# COMMISSION REGULATION (EEC) No 440/87

## of 12 February 1987

## fixing the import levies on milk and milk products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Act of Accession of Spain and Portugal,

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 (1), as last amended by Regulation (EEC) No 231/87 (2), and in particular Article 14 (8) thereof,

Having regard to the opinion of the Monetary Committee,

Whereas Article 14 of Regulation (EEC) No 804/68 provides for charging a levy on imports of the products listed in Article 1 of that Regulation; whereas these products may be divided into groups; whereas the product groups and the pilot groups and the pilot product for each of these groups are set out in Annex I to Council Regulation (EEC) No 2915/79 of 18 December 1979 determining the groups of products and the special provisions for calculating levies on milk and milk products and amending Regulation (EEC) No 950/68 on the Common Customs Tariff (3), as last amended by Regulation (EEC) No 169/87 (4);

Whereas the levy on the products in any one group must be equal to the threshold price for the pilot product less the free-at-frontier price; whereas these threshold prices were fixed for the 1986/87 milk year by Council Regulation (EEC) No 1339/86 (5);

Whereas, however, Regulation (EEC) No 2915/79 lays down special provisions for calculating the levy on certain assimilated products; whereas these products are listed and the method of calculating the levy on them described in Annex II and in Articles 2 to 11 of that Regulation respectively; whereas this method consists in adding together the various components defined in those Articles;

Whereas Commission Regulation (EEC) No 1073/68 of 24 July 1968 laying down detailed rules for determining free-at-frontier prices and for fixing levies in respect of milk and milk products (6), provides that the component of the levy fixed by means of a coefficient expressing the weight ratio between the milk powder contained in the product and the product itself is, for the products falling within subheading 04.02 B I b), calculated by multiplying the basic amount by the quantity of milk powder contained in the product; whereas the same applies to products falling within subheading 04.02 B II b) as regards the component of the levy fixed by means of a coefficient expressing the weight ratio between the milk components contained in the product and the product itself;

Whereas the basic amount must be equal to one hundredth part of the levy set out for each product in the second subparagraph of Article 9 (1) and the second subparagraph of Article 9 (2) of Regulation (EEC) No 1073/68;

Whereas Annex II to Regulation (EEC) No 2915/79 listed certain products of Group 11 originating in and consigned from certain non-member countries; whereas the levy applicable to these products is set out in Annex I to Regulation (EEC) No 1767/82 (7), as last amended by Regulation (EEC) No 394/87 (8);

Whereas Commission Regulation (EEC) No 3700/81 of 23 December 1981 (9) laid down detailed interim rules in respect of the cheese agreements with Austria and Finland;

Whereas, within the tariff quotas referred to in Annex I to Regulation (EEC) No 1767/82, the levy on 100 kilograms of a product of Group 10 or 11 or falling within subheadings 04.04 E I b) 1 and b) 2 shall be the amount fixed in that Annex;

Whereas, for as long as it is found that on importation into the Community the price of an assimilated product for which the levy is not equal to the levy on its pilot product is considerably lower than the price which would obtain if the ratio to the price of the pilot product were normal, the levy must be equal to the sum of two components:

(1) OJ No L 148, 28. 6. 1968, p. 13.
(2) OJ No L 25, 28. 1. 1987, p. 3.
(3) OJ No L 329, 24. 12. 1979, p. 1.
(4) OJ No L 21, 23. 1. 1987, p. 9.
(5) OJ No L 119, 8. 5. 1986.
(6) OJ No L 180, 26. 7. 1968, p. 25.
(7) OJ No L 196, 5. 7. 1982, p. 1.
(8) OJ No L 40, 10. 2. 1987, p. 10.
(9) OJ No L 369, 24. 12. 1981, p. 33.

