



Roma, 20 febbraio 2009

Protocollo: 22201

Rif.:

Allegati: 1

Risoluzione n. 1/D

Alle Direzioni Regionali
dell'Agenzia delle Dogane
LORO SEDI

Agli Uffici delle dogane
LORO SEDI

e, per conoscenza:

Al Ministero dello Sviluppo Economico
Direzione Generale Sviluppo Produttivo e
Competitività ROMA

Al Ministero delle Politiche Agricole,
Alimentari e Forestali – Dipartimento
politiche europee e internazionali
Direzione Generale per l'attuazione delle
politiche comunitarie e internazionali di
mercato - ATPO 4

ROMA

OGGETTO: Regime della trasformazione sotto controllo doganale –
Trasformazione di arance tipo “valencia” – Esame delle condizioni
economiche da parte del Comitato Codice Doganale – Sez. Regimi
Doganali Economici ai sensi dell'art.552 par.2 del Reg.to CEE
2454/93 – Parere favorevole.

Si fa presente che nel corso della 114^a riunione del Comitato Codice Doganale
Sezione regimi doganali economici, che si è tenuta a Bruxelles il 12 dicembre
2008, è stata presentata dalla delegazione olandese per essere sottoposta ad esame
delle condizioni economiche, ai sensi dell'art.552 par.2 del Reg.to CEE 2454/93,
un'istanza di trasformazione sotto controllo doganale (documento di lavoro
allegato) di arance fresche tipo “valencia” in succo di arance fresco.

Al riguardo, in applicazione dell'art.504, par. 4 del Reg.to CEE 2454/93, si
comunica l'avviso favorevole espresso dal Comitato circa l'accogliibilità
dell'istanza sopra citata, in quanto per la fattispecie in oggetto sono state ritenute
soddisfatte le condizioni economiche.

Si evidenzia che, ai sensi della richiamata normativa comunitaria, le conclusioni
del Comitato vengono prese in considerazione non soltanto dall'Autorità
(olandese) interessata, ma anche da qualsiasi altra Autorità doganale che si occupa

di autorizzazioni e richieste simili. Pertanto, ove eventuali analoghe istanze – concernenti merci di importazione, attività di trasformazione e prodotti trasformati della stessa tipologia - siano presentate all’Autorità doganale italiana, le condizioni economiche dovranno intendersi del pari soddisfatte.

In particolare il parere del Comitato è stato espresso per l’operazione e alle condizioni di seguito indicate:

- trasformazione di arance fresche tipo “valencia” CNC 0805 1020 11/19 provenienti dal Sud America e Sud Africa in succo di arance fresco CNC 2009 1200 90;
- l’autorizzazione di trasformazione sotto controllo doganale deve essere usata per un periodo di 4 mesi ad iniziare dal 16 ottobre di ogni anno;
- ogni anno possono essere importate in regime di trasformazione sotto controllo doganale al massimo 7.000 tonnellate;
- solo la varietà di arance valencia può essere vincolata al regime di trasformazione sotto controllo doganale;
- è permessa la sola trasformazione in succo d’arance non pastorizzato.

Pertanto, in deroga a quanto previsto dalla seconda parte del punto C2) della Circolare n.30/D del 28 giugno 2001, le dogane territorialmente competenti in relazione al luogo in cui saranno effettuate le operazioni di trasformazione, o la prima di tali operazioni (in caso di trasformazioni successive), saranno competenti al rilascio della relativa autorizzazione, secondo la procedura normale (per iscritto) con utilizzo del relativo modello (allegato 67), in maniera conforme alle indicazioni del Comitato (limiti quantitativi e temporali).

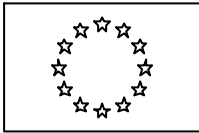
Inoltre per adempiere agli obblighi di cooperazione amministrativa (art.522 DAC), delle autorizzazioni rilasciate sarà data sollecita comunicazione alla scrivente, utilizzando per l’invio dei dati ivi previsti l’apposito formulario riprodotto in appendice all’allegato 70 del citato regolamento.

