



HARMONIZED SYSTEM
COMMITTEE

-
29th Session
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O. Eng.

Brussels, 11 March 2002.

POSSIBLE AMENDMENTS TO THE EXPLANATORY NOTES TO HEADINGS 01.05 AND
01.06 WITH REGARD TO GEESE, DUCKS, WILD GEESE AND WILD DUCKS

(PROPOSAL BY THE NORWEGIAN ADMINISTRATION)

(Item IX.1 on Agenda)

I. BACKGROUND

1. On 11 February 2002, the Secretariat received the following note from the Norwegian Customs Administration concerning the Explanatory Notes to headings 01.05 and 01.06. Norway asked the Secretariat to include this question on the Agenda for the 29th Session of the Harmonized System Committee.

II. NOTE FROM THE NORWEGIAN ADMINISTRATION

2. "The Norwegian Directorate of Customs and Excise would like to draw your attention to some issues we have come across in connection with the classification of geese. The same issue will also apply to ducks.
3. According to GIR 1 and the text of heading 01.05 (the legal text), geese of all kinds should be classified in heading 01.05. However, in the Explanatory Note to heading 01.05, page 11, it is stated that "This heading covers only domestic birds of the kind specified in the heading. Other live birds (e.g., partridges, pheasants, pigeons, wild ducks, wild geese) are excluded (heading 01.06)."
4. In this connection, it seems that the text in the Explanatory Notes (EN) is more restrictive than the heading text. The Explanatory Notes should neither narrow nor expand the scope of a heading.

Note : Shaded parts will be removed when documents are placed on the WCO documentation database available to the public.

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5. In our opinion it is not possible to distinguish between domestic geese of heading 01.05 and wild geese of heading 01.06. We have consulted a professor at the University of Oslo. The professor concerned explained that if you line up a domestic goose and a wild goose of the same species beside each other, an expert *might* be able to distinguish the domestic from the wild goose, but it might also happen that he cannot. On the other hand, if you line up a domestic goose and a wild goose of different species beside each other, they could look identical. The name of the species would not differ, whether it is a domestic or a wild goose.
6. As it seems difficult, or almost impossible, to distinguish between the geese of heading 01.05 and those of heading 01.06, we would propose to delete the exclusion of wild geese and wild ducks in the EN to heading 01.05. Alternatively, we would propose to amend the heading text as, in this case, the EN is restricting or narrowing the scope of the heading.
7. The classification of the birds in question also has influence on other headings incorporating a reference to heading 01.05 (e.g., heading 02.07 and subheading 1602.3). As mentioned above, it is difficult to distinguish between the live birds in question.
8. To identify whether meat and edible offal is originating from a domestic or a wild duck or goose has to be even more difficult. When classifying all ducks and geese in the same heading, the latter problem would also be solved as the meat and edible offal would then be classified in all cases within heading 02.07 or subheading 1602.3.
9. We kindly ask you to refer this proposal to the Harmonized System Committee this coming May or to the Harmonized System Review Sub-Committee for the Autumn session this year."

II. SECRETARIAT COMMENTS

10. The proposal above relates to headings 01.05, 01.06, 02.07, 02.08 and 16.02. The Norwegian Administration is of the opinion that all ducks and geese should be classified together in heading 01.05 by virtue of the heading text - and that the Explanatory Notes have to be amended accordingly. The Norwegian Administration states that, it is difficult to distinguish between ducks and geese of heading 01.05 on the one hand, and wild ducks and wild geese of heading 01.06 on the other. Moreover, it is even more difficult to make a distinction between the corresponding headings 02.07 and 02.08 with regard to meat and edible offal of the birds at issue. Finally, a matching problem occurs at subheading level in heading 16.02. The Norwegian Administration therefore proposes to group all ducks and all geese in one heading (heading 01.05) and all duck and goose meat in heading 02.07 - and to amend the Explanatory Notes accordingly.
11. According to Internet Web pages dealing with waterfowl and technical literature available to the Secretariat, "duck" is the common name for wild and domestic waterfowl of the family *Anatidae*, which also includes geese and swans.
12. Ducks are usually divided into three groups : the surface-feeding ducks (such as the mallard, wood duck, black duck, and teal), the diving ducks (such as the canvasback, scaup, scoter, eider, and redhead) and the fish-eating ducks. The ancestor of all domestic breeds, except the Muscovy of the South American origin, is the mallard, *Anas boschas*, which is found in Europe, Asia, and North America.

13. "Goose" is the common name for large wild and domesticated swimming birds related to the duck and the swan. In North America the wild (or Canada) goose, *Branta canadensis*, is known by its honking call and by the migrating V-shaped flocks in spring and fall. Other wild geese are the Brant (any species of the genus *Branta*, particularly *B. bernicla*) and the blue, snow, and white-fronted (or laughing) geese. Among the domestic geese are the popular Toulouse (or gray) goose (descended from the graylag, *Anser anser*, of Europe), the African goose, the Embden goose, and the Asian breeds (developed from the wild Chinese goose).
14. The family *Anatidae* consists in total of 37 genera and 142 species (Britannica). In addition, since waterfowl are the most prone to hybridization, 400 hybrids are documented. Most hybridizations have occurred in captivity, but wild hybrids are not infrequent. In addition, crosses between wild ducks and domestics are reported.
15. Broad classification divisions are based on skeletal and other internal structures. Finer divisions are based on plumage type and patterns, including those of the downy young, and on behavioural features such as the length of pair bond and on displays associated with pair formation and maintenance. The Secretariat has not been able to obtain information with exact parameters, making possible to distinguish between domestic species and wild species of ducks and geese.
16. The Secretariat has also carried out a study concerning the history of the Explanatory Note to heading 01.05. The study revealed that the text at issue was based on the Explanatory Note to CCCN heading 01.05 (1955) and stems from a Swiss/UK proposal in the Explanatory Notes Revising Committee (October 1954) to limit this heading (and CCCN headings 01.01 to 01.04) to cover domestic varieties. The Secretariat's file does not contain any background information with regard to demarcation lines between "wild" or "domestic".
17. The Secretariat could agree with the Norwegian Administration that the terms "ducks" and "geese" as used in heading 01.05 read alone would include "wild ducks" and "wild geese". On the other hand, these terms relate to "poultry", which according to the New Encyclopædia Britannica covers "birds raised commercially or domestically for meat, eggs, and feathers. Chickens, ducks, turkeys, and geese are of primary commercial importance, while guinea fowl and squabs are chiefly of local interest."
18. Accordingly, based on a strict reading of the legal text, and supported by the Explanatory Notes, heading 01.05 does not cover wild ducks or geese. On the other hand, according to the Norwegian Administration, and confirmed by the Secretariat's study above, it appears difficult to draw a clear demarcation line between "domestic" and "wild" with regard to ducks and geese. The question is therefore whether this situation should be improved or whether the present situation is acceptable.

III. CONCLUSION

19. Taking into account the proposal by the Norwegian Administration and the comments by the Secretariat in paragraphs 10 to 18 above, the Committee is requested to decide, whether :
 - (1) to retain the status quo, entailing no legal amendments;

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(2) to amend the legal texts in order to classify all ducks and geese in heading 01.05.

20. Based on the decision of the Committee, the Secretariat could then prepare draft amendments to the legal texts and/or Explanatory Notes for the consideration of the Committee at its next session.
