



Canadian International
Trade Tribunal

Tribunal canadien du
commerce extérieur

CANADIAN
INTERNATIONAL
TRADE TRIBUNAL

Appeals

DECISION AND REASONS

Appeal No. AP-2018-003

Anderson Watts Ltd.

v.

President of the Canada Border
Services Agency

*Decision issued
Wednesday, February 13, 2019*

*Reasons issued
Wednesday, March 20, 2019*

TABLE OF CONTENTS

DECISION..... i

STATEMENT OF REASONS 1

 INTRODUCTION 1

 PROCEDURAL HISTORY 1

 DESCRIPTION OF THE GOODS IN ISSUE 1

 LEGAL FRAMEWORK 2

 Relevant tariff nomenclature..... 3

 ANALYSIS..... 4

 Heading No. 21.04: “Soups . . . and preparations therefor” 5

 Heading No. 19.02: pasta/noodles..... 10

 Subheading and tariff item classification..... 14

 DECISION 14

ANNEX: RELEVANT EXPLANATORY NOTES..... 15

IN THE MATTER OF an appeal heard on October 16, 2018, pursuant to section 67 of the of the *Customs Act*, R.S.C., 1985, c. 1 (2nd Supp.);

AND IN THE MATTER OF a decision of the President of the Canada Border Services Agency, dated February 2, 2018, with respect to a request for re-determination pursuant to subsection 60(4) of the *Customs Act*.

BETWEEN

ANDERSON WATTS LTD.

Appellant

AND

**THE PRESIDENT OF THE CANADA BORDER SERVICES
AGENCY**

Respondent

DECISION

The appeal is allowed.

Georges Bujold
Georges Bujold
Presiding Member

The statement of reasons will be issued at a later date.

Place of Hearing: Ottawa, Ontario
Date of Hearing: October 16, 2018
Tribunal Member: Georges Bujold, Presiding Member
Support Staff: Laura Little, Counsel

PARTICIPANTS:**Appellant**

Anderson Watts Ltd.

Counsel/RepresentativesDaniel Kiselbach
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President of the Canada Border Services Agency

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WITNESS:John Smithson
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STATEMENT OF REASONS

INTRODUCTION

1. Anderson Watts Ltd. (Anderson Watts) filed this appeal with the Canadian International Trade Tribunal (the Tribunal), pursuant to subsection 67(1) of the *Customs Act*,¹ from a decision of the President of the Canada Border Services Agency (CBSA) made under subsection 60(4).

2. The issue in this appeal is whether certain food products consisting primarily of dried wheat noodles and dried vegetable or seasoning packets (the goods in issue) are properly classified under tariff item No. 2104.10.00 as soups, broths and preparations therefor, as determined by the CBSA, or as other pasta containing 25 percent or more by weight of wheat, without meat, under tariff item No. 1902.30.20 (within access commitment) or under tariff item No. 1902.30.31 (over access commitment, in packages of a weight not exceeding 2.3 kg each), as submitted by Anderson Watts.

PROCEDURAL HISTORY

3. In December 2016, the goods in issue were imported in a single transaction and classified under tariff item No. 2104.10.00, in accordance with a trade compliance verification conducted by the CBSA in relation to similar goods previously imported by Anderson Watts.²

4. On March 28, 2017, Anderson Watts requested that the goods in issue be reclassified under tariff item Nos. 1902.30.20 (within access commitment) and 1902.30.31 (over access commitment).³

5. On May 10, 2017, the CBSA denied the adjustment request, in a re-determination pursuant to paragraph 59(1)(a) of the *Act*. Anderson Watts appealed that decision pursuant to subsection 60(1), claiming that the goods in issue should be classified under tariff item No. 1902.30.20.

6. On February 2, 2018, pursuant to subsection 60(4) of the *Act*, the CBSA denied the request and maintained that the goods are properly classified under tariff item No. 2104.10.00.⁴

7. On April 3, 2018, Anderson Watts filed its notice of appeal with the Tribunal.

8. On October 15, 2018, the parties filed an agreed statement of facts.

9. The Tribunal held a public hearing on October 16, 2018. Anderson Watts presented a lay witness, Mr. John Smithson, President of Anderson Watts, and both parties made oral arguments.

DESCRIPTION OF THE GOODS IN ISSUE

10. The goods in issue consist of the following food products, which were filed as physical exhibits:⁵

1. R.S.C. 1985 (2nd Supp.), c. 1 [*Act*].

2. Following the verification conducted by the CBSA pursuant to sections 42 and 42.01 of the *Act*, it issued a final verification report on August 29, 2016. Appellant's Brief, Tab 3, and Agreed Statement of Facts at paras. 12-14.

3. The appeal was filed pursuant to sections 32.2 and 60 of the *Act*. Appellant's Brief, Tab 4, and Agreed Statement of Facts at para. 18.

4. Appellant's Brief, Tab 1.

5. Exhibits AP-2018-003-A-01 to A-07.

1. Mr. Noodles, Instant Noodles, Chicken Simulated Flavour (85 g)
2. Mr. Noodles, Instant Noodles, Beef Simulated Flavour (85 g)
3. Mr. Noodles, Instant Noodles, Spicy Chicken Simulated Flavour (85 g)
4. Mr. Noodles, Noodles in a Cup, Chicken Simulated Flavour (64 g)
5. Mr. Noodles, Kimchi Oriental Style Noodles (86 g)
6. Mr. Noodles, Hot n' Spicy Oriental Style Noodles (86 g)
7. Compliments, Simulated Chicken Flavour (65 g)

11. Each of the above products consists of a sealed wrapper or foam cup containing a block of dried noodles (made up of wheat pasta) and a sealed sachet of seasoning and, in some cases, a sachet of dried vegetables.⁶ The one or two seasoning or vegetable packets are referred to as “soup base”, “flavour packets” or “seasoning”, depending on the product.

12. More specifically, items 1 to 3 are described as “Instant Noodles” on the front of the packaging with a reference to “soup base” in the ingredients and cooking instructions on the back.

13. Item 4 is described as “Noodles in a Cup” on the front of the packaging with a reference to “soup base” in the ingredients on the top of the packaging and “flavour packet” in the cooking instructions.

14. Item 5 and 6 are described as “Bowl Noodles” and “Oriental Style Noodles with Soup Base” on the packaging with a reference to “seasoning” in the ingredients and “flavour packet” in the cooking instructions.

