IMPORTANT PROBLEMS OF FOODSTUFF TERMINOLOGY HARMONIZATION WHEN IMPORTING IN THE EURO-ASIAN ECONOMIC UNION

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Abstract

The analysis of the food world market shows that due to the introduction of new raw materials, production technologies and equipment the range of these goods has extended, "new goods" have appeared in recent years.

The relevance of this article due to the lack of research concerning the terminology of foodstuff when moving them across the customs border of the Eurasian Economic Union. This creates problems for their unambiguous identification and classification. The article provides a harmonization method of terminology goods in international trade and its implementation in the classification of goods for customs purpose.

The aim of the article is to develop the harmonization method of terminology goods in international trade, and development proposals on the definition of terms in order to reduce doubtful declaring risks of goods passing across customs border.

Key words: Normative legal documents, Foodstuff, Terms and definitions, Harmonization, Identification, Classification.

1. Introduction

The development of integration processes in Russia’s foreign trade in recent years, caused by accession in WTO, formation of the Customs Union, and then the Eurasian economic union (EAEU), emphasized a number of the problems, associated with the unambiguous interpretation of terms and definitions of commodities crossing the Customs border of EAEU.

The uniqueness of interpretation of terms is a basis of any cooperation. When it comes to the basic objects of activity of custom authorities – commodities - the uniqueness of their determination results in errors during authentication, expertise, classification of them on Single Commodity Nomenclature (SCN) of Foreign Trade of the Eurasian Economic Union (SCN of EEU), when exercising custom control and applying them to measures of the tariff and non-tariff regulation.

Our analysis of the customs authority activities in recent years has shown that the problem with the terminology of goods leads to negative jurisprudence to challenge the legality of decisions by customs authorities on the classification of goods under SCN of EEU; errors in making a preliminary decision on the classification of goods; the validity of customs examination in expert opinions and other problems.

The existing database of legal documents in the terminology of goods used in the international trade is presented with documents of different levels:

- International (Harmonized Commodity Description and Coding System (HS) and Notes thereto; ISO standards, IEC, ITU, and others).
- Regional (EU Directives, Alimentarius Codex, Technical Regulations of the Customs Union (TR of CU), GOST, SCN of EEU; SCN of CIS, and others).
- National (GOST, STB, ST RK, BSi; DIN, and others).

All these documents were developed at different times, many options using the translated versions, as a rule, are independent of each other. The terms and definitions of goods in these documents may not be unique, because the development of these documents did not attempt to solve the problems of international trade integration. The problem is overdue now and it needs to be addressed now.

However, the problem with the terminology of goods in the international trade cannot be solved once and for all, since the emergence of new advanced material technologies will always spawn in the world market new products with new, unexplored properties.
With the view of the above, there is a need to urgently develop the methodology of harmonization of terms and definitions of goods in the international trade.

### 2. Harmonization of food products terminology on importation in Eurasian economic union

#### 2.1. A method of comprehensive study of terms and definitions of products

As part of the research work, we have developed a method of comprehensive study of terms and definitions of products in order to harmonize them for the international trade (Figure 1). It includes the following basic steps:

1. **1 phase.** Collection and analysis of raw materials under study in order to identify problematic terms in SCN of EEU.
   
   As the initial information, it is offered to use:
   
   - Jurisprudence on the classification of goods under SCN of EEU.
   - Specific materials of customs authorities on the use of the terminology of the goods when examining and classifying goods under SCN of EEU.
   - Notes to the SCN of EEU and disclosures.
   - Materials for the development of modern technology, creating new products.

   The result of phase 1 methodology is to identify problematic terms in a particular time of the study.

2. **2 phase.** Analysis of the legal documents that contain definitions of goods, and the development of a comparative table of terms.

   At this stage the documents of various levels are used as legal documents that contain the definition of a product.

   The result of phase 2 was to identify inconsistencies of SCN of EEU definitions with similar terms in the international, national standards and trade practices.

