



HARMONIZED SYSTEM
COMMITTEE

-
26th Session
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NC0311E1

O. Eng.

Brussels, 11 September 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)
NC0291E1 (HSC/26)

I. BACKGROUND

1. The Secretariat received, on 25 August 2000, the following Note from the Norwegian Administration.

II. NOTE FROM THE NORWEGIAN ADMINISTRATION

2. "The Directorate of Customs and Excise, with reference to the discussion on classification of uncooked pizza done at the 25th Session of the Harmonized System Committee (HSC) and the following report that showed that when the matter was put to a vote, the Committee, by 25 to 2, decided to classify the uncooked pizza in heading 19.01, according to GIR 1, makes the following observations.
3. As there were an equal number of votes for both possible subheadings, it was decided that the classification decision at subheading level should be postponed to the next session of the Committee.
4. The question is whether "Bake up pizza" shall be considered as dough for the preparation of bakers' wares of subheading 1901.20 or as other products under subheading 1901.90.

File No. 2790

General remarks

5. The product is a frozen pizza, net weight 580 grams, packed for retail sale, not cooked or partially cooked. It consists of a pizza base on which the topping has been added. The following list of ingredients is presented by the importer : wheat flour, water, cheese, margarine cheese, white mushrooms, beef, onion, tomato puree, vegetable oil, yeast, salt, sugar, rising agent, malt extract, partly hydrogenated vegetable oil, modified starch, garlic and spices.

Classification of the product

6. At the 25th Session of the Harmonized System Committee, it was decided to classify this uncooked pizza in heading 19.01. As to the classification at subheading level, the votes were 15 to 15 for subheadings 1901.20 and 1901.90. Those in favour of subheading 1901.20 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.
7. Those in favour of subheading 1901.90 were of the opinion that this product was further prepared than dough. The other ingredients (cheese, mushrooms, meat, etc.) made this product a preparation which in their opinion was beyond the scope of subheading 1901.20.
8. According to GIR 6 classification of goods in the subheadings of a heading shall be determined according to the terms of those subheadings and *mutatis mutandis*, to the above rules, on the understanding that only subheadings at the same level are comparable.
9. Subheading 1901.20 reads: "Mixes and doughs for the preparation of bakers' wares of heading No. 19.05". Subheading 1901.90 reads : "Other".
10. It is our view that dough must be considered a blended, moist mass for baking, cooking or similar heat treatment, while mixes are considered a blended dry mass.
11. A pizza base without topping should clearly be classified in subheading 1901.20, even if given its final shape.
12. The terms of subheading 1901.20 are specific. The terms do not apply to any product that, merely by being baked, becomes a product of heading 19.05. The phrase "for the preparation of bakers' wares of heading No. 19.05" can only be taken to indicate that these mixes and doughs are of the type used in the preparation of products that, when baked, are classified in heading 19.05.
13. In this case, the uncooked pizza is a product that is made from a dough of subheading 1901.20 and ingredients from many other headings in the Nomenclature.
14. As for the product in question, it is more than a dough; the dough is only the base for the actual product and it has been processed further than the meaning of the word "dough". Even if the dough for the pizza constitutes 55 % by weight of the finished product, its raw commodity price is merely 27 %. Another factor is that the topping is the most expensive part of the product, and it is the topping that gives the product its essential character

(GIR 3 (b). The topping is also what gives the pizza its name, i.e., pepperoni, ham and cheese, beef and tomato.

15. Based on the afore-mentioned, it is Norway's view that subheading 1901.90, ("Other") is the only applicable subheading.
16. Norway kindly asks that the Committee takes our view into consideration when dealing with the matter."

III. SECRETARIAT COMMENTS

17. As pointed out in Doc. NC0291E1, paragraphs 5 to 9, the Secretariat is of the opinion that both subheadings 1901.20 and 1901.90 merit consideration as to the classification at subheading level within heading 19.01 of the uncooked pizza in question. However, the Secretariat does not agree with the Norwegian Administration that the topping gives the pizza its essential character. The Committee has already decided to classify the pizza in question in heading 19.01 as a "food preparation of flour meal, starch or malt extract", thus indicating that the dough gave this product its essential character.

IV. CONCLUSION

18. The Committee is invited to take account of the above Note from the Norwegian Administration when it examines this agenda item.
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