



WORLD CUSTOMS ORGANIZATION  
ORGANISATION MONDIALE DES DOUANES

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HARMONIZED SYSTEM  
COMMITTEE

-  
29<sup>th</sup> Session

NC0583E1  
(+ Annexes I to IV)

O. Eng.

Brussels, 26 April 2002.

CLASSIFICATION OF CONCENTRATED MILK WITH ADDED SUGAR

(Item VIII.2 on Agenda)

Reference documents :

NC0400E1 (HSC/27)  
NC0430E2, Annex IJ/2 (HSC/27 - Report)

NC0510E2, para. 7 (HSC/28 - Report)  
NC0541E1 (HSC/29)

I. BACKGROUND

1. On 12 April 2002, after the preparation of Doc. NC0541E1, the Secretariat received the following note from the **EC** concerning the classification of the milk product at issue.

II. NOTE FROM THE EC

2. "Following the Secretariat's request in paragraph 6 of Doc. NC0541E1 (Item VIII.2 on the Agenda of the HSC's 29<sup>th</sup> Session), please note that the **EC** and **Cameroon** have not yet managed to reach a settlement regarding the HS classification of concentrated milk with added sugar. The correspondence sent to **Cameroon** remains unanswered.
3. In accordance with the decision at the HSC's 28<sup>th</sup> Session, set out in paragraph 7 of Doc. NC0510E1 (Report of the 28<sup>th</sup> Session), this question was included as Item VIII.2 on the Agenda for the HSC's 29<sup>th</sup> Session (Doc. NC0512E1).
4. In this context, the **EC** requests that the previous documents examined at the HSC's 27<sup>th</sup> Session, as well as the results of the laboratory analyses distributed at the Committee's 28<sup>th</sup> Session, be added under Agenda Item VIII.2 so that the Committee can make a decision at its May 2002 Session.

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

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5. You are obviously aware of the urgency for trade circles in finding a solution, whatever that may be, to this longstanding question. This would improve the image of our Committee and the WCO.
6. The EC would ask the HS Committee to decide on the classification of this product based on the description already provided in Doc. NC0400E1 and on the objective results of the analyses submitted by the manufacturer, the Customs laboratories of the Netherlands (Annex I to Doc. NC0400E1) Japan, Norway and the United States mentioned in paragraph 7 of Doc. NC0510E1 and paragraph 5 of Doc. NC0541E1.
7. I would therefore be grateful if you would:
  - Urgently revise the draft Agenda for the HSC's 29th Session (Doc. NC0512E1) in order to refer to Doc. NC0400E1 under Agenda Item VIII.2. It is important that delegations are able to re-read the document in their administrations before arriving in Brussels.
  - Submit, preferably by means of a document, the laboratory results (Japan, Norway, United States and possibly Mexico) following the Committee's request at its 27<sup>th</sup> Session, and
  - Invite the Committee to rule on the classification of this product. This invitation was also made in the conclusion to Doc. NC0400E1 (paragraph 22)."

### III. SECRETARIAT COMMENTS

8. From the above it appears that this dispute between the EC and Cameroon could not be settled in accordance with Article 10 of the Convention. Whether the dispute has gone on for the reason that it was impossible to reach a bilateral solution on a legal basis, or whether this situation stems from communication problems is somewhat unclear to the Secretariat. However, as pointed out by the EC, the classification of the product at issue ("Bonnet Bleu") must be settled. As indicated in Doc. NC0400E1, paragraph 17, the Secretariat will leave it to the Committee to decide on the classification, since this is a dispute between two HS Contracting Parties.
9. Nevertheless, since the background to this dispute most likely was the result of two contradictory laboratory analyses which had been carried out in the exporting country and by the importing country with regard to the origin of the fat in the product at issue, the Secretariat has to point out that the results from the analyses from four administrations (Japan, Mexico, Norway and the US) seem to conclude that the product at issue ("Bonnet Bleu") does not contain other fat than animal fat (see Annexes I to IV to this document).
10. In addition, based on a previous decision by the HS Committee, the Secretariat is still of the view that heading 21.06 also should be taken into consideration for this product (see Doc. NC0400E1, paragraphs 19 to 21).

IV. CONCLUSION

11. The Committee is invited to examine the classification of the product described in Doc. NC0400E1, taking account of the comments from the EC and the Secretariat above, as well as the results from the analyses from four administrations annexed to this document. It is also invited to indicate any action to be taken to reflect its decision.

