

**COMMISSION REGULATION (EC) No 1353/98**  
**of 26 June 1998**  
**amending Regulation (EEC) No 3846/87 establishing an agricultural product**  
**nomenclature for export refunds**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,  
Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organisation of the market in milk and milk products <sup>(1)</sup>, as last amended by Regulation (EC) No 1587/96 <sup>(2)</sup>, and in particular Article 17(14) thereof,

Whereas Commission Regulation (EEC) No 3846/87 <sup>(3)</sup>, as last amended by Regulation (EC) No 707/98 <sup>(4)</sup>, establishes an agricultural product nomenclature for export refunds based on the Combined Nomenclature; whereas the footnotes to Sector 9 of the Annex to that Regulation lay down rules to be followed when granting and calculating refunds on milk and milk products;

Whereas Regulation (EC) No 707/98 amends the method of calculating refunds on certain sweetened condensed milk; whereas calculation is now based on a standard composition of 60 % milk and 40 % sucrose; whereas it transpires that the composition of certain products has been specifically formulated to obtain an abnormally high refund amount; whereas, as a result, the agricultural product refund nomenclature should be adjusted by laying down a minimum sucrose content for the products concerned;

Whereas certain provisions in the footnotes give rise to different interpretations; whereas those provisions should be clarified;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Milk and Milk Products,

HAS ADOPTED THIS REGULATION:

*Article 1*

Sector 9 of the Annex to Regulation (EEC) No 3846/87 is hereby amended as follows:

1. The particulars relating to CN codes 0402 99, 0404 90 81 and 0404 90 83 are replaced by those in Annex I hereto.
2. Footnotes 4 and 14 are replaced by the footnotes in Annex II hereto.

*Article 2*

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

It shall apply from 1 July 1998.

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

Done at Brussels, 26 June 1998.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 148, 28. 6. 1968, p. 13.

<sup>(2)</sup> OJ L 206, 16. 8. 1996, p. 21.

<sup>(3)</sup> OJ L 366, 24. 12. 1987, p. 1.

<sup>(4)</sup> OJ L 98, 31. 3. 1998, p. 11.

## ANNEX I

CN code	Description of goods	Product code
0402 99	— — Other ( <sup>14</sup> ):	
	— — — Of a fat content, by weight, not exceeding 9,5 %:	
0402 99 11	— — — — In immediate packings of a net content not exceeding 2,5 kg:	
	— — — — — Of a non-fat lactic dry matter content of less than 15 % and of a fat content, by weight:	
	— — — — — — Not exceeding 3 %	0402 99 11 9110
	— — — — — — Exceeding 3 % but not exceeding 6,9 %	0402 99 11 9130
	— — — — — — Exceeding 6,9 %	0402 99 11 9150
	— — — — — Of a sucrose content of 40 % or more by weight, of a non-fat lactic dry matter content of 15 % or more and of a fat content, by weight:	
	— — — — — — Not exceeding 3 %	0402 99 11 9310
	— — — — — — Exceeding 3 % but not exceeding 6,9 %	0402 99 11 9330
	— — — — — — Exceeding 6,9 %	0402 99 11 9350
0402 99 19	— — — — Other:	
	— — — — — Of a non-fat lactic dry matter content of less than 15 %, and of a fat content, by weight:	
	— — — — — — Not exceeding 3 %	0402 99 19 9110
	— — — — — — Exceeding 3 % but not exceeding 6,9 %	0402 99 19 9130
	— — — — — — Exceeding 6,9 %	0402 99 19 9150
	— — — — — Of a sucrose content of 40 % or more by weight, of a non-fat lactic dry matter content of 15 % or more and of a fat content, by weight:	
	— — — — — — Not exceeding 3 %	0402 99 19 9310
	— — — — — — Exceeding 3 % but not exceeding 6,9 %	0402 99 19 9330
	— — — — — — Exceeding 6,9 %	0402 99 19 9350
	— — — — — Of a fat content, by weight, exceeding 9,5 % but not exceeding 45 %:	
0402 99 31	— — — — In immediate packings not exceeding 2,5 kg:	
	— — — — — Of a fat content, by weight, not exceeding 21 %:	
	— — — — — — Of a non-fat lactic dry matter content, by weight, of less than 15 %	0402 99 31 9110
	— — — — — — Of a sucrose content of 40 % or more by weight and of a non-fat lactic dry matter content, by weight, of 15 % or more	0402 99 31 9150
	— — — — — — Of a fat content, by weight, exceeding 21 % but not exceeding 39 %	0402 99 31 9300
	— — — — — — Of a fat content, by weight, exceeding 39 %	0402 99 31 9500
0402 99 39	— — — — Other:	
	— — — — — Of a fat content, by weight, not exceeding 21 %:	
	— — — — — — Of a non-fat lactic dry matter content, by weight, of less than 15 %	0402 99 39 9110
	— — — — — — Of a sucrose content of 40 % or more by weight and of a non-fat lactic dry matter content, by weight, of 15 % or more	0402 99 39 9150
	— — — — — — Of a fat content, by weight, exceeding 21 % but not exceeding 39 %	0402 99 39 9300
	— — — — — — Of a fat content, by weight, exceeding 39 %	0402 99 39 9500
	— — — — — Of a fat content, by weight, exceeding 45 %:	
0402 99 91	— — — — In immediate packing not exceeding 2,5 kg	0402 99 91 9000

