OPINION OF MR ADVOCATE GENERAL REISCHL DELIVERED ON 14 FEBRUARY 1980 [1]

Mr President,
Members of the Court,

The references for a preliminary ruling in the cases joined by order of 21 November 1979 which I deal with in this opinion concern the interpretation of tariff subheading 20.06 B I of the Common Customs Tariff which under Regulation No 950/68 as amended by Regulation No 1/74 (official Journal No L 1 of 1 January 1974, p. 1) has the following wording:

"Fruit otherwise prepared or preserved, whether or not containing added sugar or spirit"

. . .

B. Other:

I. Containing added spirit:

. . ."

It is of relevance for imports from Yugoslavia of cherries — Morello cherries and sweet cherries — effected in September and November 1974 by the appellants in the main action. This fruit was intended for the chocolate industry, packed in casks and put up in Yugoslavia in a mixture of alcohol, flavouring and water or of alcohol and water, so as to preserve it during transportation. According to the order making the reference the first case concerned goods containing 70% fruit and 30% juice of which 12% by weight was alcohol. In the second case the mixture of alcohol and water was said to have an ethyl alcohol content of 15.9% by volume and in the third case an ethyl alcohol content of 12.5 to 16.3% by weight.

The importers are firmly of the opinion that the goods come under tariff subheading 08.11.:

"Fruit provisionally preserved (for example, by sulphur dioxide gas, in brine, in sulphur water or in other preservative solutions), but unsuitable in that state for immediate consumption", a tariff subheading which makes provision under D for a rate of duty of 11%. The customs offices, in the third case in the Hauptzollamt [Principal Customs Office] Bad-Reichenhall, on the other hand, consider the correct classification to be under 20.06 B I (e) 1, which provides for the application of a rate of duty of 32% of the value of the goods. They rely on Article 1 of Regulation No 1709/74 of the Commission of 2 July 1974 (Official Journal No L 180 of 3 July 1974, p. 15) which provides:

"Cherries put in a mixture of water and ethyl alcohol shall be classified as fruit suitable for immediate consumption in the following subheading of the Common Customs Tariff:

20.06 Fruit otherwise prepared or preserved, whether or not containing added sugar or spirit:

B. Other:

I. Containing added spirit."

All the importers have brought actions before the finance courts against these decisions.

In the first case it was argued that the said regulation was unlawful for exceeding the legislative scope existing under Regulation No 97/69 of the Council of 16 January 1969 (Official Journal, English Special Edition, 1969 (I), p. 12) for classification decisions on the Common Customs Tariff. There

1 — Translated from the German.

followed the first proceedings for a preliminary ruling as a result of a decision by the Finanzgericht [Finance Court] Berlin of 25 March 1975 (Case 37/75, *Bagusat KG* v *Hauptzollamt Berlin-Packhof*, judgment of 11 November 1975 [1975] ECR 1339) in which the following questions were raised:

"Are cherries, which are put up in a mixture of water and ethyl alcohol and which were imported into the territory of Berlin (West) on 9 September 1974, to be classified under heading 08.11 of the Common Customs Tariff (CCT) or subheading 20.06 B I of the Tariff?

In particular, is Regulation (EEC) No 1709/74 of the Commission of 2 July 1974 — Official Journal No L 180/15 of 3 July 1974 — valid in so far as it classifies goods under subheading 20.06 B I of the Tariff?"

The Court, in its judgment of 11 November 1975, ruled as follows:

"1. An examination of the question raised has not disclosed any factor such as to affect the validity of Regulation (EEC) No 1709/74 of the Commission.

2. Under Regulation (EEC) No 1709/74 of the Commission, cherries put up in a mixture of water and ethyl alcohol must be classified under subheading 20.06 B I of the Common Customs Tariff".

On the basis of that ruling the action was dismissed by the Finanzgericht Berlin.

In the second and third cases, too, the plaintiff took the view that Regulation No 1709/74 was unlawful because in practice it led to an alteration of the wording of the Common Customs Tariff and, as Regulation No 97/69 makes provision for classification decisions only in particularly difficult technical fields, there was no need for its adoption. At the same time it criticized the preliminary ruling in Case 37/75, contending that the facts were slightly different in that case. However, the actions in these cases, too, were dismissed by the Finanzgericht of Hamburg and Munich without any new reference for a preliminary ruling being made.