Si pregano gli Uffici e le Amministrazioni in indirizzo di provvedere alla necessaria informazione degli operatori economici del settore.

Il Direttore dell’Area Centrale

f.to Ing. Walter De Santis

“Firma autografa sostituita a mezzo stampa ai sensi dell’art. 3, comma 2 del D. Lgs. 39/93”



EUROPEAN COMMISSION
DIRECTORATE-GENERAL
TAXATION AND CUSTOMS UNION
Customs Policy
Customs Procedures

Brussels, 11 November 2008

TAXUD/2056/2008 – EN

Working paper

CUSTOMS CODE COMMITTEE

Section for Customs Procedures with Economic Impact

Processing under Customs Control (PCC)

(Processing of fresh oranges into fresh orange juice / examination of the economic conditions in accordance with Article 552(2) CCIP)

This document will be examined at a forthcoming meeting of the Committee.

Disclaimer:

This document reflects solely the application for PCC as submitted by an operator via the relevant MS and cannot in any circumstances be regarded as the official position of the Commission.

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APPLICATION TO PROCESS FRESH ORANGES INTO FRESH ORANGE JUICE
WITHIN THE CUSTOMS PROCEDURE OF PROCESSING UNDER CUSTOM
CONTROL

The Dutch customs administration received an application for an authorisation Processing under Customs Control (PCC) for fresh oranges (TARIC code 0805 1020 11/19), to be processed (squeezing the oranges) into fresh orange juice (TARIC code 2009 1200 90). The authorisation applied for is of continuing nature as the processing will take place all year long.

1. 'Boundaries' of the case

Prior to elaborating on the specifics of applicant's products, production process as well as the conditions of processing under customs control in more detail, it seems appropriate to already present the specific boundaries/assumptions of the case. These are:

- Based on the specific applicant's product only Valencia oranges can be used in the production;
- In the period that Valencia oranges are available in the EU, applicant will source from EU countries and will only import Valencia oranges from third countries, in and for so far EU oranges are not available in sufficient quantities (in 2008 Applicant sourced 1500 tons in Spain);
- The business of applicant provides an additional sales market channel for the growers in regard to the class 3 and 4 oranges.

2. Economic conditions

According to article 552 (2) CCIP the examination of the economic conditions of goods mentioned in Annex 76, Part B should take place in the Committee (as the imported goods, oranges, are mentioned in Part B of the Annex).

The applicant produces and sells unique 100% Fresh Fruit juices (unpasteurized) with a shelf life of maximum 8 days. For doing so it freshly squeezes the fruit (industry quality) in the Netherlands.

Based on the unique character of the juices (fully fresh) and as a result of this the very short shelf life it is practically not possible to squeeze the oranges outside the European Union and transport the unpasteurized juice to the EU.

The estimated turnover of the company - which is located in Zwanenburg (near Amsterdam) and operates six days a week, 52 weeks per year - is €40 mln. Through these activities, the company employs some 150 people. The production is mainly destined for the Dutch retail and foodservice market and – besides pure orange juice – also includes a variety of other fresh fruits such as Mango, Strawberries and Raspberries. In total approx.

27.000 tons of fresh fruit is processed per year, of which the vast majority (20.000 tons) are Valencia type Industry oranges.

The oranges are purely used for the production of juice (they are all squeezed), so the company is not involved in the sale of fresh fruit.

The Industry quality orange is mainly a class 3 / class 4 orange, which is not appropriate for the sale to end-consumers. It is considered a waste product for citrus growers and most of them supply local juice factories with it (who manufacture concentrates or pasteurised juice).

Due to the increasing popularity of freshly squeezed juices, citrus growers now have the availability to supply juice factories like the applicant with this orange and this helps the grower to valorise their waste (class 3 / 4 orange).

3. Sourcing/Availability

To be able to meet customer demands, high quality standards and to offer a stable flavour/blend the regular harvest pattern of oranges throughout the world is to be followed.

