



HARMONIZED SYSTEM
REVIEW SUB-COMMITTEE

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(+ Annex)
O. Eng.

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POSSIBLE AMENDMENT OF HEADING 21.03 TO INCLUDE "SALSA"

(Item III.B.1 on Agenda)

I. INTRODUCTION

1. On 13 March 2001, the Secretariat received a proposal from the Australian Administration with regard to the introduction of "salsa" in heading 21.03. The proposal is reproduced in the Annex to this document.

II. SECRETARIAT COMMENTS

2. According to the Australian Administration, salsa is mainly sold, marketed and predominantly used in Australia as a spicy dip, particularly with corn chips, and may contain the following ingredients : tomatoes, water, green chillies, salt, onions, vinegar, jalapenos, spices, garlic, xanthan gum, guar gum and citric acid.
3. Australia has in the past classified such products in heading 20.01, but believes that the HS Committee's classification of "Chicken Tonight", and the resulting changes to the Explanatory Notes to headings 20.01 and 21.03, can be taken as a precedent to classify these products in heading 21.03. However, in order to clarify the legal situation, Australia wants to add a reference to "salsa" in the heading text. Alternatively, it is proposed to introduce a new subheading for "salsa" or to insert a legal note which clarifies that heading 21.03 includes "salsa".
4. Based on the description of "salsa" given by the Australian Administration in the Annex to this document, the Secretariat agrees that "salsa" is most likely classifiable in heading 21.03 as a sauce.

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5. According to the information obtained by the Secretariat “salsa” is a Spanish word which means “sauce” (Collins Spanish Dictionary – Sixth Edition). On the other hand, The New Shorter Oxford English Dictionary refers to “salsa” as :

“sauce served with meat”.

Furthermore, The International Dictionary of Food & Nutrition refers to “salsa” as :

“sauce; many variations combining fresh tomatoes, chillies, avocados, and other ingredients; most have a spicy heat; used with enchiladas, tamales, tacos, tortillas, meat, fish, chicken, and vegetables.”

6. Based on the above, it appears that even if “salsa” is a Spanish word for “sauce”, it is used, at least in some English speaking countries to describe a particular type of sauce. The Secretariat is aware of the fact that in many countries "salsa" is an extremely popular product and is extensively traded. We are also aware of the fact that due to the different concept of sauces in the world, "salsa" may not be universally regarded as a sauce. It is for that reason, of course, that Australia has proposed to specifically mention "salsa" in the legal text.
7. If the Sub-Committee agrees to insert such a reference, the Secretariat would prefer to have this insertion in the text of heading 21.03, since a specific subheading for “salsa” would entail possible classification problems at subheading level – whether a particular product should be classified as “salsa” or other sauces of heading 21.03.
8. As an alternative solution to amending the legal texts, the Secretariat would point out that a description of “salsa” (based on the explanation in paragraph 5 above) could be included in the Explanatory Note to heading 21.03.

III. CONCLUSION

9. The Sub-Committee is invited to examine the proposal of the Australian Administration, taking into account the comments by the Secretariat in paragraphs 2 to 8 above.

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Proposal from the Australian Administration to amend the Nomenclature concerning heading 21.03 to include “salsa”

“The Australian Customs Service requests that consideration be given to specifying salsa in its own right within the structure of the HS Nomenclature. It further requests that if the Committee is in agreement, salsa be included within the structure of heading 21.03.

Australia has had a long standing issue concerning the classification of salsa - one such brand, for example, is “Tostitos” Mexican Bean Salsa, which is said to contain the following ingredients : tomatoes, water, green chillies, salt, onions, vinegar, jalapenos, spices, garlic, xanthan gum, guar gum and citric acid.

Salsa is mainly sold, marketed and predominantly used in Australia as a spicy dip, particularly with corn chips. To assist in that use, the subject goods are packaged in wide mouth screw-top jars, which are designed to be opened and immediately used as a convenient dipping jar. It is also used as a relish with food and sometimes as a sauce ingredient in cooking.

Australia originally classified these goods within heading 20.01, but sometime ago it departed from that position. It now considers it is difficult to classify the goods within heading 20.01, as it considers the goods are more than “vegetables prepared or preserved”.

In more recent times the classification debate has been between headings 21.03 and 21.06. As heading 21.06 is a residual heading salsa may only fall to that classification if it is considered not to be goods of heading 21.03. To be classified within heading 21.03 salsa would have to be identified as being a sauce or a mixed condiment.

The Macquarie Dictionary defines sauce as :

“any preparation, usually liquid or soft, eaten as a relish or appetising accompaniment to food”

and condiment as :

“something used to give a special or additional flavour to food, as a sauce or seasoning”.

Australia is of the opinion that the above dictionary definition of “sauce” and possibly that of a “condiment” are applicable to salsa, as salsa is rarely used other than as a spicy accompaniment to other food.

Furthermore, the Harmonized System Explanatory Notes (HSEN) to heading 21.03 do not indicate that salsa is excluded. Rather the description :

“This heading covers preparations, generally of a highly spiced character, used to flavour certain dishes ... and made from various ingredients. Sauces are generally in liquid form ... ”,

at paragraph (A) on page 168 of the HSEN is applicable to salsa. The description clearly envisages that not all sauces are smooth liquids. This has been recognised at recent HS

Committee meetings, where it has been determined that the goods of heading 21.03 can have chunks of ingredients in them - vide the decision re "Chicken Tonight".

Should the Committee agree that salsa is properly classified within heading 21.03, one solution would be to include the word "salsa" within the heading description.

If it was decided that inclusion within the heading description was not appropriate, consideration could be given to the insertion of a subheading. If this second option was to be the preferred approach, as heading 21.03 does not specifically mention "salsa", (or more to the point, it leaves it to the classifier to decide whether the goods are sauces or mixed condiments), a legal note may be required to clarify the issue. A legal note could be inserted as follows:

"Heading 21.03 includes salsa".
