

Commission Regulation (EC) No 891/2009 of 25 September 2009 opening and providing for the administration of certain Community tariff quotas in the sugar sector

CHAPTER I

GENERAL PROVISIONS

Article 1

Scope

This Regulation opens and provides for the administration of the tariff quotas set out in Parts I and II of Annex I for the imports of the sugar products referred to in:

- (a) Schedule CXL (European Communities) referred to in Article 1(1) of Regulation (EC) No 1095/96;
- (b) [F¹]
- (c) Article 27(2) of the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the former Yugoslav Republic of Macedonia, of the other part;
- (d) [F²]
- (e) [F³ Article 27(2) of the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Albania, of the other part;]
- (f) [F⁴ Article 27(3) of the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and Bosnia and Herzegovina, of the other part⁽¹⁾, as amended by the Protocol to the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and Bosnia and Herzegovina, of the other part, to take account of the accession of the Republic of Croatia to the European Union⁽²⁾;]
- (g) [F⁵ Article 26(4) of the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Serbia, of the other part⁽³⁾, as amended by the Protocol to the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Serbia, of the other part, to take account of the accession of the Republic of Croatia to the European Union⁽⁴⁾.]

In addition, this Regulation provides for the administration of certain tariff quotas, as set out in Part III of Annex I, for imports of sugar products under:

- (a) Articles 186(a) and 187 of Regulation (EC) No 1234/2007;
- (b) Article 142 of Regulation (EC) No 1234/2007.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 891/2009. (See end of Document for details)

Textual Amendments

- F1** Deleted by Commission Implementing Regulation (EU) No 1250/2014 of 21 November 2014 amending Regulation (EC) No 891/2009 as regards tariff quotas for sugar originating in Serbia.
- F2** Deleted by Commission Regulation (EU) No 519/2013 of 21 February 2013 adapting certain regulations and decisions in the fields of free movement of goods, freedom of movement for persons, right of establishment and freedom to provide services, company law, competition policy, agriculture, food safety, veterinary and phytosanitary policy, fisheries, transport policy, energy, taxation, statistics, social policy and employment, environment, customs union, external relations, and foreign, security and defence policy, by reason of the accession of Croatia.
- F3** Substituted by Commission Regulation (EU) No 707/2010 of 5 August 2010 amending Regulation (EC) No 891/2009 opening and providing for the administration of certain Community tariff quotas in the sugar sector.
- F4** Substituted by Commission Implementing Regulation (EU) 2017/704 of 19 April 2017 amending Regulation (EC) No 891/2009 opening and providing for the administration of certain Community tariff quotas in the sugar sector.
- F5** Substituted by Commission Implementing Regulation (EU) No 1250/2014 of 21 November 2014 amending Regulation (EC) No 891/2009 as regards tariff quotas for sugar originating in Serbia.

Article 2

Definitions

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

- (a) ‘CXL concessions sugar’ means the sugar set out in Schedule CXL (European Communities) referred to in point (a) of the first subparagraph of Article 1;
- (b) ‘Balkans sugar’ means sugar products falling within CN codes 1701 and 1702 originating in Albania, Bosnia and Herzegovina, Serbia ^[F1], ^[F1][[Kosovo]]^[F6]or] the former Yugoslav Republic of Macedonia ^[F2]or Croatia] and imported into the Community under the Acts referred to in ^[F3]points (b) to (g)] of the first paragraph of Article 1;
- (c) ‘exceptional import sugar’ means the products of the sugar sector referred to in point (a) of the second paragraph of Article 1;
- (d) ‘industrial import sugar’ means the products of the sugar sector referred to in point (b) of the second paragraph of Article 1;
- (e) ‘*tel quel* weight’ means the weight of the sugar in the natural state;
- (f) ‘refining’ means the processing of raw sugars into white sugars as defined in points 1 and 2 of Part II of Annex III to Regulation (EC) No 1234/2007, and any equivalent technical operation applied to bulk white sugar.

