Explanatory Notes to the Combined Nomenclature of the European Union

(2011/C 227/05)

Pursuant to the second indent of Article 9(1)(a) of Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff [1], the Explanatory Notes to the Combined Nomenclature of the European Union [2] are hereby amended as follows:

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The following paragraph is added before heading '**0711**':

'**0710 Vegetables (uncooked or cooked by steaming or boiling in water), frozen**

The expression "frozen" as defined in the HS Explanatory Notes to this chapter, third paragraph, is also to be seen by the criteria set out in the judgment of the Court of Justice of the European Union in Case 120/75. By analogy, following the Court's interpretation of these criteria in its judgment in Case C-423/09, the process of freezing must give rise to substantial and irreversible changes, with the result that the product is no longer in the natural state.

Therefore products are "frozen" when the products which are subjected to the freezing processes undergo certain irreversible changes as a result of this very process, in particular to the structure of the cells, with the result that these products are no longer in the natural state, even after they have started to thaw or have thawed out.'.

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The first paragraph of heading '**0811**' is replaced by the following:

'The expression "frozen" as defined in the HS Explanatory Notes to this chapter, second paragraph, is also to be seen by the criteria set out in the judgment of the Court of Justice of the European Union in Case 120/75. By analogy, following the Court's interpretation of these criteria in its judgment in Case C-423/09, the process of freezing must give rise to substantial and irreversible changes, with the result that the product is no longer in the natural state.

Therefore products are "frozen" when the products which are subjected to the freezing processes undergo certain irreversible changes as a result of this very process, in particular to the structure of the cells, with the result that these products are no longer in the natural state, even after they have started to thaw or have thawed out.'.

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[1] OJ L 256, 7.9.1987, p. 1.
[2] OJ C 137, 6.5.2011, p. 1.