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**COMMISSION REGULATION (EC) No 1187/2009**

**of 27 November 2009**

**laying down special detailed rules for the application of Council Regulation (EC) No 1234/2007 as regards export licences and export refunds for milk and milk products**

**(recast)**

(OJ L 318, 4.12.2009, p. 1)

Amended by:

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► <b><u>M1</u></b>	Commission Regulation (EU) No 173/2011 of 23 February 2011	L 49	16	24.2.2011
► <b><u>M2</u></b>	Commission Implementing Regulation (EU) No 1313/2011 of 13 December 2011	L 334	10	16.12.2011

**COMMISSION REGULATION (EC) No 1187/2009****of 27 November 2009****laying down special detailed rules for the application of Council Regulation (EC) No 1234/2007 as regards export licences and export refunds for milk and milk products****(recast)**

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 161(3), 170 and 171(1) in conjunction with Article 4 thereof,

Whereas:

- (1) Regulation (EC) No 1234/2007 lays down, amongst others, general rules for granting export refunds in the milk and milk products sector, in order, in particular, to permit the monitoring of the value and quantity limits for refunds. Detailed rules for the application of those general rules have been laid down in Commission Regulation (EC) No 1282/2006 of 17 August 2006 laying down special detailed rules for the application of Council Regulation (EC) No 1255/1999 as regards export licences and export refunds for milk and milk products<sup>(2)</sup>.
- (2) Regulation (EC) No 1282/2006 has been substantially amended several times<sup>(3)</sup>. Since further amendments are to be made, it should be recast in the interest of clarity.
- (3) Under the Agriculture Agreement<sup>(4)</sup> concluded during the Uruguay Round of the GATT trade negotiations and approved by Council Decision 94/800/EC<sup>(5)</sup> (hereinafter referred to as the 'Agriculture Agreement'), export refunds on agricultural products, including milk products, are limited within each 12-month period starting from 1 July 1995 to a maximum quantity and a maximum value. In order to ensure compliance with those limits, the issue of export licences should be monitored and procedures should be adopted for allocating the quantities which may be exported with a refund.

<sup>(1)</sup> OJ L 299, 16.11.2007, p. 1.

<sup>(2)</sup> OJ L 234, 29.8.2006, p. 4.

<sup>(3)</sup> See Annex VII.

<sup>(4)</sup> OJ L 336, 23.12.1994, p. 22.

<sup>(5)</sup> OJ L 336, 23.12.1994, p. 1.

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- (4) For a refund to be granted the products should meet the relevant requirements of Regulation (EC) No 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs <sup>(1)</sup> and of Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin <sup>(2)</sup>, notably preparation in an approved establishment and compliance with the identification marking requirements specified in Section I of Annex II to Regulation (EC) No 853/2004.
- (5) In order to ensure effective controls on limits, there should be no refunds paid on quantities exceeding what is indicated on the licence.
- (6) The term of validity of export licences should be fixed.
- (7) In order to ensure accurate checking of the products exported and to minimise the risk of speculation, the possibility of changing the product for which a licence has been issued should be restricted.
- (8) Article 4(2) of Commission Regulation (EC) No 612/2009 of 7 July 2009 laying down common detailed rules for the application of the system of export refunds on agricultural products <sup>(3)</sup> lays down rules for the use of export licences with advance fixing of the refund for the exportation of products with a 12-digit code other than that shown in section 16 of the licence. That provision is applicable in a specific sector only if product categories as referred to in Article 13 of Commission Regulation (EC) No 376/2008 of 23 April 2008 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products <sup>(4)</sup> and product groups as referred to in the second indent of the first subparagraph of Article 4(2) of Regulation (EC) No 612/2009 have been defined.
- (9) For the milk and milk products sector, product categories are already defined with reference to the categories provided for in the Agriculture Agreement. In the interest of sound management this use of categories should be retained. With a view to simplification and completeness, the product groups as referred to in the second indent of the first subparagraph of Article 4(2) of Regulation (EC) No 612/2009 should be replaced and based on the Combined Nomenclature codes. If the product actually exported is different from the product shown in box 16 of the licence, the general provisions of Article 4 of Regulation (EC) No 612/2009 should apply. To avoid discriminations between operators exporting under the current regime and those exporting under this Regulation, that provision may be applied retroactively at the request of the licence holder.

<sup>(1)</sup> OJ L 139, 30.4.2004, p. 1.

<sup>(2)</sup> OJ L 139, 30.4.2004, p. 55.

<sup>(3)</sup> OJ L 186, 17.7.2009, p. 1.

<sup>(4)</sup> OJ L 114, 26.4.2008, p. 3.

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- (10) To enable operators to participate in invitations to tender opened by third countries without affecting the restrictions as regards volume, a system of provisional licences should be introduced giving successful tenderers the right to a full licence. To ensure that such licences are correctly used, for certain exports with refunds the country of destination should be defined as compulsory.
- (11) In order to ensure effective monitoring of licences issued, which depends on the notification of information to the Commission by the Member States, a waiting time should be provided for before licences are issued. In order to ensure the smooth operation of the arrangements, and in particular an equitable allocation of the quantities available within the limits laid down by the Agriculture Agreement, various management measures should be laid down and, in particular, provision should be made for the issue of licences to be suspended and for an allocation coefficient to be applied to the quantities applied for, if necessary.
- (12) Exports of the products in the context of food-aid operations should be excluded from certain provisions in regard to issuing of export licences.
- (13) The method for fixing the refund on milk products containing added sugar, the price of which is determined by the price of the ingredients, should be laid down according to the percentage of the ingredients contained therein. However, to facilitate the management of refunds for these products, and particularly measures to ensure compliance with commitments regarding exports in the context of the Agriculture Agreement, a maximum quantity should be fixed for sucrose incorporated for which a refund may be granted. Forty-three percent by weight of whole product should be considered as representative of the sucrose content of such products.
- (14) Article 12(5)(c) of Regulation (EC) No 612/2009 provides that refunds may be granted for ingredients of Community origin in processed cheese manufactured under the inward processing arrangements. Certain special rules are needed to ensure that this specific measure operates properly and can be effectively checked.
- (15) Under the Agreement concluded between the European Community and Canada <sup>(1)</sup>, approved by Council Decision 95/591/EC <sup>(2)</sup>, export licences issued by the Community are to be presented for cheese qualifying for preferential terms on import into Canada. The detailed rules for issuing such licences should be laid down.
- (16) The Community has the option of designating which importers may import Community cheese into the United States under the additional quota arising from the Agriculture Agreement. To allow the Community to maximise the value of the quota, a procedure should therefore be laid down for designating importers on the basis of the allocation of export licences for the products concerned.