As the applicant does not pasteurise the juice, they cannot use every orange and therefore mainly focus on the Valencia type. The Valencia type orange is well known for its high juice content, internal structure of the fruit and small skin. Due to these characteristics it is an ideal orange to be used for squeezing purposes and cannot be compared with other varieties such as for example Naval. Besides all this, the juice from a Valencia orange is very well balanced and not bitter (which is not the case for a Naval orange). So throughout the world (Brazil, Florida, Spain, South Africa) the Valencia variety is used for squeezing purposes.

Applicant is aware of the fact that Spanish growers offer an orange variety (Salustiana) that would be available in the first quarter of the year. However, based on multiple tests with these oranges, it was concluded that the quality of this variety is not appropriate for a fresh unpasteurized product with a shelf life of maximum 8 days.

The global harvest/usage pattern for Valencia oranges is as follows:

Countries/Month	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
Egypt	XXX	XXX	XXX									
Spain				XXX	XXX	XXX						
Morocco				XXX	XXX	XXX	XXX					
Peru							XXX	XXX				
Mexico							XXX					
Argentina								XXX	XXX			
South Africa								XXX	XXX	XXX	XXX	XXX
Uruguay										XXX	XXX	XXX

As becomes clear from the above overview, the harvest season of “European” Valencia oranges is limited to the months of April, May and June. However, in order to meet the demands of customers, applicant needs Valencia oranges throughout the year. Therefore, the oranges are sourced all over the world and specifically in the first, third and fourth quarter, outside the EU (as availability in the EU is limited to the second quarter only).

The import duty rates for fresh fruits also are cyclic (through the year) – the background of this seems to be to protect EU based citric fruit growers. However, specifically for Valencia type oranges, the duty rate peaks at the moment that within the EU these products are not available (from 16th of October till the 1st of June).

Although the applicant clearly prefers usage of EU Valencia type oranges, the bear fact is that these are only available during the second quarter of the year as a result of which – for the rest of the year - the oranges need to be sourced outside the EU.

In 2008 applicant sourced approximately 1500 tons of Valencia oranges in the EU (Spain).

4. Product specifications:

Period:	Before 16-10-2008
Technical name	Fresh Oranges
TARIC	0805 1020 11 0805 1020 19
Tariff rate	3,2% (South America) and 0% (South Africa)
Origin	South America and South Africa
Estimated quantity	7.000 ton
Estimated value*	CIF 0.35 p/kg

Period:	After 16-10-2008 before 01-12-2008
Technical name	Fresh Oranges
TARIC	0805 1020 11 0805 1020 19
Tariff rate	16%
Origin	South Africa and South America
Estimated quantity	4.000 ton
Estimated value*	CIF 0.35 p/kg

Period:	After 01-12-2008
Technical name	Fresh Oranges
TARIC	0805 1020 11 0805 1020 19
Tariff rate	16% + additional duties
Origin	South Africa and South America
Estimated quantity	3.000 ton
Estimated value*	CIF 0.35 p/kg

5. Disproportionate disadvantages

The company has a disproportionate disadvantage in certain areas due to the fluctuation in import duties for citrus / Valencia type “Industry” oranges. These areas are;

1. Costing: During 4 months a year, the company is confronted with much higher cost of raw materials caused by the higher import duties
2. Sourcing: Due to the higher import duties more oranges than needed are imported before the 16th of October - stock level is raised. This causes higher logistic costs and inventory costs and lower working capital.
3. Quality: The quality and yield of the oranges will decrease considerably during these 4 months and influences the quality of the juice and the cost price per litre.

6. Authorisation of processing under customs control for fresh oranges

In order to stimulate the popularity of freshly squeezed juices, the company applied for an authorisation of Processing under Customs Control for fresh oranges of the Valencia type. This authorisation would provide applicant with a more stable cost price, less financial risk and a better manageable quality standard.

