

**Judgment of the Court (Fourth Chamber) of 10 November 2011 —
X v Inspecteur van de Belastingdienst v Y and
X BV v Inspecteur van de Belastingdienst P**

(Joined Cases C-319/10 and C-320/10)

(Common Customs Tariff — Combined nomenclature — Tariff classification — Boneless, frozen and salted chicken meat — Validity and interpretation of Regulations (EC) Nos 535/94, 1832/2002, 1871/2003, 2344/2003 and 1810/2004 — Additional note 7 to Chapter 2 of the combined nomenclature — Decision of the WTO Dispute Settlement Body — Legal effects)

1. *International agreements — World Trade Organisation — Jurisdiction of the Court — Interpretation and assessment of the validity of measures of the institutions of the Union in the light of the WTO agreements — Not included — Exceptions — Measure intended to ensure the performance of a particular obligation assumed in connection with the WTO — Express renvoi to specific provisions of those agreements (see para. 35)*
2. *International agreements — Agreement establishing the World Trade Organisation — Decision of the WTO Dispute Settlement Body finding that the substantive rules of that agreement have not been observed — Impossible to rely on those agreements or that decision in order to challenge the legality of a measure of the Union (see paras 36-37)*
3. *Common Customs Tariff — Tariff headings — Explanatory Notes to the Combined Nomenclature of the European Union — Additional note 7 to Chapter 2 on heading 0210 — Meat and edible meat offal, salted or in brine — Interpretation of that note in the light of a decision of the Dispute Settlement Body of the World Trade Organisation on the interpretation of the term ‘salted’ — Conditions (Council Regulation No 2658/87, Annex I; Commission Regulation No 1810/2004) (see paras 40-42, 44)*

4. *Common Customs Tariff — Tariff headings — Explanatory Notes to the Combined Nomenclature of the European Union — Additional note 7 to Chapter 2 on heading 0210 — Meat and edible meat offal, salted or in brine — Interpretation and assessment of the validity of that note in the light of a decision of the Dispute Settlement Body of the World Trade Organisation on the interpretation of the term 'salted' — Decision postdating the declarations of release for free circulation of the goods concerned — Excluded (Council Regulation No 2658/87, Annex I; Commission Regulation No 1810/2004) (see para. point 51, operative part 1)*

5. *Common Customs Tariff — Tariff headings — Salted meat and edible meat offal — Classification under heading 0210 of the Combined Nomenclature — Conditions — Meat having been salted leading to alteration of its character, irrespective of the salt content of less than 1.2 % — Condition not laid down by the legislation applicable — Excluded (Council Regulation No 2658/87, Annex I; Commission Regulation No 1810/2004) (see paras 54-60)*

Re:

Reference for a preliminary ruling – Rechtbank Haarlem – Interpretation and validity of 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), 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), 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) and 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) – Boneless, frozen, salted chicken cuts – Tariff classification.

Operative part

The Court

Declares that, in circumstances such as those in the main proceedings, in which the declarations for the customs procedure for ‘release for free circulation’ were made before 27 September 2005, it is not possible to rely on the decision of 27 September 2005 of the Dispute Settlement Body of the World Trade Organisation (WTO), adopting a report by the WTO appellate body (WT/DS269/AB/R, WT/DS286/AB/R) and two reports by a special WTO group (WT/DS269/R and WT/DS286/R), as amended by the appellate body, either in the interpretation of the additional note 7 to Chapter 2 of the combined nomenclature in Commission Regulation (EC) No 1810/2004 of 7 September 2004 amending 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, or in assessment of the validity of that additional note.

Order of the Court (First Chamber) of 10 November 2011 — Agapiou Joséphidès v Commission and EACEA

(Case C-626/10 P)

(Appeal — Access to documents — Regulation (EC) No 1049/2001 — Article 4(1) (b) and (2), first indent — Protection of private life and integrity of the individual — Protection of commercial interests — Regulation (EC) No 58/2003 — Executive agencies — Competence to handle confirmatory requests regarding applications for access to documents — Principle of transparency — ‘Overriding public interest’ — Errors of law)

1. *Appeals — Pleas in law — Necessity of a specific challenge to a point in the General Court’s reasoning (Art. 256 TFEU; Statute of the Court of Justice, Art. 58, first para.; Rules of Procedure of the Court of Justice, Art. 112(1)(c)) (see para. 60)*