The plaintiffs thereupon turned to the Bundesfinanzhof [Federal Finance Court] to appeal on a point of law. The appellant in the first case relied primarily on a judgment of the Bundesfinanzhof of 16 January 1973 which also concerned a tariff classification dispute about the same type of goods; it contended that the classification unheld by the Finanzgericht actually infringed tariff heading 08.11. Moreover, Regulation No 1709/74 was unclear in many respects; also the preliminary ruling in Case 37/75 was not clear about the classification made by the Finanzgericht and since it did not examine all the important points in the proceedings it did not clear up the matter once and for all and did not therefore dispel all doubt. The appellant in the other proceedings, in the firm belief that it was how the product tasted to the ultimate consumer, and therefore its marketability, which mattered, relied *inter alia* upon a report by the Gesellschaft für Marktforschung [Association for Market Research], previously submitted to the Finanzgericht, which stated that a representative consumer survey showed that the cherries in question were not suitable for immediate consumption by the ultimate consumer. Therefore classification under heading 20.06 was ruled out. Furthermore the case which led to the reference

being made in Case 37/75 was different in some points from the case in hand. The issue in that case concerned the addition of flavouring which was not involved here; the goods to be classified in this case were, moreover, put up in alcohol which was regarded as impure by German rules and this no doubt affected their suitability for consumption.

When considering the cases the Bundesfinanzhof came to the conclusion that the preliminary ruling in Case 37/75, given in answer to excessively generally-phrased questions put by the Finanzgericht Berlin, was not a reliable authority for the proceedings before it. Since tariff subheadings 20.06 B I and 08.11 made a distinction between provisional preservation and preservation, the important criterion to distinguish their scope being suitability of the goods for immediate consumption, it seemed conceivable that not all cherries put up in a mixture of water and alcohol, irrespective of the type and strength of the preservative, came under tariff subheading 20.06 B I and that consequently Regulation No 1709/74 was not intended to cover all such cherries. Mindful not least of its 1973 judgment which I have mentioned and which held that such goods were to be assigned to tariff heading 08.11 on the basis of a report by the Staatliche Chemische Untersuchungsanstalt [National Chemical Research Institute], Munich, (which said that the cherries were only provisionally preserved and not suitable for immediate consumption), the Bundesfinanzhof decided to comply with the appellants' request and refer new questions to the Court of Justice for a preliminary ruling. This was done by orders of 24 April and 26 June 1979 which contained the following questions:

"1. Must tariff subheading 20.06 B I of the Common Customs Tariff be interpreted as meaning that it also includes fruit which has been put up in a mixture of alcohol, flavouring and water containing 12% alcohol by weight (in the proportion of 70% fruit, 30% liquid) so as to preserve it during transportation in casks and which is intended for the chocolate industry? (Case 87/79).

2. Must tariff subheading 20.06 B I of the Common Customs Tariff be interpreted as meaning that it also includes fruit which has been put up in a mixture of alcohol and water containing 15.9% ethyl alcohol by volume so as to preserve it during transportation in casks? (Case 112/79).

3. Must tariff subheading 20.06 B I of the Common Customs Tariff be interpreted as meaning that it also includes fruit which has been put up in a mixture of alcohol and water containing 12.5% or 16.3% ethyl alcohol by weight so as to preserve it during transportation in casks? (Case 113/79)."

My views on those questions are these:

1. It really must seem astounding that the Bundesfinanzhof has asked for a direct construction of tariff subheading 20.06 B I as regards a particular type of goods. For Regulation No 1709/74 of the Commission was adopted pursuant to Article 3 of Regulation No 97/69 which permits the adoption of rules for the classification of goods in the Nomenclature of the Common Customs Tariff. It gives the tariff classification for the very same goods described by the Bundesfinanzhof and this contains an interpretation of the said tariff sub-

heading. Since the regulation is *directly binding* upon institutions and courts it cannot easily be circumvented so long as it is not annulled or declared invalid. However, that has not been the case hitherto; indeed, as I said, it was expressly held in the judgment in Case 37/75 that no factor had been disclosed such as to affect the validity of Regulation No 1709/74.

If, in spite of that, the Bundesfinanzhof is seeking a direct interpretation of tariff subheading 20.06 B I, this can only be taken to mean that:

— Either it considers Regulation No 1709/74 is not completely clear but in need of interpretation and wishes to obtain guidelines for an explanation of tariff subheading 20.06 B I, which might possibly lead to a restrictive construction of Regulation No 1709/74 such as does not affect its validity.

