

Commission Regulation (EC) No 388/2009 of 12 May 2009 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 as regards the import and export system for products processed from cereals and rice (Codified version)

COMMISSION REGULATION (EC) No 388/2009

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laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 as regards the import and export system for products processed from cereals and rice

(Codified version)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation)<sup>(1)</sup>, and in particular Articles 143, 170 and 187 thereof, in conjunction with Article 4,

Whereas:

- (1) Commission Regulation (EC) No 1518/95 of 29 June 1995 laying down detailed rules for the application of Council Regulations (EEC) No 1418/76 and (EEC) No 1766/92 as regards the import and export system for products processed from cereals and rice and amending Regulation (EC) No 1162/95 laying down special detailed rules for the application of the system of import and export licences for cereals and rice<sup>(2)</sup> has been substantially amended<sup>(3)</sup>. In the interests of clarity and rationality the said Regulation should be codified.
- (2) In accordance with international obligations binding on the Community, rules should be laid down for the application of the system of import duties and refunds applicable in trade with third countries in products processed from cereals and from rice, excluding compound feedingstuffs, for which special rules have been laid down.
- (3) The object of the refund should be to cover the difference between the prices for products within the Community and those charged on the world market. For that purpose, criteria should be established for determining the refund essentially by reference to prices of the basic products within and outside the Community, and to the outlets and conditions for the sale of processed products on the world market.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

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*Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 388/2009. (See end of Document for details)*

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### *Article 1*

For the purposes of this Regulation, the following definitions shall apply:

- (a) 'processed products' means the products or groups of products listed:
  - (i) in point (d) of part I of Annex I to Regulation (EC) No 1234/2007, except the products falling within CN code ex 2309;
  - (ii) in point (c) of part II of Annex I to Regulation (EC) No 1234/2007;
- (b) 'basic products' means the cereals listed in points (a) and (b) of part I of Annex I to Regulation (EC) No 1234/2007, and broken rice referred to in point (b) of Part II of Annex I to that Regulation.

### *Article 2*

1 The refund which may be granted on processed products shall be determined with particular reference to:

- a the movements of prices for the basic products within the Community, compared with world market prices;
- b the quantities of basic products needed for the manufacture of the product in question and, where applicable, their interchangeability;
- c the possible cumulation of refunds applicable to various products obtained from one and the same process and one and the same basic product;
- d outlets and conditions of sale for processed products on the world market.

2 The refunds shall be fixed at least once a month.

### *Article 3*

1 The refund shall be adjusted in accordance with Articles 14 and 15 of Commission Regulation (EC) No 1342/2003<sup>(4)</sup>. The adjustment shall be made by increasing or decreasing the refund by the amount resulting from each of the adjustments referred to in Article 14(1) and (3) of Regulation (EC) No 1342/2003, per tonne of basic product, multiplied by the coefficient listed in column 4 of Annex I to this Regulation against the processed product in question.

2 For the purposes of Article 164(4) and the first paragraph of Article 166 of Regulation (EC) No 1234/2007, the amount zero shall not be considered to be a refund, and consequently the adjustment referred to in Article 15(1) of Regulation (EC) No 1342/2003 shall not apply.

### *Article 4*

1 Member States shall inform the Commission, each day before 15.00 (Brussels time), of the quantities for which export licences have been applied for.

2 In the case of products processed from cereals and rice mentioned in Article 162 (1)(b) of Regulation (EC) No 1234/2007, Member States shall inform the Commission, by Wednesday of each week in respect of the preceding week and for each product code as defined in Annex I to Commission Regulation (EEC) No 3846/87<sup>(5)</sup>, of the quantities for which licences have been issued, broken down into products exported with a refund and products exported without a refund.

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#### *Article 5*

1 Where, for one or more products, the conditions referred to in Article 187 of Regulation (EC) No 1234/2007 are met, the following measures may be taken by the Commission:

- a application of an export tax. This tax shall be fixed by the Commission once per week. It may be varied depending on the destination;
- b total or partial suspension of the issuing of export licences;
- c total or partial rejection of pending export licence applications.

2 The export tax referred to in paragraph 1(a) shall be that applicable on the day on which customs formalities are completed.

