



HARMONIZED SYSTEM
REVIEW SUB-COMMITTEE

-
27th Session
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NR0342E1
(+ Annex)

O. Eng.

Brussels, 30 January 2003.

POSSIBLE AMENDMENTS TO THE NOMENCLATURE
REGARDING THE CLASSIFICATION OF SAUCES

(Item III.A.3 on Agenda)

Reference documents :

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| 41.320 (HSC/20 and HSC/21) | NC0292E1 (HSC/26) |
| 42.092 (HSC/21) | NC0340E2, Annexes G/10 and P/1 (HSC/26 - Report) |
| 42.100, Annex IJ/2 (HSC/21 - Report) | NR0136E1 (RSC/23) |
| 42.441 (HSC/22) | NR0165E2, Annex C/1 (RSC/23 - Report) |
| 42.750, Annex G/15 (HSC/22 - Report) | NC0371E1 (HSC/27) |
| NC0123E1 (HSC/24) | NC0430E2, Annexes G/3 and Q/7 (HSC27 - Report) |
| NC0160E2, Annex G/4 (HSC/24 - Report) | NR0169E1 (RSC/24) |
| NC0185E1 (HSC/25) | NR0198E1 (RSC/24) |
| NC0208E1 (HSC/25) | NR0205E2, Annex C/1 (RSC/24 - Report) |
| NC0250E2, Annexes G/3 and H/11 (HSC/25 - Report) | NR0212E1 (RSC/25) |
| NR0111E1 (RSC/22) | NR0265E3, Annex C/2 (RSC/25 - Report) |
| NR0133E2, Annex D/1 (RSC/22 - Report) | NR0332E3, Annex C/2 (RSC/26 - Report) |

I. BACKGROUND

1. At its 25th Session (March 2002), at the request of one delegate the Sub-Committee decided to postpone the discussion of this issue to its next session, thus leaving administrations time to further consult with their industry concerning the proposed amendments.
2. At its 26th Session (September 2002), the **EC** Delegate recalled that the Sub-Committee had been dealing with this sensitive issue for a long time. He recognised that a product which was considered to be a sauce (heading 21.03) in one part of the world might be regarded as a dish of vegetables presented or prepared in a sauce (heading 20.01 or 20.05) in other parts of the world – and vice versa. He was of the opinion that the present legal situation with regard to such products was not satisfactory. The discussions which had

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taken place in the HS Committee, and the result of 15 votes to 14 which had been obtained at the HSC's 24th Session for the classification of the product known as "Chicken Tonight", revealed that products of this type were not being classified uniformly world-wide. This problem could not be solved by classifying such products with reference to their commercial name or use. It was therefore extremely important that the Sub-Committee agree on a criterion or a legal definition for sauces, securing the uniform classification of such products world-wide and thereby ensuring legal stability. The EC was currently studying this matter in collaboration with the trade.

3. Another delegate was of the opinion that legal amendments were not necessary. In his mind a product which was labelled, marketed and used as a sauce should be classified as a sauce in the HS Nomenclature. He had never seen anything labelled as a sauce which was not a sauce. Introducing a numerical limit for the content of vegetables and fruit in a sauce could in his mind lead to the misclassification of genuine sauces outside of heading 21.03. In support of his point, he displayed samples of sauces containing over 60% by volume of vegetables and fruit. For some products the fruit and vegetables were homogenised, whereas for others they were in the form of visible pieces. For each product, the particle sizes were specifically chosen by the food processor in order to impart a particular sensory "feel" to the sauce. In his view, the products with visible pieces should not be excluded from heading 21.03 – the HS heading for sauces -- merely because of the difference in the food processor's choice of particle size, when all other aspects were similar. He was of the opinion that improving the Explanatory Notes was a better idea than imposing legal limits on the scope of the term "sauce".
4. After this discussion, the Chairperson concluded that these arguments were the same arguments that had been used before at previous sessions. He took note of the fact that discussions with the industry and between administrations were continuing with regard to this matter and invited administrations to submit new ideas to the Secretariat in order to make some progress on this issue at the Sub-Committee's next session.
5. By its letter of 3 December 2002, the Secretariat invited interested administrations to submit their comments and/or proposals with regard to this issue.

II. SECRETARIAT COMMENTS

6. At the time of preparation of this document, the Secretariat had received no further comments or proposals. The EC proposal referred to in Doc. NR0212E1, paragraph 12, is therefore the only proposal before the Sub-Committee in this respect. The Secretariat has already expressed its view with regard to this issue in Doc. NR0169E1 and therefore has no further comments at this stage.

IV. CONCLUSION

7. The Sub-Committee is requested to decide, whether :
 - (1) to maintain the status quo, as expressed by several delegates at the 23rd Session of the Sub-Committee, entailing no legal amendments; or
 - (2) to examine the proposal set out in the Annex to this document.

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