<sup>(1)</sup> OJ L 334, 30.12.1995, p. 33.

<sup>(2)</sup> OJ L 334, 30.12.1995, p. 25.

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- (17) The Economic Partnership Agreement between the Cariforum States, of the one part, and the European Community and its Member States, of the other part <sup>(1)</sup>, the signature and provisional application of which have been approved by Council Decision 2008/805/EC <sup>(2)</sup> provides for the Community to manage its share of the tariff quota according to a mechanism of export licences. The procedure for awarding licences should therefore be determined. In order to ensure that products imported into the Dominican Republic are part of the quota and to establish a link between the products imported and those indicated on the export licence, exporters should present, at the time of import, a certified copy of the export declaration, which must contain certain information.
- (18) In respect of that quota, Article 30 of Regulation (EC) No 1282/2006 provides for the eligibility criteria applicable to lodge licence applications under the two parts of the quota. Applications under part (b) of the quota can be lodged for a fixed quantity, independent of the trade performance. The number of applicants under part (a) of the quota is increasing steadily and the quantity for which applications may be lodged depends on the export performance in the past years. Given the oversupply of milk powder on the world market in the past years, the quantity imported by the Dominican Republic originating in the Community has decreased, resulting in low performance quantities for which applications can be lodged under part (a). It is therefore appropriate to allow the eligible applicants under part (a) to opt for part (b). However, applications under both parts of the quota should be excluded.
- (19) In order to maximise the use of the quota and to alleviate the administrative burden on exporters, the derogation allowing to use the export licence also for a product covered by a 12-digit product code other than that indicated in box 16 of the licence if the same amount of export refund is granted to both products and if both products belong to the same product category, or if both products belong to the same product group, should also apply to exports to the Dominican Republic.
- (20) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

<sup>(1)</sup> OJ L 289, 30.10.2008, p. 3.

<sup>(2)</sup> OJ L 289, 30.10.2008, p. 1.

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HAS ADOPTED THIS REGULATION:

CHAPTER I  
INTRODUCTORY RULES

*Article 1*

This Regulation lays down:

- (a) the general rules concerning licences and refunds for exports from the Community of the products listed in Part XVI of Annex I to Regulation (EC) No 1234/2007;
- (b) the specific rules concerning exports of the products referred to in point (a) from the Community to certain third countries.

*Article 2*

Regulations (EC) No 376/2008 and (EC) No 612/2009 shall apply, save as otherwise provided in this Regulation.

CHAPTER II  
GENERAL RULES

*Article 3*

To be granted a refund, the products listed in Part XVI of Annex I to Regulation (EC) No 1234/2007 must meet the relevant requirements of Regulations (EC) No 852/2004 and (EC) No 853/2004, notably preparation in an approved establishment and compliance with the identification marking requirements specified in Section I of Annex II to Regulation (EC) No 853/2004.

*Article 4*

1. The refund to be paid shall be the rate valid on the day the application for the export licence or, where relevant, the provisional licence, is submitted.

2. Licence applications with advanced fixing of the refund, for the products referred to in Part XVI of Annex I to Regulation (EC) No 1234/2007, which were lodged, within the meaning of Article 16 of Regulation (EC) No 376/2008, on the Wednesday and Thursday following the end of each tendering period as referred to in Article 4(2) of Commission Regulation (EC) No 619/2008 <sup>(1)</sup> shall be deemed to have been submitted on the working day following that Thursday.

<sup>(1)</sup> OJ L 168, 28.6.2008, p. 20.

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3. Section 7 of licence applications and licences shall show the country of destination and the code of the country or territory of destination, as indicated in the nomenclature of countries and territories for the external trade statistics of the Community and statistics of trade between Member States, laid down by Commission Regulation (EC) No 1833/2006 <sup>(1)</sup>.

*Article 5*

1. The product categories as referred to in the Agriculture Agreement concluded during the Uruguay Round of the GATT trade negotiations (hereinafter referred to as the 'Agriculture Agreement') shall be those set out in Annex I to this Regulation.

2. The product groups as referred to in the second indent of the first subparagraph of Article 4(2) of Regulation (EC) No 612/2009 shall be those set out in Annex II to this Regulation.

*Article 6*

1. Section 16 of licence applications and licences shall show the 12-digit product code of the nomenclature for refunds where a refund is requested or the eight-digit product code of the Combined Nomenclature where no refund is requested. Licences shall be valid for that product alone except in the case specified in paragraphs 2 and 3.

2. By way of derogation from paragraph 1, an export licence shall also be valid for the exportation of a product covered by a 12-digit product code other than that indicated in box 16 of the licence if the same amount of export refund is granted to both products and if both products belong to the same product category as referred to in Annex I.

3. By way of derogation from paragraph 1, an export licence shall also be valid for the exportation of a product covered by a 12-digit product code other than that indicated in box 16 of the licence if both products belong to the same product group as referred to in Annex II.

In such case, refunds shall be calculated in accordance with the second subparagraph of Article 4(2) of Regulation (EC) No 612/2009.

*Article 7*

Export licences shall be valid from the day of issue, within the meaning of Article 22(1) of Regulation (EC) No 376/2008, until:

- (a) the end of the fourth month following issue in the case of products falling within CN code 0402 10;
- (b) the end of the fourth month following issue in the case of products falling within CN code 0405;

<sup>(1)</sup> OJ L 354, 14.12.2006, p. 19.

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- (c) the end of the fourth month following issue in the case of products falling within CN code 0406;
- (d) the end of the fourth month following issue for the other products referred to in Part XVI of Annex I to Regulation (EC) No 1234/2007;
- (e) the date by which the obligations arising from invitations to tender as referred to in Article 8(1) of this Regulation must be fulfilled and by the end of the eighth month following issue of the full export licence referred to in Article 8(3) of this Regulation at the latest.