— Or it is *tacitly* raising the issue of the validity of the said regulation, which, since it was issued in relation to tariff subheading 20.06 B I, can only be accepted, of course, if the strict limits of this tariff subheading have been observed.

Basically, that must be the approach to the request for an interpretation, and also to the arguments put forward by the appellants which are along the same lines.

2. But let us first turn to the *construction of Regulation No 1709/74* itself to see if it contains anything which suggests limits upon the tariff classification. This seems to me to be appropriate in view of the observations made by the appellants, which concern two main points.

First, it was argued that the recitals in the preamble to Regulation No 1709/74 make a distinction between *provisional* preservation and preservation *for a limited period.* It was suggested accordingly that "provisionally preserved" is to be understood to mean that the period cannot be determined, whilst "preserved for a limited period" means that this must apply to a period which is longer than provisional. The latter argument clearly supposes, if no sugar has been added, a higher alcohol strength, namely at least 25 to 30% by volume and only in this case could it be said that the goods would be suitable for immediate consumption and thus directly marketable. But then, it is said, it is clear that the cherries at issue in the main action were not covered by Regulation No 1709/74 since by means of expert reports it was proved that, because they were put up in a mixture of low alcoholic strength and packed in casks which were not airtight, there could be no guarantee how long they would keep.

On the other hand, it was claimed, it should not be overlooked that the facts of the case now before us are peculiar inasmuch as some of the alcohol was from Yugoslavia and that this is impure according to German law. That point, too, would militate against an application of Regulation No 1709/74.

However, like the Commission I believe that the Court cannot agree with these observations by the appellants.

(a) As regards the observation referred to in my first point, Article 1 of Regulation No 1709/74 is framed in quite general terms and assigns cherries in a mixture of water and ethyl alcohol without making any distinction to tariff heading 20.06 B I. Neither is any such

distinction necessarily to be deduced from the preamble to the regulation. Admittedly the first recital speaks of "provisionally preserved" and the third recital of "provisional preservation" whilst the fourth recital says that the alcoholic strength of the mixture of water and ethyl alcohol must be sufficient "for preservation of the fruit for a limited period". But to try to perceive an intended distinction therein seems to me to be artificial. I think that these phrases have the same meaning and describe nothing else but the limited period to which the Brussels Explanatory Notes also allude when they speak of "Fruit which has been treated solely to ensure its provisional preservation during transport and storage". If the regulation had actually intended only a limited classification under tariff subheading 20.06 B I of the goods referred to therein, depending on alcoholic strength, this would certainly have been expressed in an unequivocal form, either mentioning a minimum alcohol content in the recitals or by the addition of appropriate words to Article 1 of the regulation.

(b) As regards, on the other hand, the issue whether the use of alcohol which is impure under German rules is an important point for the application of the regulation, it is clear that it might possibly be of some significance as regards the phrase "fruit suitable for immediate consumption". According to the explanations furnished by the Commission, which is responsible for the tariff classification decision, this phrase must be understood to mean suitable for consumption with no risk of injury to health. Considering the words used in the versions in other languages, such an interpretation of the regulation, to which I can now restrict my examination, does not seem untenable.

On that basis however we must assume, as the Commission does, that the use of an alcohol which is in some way impure to make up the mixture of water and alcohol does not cause cherries preserved in that way to fall outside Regulation No 1709/74. Since the cherries were in fact intended to be used in the chocolate industry and so for the manufacture of edible products, it may confidently be concluded that the alcohol used was not so impure that the *cherries* preserved in it became unsuitable for consumption. This is also confirmed by an expert report by the Institut für Gärungsgewerbe und Biotechnologie. [Institute for the Zymotechnological Industry and Biotechnology] of 14 April 1976 produced by the appellant, according to which the impure alcohol contained by-products in such a small quantity that no concern would be aroused by using it to preserve cherries.

(c) Hence the main conclusion to be drawn from this is that an interpretation of Regulation No 1709/74 by itself does not lead to the result that this scope is to be limited to such a degree that it excludes the goods which are the subject-matter of the main action.