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RESULT OF ANALYSIS FROM THE NORWEGIAN ADMINISTRATION

“The two samples of "Bonnet Bleu" concentrated milk with added sugar have now been analysed by the laboratory “Norsk mat og miljøanalyse” (“Norwegian Institute for Food and Environmental Analysis”). The laboratory is specialised in the analysis of foodstuffs.

The following analysis methods were used : IDF 1:1996, RÖSE GO (fat), MA 409:1994, MOD. ID (protein) and INTERN K036, GC (composition of fatty acids).

Both samples have a protein content of 5.9%. However, the laboratory has found minor variations in the samples regarding fat and fatty acids.

In the sample from Cameroon the fat content is calculated as 7.0%, while it is 6.9% in the sample received from the Netherlands. The divergences in the composition of the fatty acids are shown in the attached sheet (*not attached*).

In conclusion, the laboratory states that the divergences between the two samples are within the limits for natural variations of a production. The fact that the two samples are from different lots is regarded as more than a sufficient explanation of the divergences. No identifiable amount of added vegetable fats is detected.”

\* \* \*



RESULT OF ANALYSIS FROM THE US ADMINISTRATION

“Our laboratory report indicates that the fat present in both the samples from Cameroon and the Netherlands is milk fat. Our laboratory found no evidence that any fat other than animal fat is present in the samples.

Enclosed is our laboratory report.”

LABORATORY REPORT

“The sample consists of two cans labelled “Bonnet Bleu Concentrated milk with sugar”. One can is labelled with a sticker stating it is from Cameroon and the other can is labelled with a sticker stating it is from the Netherlands. Both cans contain a viscous light yellow liquid stated to contain whole milk and sugar.

Laboratory results indicate the fat present in both the sample from Cameroon and the Netherlands is milk fat. There is no evidence that any fat other than animal fat is present in the sample.”

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RESULT OF ANALYSIS FROM THE JAPANESE ADMINISTRATION

"1 Sample name : BONNET BLEU (from Netherlands and from Cameroon)

2. Result

(1) Appearance

Yellowish white viscous liquid which has been canned.

(2) Infrared spectrum

The infrared spectrum of ash of sample shows mainly absorption pattern of phosphate.

(3) Gas chromatography (GC)

The fat of sample is separated by GC in glyceride form and methyl ester form. These chromatograms are very similar to milk fat.

(4) GC-MS

It shows that the sterol of sample mainly consists of cholesterol and not consists of vegetable sterols.

(5) Thin layer chromatography (TLC)

Sucrose and lactose were detected by TLC.

(6) Electrophoresis

The proteins of sample are separated by electrophoresis. These images are very similar to milk protein.

(7) Quantitative data

		Cameroon	Netherlands
Sucrose (%)	*1	48.6	50.2
Lactose (%)	*1	7.9	8.3
Fat (%)	*2	7.7	7.6
Protein (%)	*3	5.9	5.8
Ash (%)	*4	1.2	1.3
Moisture (%)	*5	28.6	27.3

\*1 : High performance liquid chromatography

\*2 : Röse-Gottlieb method

\*3 : Kjeldahl method (= nitrogen content x 6.38)

\*4 : 550 °C 4 hours

\*5 : 99 °C 5 hours

### 3. Conclusion

Any substance other than sucrose and milk constituents could not be detected from sample.”

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RESULT OF ANALYSIS FROM THE MEXICAN ADMINISTRATION

(Based on the sample received from the Netherlands)

“Description : Can containing 1000 gr. of a semisolid product for retail sale labelled  
“BONNET BLEU”

Analytical Determinations :

Protein content (F 6.38)	5.3 %
Fat content (Röse-Gottlieb)	8.5 %
Ash content (600 °C)	1.3 %
Water content (Karl Fischer)	28.5 %
Total carbohydrates	56.4 %

Sugar analysis by HPLC :

Sucrose content	48.5 %
Lactose content	7.9 %

Fat analysis by gas chromatography :

GC profile of carboxylic acids obtained was characteristic for butyric fat. No vegetable added fat was detected in the sample.

Conclusion :

The sample analyzed is condensed (evaporated) milk with added sugar having the above composition. No components other than sugar and milk were detected in the sample provided.”

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