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HARMONIZED SYSTEM
COMMITTEE

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(+ Annex)

O. Eng.

Brussels, 29 October 2003.

POSSIBLE AMENDMENTS OF THE EXPLANATORY NOTES TO CHAPTER 2

(Item VII.10 on Agenda)

Reference documents :

NR0446E1 (RSC/28)

NR0470E3, Annex D/1(RSC/28 – Report)

I. BACKGROUND

1. At its 28th Session, the Review Sub-Committee examined a proposal from Norway to align the English and French texts of subheading 0210.11. The Delegate of Norway informed the Sub-Committee that this proposal stemmed from the difficulties her administration had encountered in classifying certain dried hams. In these hams the original bones had been taken out and replaced by considerably smaller bones. To her mind, such hams could be classified in subheading 0210.11 by application of the English text of that subheading (“with bone in”), while the corresponding French text (“non désossés”) would not cover the same product. She was therefore of the view that these texts needed to be aligned, preferably by aligning the English text on the French text. She also informed the Sub-Committee that from the year 2004 the Norwegian Customs Administration would use the French text as a basis, when translating the subheading texts at issue into Norwegian. Finally, she informed the Sub-Committee that her administration, as an alternative solution, could accept an amendment to the Explanatory Notes to Chapter 2.
2. Several delegates expressed their sympathy for the Norwegian proposal. However, since these countries had not experienced the same problems as Norway, they saw no justification for changing the subheading texts at issue. They pointed out that the expression “with bone in” was used widely in trade, and that their administrations had not experienced the same problems as the Norwegian Administration.

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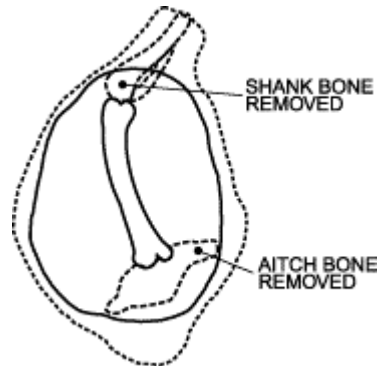
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3. As an alternative solution, on the basis of a proposal from one delegate, the Sub-Committee agreed that the situation should be clarified in the Explanatory Notes. Accordingly, the Secretariat was instructed to prepare draft amendments to the Explanatory Notes to Chapter 2 to be examined by the Harmonized System Committee at its next session in November 2003.

II. SECRETARIAT COMMENTS

4. The intention of the **Norwegian** proposal was to clarify the scope of all subheadings in Chapter 2 referring to “with bone in”. In the Secretariat’s view, the idea of the clarification was to clearly exclude products where the original bones had been taken out and replaced by considerably smaller bones from subheadings referring to “with bone in”. Since this expression is referred to in several subheadings in Chapter 2, the Secretariat believes that the best solution to reflect this idea could be to insert a Subheading Explanatory Note with a full text in the first heading with a subheading referring to “with bone in” (subheading 0201.20). In the other headings concerned, the corresponding Subheading Explanatory Notes could simply read : “See the Explanatory Note to subheading 0201.20.” – as, e.g., in Chapter 72 (subheading 7222.20).
5. Alternatively, the Secretariat really wonders whether it is necessary to insert Subheading Explanatory Notes in all headings referring to “with bone in”. It seems that the **Norwegian** problem at the outset was related to smoked hams of heading 02.10, and the Secretariat is unsure whether a similar problem exists for other meat cuts of other animals. If not, it could be sufficient to insert Subheading Explanatory Notes only in the headings referring to hams (i.e., headings 02.03 and 02.10).
6. The Secretariat believes that the suggestion by **Norway** that the expression “with bone in” should only include cuts (including hams) with all bones left intact (see Doc. NR0446E1, paragraph 9), could be too far-reaching. According to information found on the Internet, hams may be processed into one of the following types of ham :

- a. Regular Bone-In - untrimmed, collar (*) on, all bones left intact. Referred to as "Regulars".
- b. Skinless - shankless - remove the skin and trim fat to 1/4" on all surfaces. Remove shank bone and associated muscles. Commonly called SS hams. Leave knee cap in (patella).
- c. Semi-boneless - remove skin and fat as in b above. Remove aitch-bone, shank and muscles with shank. Femur is left in ham to give it the name Semi-boneless. Referred to as "Semis". Leave knee cap - (patella) (see illustration below).



- d. Fully-boneless - remove skin and fat as in b above. Remove all bones and internal seam fat and star fat. Rolled, flat, half, water cooked and canned hams may be processed from the boneless hams. (<http://www.ansc.purdue.edu/courses/ansc351/LM12b.html>)

7. Going along with the **Norwegian** proposal, only the products referred to in (a) above would be classified as hams "with bone in". In the view of the Secretariat, however, the products referred to in (b) and (c) should also be classified as "with bone in". On the other hand, the Secretariat believes that the possible exclusion should refer to bones of all sizes, rather than to smaller bones only. The Secretariat's proposal for a new Subheading Explanatory Note therefore reflects this opinion, in addition to the approach explained in paragraph 5 above :

Heading 02.03.

"For the purposes of subheadings 0203.12 and 0203.22, the expression "with bone in" means meat with all bones intact, as well as meat where parts of the bones have been removed (e.g., shankless and semi-boneless hams). However, these subheadings do not include products where the original bones have been taken out and replaced by other bones (regardless of their size)."

(*) The term "collar" is not clear and may refer to meat coming from the shoulder. The Review Sub-Committee did not support the view that ham could be produced from that part (see Doc. NR0265E3, Annex D/6 (RSC/25 – Report)).

Heading 02.10.

“See the Explanatory Note to subheadings 0203.12 and 0203.22.”

III. CONCLUSION

8. The Committee is invited to examine the possible amendments of the Explanatory Notes to Chapter 2, as set out in the Annex to this document, taking into account the Secretariat's comments above.

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