



HARMONIZED SYSTEM
COMMITTEE

-
23rd Session

NC0069E1

O. Eng.

H9-3

Brussels, .

CLASSIFICATION OF BAKERS' WARES (WAFFLES)

(item IX.35 on Agenda)

I. BACKGROUND

1. On 20 January 1999, the Secretariat received an enquiry from the Japanese Customs Administration concerning the classification of "**Kellogg's® Breadia**", bakers' wares (a kind of "waffles"), made from wheat flour (20-30 %), oat bran (5-10 %), fat (soya bean oil) (5-10 %), sugar (1-2 %), dried whey (1-2 %), dried egg white (0.5-0.9 %), salt (0.1-0.5 %), vitamins and water (40-50 %). After being baked, the product is quick-frozen in a blast freezer and exported. Before consumption, the waffles have to be heated in an oven for 2 minutes (see the Annex for illustration).
2. The issue under dispute is whether the product should be considered "waffles and wafers" classified in subheading 1905.30, or whether it would be more appropriate to classify the product in subheading 1905.90 ("other").
3. According to the Japanese Administration, the product could not be classified in subheading 1905.30 as "waffles and wafers", since the water content was higher than 10 % (10 % or less by weight is allowed according to the Explanatory Note to heading 19.05, Item (A) (9)).
4. The manufacturer, however, took the view that this limit did not apply to all the waffles and wafers of item (A) (9), but only to the products mentioned in the sentence preceding the sentence "The water content must be 10 % or less by weight of the finished product." In the manufacturer's view, there would be no products classifiable as waffles in the HS, according to the Japanese interpretation of the Explanatory Note in question.
5. In its telefax message of 17 February 1999, the Secretariat informed the Japanese Administration that it took the view that the above-mentioned "10 % or less by weight" provision applied to all the waffles and wafers of subheading 1905.30. If this provision should apply only to some of the products mentioned in item (A) (9), a demarcation line between the different waffles and wafers had to be established in order to apply different water content limits.

File No. 2773

6. The Secretariat emphasised that the HS legal texts did not provide clear criteria for making a distinction between subheadings 1905.30 and 1905.90 as to the classification of wafers and waffles with a higher water content than 10 %. The Secretariat, therefore, proposed to submit this question to the Harmonized System Committee for consideration. In its telefax message of 26 February 1999, the Japanese Administration agreed to the Secretariat's proposal.

II. SECRETARIAT COMMENTS

7. The Explanatory Note to heading 19.05 concerning wafers and waffles (Item (A) (9)) reads 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.”
8. In the manufacturer's view, this Explanatory Note only sets a water content limit for the products mentioned in the sentence immediately preceding the sentence “The water content must be 10 % or less by weight of the finished product”, that is “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).”
9. The Japanese Administration (and the Secretariat), however, took the view that the above-mentioned provision applied to all the waffles and wafers described in the Explanatory Note (subheading 1905.30).
10. A study undertaken by the Secretariat concerning the history of the Explanatory Note to heading 19.05 with regard to item (A) (9) revealed that this text was based on a proposal from the Swiss Administration (Doc. 26.898). The initial Swiss proposal did not contain a provision for the water content limit, but during the discussion in the former Harmonized System Committee this criterion was added to the Swiss proposal (Appendix E.3. of Annex IV to Doc. 27.000). The Nomenclature Committee, at its 47th Session (see Annex D/3 to Doc. 28.100 - Nov. 1981), adopted, with minor modifications, a Supplementary Explanatory Note to subheading 1905.30, which became an Explanatory Note during the final revision of the Explanatory Notes (see Annexes E/19 and M/12 to Doc. 28.500 - May 82).
11. Accordingly, the Secretariat's study gave no answer as to the precise coverage of the water content limit for waffles and wafers. The Secretariat is, however, of the opinion that, if the water content limit should not apply to all waffles and wafers of subheading 1905.30, the Committees' Reports would have clearly stated that effect.

12. In this connection, it should be noted that the legal texts do not impose a water content limit, and based solely on the legal texts, classification of all waffles could therefore be considered in subheading 1905.30. However, as mentioned in paragraph 11 above, the Explanatory Notes make clear that a water content limit applies and in fact uses the word “must”, a word normally reserved for legal texts. The Explanatory Notes thus create the curious situation that “Belgian waffles”, for example, cannot be classified as “waffles” in the HS Nomenclature.
13. Since we have a situation where, according to the legal texts only, the products in question could be classified in subheading 1905.30, but when reading the legal texts in combination with the Explanatory Notes they could not, the Secretariat believes that the question must be resolved by the HS Committee.
14. The Secretariat is also of the view that the situation should be improved for the future and would suggest that if the Committee agrees that a 10 % water content criterion is applicable to waffles, such a criterion should be inserted in the legal texts.
15. The Secretariat is aware that one Contracting Party (EC) has introduced an additional note in its Combined Nomenclature, making it quite clear that waffles and wafers, with a water content of more than 10 % by weight, are excluded from subheading 1905.30. The Committee might consider introducing a similar provision in the HS Nomenclature as a solution to this “problem”. The Committee is invited to express its views in this regard.
16. On the other hand, if the Committee takes the view that amending the Explanatory Note, (item (A) (9)) by defining “waffles and wafers” is enough to clarify the position, this could be done by moving the actual provision to the end of the item, and adding the words “of waffles and wafers” after “content” (“The water content of waffles and wafers must be 10 % or less by weight of the finished product”). This amendment would in the Secretariat’s view, make it clearer that the water content limit applies to all waffles and wafers of item (A) (9).
17. In this regard, it should be recalled that the Committee has already decided to split present subheading 1905.30 into new subheadings 1905.31 (“sweet biscuits”) and 1905.32 (“waffles and wafers”) (see Doc. 41.600, Annex IJ/2). A similar approach might, therefore, also be envisaged for item (A) (8) (b) defining “sweet biscuits”, taking into account that this item, in addition to the water content limit (12 %), also contains provisions for the “base” (50 %) and the “fat content” (35 %).

