



HARMONIZED SYSTEM  
REVIEW SUB-COMMITTEE

NR0212E1

-  
25<sup>th</sup> Session  
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O. Eng.

Brussels, 11 January 2002.

POSSIBLE AMENDMENTS TO THE NOMENCLATURE  
REGARDING THE CLASSIFICATION OF SAUCES

(Item III.A.2 on Agenda)

Reference documents :

41.320 (HSC/20 and HSC/21)	NR0133E2, Annex D/1 (RSC/22 – Report)
42.092 (HSC/21)	NC0292E1 (HSC/26)
42.100, Annex IJ/2 (HSC/21 - Report)	NC0340E2, Annexes G/10 and P/1 (HSC/26 - Report)
42.441 (HSC/22)	NR0136E1 (RSC/23)
42.750, Annex G/15 (HSC/22 - Report)	NR0165E2, Annex C/1 (RSC/23 – Report)
NC0123E1 (HSC/24)	NC0371E1 (HSC/27)
NC0160E2, Annex G/4 (HSC/24 – Report)	NC0430E2, Annexes G/3 and Q/7 (HSC/27 – Report)
NC0185E1 (HSC/25)	NR0169E1 (RSC/24)
NC0208E1 (HSC/25)	NR0198E1 (RSC/24)
NC0250E2, Annexes G/3 and H/11 (HSC/25 – Report)	NR0205E2, Annex C/1 (RSC/24 – Report)
NR0111E1 (RSC/22)	

I. BACKGROUND

1. At its 24<sup>th</sup> Session, one delegate pointed out that this question had been discussed for a long time and opinions were still divided as to whether a legal definition of sauces was needed in the HS Nomenclature. His administration was of the view that a legal definition, based on a quantitative criterion, would cause more problems than the present situation and, therefore, was still against amending the legal texts. A number of delegates agreed with this view.
2. Another delegate emphasized that the concept of sauces varied from one region of the world to another. However, it was vital to retain a world-wide uniform classification criterion which would enable the classification of such products to proceed uniformly in different countries, regardless of local traditions and trade names. From a practical angle, it was therefore very important to introduce a legal definition for sauces which included a quantitative criterion, in order to secure the identical classification of such products in exporting and importing countries, thus facilitating international trade. He also pointed out

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that the Australian proposal to introduce “salsa” in the legal texts clearly demonstrated that something had to be done at a legal level. Certain other delegates expressed the same view.

3. The Delegate of Canada informed the Committee that the Canadian International Trade Tribunal had issued a ruling in which it considered a sauce to be, in general terms :  
  
“Any preparation, usually liquid or soft, and often consisting of several ingredients, intended to be eaten as an appetizing accompaniment to some article of food.”
4. He suggested that this definition, in combination with the first part of the Secretariat’s proposal in Doc. NR0169E1 to create a new Note 3 to Chapter 21 (paragraph 15), could be used as a starting point for drawing up a new legal Note defining sauces.
5. After further discussion, the Sub-Committee agreed that this question should be re-examined at its next session on the basis of a new document to be prepared by the Secretariat containing two alternative proposals, (i) the Secretariat’s proposal in Doc. NR0169E1 and (ii) a proposal which Canada was invited to submit on the basis of the Trade Tribunal's ruling mentioned above.
6. On December 12 2001, the Secretariat received the following Note from the Canadian Administration concluding that a new proposal would not be submitted at this time.

## II. NOTE FROM THE CANADIAN ADMINISTRATION

7. “At the 24<sup>th</sup> Session of the Review Sub-Committee (RSC) the question of possible amendments to the HS Nomenclature to provide a legal definition for sauces was discussed.
8. During the exchange of views, the Canadian administration informally offered a text that intended to describe in a general manner and without any quantitative criterion the term “sauce”. This generic wording was provided with the objective of stimulating discussions on a potential non-quantitative legal definition of sauces and also to assist delegates in gauging whether progress was foreseeable on this difficult agenda item.
9. It was not our intention to have such informal wording converted into a Canadian proposal to the Secretariat for the next RSC.
10. At its 28<sup>th</sup> Session, the HS Committee adopted amendments to the Explanatory Notes with regard to sauces. Such wording could well convince the RSC that such revisions are sufficient to finalize the issue of classification of sauces in the HS Nomenclature and subsequent consequential amendments.
11. The Canadian Customs administration has further reviewed this issue and its impact on its national trade policy and has come to the conclusion that the wording offered at the 24<sup>th</sup> Session of the RSC is sufficient to allow further discussions and a possible decision on this matter. Therefore, we will not be submitting anything further at this time.”

### III. SECRETARIAT COMMENTS

12. In Doc. NR0169E1, paragraph 15, the Secretariat put forward the following possible draft amendments (which were based on the EC proposals to amend the Explanatory Notes) with regard to this issue :

Chapter 20. New Note 1 (c).

Insert the following new Note 1 (c) :

“(c) Sauces of heading 21.03;”

(Present Note 1 (c) to be renumbered Note 1 (d)).

Chapter 21. New Note 3.

Insert the following new Note 3 :

“3.- For the purposes of heading 21.03, the expression “sauces” includes certain preparations, which are mainly liquids, emulsions or suspensions, but sometimes contain visible pieces of various ingredients such as vegetables or fruit **in a percentage not normally exceeding [40%] of the preparation’s weight.**”

(Present Note 3 to be renumbered Note 4).

13. Given that the Canadian Administration has decided not to submit a proposal in this regard, it seems that this proposal is the only proposal before the Sub-Committee in this respect. The Secretariat has already presented its comments in Doc. NR0169E1 and has therefore no further comments to offer at this stage.

### IV. CONCLUSION

14. The Sub-Committee is therefore requested to decide, whether :
- (1) to retain the status quo, as expressed by several delegates at the last session of the Sub-Committee, entailing no legal amendments; or
  - (2) to examine the proposal set out in paragraph 12 above.

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