*Article 8*

1. In the case of an invitation to tender issued by a public body in a third country as referred to in Article 47(1) of Regulation (EC) No 376/2008, except for invitations to tender concerning products falling within CN code 0406, operators may apply for a provisional export licence for the quantity covered by their tender subject to the lodging of a security.

The security for provisional licences shall be equal to 75 % of the amount calculated in accordance with Article 9 of this Regulation, with a minimum of EUR 5/100 kg.

Operators shall furnish proof that the body issuing the invitation to tender is public or subject to public law.

2. Provisional licences shall be issued on the fifth working day following that on which the application is lodged, provided that measures as referred to in Article 10(2) have not been adopted.

3. By way of derogation from Article 47(5) of Regulation (EC) No 376/2008, the period for submitting the information referred to in that paragraph shall be 60 days.

Before the end of that period, operators shall apply for the full export licence, which shall be issued on presentation of proof that they have been awarded a contract.

On presentation of proof that the tender has been rejected or that the quantity awarded by the contract is less than that indicated on the provisional licence, the whole or part of the security shall be released as appropriate.

4. Licence applications referred to in paragraphs 2 and 3 shall be submitted in accordance with Article 12 of Regulation (EC) No 376/2008.

5. The provisions of this Chapter, with the exception of Article 10, shall apply to full export licences.

6. The country of destination referred to in Article 4(3) shall be a compulsory destination for the purposes of Article 26(5) of Regulation (EC) No 612/2009 for licences issued in accordance with this Article.



**▼B***Article 9*

The security referred to in Article 14(2) of Regulation (EC) No 376/2008 shall be equal to a percentage of the refund fixed for each product code applicable on the day the export licence application is lodged, as follows:

- (a) 15 % for products covered by CN code 0405;
- (b) 15 % for products covered by CN code 0402 10;
- (c) 15 % for products covered by CN code 0406;
- (d) 15 % for the other products referred to in Part XVI of Annex I to Regulation (EC) No 1234/2007.

The security may not, however, be less than EUR 5/100 kg.

The amount of the refund referred to in the first subparagraph shall be that calculated for the total quantity of the product concerned, except for milk products containing added sugar.

For milk products containing added sugar, the amount of the refund referred to in the first subparagraph shall be equal to the total quantity of the whole product concerned, multiplied by the refund rate applicable per kilogram of milk product.

*Article 10***▼M1**

1. Export licences with advanced fixing of the refund shall be issued on the fifth working day following the day on which applications are submitted, provided that the quantities for which licences have been applied for have been notified in accordance with Article 6(1) of Commission Regulation (EU) No 479/2010<sup>(1)</sup> and that measures referred to in points (a) and (b) of paragraph 2 of this Article have not been adopted.

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2. Where the issue of export licences would or might result in the available budgetary amounts being exceeded or in the maximum quantities which may be exported with a refund being exhausted during the 12-month period in question or in a shorter period to be determined pursuant to Article 11 of this Regulation, taking into account Article 169 of Regulation (EC) No 1234/2007, or would not allow exports to continue during the remainder of the period, the Commission may, without assistance of the Committee referred to in Article 195(1) of that Regulation:

- (a) apply an allocation coefficient to the quantities applied for;
- (b) reject all or part of pending applications for which export licences have not yet been issued;
- (c) suspend the lodging of licence applications for a maximum of five working days; the suspension may be further extended in accordance with the procedure referred to in Article 195(2) of Regulation (EC) No 1234/2007.

<sup>(1)</sup> OJ L 135, 2.6.2010, p. 26.

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Where the coefficient referred to in point (a) of the first subparagraph is less than 0,4, applicants may, within three working days of publication of the decision fixing the coefficient, request the cancellation of their licence application and the release of their security.

In the case referred to in point (c) of the first subparagraph, licence applications submitted during the suspension period shall be invalid.

The measures referred to in the first subparagraph may be implemented or modulated by category of product and by destination or group of destinations.

For the purposes of the first subparagraph, account shall be taken, as regards the product in question, of the seasonal nature of trade, the market situation, and in particular the trend in prices on the market and the export conditions resulting there from.

3. The measures referred to in paragraph 2 may also be adopted where export licence applications relate to quantities which exceed or might exceed the normal available quantities for one destination or group of destinations and issuing the licences requested would entail a risk of speculation, distortion of competition between operators, or disturbance of the trade concerned or the Community market.

4. If applications for licences are rejected or quantities applied for are reduced, the security shall be immediately released for all quantities for which applications have not been accepted.

*Article 11*

Where the total quantity covered by the licence applications submitted is such that there is a risk of early exhaustion of the maximum quantities which may be exported with refund during the 12-month period in question, it may be decided, in accordance with the procedure referred to in Article 195(2) of Regulation (EC) No 1234/2007, to allocate those maximum quantities over periods to be determined.

*Article 12*

Where the quantity exported exceeds that shown on the licence, no refund shall be payable on the overrun.

To that end, section 22 of licences shall contain the words: 'Payment of the refund restricted to the quantity shown in sections 17 and 18'.

*Article 13*

Article 10 shall not apply to the issuing of export licences for food-aid supplies as referred to in Article 10(4) of the Agriculture Agreement.

**▼B***Article 14*

1. For milk products containing added sugar, the refund shall be equal to the sum of the following components:
  - (a) a component representing the quantity of milk product;
  - (b) a component representing the quantity of added sucrose, up to a maximum of 43 % by weight of whole product.
2. The component referred to in paragraph 1(a) shall be calculated by multiplying the fixed amount of the refund by the percentage of milk product content of the whole product.
3. The component referred to in paragraph 1(b) shall be calculated by multiplying the sucrose content of the whole product, up to a maximum of 43 %, by the basic amount of the refund applicable on the day the licence application is submitted for the products listed in point (c) of Part III of Annex I to Regulation (EC) No 1234/2007.

*Article 15*

1. Export licence applications for milk and milk products exported in the form of products falling within CN code 0406 30 as referred to in Article 12(5)(c) of Regulation (EC) No 612/2009 shall be accompanied by a copy of the authorisation to use the relevant customs procedure.
2. Section 20 of licence applications and licences for exports of milk and milk products referred to in paragraph 1 shall contain a reference to this Article.
3. The Member States shall take the necessary steps under the customs procedure referred to in paragraph 1 to identify and check the quality and quantity of the products referred to in that paragraph for which a refund has been applied for and to apply the provisions on entitlement to the refund.