15. Item 7 is described as “Instant Noodles” on the packaging with a reference to “flavour packet” in the cooking instructions.

LEGAL FRAMEWORK

16. The tariff nomenclature is set out in detail in the schedule to the *Customs Tariff*, which is designed to conform to the Harmonized Commodity Description and Coding System (the Harmonized System) developed by the World Customs Organization (WCO).⁷ The schedule is divided into sections and chapters, with each chapter containing a list of goods categorized in a number of headings and subheadings and under tariff items.

17. Subsection 10(1) of the *Customs Tariff* provides that, subject to subsection 10(2), the classification of imported goods shall, unless otherwise provided, be determined in accordance with the *General Rules for the Interpretation of the Harmonized System*⁸ and the *Canadian Rules*⁹ set out in the schedule.

18. The *General Rules* comprise six rules. Classification begins with Rule 1, which provides that classification shall be determined according to the terms of the headings and any relative section or chapter notes and, provided such headings or notes do not otherwise require, according to the other rules.

6. The parties have indicated that two of the goods in issue include a dried vegetable sachet: “Mr. Noodles, Kimchi Oriental Style Noodles” and “Mr. Noodles, Hot n' Spicy Oriental Style Noodles”. See Appellant’s Brief, para. 19, and Respondent’s Brief, para. 5. There is evidence that a third product, “Mr. Noodles, Noodles in a Cup, Chicken Simulated Flavour”, also contains a dried vegetable sachet. See Appellant’s Brief, Tab 7 at 74.

7. Canada is a signatory to the *International Convention on the Harmonized Commodity Description and Coding System*, which governs the Harmonized System.

8. S.C. 1997, c. 36, schedule [*General Rules*].

9. S.C. 1997, c. 36, schedule.

19. Section 11 of the *Customs Tariff* provides that, in interpreting the headings and subheadings, regard shall be had to the *Compendium of Classification Opinions to the Harmonized Commodity Description and Coding System*¹⁰ and the *Explanatory Notes to the Harmonized Commodity Description and Coding System*,¹¹ published by the WCO. While the classification opinions and the explanatory notes are not binding, the Tribunal will apply them unless there is a sound reason to do otherwise.¹²

20. The Tribunal must therefore first determine whether the goods in issue can be classified at the heading level according to Rule 1 of the *General Rules* as per the terms of the headings and any relative section or chapter notes in the *Customs Tariff*, having regard to any relevant classification opinions and explanatory notes. It is only where Rule 1 does not conclusively determine the classification of the goods that the other general rules become relevant to the classification process.¹³

21. Once the Tribunal has used this approach to determine the heading in which the goods in issue should be classified, the next step is to determine the proper subheading. Rule 6 of the *General Rules* provides that “the classification of goods in the subheadings of a heading shall be determined according to the terms of those subheadings and any related Subheading Notes and, *mutatis mutandis*, to [Rules 1 through 5] . . .” and that “the relative Section and Chapter Notes also apply, unless the context otherwise requires.”

22. Finally, the Tribunal must determine the proper tariff item classification. Rule 1 of the *Canadian Rules* provides that “the classification of goods in the tariff items of a subheading or of a heading shall be determined according to the terms of those tariff items and any related Supplementary Notes and, *mutatis mutandis*, to the [*General Rules*] . . .” and that “the relative Section, Chapter and Subheading Notes also apply, unless the context otherwise requires.” Classification opinions and explanatory notes do not apply to classification at the tariff item level.

Relevant tariff nomenclature

23. The relevant tariff nomenclature is as follows:

Section IV

PREPARED FOODSTUFFS; BEVERAGES, SPIRITS AND VINEGAR; TOBACCO AND MANUFACTURED TOBACCO SUBSTITUTES

Chapter 19

PREPARATIONS OF CEREALS, FLOUR, STARCH OR MILK; PASTRYCOOKS' PRODUCTS

19.02	Pasta, whether or not cooked or stuffed (with meat or other substances) or otherwise prepared, such as spaghetti, macaroni, noodles, lasagna, gnocchi, ravioli, cannelloni; couscous, whether or not prepared.
1902.30	-Other pasta
1902.30.20	--Other, containing 25% or more by weight of wheat, without meat, within access commitment

10. WCO, 4th ed., Brussels, 2017.

11. WCO, 6th ed., Brussels, 2017.

12. *Canada (Attorney General) v. Suzuki Canada Inc.*, 2004 FCA 131, at paras. 13, 17; *Canada (Attorney General) v. Best Buy Canada Inc.*, 2019 FCA 20, at para. 4.

13. *Canada (Attorney General) v. Igloo Vikski Inc.*, 2016 SCC 38 (CanLII) [*Igloo Vikski*] at para. 21.

- Other, containing 25% or more by weight of wheat, without meat, over access commitment:
- 1902.30.31 ---In packages of a weight not exceeding 2.3 kg each

Chapter 21

MISCELLANEOUS EDIBLE PREPARATIONS

- 21.04** Soups and broths and preparations therefor; homogenized composite food preparations.
- 2104.10.00** -Soups and broths and preparations therefor

24. The relevant explanatory notes and classification opinions are discussed below and are set out in the Annex to these reasons.

ANALYSIS

25. The dispute between the parties relates to the classification of the goods in issue at the heading level. The first question to address is whether, at the time of importation, the goods in issue, as a whole, met the terms of heading No. 21.04 or those of heading No. 19.02, applying Rule 1 of the *General Rules* as set out above.

26. According to the explanatory notes to heading No. 19.02, “soups and broths and preparations therefor, containing pasta” answering the description of heading No. 21.04 are not covered by heading No. 19.02. As indicated above, the Tribunal applies the explanatory notes unless there is a sound reason to do otherwise, and there is none in this case. As a result, by virtue of the relevant explanatory notes, heading No. 19.02 explicitly excludes soups and broths and preparations therefor, containing pasta, of heading No. 21.04 from its scope of coverage. Headings No. 21.04 and 19.02 are thereby rendered mutually exclusive, such that the ability to effect the classification of the goods in issue in the former pursuant to Rule 1 precludes their classification in the latter, while the ability to classify them in the latter presupposes a prior determination that the goods in issue are not classifiable in the former.