— one component equal to the amount resulting from the provisions of Articles 2 to 7 of Regulation (EEC) No 2915/79 applicable to the assimilated product in question,

— an additional component fixed at a level which, the composition and quality of the assimilated product being taken into account, makes it possible to re-establish normal price ratios for imports into the Community;

Whereas Article 14 (3) of Regulation (EEC) No 804/68 provides that the levy on products in respect of which the customs duty has been bound within GATT must be limited to the amount resulting from that binding;

Whereas Regulation (EEC) No 1073/68 provides that a free-at-frontier price must be established for each of the pilot products defined in Annex I to Regulation (EEC) No 2915/79; whereas these prices must be determined for products of good marketable quality;

Whereas the free-at-frontier prices must be established on the basis of the most favourable purchasing opportunities in international trade for the products listed in Article 1 (a) 2 and (b) to (g) of Regulation (EEC) No 804/68 other than assimilated products for which the levy is not equal to the levy on the related pilot products; whereas, when recording these purchasing opportunities, the Commission must take account of all information obtained direct or through the Member States concerning prices for delivery of third-country products free-at-Community-frontier and prices on third-country markets;

Whereas Regulation (EEC) No 788/86 [1], as amended by Regulation (EEC) No 1927/86 [2], specifies the free-at-Spanish-frontier values of certain cheeses imported from and originating in Switzerland.

Whereas, however, no account should be taken of information relating to small quantities which are not representative of trade in the products in question and quantities in respect of which price trends in general or other information available to it lead the Commission to believe that the price in question is unrepresentative of the real trend of the market;

Whereas the prices used must be adjusted where they are not quoted free-at-Community-frontier or where they do not apply to products of good marketable quality; whereas the adjustment in respect of an assimilated product the levy on which is equal to the levy on its pilot product must be effected in such a way as to allow, in particular, for differences in composition, maturity, quality and presentation between the assimilated product and the related pilot product; whereas adjustments relating to composition must be calculated by multiplying the difference between the milk component content of the pilot product and that of the assimilated product in question by the value attributed in international trade to one unit of weight of the milk component in question; whereas, when the other adjustments are being effected, the difference between the value attributed on the Community market to each of the relevant characteristics of the pilot product and the value attributed on that market to the corresponding characteristics of the assimilated product in question must be taken into account;

Whereas, if no information on prices is available, the free-at-frontier price may, by way of exception, be established on the basis of the value of the raw materials contained in the pilot product in question (calculated on the basis of the prices of milk products for which prices are available), average processing costs and average yields;

Whereas, in exceptional circumstances, a free-at-frontier price may remain unchanged for a limited period where the new level of the price for a given quality or a specific origin, used as a basis for establishing the previous free-at-frontier price, has not reached the Commission to enable it to establish the next free-at-frontier price and if the Commission considers that the prices which are available could lead to sudden and considerable changes in the free-at-frontier price because they are not sufficiently representative of real market trends;

Whereas, in accordance with Article 19 (1) of Regulation (EEC) No 804/68, the nomenclature provided for in this Regulation is incorporated in the Common Customs Tariff;

Whereas Article 8 of Regulation (EEC) No 1073/68 provides that the levies are fixed every fortnight; whereas they may be altered in the intervening period if necessary; whereas the levy remains valid until another becomes applicable;

Whereas, if the levy system is to operate normally, refunds should be calculated on the following basis:

— in the case of currencies which are maintained in relation to each other at any given moment within a band of 2,25 %, a rate of exchange based on their central rate, multiplied by the coefficient provided for in the last subparagraph of Article 3 (1) of Regulation (EEC) No 1676/85 [3].

[1] OJ No L 74, 19. 3. 1986, p. 20.
[2] OJ No L 167, 24. 6. 1986, p. 11.
[3] OJ No L 164, 24. 6. 1985, p. 1.

— for other currencies, an exchange rate based on the arithmetic mean of the spot market rates of each of these currencies recorded over a given period in relation to the Community currencies referred to in the previous indent and the aforesaid coefficient;

Whereas it follows from applying these provisions that the levies on milk and milk products should be as set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

*Article 1*

The import levies referred to in Article 14 (1) of Regulation (EEC) No 804/68 shall be as set out in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 16 February 1987.