## CHAPTER III

## SPECIFIC RULES

## SECTION 1

*Exports to Canada**Article 16*

1. An export licence shall be required for exports of cheese to Canada under the quota referred to in the Agreement concluded between the European Community and Canada approved by Decision 95/591/EC.
2. Licence applications shall be admissible only where applicants:
  - (a) declare in writing that all material falling within Chapter 4 of the Combined Nomenclature and used in the manufacture of products covered by their application has been produced entirely within the Community;

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- (b) undertake in writing to provide, at the request of the competent authorities, any further substantiation which the latter consider necessary for the issuing of licences and to accept, where applicable, any checks by those authorities on the bookkeeping and manufacturing conditions of the products concerned.

*Article 17*

Licence applications and licences shall show:

- (a) in section 7, the words ‘CANADA — CA’;
- (b) in section 15, the six-digit description of the goods in accordance with the Combined Nomenclature for products falling within CN codes 0406 10, 0406 20, 0406 30 and 0406 40 and the eight-digit description for products falling within CN code 0406 90. Section 15 of applications and licences may contain no more than six products thus described;
- (c) in section 16, the eight-figure CN code and the quantity in kilograms for each of the products referred to in section 15. The licence shall be valid only for the products and quantities so designated;
- (d) in sections 17 and 18, the total quantity of products referred to in section 16;
- (e) in section 20, one of the following entries, as appropriate:
- ‘Cheeses for direct export to Canada. Article 16 of Regulation (EC) No 1187/2009 Quota for ... (year)’,
  - ‘Cheeses for export directly/via New York to Canada. Article 16 of Regulation (EC) No 1187/2009 Quota for ... (year)’.

Where cheese is transported to Canada via third countries, such countries must be indicated instead of, or with, a reference to New York;

- (f) in section 22, the words ‘without export refund’.

*Article 18*

1. Licences shall be issued immediately after admissible applications are submitted. At the request of applicants, a certified copy of the licence shall be issued.

2. Licences shall be valid from their date of issue within the meaning of Article 22(1) of Regulation (EC) No 376/2008 until 31 December following that date.

However, licences issued from 20 December to 31 December shall be valid from 1 January until 31 December of the following year. In that case that following year must be indicated in section 20 of licence applications and licences in accordance with Article 17(e) of this Regulation.

**▼B***Article 19*

1. Export licences presented to the competent authority for attribution and endorsement in accordance with Article 23 of Regulation (EC) No 376/2008 may be used for one export declaration only. Licences shall be exhausted once the export declaration has been presented.
2. Export licences holders shall ensure that a certified copy of the export licence is presented to the competent Canadian authority when the import licence is applied for.
3. By way of derogation from Article 8 of Regulation (EC) No 376/2008, licences shall not be transferable.

*Article 20*

Chapter II shall not apply.

*SECTION 2**Exports to the United States**Article 21*

It may be decided in accordance with the procedure referred to in Article 195(2) of Regulation (EC) No 1234/2007 to export products falling within CN code 0406 to the United States as part of the following quotas:

- (a) the additional quota under the Agriculture Agreement;
- (b) the tariff quotas originally resulting from the Tokyo Round and granted to Austria, Finland and Sweden by the United States in Uruguay Round list XX;
- (c) the tariff quotas originally resulting from the Uruguay Round and granted to the Czech Republic, Hungary, Poland and Slovakia by the United States in Uruguay Round list XX.

*Article 22*

1. Exports of cheese to the United States under the quotas referred to in Article 21 shall be subject to presentation of an export licence in accordance with this Section.

Section 16 of licence applications and licences shall show the eight-digit product code of the Combined Nomenclature. However, the licences shall also be valid for any other code falling under CN code 0406.

2. Operators may apply, within a period to be determined in the decision referred to in Article 21, for an export licence for the export of the products referred to in that Article during the following calendar year, subject to the lodging of a security in accordance with Article 9.

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3. Applicants for export licences in respect of the product groups and quotas identified by 16-, 22-Tokyo, 16-, 17-, 18-, 20- and 21-, 22-Uruguay, 25-Tokyo and 25-Uruguay in the decision referred to in Article 21 shall provide evidence that they have exported the products of the quota in question to the United States in at least one of the preceding three years and that their designated importer is a subsidiary of the applicant.

The proof of trade as referred to in the first subparagraph shall be furnished in accordance with the second paragraph of Article 5 of Commission Regulation (EC) No 1301/2006 <sup>(1)</sup>.

4. Applicants for export licences shall indicate in the applications:

- (a) the designation of the product group covered by the United States quota in accordance with Additional Notes 16 to 23 and 25 in Chapter 4 of the Harmonized Tariff Schedule of the United States;
- (b) the product names in accordance with the Harmonized Tariff Schedule of the United States;
- (c) the name and address of the importer in the United States designated by the applicant.

5. Applications for export licences shall be accompanied by a certificate from the designated importer stating that he is eligible under the rules in force in the United States on the issue of import licences for the products referred to in Article 21.

#### *Article 23*

1. Where applications for export licences for a product group or a quota referred to in Article 21 exceed the available quantity for the year in question, the Commission shall apply a uniform allocation coefficient to the quantities for which application is made.

The amount resulting from the application of the coefficient shall be rounded down to the nearest kg.

Securities shall be released in whole or in part for rejected applications or for quantities in excess of those allocated.

2. Where the result of applying the allocation coefficient would be to allocate licences for less than 10 tonnes per application, the corresponding quantities available shall be awarded by the Member State concerned drawing lots by quota. The Member State shall draw lots for licences of 10 tonnes each amongst the applicants who would have been allocated less than 10 tonnes as a result of applying the allocation coefficient.

Quantities of less than 10 tonnes remaining when establishing the lots shall be equally distributed over the 10-tonne lots before the lots are drawn.

Where the result of applying the allocation coefficient would be to leave a quantity of less than 10 tonnes, that quantity shall be considered a single lot.

The security for applications which are not successful in the allocation by drawing lots shall be released immediately.

<sup>(1)</sup> OJ L 238, 1.9.2006, p. 13.