27. In such situations, the Tribunal’s well-established practice is to begin its analysis by considering whether the goods in issue are *prima facie* classifiable in the heading to which the exclusion does not apply, in this case, heading No. 21.04.¹⁴ This is the appropriate analytical point of departure because, to the extent that the goods in issue, as a whole, are covered by the terms of heading No. 21.04, they would be precluded from classification in heading No. 19.02 (by virtue of the explanatory notes to that heading). Thus, it is only if the goods in issue are not classifiable in heading No. 21.04 that the Tribunal will need to proceed to the analysis of whether heading No. 19.02 applies.

28. Accordingly, the Tribunal will first examine whether the goods in issue are *prima facie* classifiable as “[s]oups and broths and preparations therefor” under heading No. 21.04, pursuant to Rule 1 of the *General Rules*, as claimed by the CBSA. If necessary, it will subsequently examine whether they are covered by heading No. 19.02. To the extent that Rule 1 alone does not settle the classification of the goods in issue, the Tribunal will also consider the potential application of other general rules, as appropriate.

14. *Cross Country Parts Distribution Ltd. v. President of the Canada Border Services Agency*, 2015 FCA 187 at paras. 2-3; *Globe Union (Canada) Inc. v. President of the Canada Border Services Agency* (30 September 2016), AP-2014-024 (CITT) at para. 24; *The Home Depot Canada v. President of the Canada Border Services Agency* (8 September 2015), AP-2014-026 (CITT) at para. 24.

Heading No. 21.04: “Soups . . . and preparations therefor”

29. Heading No. 21.04 contains two categories of food products, separated by a semi-colon: “Soups and broths and preparations therefor; homogenised composite food preparations.”

30. According to the CBSA, the goods in issue satisfy, *prima facie*, the terms of the first category, as “soup . . . and preparations therefor”. The CBSA submits that the goods in issue are preparations for soups because, according to the cooking directions provided on the product specification sheets,¹⁵ the seasoning packets and the pasta are intended to be prepared together with boiling water to form a complete dish. It further submits that once prepared, the goods in issue are in liquid form, thereby satisfying the dictionary definition of a “soup”.¹⁶ The CBSA also argues that while the noodles may absorb some of the water, based on the directions on the packaging of the goods in issue, a significant amount of liquid remains in the mixture. As for the meaning of the term “preparation”, the CBSA interprets it broadly to include a combination of meal components that are not blended together but physically put up together to comprise a final dish, such as the goods in issue.¹⁷

31. Anderson Watts submits that the evidence provided by Mr. Smithson at the hearing and the documentary evidence filed by the parties establish that the goods in issue are not preparations for soups. Therefore, it claims that the goods in issue do not meet the terms of heading No. 21.04.

32. The relevant explanatory notes under heading No. 21.04, which are relied upon by the CBSA, indicate that the category of “soups and broths and preparations therefor” includes “preparations for soups or broths requiring only the addition of water, milk, etc.” In addition, these “products are generally based on vegetable products (flour, starches, tapioca, macaroni, spaghetti and the like . . .)” and “are generally put up as tablets, cakes, cubes, or in powder or liquid form.”

33. At first blush, these notes suggest that the goods in issue *might* be covered by heading No. 21.04. First, they indicate that heading No. 21.04 includes food products that are made ready for eating once hot water (or another liquid) is added. The goods in issue clearly only require the addition of water to cook them.

34. Second, these notes provide that preparations for soups *generally* include products made up of dried vegetables in powdered form or in solid pieces put up in a cake or tablets (including pasta of various types, e.g., macaroni, spaghetti and the like). Again, the goods in issue appear to meet these conditions. The specification sheets filed in evidence and the list of ingredients confirm that the noodles are pasta products

15. Appellant’s Brief, Tabs 7 and 8 provide product specifications and photos for six of the seven goods in issue, with the exception of “Compliments, Simulated Chicken Flavour”. At the hearing, Mr. Smithson testified that the ingredients and specifications of the latter product are virtually identical to those of the other goods in issue. *Transcript of Public Hearing at 7-8 and 19.*

16. *Merriam-Webster’s Collegiate Dictionary*, 10th ed., 2001, defines “soup” as “a liquid food especially with a meat, fish, or vegetable stock as a base and often containing pieces of solid food.” Respondent’s Brief, Tab 4.

17. The CBSA’s interpretation of the term “preparation” is based on the following dictionary definitions: “the action or process of making something ready for use or service or of getting ready for some occasion, test or duty” (*Merriam-Webster’s Collegiate Dictionary*, 10th ed., 2001), and the French term “préparation”: “Préparation des mets . . . Chose préparée . . . Composition . . . Préparations culinaires . . . Préparation chimique, mélange de diverses substances préparées en laboratoire en vue d’une expérience” (*Le Petit Robert 1*), which is translated as “Preparation of dishes . . . Something prepared . . . Composition . . . Culinary preparations . . . Chemical preparation, mixture of various substances prepared in a laboratory for an experiment.” Respondent’s Brief at para. 37 and Tab 4.

that come in a “cake” or a “block” and that separate packets made of a “metalized” material contain dried vegetables in either powdered form or in solid pieces.¹⁸

35. However, this is not to say that *all* food products with a meat or vegetable stock base, which may include dried vegetables, and that are made ready for eating once hot water (or another liquid) is added are necessarily preparations for soups. In order to determine if a given food product is covered by heading No. 21.04, one must first and foremost examine whether it satisfies the terms of that heading, that is whether it belongs to the group of products designated as “soups” or “broths” (which the goods in issue clearly do not at the time of importation) or “preparations therefor”. The term “therefor” means “for that object or purpose”.¹⁹ Thus, to be covered by heading No. 21.04, the goods in issue must be “preparations” for the purpose of making soups or broths.

The goods in issue are not “preparations”

36. Other than generic definitions of the term, including one noted by the Tribunal in *Ambrosia Chocolate Company v. Deputy Minister of National Revenue*,²⁰ the CBSA has not referred to any authority in support of its own broad interpretation of the term “preparation” as any combination of meal components, even if they are not blended together, but merely put up together to comprise a final dish.²¹

37. However, a more detailed review of the Tribunal’s jurisprudence does not support the CBSA’s interpretation. Previous decisions that have dealt with food products rather indicate that the meaning of the term “preparation” is narrower. More specifically, a “preparation” in the context of Chapter 21 of the nomenclature has been interpreted to mean mixtures, that is, goods that blend several ingredients together.