However, at the request of the applicant, submitted at the same time as the licence application, the export tax applicable on the day of lodging of the licence application shall apply to an export operation to be carried out during the period of validity of the licence.

3 The Commission shall notify the Member States of its decision and publish it.

#### *Article 6*

The methods used for assessing the ash content, the fat content and the starch content, the denaturing process, and any other method of analysis necessary for the application of this Regulation as regards the import and export system, shall be determined, if necessary, in accordance with the procedure referred to in Article 195(2) of Regulation (EC) No 1234/2007.

#### *Article 7*

Regulation (EC) No 1518/95 is repealed.

References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex III.

#### *Article 8*

This Regulation shall enter into force on the 20th 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, 12 May 2009.

*For the Commission*

*The President*

José Manuel BARROSO

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## ANNEX I

CN code/Product code	Description of goods	Basic product	Coefficient
1	2	3	4
<b>1102</b>	<b>Cereal flours other than of wheat or meslin:</b>		
1102 20 10 9200	Maize (corn) flour, of a fat content not exceeding 1,3 % by weight and of a crude fibre content, referred to dry matter, not exceeding 0,8 % by weight	Maize	1,4
1102 20 10 9400	Maize (corn) flour, of a fat content exceeding 1,3 % but not exceeding 1,5 % by weight and of a crude fibre content, referred to dry matter, not exceeding 1 % by weight	Maize	1,2
1102 20 90 9200	Maize (corn) flour, of a fat content exceeding 1,5 % but not exceeding 1,7 % by weight and of a crude fibre content, referred to dry matter, not exceeding 1 % by weight	Maize	1,2
1102 90 10 9100	Other, barley flour, of an ash content, referred to dry matter, not exceeding 0,9 % by weight and of a crude fibre content, referred to dry matter, not exceeding 0,9 % by weight	Barley	1,5
1102 90 10 9900	Other, barley flour, other	Barley	1,02
1102 90 30 9100	Other, oat flour, of an ash content, referred to dry matter, not exceeding 2,3 % by	Oats	1,8

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	weight, of a crude fibre content, referred to dry matter, not exceeding 1,8 % by weight, of a moisture content not exceeding 11 % and of which the peroxidase is virtually inactivated		
<b>1103</b>	<b>Cereal groats, meal and pellets:</b>		
1103 13 10 9100	Groats and meal, of maize (corn), of a fat content not exceeding 0,9 % by weight and of a crude fibre content, referred to dry matter, not exceeding 0,6 % by weight	Maize	1,8
1103 13 10 9300	Groats and meal, of maize (corn), of a fat content exceeding 0,9 % but not exceeding 1,3 % by weight and of a crude fibre content, referred to dry matter, not exceeding 0,8 % by weight	Maize	1,4
1103 13 10 9500	Groats and meal, of maize (corn), of a fat content exceeding 1,3 % but not exceeding 1,5 % by weight and of a crude fibre content, referred to dry matter, not exceeding 1 % by weight	Maize	1,2
1103 13 90 9100	Groats and meal, of maize (corn), other, of a fat content exceeding 1,5 % but not exceeding 1,7 % by weight and of a crude fibre content, referred to dry matter, not exceeding 1 % by weight	Maize	1,2

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1103 19 10 9000	Groats and meal, of rye	Rye	1,0
1103 19 30 9100	Groats and meal, of barley, of an ash content, referred to dry matter, not exceeding 1 % by weight and of a crude fibre content, referred to dry matter, not exceeding 0,9 % by weight	Barley	1,55
1103 19 40 9100	Groats and meal, of oats, of an ash content, referred to dry matter, not exceeding 2,3 % by weight, of a tegument content not exceeding 0,1 %, of a moisture content not exceeding 11 % and of which the peroxidase is virtually inactivated	Oats	1,8
1103 20 20 9000	Pellets, of barley	Barley	1,02
1103 20 60 9000	Pellets, of wheat	Wheat	1,02
<b>1104</b>	<b>Cereal grains otherwise worked (for example, hulled, rolled, flaked, pearled, sliced or kibbled), except rice of heading No 1006; germ of cereals, whole, rolled, flaked or ground:</b>		
1104 12 90 9100	Rolled or flaked grains, of oats, flaked, of an ash content, referred to dry matter, not exceeding 2,3 % by weight, of a tegument content not exceeding 0,1 %, of a moisture content not exceeding 12 % and of which the peroxidase is virtually inactivated	Oats	2,0

