplification measures with regard to value added tax (OJ 1992 L 384, p. 47), the Court (Fifth Chamber), composed of: P. Jann, President of the Chamber, D.A.O. Edward and A. La Pergola (Rapporteur), Judges; J. Mischo, Advocate General; H. von Holstein, Deputy Registrar, has given a judgment on 11 July 2002, in which it has ruled:

1. *Where goods, transported by road under the external Community transit arrangements, are placed on the Community market after a number of irregularities have been committed in respect of those goods in various Member States, the goods cease to be covered by those arrangements within the meaning of Article 7(3) of the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment, as amended by Council Directive 92/111/EEC of 14 December 1992 amending Directive 77/388 and introducing simplification measures with regard to value added tax, on the territory of the Member State where the first operation which can be regarded as a removal of the goods from customs supervision was carried out.*

*Any act or omission which prevents, if only for a short time, the competent customs authority from gaining access to goods under customs supervision and from monitoring them as provided for by the Community customs provisions must be regarded as a removal of the goods in question from customs supervision.*

2. *Removal of goods from customs supervision does not require intent, but, instead, only that certain objective conditions be met.*

(<sup>1</sup>) OJ C 366 of 18.12.1999.

In Case C-371/99: Reference to the Court under Article 234 EC by the Hoge Raad der Nederlanden (Netherlands) for a