38. For example, in *CDC Foods*, the Tribunal found that the term “food preparations” of heading No. 21.06, which covers “[f]ood preparations not elsewhere specified or included”, can be defined as a *mixture* of culinary ingredients.²² The explanatory notes to heading No. 21.06 also provide an illustrative list of such preparations.²³ By and large, the examples provided refer to goods that are mixtures of chemicals or foodstuffs, that is, to products that, at the time of importation, already blend several ingredients together.

39. The Tribunal followed a similar approach in two other cases that involved the classification of powdered food products containing dehydrated vegetables, among other ingredients, in heading No. 21.04.²⁴ In *Eurotrade 1997*, the Tribunal found that the goods could be described as both “food seasoning” (of heading No. 21.03) and “soup and broth and preparations therefor” (of heading No. 21.04); however, since the latter category is expressly excluded from heading No. 21.03, the Tribunal found that the goods were properly classified in heading No. 21.04. It reached a similar conclusion in *Eurotrade 2001*,

18. Appellant’s Brief, Tab 7.

19. *The Canadian Oxford Dictionary, Thumb Index Edition*, s.v. “therefor”.

20. (7 November 1996), AP-95-001 (CITT).

21. See note 17; Appellant’s Brief at para. 39.

22. *CDC Foods v. President of the Canada Border Services Agency* (14 December 2016), AP-2015-035 and AP-2016-015 (CITT) [*CDC Foods*] at para. 48.

23. Heading No. 21.06 includes, for example, “[p]owders for table creams, jellies, ice creams or similar preparations, whether or not sweetened”, “[m]ixtures of ginseng extract with other ingredients (e.g., lactose or glucose) used for the preparation of ginseng ‘tea’ or beverage”, and “[m]ixtures of plants, parts of plants, seeds or fruit (whole, cut, crushed, ground or powdered) of species falling in different Chapters (e.g., Chapters 7, 9, 11, 12) or of different species falling in heading No. 12.11, not consumed as such, but of a kind used either directly for flavouring beverages or for preparing extracts for the manufacture of beverages”.

24. *Eurotrade Import-Export Inc. v. The D.M.N.R.* (2 June 1997), AP-96-031 (CITT) [*Eurotrade 1997*]; *Eurotrade Import-Export Inc. v. The Commissioner of the Canada Customs and Revenue Agency* (27 January 2003), AP-2001-090 (CITT) [*Eurotrade 2001*].

which involved a mixture of dried vegetables for making broth instead of soup. In both cases, the goods in issue required only the addition of hot water and were clearly *mixtures of culinary ingredients in a single package*.²⁵

40. As such, the Tribunal's finding that the goods in issue in those cases were classifiable in heading No. 21.04 as "preparations" for soup is consistent with the approach in *CDC Foods*. Pursuant to this approach, the term "preparation" has been interpreted to mean a *mixture* of culinary ingredients blending several ingredients together, as opposed to any combination of separate meal components, even if they are not blended together, but merely put up together, as argued by the CBSA.

41. It also appears that the term "mixture" includes "preparations" for the purposes of tariff classification, such that preparations described in the text of a heading – for example preparations for soup or broth in heading No. 21.04 – are also "mixtures" within the meaning of the *General Rules*. Indeed, Rule 2 of the *General Rules* provides guidance on the classification of mixtures of a material or substance with other materials or substances.²⁶ The explanatory notes to Rule 2 of the *General Rules* provide as follows: "Mixtures being *preparations* described as such in a Section or Chapter Note or in a heading text are to be classified under the provisions of Rule 1" [emphasis added]. This note supports the view that the term "preparations" refers to mixtures of two or more substances and that, in some cases, goods that constitute such mixtures are described as such by the terms of a heading, which allows their classification pursuant to Rule 1. It also suggests that the term "preparations" in heading No. 21.04 should not be interpreted in isolation. Taking into account the above contextual elements, this term appears to have a specific meaning under the *Customs Tariff*, at least as it relates to foodstuff, and not the generic meaning adopted by the CBSA.

42. As such, the Tribunal finds that a "preparation" or a "mixture" is to be distinguished from a good which consist of multiple edible components intended to be used and packaged together. "Preparations" are "mixtures" and these terms refer to goods which blend ingredients together and not to goods which merely combine several separately packaged components. The latter category of goods is more accurately described as "combinations" of materials or substances.

43. In this regard, Rule 2 of the *General Rules* refers to the classification of two types of goods, namely, "mixtures or combinations" of a material or substance with other materials or substances. In the Tribunal's opinion, the term "mixtures" must therefore have a different meaning than the term "combinations". Interpreting these terms to mean the same thing would essentially render the term "combinations" redundant.²⁷

25. In *Eurotrade 1997*, the goods were described as a powdered product that is used to make soup or to add flavour to food. The ingredients are salt, flavour enhancers (monosodium glutamate), dehydrated vegetables (carrots, onions and parsnip), carbohydrates and spices. In *Eurotrade 2001*, the goods were described as having the same composition as the goods that were in issue in *Eurotrade 1997*, but were for making broth instead of soup.

26. Rule 2 provides, in relevant part, as follows: "(b) Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of Rule 3."

27. The Tribunal notes that the term mixture can be defined as a form of combination (*The Canadian Oxford Dictionary, Thumb Index Edition*, s.v. "mixture"). While this definition suggests that mixtures may be included in the broader category of combinations, the Tribunal is of the view that it does not mean that all combinations are also necessarily mixtures or that the terms combination and mixture are always synonyms. At any rate, in the

44. The Tribunal also notes that the French version of Rule 2(b) supports the view that there is a distinction between these terms. In French, the relevant part of Rule 2(b) provides as follows: “Toute mention d’une matière dans une position déterminée se rapporte à cette matière soit à l’état pur, soit *mélangée ou bien associée à d’autres matières*” [emphasis added]. The French adjective “*mélangée*” refers to a mixture of substances, that is, substances that are mixed or blended together,²⁸ whereas the adjective “*associée*” can be translated by the English words “linked” or “combined”.²⁹ Used in this manner, the word “*associée*” ostensibly means substances that are not blended, but merely put or presented together. It also warrants noting that, in French, the adverb “ou bien” (or else) is used between “*mélangée*” and “*associée*”. This clearly indicates that “*mélangée*” and “*associée*” are not synonyms in the French version of Rule 2(b). The Tribunal finds that insofar as the English text of Rule 2(b) can be interpreted to have a shared meaning with the French version through the use of the disjunctive “or” between the terms “mixtures” and “combinations”, these terms should not be read as meaning the same thing.