3. **3 phase.** It is final and includes several sub-steps:

   - Search for possible definitions of terms in legal documents of international, regional and national levels, and other sources.
   - At the same time, priority should be given to terms defined in the international legal documents:
     - Analysis of the classification of the SCN of EEU, including problematic term goods, with a view to providing evidence of identification of goods, sufficient for its unambiguous classification.
     - Defining criteria, outlining the boundaries of definitions.
     - Evaluating definitions using the criteria of adequacy for unambiguous identification and classification of goods under the SCN of EEU.

   The result of the final stage of the method is the statement of definitions or development of recommendations as proposed to clarify the terms for the purposes of international trade, as well as for Customs purposes.

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**Figure 1. A method of comprehensive study of terms and definitions of products**
This technique has been tested on the terms of food products (1-24 groups SCN of EEU) and allowed to allocate a range of fundamental problems with the terms and definitions in the international trade of the EAEU:

• Absence of definitions of terms for certain food products in SCN of EEU and explanations.
• Discrepancy between food products definitions in SCN of EEU and definitions of similar products in the international and / or national regulatory and legal documents.
• Mistranslation of food products terms of Harmonized System in SCN of EEU.

2.2. Results of methods testing

2.2.1. The first group of problems associated with the lack of definition in the SCN of EEU

Let’s consider some results of testing the methods. At the first stage 55 problematic terms of food products have been identified that are distributed by groups of problems.

The first group of problems. The term is given in HS, but not defined. Its definition is found in international and / or national regulatory and legal documents, and other sources. During the research 21 terms in SCN of EEU were identified with that problem. These terms include as “high-quality beef”, “long-term preservation”, “wine with the protected geographical indication”, “metatarsus”, “pickle” and others [1]. As a result of the above methods to identify the said terms the definitions, sufficient for unambiguous classification SCN of EEU or explanations for classification were proposed.

For example, the term “varietal wine” (2404) (Table 1).

In the comparative analysis of definitions from different sources the main feature of the identification of high-quality wines has been found that is the feedstock, which allows a unique identification of this wine from other wines in the classification SCN of EEU. Hence, the following definition was recommended: “Variatel wine” is a wine made from the grapes of one kind or with the addition of other variety grapes of the same botanical species, but not more than 15% of the total volume of the grape. The term “pickle” is used in note 7 to 02 product groups (subheading 0210 11 - 0210 93) of SCN of EEU, the definition of which is not given in the SCN of EEU and in disclosures.

To select the unambiguous definition of the term “pickle” it is necessary to analyze the valid legal documents, which includes the identification criteria. The definition of the term in a variety of legal documents is given in Table 2.

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition of the term in SCN of EEU</th>
<th>Project technical regulations of the Customs Union “On the safety of alcoholic beverages”</th>
<th>References, educational and other literature</th>
</tr>
</thead>
<tbody>
<tr>
<td>Varietal wines 2204</td>
<td>Varietal wine - wine made from grapes of one kind or with the addition of other grapes of the same botanical species, but no more than 15 percent of total processed grapes [2].</td>
<td>Upon receipt of varietal wines the same grapes are used in their production. It is allowed to use no more than 15% of other varieties of grapes [3]. Varietal wines produced from a single amapelographic grape variety using no more than 15% of other varieties of grapes [4].</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition of the term in SCN of EEU</th>
</tr>
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<tbody>
<tr>
<td>“Brine” (0203)</td>
<td>“Pickle” is an aqueous solution of common salt, sugar, nitrite and other ingredients taken in amounts specified in recipe”[5].</td>
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<td>“Curing mixture”: Complex nutritional supplement, consisting of two or more than two ingredients including table salt [5].</td>
<td></td>
</tr>
<tr>
<td>“Curing the mixture for the production of meat products is a mixture with a mass fraction of sodium nitrite (potassium nitrite) not more than 0.9 percent [6].</td>
<td></td>
</tr>
<tr>
<td>“Marinade” (1602)</td>
<td>Marinade - (fr. Marinade - from the mariner, - to put in salt water) is a food made from vegetables, mushrooms, fruits and so on, filled with vinegar, salt and sugar with the addition of spices, which is also called the marinade [7].</td>
</tr>
<tr>
<td>Marinade: liquid sauce with herbs, spices, vinegar [8].</td>
<td></td>
</tr>
<tr>
<td>Marinade - is a sauce of vinegar, spices and oils [9].</td>
<td></td>
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</tbody>
</table>
According to the requirements of standard and technical documentation in producing meat stuff, salting of meat is carried out using dry, wet and mixed methods. In producing cooked, boiled-smoked and smoked-baked pork products it is allowed to add in pickle sodium ascorbate and dietary phosphate additives.