Textual Amendments

- F1** Deleted by Commission Implementing Regulation (EU) No 1250/2014 of 21 November 2014 amending Regulation (EC) No 891/2009 as regards tariff quotas for sugar originating in Serbia.
- F2** Deleted by Commission Regulation (EU) No 519/2013 of 21 February 2013 adapting certain regulations and decisions in the fields of free movement of goods, freedom of movement for persons, right of establishment and freedom to provide services, company law, competition policy, agriculture,

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food safety, veterinary and phytosanitary policy, fisheries, transport policy, energy, taxation, statistics, social policy and employment, environment, customs union, external relations, and foreign, security and defence policy, by reason of the accession of Croatia.

F3 Substituted by Commission Regulation (EU) No 707/2010 of 5 August 2010 amending Regulation (EC) No 891/2009 opening and providing for the administration of certain Community tariff quotas in the sugar sector.

F6 Substituted by Commission Regulation (EU) No 519/2013 of 21 February 2013 adapting certain regulations and decisions in the fields of free movement of goods, freedom of movement for persons, right of establishment and freedom to provide services, company law, competition policy, agriculture, food safety, veterinary and phytosanitary policy, fisheries, transport policy, energy, taxation, statistics, social policy and employment, environment, customs union, external relations, and foreign, security and defence policy, by reason of the accession of Croatia.

Article 3

Opening and administration

1 The tariff quotas shall be opened on an annual basis for the period from 1 October to 30 September.

The quantity of the products, the order number and the customs duty rate shall be as set in Annex I.

2 The tariff quota period shall be divided into subperiods of 1 month each. The quantities for the subperiods shall be as follows:

- 100 % for the first subperiod,
- 0 % for the remaining subperiods.

3 The tariff quotas shall be administered in accordance with the simultaneous examination method referred to in Chapter II of Regulation (EC) No 1301/2006.

Article 4

Applicability of Regulations (EC) No 1301/2006 and (EC) No 376/2008

Regulations (EC) No 1301/2006 and (EC) No 376/2008 shall apply, save as otherwise provided for in this Regulation.

Article 5

Import licence applications

1 Licence applications shall be submitted the first seven days of each subperiod referred to in Article 3(2).

[^{F7}Without prejudice to the first subparagraph, licence applications for the first subperiod referred to in Article 3(2) may be submitted from the eighth to the 14th day of the month preceding that sub-period.]

2 The Commission shall suspend the submission of applications for licences until the end of the marketing year for the order numbers for which the available quantities are exhausted. However, the Commission shall withdraw the suspension and readmit applications

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when quantities become available again according to the notifications referred to in Article 9(2) (ii).

Textual Amendments

- F7** Inserted by [Commission Regulation \(EU\) No 707/2010 of 5 August 2010 amending Regulation \(EC\) No 891/2009 opening and providing for the administration of certain Community tariff quotas in the sugar sector.](#)

Article 6

Information to be filled in on the import licence applications and the import licences

The import licence applications and the import licences shall contain the following entries:

- (a) [^{F8}in box 8, the country of origin.
For CXL concession sugar with order numbers 09.4317, 09.4318, 09.4319, 09.4321, 09.4329 and 09.4330 and for Balkan sugar, the word ‘yes’ in box 8 shall be marked by a cross. Those licences shall give rise to an obligation to import from the specified country;]
- (b) in box 16, a single eight digit CN code;
- (c) in boxes 17 and 18, the quantity in kilograms in *tel quel* weight;
- (d) in box 20:
- (i) either ‘sugar intended for refining’ or ‘sugar not intended for refining’; and
 - (ii) one of the following entries:
 - for CXL concession sugar, one of the entries listed in Part A of Annex III,
 - for Balkan sugar, one of the entries listed in Part B of Annex III,
 - for exceptional import sugar, one of the entries listed in Part C of Annex III,
 - for industrial import sugar, one of the entries listed in Part D of Annex III,
 - (iii) the marketing year to which they relate;
- (e) in box 24, the customs duty concerned.

Textual Amendments

- F8** Substituted by [Commission Implementing Regulation \(EU\) 2018/82 of 19 January 2018 correcting Regulation \(EC\) No 891/2009 opening and providing for the administration of certain Community tariff quotas in the sugar sector.](#)

Article 7

Obligations linked to the submission of an import licence application

1 By way of derogation from Article 5 of Regulation (EC) No 1301/2006, the submission of the proof provided for in that Article may not be required for operators approved in accordance with Article 7 of Regulation (EC) No 952/2006.