45. The Tribunal’s interpretation that not all food products which combine various ingredients constitute preparations within the meaning of the terms of heading No. 21.04 is further supported by the explanatory notes to Rule 3(b) of the *General Rules*, which provide that the terms “goods put up in sets for retail sale” cover sets “consisting, for example, of different foodstuff intended to be used together in the preparation of a ready-to-eat dish or meal.” These notes suggests that goods which consist of multiple edible components intended to be used and packaged together may constitute articles put up in a set for retail sale as opposed to “preparations” or “mixtures”.

46. In light of the above, the Tribunal finds that the phrase “preparations [for soups]” in heading No. 21.04 should be interpreted to mean *mixtures* of vegetable products requiring only the addition of water or other liquids to make them ready for eating. Therefore, the question becomes whether the goods in issue constitute mixtures, that is, goods in which the components are blended together, not merely packaged together.

47. While the seasoning sachets found in each of the goods in issue appear to constitute such a mixture, since they blend various dried vegetables together,³⁰ the product as a whole is not a mixture of culinary ingredients. The goods in issue consist of separate components, namely, the pasta and the seasoning sachet and, for some products, a sachet of dried vegetables in solid pieces. At the time of importation, those components are merely packaged together (as opposed to being already mixed or blended together). Accordingly, the goods in issue do not constitute a *mixture* of culinary ingredients. As such, they are not “preparations” answering the description in heading No. 21.04.

48. Therefore, the Tribunal is unable to accept the position taken by the CBSA at the hearing, namely, that it does not matter for the classification of goods in heading No. 21.04 whether their components are

context of the nomenclature, these two terms should be given a different meaning for the reasons discussed herein.

28. *Collins Robert French English Dictionary*, 5th edition, 1998, s.v. “mélanger”.

29. *Collins Robert French English Dictionary*, 5th edition, 1998, s.v. “associer”.

30. The fact that one component of the goods in issue appears to be a “preparation” or a “mixture” of food products raises the issue of whether, through the effect of Rule 2(b) of the *General Rules*, the scope of heading No. 21.04 should be extended to include “combinations” of that preparation with other materials or substances, such as pasta. However, for the reasons set out below in the Tribunal’s analysis of the terms of heading No. 19.02, Rule 2(b) cannot extend the scope of heading No. 21.04 in this manner because the addition of the pasta component deprives the goods of the character of goods of the kind described in heading No. 21.04, such that they cannot be regarded, when considered as a whole, as answering the description in that heading as required under Rule 1.

comixed or comingled or merely separated within the package. In the Tribunal's opinion, the packaging of noodles together with a sealed seasoning sachet (and, in certain cases, a sachet of dried vegetables in solid pieces) is not sufficient to find that they constitute a "preparation" for tariff classification purposes.

49. Having found that they are not "preparations", the Tribunal concludes that the goods in issue are not classifiable in heading No. 21.04 on that basis alone.³¹ Yet, even assuming *arguendo* that the goods in issue were "preparations" within the broad meaning of this term suggested by the CBSA, the Tribunal would still find that they are not covered by heading No. 21.04 because the preponderant evidence indicates that they are not used for the purpose of preparing soups, for the reasons that follow.³²

The goods in issue are not used for the purpose of preparing soups

50. The ordinary meaning of the word "soup" indicates that a soup is a *liquid* food. For example, the *Merriam-Webster's Collegiate Dictionary* defines "soup" as "a liquid food especially with a meat, fish, or vegetable stock as a base and often containing pieces of solid food."³³ Similarly, the *Shorter Oxford English Dictionary* defines "soup" as "[s]avoury liquid food made by boiling meat, fish, or vegetables, etc., with seasoning in stock or water, and freq. served as a first course; a dish or variety of this."³⁴

51. The Tribunal has carefully examined the physical exhibits and the other evidence on the record concerning the nature of the goods in issue. Contrary to the CBSA's statement that the goods in issue are packages of instant noodles with soup base and flavouring packets meant to be prepared by adding hot water to form a soup, it is hardly evident from their package labels and the cooking instructions that they are products intended to be used to make a soup, as defined above. Five of the seven goods in issue have pictures of a serving suggestion on their respective package label.³⁵ In all such cases, the picture shows a bowl of noodles, a solid food, with no liquid being readily apparent. While this is not in itself determinative, the picture appearing on one of the goods in issue even suggests that the goods are intended to be eaten using a fork. In the Tribunal's opinion, forks are typically used to eat solid foods, not soup, which is a liquid food and, as such, is not ordinarily eaten with a fork. Although the inclusion of a fork (and not of a spoon) on the picture is not conclusive, it nevertheless suggests that the goods in issue are not liquid food products.

52. Moreover, the goods in issue are all identified primarily as noodles and are not described as soups on their packaging label. The term "Instant Noodles" is emphasized on most of the packages. Others have references to "Noodles in a Cup", "Bowl Noodles" and "Oriental Style Noodle with Soup Base". None of the goods in issue are marketed as a soup or a preparation therefor.

53. The undisputed evidence of Mr. Smithson also establishes that the goods in issue have been marketed as noodles for many years and that it is the noodles component in all cases that is "coming out of the bowl" on the packaging.³⁶ While it is true, as pointed out by the CBSA, that six of the seven products include a reference to the term "soup" or "soup base" on the packaging, Mr. Smithson testified that

31. For this reason, it is not necessary for the Tribunal to examine if, as was argued by Anderson Watts, they are excluded from the ambit of heading No. 21.04 by the explanatory notes to that heading which provides that it excludes "[m]ixtures of dried vegetables (julienne), whether or not in powder form" of heading No. 07.12.

32. The CBSA did not argue that the goods in issue are preparations for broths and the Tribunal finds no evidentiary basis to consider them as such, given the presence of solid food pieces (i.e. dried pasta and vegetables).

33. *Merriam-Webster's Collegiate Dictionary*, 10th ed., 2001, s.v. "soup" (Respondent's Brief, Tab 4).

34. *Shorter Oxford English Dictionary*, 5th ed., 2002, s.v. "soup".

35. Exhibits AP-2018-003-A-01 to A-07; Appellant's Brief, Tab 8.

36. *Transcript of Public Hearing* at 22.

