

NÝTT SKJAL S



EFTA Surveillance Authority (ESA)
Avenue des Arts 19H
1000 Brussels
Belgium

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Casenumber FJR24060003

Case No. 92218 – Further information concerning the classification of cheese with added plant oil

Reference is made to the letter from the EFTA Surveillance Authority (“the Authority”) dated 23 October 2025. In that letter, and in light of the information provided in the Icelandic authorities’ letter of 5 September 2025, the Icelandic authorities were invited to provide the Authority’s Internal Market Affairs Directorate with certain additional information as set out therein.

The Icelandic authorities wish first to reiterate the point made in their letter of 5 September 2025. It is the general policy of the Icelandic authorities to follow the opinions of the World Customs Organization (WCO) concerning the tariff classification of products. However, as the Icelandic courts have now delivered a final ruling on the classification of the product in question, any amendment of that classification lies solely within the competence of the legislature, the Alþingi.

The Icelandic authorities’ responses to the Authority’s questions are as follows:

Questions 1 and 2

The proposed amendments to the Customs Tariff will provide that products derived from milk in which natural milk components (e.g. milk fat) are partially or wholly replaced by other components (e.g. vegetable fat) will be classified under Chapters 19 or 21 of the Customs Tariff instead of Chapter 4. Consequently, such products will no longer benefit from the tariff protection provided under Chapter 4 of the Customs Tariff.

Domestic producers of dairy products have expressed concerns regarding these proposed amendments, noting that the changes could have significant negative effects on domestic production. In their view, the competitive position of domestic producers vis-à-vis imported products would be considerably weakened, potentially leading to a reduction in domestic production or, in the worst case, cause it to cease altogether.

Given the interests at stake, it is important that the Ministry of Finance and Economic Affairs prepares the proposed amendments to the Icelandic Customs Tariff in close cooperation with the Ministry of Industries, which is responsible for matters relating to agriculture, food and food safety. Consumer welfare and increased competition in the market for agricultural products must be promoted, while at the same time safeguarding the legitimate interests of domestic producers.

The Ministry of Industries has initiated discussions with the Icelandic Farmers Association on the revision of the current agricultural agreements, concluded pursuant to Article 30 of the Act

on the Production, Pricing and Sale of Agricultural Products No. 99/1993 and Article 3 of the Agricultural Act No. 70/1998, which expire at the end of 2026. These discussions are intended, *inter alia*, to address the proposed amendments to the Customs Tariff and assess their impact on domestic producers. Particular attention will be given to whether the relevant imported products, which will be classified under Chapters 19 or 21, constitute substitute products likely to replace domestically produced goods.

The Icelandic authorities consider it important to conclude the discussions with the Icelandic Farmers Association on the proposed amendments to the Customs Tariff before submitting a legislative bill to Alþingi. Although it had been hoped that the discussions would be well underway by now, progress has been slower than expected due to workload constraints within the Ministry of Industries. As matters currently stand, the discussions are expected to be well advanced in the spring of 2026. At that point, the basis should be in place for submitting a bill on amendments to the Customs Tariff to Parliament.

Question 3

By classifying cheese with added plant oil under Chapter 21 of the Customs Tariff, the product will consequently fall within Protocol III to the EEA Agreement. As a result, cheese originating within the EEA and containing up to 15% by weight of butter or other milkfat will not be subject to customs duties according to Chapter 4 of the Customs Tariff, following the adoption of the amendments to the Icelandic Customs Tariff.

As stated in the Icelandic Authorities' letter of 5 September 2025, it remains the intention to ensure that the quantity of fat other than milk fat must be of such scope as to have a real impact on the nature of the product. This reservation is intended to prevent the addition of a negligible portion of, for example, vegetable fat to a product merely for appearance's sake or solely for the purpose of avoiding duties.

On behalf of the minister

Helga Jónsdóttir

Ingibjörg Helga Helgadóttir