



HARMONIZED SYSTEM
REVIEW SUB-COMMITTEE

NR0407E1

28th Session

O. Eng.

Brussels, 18 July 2003.

POSSIBLE AMENDMENT OF SUBHEADING 0406.40 TO COVER

ALL "BLUE-VEINED" AND SIMILAR CHEESE

(Item III.A.3 on Agenda)

Reference documents :

NC0553E1 (HSC/29)

NR0352E1 (RSC/27)

NC0644E1 (HSC/30)

NR0398E1 (RSC/27)

NC0655E2, Annex H/2 (HSC/30 – Report)

NR0400E3, Annex D/1 (RSC/27 – Report)

I. BACKGROUND

1. When this issue was discussed at the 27th Session of the Sub-Committee (March 2003), the **EC** Delegate informed the Sub-Committee that he agreed with the Secretariat's proposal in Doc. NR0352E1 to insert a new Subheading Note in Chapter 4 defining "Blue-veined cheese"/"Fromages à pâte persillée". He had been in touch with the French industry and the English industry and both had agreed to the proposal as long as the subheading texts themselves were not changed.
2. Another delegate agreed. He was of the view that the present texts were fundamentally aligned, although not literally aligned, and believed that the Secretariat's proposal effectively dealt with the problem.
3. The **US** Delegate, however, did not agree with the Secretariat's proposal. He was of the view that the subheading texts themselves needed to be amended. He had never seen a reference to "blue-veined" cheese on a product or on an invoice. "Blue cheese" was the expression normally used in trade. Since the trade in such products was sensitive, he suggested the following alternative text for subheading 0406.40 which, in his opinion, would improve the present situation :

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“0406.40 - Roquefort, Gorgonzola and other cheese containing veins obtained by using *Penicillium roqueforti*”.

4. The **US** Delegate also apologised for not having had the time to submit an official proposal. However, he promised to forward an official proposal from his administration in sufficient time for the Sub-Committee’s next meeting in September.
5. Finally, the Sub-Committee agreed to re-examine this issue at its next session based on the Secretariat proposal as set out in Doc. NR0352E1 and the **US** proposal to be submitted shortly.

II. NOTE FROM THE **US** ADMINISTRATION

6. On 2 July 2003, the Secretariat received the following note from the **US** Administration :
7. “During its 27th Session the Review Sub-Committee discussed a proposal to modify HS Chapter 4 to assure that subheading 0406.40 (“**Blue-veined cheese**”) embraces all kinds of cheeses with veins produced by the bacterium *Penicillium roqueforti*, whether the veins are the traditional blue-green colour or other colours (grey, white) produced by modified strains of *P. roqueforti*.
8. The Secretariat proposed a new chapter note specifying that :

...the expression “blue-veined cheese” also includes cheese with a green or blue/greenish pigmentation, and cheese with a clearly visible white/greyish irregular pigmentation in the body of the cheese obtained by using colourless *Penicillium roqueforti* strains.
9. We are concerned that while the proposed legal note would accomplish the stated task, the legal note would appear to conflict with a plain reading of the subheading text. As we stated to the Sub-Committee, we would prefer that wherever it is practical to do so the scope of a subheading should be clearly indicated in the legal text of the subheading itself. Accordingly, we propose that uniform application of the scope of subheading 0406.40 be assured by modifying the subheading itself to read, simply :

“0406.40 Blue-veined cheese and other cheeses containing veins produced by *Penicillium roqueforti* “.”

III. CONCLUSION

10. The Sub-Committee is invited to take the observations presented by the **United States**, as set out above, into account when considering this agenda item.
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