III. CONCLUSIONS

18. The Committee is invited to :
- (a) rule on the classification of “Kellogg’s® Breadia”, bakers’ wares (a kind of “waffles”), as described in paragraph 1 above, taking into account the Explanatory Note, item (A) (9), to heading 19.05 and the Secretariat’s observations above;

- (b) express its views as to what further action should be taken to with regard to clarifying the classification of “waffles” with a higher water content than 10 %.

Bakers' wares (a kind of “waffles”), made from wheat flour (20-30 %), oat bran (5-10 %), fat (soya bean oil) (5-10 %), sugar (1-2 %), dried whey (1-2 %), dried egg white (0.5-0.9 %), salt (0.1-0.5 %), vitamins and water (40-50 %). After the waffles are baked, they are quick-frozen in a blast freezer. Before consumption the waffles have to be heated in an oven for 2 minutes.

x

x

x

New! **Kellogg's**

おうちで焼きたて

Breadia

ブレディア

こんがり、サクサク

プレーン

オープン
トースターで
かんたん!

ワッフル



冷凍食品

6枚入

210g

※賞味期限
※保存料不使用



品名	「冷凍食品 ワッフル」	加熱調理の必要性	加熱して召し上がってください
原材料名	小麦粉・乳油・オーツ麦外皮・卵白・大豆油・砂糖・小麦外皮・膨脹剤・食塩・乳化剤・コーンシロップ・マルチリン酸・ビタミンA・ナイアシンの鉄・ビタミンB1・ビタミンB6・ビタミンB12	販売者	MJINOMOTO・味の素株式会社 東京都中央区京橋1-15-1
内容量	6枚入 / 210g	輸入者	日本ケロッグ株式会社 東京都新宿区西新宿3-20-2 東京オペラシティビル ©米国ケロッグ社登録商標 ©1998 KELLOGG COMPANY CARTON NO. K-5117
賞味期限	箱の側面に記載	原産国	アメリカ
保存方法	-18℃以下で保存してください		
使用方法	枠外の下部に記載しております		
凍結前加熱の有無	加熱してあります		

製品についてのお問い合わせ、ご相談は：
〒163-1435
東京都新宿区西新宿3-20-2東京オペラシティビル
日本ケロッグ(株) 消費者サービス室
フリーダイヤル
0120-500209
(受付：月～金 9:00～17:00)



Breadia

ブレディア

おうちで焼きたて



ワッフル ブレディア・ワッフルはアメリカの家庭のワッフルのおいしさを忠実に再現しました。アメリカン・ワッフルの大きな特徴は、砂糖を控えめにしたサクパリした味と、サクリした食感です。「プレーン」は小麦粉のベースにオーツ麦のブラン(外皮)を加えることで食物繊維を増やし、香ばしく焼きあげました。他に「バナナブレッド」もあります。味のバラエティをお楽しみください。

おいしく食べていただくために

おつあつのワッフルに「スターガマーグリ」をつけ、メープルシロップをかける。アメリカでもポピュラーなスタイルです。生クリームやジャムをつけてもOK。またハムやスクランブルエッグなどをトッピングすれば、しっかりした朝食になります。

召し上がり方

オープントースター

予熱して約2分

- まずオープントースターをあらかじめ充分に温めてください。
- 凍ったままの「ワッフル」を袋から取り出し、上記の通り加熱・トーストしてください。

ご注意

- 加熱時間は器具によって異なります。
- 必要以上の加熱は焦げますのでご注意ください。
- 取り出すときはスイッチをきってからにしてください。
- いったん解凍したものを再び凍らせると品質がかわることがありますのでご注意ください。
- 18℃以下の冷凍室で保存してください。

このパッケージは再生紙を使用しています

栄養成分表	ブレディア ワッフル 1枚(25g)	栄養成分表	ブレディア ワッフル 1枚(25g)
エネルギー(kcal)	84	鉄分(mg)	1.6
たんぱく質(g)	2.7	ビタミンA(IU)	449
脂質(g)	3.0	ビタミンB1(mg)	0.1
炭水化物(g)	12.3	ビタミンB2(mg)	0.2
食物繊維(g)	1.2	ビタミンB6(mg)	0.2
ナトリウム(mg)	222	ビタミンB12(mg)	0.5
カルシウム(mg)	18.0	ナイアシンの(mg)	1.8



4901113108110631