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REGULATION (EEC) No 496/69 OF THE COMMISSION

of 18 March 1969

on the classification of goods under sub-headings Nos 21.07 F VIII and IX 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 difficulties may arise in connection with the classification in the nomenclature of the Common Customs Tariff of products containing 65% or more of milkfats in addition to other fats such as lard, suet or coconut oil and having the consistency and appearance of paste, which products are normally used in the fine pastry and biscuit-making industries;

Whereas under the Brussels Nomenclature, on the basis of which the Common Customs Tariff is established, the products in question cannot be placed under heading No 15.13; whereas butter and butyric fat are not animal fats falling within Chapter 15 but milk products; whereas although, in accordance with the Explanatory Note on heading No 15.13 of the Brussels Nomenclature, mixtures making up other prepared fats may contain added lecithin, starch, colouring, flavourings, vitamins or even butter, products consisting mainly of milkfats, as is the case with the goods in question, cannot be considered as containing added butter;

Whereas although the addition to butter of small quantities of other substances such as colouring substances, preserving or developing agents (for example sesame oil) may not be such as to change its tariff classification, the admixture with milkfats of other fats such as lard, suet or coconut oil, as in the present case, in quantities which cannot be regarded as being very small, results in products which do not have the characteristics of butter and must therefore be excluded from heading No 04.03;

Whereas these products must consequently be included in the food preparations, not elsewhere specified or included, falling within heading No 21.07 and, in view of their content of 65% or more by weight of milkfats, must be placed under sub-heading No 21.07 F VIII or IX;

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 containing 65% or more by weight of milkfats and containing other fats such as lard, suet or coconut oil and being normally used in the fine pastry and biscuit-making industries shall fall within the following sub-headings of the Common Customs Tariff:

No 21.07 F:

Food preparations not elsewhere included or specified, other:

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

VIII Containing 65% or more but less than 85% by weight of milkfats

IX Containing 85% or more by weight of milkfats.

Article 2

This Regulation shall enter into force on the 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