



HARMONIZED SYSTEM
COMMITTEE

NC0571E1

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29th Session

O. Eng.

Brussels, 10 April 2002.

CLASSIFICATION OF MILK SUBSTITUTES FOR COFFEE CALLED

“VANA®BLANCA 35T” AND “NON DAIRY CREAMER 23H”

(Item IX.12 on Agenda)

I. BACKGROUND

1. On 8 March 2002, the Secretariat received a note from the **EC** asking it to submit to the Harmonized System Committee the question of the HS classification of two milk substitutes for coffee. This request was prompted by the fact that the products at issue are the subject of a dispute between the EC and the Polish Customs Administration which could not be resolved bilaterally. The EC comments are set out below.

II. NOTE FROM THE EC

“Subject : Harmonized System (HS) classification of certain milk substitutes for coffee.
Dispute between the EC and Poland.

Ref : Article 10.2 of the HS Convention

Background

2. The EC wishes to inform the Harmonized System Committee of a dispute with the Polish Administration concerning the tariff classification of two products considered to be milk substitutes for coffee and called “Vana®Blanca 35T” and “Non Dairy Creamer 23H”.

Product descriptions

(1) “Vana®Blanca 35T”

3. This product is a powder consisting of :

- Glucose syrup
- Emulsified solid vegetable fat
- Lactic matter (lactose)

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- Several additives.

4. The chemical analysis conducted by the Amsterdam Taxation Administration Laboratory gave the following results (% by weight) :

- Fat content	34
- Gross protein content	2.7
- Lactose content	17
- Starch/glucose content	38
- Additives	10.3.

The additives are stabilizers, colorants, emulsifiers, etc.

(2) "Non Dairy Creamer 23H"

5. The product is a powder consisting of (% by weight) :

- Glucose syrup	55
- Emulsified solid vegetable fat	22
- Skimmed milk powder	18
- Stabilizer (E340)	2
- Water	3.

Classification questions

6. The EC feels that the two above-mentioned products are food products, considered to be milk substitutes for coffee classifiable in subheading 2106.90 by application of GIR 1 to the Nomenclature annexed to the HS Convention.

7. This classification was reflected by the drafting of Community BTIs Nos. NL19970407-563-0046-0 for "Vana®Blanca 35T" and NL19991210-566-1575-0 for "Non Dairy Creamer 23H".

8. However, the Polish Administration challenged this classification on the grounds that "Vana®Blanca 35T" is a "food preparation of goods of heading 04.01 to 04.04" and "Non Dairy Creamer 23H" is a "preparation of powdered milk". The Polish Administration therefore classifies these two products in subheading 1901.90.

9. However, the EC remains convinced that given that "Vana®Blanca 35T" (as described in heading (1) does not contain any components covered by Chapter 4 (lactose falls in HS heading 17.02) and that the product described in heading (2) namely "Non Dairy Creamer 23H", only contains a small quantity (18 %) of powdered milk, these products do not fall under the scope of heading 19.01 and must therefore be classified in subheading 2106.90.

10. In accordance with Article 10.2 of the HS Convention, the EC and Poland have tried to reach a bilateral agreement through various letters and meetings without a positive outcome.

2.

Conclusion

11. Given the actual admission of these goods for exportation under the above-mentioned headings and the results of the examinations of the samples by the Amsterdam Customs Laboratory, the EC classified these two products in subheading 2106.90 by application of GIR 1, considering that “Vana®Blanca 35T” does not contain any components of Chapter 4 and that the “Non Dairy Creamer 23H” only contains a very small quantity of powdered milk.
12. As this is a dispute with the Polish Administration for which a bilateral solution has not been found, the EC requests that this question be submitted to the HS Committee in accordance with Article 10.2 of the HS Convention.”

III. SECRETARIAT COMMENTS

13. Since the matter is a dispute between two HS Contracting Parties, the Secretariat will leave it for the Committee to decide on the classification in accordance with the provisions of the HS Convention. Moreover, since the Secretariat has received no enquiries in the past from administrations with regard to the classification of similar products in the HS Nomenclature, the Secretariat feels that it may be inappropriate to explain its views on the classification of the products at issue at this stage.

IV. CONCLUSION

14. The Committee is invited to examine the classification of the products described above, taking account of the Secretariat’s comments in paragraph 13 above. It is also invited to indicate any action to be taken to reflect its decisions.

Milk substitute for coffee consisting of glucose syrup, emulsified solid vegetable fat, lactic matter (lactose) and several additives.
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Milk substitute for coffee consisting of 55 % glucose syrup, 22 % emulsified solid vegetable fat, 18 % skimmed milk powder, 3 % water and 2 % stabilizer (E340).
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