CN code	Description of goods	Product code
0402 99 99	— — — — Other	0402 99 99 9000
	— — Other, of a fat content by weight:	
0404 90 81	— — — Not exceeding 1,5 %:	
	— — — — In powder or granules (*)	0403 90 81 9100
	— — — — Other, of a non-fat lactic dry matter content:	
	— — — — — Of less than 15 % by weight (*)	0403 90 81 9910
	— — — — — Of 15 % or more by weight and of a sucrose content of 40 % or more by weight (*)	0403 90 81 9950
ex 0404 90 83	— — — Exceeding 1,5 % but not exceeding 27 %:	
	— — — — In powder or granules (*):	
	— — — — — Of a fat content by weight:	
	— — — — — — Not exceeding 11 %	0404 90 83 9110
	— — — — — — Exceeding 11 % but not exceeding 17 %	0404 90 83 9130
	— — — — — — Exceeding 17 % but not exceeding 25 %	0404 90 83 9150
	— — — — — — Exceeding 25 %	0404 90 83 9170
	— — — — Other than in powder or granules:	
	— — — — — Of a non-fat lactic dry matter content of less than 15 % by weight and a fat content by weight (*):	
	— — — — — — Not exceeding 3 %	0404 90 83 9911
	— — — — — — Exceeding 3 % but not exceeding 6 %	0404 90 83 9913
	— — — — — — Exceeding 6 % but not exceeding 10 %	0404 90 83 9915
	— — — — — — Exceeding 10 % but not exceeding 17 %	0404 90 83 9917
	— — — — — — Exceeding 17 %	0404 90 83 9919
	— — — — — Of a sucrose content of 40 % or more by weight, of a non-fat lactic dry matter content of not less than 15 % by weight and a fat content by weight (*):	
	— — — — — — Not exceeding 3 %	0404 90 83 9931
	— — — — — — Exceeding 3 % but not exceeding 6,9 %	0404 90 83 9933
	— — — — — — Exceeding 6,9 % but not exceeding 9,5 %	0404 90 83 9935
	— — — — — — Exceeding 9,5 % but not exceeding 21 %	0404 90 83 9937

## ANNEX II

(<sup>4</sup>) The refund per 100 kilograms of product falling within this subheading is equal to the sum of the following components:

(a) the amount per kilogram shown, multiplied by the weight of lactic matter contained in 100 kilograms of product.

However, where whey and/or products derived from whey and/or lactose and/or casein and/or caseinates and/or permeate and/or products covered by CN code 3504 have been added to the product, the amount per kilogram shown is to be multiplied by the weight of the lactic matter other than whey and/or products derived from whey and/or lactose and/or casein and/or caseinates and/or permeate and/or products covered by CN code 3504 added per 100 kilograms of product;

(b) a component calculated in accordance with Article 12(3) of Commission Regulation (EC) No 1466/95 (OJ L 144, 28.6.1995, p. 22).

When completing customs formalities, the applicant must state on the declaration provided for that purpose whether or not non-lactic matter and/or whey and/or products derived from whey and/or lactose and/or casein and/or caseinates and/or permeate and/or products covered by CN code 3504 have been added and, where this is the case:

— the actual content by weight of whey and/or products derived from whey and/or lactose and/or casein and/or caseinates and/or permeate and/or products covered by CN code 3504 and of sucrose and/or other non-lactic matter added per 100 kilograms of finished product,

and in particular,

— the lactose content of the added whey.

(<sup>14</sup>) Where the product contains non-lactic matter other than sucrose, the non-lactic matter other than sucrose is not to be taken into account for the purposes of calculating the refund.

The refund on 100 kilograms of product covered by this subheading is equal to the sum of the following components:

(a) the amount per kilogram shown, multiplied by the weight of the lactic matter per 100 kilograms of product;

(b) a component calculated in accordance with Article 12(3) of Commission Regulation (EC) No 1466/95 (OJ L 144, 28.6.1995, p. 22).

When completing customs formalities, the applicant must state on the declaration provided for that purpose the actual content by weight of sucrose and/or other non-lactic matter added per 100 kilograms of finished product.

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