3. I come now to the interpretation of tariff subheading 20.06 B I requested by the Bundesfinanzhof which might in certain circumstances lead to the conclusion that, if it is to retain its validity, Regulation No 1709/74 must be interpreted restrictively, or, if this approach should not prove possible,

might enable it to be said that the regulation is to be regarded as invalid, contrary to the ruling given in Case 37/75.

As regards the last point mentioned, I must first remind the Court that it was held in the judgment in Case 37/75 that the Commission has *"wide discretion"* in making tariff decisions pursuant to Regulation No 97/69. Doubt cannot consequently be cast upon the correctness of such tariff classification decisions for the simple reason that it is conceivable that the goods in question also fall under another tariff heading. Such doubt would require a much firmer foundation; in the context of the present case it must therefore be shown that a classification under 20.06 B I of the goods concerned appears clearly and unambiguously to be ruled out.

(a) In this case the starting-point must obviously be the fact that only the two tariff subheadings first referred to (08.11 or 20.06 B I) are relevant to the dispute regarding classification which is pending before the Bundesfinanzhof and that consequently what matters is the correct determination of *their* scope. If there is to be an examination into whether or not this has been done correctly in regard to the goods in question in Regulation No 1709/74, we must first look at the appellants' argument that as against that regulation reference may be made to Note 1 (a) to Chapter 20 of the Common Customs Tariff. There it is stated that fruit preserved by the processes mentioned in Chapter 8 do not come under Chapter 20. What therefore matters above all is the method of preservation. If it is done in such a way that it would only be described as *provisional* preservation — which would be the case with low alcoholic strength and the non-addition of sugar — then, it is claimed, it would only be correct to entertain classification under a tariff subheading under Chapter 8.

However, in my opinion the Commission is right in thinking that this is too narrow an interpretation of the provision quoted. In my view too, the provision does not mean that if it is clear that the fruit has only been provisionally preserved, Chapter 20 is no longer relevant. A "preservation process" in the sense of this provision is rather to be regarded as a process which leads to the application of Chapter 8; this includes the criterion under tariff subheading 08.11 whether the goods are subsequently unsuitable for immediate consumption. Otherwise there would be a lacuna in classification. The judgment in Case 37/75 is also relevant on this point. In fact this aspect — Note 1 (a) to Chapter 20 — was thoroughly examined in the proceedings as may be seen from paragraph 9 of the decision and yet no objection was made to the fact that Regulation No 1709/74 classified provisionally preserved cherries under tariff heading 20.06 B I.

Decisive evidence for the question of delimitation may therefore be derived from the said note to Chapter 20 only once it is clear what is meant by the phrase "unsuitable for immediate consumption". I shall go into that question in detail later on.

(b) Another important argument of the appellants which I should first like to discuss and which they claim also militates against a classification under tariff heading 20.06 B I of the goods concerned in the main action, is one which they believe may be deduced from the relevant Brussels Explanatory Notes

on the two tariff subheadings in question. On the one hand the Notes on tariff heading 08.11 say:

"Provided that it remains unsuitable for immediate consumption in that state, the present heading applies to fruit (whether or not blanched or scalded) which has been treated solely to ensure its provisional preservation during transport or storage prior to use (for example fruit preserved by sulphur dioxide gas, in brine, in sulphur water or in other preservative solutions).

Such fruit is used mainly in the food industry (manufacture of jam, preparation of candied fruits, etc.). The fruits most commonly imported in this manner are organes, citrons, apricots, cherries, greengages, strawberries and other red berries. They are usually packed in casks, trays or open-lath type containers."

On the other hand the Notes on tariff heading 20.06 say, *inter alia:*

"This heading covers fruit (whether whole, in pieces or crushed), prepared or preserved otherwise than by any of the processes specified in the headings of Chapter 8 or in the preceding headings of this Chapter.

It includes, *inter alia:*

(1) Fruit preserved in syrup, in water, in chemicals or in alcohol . . .

The products of the present heading are generally put up in cans, jars or airtight containers, or in casks, barrels or similar containers."

The argument runs that, as regards 08.11, one must also look at the intended use (raw materials for the food industry) and whether the fruit is packed in casks. On the other hand, as regards 20.06, the important factors are whether the fruit was preserved in syrup or alcohol, put up in airtight containers and sold to the public in that state. But because it is established that the goods at issue in the main proceedings were not sold to the public in that state but were exclusively raw materials for the industry, that they were put up in casks which were not airtight allowing limited preservation only and that they were not put up in alcohol but in a mixture of water and alcohol, then, it is said, pursuant to the Notes referred to, nothing is clearer than that they must be classified under tariff heading 08.11.

