COMMISSION REGULATION (EC) No 381/1999

of 19 February 1999

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 [1], as last amended by Regulation (EC) No 1587/96 [2], and in particular Article 17(14) thereof,

Whereas Commission Regulation (EEC) No 3846/87 [3], as last amended by Regulation (EC) No 2742/98 [4], establishes, on the basis of the Combined Nomenclature, an agricultural product nomenclature for export refunds; whereas it lays down the requirements relating to the product codes for cheeses on which refunds are granted, in particular as regards their maximum water and minimum fat content; whereas the requirements for certain cheeses should be amended in order to reflect better the situation of the product exported;

Whereas the footnotes in Section 9 of the Annex to the Regulation contain the rules to be applied to the grant and calculation of the refunds on milk and milk products; whereas the rules provide that refunds are not to be granted in respect of non-lactic matter other than sucrose; whereas very small quantities of such matter are required for the manufacture and/or preservation of certain products; whereas, in order to avoid practical difficulties when determining these added quantities, they should not be taken into account up to a certain content; whereas the footnotes should be amended accordingly;

Whereas the wording of footnote 1 has resulted in differing interpretations and applications for liquid products falling within CN codes 0401, 0403 and 0404 since 1 April 1998; whereas the wording should be clarified to ensure uniform application to all liquid milk products and to enable interested parties who so request to make use of the clarification retroactively;

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

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

1. the description for CN code 0401 reads as follows:

   'Milk and cream, not concentrated nor containing added sugar or other sweetening matter ([15]):';

2. the data concerning CN codes ex 0406 90 87 and ex 0406 90 88 are replaced by the data contained in Annex I;

3. footnotes 1, 2, 4, 13 and 14 are replaced by the footnotes shown in Annex II;

4. the following footnote 15 is added:

   '([15]) The products referred to may contain small amounts of additives required for their manufacture or preservation. Where these additives do not exceed 0,5 % by weight of the whole product, they are to be taken into account for the purposes of calculating the refund. However, where these additives exceed in total 0,5 % by weight of the whole product, they are not to be taken into account for the purposes of calculating the refund.

   When completing customs formalities, the applicant must state on the declaration provided for that purpose whether or not products have been added and, where this is the case, the maximum additive content.'

Article 2

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

However, at the request of the applicant, point 3 of Article 1 shall apply with effect from 1 April 1998 in respect of the application of footnote 1.

[1] OJ L 148, 28. 6. 1968, p. 13.
[2] OJ L 206, 16. 8. 1996, p. 21.
[3] OJ L 366, 24. 12. 1987, p. 1.
[4] OJ L 348, 23. 12. 1998, p. 1.

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

Done at Brussels, 19 February 1999.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX I

CN code	Description of goods	Additional requirements for using the product code		Product code
		Maximum water content in product weight (%)	Minimum fat content in dry weight (%)	
‘ex 0406 90 87	– – – – – – – – – Exceeding 52 % but not exceeding 62 %:			
	– – – – – – – – – – Cheese produced from whey, except for Manouri			0406 90 87 9100
	– – – – – – – – – – Other, of a fat content, by weight, in the dry matter:			
	– – – – – – – – – – – Of less than 5 %	60		0406 90 87 9200
	– – – – – – – – – – – Of 5 % or more but less than 19 %	55	5	0406 90 87 9300
	– – – – – – – – – – – Of 19 % or more but less than 40 %	53	19	0406 90 87 9400
	– – – – – – – – – – – Of 40 % or more:			
	– – – – – – – – – – – – Idiazabal, Manchego and Roncal, manufactured exclusively from sheep’s milk	45	45	0406 90 87 9951
	– – – – – – – – – – – – Maasdam	45	45	0406 90 87 9971
	– – – – – – – – – – – – Manouri	43	53	0406 90 87 9972
	– – – – – – – – – – – – Hushållsost	46	45	0406 90 87 9973
	– – – – – – – – – – – – Murukoloinen	41	50	0406 90 87 9974
	– – – – – – – – – – – – Gräddost	39	60	0406 90 87 9975
	– – – – – – – – – – – – Other	47	40	0406 90 87 9979
ex 0406 90 88	– – – – – – – – – Exceeding 62 % but not exceeding 72 %:			
	– – – – – – – – – – Cheeses produced from whey			0406 90 88 9100
	– – – – – – – – – – Other:			
	– – – – – – – – – – – Of a fat content, by weight, in the dry matter:			
	– – – – – – – – – – – – Of 10 % or more but less than 19 %	60	10	0406 90 88 9300’

