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Acts whose publication is obligatory

COUNCIL REGULATION (EEC) No 3904/87

of 22 December 1987

amending Regulation (EEC) No 804/68 on the common organization of the market in milk and milk products

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 42 and 43 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Having regard to the opinion of the Economic and Social Committee ⁽²⁾,

Whereas the Community is a Contracting Party to the International Convention on the Harmonized Commodity Description and Coding System, hereinafter referred to as the 'harmonized system', which replaces the Convention of 15 December 1950 on Nomenclature for the Classification of Goods in Customs Tariffs;

Whereas Council Regulation (EEC) No 2658/87 ⁽³⁾ established, from 1 January 1988, a combined goods nomenclature based on the harmonized system which will meet the requirements both of the Common Customs Tariff and of the external trade statistics of the Community;

Whereas, as a result, it is necessary to express the descriptions of goods and tariff heading numbers which

appear in Regulation (EEC) No 804/68 ⁽⁴⁾, as last amended by Regulation (EEC) No 773/87 ⁽⁵⁾, according to the terms of the combined nomenclature, based on the harmonized system;

Whereas numerous regulations in the milk and milk products sector must be adapted in the light of the new nomenclature; whereas, under Article 15 of Regulation (EEC) No 2658/87, the changes made may be of a technical nature only; whereas, accordingly, a provision should be introduced whereby all other adjustments to Council or Commission regulations on the common organization of the market in the milk products sector should be made in accordance with the procedure laid down in Article 30 of Regulation (EEC) No 804/68, provided that such adjustments are required solely as a result of the introduction of the harmonized system,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 804/68 is hereby amended as follows:

1. Article 1 is replaced by the following:

'Article 1

The common organization of the market in milk and milk products shall cover the following products:

CN code	Description of goods
(a) 0401	Milk and cream, not concentrated nor containing added sugar or other sweetening matter
(b) 0402	Milk and cream, concentrated or containing added sugar or other sweetening matter

⁽¹⁾ Opinion delivered on 18 December 1987 (not yet published in the Official Journal).

⁽²⁾ Opinion delivered on 16 December 1987 (not yet published in the Official Journal).

⁽³⁾ OJ No L 256, 7. 9. 1987, p. 1.

⁽⁴⁾ OJ No L 148, 28. 6. 1968, p. 13.

⁽⁵⁾ OJ No L 78, 20. 3. 1987, p. 1.

CN code	Description of goods
(c) 0403 10 11 to 39 0403 90 11 to 69	Buttermilk, curdled milk and cream, yoghurt, kephir and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter but not flavoured nor containing added fruit or cocoa
(d) 0404	Whey, whether or not concentrated or containing added sugar or other sweetening matter; products consisting of natural milk constituents, whether or not containing added sugar or other sweetening matter, not elsewhere specified or included
(e) 0405 00	Butter and other fats and oils derived from milk
(f) 0406	Cheese and curd
(g) 1702 10 90	Lactose and lactose syrup, not containing added flavouring or colouring matter, and containing, in the dry state, less than 99 % by weight of the pure product
(h) 2106 90 51	Flavoured or coloured lactose syrup
(j) ex 2309	Preparations of a kind used in animal feeding: – Preparations and feedingstuffs containing products to which this Regulation applies, directly or by virtue of Regulation (EEC) No 2730/75 ⁽¹⁾ , except preparations and feedingstuffs to which Regulation (EEC) No 2727/75 ⁽²⁾ applies

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 20.
⁽²⁾ OJ No L 281, 1. 11. 1975, p. 1.

2. Article 4 is replaced by the following:

Article 4

The Council, acting in accordance with the voting procedure laid down in Article 43 (2) of the Treaty on a proposal from the Commission, shall fix each year for the following milk year Community threshold prices for certain of the products listed in Article 1, hereinafter called "pilot products". The threshold prices shall be fixed so that, account being taken of the protection required for the Community processing industry, the prices of imported milk products shall correspond to the level of the target price for milk.'

3. Article 13 (2) is replaced by the following:

'2. Member States may issue a licence to any applicant irrespective of the place of his establishment in the Community.

The licence shall be valid for a transaction carried out in the Community from a date to be fixed by the Council, acting in accordance with the voting procedure laid down in Article 43 (2) of the Treaty on a proposal from the Commission.

The issue of such licence shall be conditional on the lodging of a deposit guaranteeing that exportation is effected during the period of validity of the licence; the deposit shall be forfeited in whole or in part if the transaction is not effected, or is only partially effected, within that period.'

4. Article 17 (1) is replaced by the following:

'1. To the extent necessary to enable the products listed in Article 1 to be exported either in the unaltered state or in the form of goods listed in the Annex in the case of products listed in Article 1 (a), (b), (c), (d), (e) and (g), on the basis of the prices for those products in international trade, the difference between those prices and prices in the Community may be covered by an export refund.'

5. The final subparagraph of Article 17 (2) is replaced by the following:

'The refund may be fixed by tender for skimmed-milk powder falling within subheading 0402 10 19 of the combined nomenclature exported in bulk and

for butter falling within heading No 0405 00 thereof exported in bulk.'

6. Article 26 (1) is replaced by the following:

'1. Subject to the conditions laid down in paragraphs 3 and 4, Community aid shall be granted for supplying to pupils in educational establishments certain processed milk products falling within heading Nos 0401 and 0403, subheading 0404 90 and heading No 0406 or subheading 2202 90.'

7. The following paragraph is added to Article 26:

'5. Paragraphs 1 to 4 may be applied, through the agency of charitable organizations — recognized by the Member State concerned, or if no recognition has been granted in that Member State to such organizations, by the Commission — to those persons most in need.

