



HARMONIZED SYSTEM
COMMITTEE

-
25th Session
-

NC0181E1

O. Eng.

Brussels, 9 February 2000.

CONCLUSIONS OF THE 15th SESSION OF THE SCIENTIFIC SUB-COMMITTEE:
MATTERS FOR DECISION BY THE HARMONIZED SYSTEM COMMITTEE
(Item V.2 on Agenda)

Reference document :

NS0014E2 (SSC/15 – Report)

1. The Harmonized System Committee is requested to consider the conclusions of the Scientific Sub-Committee (15th Session, January 2000), which are summarised in the following paragraphs with reference to the relevant Annexes of the Sub-Committee's Report (Doc. NS0014E2).

Annex A/1 – Classification of “high fat cream cheese” and possible creation of a definition of cheese of heading 04.06

2. In response to the three questions put forward by the Secretariat in paragraphs 54 and 55 of Doc. NS0002E1 :
 - (a) the Sub-Committee concluded that sample A was not of a special emulsion type, but that its phase could change according to the presentation. Opinions were divided regarding samples B and C;
 - (b) the Observer from the International Dairy Federation (IDF) informed the Committee that the expressions “water-in-oil” and “oil-in-water” were not defined. However, it was the common understanding that they referred to physical structure; in the case of “water-in-oil” emulsions, oil was the continuous phase and, in the case of “oil-in-water” emulsions, water was the continuous phase; and
 - (c) on the basis of the statement of the Delegate of Australia, the Sub-Committee was unanimously of the view that Note 3 to Chapter 4 was not applicable for the classification of the products in question.

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3. Several delegates also asked the Observer from the IDF other questions related to the classification of "high fat cream cheese".

- (a) As to the question of whether heating could be regarded as a coagulating agent in the context of production of cheese, the IDF Observer informed the Sub-Committee that heating was not covered by the processes described in paragraph 2.1 (a) of the CODEX GENERAL STANDARD FOR CHEESE, but that the processing techniques mentioned in paragraph 2.1 (b) of the standard could, in his mind, cover coagulation (precipitation) by heating, provided that the resulting product is similar to the product covered by paragraph 2.1 (a).
- (b) He further informed the Sub-Committee that coagulation in the context of cheese production was not defined. However, he was of the opinion that this process concerned precipitation of protein, meaning that a protein free product could not be regarded as cheese.
- (c) As to the expression "phase variable", he informed the Sub-Committee that this expression was unknown to him in the production of cheese, but that it would probably mean a mixture of both emulsion types. Furthermore, he noted that key questions as to a minimum level of protein and a maximum level of fat were to be examined by the Codex Committee for Milk and Milk Products (CCMMP) in the near future, and that CODEX and the WCO hopefully could come up with identical conclusions in this respect.

4. A number of delegates were of the view that except for sample A, the protein content of the other five samples was too low to regard them as cheese and sample A would constitute a borderline case in this regard; a minimum protein content should be introduced in a possible definition of cheese. Taking into account that "Mascarpone" contains 8.1 % protein (in the dry matter) it was indicated that 5 % protein (in the dry matter) could be used as a minimum threshold. However, there was no consensus on this point. These delegates were of the view that the CODEX standard related to production processes and it was much more essential for Customs officers to have a definition comprising technical quantitative criteria than a definition referring to production processes.

5. Realising that it was difficult to take a final decision at present, several delegates proposed that the Secretariat should ask IDF certain questions in order to accelerate the process of the HS Committee taking a final decision as to the classification of "high fat cream cheese" and the possible creation of a definition of cheese, including :

- (a) Whether heating could be regarded as a coagulating agent in the context of the production of cheese?
- (b) Whether products containing less than 5% protein (in the dry matter) could be regarded as cheese?
- (c) What the maximum fat content of cheese should be?

6. After further discussion, the majority in the Sub-Committee noted that the Harmonized System Committee should consider whether to submit these further questions to the IDF to assist it in the discussion of the classification of these products.