To that argument, however, it must be stated first that, according to case-law, the Brussels Explanatory Notes constitute an aid to interpretation only so long as there are no relevant Community provisions. However, in this case there is such a Community provision in the form of Regulation No 1709/74 which, although only prescribing rules for classification under 20.06 B I, was actually adopted to determine the limits of that tariff subheading as distinct from tariff heading 08.11. Secondly it must not be overlooked that the Notes on 08.11 mention fruit which is used *mainly* in the food industry and which is *usually* packed in casks, which makes it clear that it is not just these factors alone which matter. Similarly, the use of the words *"inter alia"* in the Notes on 20.06 makes it clear that it is referring only to examples and not giving an exhaustive list. Furthermore, all that is said is that products under this heading are *generally* put up in cans and so on, which makes it clear that it is not these factors alone which matter.

Consequently, even upon reference to the Brussels Explanatory Notes, there can be no argument in favour of a restrictive construction of Regulation No 1709/74 or even the proposition that it is

invalid for incompatibility with tariff heading 20.06.

(c) Thus all that still falls to be examined in the position with regard to the requirement in tariff heading 08.11 that the fruit shall be "unsuitable in that state for immediate consumption" which, together with the requirement of provisional preservation, must be fulfilled in order for the goods to be classified under that tariff heading.

The appellants primarily take the view that the Commission wrongly interpreted that phrase to mean that consumption must not be possible *without damage to health* and that it therefore erred in arriving at the view that cherries in a mixture of water and alcohol were not covered by tariff heading 08.11 and consequently only the residual subheading 20.06 B I was relevant to them. On the other hand, it is significant, they say, that the word "Verzehr" [consumption] which may usually be found in German food legislation and merely describes the ingestion of edible substances into the stomach, does not appear in 08.11 but the word "Genuß" [1] appears instead. This is to be understood in a different sense according to the lexical meaning. The sensations accompanying ingestion are what matter, therefore only whatever is eaten with appetite, which is determined by appearance, taste and smell, is suitable for consumption. The need to make such a distinction is moreover supported not only by the fact that the concept is used also in other Community provisions, for example, in the Council Directive of 15 February on health problems affecting trade in fresh poultry-meat where, as regards the Genußtauglichkeitsbescheinigung [certificate of suitability for consumption, translated as "health certificate"] not only the absence of pathogenic agents is important but also other marginal conditions meant to ensure a state of hygiene in the sense of being appetizing. Only such a construction would be in conformity with the fact that Chapter 8 is headed "Edible fruit" and with the fact that according to Note 1 it does not cover inedible fruits. Reference may further be made on this point to the Brussels Explanatory Notes which provide that fruit which is used mainly in the food industry comes under tariff subheading 08.11, which could not on any account be fruit the consumption of which might cause damage to health. But, the argument continues, if this construction were adopted, then because the taste of the goods in this case was impaired owing to the low alcoholic strength of the mixture of water and alcohol and the packing which was not airtight, it would also have to be admitted that they were unsuitable in that state for immediate consumption. This may be proved by the expert's report dating from 1972, which has previously been submitted to the Bundesfinanzhof and which refers to the lack of any properties of taste or smell in cherries of that kind. For further details reference may be made to the expert's report, which previously featured in Case 37/75 and similarly refers to the absence of sweet taste, the predominance of acids, a burning taste and lack of flavour, emphasizing that the fruit here is only a semi-finished product, which is unsuitable for consumption. Finally, it is stated, on this point a consumer survey undertaken in May 1976 by the Gesellschaft für Marktforschung [Market Research Company] and submitted by the appellants is of interest too; it shows a predominantly negative reaction to the taste of the goods involved in this case.

If reliance is placed exclusively on the German wording of the Common

1 — *Translator's Note:* This word appears as "consumption" in the English version of the Notes, but it may also denote enjoyment.