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3. Where applications for licences are submitted for quantities of product not exceeding the quotas referred to in Article 21 for the year concerned, the Commission may allocate the remaining quantities to applicants in proportion to the quantities applied for, by application of an allocation coefficient.

In that case, the operators shall inform the competent authority of the supplementary quantity they accept, within a week from the publication of the adjusted allocation coefficient and the security lodged shall be increased accordingly.

*Article 24*

1. The names of the designated importers referred to in Article 22(4)(c) shall be communicated by the Commission to the competent United States authorities.

2. In the case where an import licence for the quantities concerned is not allocated to the designated importer, in circumstances which do not cast doubt on the good faith of the operator submitting the certificate referred to in Article 22(5), the operator may be authorised by the Member State to designate another importer provided that the latter appears on the list communicated to the competent authorities of the United States in accordance with paragraph 1 of this Article.

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The Member State shall notify the Commission as soon as possible of the change of designated importer and the Commission shall notify the change to the competent authorities of the United States.

**▼B***Article 25*

Export licences shall be issued by 15 December of the year preceding the quota year for the quantities for which the licences are allocated.

The licences shall be valid from 1 January to 31 December of the quota year.

The following words shall be entered in section 20 of the licence application and licence:

‘For export to the United States of America: Quota for ... (year) — Chapter III, Section 2 of Regulation (EC) No 1187/2009’

Licences issued under this Article shall be valid only for the exports referred to in Article 21.

Securities for export licences shall be released on presentation of the proof referred to in Article 32(2) of Regulation (EC) No 376/2008 together with the transport document referred to in Article 17(3) of Regulation (EC) No 612/2009 mentioning as destination the United States.

**▼B***Article 26*

Chapter II, with the exception of Articles 7 and 10, shall apply.

*SECTION 3**Exports to the Dominican Republic**Article 27*

1. The presentation to the competent authorities of the Dominican Republic of a certified copy of the export licence issued in accordance with this Section and a duly endorsed copy of the export declaration for each consignment shall be required for exports to the Dominican Republic of milk powder under the quota provided for in Appendix 2 of Annex III to the Economic Partnership Agreement between the Cariforum States and the European Community and its Member States.

2. When export licences are issued, priority shall be given to milk powder falling within the following product codes from the nomenclature for refunds:

— 0402 10 11 9000,

— 0402 10 19 9000,

— 0402 21 11 9900,

— ►**M2** 0402 21 18 9900 ◀,

— 0402 21 91 9200,

— 0402 21 99 9200.

Products must have been produced entirely within the Community. At the request of the competent authorities, applicants shall supply any further substantiation which the authorities consider necessary for the issuing of licences and shall accept, where applicable, any checks by those authorities of the bookkeeping and manufacturing conditions of the products concerned.

*Article 28*

1. The quota referred to in Article 27(1) shall be of 22 400 tonnes per 12-month period commencing on 1 July. The quota shall be divided into two parts:

- (a) the first part, equal to 80 % or 17 920 tonnes, shall be distributed among Community exporters who can prove that they have exported products referred to in Article 27(2) to the Dominican Republic during at least three of the four calendar years prior to the period for submission of applications;
- (b) the second part, equal to 20 % or 4 480 tonnes, shall be reserved for applicants other than those referred to in point (a) who can prove, at the time they submit their application, that they have been engaged for at least 12 months in trade with third countries in the milk products listed in Chapter 4 of the Combined Nomenclature and are registered in a Member State for VAT purposes.



**▼B**

The proof of trade as referred to in the first subparagraph shall be furnished in accordance with the second paragraph of Article 5 of Regulation (EC) No 1301/2006.

2. Applications for export licences may not cover more, per applicant, than:

- (a) for the part referred to in paragraph 1(a), a quantity equal to 110 % of the total quantity of products referred to in Article 27(2) exported to the Dominican Republic during one of the three calendar years prior to the period for submission of applications;
- (b) for the part referred to in paragraph 1(b), a total maximum quantity of 600 tonnes.

However exporters eligible to apply for part (a) may opt to apply under part (b) instead of part (a).

Applications which exceed the ceilings provided for in points (a) and (b) shall be rejected.

3. To be admissible, only one export licence application may be submitted per product code in the nomenclature for refunds and all applications must be lodged at the same time with the competent authority of a single Member State.

Export licence applications shall be admissible only where applicants, at the time they present their applications:

- (a) lodge a security in accordance with Article 9;
- (b) for the part referred to in paragraph 1(a), indicate the quantity of products referred to in Article 27(2) that they have exported to the Dominican Republic during one of the three calendar years prior to the period referred to in paragraph 1(a) of this Article and are able to prove this to the satisfaction of the competent authority of the Member State concerned. To this end the operator whose name appears on the relevant export declaration shall be regarded as the exporter;
- (c) for the part referred to in paragraph 1(b), are able to prove to the satisfaction of the competent authority of the Member State concerned that they fulfil the conditions laid down therein.

*Article 29*

Licence applications shall be lodged from 1 to 10 April each year for the quota relating to the period from 1 July to 30 June the following year.

For the purposes of Article 4(1), all applications lodged before the deadline shall be deemed to have been lodged on the first day of the period for submission of licence applications.

**▼ B***Article 30*

Licence applications and licences shall contain:

- (a) in section 7, the words ‘Dominican Republic — DO’;
- (b) in sections 17 and 18, the quantity to which the application or licence relates;
- (c) in section 20, one of the entries listed in Annex III.

Licences issued under this Section shall give rise to an obligation to export to the Dominican Republic.

*Article 31***▼ M1**

1. Not later than the fifth working day following the expiry of the period for lodging licence applications, Member States shall notify the Commission, for each of the two parts of the quota and for each product code of the export refund nomenclature, of the quantities covered by licence applications or, where applicable, that no applications have been lodged.

Before the notification referred to in the first subparagraph, Member States shall verify in particular that the conditions referred to in Article 27(2) and in Article 28(1) and (2) are fulfilled.

**▼ B**

2. The Commission shall decide as quickly as possible to what extent licences for quantities applied for may be granted and shall inform the Member States of its decision.

If all the quantities covered by licence applications for one of the two parts of the quota exceed the quantities referred to in Article 28(1), the Commission shall fix an allocation coefficient. The amount resulting from the application of the coefficient shall be rounded down to the nearest kg.