2 The amount of the security referred to in Article 14(2) of Regulation (EC) No 376/2008 shall be EUR 20 per tonne.

[^{F83} For CXL concession sugar with order numbers 09.4317, 09.4318, 09.4319, 09.4320, 09.4329 and 09.4330, import licence applications shall be accompanied by the undertaking by the applicant to refine the quantities of sugar in question before the end of the third month following that in which the import licence concerned expires.]

[^{F94} For Balkan sugar, import licence applications shall be accompanied by the original of the export licence, in accordance with the model in Annex II, issued by the competent authorities of the third country concerned. The quantity mentioned in the import licence applications may not exceed the quantity shown on the export licences.]

Textual Amendments

- F8** Substituted by [Commission Implementing Regulation \(EU\) 2018/82 of 19 January 2018 correcting Regulation \(EC\) No 891/2009 opening and providing for the administration of certain Community tariff quotas in the sugar sector.](#)
- F9** Substituted by [Commission Implementing Regulation \(EU\) No 61/2012 of 24 January 2012 amending Regulation \(EC\) No 891/2009 as regards the administration of the CXL concessions sugar.](#)

[^{F3} Article 8

Issuance and validity of import licences

1 Import licences applied for in accordance with the first subparagraph of Article 5(1) shall be issued from the 23rd day until the last day of the month during which an application was made.

2 Import licences applied for in accordance with the second subparagraph of Article 5(1) shall be issued from the first day until the eighth day of the month following the month during which an application was made.

3 The licences shall be valid until the end of the third month following that in which they were issued but no longer than 30 September. In case of exceptional import sugar and industrial import sugar, the licences shall be valid until the end of the marketing year for which they were issued.]

Textual Amendments

- F3** Substituted by [Commission Regulation \(EU\) No 707/2010 of 5 August 2010 amending Regulation \(EC\) No 891/2009 opening and providing for the administration of certain Community tariff quotas in the sugar sector.](#)

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 891/2009. (See end of Document for details)

Article 9

Notifications to the Commission

[^{F31} Member States shall notify the Commission of the total quantities covered by import licence applications:

- a no later than on the 14th day of the month during which the applications are submitted, in case of applications referred to in the first subparagraph of Article 5(1);
- b no later than on the 21st day of the month during which the applications are submitted, in case of applications referred to in the second subparagraph of Article 5(1).]

2 By way of derogation from Article 11(1) of Regulation (EC) No 1301/2006, Member States shall notify the Commission at the latest on the 10th of each month of:

- (i) the quantities as referred to in Article 11(1)(b) of that Regulation and concerning licences issued during the preceding month;
- (ii) the quantities as referred to in Article 11(1)(c) of that Regulation and concerning licences returned during the preceding month.

3 The quantities referred to in paragraphs 1 and 2 shall be broken down by quota order number, the eight-digit CN code and whether or not they involve applications for a licence for sugar intended for refining. They shall be expressed in kilograms *tel quel* weight.

4 Member States shall notify the Commission before 1 March of each year of the following quantities concerning the previous marketing year:

- (i) the total quantity actually imported, broken down by order number, country of origin, the eight-digit CN code and expressed in kilograms *tel quel* weight;
- (ii) the quantity of sugar, by *tel quel* weight and in white sugar equivalent, that has actually been refined.

Textual Amendments

- F3** Substituted by [Commission Regulation \(EU\) No 707/2010 of 5 August 2010 amending Regulation \(EC\) No 891/2009 opening and providing for the administration of certain Community tariff quotas in the sugar sector.](#)

[^{F8} Article 10

Release for free circulation

Release for free circulation for the quotas of CXL concession sugar with order numbers 09.4317, 09.4318, 09.4319, 09.4321, 09.4329 and 09.4330 shall be subject to the presentation of a certificate of origin issued by the competent authorities of the third country concerned in accordance with Articles 55 to 65 of Regulation (EEC) No 2454/93.