7. **The Committee is invited to take into account the above discussions, when examining Agenda Item VIII.11 (Doc. NS0002E1).**

Annex A/2 – Amendment of the Explanatory Note concerning ramming mixes

8. **For the Sub-Committee's conclusions concerning this question, the Committee is referred to Agenda Item VIII.7 (Doc. NC0207E1).**

Annex A/3 – Amendment of the Explanatory Notes concerning ammonium nitrate fertilisers

9. The Sub-Committee discussed possible demarcation lines with a view to distinguishing between products of subheading 3102.30 on the one hand and those of subheading 3102.40 on the other hand, taking into account whether appropriate test methods would be available.

10. There was no majority in the Sub-Committee in favour of a demarcation line. However, if a demarcation line were to be introduced, this should be done on the basis of the ammonium nitrate content, fixed at 90 % calculated on the dry weight, using one of the referenced methods to measure the ammonia and the nitrate contents (i.e., the Ulsch-method and the Arnd-method). Also, the Chairman shared the concern expressed by several delegates that the decision taken by the HS Committee concerning the classification of ammonium nitrate fertilisers at its 22nd Session might result in a substantial amount of commercial grade ammonium nitrate fertilisers being transferred from subheading 3102.30 to 3102.40.

11. **The Committee is invited to take note of the above conclusions and to decide what further action to be taken in respect of the proposal to introduce a quantitative criterion for distinguishing between products of subheadings 3102.30 and 3102.40.**

Annexes A/4 and B/1 – Classification of certain INN products and pharmaceutical intermediates

12. The Sub-Committee examined the classification of the remaining 28 products from INN List 80 (Annex I to Doc. NS0005E1). The list of products and their suggested classifications are set out in Part I of Annex B/1 to the Sub-Committee's Report. The items whose classification has not been settled have been placed in square brackets.

13. The Sub-Committee also examined the classification of 43 products from INN List 81 (Annex II to Doc. NS0005E1). The list of products and their suggested classifications are set out in Part II of Annex B/1 to the Sub-Committee's Report. The items whose classification has not been settled have been placed in square brackets.

14. The Sub-Committee further examined the classification of 11 INN products on which action was postponed at the 14th Session. The list of these products and their suggested classifications are set out in Part III of Annex B/1 to the Sub-Committee's Report. Three items, namely Defoslimod, Fondaparinux sodium and Valrubicin, whose classification has not been settled, have been placed in square brackets.

15. **The Committee is invited to approve the classifications agreed upon by the Sub-Committee. The Committee is also requested to note that the classifications placed in square brackets will be further examined by the Sub-Committee.**

Annexes A/5 and B/2 - Amendment of the Explanatory Notes concerning subheadings 3920.43 and 3920.49

16. At its 14th Session, the Scientific Sub-Committee had agreed to re-examine the draft texts of a new Subheading Explanatory Note and appropriate test methods for distinguishing products of subheadings 3920.43 and 3920.49 based on the new criterion of plasticiser content.
17. The Sub-Committee agreed that the term “should” in the second line of the first paragraph of the draft Subheading Explanatory Note had to be replaced with “must”. It was also agreed that secondary plasticisers could occasionally be used alone as plasticisers and epoxidised soybean oil was more commonly used as a secondary plasticiser than epoxidised linseed oil.
18. Subject to above, and to certain editorial modifications, the Sub-Committee approved the aforementioned draft texts.
19. The Sub-Committee also agreed that the ASTM D 2124-70 method, as well as several other methods such as sequential Soxhlet extraction, difference in solubility, etc., could be used for testing the plasticiser content of the products of new subheadings 3920.43 and 3920.49. However, as none of these methods were standardised internationally, it was inappropriate to specify any one of them. Therefore, the choice should be left to administrations.
20. The above conclusions were forwarded to the 21st Session of the Review Sub-Committee. **The Committee is invited to take note.**

Annexes A/6 and B/3 – Amendment of the Explanatory Notes to heading 29.15

21. When examining this question, the Scientific Sub-Committee took into consideration a paper from the Spanish Administration regarding the IUPAC Nomenclature of Organic Chemistry (1979 Edition). The Sub-Committee agreed to place the trivial names of the goods concerned first and systematic names in parentheses. It was also agreed to list all the isomeric 5-carbon acids under Item (VI), although no trivial name was proposed for 2-methylbutanoic acid.
22. The above conclusions were forwarded to the 21st Session of the Review Sub-Committee. **The Committee is requested to take note.**