Anderson Watts uses this term interchangeably with the terms “seasoning” or “flavouring” in marketing the goods in issue.³⁷

54. From his evidence, the Tribunal is of the view that the CBSA reads too much into the fact that the list of ingredients and cooking instructions of the goods in issue includes the words “soup base”. The cooking instructions on most of the goods in issue provide for the addition of the soup base after the noodles have been cooked. This is consistent with the view that it serves primarily as flavouring to add taste to the noodles, as opposed to an ingredient to make a soup. On balance, the Tribunal finds that the evidence does not demonstrate that the goods in issue are used to prepare soups.

55. As for the CBSA’s claim that, once prepared, the goods in issue are in liquid form, it is similarly not borne out by the evidence. In fact, Mr. Smithson’s evidence indicates that water is used to rehydrate the noodles and that they absorb water at a specific rate. He also explained that the noodles can be eaten in many different ways and they can be used in multiple recipes.³⁸ When asked by the Tribunal if liquid remained in the noodles once cooked, he explained that they have the capacity to absorb much more water than what consumers typically put in. According to his testimony, every drop of water can be absorbed by the noodles.³⁹

56. On the basis of Mr. Smithson’s testimony, which the Tribunal found credible, the Tribunal is unable to accept the CBSA’s argument that while the noodles may absorb some of the water, a significant amount of liquid remains in the mixture when the noodles are prepared according to the cooking directions on the package. Accordingly, the Tribunal finds that there is insufficient evidence to conclude that the goods in issue are used for the purpose of preparing a liquid food, or soup. For this reason, they are not classifiable in heading No. 21.04 as preparations for soups.

Heading No. 19.02: pasta/noodles

57. The next step is to consider whether the goods are *prima facie* classifiable in heading No. 19.02. The terms of that heading refer to “pasta, whether or not cooked or stuffed . . . or otherwise prepared.”

58. Anderson Watts submits that the goods in issue must be classified in heading No. 19.02 pursuant to Rule 1 of the *General Rules* since they satisfy its terms and are not excluded from the scope of that heading by any section or chapter notes. Anderson Watts invoked two classification opinions⁴⁰ and various customs rulings made in the United States, claiming that these pertain to goods very similar to the goods in issue and that they indicate that goods of this nature should be classified in heading No. 19.02.⁴¹ In the alternative, applying Rule 3(b) of the *General Rules*, Anderson Watts submits that since it is plain and obvious that the noodles are the primary component (by volume, weight, quantity and value), they provide the essential character of the goods in issue. As such, they would remain classified in heading No. 19.02 if consideration of rules other than Rule 1 is required.

37. *Transcript of Public Hearing* at 17-18, 21.

38. *Transcript of Public Hearing* at 10-13.

39. *Transcript of Public Hearing* at 22-23.

40. Anderson Watts filed two WCO classification opinions in relation to “pasta (wontons) stuffed with shrimps and a sachet of soup in powder form”, which were classified under subheading 1902.20 pursuant to general rules 1, 2(b) and 3(b). See Appellant’s Brief, Tab 9.

41. Appellant’s Brief at para. 42.

59. The CBSA does not dispute that the noodle component of the goods in issue alone would meet the terms of heading No. 19.02;⁴² however, it argues that the fact that the noodles are intended to be prepared along with a soup base excludes them from this heading. At the hearing, it argued that it is the presence of the flavouring sachets which prevents the goods from being classified in heading No. 19.02. In the CBSA's view, this means that, considered as a whole, the goods in issue are not pasta products, but goods intended to create a flavoured soup in which the noodles are at least partially immersed.

60. The Tribunal finds that the noodles, alone, would be *prima facie* classifiable in heading No. 19.02 pursuant to Rule 1, as they appear to fit squarely the terms of heading No. 19.02. A review of the explanatory notes to heading No. 19.02 indicates that pasta can be made from flours of wheat, and products covered by this heading often give rise to names of finished products which include noodles. Thus, the Tribunal finds that the wheat noodles in all of the goods in issue are a type of "other pasta" covered by heading No. 19.02.

61. The question then becomes whether, as submitted by the CBSA, the fact that the goods in issue also include sachets of dried vegetables in powdered form (and, in some cases, in solid form) is sufficient to exclude them from the scope of heading No. 19.02. In this regard, the Tribunal notes that the CBSA's argument ignores Rule 2(b) of the *General Rules*, which provides *inter alia* the following:⁴³ "Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or *combinations* of that material or substance with other materials or substances"⁴⁴ [emphasis added].

62. The explanatory notes to Rule 2(b) clarify that the effect of Rule 2(b) is to extend any heading referring to a material or substance to include mixtures or combinations of that material or substance with other materials or substances. In the Tribunal's opinion, pasta is a substance, that is, a "solid matter of which a physical thing consists or is made" or a "particular kind of material having a definite chemical composition and usu. uniform properties."⁴⁵

63. Therefore, applying Rule 2(b), the scope of heading No. 19.02 can be broadened to include goods that *combine* pasta with another material or substance. Through the effect of this rule, the mere fact that the goods in issue combine pasta and seasoning packets does not exclude them from heading No. 19.02.

64. However, the explanatory notes to Rule 2(b) also provide that this rule does not "widen the heading so as to cover goods which cannot be regarded as required under Rule 1, as answering the description in the heading; this occurs when the addition of another material or substance deprives the goods of the character of goods of the kind mentioned in the heading." Thus, the Tribunal must examine whether the seasoning packets in the goods in issue deprive them of their character of pasta products.

65. On this issue, the Tribunal finds that the evidence is quite clear that they do not. As previously mentioned, the dried vegetable sachets serve as a flavouring ingredient to add taste to the noodles. They do

42. Respondent's Brief at para. 55.

43. At the hearing, the CBSA emphasized the importance of Rule 1 in the tariff classification exercise at hand and did not comment on the potential relevance of Rule 2(b) when asked by the Tribunal to address this issue. *Transcript of Public Hearing* at 56-58.

44. It warrants repeating that since Rule 2(b) refers both to *mixtures or combinations* of materials or substances, these terms must have different meanings. As previously mentioned, while the goods in issue, considered as a whole, are not mixtures of materials or substances because their components are not blended together, they constitute goods that combine several substances. In the Tribunal's opinion, a combination of materials or substances may include goods made up of different components put up together.

45. *The Canadian Oxford Dictionary, Thumb Index Edition, s.v. "substance"*.

not transform the goods in issue into something different than noodles. Moreover, the Tribunal has already found that the combination of all of the components comprising the goods in issue is not intended to prepare a soup or results in goods that constitute preparations for soups.