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

Done at Brussels, 12 February 1987.

*For the Commission*

Frans ANDRIESSEN

*Vice-President*

*ANNEX*

**to the Commission Regulation of 12 February 1987 fixing the import levies on milk and milk products**

*(ECU/100 kg net weight, unless otherwise indicated)*

| CCT heading No | Code | Import levy |
|---|---|---|
| 04.01 A I a) | 0110 | 33,55 |
| 04.01 A I b) | 0120 | 31,14 |
| 04.01 A II a) 1 | 0130 | 31,14 |
| 04.01 A II a) 2 | 0140 | 38,18 |
| 04.01 A II b) 1 | 0150 | 29,93 |
| 04.01 A II b) 2 | 0160 | 36,97 |
| 04.01 B I | 0200 | 76,88 |
| 04.01 B II | 0300 | 162,62 |
| 04.01 B III | 0400 | 251,33 |
| 04.02 A I | 0500 | 32,16 |
| 04.02 A II a) 1 | 0620 | 163,16 |
| 04.02 A II a) 2 | 0720 | 218,13 |
| 04.02 A II a) 3 | 0820 | 220,55 |
| 04.02 A II a) 4 | 0920 | 260,81 |
| 04.02 A II b) 1 | 1020 | 155,91 |
| 04.02 A II b) 2 | 1120 | 210,88 |
| 04.02 A II b) 3 | 1220 | 213,30 |
| 04.02 A II b) 4 | 1320 | 253,56 |
| 04.02 A III a) 1 | 1420 | 30,14 |
| 04.02 A III a) 2 | 1520 | 40,69 |
| 04.02 A III b) 1 | 1620 | 162,62 |
| 04.02 A III b) 2 | 1720 | 251,33 |
| 04.02 B I a) | 1820 | 36,27 |
| 04.02 B I b) 1 aa) | 2220 | per kg 1,5591 (4) |
| 04.02 B I b) 1 bb) | 2320 | per kg 2,1088 (4) |
| 04.02 B I b) 1 cc) | 2420 | per kg 2,5356 (4) |
| 04.02 B I b) 2 aa) | 2520 | per kg 1,5591 (5) |
| 04.02 B I b) 2 bb) | 2620 | per kg 2,1088 (5) |
| 04.02 B I b) 2 cc) | 2720 | per kg 2,5356 (5) |
| 04.02 B II a) | 2820 | 52,91 |
| 04.02 B II b) 1 | 2910 | per kg 1,6262 (5) |
| 04.02 B II b) 2 | 3010 | per kg 2,5133 (5) |
| 04.03 A | 3110 | 295,68 |
| 04.03 B | 3210 | 360,73 |
| 04.04 A | 3300 | 225,73 (6) |
| 04.04 B | 3900 | 379,35 (7) |
| 04.04 C | 4000 | 157,44 (8) |
| 04.04 D I a) | 4410 | 210,17 (9) |
| 04.04 D I b) | 4510 | 220,52 (9) |
| 04.04 D II | 4610 | 317,24 |
| 04.04 E I a) | 4710 | 379,35 |
| 04.04 E I b) 1 | 4800 | 253,33 (10) |

*(ECU/100 kg net weight, unless otherwise indicated)*

| CCT heading No | Code | Import levy |
|---|---|---|
| 04.04 E I b) 2 | 5000 | 229,12 (11) |
| 04.04 E I c) 1 | 5210 | 171,84 |
| 04.04 E I c) 2 | 5250 | 325,84 |
| 04.04 E II a) | 5310 | 379,35 |
| 04.04 E II b) | 5410 | 325,84 |
| 17.02 A II | 5500 | 41,95 (12) |
| 21.07 F I | 5600 | 41,95 |
| 23.07 B I a) 3 | 5700 | 119,35 |
| 23.07 B I a) 4 | 5800 | 155,21 |
| 23.07 B I b) 3 | 5900 | 145,62 |
| 23.07 B I c) 3 | 6000 | 120,57 |
| 23.07 B II | 6100 | 155,21 |

(1) For the purposes of this tariff subheading, 'special milk for infants' means products free from pathogenic toxicogenic germs and containing per gram less than 10 000 revivifiable aerobic bacteria and less than two coliform bacteria.

