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HARMONIZED SYSTEM
REVIEW SUB-COMMITTEE

-
27th Session
-

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(+ Annex)

O. Eng.

Brussels, 24 February 2003.

PROPOSAL BY THE EC TO CREATE NEW SUBHEADINGS FOR
BLUEFIN TUNA IN HEADING 03.01 AND SWORDFISH AND TOOTHFISH IN
HEADINGS 03.02, 03.03 AND 03.04

(Item III.B.6 on Agenda)

I. BACKGROUND

1. On 21 January 2003, the Secretariat received the following Note from the EC concerning separate identification in the HS Nomenclature of the following types of fish : bluefin tuna (*Thunnus thynnus*), swordfish (*Xiphias gladius*) and toothfish (*Dissostichus spp.*) in Chapter 3. The EC asked the Secretariat to include this question on the Agenda for the 27th Session of the HS Review Sub-Committee.

II. NOTE FROM THE EC

2. "The Community is a contracting party to three regional fisheries organisations (RFOs), having adopted measures applicable to imports and exports of certain products, aimed mainly at combating illicit, unreported and unregulated fishing affecting the conservation of the species concerned.

3. The measures at present in force comprise :

the statistical document programme for bluefin tuna (*Thunnus thynnus*) produced by the International Commission for the Conservation of Atlantic Tunas (ICCAT), transposed into Community law by Regulation (EC) No 858/94 (as amended by Regulation (EC) No 1446/99) and

the documentation scheme for toothfish (*Dissostichus spp.*) catches introduced by the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR), transposed into Community law by Regulation (EC) No 1035/2001.

Note : Shaded parts will be removed when documents are placed on the WCO documentation database available to the public.

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4. Following acts recently adopted by the ICCAT, the products obtained from two other species, namely bigeye tuna (*Thunnus obesus*) and swordfish (*Xiphias gladius*), will be subject to statistical document programmes which closely resemble the programme for bluefin tuna.
5. Lastly, the Indian Ocean Tuna Commission (IOTC) also adopted a statistical document programme for bigeye tuna, directly based on the ICCAT one.
6. The products concerned are described more precisely in the two draft regulations¹ setting out all these mechanisms (statistical document programmes and also catch document scheme).
7. In view of the spheres of competence of these three RFOs and of the countries concerned – contracting parties, other countries and bodies applying their programmes – a significant proportion worldwide of the catches of these species and of the trade in products obtained from these catches is directly concerned by the application of these import and export measures.
8. Of these four species, only two of them, bluefin tuna and bigeye tuna, are identified by specific HS codes, in respect solely of fresh/chilled fish and frozen fish.
9. The Community and certain countries, such as Australia, Canada, Chile, China, Japan or the United States, have given special codes to the products from these four species in their Customs nomenclatures.
10. The situation regarding knowledge of trade flows and in addition real catches is still unsatisfactory, however, in that many other countries do not seem to have taken similar initiatives even though they have fishing and export activities.
11. In this context, the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, adopted by the FAO in June 2001, and supported by the Community, recommends that countries should endeavour to use the Harmonized Commodity Description and Coding System for fish and by-products of fish, in order to help promote the implementation of the International Plan of Action.
12. Owing to the nature of the import and export measures referred to above, the number of countries concerned and the volume of trade, it should be possible for toothfish and swordfish to be identified by specific codes in the Harmonized System, corresponding to the forms of commercial presentation provided for in the programmes, which, in addition to fresh/chilled and frozen fish, concern mainly fillets.
13. It would also be advisable for the Harmonized System to designate the commercial presentations of bluefin tuna and bigeye tuna which are covered by the programmes but for which there are not yet any specific codes.
14. It has also become apparent that trade in bluefin tuna, initially confined to fresh/chilled or frozen fish and fillets, has been extended to live fish. This recent trend is a result of the development of fattening farms in the Mediterranean, but also in other regions of the world. These firms, supplied with live tuna by domestic fleets, but also by imports, produce mainly

¹ COM (2002) 453 final and COM (2002) 424 final

for the export of fresh/chilled or frozen fish and fillets. It would therefore be advisable to ask also for the creation of a specific code in the Harmonized System for live bluefin tuna.

15. In order to provide an idea of the geographical coverage of the measures, the countries concerned and the volume of trade, we attach the following documents at Annexes 1 to 6 :

lists of the countries and entities concerned by the three RFOs' programmes

FAO catch statistics in 2000 (most recent data available)

import and export statistics for the **Community** in 2001

import statistics for one of the main markets for these products, namely **Japan**, in 2001.

(These documents will be available in the meeting room).

PROPOSAL

16. The **EC** proposes the following amendment, in line with those texts, to the Nomenclature annexed to the Convention on the Harmonized System.

Heading 03.01. Add the following new subheading :

0301.94 -- Bluefin tunas (*Thunnus thynnus*)

Heading 03.02. Add the following new subheadings :

0302.67 -- Swordfish (*Xiphias gladius*)

0302.68 -- Toothfish (*Dissostichus spp.*)

Heading 03.03. Add the following new subheading :

0303.70 - Swordfish (*Xiphias gladius*); Toothfish (*Dissostichus spp.*)

The present subheadings 0303.7 and 0303.80 become 0303.8 and 0303.90, respectively.

Headings 0304.10 and 0304.20. New text :

- Fresh or chilled :

0304.11 -- Swordfish (*Xiphias gladius*)

0304.12 -- Toothfish (*Dissostichus spp.*)

0304.19 -- Other

- Frozen fillets :

0304.21 -- Swordfish (*Xiphias gladius*)

0304.22 -- Toothfish (*Dissostichus spp.*)

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0304.29 -- Other

- Other :

0304.91 -- Swordfish (*Xiphias gladius*)

0304.92 -- Toothfish (*Dissostichus spp*)

0304.99 -- Other.

CONCLUSION

17. The EC is aware that this proposal would augment the number of lines in the Nomenclature annexed to the HS Convention. However, the motivation for it would not have an economic character but rather be based on the fight against illegal fishing affecting the conservation of the species concerned within the framework of other international conventions mentioned above.”

III. SECRETARIAT COMMENTS

18. The EC proposal to create new subheadings in the Nomenclature would appear to be based on the desire to combat the illicit, unreported and unregulated fishing of the species mentioned in paragraph 1 above.
19. The EC has provided trade statistics as to the countries concerned and the volume of trade in such fish. Even though no statistics have been provided as to the value of this trade (to see whether it exceeds the agreed threshold for the creation of new subheadings), the Secretariat can support the EC proposal. The Secretariat agrees with the EC that monitoring such trade would be very important from an environmental and a social concern and, therefore, the threshold rule should not apply.

IV. CONCLUSION

20. The Sub-Committee is invited :
- 20.1. To examine whether new subheadings should be created to provide specifically for the species mentioned in paragraph 1;
- 20.2. If so, to approve the proposed amendments to the Nomenclature and the Explanatory Notes as set out in the Annex hereto (*somewhat amended by the Secretariat (as to presentation)*).

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