Customs Tariff, then these submissions may seem to possess some plausibility although there must also be grounds for reflexion in the fact that the word "genießbar" [edible] which in Chapter 8 certainly has only the meaning considered correct by the Commission — namely edible without damage to health — has the same root as the concept "Genuß". However, it is quite clear that the appellants' interpretation is undermined when one looks at the wording of the versions in the other languages, which is indispensable when dealing with Community texts, and in particular the wording used in the Brussels Customs Tariff Nomenclature which is also the basis of the Common Customs Tariff. For example, the French version of tariff heading 08.11 uses the phrase "impropre à la *consommation* en l'état", the English says "unsuitable in that state for immediate *consumption*", the Italian version runs "non atte per il consumo nello stato in cui sono presentate", and the Dutch says "als zodanig ongeschikt voor dadelijke *consumptie*". None of these wordings contains any descriptive element as in the appellants' interpretation: this becomes particularly clear if we then compare the chapter headings in Chapter 8 (fruits comestibles, edible fruit, frutta commestibili, fruit) and if one tries to imagine how the concept "Genuß" is otherwise defined in these languages. All they signify in fact is nothing other than that fruit must be "eßbar" [edible] and "genießbar" [consumable]. Furthermore, in my opinion this view is supported by the fact that the expert's report submitted in Case 37/75 stressed the lack of "Genußeignung" [suitability for consumption] but that did not compel the Court in any degree to question the classification adopted in Regulation No 1709/74.

On the contrary this reading is not contradicted, either, by the heading to Chapter 8 and Note 1 therein, which, in the opinion of the appellants, goes to prove that because Chapter 8 must always cover fruit which is "genießbar", as regards tariff heading 08.11 a distinction must be drawn between "genießbar" and "zum Genuß geeignet" [suitable for consumption]. In my opinion the Notes are simply to be understood to mean that only fruit which is *basically* edible comes under this chapter; but that does not preclude 08.11 from also covering fruit which may be in conformity with it because it is provisionally preserved in a given way but which in its unaltered state is not suitable for consumption — that is how "immediate" is to be understood.

If that is accepted, then classification under 08.11 of the goods at issue would in fact only be acceptable if it were proved that the goods were not suitable for immediate consumption without damage to health — and not just that they were not *intended* for such consumption. That is difficult to entertain in regard to cherries which are put up in a drinkable mixture of water and alcohol, in whatever concentration. Nor can it be proved by means of the expert's report also referred to in the proceedings. By saying that there was a negative reaction to the taste, that the persons used in the sample were on the whole not prepared to use the cherries in that state, and that it was only possible to record minimal willingness to buy them, all the expert's report prepared by the Gesellschaft für Marktfoschung in fact proves is a *commercial practice* with regard to eating habits such as has already been held irrelevant in the judgment in Case 37/75 in regard to another expert's report. Similarly, all that

is to be discerned from the expert's report of 2 October 1979 by the Institut für Lebensmitteltechnologie [Institute of Food Technology] is that it is not possible to say such fruit is suitable for immediate consumption since it is usually not consumed until after further processing. Finally, it is stated in the report of 26 October 1972 by the Staatliche Chemische Untersuchungsanstalt [State Chemical Research Institute] of Munich, upon which the Bundesfinanzhof relied in its judgment of 16 January 1973, that such fruit is not suitable for immediate consumption. But it is clear from the grounds of that judgment that it was only declared to be unsuitable because it had a sour and unattractive *taste* and lacked any properties of smell or taste which would be necessary in the case of a finished article intended for the ultimate consumer.

4. Consequently it must be concluded that the attempt by the appellants to demonstrate irrefutably that the products imported by them must be classified under 08.11 has not succeeded because a factual element essential to that tariff heading is absent. Therefore only the residual tariff heading 20.06 B I (e) is relevant for the classification of such goods. Should there still be doubt about the expression "preserved" — because no problem can be perceived with other expressions: "Fruit", "containing ... added spirit" since nothing is said about alcoholic content — it must at least be admitted that "prepared" fruit may also be included thereunder since there is nothing in the tariff subheading to indicate that "prepared" means "finally prepared" and therefore also suitable for consumption.

There are therefore no grounds for doubting the validity of Regulation No 1709/74, or, as regards the alcohol content, for approving a construction limited in some way or other so that the goods at issue are not thereby covered.

5. The questions of the Bundesfinanzhof may therefore be answered as follows:

Tariff subheading 20.06 B I of the Common Customs Tariff must be interpreted as meaning that it also covers fruit intended for further industrial processing which is put up in a mixture of water and alcohol and that for this purpose its strength is irrelevant. In these cases too no factor has been disclosed of such a kind as to effect the validity of Regulation No 1709/74 of the Commission, which prescribes such a classification.