



Roma, 15 dicembre 2010

Risoluzione n. 2/D

Protocollo: 118819

Rif.:

Alle Direzioni
Regionali/Interregionali/Provinciali
dell' Agenzia delle Dogane
LORO SEDI

Allegati: 1

Agli Uffici delle dogane
LORO SEDI

e, per conoscenza:

Al Ministero delle Politiche
Agricole Alimentari e Forestali
Direzione generale politiche
comunitarie e internazionali di
mercato

Al Ministero dello Sviluppo
Economico
Direzione generale per la politica
industriale e la competitività

ROMA

OGGETTO: Regime della trasformazione sotto controllo doganale – Trasformazione di succo di arance concentrato e congelato – Esame delle condizioni economiche da parte del Comitato Codice Doganale – sez. procedure speciali ai sensi dell'art.552 par.2 del Reg.to CEE 2454/93 – Parere favorevole.

Si fa presente che nel corso della 16^a riunione del Comitato Codice Doganale sezione procedure speciali, che si è tenuta a Bruxelles il 15 ottobre 2010, è stata presentata dalla delegazione del Regno Unito 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 succo di arance concentrato e congelato da trasformare in soft drink.

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'accogliabilità 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 interessata (Regno Unito), 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 di seguito indicata:

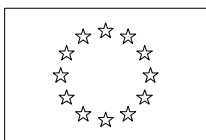
- trasformazione di succo di arance concentrato e congelato CNC 2009 1199 proveniente dal Brasile in soft drink CNC 3302 1040;

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).

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.

Il Direttore 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, 19 August 2010

TAXUD/A3/0045/2010-EN

Working paper

CUSTOMS CODE COMMITTEE

Section for Special Procedures

Processing under Customs Control (PCC)

(PCC of frozen concentrate orange juice, CN code 2009 1199 for processing into a soft drink concentrate/ 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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Processing under Customs Control

Importation of Frozen Concentrate Orange Juice originating in Brazil

Subject:

Application to grant an authorisation for PCC of frozen concentrate orange juice (FCOJ), CN code 2009 1199 for processing into a soft drink concentrate. The application is for 3 years and a quantity of 1,190,491 litres (1573.8291 metric tonnes) is required per annum. The application is submitted by the United Kingdom Customs Authorities.

Background Information:

- The frozen concentrate orange juice , CN code 2009 1199 is subject to a duty rate of 15.2 per Kg
- The finished product, a soft drink CN code 3302 1040, which is subject to a nil duty rate

Supporting arguments for the use of PCC

- ‘The goods are not produced in the EU Community in sufficient quantity’
- ‘Goods of the same kind are produced in the Community but cannot be used because they do not have the quality or characteristics needed to produce the required end product’
- Granting PCC will enable the applicant to maintain processing activity within the EU, which will in turn maintain and create jobs throughout the whole supply chain within the EU

Extra detail is supplied in this document on the three reasons above to demonstrate how the economic conditions are fulfilled for PCC.

It will also show that the company is committed to supporting and using EU ingredients suppliers wherever possible and is forced to obtain its FCOJ from non EU sources, due to the lack of availability of FCOJ of the correct technical specification.

The goods are not produced in the EU Community in sufficient quantity.

It has been established that the required goods; frozen orange juice concentrate (FCOJ) are not produced in the EU, in sufficient quantities to meet the companys processing requirements. Further, as explained in more detail in the second section of the document, the available FCOJ rarely meets required technical specifications. The lack of FCOJ production in the EU is supported by published market data and confirmation from EU suppliers, where the company has tried to source all its FCOJ requirements.

In demonstrating generally, that goods are not produced in the EU in sufficient quantity, we have referred to market statistics from such reputable sources such as the Food and Agricultural Organisation of the United Nations. In this application, we have also given an indication of the annual volumes of FCOJ required by the company to manufacture the soft drink concentrate.