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1104 12 90 9300	Rolled or flaked grains, of oats, flaked, of an ash content, referred to dry matter, not exceeding 2,3 % by weight, of a tegument content exceeding 0,1 % but not exceeding 1,5 %, of a moisture content not exceeding 12 % and of which the peroxidase is virtually inactivated	Oats	1,6
1104 19 10 9000	Rolled or flaked grains, of wheat	Wheat	1,02
1104 19 50 9110	Rolled or flaked grains, of maize, of a fat content, referred to dry matter, not exceeding 0,9 % by weight and of a crude fibre content, referred to dry matter, not exceeding 0,7 % by weight	Maize	1,6
1104 19 50 9130	Rolled or flaked grains, of maize, of a fat content, referred to dry matter, exceeding 0,9 % but not exceeding 1,3 % by weight and of a crude fibre content, referred to dry matter, not exceeding 0,8 % by weight	Maize	1,3
1104 19 69 9100	Rolled or flaked grains, of barley, flaked, of an ash content, referred to dry matter, not exceeding 1 % by weight and of a crude fibre content, referred to dry matter, not exceeding 0,9 % by weight	Barley	1,5

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1104 22 20 9100	Grains, of oats, hulled (shelled or husked), of an ash content, referred to dry matter, not exceeding 2,3 % by weight, of a tegument content not exceeding 0,5 %, of a moisture content not exceeding 11 % and of which the peroxidase is virtually inactivated	Oats	1,6
1104 22 30 9100	Grains, of oats, hulled and sliced or kibbled ('Grütze' or 'grutten'), of an ash content, referred to dry matter, not exceeding 2,3 % by weight, of a tegument content not exceeding 0,1 %, of a moisture content not exceeding 11 % and of which the peroxidase is virtually inactivated	Oats	1,7
1104 23 10 9100	Grains, of maize (corn), hulled (shelled or husked), whether or not sliced or kibbled, of a fat content, referred to dry matter, not exceeding 0,9 % by weight, and of a crude fibre content, referred to dry matter, not exceeding 0,6 % by weight ('Grütze' or 'grutten')	Maize	1,5
1104 23 10 9300	Grains, of maize (corn), hulled (shelled or husked), whether or not sliced or kibbled, of a fat content, referred to dry matter, exceeding 0,9 % but not exceeding 1,3 % by weight, and of a	Maize	1,15



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	crude fibre content, referred to dry matter, not exceeding 0,8 % by weight ('Grütze' or 'grutten')		
1104 29 01 9100	Grains, of barley, hulled (shelled or husked), of an ash content, referred to dry matter, not exceeding 1 % by weight and of a crude fibre content, referred to dry matter, not exceeding 0,9 % by weight	Barley	1,5
1104 29 03 9100	Grains, of barley, hulled and sliced or kibbled ('Grütze' or 'grutten'), of an ash content, referred to dry matter, not exceeding 1 % by weight and of a crude fibre content, referred to dry matter, not exceeding 0,9 % by weight	Barley	1,5
1104 29 05 9100	Grains, of barley, pearled, of an ash content, referred to dry matter, not exceeding 1 % by weight (without talc) — first category	Barley	2,0
1104 29 05 9300	Grains, of barley, pearled, of an ash content, referred to dry matter, not exceeding 1 % by weight (without talc) — Second category	Barley	1,6
1104 29 11 9000	Grains, of wheat, hulled (shelled or husked), not sliced or kibbled	Wheat	1,02
1104 29 51 9000	Grains, of wheat, hulled (shelled or husked), not	Wheat	1,0

