

**COUNCIL REGULATION (EEC) No 3798/91**  
of 19 December 1991

**amending Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and the Common Customs Tariff and Regulation (EEC) No 2915/79 determining the groups of products and the special provisions for calculating levies on milk and milk products**

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organization of the market in milk and milk products <sup>(1)</sup>, and in particular Article 14 (6) thereof,

Having regard to the proposal from the Commission,

Whereas only non-modified whey is currently classified under CN code 0404 10 in Annex I to Regulation (EEC) No 2658/87 <sup>(2)</sup> while modified whey is classified under CN code 0404 90; whereas, from 1 January 1992, CN code 0404 10 is to include modified whey;

Whereas Article 14 of Regulation (EEC) No 804/68 provides for an import levy to be applied on the products covered by that Regulation;

Whereas, pursuant to Article 14 (6) of Regulation (EEC) No 804/68, Regulation (EEC) No 2915/79 <sup>(3)</sup> determines the groups of products and the special provisions for calculating levies on milk and milk products; whereas, pursuant to the said Regulation, the levy applied to products classified under CN code 0404 90, and therefore to modified whey, is considerably higher than that applied to products classified under CN code 0404 10, and therefore to non-modified whey; whereas the difference in the levies is necessary to prevent distortions in imports from third countries; whereas it is therefore necessary to ensure that the amendments to CN code 0404 10 do not result in changes in the levies applied under Regulation (EEC) No 2915/79; whereas, to this end, the necessary amendments should be made to that Regulation, and additional subheadings should be inserted into CN code 0404 10 of the combined nomenclature in

Regulation (EEC) No 2658/87 to ensure the proper classification of the products concerned in order to apply the appropriate levies,

HAS ADOPTED THIS REGULATION:

*Article 1*

1. The combined nomenclature annexed to Regulation (EEC) No 2658/87 is amended as shown in Annex I hereto.

2. The amendments to the CN codes provided for in this Regulation shall be applicable as subheadings of the integrated customs tariff of the European Communities (Taric) in accordance with Annex II until their inclusion in the combined nomenclature under the conditions laid down in Article 12 of Regulation (EEC) No 2658/87.

*Article 2*

Regulation (EEC) No 2915/79 is hereby amended as follows:

1. Article 2 shall be amended as follows:

- in 1, CN code 0404 10 19 shall be replaced by code 0404 10 26,
- in 2, CN code 0404 10 91 shall be replaced by code 0404 10 48,
- in 3, CN code 0404 10 99 shall be replaced by code 0404 10 72;

2. Article 3 shall be amended as follows:

- in 1, the introductory part shall be replaced by the following:
 

'1. If it falls within CN codes 0402 10 11, 0403 10 02, 0403 90 11, 0404 10 12, 0404 90 11 and 0404 90 31, to the sum of the following components.'
- in 2, the introductory part shall be replaced by the following:
 

'2. If it falls within CN codes 0402 10 91, 0403 10 12, 0403 90 31 and 0404 10 34, to the sum of the following components.'

<sup>(1)</sup> OJ No L 148, 28. 6. 1968, p. 13. Regulation as last amended by Regulation (EEC) No 1630/91 (OJ No L 150, 15. 6. 1991, p. 19).

<sup>(2)</sup> OJ No L 256, 7. 9. 1987, p. 1. Regulation as last amended by Regulation (EEC) No 2587/91 (OJ No L 259, 16. 9. 1991, p. 1).

<sup>(3)</sup> OJ No L 329, 24. 12. 1979, p. 1. Regulation as last amended by Regulation (EEC) No 3116/90 (OJ No L 303, 31. 10. 1990, p. 1).

— point 4 shall become point 6,

— the following points shall be inserted :

'4. If it falls within subheading 0404 10 56, to the sum of the following components :

(a) a component equal to the levy on the pilot product, multiplied by a coefficient expressing the weight ratio between the quantity of milk ingredients expressed in dry matter contained in the product, on the one hand, and the product itself, on the other hand,

(b) a component equal to ECU 6,04 ;

5. If it falls under subheadings 0404 10 78, to the sum of the following components :

(a) a component calculated in accordance with 4 (a),

(b) a component equal to ECU 6,04,

(c) a component to take account of the quantity of added sugar or other sweetening matter ;

3. Article 4 shall be amended as follows :

— in 1, the introductory part shall be replaced by the following :