(2) Inclusion under this tariff subheading is subject to conditions to be laid down by the competent authorities.

(3) In calculating the fat content the weight of any added sugar shall be disregarded.

(4) The levy on 100 kg of product falling within this subheading is equal to the sum of the following components:
(a) the amount per kg shown, multiplied by the weight of milk and cream contained in 100 kg of product;
(b) 7,25 ECU; and
(c) 25,78 ECU.

(5) The levy on 100 kg of product falling within this subheading is equal to the sum of the following components:
(a) the amount per kg shown, multiplied by the weight of milk and cream contained in 100 kg of product; and
(b) 25,78 ECU.

(6) The levy is limited to:
— 18,13 ECU per 100 kg net weight for products listed under (a) in Annex I to Regulation (EEC) No 1767/82 imported from Switzerland and for products listed under (c) of that Annex imported from Austria or Finland,
— 9,07 ECU per 100 kg net weight for products listed under (b) of Annex I to Regulation (EEC) No 1767/82 imported from Switzerland.

(7) The levy is limited to 6 % of the customs value for imports from Switzerland, in accordance with Article 1 (3) of Regulation (EEC) No 1767/82.

(8) The levy is limited to 50 ECU per 100 kg net weight for products listed under (o) and (p) of Annex I to Regulation (EEC) No 1767/82 imported from Austria.

(9) The levy is limited to 36,27 ECU per 100 kg net weight for products listed under (g) of Annex I to Regulation (EEC) No 1767/82 imported from Switzerland and for products listed under (h) of that Annex imported from Austria or Finland.

(10) The levy per 100 kg net weight is limited to:
— 12,09 ECU for products listed under (d) of Annex I to Regulation (EEC) No 1767/82 imported from Canada,
— 15,00 ECU for products listed under (e) and (f) of that Annex imported from Australia or New Zealand.

(11) The levy is limited to:
— 77,70 ECU per 100 kg net weight for products listed under (i) of Annex I to Regulation (EEC) No 1767/82 imported from Romania or Switzerland,
— 50 ECU for products listed under (o) and (p) of that Annex imported from Austria,
— 101,88 ECU per 100 kg net weight for products listed under (k) of that Annex imported from Romania or Switzerland,
— 65,61 ECU per 100 kg net weight for products listed under (l) of that Annex imported from Bulgaria, Hungary, Israel, Romania, Turkey or Yugoslavia and for products listed under (m) of that Annex imported from Bulgaria, Hungary, Israel, Romania, Turkey, Cyprus or Yugoslavia,
— 55 ECU per 100 kg net weight for products listed under (n) of that Annex imported from Austria and for products listed under (r) of that Annex imported from Norway,
— 60 ECU per 100 kg net weight for products listed under (s) of that Annex imported from Finland,
— 18,13 ECU per 100 kg net weight for products listed under (q) of that Annex imported from Finland,
— 15,00 ECU for products listed under (f) of that Annex imported from Australia and New Zealand.

(12) Lactose and lactose syrup falling within subheading 17.02 A I are, in pursuance of Regulation (EEC) No 2730/75, subject to the same levy as that applicable to lactose and lactose syrup falling within subheading 17.02 A II.

(13) For the purposes of tariff subheading ex 23.07 B 'milk products' means the products falling within tariff headings and subheadings 04.01, 04.02, 04.03, 04.04, 17.02 A and 21.07 F I.