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	otherwise worked than kibbled		
1104 29 55 9000	Grains, of rye, hulled (shelled or husked), not otherwise worked than kibbled	Rye	1,0
1104 30 10 9000	Germ, of wheat, whole, rolled, flaked or ground	Wheat	0,25
1104 30 90 9000	Germ, of cereals, other, whole, rolled, flaked or ground	Maize	0,25
<b>1107</b>	<b>Malt, whether or not roasted:</b>		
1107 10 11 000	Not roasted, of wheat, in the form of flour	Wheat	1,78
1107 10 91 000	Not roasted, other, in the form of flour	Barley	1,78
<b>1108</b>	<b>Starches; inulin:</b>		
1108 11 00 9200	Wheat starch, of a dry matter content of not less than 87 % and a purity in the dry matter of not less than 97 %	Wheat	2,0
1108 11 00 9300	Wheat starch, of a dry matter content of not less than 84 % but less than 87 % and a purity in the dry matter of not less than 97 %	Wheat	2,0
1108 12 00 9200	Maize (corn) starch, of a dry matter content of not less than 87 % and a purity in the dry matter of not less than 97 %	Maize	1,6
1108 12 00 9300	Maize (corn) starch, of a dry matter content of not less than 84 % but less than 87 % and a purity in the dry	Maize	1,6

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	matter of not less than 97 %		
1108 13 00 9200	Potato starch, of a dry matter content of not less than 80 % and a purity in the dry matter of not less than 97 %	Maize	1,6
1108 13 00 9300	Potato starch, of a dry matter content of not less than 77 % but less than 80 % and a purity in the dry matter of not less than 97 %	Maize	1,6
1108 19 10 9200	Rice starch, of a dry matter content of not less than 87 % and a purity in the dry matter of not less than 97 %	Rice	1,52
1108 19 10 9300	Rice starch, of a dry matter content of not less than 84 % but less than 87 % and a purity in the dry matter of not less than 97 %	Rice	1,52
<b>1702</b>	<b>Other sugars, including chemically pure lactose, maltose, glucose and fructose, in solid form; sugar syrups not containing added flavouring or colouring matter; artificial honey, whether or not mixed with natural honey; caramel:</b>		
1702 30 50 9000	Glucose and glucose syrup, not containing fructose or containing in the dry state less than 20 % by weight of fructose, other than isoglucose, in the form of white crystalline powder,	Maize	2,09

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	whether or not agglomerated		
1702 30 90 9000	Glucose and glucose syrup, not containing fructose or containing in the dry state less than 20 % by weight of fructose, other than isoglucose, other	Maize	1,6
1702 40 90 9000	Glucose and glucose syrup, containing in the dry state at least 20 % but less than 50 % by weight of fructose, except invert sugar, other	Maize	1,6
1702 90 50 9100	Maltodextrine, in white solid form, whether or not agglomerated	Maize	2,09
1702 90 50 9900	Maltodextrine and maltodextrine syrup, other	Maize	1,6
1702 90 75 9000	Caramel, in the form of powder, whether or not agglomerated	Maize	2,19
1702 90 79 9000	Caramel, other	Maize	1,52
2106 90 55 9000	Food preparations not elsewhere specified or included, flavoured or coloured sugar syrups, glucose syrup and maltodextrine syrup	Maize	1,6

## ANNEX II

## REPEALED REGULATION WITH ITS AMENDMENT

Commission Regulation (EC) No 1518/95	(OJ L 147, 30.6.1995, p. 55)
Commission Regulation (EC) No 2993/95	(OJ L 312, 23.12.1995, p. 25)

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### ANNEX III

#### CORRELATION TABLE

<b>Regulation (EC) No 1518/95</b>	<b>This Regulation</b>
—	Article 1, introductory wording
Article 1(1), introductory wording	Article 1(a)
Article 1(1)(a)	Article 1(a)(i)
Article 1(1)(b)	Article 1(a)(ii)
Article 1(2)	Article 1(b)
Article 2	Article 2
Article 3	Article 3
Article 4	Article 4
Article 5	Article 5
Article 6	Article 6
Article 7	—
Article 8	—
—	Article 7
Article 9	Article 8
Annex	Annex I
—	Annex II
—	Annex III

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- (1) OJ L 299, 16.11.2007, p. 1.
- (2) OJ L 147, 30.6.1995, p. 55.
- (3) See Annex II.
- (4) OJ L 189, 29.7.2003, p. 12.
- (5) OJ L 366, 24.12.1987, p. 1.

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