COMMISSION REGULATION (EC) No 1264/98

of 17 June 1998

concerning the classification of certain goods in the combined nomenclature

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2658/87 of 23 July 1987 ([1]) on the tariff and statistical nomenclature and on the Common Customs Tariff, as last amended by Commission Regulation (EC) No 1048/98 ([2]), and in particular Article 9,

Whereas in order to ensure uniform application of the combined nomeclature annexed to the said Regulation, it is necessary to adopt measures concerning the classification of the goods referred to in the Annex to this Regulation;

Whereas Regulation (EEC) No 2658/87 has set down the general rules for the interpretation of the combined nomenclature and those rules also apply to any other nomenclature which is wholly or partly based on it or which adds any additional subdivision to it and which is established by specific Community provisions, with a view to the application of tariff and other measures relating to trade in goods;

Whereas, pursuant to the said general rules, the goods described in column 1 of the table annexed to the present Regulation must be classified under the appropriate CN codes indicated in column 2, by virute of the reasons set out in column 3;

Wheres it is acceptance that binding tariff information issued by the customs authorities of Member States in respect of the classification of goods in the combined nomenclature and which do not conform to the rights established by this Regulation, can continue to be invoked, under the provisions in Article 12(6) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code ([3]), for a period of three months by the holder;

Whereas the tariff and statistical nomenclature section of the Customs Code Committee has not delivered an opinion within the time set by its chairman as regards products No 2, 4, 6 and 7 in the annexed table;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the the tariff and statistical nomenclature section of the Customs Code Committee as regards products No 1, 3 and 5,

HAS ADOPTED THIS REGULATION:

Article 1

The goods described in column 1 of the annexed table are now classified within the combined nomenclature under the appropriate CN codes indicated in column 2 of the said table.

Article 2

Binding tariff information issued by the customs authorities of Member States which do not conform to the rights established by this Regulation can continue to be invoked under the provisions of Article 12(6) of Regulation (EEC) No 2913/92 for a period of three months.

Article 3

This Regulation shall enter into force on the 21st 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, 17 June 1998.

For the Commission
Mario MONTI
Member of the Commission

([1]) OJ L 256, 7. 9. 1987, p. 1.
([2]) OJ L 151, 21. 5. 1998, p. 1.
([3]) OJ L 302, 19. 10. 1992, p. 1.

ANNEX

Description of goods	Heading number	Reasons
(1)	(2)	(3)
1. A powder, consisting of 80 % by weight of whole milk powder and 20 % by weight of lactoserum, with the following constituents (% by weight): — water: 5 — protein: 21 — milk fat: 24 — ash: 6 — lactose: 44	0404 90 23	Classification is determined by General Rules 1 and 6 for the interpretation of the Combined Nomenclature and by the wording of CN codes 0404, 0404 90 and 0404 90 23
2. A powder, consisting of 80 % by weight of milk powder and 20 % by weight of other ingredients (8 % lactose, 11,8 % malto-dextrin with a reducing sugar content, expressed as dextrose on the dry substance, exceeding 10 % but less than 20 %, and minerals, lecithin and vitamins), with the following constituents (% by weight): — lactose: 41 — milk fat: 21 — milk protein: 21 — malto-dextrin: 12	0404 90 83	Classification is determined by General Rules 1 and 6 for the interpretation of the Combined Nomenclature and by the wording of CN codes 0404, 0404 90 and 0404 90 83
3. Product in the form of a block of irregular yellowish/greyish granules with a cheese smell, frozen, with the following characteristics (% by weight): — dry matter: 60 — milk fat: 28 — protein: 27 — whey protein: 3,5 — lactose: 1,0 — ash: 3,3 — sodium chloride: 0,7	0406 10 20	Classification is determined by General Rules 1 and 6 for the interpretation of the Combined Nomenclature and by the wording of CN codes 0406, 0406 10 and 0406 10 20 Because of the small lactose and whey protein content the product should be regarded as a curd
4. Food preparation in the form of a ball, capable of being consumed in a single mouthful, coated with gum arabic, mainly consisting of milk chocolate, sugar, rum, shredded coconut, cocoa paste and cocoa butter	1806 90 11	Classification is determined by General Rules 1 and 6 for the interpretation of the Combined Nomenclature, Additional Note 2 to Chapter 18 and by the wording of CN codes 1806, 1806 90 and 1806 90 11
5. Food supplement in capsules containing malto-dextrin (70 %), magnesium stearate (3 %) and ascorbic acid (0,5 %) with added lactic ferments *(Bifidobacterium breve* and *B. longum, Lactobacillus acidophilus* and *L. rhamnosus,* approximately 1 billion per gram)	2106 90 98	Classification is determined by General Rules 1 and 6 for the interpretation of the Combined Nomenclature and by the wording of CN codes 2106, 2106 90 and 2106 90 98
6. Mixture of rape oil (98 %) and petrol (2 %)	3824 90 95	Classification is determined by General Rules 1 and 6 for the interpretation of the Combined Nomenclature and by the wording of CN codes 3824, 3824 90 and 3824 90 95 The addition of 2 % petrol confers the character of a fuel to the product

Description of goods	Heading number	Reasons
(1)	(2)	(3)
7. Mixture of rape oil (98 %) and a mixture (2 %) consisting of diesel and other heavy oils	3824 90 95	Classification is determined by General Rules 1 and 6 for the interpretation of the Combined Nomenclature and by the wording of CN codes 3824, 3824 90 and 3824 90 95 The addition of 2 % of a mixture of diesel and other heavy oil confers the character of a fuel to the product