**▼ M1**

If the application of the allocation coefficient results in a quantity per applicant of less than 20 tonnes, applicants may withdraw their applications. In such cases, they shall notify the competent authority within three working days of publication of the Commission’s decision. The security shall be released immediately. The competent authority shall notify the Commission, within eight working days of publication of the decision, of the quantities broken down by product codes of the export refund nomenclature, for which applications have been withdrawn and for which the security has been released.

**▼ B**

Where the total quantity covered by licence applications is less than the quantity available for the period in question, the Commission shall allocate the quantity remaining, on the basis of objective criteria taking account in particular of licence applications for all the products falling within CN codes 0402 10, 0402 21 and 0402 29.

**▼B***Article 32***▼M1**

1. Licences shall be issued at the request of the operator, not earlier than 1 June and not later than 15 February of the following year. They shall be issued only to operators whose licence applications were notified in accordance with Article 31(1).

If the information provided by an operator to whom a licence has been issued is found to be incorrect, the licence shall be cancelled and the security forfeited.

Member States shall notify the Commission by the end of February at the latest for both parts of the quota referred to in Article 28(1), of the quantities for which no licences were issued, broken down by product code of the export refund nomenclature.

**▼B**

2. Export licences issued in accordance with this Section shall be valid from their actual day of issue within the meaning of Article 22(2) of Regulation (EC) No 376/2008 until 30 June of the quota year for which the licence application was made.

3. The security shall be released only in one of the following cases:

- (a) on presentation of the proof referred to in Article 32(2) of Regulation (EC) No 376/2008 together with the transport document referred to in Article 17(3) of Regulation (EC) No 612/2009 mentioning as destination the Dominican Republic;
- (b) in respect of the quantities covered by applications for which no licence could be issued.

The security relating to the quantity not exported shall be forfeited.

4. By way of derogation from Article 8 of Regulation (EC) No 376/2008, licences shall not be transferable.

**▼M1**

5. By 31 August each year at the latest, Member States shall notify the Commission for both parts of the quota referred to in Article 28(1), and in respect to the previous 12-month period as referred to in Article 28(1), of the following quantities, broken down by product code of the export refund nomenclature:

— the quantity for which licences have been allocated,

— the quantity for which licences have been issued,

— the quantity exported.

**▼B***Article 33*

1. Chapter II shall apply, with the exception of Articles 7, 9 and 10.

**▼M1**

2. The notifications to the Commission referred to in this Regulation shall be made in accordance with Commission Regulation (EC) No 792/2009 <sup>(1)</sup>.

**▼B**

## CHAPTER IV

**FINAL PROVISIONS***Article 34*

1. Regulation (EC) No 1282/2006 is repealed.  
However, it shall continue to apply to export licences applied for before 1 January 2010.
2. References to Regulation (EC) No 1282/2006 shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex VIII.

*Article 35*

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 to export licences applied for as from 1 January 2010.

At the request of the interested operator submitted from the date of entry into force of this Regulation and before 1 May 2010, Article 6 shall apply to licences issued since 30 January 2009.

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

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<sup>(1)</sup> OJ L 228, 1.9.2009, p. 3.

**▼B***ANNEX I***Product categories referred to in Article 5(1)**

Number	Description	CN code
I	Butter, other fats and oils derived from milk and spreads	0405 10 0405 20 90 0405 90
II	Skimmed-milk powder	0402 10
III	Cheese and curd	0406
IV	Other milk products	0401 0402 21 0402 29 0402 91 0402 99 0403 10 11 to 0403 10 39 0403 90 11 to 0403 90 69 0404 90 2309 10 15 2309 10 19 2309 10 39 2309 10 59 2309 10 70 2309 90 35 2309 90 39 2309 90 49 2309 90 59 2309 90 70

**▼B***ANNEX II***Product groups referred to in Article 5(2)**

Group No	Combined Nomenclature code
1	► <b>M2</b> 0401 40 0401 50 ◀
2	0402 21 0402 29
3	0402 91 0402 99
4	0403 90
5	0404 90
6	0405
7	0406 10
8	0406 20
9	0406 30
10	0406 40
11	0406 90



## ANNEX III

## Entries referred to in Article 30(c)

— *in Bulgarian*: Глава III, раздел 3 от Регламент (ЕО) № 1187/2009:

тарифна квота за периода 1.7... г. — 30.6... г., за мляко на прах, съгласно допълнение II към приложение III към Споразумението за икономическо партньорство между държавите от КАРИФОРУМ, от една страна, и Европейската общност и нейните държави-членки, от друга страна, чието подписване и временно прилагане е одобрено с Решение 2008/805/ЕО на Съвета.]

— *in Spanish*: Capítulo III, sección 3, del Reglamento (CE) nº 1187/2009:

contingente arancelario de leche en polvo del año 1.7....-30.6...., con arreglo al apéndice 2 del anexo III del Acuerdo de Asociación Económica entre los Estados del CARIFORUM, por una parte, y la Comunidad Europea y sus Estados miembros, por otra, cuya firma y aplicación provisional han sido aprobadas mediante la Decisión 2008/805/CE del Consejo.

— *in Czech*: kapitola III oddíl 3 nařízení (ES) č. 1187/2009:

celní kvóta na období od 1. 7. ... do 30. 6. ... pro sušené mléko podle dodatku 2 přílohy III Dohody o hospodářském partnerství mezi státy CARIFORA na jedné straně a Evropským společenstvím a jeho členskými státy na straně druhé, jejíž podpis a prozatímní uplatňování byly schváleny rozhodnutím Rady 2008/805/ES.

— *in Danish*: Kapitel III, afdeling 3, i forordning (EF) nr. 1187/2009:

toldkontingent for 1.7...-30.6... for mælkepulver i overensstemmelse med bilag III, tillæg 2, til den økonomiske partnerskabsaftale mellem Carifor-umlandene på den ene side og Det Europæiske Fællesskab og dets medlemsstater på den anden side, hvis undertegnelse og midlertidige anvendelse blev godkendt ved Rådets afgørelse 2008/805/EF.

