



HARMONIZED SYSTEM
COMMITTEE

-
26th Session

NC0291E1

O. Eng.

Brussels, 2 August 2000.

CLASSIFICATION OF UNCOOKED PIZZA
AT THE SUBHEADING LEVEL WITHIN HEADING 19.01

(Item VII.9 on Agenda)

Reference documents :

NC0214E1 (HSC/25)
NC0250E2, Annex IJ/4 (HSC/25 - Report)

I. BACKGROUND

1. At its 25th Session, the Harmonized System Committee discussed the classification of uncooked pizza. Many delegates agreed with the study carried out by the Secretariat, concluding that heading 19.05 did not cover uncooked products. The Committee, therefore, decided, by 25 votes to 2, to classify uncooked pizza in heading 19.01 rather than in heading 19.05.
2. As to the classification at subheading level, many delegates were of the view that the product should be classified in subheading 1901.20 as a dough for the preparation of bakers' wares of heading 19.05. They felt that this subheading was related to heading 19.05, in that since cooked (or pre-cooked) pizza was classified in heading 19.05, it was quite clear that a similar, uncooked product should be classified in subheading 1901.20.
3. Many other delegates were, however, of the view that the product was further prepared than a dough. The addition of other ingredients (cheese, mushroom, meat, etc.) made this product a preparation which, in their opinion, was beyond the scope of subheading 1901.20, which provided only for "mixes and doughs", and did not provide for other preparations of heading 19.01. Consequently, this product should be classified in subheading 1901.90.
4. When the matter was put to a vote, opinions were equally divided by 15 votes to 15. It was therefore decided that the classification decision at subheading level should be postponed to the next session of the Committee. Consequently, the Secretariat was instructed to prepare a new working document in this respect.

File No. 2790

II. SECRETARIAT COMMENTS

5. The point at issue is whether the product should be considered as "mixes and doughs for the preparation of bakers' wares of heading 19.05" to be classified in subheading 1901.20, or whether it would be more appropriate to classify the product in subheading 1901.90 ("other").
6. The Secretariat's study concerning subheading 1901.20, revealed that this subheading was accepted by the former Harmonized System Committee at its 17th Session in February 1979 (see Doc. 24.980, Appendix O, Annex V, paragraphs 8 and 9), on the basis of a proposal from the US Administration (see Doc. 24.461, Annex IV). However, the study did not reveal any information as to the content of this subheading.
7. The Secretariat is of the opinion that the pizza base itself (without topping) should be classified in subheading 1901.20, since this base is nothing more than a dough which has been formed into the shape of a disc. It could therefore be argued that the complete pizza (with topping), should be classified in the same subheading by virtue of GIR 2 (b) (and GIR 6). GIR 2 (b) reads :

"Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of Rule 3."
8. According to the Explanatory Notes to the GIR 2 (b), Item (XI) (page 3), "the effect of the Rule is to extend any heading referring to a material or substance to include mixtures or combinations of that material or substance with other materials or substances. The effect of the Rule is also to extend any heading referring to goods of a given material or substance to include goods consisting partly of that material or substance".
9. On the other hand, it is stated in the same Explanatory Note (Item (XII)) that "it does not, however, widen the heading so as to cover goods which cannot be regarded, as required under Rule 1, as answering the description in the heading; this occurs where the addition of another material or substance deprives the goods of the character of goods of the kind mentioned in the heading". It may be argued that the product in question falls under this category and should be excluded from subheading 1901.20.
10. The Secretariat leaves it to the Committee to decide on the classification of the uncooked pizza in question at subheading level within heading 19.01.

III. CONCLUSION

11. The Committee is invited to examine the classification of uncooked pizza at subheading level within heading 19.01, taking account of the Secretariat's comments in paragraphs 5 to 9 above and to decide what further action should be taken.
-