The example of pickle producing at different stages of extrusion is shown in Table 3.

<table>
<thead>
<tr>
<th>Ingredient, kg per 100 kg of brine</th>
<th>Extrusion percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>10%</td>
</tr>
<tr>
<td>Water (ice)</td>
<td>66.0</td>
</tr>
<tr>
<td>Food salt</td>
<td>25.0</td>
</tr>
<tr>
<td>Sodium nitrite (2.5% concentration)</td>
<td>3.0</td>
</tr>
<tr>
<td>Phosphates</td>
<td>3.0</td>
</tr>
<tr>
<td>Sugar</td>
<td>3.0</td>
</tr>
<tr>
<td>Pickle</td>
<td>100.0</td>
</tr>
</tbody>
</table>

The problem of the term “pickle” in position 0210 of SCN of EEU is due to the fact that the composition of pickle in addition to salt in an amount of 1.2 wt% or more, can include other ingredients (sugar, sodium nitrite, citric acid, phosphate, spices, seasonings, marinades, and blends), which makes difficult the distinction between the concepts of the terms “pickle” and “marinade”.

In the dictionary we can find the following definition of the term “pickle” : “Pickle is an aqueous liquor of salt, sugar, nitrite and other ingredients taken in amounts specified by recipe”. In the definition of the term the phrase “other ingredients” suggests us that the other ingredients in the composition of the pickle could be citric acid or acetic acid, sodium nitrite, phosphate, spices, flavorings.

In sub positions 0210 11 - 0210 93 of SCN of EEU the term “meat and edible meat byproducts, salted, in pickle” means meat and edible meat byproducts, deeply and evenly impregnated with salt in all parts with a total salt content of 1.2 wt% or more. When the mass fraction of salt is below 1.2% the products are classified in heading 0203 as chilled or frozen meat. Meat, salted in mixture containing in addition to salt other ingredients (sugar, citric acid or acetic acid, sodium nitrite, phosphate, spices, seasonings, marinades) refers to heading 1602 SCN of EEU.

The question arises: how to interpret the terms “pickle” and “marinade”? (Table 2). There are different interpretations of the term “marinade”:

- The term “Marinade” (fr. Marinade - from mariner, literally - put in salt water) is a food product made of vegetables, mushrooms, fruits and so on, filled with a solution of vinegar, salt and sugar with the addition of spices, which is also called the marinade [7].
- Marinade is a liquid sauce with spices, spices, vinegar [8].
- Marinade is a sauce of vinegar, spices and oil [9].

An analysis of the above standard documents and information sources showed that the marinades is made of vinegar, salt, sugar, with or without the addition of spices, fruits and vegetables, but in the vinegar pickle is not used. To resolve the question of interpretation of the term “pickle” in the context of the subheadings 0210 11 and 0210 93 HS of SCN of EEU the Commodity Nomenclature Office of the Federal Customs Service have proposed the Eurasian Economic Commission amending Additional Note 7 to Group 02 of SCN of EEU. In particular, it is proposed to change the values of the percentage of salt in the meat to ensure long-term preservation of a “1.2 wt% or more” to “6 wt% or more”.

2.2.2. The second group of problems associated with the inaccurate translation of the term harmonized system in SCN of EEU.