— *in German*: Kapitel III Abschnitt 3 der Verordnung (EG) Nr. 1187/2009:

Milchpulverkontingent für den Zeitraum 1.7....—30.6.... gemäß Anhang III Anlage 2 des Wirtschaftspartnerschaftsabkommens zwischen den CARIFORUM-Staaten einerseits und der Europäischen Gemeinschaft und ihren Mitgliedstaaten andererseits, dessen Unterzeichnung und vorläufige Anwendung mit dem Beschluss 2008/805/EG des Rates genehmigt wurde.

— *in Estonian*: määruse (EÜ) nr 1187/2009 III peatüki 3. jagu:

ühelt poolt CARIFORUMi riikide ning teiselt poolt Euroopa Ühenduse ja selle liikmesriikide vahelise majanduspartnerluslepingu (mille allkirjutamine ja esialgne kohaldamine on heaks kiidetud nõukogu otsusega 2008/805/EÜ) III lisa 2. liites on sätestatud piimapulbri tariifikvoot ajavahemikuks 1.7...-30.6....

— *in Greek*: κεφάλαιο III, τμήμα 3 του κανονισμού (ΕΚ) αριθ. 1187/2009:

δασμολογική ποσόστωση 1.7...-30.6..., για το γάλα σε σκόνη σύμφωνα με το προσάρτημα 2 του παραρτήματος III της συμφωνίας οικονομικής εταιρικής σχέσης μεταξύ των κρατών CARIFORUM, αφενός, και της Ευρωπαϊκής Κοινότητας και των κρατών μελών της, αφετέρου, της οποίας η υπογραφή και η προσωρινή εφαρμογή εγκρίθηκε με την απόφαση 2008/805/ΕΚ του Συμβουλίου.

— *in English*: Chapter III, Section 3 of Regulation (EC) No 1187/2009:

tariff quota for 1.7...-30.6..., for milk powder according to Appendix 2 of Annex III to the Economic Partnership Agreement between the CARIFORUM States, of the one part, and the European Community and its Member States, of the other part, the signature and provisional application of which has been approved by Council Decision 2008/805/EC.

▼B

— *in French*: Chapitre III, Section 3, du règlement (CE) n° 1187/2009:

contingent tarifaire pour la période du 1.7... au 30.6..., pour le lait en poudre conformément à l'appendice 2 de l'annexe III de l'accord de partenariat économique entre les États du Cariforum, d'une part, et la Communauté européenne et ses États membres, d'autre part, dont la signature et l'application provisoire ont été approuvées par la décision 2008/805/CE du Conseil.

— *in Italian*: capo III, sezione 3 del regolamento (CE) n. 1187/2009:

contingente tariffario per l'anno 1.7...-30.6..., per il latte in polvere ai sensi dell'appendice 2 dell'allegato III dell'accordo di partenariato economico tra gli Stati del CARIFORUM, da una parte, e la Comunità europea e i suoi Stati membri, dall'altra, la cui firma e la cui applicazione provvisoria sono state approvate con decisione 2008/805/CE del Consiglio.

— *in Latvian*: Regulas (EK) Nr. 1187/2009 III nodaļas 3. iedaļā –

Tarifa kvota no 1. jūlija līdz 30. jūnijam piena pulverim saskaņā ar III pielikuma 2. papildinājumu Ekonomiskās partnerattiecību nolīgumā starp CARIFORUM valstīm no vienas puses un Eiropas Kopienu un tās dalībvalstīm no otras puses, kura parakstīšana un provizorisks piemērošana apstiprināta ar Padomes Lēmumu 2008/805/EK.

— *in Lithuanian*: Reglamentas (EB) Nr. 1187/2009 III skyriaus 3 skirsnysje:

tarifinė kvota nuo ... metų liepos 1 dienos iki ... metų birželio 30 dienos pieno milteliams, numatyta CARIFORUM valstybių ir Europos bendrijos bei jos valstybių narių Ekonominės partnerystės susitarimo, kurio pasirašymas ir laikinas taikymas patvirtinti Tarybos sprendimu 2008/805/EB, III priedo 2 priedėlyje.

— *in Hungarian*: Az 1187/2009/EK rendelet III. fejezetének 3. szakasza:

az egyrésztől a CARIFORUM-államok másrésztől az Európai Közösség és tagállamai közötti gazdasági partnerségi megállapodás – amelynek aláírását és ideiglenes alkalmazását a 2008/805/EK tanácsi határozat hagyta jóvá – III. mellékletének 2. függeléke szerinti tejporra [...] július 1-től [...] június 30-ig vonatkozó vámkontingens.

— *in Maltese*: Il-Kaptiolu III, it-Taqsima 3 tar-Regolament (KE) Nru 1187/2009:

kwota tariffarja għal 1.7...-30.6..., għat-trab tal-halib skont l-Appendiċi 2 tal-Anness III għall-Ftehim ta' Shubija Ekonomika bejn l-Istati CARIFORUM, minn naħa waħda, u l-Komunità Ewropea u l-Istati Membri tagħha, min-naħa l-oħra, li l-iffirmar u l-applikazzjoni provvizorja tiegħu kienu approvati bid-Deciżjoni tal-Kunsill 2008/805/KE.

— *in Dutch*: hoofdstuk III, afdeling 3 van Verordening (EG) nr. 1187/2009:

tariefcontingent melkpoeder voor het jaar van 1.7.... t/m 30.6.... overeenkomstig aanhangsel 2 van bijlage III bij de economische partnerschapsovereenkomst tussen de CARIFORUM-staten, enerzijds, en de Europese Gemeenschap en haar lidstaten, anderzijds, waarvan de ondertekening en de voorlopige toepassing zijn goedgekeurd bij Besluit 2008/805/EG van de Raad.

— *in Polish*: rozdział III sekcja 3 rozporządzenia (WE) nr 1187/2009:

kontyngent taryfowy na okres od 1.7.... do 30.6.... na mleko w proszku zgodnie z dodatkiem 2 do załącznika III do Umowy o partnerstwie gospodarczym między państwami CARIFORUM z jednej strony, a Wspólnotą Europejską i jej państwami członkowskimi z drugiej strony, której podpisanie i tymczasowe stosowanie zostało zatwierdzone decyzją Rady 2008/805/WE.



