

**[BOC CUSTOMS TARIFF CIRCULAR NO. 2-2003,
October 03, 2003]**

TARIFF CLASSIFICATION OF SOFT SERVE (ICE CREAM) BASE

In order to facilitate trade and enable importers to obtain a close estimate of the landed cost of their shipment even before its importation, this circular is being issued to enable customs officers to distinguish mixes and bases for ice cream classifiable under HS Code 19.01.90.90 - 7% from those classifiable under HS Codes 21.06.90.90 - 7%, and 04.02.21.00 - 3% or 04.02.29.00 - 3%.

Based on documents reviewed by this Office, subject article described as "Frosty Boy" Soft Serve Base is an ice cream base that contains 4.4% milk fat and made from specially instantized ingredients. It may either be in powder or liquid form and comes in different flavors such as vanilla, chocolate or yoghurt. It performs excellent in self-pasteurizing machineries (heat treat). It is imported in 8 x 1.5 kg bags per ctn.

Chapter 19 according to its General Explanatory Notes covers a number of preparations used for food, among which are those made from the goods of heading 04.01 to 04.04. The Harmonized system grouped this particular type of food preparation under heading 19.01.

The last paragraph to the said heading mentions that it covers mixes and bases (e.g., powders) for making ice cream but **excludes** ice cream and other edible ice based on milk constituents that are classified under heading 21.05.

Although section (1) of the Explanatory Notes to heading 21.06 mentioned that it also includes powders for table creams, jellies, ice cream or similar preparations, whether or not sweetened. It classified below that paragraph, that powder based on flours, meal, starch, malt extract or goods of **headings 04.01 to 04.04**, whether or not containing cocoa, fall in heading 18.06 or **19.01** according to their cocoa content.

E Note to HS 04.04 also provides that the heading does not cover food preparation based on natural milk constituents but containing other substances not allowed in the products of this Chapter (in particular heading **19.01**).

In view thereof, subject article is classified in HS subheading No. 1901.90.90 of the Tariff and Customs Code, with a rate of duty of 7% ad valorem.

For your guidance and immediate implementation.

Adopted: 03 Oct. 2003

(SGD.) ANTONIO M. BERNARDO
Commissioner