Annexes A/7 and B/4 – Amendment of the Explanatory Notes concerning polymer names (see para. 26 of Doc. NR0074E1)

23. The Sub-Committee confirmed its previous decision (SSC/14) to bring polymer names into conformity with the chemical nomenclature of the IUPAC with respect to polymers whose unit or monomer was represented by a specific name, but not polymers represented by a general term.
24. Based on this principle, the proposed amendments with respect to “polyvinyl acetals”, “polyacrylic esters”, “polyformaldehyde”, “polyvinyl ethers”, “polyvinyl esters”, “polyallyl esters” and “polyvinyl ketones” were not adopted. Consequently, corresponding amendments vis-à-vis the French version adopted by the Sub-Committee at its 13th Session and by the HSC at its 21st Session (see Annex N/5 to Doc. 42.100) should be withdrawn.

25. The Sub-Committee accepted the proposed amendments with respect to “polyethylene glycol”, noting that the reference in the French version should be in the singular (i.e., “polyéthylène glycol”). It was agreed that the new text of subheading 3404.20, as amended in the context of the HS 2002 amendments, should be redrafted accordingly.
26. The Sub-Committee also agreed (i) to replace the expression “esters vinyliques” by “esters de vinyle” in the French version of the Explanatory Note to heading 39.05, on page 605, (ii) to refer to “poly(vinyl alcohol)” (in the singular) instead of “polyvinyl alcohols” and (iii) to retain a reference to “nylon” in the Explanatory Note to heading 85.15. At the suggestion of the Director, it finally agreed that the reference to “polyoxyethylene” in Item (2) of the first paragraph of the Explanatory Note to heading 39.07, on page 607, should be amended to read “poly(oxyethylene) (polyethylene glycol)” for the sake of consistency.
27. In the context of its study, the Scientific Sub-Committee also agreed that the expression “polyethylene glycol” in Classification Opinion 3907.20/1 should be replaced by “poly(oxyethylene) (polyethylene glycol)”.
28. The above conclusions were forwarded to the 21st Session of the Review Sub-Committee. **The Committee is invited to take note.**

Annex A/8 – Amendment of the Nomenclature and the Explanatory Notes to clarify the classification of co-ordination compounds

29. The Sub-Committee examined a new Note 8 to Chapter 29 to classify co-ordination compounds by ligand, proposed by the Swiss Administration. In view of the concerns expressed by certain delegates, the Sub-Committee agreed to examine these proposed texts further at its next session. **The Committee is requested to take note.**

Annexes A/9 and B/5 - Amendment of the Explanatory Notes regarding the list of narcotic drugs and psychotropic substances

30. The Scientific Sub-Committee agreed that, for the purposes of Chapter 29, a binary compound, which results from the combination of a weak acid and a weak base, should be considered as a salt of the base and examined the proposed amendments on this basis. In this connection, it was agreed that the compounds of methylbromide, methylchloride and methyl iodide could be considered as quaternary compounds and be classified as “other” and not as a salt. Phenobarbital prophylexedrine was considered as a salt of phenobarbital.
31. The above conclusions were forwarded to the 21st Session of the Review Sub-Committee. **The Committee is invited to take note.**

Annexes A/10 and B/6 – Amendment of the Explanatory Notes to clarify the meaning of “erucic acid”

32. The Scientific Sub-Committee did not agree with the Japanese proposal to insert a reference to “erucic acid which constitutes esters with triglycerols” in the proposed amendment of the Explanatory Notes, since in oil analysis, free acids and acids in the form of glycerides were normally taken together for measurement purposes. However, it was agreed to insert the word “total” before “erucic acid” in the proposed amendments to the Explanatory Notes to headings 12.05 and 15.14.

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33. The above conclusions were forwarded to the 21st Session of the Review Sub-Committee. **The Committee is invited to take note.**