66. For this reason, even assuming that the seasoning sachets or the “soup base” in the goods in issue are preparations for soups covered by heading No. 21.04, Rule 2(b) could not be used to extend the scope of heading No. 21.04 to include the goods in issue. Indeed, the addition of the pasta component (which, according to the evidence, is by far the most important in terms of weight, quantity and value) in the goods in issue results in them no longer answering the description in that heading. Put simply, the presence of the pasta results in the goods becoming pasta products which no longer have the character of preparations for soups.

67. In *Igloo Vikski*, the Supreme Court of Canada provided important guidance on the application of Rule 2(b):

In brief, Rule 2(b) deems the reference in a heading to a material or substance to be a reference to a combination of that material or substance with other materials or substances. This is, however, subject to the caveat in Explanatory Note (XII) that Rule 2(b) does not extend (“widen”) a heading so as to cover goods which cannot be regarded as answering the description in the heading. The mixed or composite good is therefore “described” by that heading unless the addition of the other material or substance would deprive the good of the character of goods of the kind described in the heading.

Applied conjunctively, Rules 1 and 2 determine the heading(s) under which an unfinished or (as here) a composite good is *prima facie* classifiable. If, having applied Rules 1 and 2, the good is *prima facie* classifiable under only one heading, then the inquiry ends and the good is classified under that heading. If, however, the good is *prima facie* classifiable under more than one heading – either because it is described by more than one heading under Rule 1 or because it is *prima facie* classifiable under more than one heading by applying Rules 1 and 2 together – then Rule 3 applies, by operation of Rule 2(b), to resolve the classification dispute.⁴⁶

68. Accordingly, on the basis of Rules 1 and 2(b), the Tribunal finds that, despite the presence of the seasoning sachets in their packages, the goods in issue remain classifiable in heading No. 19.02 as “other pasta”. To use the words of the Supreme Court of Canada, having applied Rules 1 and 2, the Tribunal finds that the goods in issue are *prima facie* classifiable under only one heading, namely, heading No. 19.02.

69. The Tribunal notes that this finding is consistent with the classification opinions and rulings made in the United States submitted by Anderson Watts. While those documents are not determinative since the composition of the goods that were under consideration and the reasoning that led to their classification in heading No. 19.02 is not clear from their contents, they generally support the view that goods combining pasta and other ingredients can be properly classified in heading No. 19.02.

70. Finally, for the sake of completeness and given that Anderson Watts invoked Rule 3(b) in support of its position, the Tribunal deems it necessary to briefly address the issue of the potential application of Rule 3(b) in this appeal. In this respect, for the following reasons, even if one were to conclude that Rule 2(b) cannot be relied upon to extend the scope of heading No. 19.02 to include the goods in issue, or that the goods in issue would also be *prima facie* classifiable in heading No. 21.04 by applying Rules 1 and 2 together, they would remain classifiable in heading No. 19.02 through the operation of Rule 3(b).

46. *Igloo Vikski* at paras. 26-27 (footnotes omitted).

71. Subject to the conditions discussed above, Rule 2(b) also provides that the classification of goods consisting of more than one material or substance shall be according to the principles of Rule 3. Thus, assuming that the goods in issue could not be classified considered as a whole in one and only one heading applying Rules 1 and 2 of the *General Rules* and the two main components of the goods in issue are *prima facie* classifiable in different headings, Rule 3 would become relevant.⁴⁷

72. As the goods in issue consist of different foodstuff intended to be used together in the preparation of a ready-to-eat dish or meal, they constitute goods put up in sets for retail sale,⁴⁸ whereby the individual components of the set are covered by different headings, as discussed further below. When goods of a set are *prima facie* classifiable under two or more headings, that is, when they are not classifiable in only one heading after having applied Rules 1 and 2, the application of Rule 3(b) of the *General Rules* becomes relevant.⁴⁹ According to this rule, goods are to be classified as if they consisted of the material or component which gives them their essential character.⁵⁰

73. It is undisputed that the pasta or noodles component would be *prima facie* classifiable in heading No. 19.02. As for the “soup base” or flavouring sachets, the Tribunal is satisfied that they would be *prima facie* classifiable in either heading No. 21.04 or 07.12. The terms of heading No. 07.12 are as follows: “Dried vegetables, whole, cut, sliced, broken or in powder form, but not further prepared.” The explanatory notes to that heading indicate that it covers dried vegetables “usually prepared in strips or slices, either of one variety or mixed (*julienne*)” and “also covers dried vegetables, broken or powdered, such as asparagus, cauliflower, parsley, chervil, onion, garlic, celery, generally used either as flavouring materials or in the preparation of soups.” However, heading No. 07.12 expressly excludes “[s]oup preparations based on dried vegetables (heading No. 21.04).”

74. It is not necessary for the Tribunal to determine exactly under which heading the flavouring sachets would be *prima facie* classifiable since, according to the evidence, it is obvious that they are not the component which gives to the goods in issue their essential character. They are clearly a secondary component when compared to the importance of the pasta component in the goods in issue.

75. For the purposes of Rule 3(b), the term “essential character” is not defined in the *General Rules*. However, note VIII of the explanatory notes to Rule 3(b) indicates the following:

1. The factor which determines essential character will vary as between different kinds of goods. It may, for example, be determined by the nature of the material or component, its bulk, quantity, weight or value, or by the role of a constituent material in relation to the use of the goods.

76. The Tribunal has previously held that the decisive factor in determining the “essential character” of goods is the relative importance of their various components considering their use and value in relation to the

47. In this regard, the *chapeau* of Rule 3 indicates that goods may be *prima facie* classifiable under two or more headings “by application of Rule 2(b)”.

48. As indicated by the explanatory notes to Rule 3(b) of the *General Rules*.

49. Rule 3(a) generally requires classification on the basis of the heading which provides the most specific description. However, “when two or more headings each refer to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods.” Accordingly, Rule 3(a) is not applicable in the case of the goods in issue.

