

**Judgment of the Court (Seventh Chamber) of 18 July 2007
(reference for a preliminary ruling from the Hoge Raad der
Nederlanden, Netherlands) — Op- en Overslagbedrijf Van
der Vaart B.V. v Staatssecretaris van Financiën**

(Case C-402/06) ⁽¹⁾

**(Common Customs Tariff — Tariff classification —
Combined Nomenclature — Product obtained from curdled
milk and the extraction of a significant quantity of serum)**

(2007/C 211/15)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Appellant: Op — en Overslagbedrijf Van der Vaart

Respondent: Staatssecretaris van Financiën

Re:

Reference for a preliminary ruling — Hoge Raad der Nederlanden — Interpretation of Annex I to Commission Regulation (EC) No 1734/96 of 9 September 1996 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ 1996 L 238, p. 1) — Product obtained from curdled milk and extraction of most of the serum containing not more than 2 % of whey-albumin that has been broken down by the activity of an enzyme added during a drying process lasting 24 to 36 hours

Operative part of the judgment

1. Heading 0406 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, as amended by Commission Regulation (EC) No 1734/96 of 9 September 1996, must be construed in such a way that it can accommodate the classification of a product, such as that in issue in the main proceedings, obtained from curdled milk from which a great deal of the serum has been extracted and the albumin content of which has been reduced, by the effect of an enzyme, to 2 % of the total quantity of the albumins during a drying process lasting 24 to 36 hours and consisting of casein and more than 50 % humidity.
2. Subheading 0406 20 90 of the Combined Nomenclature must be construed in such a way that it can accommodate a product, such as that in issue in the main proceedings, which contains more than 50 % humidity and less than 1 % fat and is ground into regular

granules of 2 to 4 mm in size and is intended for use in the manufacture of pizza toppings and in the preparation of cheese sauces.

⁽¹⁾ OJ C 310, 16.12.2006.

**Judgment of the Court (Sixth Chamber) of 18 July 2007 —
Commission of the European Communities v Republic of
Austria**

(Case C-517/06) ⁽¹⁾

**(Failure of a Member State to fulfil obligations — Directive
2003/98/EC — Re-use of public sector information — Failure
to transpose within the period prescribed)**

(2007/C 211/16)

Language of the case: German

Parties

Applicant: Commission of the European Communities (represented by: G. Braun and E. Montaguti, acting as Agents)

Defendant: Republic of Austria (represented by: E. Riedl, Agent)

Re:

Failure of a Member State to fulfil obligations — Failure to adopt, within the period prescribed, all the measures necessary to comply with Directive 2003/98/EC of the European Parliament and of the Council of 17 November 2003 on the re-use of public sector information (OJ 2003 L 345, p. 90)

Operative part of the judgment

The Court:

1. Declares that, by failing to adopt in the legislation of the Länder of Styria and Salzburg, within the period prescribed, all the laws, regulations and administrative measures necessary to comply with Directive 2003/98/EC of the European Parliament and of the Council of 17 November 2003 on the re-use of public sector information, the Republic of Austria has failed to fulfil its obligations under that directive;
2. Orders the Republic of Austria to pay the costs.

⁽¹⁾ OJ C 42, 24.2.2007.