### Chapter Notes

1 The expression ‘milk’ means full-cream milk or partially or completely skimmed milk.

2 For the purposes of heading 0405:

(a) the term ‘butter’ means natural butter, whey butter or recombined butter (fresh, salted or rancid, including canned butter) derived exclusively from milk, with a milkfat content of 80 % or more but not more than 95 % by weight, a maximum milk solids-not-fat content of 2 % by weight and a maximum water content of 16 % by weight. Butter does not contain added emulsifiers, but may contain sodium chloride, food colours, neutralising salts and cultures of harmless lactic-acid-producing bacteria;

(b) the expression ‘dairy spreads’ means a spreadable emulsion of the water-in-oil type, containing milkfat as the only fat in the product, with a milkfat content of 39 % or more but less than 80 % by weight.

3 Products obtained by the concentration of whey and with the addition of milk or milkfat are to be classified as cheese in heading 0406 provided that they have the three following characteristics:

(a) a milkfat content, by weight of the dry matter, of 5 % or more;

(b) a dry matter content, by weight, of at least 70 % but not exceeding 85 %; and

(c) they are moulded or capable of being moulded.

4 This chapter does not cover:

(a) products obtained from whey, containing by weight more than 95 % lactose, expressed as anhydrous lactose calculated on the dry matter (heading 1702);

(b) products obtained from milk by replacing one or more of its natural constituents (for example, butyric fats) by another substance (for example, oleic fats) (heading 1901 or 2106); or

(c) albumins (including concentrates of two or more whey proteins, containing by weight more than 80 % whey proteins, calculated on the dry matter) (heading 3502) or globulins (heading 3504).

### Subheading notes

1 For the purposes of subheading 0404 10, the expression ‘modified whey’ means products consisting of whey constituents, that is, whey from which all or part of the lactose, proteins or minerals have been removed, whey to which natural whey constituents have been added, and products obtained by mixing natural whey constituents.

2. For the purposes of subheading 0405 10, the term ‘butter’ does not include dehydrated butter or ghee (subheading 0405 90).

### Additional chapter notes

1. The duty rate applicable to mixtures falling in headings 0401 to 0406 shall be as follows:

(a) in mixtures where one of the components represents at least 90 % by weight, the rate applicable to that component applies;

(b) in other mixtures, the rate applicable shall be that of the component which results in the highest amount of import duty.

2. For the purposes of subheadings 0408 11 and 0408 19, the following applies:

the expression ‘otherwise preserved’ applies also to egg yolks with limited amounts of salt (in general, an amount of up to around 12 % by weight) or minor amounts of chemicals added for preservation purposes, provided that both of the following conditions are fulfilled:

(i) the products retain the character of egg yolks of subheadings 0408 11 and 0408 19;

(ii) salt or chemicals are not used at a level higher than is necessary for the purposes of preservation.

3. Dairy produce of Chapter 4 includes dairy permeates, which are milk products characterised by a high content of lactose and obtained by removing milk fats and milk proteins from milk, whey, cream and/or sweet buttermilk, and/or from similar raw material by ultrafiltration or other processing techniques.

4. For the purposes of subheadings 0404 10 and 0404 90 the following applies:

Milk permeate and whey permeate can be analytically distinguished by the presence of substances (e.g. lactic acid, lactates and glycomacropeptides) which are associated with whey production.

Subheading 0404 10 includes ‘whey permeate’ which is a product with generally a slightly sour smell, obtained from whey or mixtures of natural whey constituents by ultrafiltration or other processing techniques.

The presence of substances associated with whey production (e.g. lactic acid, lactates and glycomacropeptides) is a condition for the classification of whey permeates into that subheading.

Subheading 0404 90 includes ‘milk permeate’ which is a product with generally a milky smell obtained from milk by ultrafiltration or other processing techniques. The quantitatively limited level or absence of lactic acid and lactates (max. 0.1 % by weight, in milk permeates in powder form, or max. 0.015% by weight in milk permeates in liquid form) as well as the absence of glycomacropeptides, are the conditions for the classification of milk permeates into subheading 0404 90.

The method to be used for the detection of lactates shall be the ISO 8069:2005 method and the method to detect rennet whey (i.e. the presence of caseinomacropeptides such as glycomacropeptides) shall be the UK equivalent method to that set out in Appendix II to Commission Implementing Regulation (EU) 2018/150).

5 The term “unfit for human consumption” as regards codes 040811 20, 0408 19 20, 0408 91 20 and 0408 99 20 applies when:

* the goods are homogeneously mixed with one of the denaturants shown in column 1 of the table below in the quantities indicated in column 2 and
* separation of the goods and the denaturant is not economically viable.

|  |  |
| --- | --- |
| **Denaturant** | **Minimum quantity to be used (in g) per 100 kg of denatured product** |
| **(1)** | **(2)** |
| Spirit of turpentine | 500 |
| Essence of lavender | 100 |
| Oil of rosemary | 150 |
| Birch oil | 100 |