Commission Regulation (EC) No 1989/2004 of 19 November 2004 concerning the classification of certain goods in the Combined Nomenclature

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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 on the tariff and statistical nomenclature and on the Common Customs Tariff[(1)], and in particular Article 9(1) (a) thereof,

Whereas:

(1) In order to ensure uniform application of the Combined Nomenclature annexed to Regulation (EEC) No 2658/87, it is necessary to adopt measures concerning the classification of the goods referred to in the Annex to this Regulation.

(2) Regulation (EEC) No 2658/87 has laid down the general rules for the interpretation of the Combined Nomenclature. 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.

(3) Pursuant to the said general rules, the goods described in column 1 of the table set out in the Annex to this Regulation should be classified under the CN codes indicated in column 2, by virtue of the reasons set out in column 3.

(4) It is appropriate to provide 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 is not in accordance with this Regulation, can, for a period of three months, continue to be invoked by the holder, under Article 12(6) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code[(2)].

(5) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

Article 1

The goods described in column 1 of the table set out in the Annex shall be classified within the Combined Nomenclature under the CN codes indicated in column 2 of that table.

Changes to legislation: Commission Regulation (EC) No 1989/2004 is up to date with all changes known to be in force on or before 20 February 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Article 2

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

Article 3

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

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

Done at Brussels, 19 November 2004.

For the Commission

Frederik BOLKESTEIN

Member of the Commission

***Changes to legislation:** Commission Regulation (EC) No 1989/2004 is up to date with all changes known to be in force on or before 20 February 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

ANNEX

Description of the goods	**Classification(CN code)**	**Reasons**
(1)	(2)	(3)
1. Cooked meat preparation with the following composition (percentage by weight): Liver : 15 Chopped pork : 51 Collar : 2 Kidney : 6 Lung : 13 Spleen : 7 Rind : 20 Fat with rind : 20 Other ingredients : 2 Water : 10 The preparation is put up in cans.	1602 20 90	Classification is determined by General Rules 1 and 6 for the interpretation of the Combined Nomenclature, Note 2 to Chapter 16 and by the wording of CN codes 1602, 1602 20 and 1602 20 90. The liver content is considered to be present in a sufficient quantity as to give the product its character of liver preparation (see the Explanatory Notes to the Combined Nomenclature to sub-headings 1602 20 11 to 1602 20 90).
2. Products consisting of sugar solution and small quantities of other ingredients with the following composition (percentage by weight): PRODUCT 1 Sugar : 31,5 Glucose syrup : 28,5 Citric acid : 5 Malic acid : 2,5 Xanthan gum : 0,2 Sodium benzoate : 0,05 Acesulfame potassium : 0,03 Aspartame : 0,009 Flavouring : 0,5 Colouring : 0,002 Water : remainder	2106 90 59	Classification is determined by the provisions of 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 59. The preparations being in liquid form do not meet the criteria for sugar confectioneries in heading 1704 as the HS Explanatory Notes state ‘this heading covers most of the sugar preparations which are marketed in a solid or semi-solid form’. Neither do they have to be regarded as non-alcoholic beverages of subheading 2202 10 00, as they are not directly consumed as beverages because of their

a The photographs are purely for information.

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The product is put up for retail sale in a small plastic bottle with a dropper (h = 6 cm; ø = 2 cm) (See photograph No 1)[a] PRODUCT 2 Sugar 34 Citric acid 5 Malic acid 3 Fumaric acid 0,05 Sodium carboxymethyl cellulose 0,07 Potassium sorbate 0,16 Sodium benzoate 0,01 Acesulfame potassium 0,03 Aspartame 0,01 Flavouring 0,5 Colouring 0,002 Water remainder The product is put up for retail sale as a spray in a small plastic bottle (h = 10 cm; ø = 1,5 cm) (See photograph No 2)[a] Both products are intended for immediate consumption without further dilution with water.		acid content (Additional note 1 to chapter 22).
3. Whey protein isolates, in powder form, containing more than 90 % protein by weight calculated on dry matter. The product is obtained by microfiltration of whey.	3502 20 91	Classification is determined by the provisions of General Rules 1 and 6 for the interpretation of the Combined Nomenclature, Note 4 (b) to Chapter 4 and the wording of CN codes

a The photographs are purely for information.