50. Rule 3(b) provides as follows: “Mixtures, composite goods consisting of different materials or made up of different components, and *goods put in sets for retail sale, which cannot be classified by reference to Rule 3(a), shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable*” [emphasis added].

whole.⁵¹ Following the guidance provided by the explanatory notes and the Tribunal's jurisprudence, there is no doubt that the pasta is the most important component of the goods in issue, in terms of quantity, weight and value. This is supported by the product specification sheets, which provide the relative weight of the different components of the goods in issue, and Mr. Smithson's testimony indicating that the noodles account for approximately 90 percent of the value of the goods in issue.⁵²

77. Moreover, it is reasonable to infer from the totality of the evidence presented that consumers purchase the goods in issue because they are looking for a meal or dish consisting of noodles (or pasta). In fact, the goods in issue could be eaten without using the seasoning sachets which are there to add flavour to the noodles and Mr. Smithson's evidence is that consumers eat them in many different ways, sometimes even without cooking them.⁵³ Thus, the Tribunal finds that it is the noodles component which is, by far, the most important component considering its use, weight and value in relation to the whole of the goods in issue. In other words, it is the noodles (or pasta) which provides the essential character of the goods in issue.

78. Accordingly, the goods in issue would still be properly classified in heading No. 19.02 pursuant to Rule 3(b) of the *General Rules* even if Rules 1 and 2(b) were deemed insufficient to classify to goods in issue at the heading level.

Subheading and tariff item classification

79. Having determined that the goods in issue are properly classified in heading No. 19.02, applying Rule 6 of the *General Rules* and Rule 1 of the *Canadian Rules*, the Tribunal accepts that they are classifiable under subheading No. 1902.30 ("other pasta") and tariff item Nos. 1902.30.20 (within access commitment) and 1902.30.31 (over access commitment), as claimed by Anderson Watts. The other subheadings of heading No. 19.02 refer to specific types of pasta (uncooked pasta, stuffed pasta and couscous) that do not describe the goods in issue. The CBSA did not comment on the subheading or tariff item classification under heading No. 19.02.

80. Therefore, the Tribunal finds that the goods in issue are properly classified as other pasta containing 25 percent or more by weight of wheat, without meat under tariff item No. 1902.30.20 (within access commitment) or under tariff item No. 1902.30.31 (over access commitment, in packages of a weight not exceeding 2.3 kg each).

DECISION

81. The appeal is allowed.

Georges Bujold
Georges Bujold
Presiding Member

51. *Le Groupe Bugatti Inc. v. President of the Canada Border Services Agency* (13 June 2018), AP-2017-020 (CITT) at paras. 57-58.

52. *Transcript of Public Hearing* at 20-21; Appellant's Brief, Tab 7.

53. *Transcript of Public Hearing* at 10-11.

ANNEX: RELEVANT EXPLANATORY NOTES

The relevant explanatory notes to heading No. 07.12 (which is relevant in the present appeal insofar as heading No. 21.04 excludes mixtures of dried vegetables of heading No. 07.12) provide as follows:

This heading covers vegetables of headings 07.01 to 07.11 which have been dried (including dehydrated, evaporated or freeze-dried) i.e., with their natural water content removed by various processes. The principal kinds of vegetables treated in this way are potatoes, onions, mushrooms, wood ears (*Auricularia spp.*), jelly fungi (*Tremella spp.*), truffles, carrots, cabbage and spinach. They are usually prepared in strips or slices, either of one variety or mixed (*julienne*).

The heading also covers dried vegetables, broken or powdered, such as asparagus, cauliflower, parsley, chervil, onion, garlic, celery, generally used either as flavouring materials or in the preparation of soups.

The heading **excludes**, *inter alia*:

...

(d) Soup preparations based on dried vegetables (**heading 21.04**).

[Underlining added]

There are no relevant section or chapter notes in relation to heading No. 19.02. The relevant explanatory notes to heading No. 19.02 provide as follows:

The pasta of this heading are unfermented products made from semolinas or flours of wheat, maize, rice, potatoes, etc.

These semolinas or flours (or intermixtures thereof) are first mixed with water and kneaded into a dough which may also incorporate other ingredients (e.g., very finely chopped vegetables, vegetable juice or purées, eggs, milk, gluten, diastases, vitamins, colouring matter, flavouring).

The doughs are then formed (e.g., by extrusion and cutting, by rolling and cutting, by pressing, by moulding or by agglomeration in rotating drums) into specific predetermined shapes (such as tubes, strips, filaments, cockleshells, beads, granules, stars, elbow-bends, letters). In this process a small quantity of oil is sometimes added. These forms often give rise to the names of the finished products (e.g., macaroni, tagliatelle, spaghetti, noodles).

The products are usually dried before marketing to facilitate transport, storage and conservation; in this dried form, they are brittle. The heading also covers undried (i.e., moist or fresh) and frozen products, for example, fresh gnocchi and frozen ravioli.

The pasta of this heading may be cooked, stuffed with meat, fish, cheese or other substances in any proportion or otherwise prepared (e.g., as prepared dishes containing other ingredients such as vegetables, sauce, meat). Cooking serves to soften the pasta without changing its basic original form.

Stuffed pasta may be fully closed (for example, ravioli), open at the ends (for example, cannelloni) or layered, such as lasagne.

The heading also covers couscous which is a heat-treated semolina. Couscous of this heading may be cooked or otherwise prepared (e.g., put up with meat, vegetables and other ingredients as the complete dish which bears the same name).

The heading **does not cover**:

(b) Soups and broths and preparations therefor, containing pasta (**heading 21.04**).

[Underlining added]

There are no relevant section notes in relation to heading No. 21.04. There are notes to Chapter 21 that may be relevant in the present appeal, which provide as follows:

1.- This Chapter does not cover:

(a) Mixed vegetables of heading 07.12;

...

3.- For the purposes of heading 21.04, the expression “homogenised composite food preparations” means preparations consisting of a finely homogenised mixture of two or more basic ingredients such as meat, fish, vegetables, fruit or nuts, put up for retail sale as food suitable for infants or young children or for dietetic purposes, in containers of a net weight content not exceeding 250 g. For the application of this definition, no account is to be taken of small quantities of any ingredients which may be added to the mixture for seasoning, preservation or other purposes. Such preparations may contain a small quantity of visible pieces of ingredients.

(2) Soups and broths ready for consumption after heating.

These products are generally based on vegetable products (flour, starches, tapioca, macaroni, spaghetti and the like, rice, plant extracts, etc.), meat, meat extracts, fat, fish, crustaceans, molluscs or other aquatic invertebrates, peptones, amino-acids or yeast extract. They may also contain a considerable proportion of salt.

They are generally put up as tablets, cakes, cubes, or in powder or liquid form.

...

The heading also excludes:

(a) Mixtures of dried vegetables (*julienne*), whether or not in powder form (heading 07.12).

(b) Flour, meal and powder of dried leguminous vegetables (heading 11.06).

[Underlining added]