**▼B**

— *in Portuguese:* Secção 3 do capítulo III do Regulamento (CE) n.º 1187/2009:

Contingente pautal de leite em pó do ano 1.7....-30.6...., ao abrigo do apêndice 2 do anexo III do Acordo de Parceria Económica entre os Estados do Carifórum, por um lado, e a Comunidade Europeia e os seus Estados-Membros, por outro, cuja assinatura e aplicação a título provisório foram aprovadas pela Decisão 2008/805/CE do Conselho.

— *in Romanian:* capitolul III secțiunea 3 din Regulamentul (CE) nr. 1187/2009:

contingent tarifar pentru anul 1.7...-30.6..., pentru lapte praf în conformitate cu apendicele 2 din anexa III la Acordul de parteneriat economic între statele CARIFORUM, pe de o parte, și Comunitatea Europeană și statele membre ale acesteia, pe de altă parte, ale cărui semnare și aplicare provizorie au fost aprobate prin Decizia 2008/805/CE a Consiliului.

— *in Slovak:* kapitola III oddiel 3 nariadenia (ES) č. 1187/2009:

colná kvóta na obdobie od 1. júla ... do 30. júna ... na sušené mlieko podľa dodatku 2 k prílohe III k Dohode o hospodárskom partnerstve medzi štátmi CARIFORUM-u na jednej strane a Európskym spoločenstvom a jeho členskými štátmi na druhej strane, ktorej podpísanie a predbežné vykonávanie sa schválilo rozhodnutím Rady 2008/805/ES.

— *in Slovenian:* poglavje III, oddelek 3 Uredbe (ES) št. 1187/2009:

Tarifna kvota za obdobje 1.7...-30.6... za mleko v prahu v skladu z Dodatkom 2 k Prilogi III k Sporazumu o gospodarskem partnerstvu med državami CARIFORUMA na eni strani ter Evropsko skupnostjo in njenimi državami članicami na drugi strani, katerega podpis in začasno uporabo je Svet odobril s Sklepom 2008/805/ES.

— *in Finnish:* asetuksen (EY) N:o 1187/2009 III luvun 3 jaksossa:

Euroopan yhteisön ja sen jäsenvaltioiden sekä CARIFORUM-valtioiden talouskumppanuussopimuksen, jonka allekirjoittaminen ja väliaikainen soveltaminen on hyväksytty neuvoston päätöksellä 2008/805/EY, liitteessä III olevan lisäyksen 2 mukainen maitojauheen tariffikiintiö 1.7...-30.6... välisenä aikana.

— *in Swedish:* Kapitel III, avsnitt 3 i förordning (EG) nr 1187/2009:

tullkvot för 1.7...-30.6... för mjölkpulver enligt tillägg 2 till bilaga III till avtalet om ekonomiskt partnerskap mellan Cariforum-staterna, å ena sidan, och Europeiska gemenskapen och dess medlemsstater, å andra sidan, vars undertecknande och provisoriska tillämpning godkändes genom rådets beslut 2008/805/EG.

**▼M1**

*ANNEX VII***Repealed Regulation with its successive amendments**

Commission Regulation (EC)  
No 1282/2006  
(OJ L 234, 29.8.2006, p. 4)

Commission Regulation (EC) Only Article 7 and Annex IX  
No 1919/2006  
(OJ L 380, 28.12.2006, p. 1)

Commission Regulation (EC) Only Article 1  
No 532/2007  
(OJ L 125, 15.5.2007, p. 7)

Commission Regulation (EC)  
No 240/2009  
(OJ L 75, 21.3.2009, p. 3)

Commission Regulation (EC)  
No 433/2009  
(OJ L 128, 27.5.2009, p. 5)

Commission Regulation (EC)  
No 740/2009  
(OJ L 290, 13.8.2009, p. 3)



## ANNEX VIII

## Correlation table

Regulation (EC) No 1282/2006	This Regulation
Article 1	Article 1
Article 2	Article 2
Article 3(2)	Article 3
Article 4(1)	Article 4(1)
Article 4(2)	Article 4(2)
Article 4(3)	Article 4(3)
Article 4(4)	—
Article 6	Article 5
Article 7	Article 6
Article 8	Article 7
Article 9(1) to (6)	Article 8(1) to (6)
Article 9(7)	—
Article 10(1)	Article 9
Article 10(2)	—
Article 11	Article 10
Article 12	Article 11
Article 13(1)	Article 12
Article 13(2)	—
Article 14	Article 13
Article 15	—
Article 16	Article 14
Article 17	Article 15
Article 18	Article 16
Article 19	Article 17
Article 20	Article 18
Article 21(1)	Article 19(1)
Article 21(2)	Article 19(2)
Article 21(3)	Article 19(3)

▼B

Regulation (EC) No 1282/2006	This Regulation
Article 21(4)	—
Article 22(1)	Article 20
Article 22(2)	—
Article 23	Article 21
Article 24	Article 22
Article 25(1), first subparagraph	Article 23(1), first subparagraph
—	Article 23(1), second subparagraph
Article 25(1), second subparagraph	Article 23(1), third subparagraph
Article 25(2)	Article 23(2)
Article 25(3)	Article 23(3)
Article 26	Article 24
Article 27	Article 25
Article 28	Article 26
Article 29	Article 27
Article 30(1)	Article 28(1)
Article 30(2), first subparagraph	Article 28(2), first subparagraph
—	Article 28(2), second subparagraph
Article 30(2), second subparagraph	Article 28(2), third subparagraph
Article 30(3)	Article 28(3)
Article 31	Article 29
Article 32	Article 30
Article 33(1)	Article 31(1)
Article 33(2), first subparagraph	Article 31(2), first subparagraph
Article 33(2), second subparagraph, first sentence	Article 31(2), second subparagraph, first sentence
—	Article 31(2), second subparagraph, second sentence
Article 33(2), second subparagraph, second to fifth sentences	Article 31(2), third subparagraph
Article 33(2), third subparagraph	Article 31(2), fourth subparagraph
Article 34	Article 32

**▼B**

Regulation (EC) No 1282/2006	This Regulation
Article 35(1)	Article 33(1)
Article 35(2)	—
Article 35(3)	Article 33(2)
Article 36	—
Article 37	—
—	Article 34
—	Article 35
Annex I	Annex I
Annex II	Annex II
Annex III	—
Annex IV	Annex III
Annex V	Annex IV
Annex VI	Annex V
Annex VII	Annex VI
Annex VIII	—
—	Annex VII
—	Annex VIII