For CXL concession sugar with order numbers 09.4317, 09.4318, 09.4319, 09.4320, 09.4329 and 09.4330, where the polarimetric reading of the imported raw sugar departs from 96 degrees, the rate of, respectively, EUR 98, EUR 11 and EUR 54 per tonne

shall be increased or reduced, as appropriate, by 0,14 % per tenth of a degree difference established.]

Textual Amendments

- F8** Substituted by [Commission Implementing Regulation \(EU\) 2018/82 of 19 January 2018 correcting Regulation \(EC\) No 891/2009 opening and providing for the administration of certain Community tariff quotas in the sugar sector.](#)

F¹⁰ Article 10a

Specific provisions for the 2017/2018 tariff quota period

1 By way of derogation from the second subparagraph of Article 5(1), licence applications for the first sub-period of the 2017/2018 tariff quota period as referred to in Article 3(2) may be submitted until 9 October 2017 not later than 13.00 Brussels time.

2 Import licences applied for in accordance with paragraph 1 of this Article shall be issued from 23 until 31 October 2017.

By way of derogation from Article 8(2) import licences applied for in accordance with the second subparagraph of Article 5(1) for the first sub-period of the 2017/2018 tariff quota period shall be issued from 23 until 31 October 2017.

3 By way of derogation from Article 9(1)(b), Member States shall notify the Commission of the total quantities covered by the import licences applications submitted in accordance with paragraph 1 of this Article not later than 14 October 2017.

4 Licence applications submitted in accordance with the second subparagraph of Article 5(1) for the first sub-period of the 2017/2018 tariff quota period may be withdrawn until 9 October 2017 not later than 13.00 Brussels time. The security corresponding to withdrawn applications shall be immediately released.]

Textual Amendments

- F10** Inserted by [Commission Implementing Regulation \(EU\) 2017/1778 of 29 September 2017 amending Regulation \(EC\) No 891/2009 as regards certain provisions concerning the first sub-period of the 2017/2018 import tariff quota period in the sugar sector and the full-time refiners' regime.](#)

CHAPTER II

**SPECIFIC PROVISIONS FOR EXCEPTIONAL
IMPORT SUGAR AND INDUSTRIAL IMPORT SUGAR**

Article 11

Opening and quantities

By way of derogation from Article 3(1), for exceptional import sugar and industrial import sugar, the opening of the tariff quota, the tariff quota period and the quantities

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of the products for which the application of all or part of the import duties is suspended shall be determined in accordance with the procedure referred to in Article 195 of Regulation (EC) No 1234/2007.

Article 12

Processors of industrial import sugar

By way of derogation from Article 5 of Regulation (EC) No 1301/2006, applications for import licences for industrial import sugar shall only be submitted by processors within the meaning of Article 2(d) of Regulation (EC) No 967/2006, even if such processors have not been involved in trade with third countries.

Article 13

Use of import licences for industrial sugar

1 Import licences for industrial import sugar issued for CN codes 1701 99 10 or 1701 99 90 may be used for the import of CN codes [^{F11}1701 13 90, 1701 14 90], 1701 12 90, 1701 91 00, 1701 99 10 or 1701 99 90.

2 Industrial import sugar shall be used for the purposes of production of the products referred to in the Annex to Regulation (EC) No 967/2006.

3 Articles 11, 12 and 13 of Regulation (EC) No 967/2006 shall apply to industrial import sugar.

4 A processor shall supply proof, to the satisfaction of the competent authorities of the Member State, that the quantities imported as industrial import sugar have been used for the purposes of production of the products referred to in the Annex to Regulation (EC) No 967/2006 and in accordance with the approval referred to in Article 5 of that Regulation. This proof shall consist of the computerised recording in the records during or at the end of the production process of the quantities of the products concerned.

5 If processors have not supplied the proof referred to in paragraph 4 by the end of the seventh month following the month of import they shall pay, for each day of delay, a sum of EUR 5 per tonne of the quantity concerned.

6 If processors have not supplied the proof referred to in paragraph 4 by the end of the ninth month following the month of import, the quantity concerned shall be considered to be over declared within the meaning of Article 13 of Regulation (EC) No 967/2006.

