



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL  
TAXATION AND CUSTOMS UNION  
Customs  
Customs Tariff

Fylgiskjal nr. 2

Brussels,  
TAXUD.A.4/KVM  
taxud.a.4(2021)6789537

**Subject:** Tariff classification of "pizza mix" (mozzarella with added palm oil and starch)

**Ref.:** Your e-mail of 12.08.2021

Dear [REDACTED]

Thank you for your e-mail of 12 August 2021 in which you inquire about the classification of "pizza mix" (mozzarella with added palm oil and starch). In this request, you mention that the Belgian administration classifies the product in heading 21.06. As Belgium is an EU Member State, I would like to express the EU views on the classification of these products on bilateral level, in accordance with Article 10 of the HS Convention.

After analysing the issue, I can inform you of the following:

Product description:

Pizza mix filling, a preparation containing low fat cheese curd (mozzarella), palm oil and potato starch as ingredients; mixed in a warm phase; filleted; shaped and cooled; Cut into strips or cubes, frozen (IQF).

This preparation has a fat content of 25% (half from the low fat cheese curd and half from the palm oil, added during production).

This preparation contains more than 1.5% by weight of fats derived from milk, less than 5% by weight of starch / glucose and no sucrose.

The contents of the product are (approximately):

Mozzarella	82,50%
Palm oil	11,50%
Starch	4,50%
Remainder	1,50%

Office of the Director General of Customs Enforcement  
Customs Enforcement

[REDACTED]@skatturinn.is

Commission européenne/Europese Commissie, 1049 Bruxelles/Brussel, BELGIQUE/BELGIË - Tel. +32 22991111  
Office: J-79 01/006 - Tel. direct line +32 229-67258

Antti.Suortti@ec.europa.eu

The analytical data for the finished product (mozzarella blended with palm oil and starch) is stated as:

53 % dry weight

25 % total fat content (= ca. 48 % in dry weight)

That means that the fat content which stems from the mozzarella is 25 % (total fat) – 11,5 % (palm oil) = 13,5 %. The fat content of the Mozzarella itself is accordingly  $(100/82,5) \times 13,5 \% = \text{ca. } 16 \%$ . This corresponds to a fat content in dry weight of  $(100/53) \times 15 \% = \text{ca. } 30 \%$ .

The product is presented in bags of 2 kg per 6 packed in a carton.

#### Classification by Icelandic authorities:

I understand that the Icelandic Customs classifies the products in subheading 0406.20, but the Belgian administration states that the correct classification would be in subheading 2106.90 based on a Belgian BTI D.T.315.149.

In the opinion of the Icelandic Customs, the fact that milk fat, or its other natural properties, are partially replaced by vegetable fat, does not affect the classification in Chapter 4. The addition of vegetable fat to milk fat alone is not sufficient to fulfil the conditions of Note 4 (b) to Chapter 4. In order to exclude the product from Chapter 4, it is necessary that vegetable fat has replaced the milk fat. For the product concerned, the traditional mozzarella cheese was assumed to be full fat and to constitute the effective product base (82-83%), and therefore Note 4 (b) to Chapter 4 does not apply. Therefore, your administration classifies the product in heading 04.06, subheading 0406.20.

#### Classification by the EU:

##### Legal provisions

Note 4 (b) to Chapter 4 states that “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 19.01 or 21.06)” are not covered by Chapter 4.

Heading 04.06 covers “cheese and curd”, subheading 0406.20 covers “grated or powdered cheese, of all kinds”.

According to the HSEN to heading 04.06, (1), Mozzarella is classified in this heading:

“Fresh cheese (including cheese made from whey or buttermilk) and curd. Fresh cheese is an unripened or uncured cheese which is ready for consumption shortly after manufacture (e.g., Ricotta, Broccio, cottage cheese, cream cheese, Mozzarella).” However, in the view of the EU, the preparation in question cannot be considered as Mozzarella, due to the addition of palm oil (excluding it from subheading 0406.10).

Also, according to the HSEN to heading 04.06, (3), processed cheese is classified in this heading:

“Processed cheese, also known as process cheese. It is manufactured by comminuting, mixing, melting and emulsifying, with the aid of heat and emulsifying or acidifying agents (including melting salts), one or more varieties of cheese and one or more of the following : cream or other dairy products, salt, spices, flavouring, colouring and water.”

The same motivation as in the first paragraph is relevant (excluding the product from subheading 0406.30).

The HSEN to heading 04.06, the penultimate paragraph reads:

“The presence of meat, fish, crustaceans, herbs, spices, vegetables, fruit, nuts, vitamins, skimmed milk powder, etc., does not affect classification **provided** that the goods retain the character of cheese.”

#### Classification

Firstly, the product is clearly excluded from Chapter 04 as it is obtained from milk by replacing milk fat with palm oil (see Note 4 (b) to that Chapter). The dry weight content of fat in mozzarella on average is 45 % (Wikipedia) or 40-50% (Codex Alimentarius, on Mozzarella). Based on the analytical data provided, the mozzarella used in the production of the pertinent product is a fat reduced mozzarella (ca. 30 % by dry weight). To increase the fat content to a level characteristic for full fat mozzarella and to reduce costs, palm oil has been added. Thereby, milk fat has been replaced with palm oil.


Secondly, the product is a processed blend of low fat mozzarella, palm oil and starch; mixed in a warm phase, filleted, shaped and cooled. It has thus lost the character of cheese, has become a processed food preparation, and therefore the product should be excluded from Chapter 4. The preparation was prepared directly from low fat mozzarella of heading 04.06 and then processed with palm oil and starch into a final product. According to the Codex Alimentarius General Standard for Cheese (CXS 283-1978, last amended in 2018), vegetable oil is neither a raw material nor a permitted ingredient in cheese production.

Based on the arguments above, the EU view is that the product should be classified in heading 21.06 (“food preparations not elsewhere specified or included”), subheading 2106.90, by applying GIRs 1 (Note 4 (b) to Chapter 4) and 6.

Consequently, your administration is invited to consider these arguments when classifying the products concerned, or taking the matter to the WCO Secretariat for consideration at the Harmonized System Committee.

Yours sincerely,

(e-signed)

  
Head of Unit

c.c.:

  
(TAXUD)