ANNEX II

'([1]) Where the product falling within this subheading contains added 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, the added 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 must not be taken into account in the calculation of the refund.

The products referred to may contain small quantities of added non-lactic matter required for their manufacture or preservation. Where these additives do not exceed 0,5 % by weight of the whole product, they are to be taken into account for the purposes of calculating the refund. However, where these additives exceed in total 0,5 % by weight of the whole product, they are not to be taken into account for the purposes of calculating the refund.

If the product falling within this subheading consists of permeate, no export refund is payable.

When completing customs formalities, the applicant must state on the declaration provided for that purpose whether the product consists of permeate or 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 maximum content by weight of 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 added per 100 kilograms of finished product,

and in particular,

— the lactose content of the added whey.

([2]) Where the product falling within this subheading contains added 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, the added 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 must not be taken into acount in the calculation of the refund.

The products referred to may contain small quantities of added non-lactic matter required for their manufacture or preservation. Where these additives do not exceed 0,5 % by weight of the whole product, they are to be taken into account for the purposes of calculating the refund. However, where these additives exceed in total 0,5 % by weight of the whole product, they are not to be taken into account for the purposes of calculating the refund.

If the product falling within this subheading consists of permeate, no export refund is payable.

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

— the maximum content by weight of 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 added per 100 kilograms of finished product,

and in particular,

— the lactose content of the added whey.'

'([4]) 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 the lactic matter contained in 100 kilograms of product. The products referred to may contain small quantities of added non-lactic matter required for their manufacture of preservation. Where these additives do not exceed 0,5 % by weight of the whole product, they are to be taken into account for the purposes of calculating the refund. However, where these additives exceed in total 0,5 % by weight of the whole product, they are not to be taken into account for the purposes of calculating the refund.

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 16(3) of Commission Regulation (EC) No 174/1999 (OJ L 20, 27.1.1999, p. 8).

When completing customs formalities, the applicant must state on the declaration provided for that purpose whether the product consists of permeate or 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 maximum content by weight of sucrose and/or other 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 added per 100 kilograms of finished product,

and in particular,

— the lactose content of the added whey.

If the lactic matter in the product consists of permeate, no export refund is payable.'

'([13]) The products referred to may contain small quantities of added non-lactic matter required for their manufacture or preservation. Where these additives do not exceed 0,5 % by weight of the whole product, they are to be taken into account for the purposes of calculating the refund. However, where these additives exceed in total 0,5 % by weight of the whole product, they are not to be taken into account for the purposes of calculating the refund.

When completing customs formalities, the applicant must state on the declaration provided for that purpose whether or not non-lactic matter has been added and, where this is the case, the maximum content by weight of the non-lactic matter added per 100 kilograms of finished product.

([14]) The refund per 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 contained in 100 kilograms of product. The products referred to may contain small quantities of added non-lactic matter required for their manufacture or preservation. Where these additives do not exceed 0,5 % by weight of the whole product, they are to be taken into account for the purposes of calculating the refund. However, where these additives exceed in total 0,5 % by weight of the whole product, they are not to be taken into account for the purposes of calculating the refund;

(b) a component calculated in accordance with Article 16(3) of Commission Regulation (EC) No 174/1999 (OJ L 20, 27.1.1999, p. 8).

When completing customs formalities, the applicant must state on the declaration provided for that purpose the maximum content by weight of sucrose and whether or not non-lactic matter has been added and, where this is the case, the maximum content by weight of non-lactic matter added per 100 kilograms of finished product.'