



St. Gallen, 28 June 2018

Press Release

regarding judgment C-6579/2016 of 19 June 2018

Import ban on “Oden’s Chewing Tobacco” upheld

“Oden’s Chewing Tobacco 10 Extreme White” is a tobacco product for oral use. It falls under the import ban in accordance with the Swiss Tobacco Ordinance due to its characteristics and the way it is used. This is the decision reached by the Swiss Federal Administrative Court.

In September 2016, the Basel St. Jakob Customs Inspectorate refused entry to a 244.8kg shipment of “Oden’s Chewing Tobacco 10 Extreme White”. It based the decision on the fact that the goods in question were a product in powder form or a fine-cut tobacco under 1mm and were therefore banned under the Tobacco Ordinance.

View taken by the importing company

The Swiss company importing the product appealed against the decision before the Federal Administrative Court on the grounds that the rejected goods were chewing/sucking tobacco and, as such, were in neither powder nor granular form and could therefore be imported into Switzerland. The company requested the 42 boxes that had been refused entry to be delivered immediately.

Appraisal by the Federal Administrative Court

The Federal Administrative Court concludes that the dry, loose powder- to fine-textured tobacco product, which is portioned out in small, porous bags, is not intended for either smoking or chewing. The way the product is designed serves rather for oral consumption under the lip, as is common with snus. This product cannot be classed as a sucking tobacco either due to its consistency. Thus, it falls under the import ban in accordance with the Tobacco Ordinance. In addition, the Federal Administrative Court holds the ban to be both lawful and constitutional – insofar as the matter is open to judicial review. The Customs Inspectorate was therefore justified in rejecting the goods.

This judgment may be appealed to the Federal Supreme Court.

Contact

Rocco R. Maglio

Press secretary

+41 (0)58 465 29 86

+41 (0)79 619 04 83

medien@bvger.admin.ch

About the Federal Administrative Court

Located in St. Gallen, the Federal Administrative Court (FAC) was established in 2007. With its staff of 347 employees (306.2 FTE) and its 77 judges (69 FTE) it is the largest federal court in Switzerland. The Federal Administrative Court has jurisdiction to hear appeals against decisions rendered by Swiss federal authorities. In specific matters, the FAC may grant review on decisions rendered by cantonal authorities. Recourse actions are also reviewed by the Court. The FAC is composed of six divisions. It renders an average of 7,500 judgements every year.