COMMISSION

COMMISSION DECISION

of 31 January 2003

concerning the validity of certain binding tariff information (BTI) issued by the Federal Republic of Germany

(notified under document number C(2003) 77)

(Only the German text is authentic)

(2003/97/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code [1], as last amended by Regulation (EC) No 2700/2000 [2], and in particular Article 12(5)(a)(iii) and Article 248 thereof,

Having regard to Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Common Customs Code [3], as last amended by Regulation (EC) No 444/2002 [4] and in particular Article 9 thereof,

Whereas:

(1) In order to ensure uniform application of the Combined Nomenclature (CN) annexed to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff [5], the Commission adopted Regulation (EC) No 1223/2002 [6] clarifying and confirming the classification of the products described below as frozen poultrymeat of heading 0207, under CN subheading 0207 14 10: 'Boneless chicken cuts, frozen and impregnated with salt in all parts. They have a salt content by weight of 1,2 % to 1,9 %. The product is deep-frozen and has to be stored at a temperature of lower than -18 °C to ensure conservation for at least one year'.

(2) This classification was adopted for the following reasons: 'Classification is determined by the provisions of General Rules 1 and 6 for the interpretation of the Combined Nomenclature and by the wording of CN codes 0207, 0207 14 and 0207 14 10. The product is chicken meat frozen for long-term conservation. The addition of salt does not alter the character of the product as frozen meat of heading 0207'.

(3) Following publication of the above Regulation on 9 July 2002 [7], all binding tariff information (BTIs) previously issued by Member States classifying the products concerned as salted meat of heading 0210 ceased to be valid.

(4) Based on this Regulation, some Member States later issued BTIs for frozen products of the same kind containing 2 % to 2,7 % salt under heading 0207.

(5) A number of cases subsequently came to light in which Germany had issued BTIs classifying frozen products of this kind containing between 1,9 % and 3 % by weight of salt under heading 0210.

(6) In so doing, Germany failed to take account of the fact that the classification regulation constitutes the application of a general rule to a particular case, and thus contains guidance on the interpretation of the rule which can be applied by the authority responsible for the classification of an identical or similar product.

(7) Products also consisting of boneless chicken cuts which have been frozen for long-term conservation and have a salt content of 1,9 % to 3 % are similar to the products covered by Regulation (EC) No 1223/2002. The addition of salt in such quantities is not such as to alter the products' character as frozen poultry meat of heading 0207.

[1] OJ L 302, 19.10.1992, p. 1.
[2] OJ L 311, 12.12.2000, p. 17.
[3] OJ L 253, 11.10.1993, p. 1.
[4] OJ L 68, 12.3.2002, p. 11.
[5] OJ L 256, 7.9.1987, p. 1.
[6] OJ L 179, 9.7.2002, p. 8.
[7] OJ L 179, 9.7.2002, p. 8.

(8) In order to safeguard equality between operators, which would be endangered if like cases were not treated alike, and to ensure uniform application of the CN, the BTIs issued by Germany on frozen poultry meat containing between 1,9 % and 3 % salt, listed in the annex, must be withdrawn.

(9) Pursuant to Article 14(1) of Regulation (EC) No 2454/93, the holder of the BTIs concerned may make use of the possibility of invoking BTIs which have ceased to be valid during a given period.

(10) The Customs Code Committee has not issued an opinion within the time limit set by its chairman,

HAS ADOPTED THIS DECISION:

Article 1

The binding tariff information notices listed in column 1 of the table annexed issued by the customs authorities shown in column 2 for the tariff classification shown in column 3 must be withdrawn at the earliest possible date and in any case not later than 10 days from the notification of this decision.

Article 2

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 31 January 2003.

For the Commission

Pascal LAMY

Member of the Commission

ANNEX

Binding tariff information Reference no	Customs authority	Tariff classification
1	2	3
DE HH/734/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39
DE HH/779/02-1	– Oberfinanzdirektion Hamburg, ZPLA	0210 99 39
DE HH/790/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39
DE HH/795/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39
DE HH/827/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39
DE HH/828/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39
DE HH/854/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39
DE HH/873/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39
DE HH/874/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39
DE HH/875/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39
DE HH/876/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39
DE HH/880/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39
DE HH/881/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39
DE HH/882/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39
DE HH/918/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39
DE HH/920/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39
DE HH/921/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39
DE HH/973/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99
DE HH/991/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39
DE HH/994/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39
DE HH/995/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99
DE HH/996/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39
DE HH/997/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39
DE HH/998/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39
DE HH/999/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39
DE HH/1000/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39
DE HH/1001/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39
DE HH/1002/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39
DE HH/1003/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39
DE HH/1004/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39
DE HH/1005/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39
DE HH/1006/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39
DE HH/1007/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39
DE HH/1008/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39

Binding tariff information Reference no	Customs authority	Tariff classification
1	2	3
DE HH/1009/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99
DE HH/1017/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39
DE HH/1018/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39
DE HH/1019/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39
DE HH/1020/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39
DE HH/1038/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39
DE HH/1047/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39
DE HH/1076/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39
DE HH/1081/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39
DE HH/1082/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39
DE HH/1083/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39
DE HH/1091/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39
DE HH/1092/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39
DE HH/1142/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39
DE HH/1143/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39
DE HH/1144/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39
DE HH/1164/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39
DE HH/1165/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39
DE HH/1170/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39
DE HH/1207/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39
DE HH/1208/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39
DE HH/1232/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39
DE HH/1233/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39
DE HH/1234/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39
DE HH/1235/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39
DE HH/1236/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39
DE HH/1237/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39
DE HH/1238/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39
DE HH/1239/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39
DE HH/1240/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39
DE HH/1241/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39
DE HH/1242/02-1	Oberfinanzdirektion Hamburg, ZPLA	0210 99 39