Due to the very limited availability of FCOJ from within the EU, the company is forced to source its FCOJ from suppliers in Brazil in order to obtain sufficient volumes of FCOJ for its manufacturing operations in the UK. This is a position affecting much of the industry, who are also unable to guarantee the required supply of FCOJ from EU production sources. This is reflected in the global production figures for FCOJ. A recent report

produced by UNCTAD¹ shows that Brazil and the USA account for 85% of world FCOJ production². Of the remaining 15% production of FCOJ, the EU accounts for only a small part, as this figure includes other countries such as Israel, Argentina and China.

Availability of FCOJ in the EU is limited by the fact that the European citrus fruit sector is strongly orientated towards growing for the fresh produce market. The majority of oranges grown in the EU are sold to the end consumer as fruit, thus limiting the availability of EU grown oranges for processing into fruit juice.

Therefore, only a small percentage of oranges subject to processing in the EU will be used to produce FCOJ.

Of the total projected orange output in the EU for 2008 of 6,873,000 t³, approximately 10% only (687,300 t) is used to produce FCOJ. This application for PCC will therefore have no negative impact on the majority output of EU orange production, which is for fruit and fresh orange juice.

EU Imports of Frozen concentrate orange juice

The EU has a net import of 680 thousand tonnes (up from 160,000 tonnes in 2002), indicating not only a shortage of oranges for the fresh fruit and fresh juice markets, but a growing pressure on the supply of oranges for FCOJ production within the EU. It is therefore likely to become increasingly difficult to source FCOJ within the EU.

The situation is finally exacerbated by the high demand for FCOJ from within the EU. There is a high consumption level amongst EU Member States of processed fruit drinks, many of which use FCOJ as a key ingredient. In order to meet this demand, the EU is one of the world's biggest importers of FCOJ, taking 80% of global FCOJ imports.

Evidence of support of EU producers of frozen concentrate orange juice

The applicant does try wherever possible to support EU suppliers and sources the juices listed below, (with spend figures given relate to contracts awarded for supply during 2008/9) from the EU. However the problem remains that the volume of any FCOJ included below is not sufficient to meet the companys manufacturing needs.

<u>MATERIAL</u>	<u>COUNTRY OF ORIGIN</u>	<u>SPEND 2008/9</u>
Orange	Spain/ Greece/ Italy	€1,327,360
Lemon	Spain/ Sicily	€1,162,060
Apple Juice Concentrate	Germany/ Austria/ Poland	€6,655,769
Peach	Spain/ Greece	€ 483,840
Blackcurrant	Germany/ Austria/ Poland	€2,937,779
Grape	Italy/ Spain	€1,197,242
	<u>Total</u>	<u>€13,764,050</u>

FCOJ is not available within the EU of the correct technical specification

The applicant requires a total volume of 6000 Metric Tonnes of 65Bx FCOJ of Brix acid ratio of 15+/-1 for its processing operations each year.

The applicant is aware that one of its main EU competitors in the soft drinks market is an EU processor of FCOJ with a Brix acid ratio of 15+/-1. This particular competitor has, (in addition to sourcing FCOJ of the required technical specification from outside the EU),

¹ United Nations Conference on Trade and Development

² Data for 2006/2007

³ European Communities – Euro stat data

taken virtually all the remaining EU supply of FCOJ of a Brix acid ratio of 15+/-1. Due to this EU suppliers are not able to supply FCOJ in either the volume or, more importantly, the required specification.

EU suppliers typically produce FCOJ, of a Brix ratio of 7 – 11. FCOJ of this Brix ratio cannot be used in this production process, as it is not technically suitable.

As evidence of this, we attach an extract from a response to a Request for Quotation from a major Spanish orange processor –. You will note that the supplier is not able to supply the correct FCOJ, (Spanish standard FCOJ is 60Bx, as opposed to the required 65Bx).

'Regarding conformity with your specification of FCOJ, Spain offers 60 Brix not 65 Brix and, whilst Ratio 15 can be achieved, it cannot be achieved consistently.