Based on these elements, applicant can put its product on the market at a competitive price to the end-consumer which helps to drive the growth of these juices and keep this type of product (and industry) available within the EU.

Furthermore, keeping this industry available in the EU, also offers EU based citrus growers the ability to valorise their current waste product (industry oranges).

If the applicant would be able to process the oranges under application of the procedure processing under customs control, they would declare the juice and the waste separately. The average juice content of an orange is 45%, so 450ml to a kg and the waste is around 550 gr. to a kg. For the juice would be a duty rate applicable of 12.2% and for the waste 1.6%. In below table you will find a comparison of the impact of the duties both with and without application of PCC.

Table: Oranges needed in Q3/Q4 2009 for the production of orange juice and the related duty impact in the current and envisaged situation.

Year 2009* - period after 16 October			
Imported volume orange juice (*1000kg)		7.300	
Avg. CIF price oranges (*1000 kg)		€350	
Before PCC		After PCC	
Fresh oranges	100%	Juice %	45%
		Waste %	55%
Duty rate %	16%	Duty rate juice %	12.2%
Additional duty	€0,7 per 100 kg	Customs value juice (incl. squeezing at 10 ct/lt)	€ 2.803.200
Customs Value €	€2.555.000	Tariff Waste%	1.6%
		Customs value waste	€0 (will be destroyed under customs control)
		Duty Juice €	€341.990
		Duty Waste €	€0
Duties	€459.900	Duties	€341.990
Savings		€117.910	

This table is based on the following data:

- Scheduled production numbers for 2009;
- The customs value of the juice (thus after PCC) is calculated in accordance with article 551 par 3 of the CCIP, i.e. as follows:
 - a. The total customs value of the fresh oranges (i.e. the import products) is fully allocated to the orange juice;
 - b. The processing costs per litre juice are calculated and added to the value under a, (i.e. 10 cents per litre);
 - c. The costs for destroying the waste (i.e. 2 cents per kg) are deducted from the sum of the value of a. and b.
- The waste material (peel) will be collected by a professional waste collector and destroyed in accordance with Customs regulations.

7. Products after processing

Technical name	Fresh Orange Juice
TARIC	2009 120090
Tariff rate	12,2% and GSP 8,5%
Origin	South Africa and South America
Estimated quantity	6.300 ton
Estimated value*	CIF €1.9 mln.

Technical name	Peel/Skin of Fresh Oranges
TARIC	0814 000000
Tariff rate	1,6% or 0% (origin South Africa or GSP)
Origin	South Africa and South America
Estimated quantity	7.700 ton
Estimated value*	CIF €1.9 mln.

Without the Processing under Customs Control authorisation, the company's future – and therefore the jobs of some 125 people - is at risk as, based on the financial consequences, they will be forced to stop the production of freshly squeezed unpasteurized juices for at least a huge part of the year.

8. Growth

It goes without saying that the quality of fresh juices as produced by the applicant will stimulate consumers to drink and use more fruit as it is convenient, healthy and - through Processing under Customs Control - available for a reasonable price.

Due to the growing volumes the market demands year after year (based on the increasing popularity of freshly squeezed juices) the applicant is to decide on an investment of some € 2 mln in new squeezing/filling equipment and optimising the current facility in order to keep this business available.

9. Conclusion

Based on the preceding, it can be concluded that it is not feasible to produce freshly squished – non pasteurised – juice outside the EU to be sold on the EU market. Hence, these activities are to be performed within the EU (close to the market – based on the very limited shelf life).

Furthermore, it is to be concluded that for the production of these freshly squished – non pasteurised - products, only oranges of the Valencia type can be used, which availability on the EU market is limited to the second quarter of the year only.

As a result, to keep this industry available in the EU, non EU oranges are to be imported during the rest of the year. However, during the other quarters of the year (in which EU grown Valencia oranges are not available), the import duty rate on oranges substantially exceeds the import duty rate on orange juice, as a result of which the future of this industry and the jobs of those employed in it is at risk, which forms a decent justification of the economic conditions for the Processing under Customs