During the research 4 terms in SCN of EEU were identified with this discrepancy. These are “mango”, “strawberries and wild strawberry” (0810), “pomellen” (0805), “berries and other fruits” (0810-0813) and others. Let’s take for example, “pomellen” 080540 000 0 (Table 4).

A comparative analysis of different sources showed that the term citrus fruit 'Citrus grandis'; is classified in subheading 0805 40 in different ways:

- In the HS - pomelos.
- SCN of EEU - pomellen.
- Codex Alimentarius - pummelos.
- GOST R - shaddock.

Table 4. A comparative analysis of the definitions of the term “Pomellen” In the SCN of EEU, legal documents and other sources

<table>
<thead>
<tr>
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</tr>
</thead>
<tbody>
<tr>
<td>Pomellen</td>
<td>0805.40</td>
<td>Grapefruit, including pomellen. This subheading includes fruit species Citrus grandis and Citrus paradise [11]</td>
<td>This Standard applies to commercial varieties of pummelos grown from Citrus grandis (L.) Osbeck (syn. C. maxima Merr.) [12]</td>
<td>The standard applies to the following types of citrus - shaddock or shaddock - Citrus grandis OSB (Citrus maxima) varieties and hybrids [13]</td>
</tr>
</tbody>
</table>
This situation may lead to errors in the customs declaration and customs control. In that case, it is recommended to make a clarification of the definition of these terms. The term citrus fruit ‘Citrus grandis’, described in the harmonized system as pomelos, should be interpreted as the terms of pummelos, pomellen, shaddock used in legal documents.

2.2.3 The third group of issues on terms with other inconsistencies.

This group includes terms with following discrepancies: the definitions in the volume 1 Disclosures do not correspond to the definition in the volume 1 Disclosures; the term is available in the SCN Explanatory Notes, but is not defined, and others.

During the research 7 similar terms were identified, these are “pine nut,” “walnut cedar frozen,” “marinade”, etc. Let’s take for example, “pine nuts” (code in SCN of EEU 0802905000).

A comparative analysis showed that the terms defining the name of the fruit of *Pinus pinea* tree are different in different legal documents, and other sources:

- In the first volume of disclosures - pinioli.
- In the sixth volume of disclosures - cedar seed.
- In the national standard - pine nuts are produced of *Pinus pinea* Linneus cedar seeds.

Comparing the identified features of these fruits (form and color) lets us speak about their similarity and possibly refer to them as pine nuts. And accordingly the term “pine nuts” should be interpreted as a generalized name of the seeds of several species of the genus *Pine* (*Pinus*), which gives eatable seeds (pinioli, cedar seed, pine nuts).

### Table 5. A comparative analysis of the definitions of the term “Pine nuts” in the SCN of EEU, legal documents and other sources

<table>
<thead>
<tr>
<th>The term</th>
<th>SCN of EEU, Disclosures, v.1</th>
<th>SCN of EEU, Disclosures, v.6</th>
<th>GOST 31852-2012 (ISO 6756:1984)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pine nuts 0802905000</td>
<td>The main types of nuts included in this heading are pecan and pinioli (seeds <em>Pinus pinea</em>) [14].</td>
<td>Cedar seed (fruits <em>Pinus pinea</em>), located in a lump or without [11].</td>
<td>Peeled pine nuts are produced of seed cedar <em>Pinus pinea</em> Linneus. The smell is typical of pine nuts, without extraneous smell and taste. Color ranges from light to dark ivory, ivory or dark yellow [15].</td>
</tr>
</tbody>
</table>

- This testing methodology as applied to food products has confirmed the possibility of its practical application for the harmonization of terms and definitions in the international trade.

- The developed methodology will contribute to the harmonization of terms unambiguous interpretation of goods as the main subject of the Customs operations and will allow us to develop recommendations needed for the identification, assessment, classification of any group of goods for customs purposes in the developing international trade and cooperation between Customs administrations in different countries.

### 4. References