Other physical parameters are proportionally similar, but the subjective characteristics will be identifiably different.

Availability of FCOJ from Spain varies from season to season because Spanish fruit is grown primarily for fresh sales and the main application for processing of fruit is for "Not From Concentrate" Juice. As far as Spanish processors are concerned FCOJ is, commercially, a very poor second.'

This clearly illustrates that the company is not seeking to substitute non EU product for EU product, rather, they cannot source juice concentrate of the required technical quality and specifications from within the EU.

Maintaining jobs within the EU

The applicant currently employs over 3500 employees in Great Britain and Ireland and produces approx 1.4 Billion Litres of still and carbonated soft drinks per annum. One of the options available to the company is to move processing operations out of the EU to a country where the manufacturing overheads will be reduced. Granting a PCC authorisation would substantially improve the viability of keeping current processing activities within the EU and reduce the risk of the business out-sourcing its production operations.

On a wider perspective, the processing activity also supports jobs amongst its EU suppliers. Other ingredients are required to produce the soft drink concentrate, these include, sugars, preservatives, stabilisers, as well as other ancillary packaging materials. The company sources all of these other ingredients from EU suppliers, thus supporting other related food industries in the EU.

The company is a major purchaser of EU sugar, flavours, acidulants, colours and preservatives, purchasing;

<u>MATERIAL</u>	<u>COUNTRIES</u>	<u>TOTAL EU SPEND</u>	<u>No. EMPLOYEES SUPPORTED</u>
Acidulants	UK/ Austria	€ 6,600,000	Approx 500 employees
Colours	France/ Germany Denmark/ Italy/ UK Holland/ Spain	€ 1,200,000	Approx 200 employees
Hydrocolloids	Germany	€ 1,000,000	Approx 300 employees
Preservatives	France/ Germany	€ 2,000,000	Approx 500 employees
Miscellaneous	UK/ France	€ 200,000	Approx 400 employees
Flavours	The Netherlands, UK, Germany, France Switzerland	€10,240,000	Over 500 employees
Vitamin premix	France, Denmark, UK	€ 122,880	Less than 100 employees

Raspberry (Juice & puree)	Poland, Germany, Austria, The Netherlands	€2,176,000	Over 100 employees
Strawberry (juice)	Poland, Germany, The Netherlands, Denmark	€ 202,240	Over 100 employees
Barley Flour	UK	€ 134,400	Approx 80 employees
Barley Starch	Finland	€ 704,000	Over 100 employees
Cherry Juice	Germany, Poland, Denmark	€ 243,200	Approx 50 employees

The total spend (including juices), within the EU is €38,586,770 supporting approximately 2930 EU jobs.

Should the company be forced to move processing out of the EU, not only will employment levels suffer in the UK operations, but this may also have a detrimental affect on employment amongst its EU suppliers.

Summary

In summary, we have sought to highlight and evidence that authorising PCC for this company will not harm the interests of EU suppliers of the FCOJ. There are a very limited numbers of suppliers, who are already experiencing full demand for their products and are unable to meet the actual demand with the EU for such products. This situation is compounded by the fact that the specific technical qualities of FCOJ, e.g. appropriate Brix Acid Ratios, are unavailable within the EU.

Without PCC, the applicant will find it very difficult to maintain its current processing activities within the UK. As detailed above, this would have a detrimental effect not only upon levels of employment within the company itself, but also amongst its other EU ingredients suppliers.

Table showing the duty advantage per annum if PCC is authorised

	Without PCC	With PCC
Goods / import goods	Frozen orange juice concentrate - 65 BRX	Frozen orange juice concentrate - 65 BRX
Customs value / customs value after PCC	£1,292,131.00	£1,422,131.00
Processing costs	NA	£130,000.00
Processed products	NA	Soft drink concentrate
Duty rate	15.20%	0%
Amount of import duty	£196,403.91	£0.00
Import duty advantage	£196,403.91	