In such cases, the aid

— shall be granted so as to permit the free distribution of the products referred to in paragraph 1,

— may also be granted for the free distribution of products falling within subheading 0405 00 of the combined nomenclature.'

8. The Annex is replaced by the Annex to this Regulation.

Article 2

The Commission, in accordance with the procedure provided for in Article 30 of Regulation (EEC) No 804/68, shall make the necessary adaptations to Council or Commission acts concerning the common organization of the market in milk and milk products which result from the application of Article 1.

Article 3

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Communities*.

Article 1 shall apply with effect from 1 January 1988.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 22 December 1987.

For the Council

The President

N. WILHJELM

ANNEX

'ANNEX

CN code	Description of goods
0403 10 51 to 99 and 0403 90 71 to 99	Buttermilk, curdled milk and cream, yoghurt, kephir and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter, flavoured or containing added fruit or cocoa
1517 ex 1517 10 1517 10 10 ex 1517 90 1517 90 10	Margarine; edible mixtures or preparations of animal or vegetable fats or oils or fractions of different fats or oils of this chapter, other than edible fats or oils or their fractions of heading No 1516: – Margarine, excluding liquid margarine: – – Containing more than 10% but not more than 15% by weight of milk fats – Other – – Containing more than 10% but not more than 15% by weight of milk fats
ex 1702 10 1702 10 10	– Lactose and lactose syrup: – – Containing, in the dry state, 99% or more by weight of the pure product
1704 ex 1704 90	Sugar confectionery (including white chocolate), not containing cocoa: – Other, excluding liquorice extract containing more than 10% by weight of sucrose but not containing other added substances of subheading 1704 90 10
ex 1806	Chocolate and other food preparations containing cocoa, excluding cocoa powder sweetened solely by the addition of sucrose of subheading 1806 10
ex 1901 1901 10 00 1901 20 00 ex 1901 90	Malt extract; food preparations of flour, meal, starch or malt extract, not containing cocoa powder or containing cocoa powder in a proportion by weight of less than 50%, not elsewhere specified or included; food preparations of goods of heading Nos 0401 to 0404, not containing cocoa powder or containing cocoa powder in a proportion by weight of less than 10%, not elsewhere specified or included: – Preparations for infant use, put up for retail sale – Mixes and doughs for the preparation of bakers' wares of heading No 1905 – Other than malt extract of subheadings 1901 90 11 and 19
ex 1902 1902 20 1902 20 91 1902 20 99 1902 30 1902 40 1902 40 90	Pasta, whether or not cooked or stuffed (with meat or other substances) or otherwise prepared, such as spaghetti, macaroni, noodles, lasagne, gnocchi, ravioli, cannelloni; couscous, whether or not prepared: – Stuffed pasta, whether or not cooked or otherwise prepared: – – Other: – – – Cooked – – – Other – Other pasta – Couscous: – – Other
ex 1904	Prepared foods obtained by the swelling or roasting of cereal products (for example, corn flakes) containing cocoa; cereals, other than maize (corn), in grain form, pre-cooked or otherwise prepared

CN code	Description of goods
ex 1905	Bread, pastry, cakes, biscuits and other bakers' wares, whether or not containing cocoa; communion wafers, empty cachets of a kind suitable for pharmaceutical use, sealing wafers, rice paper and similar products:
1905 20	– Gingerbread and the like
1905 30	– Sweet biscuits; waffles and wafers
1905 40 00	– Rusks, toasted bread and similar toasted products
1905 90	– Other:
	– – Other:
1905 90 40	– – – Waffles and wafers with a water content exceeding 10% by weight
1905 90 50	– – – Biscuits; extruded or expanded products, savoury or salted
	– – – Other:
1905 90 60	– – – – With added sweetening matter
1905 90 90	– – – – Other
ex 2004	Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, frozen:
2004 10	– Potatoes:
	– – Other:
2004 10 91	– – – In the form of flour, meal or flakes
ex 2005	Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, not frozen:
2005 20	– Potatoes:
2005 20 10	– – In the form of flour, meal or flakes
ex 2008	Fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit not elsewhere specified or included:
	– Nuts, ground-nuts and other seeds, whether or not mixed together:
2008 11	– – Ground-nuts:
2008 11 10	– – – Peanut butter
ex 2101 10	Preparations with a basis of coffee
ex 2101 20	Preparations with a basis of tea or maté
2105 00	Ice cream and other edible ice, whether or not containing cocoa
ex 2106	Food preparations not elsewhere specified or included, excluding flavoured or coloured sugar syrups falling within subheadings 2106 90 30, 2106 90 51, 2106 90 55 and 2106 90 59
2202	Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured, and other non-alcoholic beverages, not including fruit and vegetable juices of heading No 2009:
ex 2202 90	– Other:
	– – Other, containing by weight of fat obtained from the products of heading Nos 0401 to 0404:
2202 90 91	– – – Less than 0,2%
2202 90 95	– – – 0,2% or more but less than 2%
2202 90 99	– – – 2% or more

CN code	Description of goods
2208 ex 2208 90 2208 90 55 2208 90 59 2208 90 79	Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80 % vol; spirits, liqueurs and other spirituous beverages; compound alcoholic preparations of a kind used for the manufacture of beverages: – Other: – – Other spirituous beverages in containers holding: – – – 2 litres or less: – – – – Liqueurs – – – – Other spirituous beverages – – – More than 2 litres – – – – Liqueurs and other spirituous beverages
3501	Casein, caseinates and other casein derivatives; casein glues
ex 3502 3502 90 3502 90 51 3502 90 59	Albumins, albuminates and other albumin derivatives: – Other: – – Albumins, other than egg albumins: – – – Other: – – – – Milk albumin (lactalbumin): – – – – – Dried (for example, in sheets, scales, flakes, powder) – – – – – Other'