Textual Amendments

F11 Substituted by Commission Implementing Regulation (EU) No 1278/2014 of 1 December 2014 amending Regulations (EC) No 967/2006, (EC) No 828/2009, (EC) No 891/2009 and Implementing Regulation (EU) No 75/2013.

CHAPTER III

TRADITIONAL SUPPLY NEEDS

F12 Article 14**[^{F12}Full-time refiners' regime]****Textual Amendments**

- F12** Deleted by [Commission Implementing Regulation \(EU\) 2017/1778 of 29 September 2017 amending Regulation \(EC\) No 891/2009 as regards certain provisions concerning the first sub-period of the 2017/2018 import tariff quota period in the sugar sector and the full-time refiners' regime.](#)

*Article 15***Proof of refining and penalties**

1 Each original holder of an import licence for sugar for refining shall, within six months following the expiry of the import licence concerned, provide the Member State which issued it with proof acceptable to it that refining has taken place within the period set in Article 7(3).

[^{F13}Where proof is not provided that at least 95 % of the quantity stated on the import licence has been refined, the applicant shall pay, before 1 June following the marketing year concerned, an amount equal to EUR 500 per tonne for the difference between the actual quantity for which proof of refining has been submitted and 95 % of the quantity stated on the import licence, except for exceptional reasons of force majeure.]

2 Sugar producers approved in accordance with Article 57 of Regulation (EC) No 1234/2007 shall declare to the competent authority in the Member State before 1 March following the marketing year concerned the quantities of sugar which they have refined in that marketing year, stating:

- a the quantities of sugar corresponding to import licences for sugar for refining;
- b the quantities of sugar produced in the Community, giving the references of the approved undertaking which produced that sugar;
- c other quantities of sugar, stating their origin.

[^{F3}Producers shall pay, before 1 June following the marketing year concerned, an amount equal to EUR 500 per tonne for the quantities of sugar referred to in point (c) of the first subparagraph, for which they cannot provide a proof, acceptable to a Member State, that refining took place for justified and exceptional technical reasons.]

Textual Amendments

- F3** Substituted by [Commission Regulation \(EU\) No 707/2010 of 5 August 2010 amending Regulation \(EC\) No 891/2009 opening and providing for the administration of certain Community tariff quotas in the sugar sector.](#)
- F13** Substituted by [Commission Delegated Regulation \(EU\) 2015/1538 of 23 June 2015 supplementing Regulation \(EU\) No 1308/2013 of the European Parliament and of the Council with regard to import](#)

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 891/2009. (See end of Document for details)

licence applications, release for free circulation and proof of refining of sugar products of CN code 1701 under preferential agreements, for the marketing years 2015/16 and 2016/17 and amending Commission Regulations (EC) No 376/2008 and (EC) No 891/2009.

CHAPTER IV

REPEAL AND FINAL PROVISION

Article 16

Repeal

Regulation (EC) No 950/2006 is repealed with effect from 1 October 2009.

However, licences issued in accordance with that Regulation shall be valid until their expiry date.

Article 17

Entry into force and application

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

It shall apply from 1 October 2009.

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

Changes to legislation: There are currently no known outstanding effects for the
Commission Regulation (EC) No 891/2009. (See end of Document for details)

- (1) [^{F4}OJ L 164, 30.6.2015, p. 2.]
- (2) [^{F4}OJ L 12, 17.1.2017, p. 3.]
- (3) [^{F5}OJ L 278, 18.10.2013, p. 16.]
- (4) [^{F5}OJ L 233, 6.8.2014, p. 3]

Textual Amendments

- F4** Substituted by Commission Implementing Regulation (EU) 2017/704 of 19 April 2017 amending Regulation (EC) No 891/2009 opening and providing for the administration of certain Community tariff quotas in the sugar sector.
- F5** Substituted by Commission Implementing Regulation (EU) No 1250/2014 of 21 November 2014 amending Regulation (EC) No 891/2009 as regards tariff quotas for sugar originating in Serbia.

Changes to legislation:

There are currently no known outstanding effects for the Commission Regulation (EC) No 891/2009.