



HARMONIZED SYSTEM  
COMMITTEE

-  
24<sup>th</sup> Session

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NC0146E1

O. Eng.

H9-3

Brussels, 27 September 1999.

### CLASSIFICATION OF BAKERS' WARES (WAFFLES)

(Item VII.8 on Agenda)

#### Reference Documents :

NC0069E1 (HSC/23)  
NC0127E1

#### I. BACKGROUND

1. Following the preparation of Doc. NC0127E1, the Secretariat received the following note from the US Administration on the classification of bakers' wares (waffles). The US comments are reproduced below.

#### II. COMMENTS BY THE US ADMINISTRATION

2. "At its last session, the Harmonized System Committee deferred consideration of the classification of certain waffles. The matter will be considered by the Committee at its 24<sup>th</sup> Session. For the following reasons, the United States believes that the waffles under consideration are properly classified in subheading 1905.30.

#### Description of the merchandise

3. The product under consideration is a baked product, flash-frozen, which must be heated before consumption. The waffles are produced from a batter baked between waffle irons. Dry ingredients, including flour, salt, and baking powder are mixed with liquid ingredients, including eggs and vegetable oil, to make a batter which is then portioned onto individual waffle irons and baked to produce a round waffle. After the waffles are baked, they are carried by conveyor belt to a blast freezer where they are quick-frozen. The waffles are then stacked for packaging in plastic pouches and cartons and packed into cases for shipping.

File No. 2773

Classification

4. Waffles are bakers' wares that are classified in heading 19.05. That heading provides for, in pertinent part, "bread, pastry, cakes, biscuits and other bakers' wares, whether or not containing cocoa". Within heading 1905, subheading 1905.30 provides for sweet biscuits, wafers and waffles.
5. The term "waffle" is not defined in the Nomenclature. A waffle is generally defined as "a kind of batter-cake, baked in a waffle-iron, and eaten hot with butter or molasses," Volume II, *The Compact Edition of the Oxford English Dictionary* (1987), page 3664. Two points emerge from this definition. First, there is no reference in this definition to a limitation on the moisture content of waffles. Second, the product before the Committee clearly meets this definition. This product, which is commercially and commonly known as a waffle, should fall to be classified in subheading 1905.30.

Item (A)(9) (page 152) to the Explanatory Notes to heading 19.05 states as follows :

"Waffles and wafers, which are light fine bakers' wares baked between patterned metal plates. This category also includes thin waffle products, which may be rolled, waffles consisting of a tasty filling sandwiched between two or more layers of thin waffle pastry, and products made by extruding waffle dough through a special machine (ice cream cornets, for example). **The water content must be 10 % or less by weight of the finished product.** Waffles may also be chocolate-covered. Wafers are products similar to waffles. (*Emphasis added.*)"

6. The Explanatory Notes purport to place a limit of 10 percent of water content for waffles. As noted above, the legal text contains no such restriction. For this reason, this administration sought to identify any industry or international standards that set limits or restrictions on the water or moisture content for waffles such as the 10 percent water-content restriction set forth above. Despite our efforts, no such standards could be found. Moreover, a review of the historical documents to the Explanatory Note to heading 19.05 did not reveal a technical reason or justification for the 10 percent water-content limitation. Therefore, there is no legal or technical basis for restricting or limiting subheading 1905.30 to waffles that contain 10 percent or less by weight of water.
7. The U.S. Administration tested six different types of shelf-stable waffles. The results are set forth in the Annex to this document. Except for one sample (which was found to have an average water content of 10 percent by weight), each of the samples tested was found to have an average water content greater than 10 percent by weight.
8. All six of the waffles tested are bought and sold as waffles. Nevertheless, under the above-mentioned Explanatory Note, five of the six would not be classified as waffles in the Harmonized System but rather would fall in residual subheading 1905.90. Moreover, as noted by the Secretariat in paragraph 12 of Doc. NC0069E1, this water-content limitation in the Explanatory Notes "creates the curious situation that "Belgian waffles", for example, cannot be classified as "waffles" in the HS Nomenclature.
9. The Harmonized System Nomenclature should not and need not result in such an anomalous situation of classifying waffles as other than waffles. All waffles, regardless of moisture content, remain waffles and are legally classifiable in subheading 1905.30 as waffles.

Conclusion

10. In view of the above, the United States believes that the waffles under consideration are properly classified in subheading 1905.30 as waffles.”