'1. If it falls within CN codes 0402 21 11, 0403 10 04, 0403 90 13, 0404 10 04, 0404 10 14, 0404 90 13, and 0404 90 33, to the sum of the following components :'

— in 2, the introductory part shall be replaced by the following :

'2. If it falls within CN codes 0402 21 91, 0403 10 06, 0403 90 19, 0404 10 06, 0404 10 16, 0404 90 19 and 0404 90 39, to the sum of the following components :'

— in 4, the introductory part shall be replaced by the following :

'4. If it falls within CN codes 0402 29 11, 0402 29 15, 0403 10 14, 0403 90 33, 0404 10 28, 0404 10 36, 0404 90 53 and 0404 90 93, to the sum of the following components :'

— in 5, the introductory part shall be replaced by the following :

'5. If it falls within CN codes 0402 29 91, 0403 10 16, 0403 90 39, 0404 10 32, 0404 10 38, 0404 90 59 and 0404 90 99, to the sum of the following components :'

— the following points shall be added :

'8. If it falls within CN codes 0404 10 52 and 0404 10 58, to the sum of the following components :

(a) a component equal to the levy on the pilot product, multiplied by a coefficient expressing the weight ratio between the quantity of milk ingredients expressed in dry matter contained in the product, on the one hand, and the product itself, on the other hand,

(b) a component equal to ECU 6,04 ;

9. If it falls within CN codes 0404 10 54 and 0404 10 62, to the sum of the following components :

(a) a component equal to the levy calculated in accordance with 3, multiplied by a coefficient expressing the weight ratio between the quantity of milk ingredients expressed in dry matter contained in the product, on the one hand, and the product itself, on the other hand,

(b) a component equal to ECU 6,04 ;

10. If it falls within CN codes 0404 10 74 and 0404 10 82, to the sum of the following components :

(a) a component calculated in accordance with 8 (a),

(b) a component equal to ECU 6,04,

(c) a component to take account of the quantity of added sugar or other sweetening matter ;

11. If it falls within CN codes 0404 10 76 and 0404 10 84, to the sum of the following components :

(a) a component calculated in accordance with 9 (a),

(b) a component equal to ECU 6,04,

(c) a component to take account of the quantity of added sugar or other sweetening matter ;

4. In the Annex, the product groups 1, 2 and 3 shall be replaced by the following groups :

'Number of group	Groups of products according to the combined nomenclature	Pilot products for each group of products
1	0404 10 02 0404 10 26 0404 10 48 0404 10 72	Powdered whey, obtained by the spray process, with a water content of less than 5 % by weight, in packages normally used in the trade of a net content of 25 kg or more

Number of group	Groups of products according to the combined nomenclature	Pilot products for each group of products
2	0402 10 0403 10 02 0403 10 12 0403 90 11 0403 90 31 0404 10 12 0404 10 34 0404 10 56 0404 10 78 0404 90 11 0404 90 31 0404 90 51 0404 90 91 2309 10 15 2309 10 19 2309 10 39 2309 10 59 2309 10 70 2309 90 35 2309 90 39 2309 90 49 2309 90 59 2309 90 70	Milk powder, obtained by the spray process, with a fat content of less than 1,5 % by weight and a water content of less than 5 % by weight in packages normally used in the trade of a net content of 25 kg or more
3	0402 21 0402 29 0403 10 04 0403 10 06 0403 10 14 0403 10 16 0403 90 13 0403 90 19 0403 90 33 0403 90 39 0404 10 04 0404 10 06 0404 10 14 0404 10 16 0404 10 28 0404 10 32 0404 10 36 0404 10 38 0404 10 52 0404 10 54 0404 10 58 0404 10 62 0404 10 74 0404 10 76 0404 10 82 0404 10 84 0404 90 13 0404 90 19 0404 90 33 0404 90 39 0404 90 53 0404 90 59 0404 90 93 0404 90 99	Milk powder, obtained by the spray process, with a fat content of 26 % by weight and a water content of less than 5 % by weight, in packages normally used in the trade of a net content of 25 kg or more

*Article 3*

This Regulation shall enter into force on 1 January 1992.

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

Done at Brussels, 19 December 1991.

