

**KACT, WCO Headquarters, Brussels, Belgium
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Harmonized System – Food for thought

Case study

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Case studies

Description: fish oil (anchovies), modified

- Omega-3 fatty acid (contained in the oil):
 - ✓ EPA (eicosapentaenoic acid) content: 30 %
 - ✓ DHA (docosahexaenoic acid) content: 20 %
- Chemically modified:
 - ✓ De-acidification
 - ✓ Ethyl esterification
 - ✓ Re-esterification

Case studies

Fish oil (anchovy)

- Heading 15.04:
 - ✓ Refined
 - ✓ Not chemically modified
- Heading 15.16:
 - ✓ Inter-esterified
 - ✓ Re-esterified
 - ✓ Not further prepared

Case studies

Presentation form relevant?

- In bulk
- In the form of capsules

Case studies

Presentation form relevant?

WCO Classification Opinion 1517.90/1

Evening primrose oil with added vitamin E and milkfat, *put up in gelatin/glycerol capsules* and packaged in blister packs for retail sale, used to supplement the diet with essential fatty acids contained in the oil (in particular, gamma-linolenic acid).

Case studies

Presentation form relevant?

EU Court of Justice (Case C-410/08):

Description (example):

- Omega-3 soft gelatin capsules, not put up for retail sale
- each capsule contains 600 mg of cold-pressed concentrated fish oil and 22.8 mg of concentrated vitamin E
- the casing of each capsule consists of 212.8 mg of gelatin, 77.7 mg of glycerol and 159.6 mg of purified water

Case studies

Presentation form relevant?

EU Court of Justice (Case C-410/08):

Considering:

- casing which contains the oils at issue in the main proceedings is not a ‘packing material’ within the meaning of GIR 5
- casing determines:
 - ✓ dosage of the edible preparations
 - ✓ way in which they are absorbed
 - ✓ place where they are supposed to become active

Case studies

Presentation form relevant?

EU Court of Justice (Case C-410/08):

Therefore:

- casing, together with its content, determines use and character of the goods
- 21.06 more specific than 15.15 or 15.17
- 21.06 applies

Case studies

Presentation form relevant?

EU classification practice:

- encapsulated products: heading 21.06
- HSC decision (CO 1517.90/1) can not be applied
- WCO informed



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