III. CONCLUSION

11. The Committee is invited to take account of the Note from the US Administration when it examines this Agenda item.

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**Average Percentage of Moisture Content by Weight**

<u>Sample</u>	<u>Average Moisture Content</u>
Corona Soft Waffle-----	10.0 %
Corona Liege Waffle-----	13.7 %
Corona Liege Waffle with Chocolate-----	13.6 %
Parisco Belgian Waffle-----	13.3 %
Corona Waffle with Milk Chocolate-----	10.2 %
Oak Hills Maple Syrup Honey Waffle-----	12.6 %



**CORONA SOFT WAFFLE**  
Average Moisture Content by Weight : 10 %

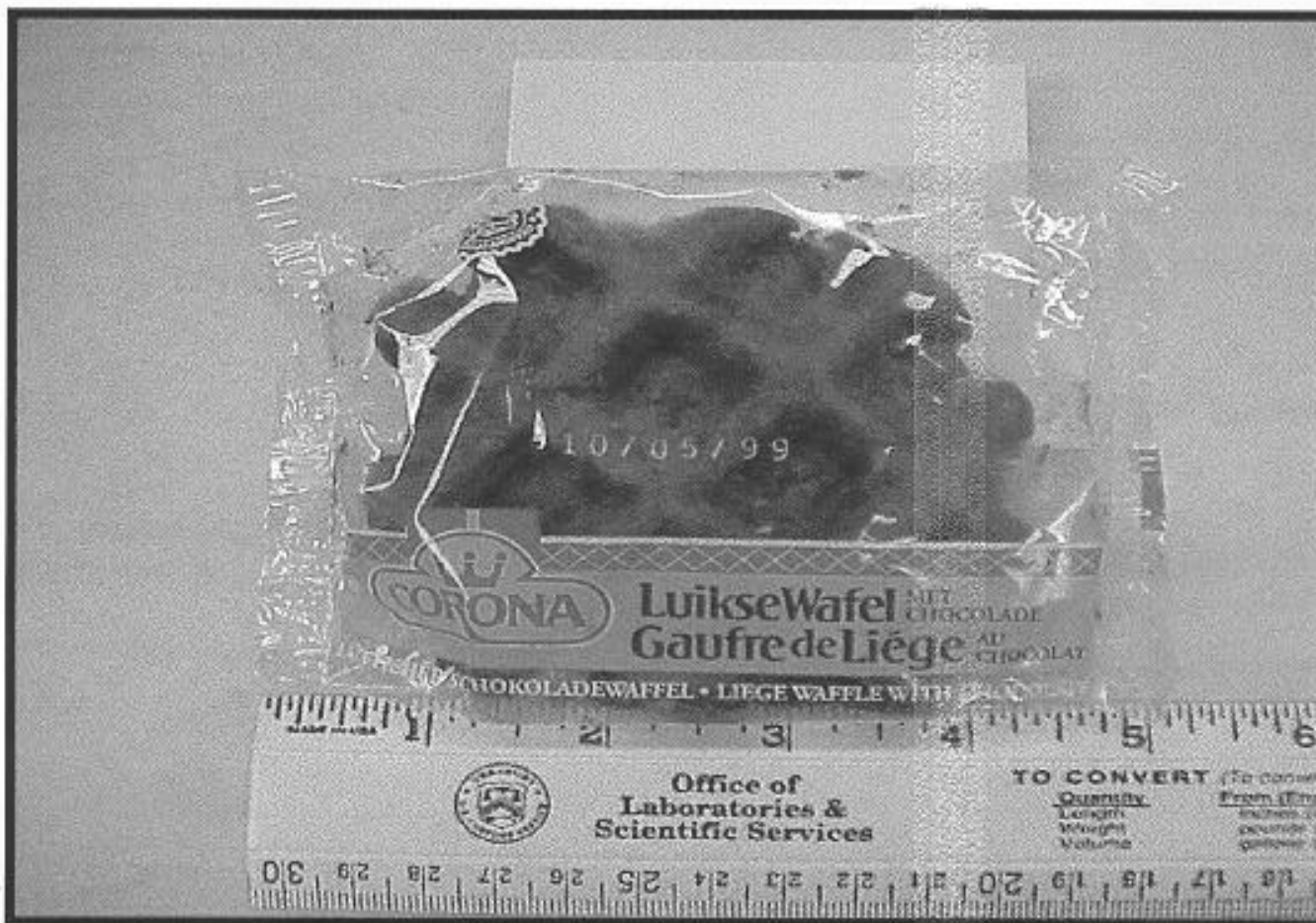


## CORONA LIEGE WAFFLE

Average Moisture Content by Weight: 13.7 %

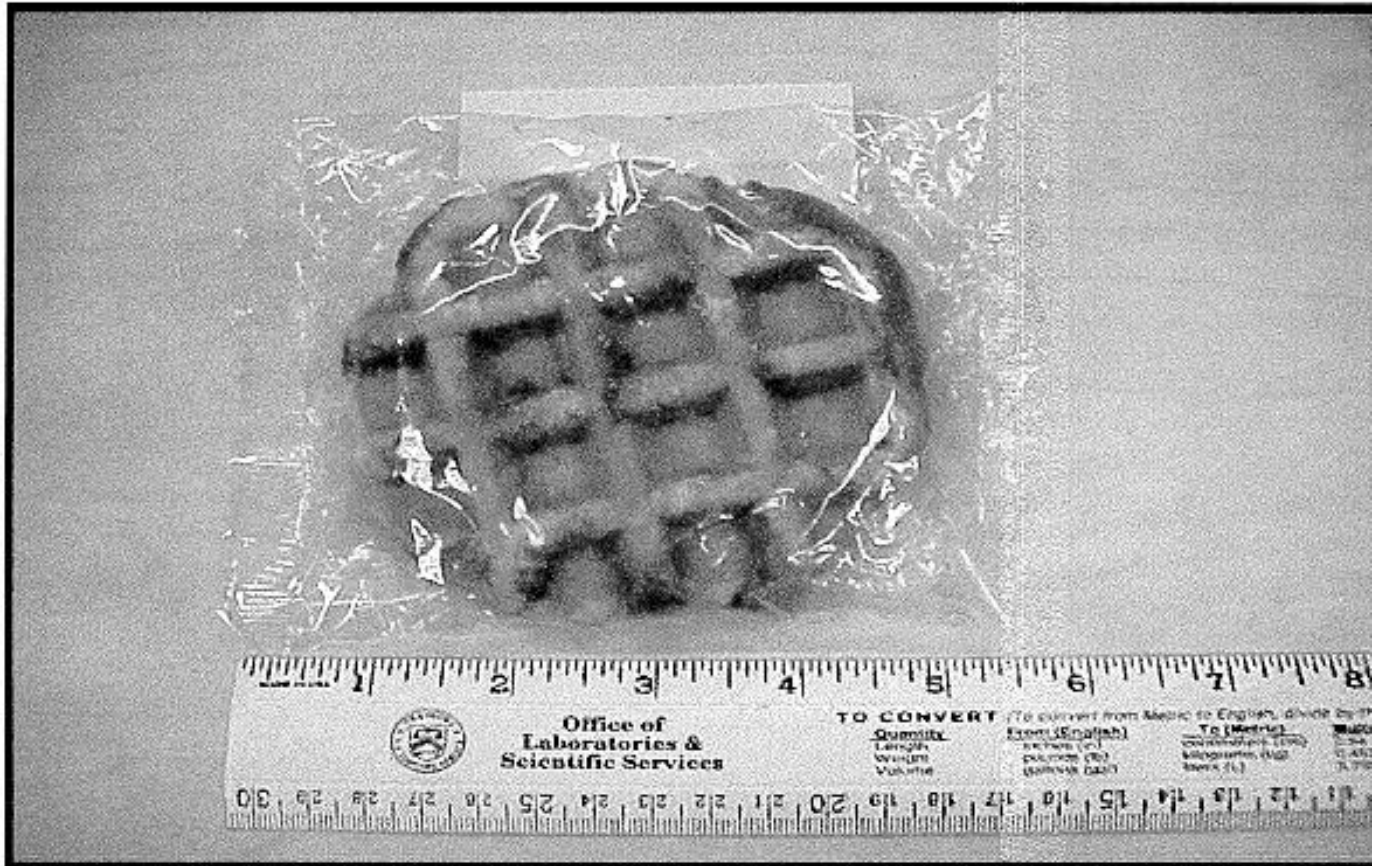
### CORONA LIEGE WAFFLE

Average Moisture Content by Weight :13.7 %



**CORONA LIEGE WAFFLE WITH CHOCOLATE**  
Average Moisture Content by Weight :13.6 %





**PARISCO BELGIAN WAFFLE**  
Average Moisture Content by Weight : 13.3 %



**CORONA WAFFLE WITH MILK CHOCOLATE**  
Average Moisture Content by Weight : 10.2%



**OAK HILLS MAPLE SYRUP HONEY WAFFLE**  
Average Moisture Content by Weight : 12.6 %