*For the Council*

*The President*

P. DANKERT

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## ANNEX I

CN code	Description	Rate of duty		Supplementary unit
		autonomous (%) or levy (AGR)	conventional (%)	
1	2	3	4	5
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:			
0404 10	- Whey and modified whey, whether or not concentrated or containing added sugar or other sweetening matter:			
	- - In powder, granule or other solid forms:			
	- - - Not containing sugar or other sweetening matter, of a protein content (nitrogen content $\times$ 6,38), by weight:			
	- - - - Not exceeding 15 % and of a fat content, by weight:			
0404 10 02	- - - - - Not exceeding 1,5 %	18 (AGR)	—	—
0404 10 04	- - - - - Exceeding 1,5 % but not exceeding 27 %	18 (AGR)	—	—
0404 10 06	- - - - - Exceeding 27 %	18 (AGR)	—	—
	- - - - - Exceeding 15 % and of a fat content, by weight:			
0404 10 12	- - - - - Not exceeding 1,5 %	18 (AGR)	—	—
0404 10 14	- - - - - Exceeding 1,5 % but not exceeding 27 %	18 (AGR)	—	—
0404 10 16	- - - - - Exceeding 27 %	18 (AGR)	—	—
	- - - Other, of a protein content (nitrogen content $\times$ 6,38), by weight:			
	- - - - Not exceeding 15 % and of a fat content, by weight:			
0404 10 26	- - - - - Not exceeding 1,5 %	23 (AGR)	—	—
0404 10 28	- - - - - Exceeding 1,5 % but not exceeding 27 %	23 (AGR)	—	—
0404 10 32	- - - - - Exceeding 27 %	23 (AGR)	—	—
	- - - - - Exceeding 15 % and of a fat content, by weight:			
0404 10 34	- - - - - Not exceeding 1,5 %	23 (AGR)	—	—
0404 10 36	- - - - - Exceeding 1,5 % but not exceeding 27 %	23 (AGR)	—	—
0404 10 38	- - - - - Exceeding 27 %	23 (AGR)	—	—
	- - - Other:			
	- - - - Not containing added sugar or other sweetening matter, of a protein content (nitrogen content $\times$ 6,38), by weight:			
	- - - - - Not exceeding 15 % and of a fat content, by weight:			
0404 10 48	- - - - - Not exceeding 1,5 %	18 (AGR)	—	—
0404 10 52	- - - - - Exceeding 1,5 % but not exceeding 27 %	18 (AGR)	—	—
0404 10 54	- - - - - Exceeding 27 %	18 (AGR)	—	—
	- - - - - Exceeding 15 % and of a fat content, by weight:			
0404 10 56	- - - - - Not exceeding 1,5 %	18 (AGR)	—	—
0404 10 58	- - - - - Exceeding 1,5 % but not exceeding 27 %	18 (AGR)	—	—
0404 10 62	- - - - - Exceeding 27 %	18 (AGR)	—	—
	- - - Other, of a protein content (nitrogen content $\times$ 6,38), by weight:			
	- - - - Not exceeding 15 % and of a fat content, by weight:			
0404 10 72	- - - - - Not exceeding 1,5 %	23 (AGR)	—	—
0404 10 74	- - - - - Exceeding 1,5 % but not exceeding 27 %	23 (AGR)	—	—
0404 10 76	- - - - - Exceeding 27 %	23 (AGR)	—	—
	- - - - - Exceeding 15 % and of a fat content, by weight:			
0404 10 78	- - - - - Not exceeding 1,5 %	23 (AGR)	—	—
0404 10 82	- - - - - Exceeding 1,5 % but not exceeding 27 %	23 (AGR)	—	—
0404 10 84	- - - - - Exceeding 27 %	23 (AGR)	—	—

## ANNEX II

CN code 1 January 1993	CN code 1992	Taric Subdivision
0404 10 02	0404 10 11	11
0404 10 04	0404 10 11	14
0404 10 06	0404 10 11	17
0404 10 12	0404 10 11	21
0404 10 14	0404 10 11	24
0404 10 16	0404 10 11	27
0404 10 26	0404 10 19	11
0404 10 28	0404 10 19	14
0404 10 32	0404 10 19	17
0404 10 34	0404 10 19	21
0404 10 36	0404 10 19	24
0404 10 38	0404 10 19	27
0404 10 48	0404 10 91	11
0404 10 52	0404 10 91	14
0404 10 54	0404 10 91	17
0404 10 56	0404 10 91	21
0404 10 58	0404 10 91	24
0404 10 62	0404 10 91	27
0404 10 72	0404 10 99	11
0404 10 74	0404 10 99	14
0404 10 76	0404 10 99	17
0404 10 78	0404 10 99	21
0404 10 82	0404 10 99	24
0404 10 84	0404 10 99	27