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REGULATION (EEC) No 495/69 OF THE COMMISSION

of 18 March 1969

on the classification of goods under sub-headings Nos 18.06 D II (c) and 21.07 F VII of the Common Customs Tariff

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community;

Having regard to Council Regulation (EEC) No 97/69[1] of 16 January 1969 on measures to be taken for uniform application of the nomenclature of the Common Customs Tariff, and in particular Article 3 thereof;

Whereas provision must be made to ensure uniform application of the nomenclature of the Common Customs Tariff with a view to the classification of products having a relatively high fat content in which milkfats represent 45% or more but less than 65% of the total weight of those products which contain in particular sugar, an emulsifier and water, which may have been aerated, and which present the appearance of ice cream; whereas such products sometimes contain cocoa and are presented chilled or frozen;

Whereas the products in question are food preparations and must consequently be classified under heading No 18.06 if they contain cocoa or under heading No 21.07 if they do not contain cocoa;

Whereas, under those headings, sub-headings Nos 18.06 B and 21.07 C worded 'edible ice cream' cover only ices edible in the unaltered state; whereas ices as commonly sold in the trade do not always contain milkfats; whereas when they do contain milkfats the fat content does not usually exceed 15% by weight; whereas their basic characteristic is that they melt when the ambient temperature is about 0 °C;

Whereas the products in question cannot be eaten directly as ice cream, owing in particular to their high fat content, and whereas they do not melt when the ambient temperature is about 0 °C; whereas, consequently, they are excluded from sub-headings Nos 18.06 B and 21.07 C and whereas, because of their composition and nature, they fall within sub-heading No 18.06 D II (c) if they contain cocoa and sub-heading No 21.07 F VII if they do not contain cocoa;

Whereas the provisions of this Regulation are in accordance with the Opinion of the Committee on the Common Customs Tariff Nomenclature;

HAS ADOPTED THIS REGULATION:

Article 1

Products having a relatively high fat content by weight in which milkfats represent 45% or more but less than 65% of the total weight of such products, which in addition to cocoa contain in particular sugar, an emulsifier and water, whether or not aerated and presented chilled or frozen, shall fall within the following sub-heading of the Common Customs Tariff:

No 18.06 D II (c)

Chocolate and other food preparations containing cocoa, other, containing 26% or more by weight of milkfats.

[1] OJ No L 14, 21.1.1969, p. 1.

Article 2

Products having a relatively high fat content by weight in which milkfats represent 45% or more but less than 65% of the total weight of such products, which contain in particular sugar, an emulsifier and water, whether or not aerated and presented chilled or frozen, shall fall within the following sub-heading of the Common Customs Tariff:

No 21.07 F VII

Food preparations not elsewhere specified or included, other, containing 45% or more but less than 65% by weight of milkfats.

Article 3

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

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

Done at Brussels, 18 March 1969.

For the Commission

The President

Jean REY