



HARMONIZED SYSTEM
REVIEW SUB-COMMITTEE

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O. Eng.

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POSSIBLE AMENDMENT OF HEADING 21.06 TO INCLUDE "FOOD SUPPLEMENTS"

(Item III.B.5 on Agenda)

I. BACKGROUND

1. The Secretariat receives numerous enquiries concerning the classification of "food supplements" every year. At HS seminars, which the Secretariat organizes in different parts of the world, similar questions are routinely received. To clarify the classification of such goods, the Secretariat has therefore prepared a proposal which hopefully can improve the present legal situation.
2. The Secretariat is, of course, cognizant of the fact that a related proposal to amend the Nomenclature to clarify the classification of certain nutritional preparations and related products, was rejected by the HS Committee in May 1999 (HSC/23) (Doc. NC0090E2, Annex F/1, paragraphs 41 and 42). At that time, it was believed that the proposed changes would not simplify the Nomenclature and that there would be a significant transfer of goods. Nevertheless, the Secretariat still believes that the present legal situation could be improved and invites the Sub-Committee to examine its proposal.

II. SECRETARIAT COMMENTS

3. Food supplements are excluded from Chapter 30 by virtue of Note 1 (a) to that Chapter. According to the same Note "food supplements" are classified in Section IV. However, the Secretariat believes that the legal provisions in Section IV, are not sufficiently precise. Therefore, in order to ensure the correct and uniform classification of such products, the Secretariat suggests examining the possibility of introducing a legal provision for such goods in heading 21.06.
4. With regard to the nature of such products, item (16) on page 172 of the Explanatory Note to heading 21.06 indicates that this heading includes "preparations, often referred to as *food supplements*, based on extracts from plants, fruit concentrates, honey, fructose, etc., and containing added vitamins and sometimes minute quantities of iron compounds. These preparations are often put up in packagings with indications that they maintain general health

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or well-being." However, the Explanatory Note further stipulates that "similar preparations ... intended for the prevention or treatment of diseases or ailments are **excluded (heading 30.03 or 30.04)**".

5. The Secretariat believes that most "food supplements" are classified in heading 21.06. To make this situation more transparent, the Secretariat therefore believes that it would be more appropriate to incorporate a reference to "food supplements" in the text of the heading itself. The Secretariat would suggest the following :

Heading 21.06. Heading text.

Delete and substitute :

"21.06 Food preparations and food supplements, not elsewhere specified or included."

Possible transfer of goods

6. Since foods supplements are already excluded from Chapter 30 (see paragraph 3 above), the Secretariat considers that this proposal would not entail a transfer of goods from headings 30.03 or 30.04 to heading 21.06.
7. Certain "food supplements" are at present classified in Chapter 22. According to the Explanatory Notes to headings 22.05, 22.06 and 22.08, certain beverages referred to as "food supplements", containing added vitamins or iron compounds, are classified in these headings. In addition, various aloe vera products are currently classified in heading 22.02 (see Classification Opinions 2202.90/2 and 2202.90/3). A legal amendment to heading 21.06 may, in the Secretariat's view, involve a transfer of goods from these headings.
8. Other products, which could be considered to be "food supplements", are presently classified in other Chapters, e.g., certain herbal "teas" which are classified in headings 08.13, 09.09 or 12.11 (see Explanatory Notes to these headings) and ginseng tablets which are currently classified in heading 17.04 (Classification Opinion 1704.90/1). These products may also be transferred to heading 21.06 since "food supplements" may be regarded as more specific than e.g., "mixtures of dried fruits (heading 08.13), "seeds of anise" (heading 09.09) or "sugar confectionery" (heading 17.04).

III. CONCLUSION

9. The Sub-Committee is invited to examine the Secretariat's proposal, set out in paragraph 5 above, taking into account the comments in paragraphs 3 to 8 above.