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Contents

I Acts adopted under the EC Treaty/Euratom Treaty whose publication is obligatory

REGULATIONS

Commission Regulation (EC) No 1003/2009 of 23 October 2009 establishing the standard import values for determining the entry price of certain fruit and vegetables 1

Commission Regulation (EC) No 1004/2009 of 23 October 2009 on the issue of licences for importing rice under the tariff quotas opened for the October 2009 subperiod by Regulation (EC) No 327/98 3

II Acts adopted under the EC Treaty/Euratom Treaty whose publication is not obligatory

DECISIONS

Commission

2009/783/EC:

★ **Commission Decision of 22 October 2009 on the appointment of members of the stakeholder dialogue group in the areas of public health and consumer protection established by Decision 2007/602/EC** 6

RECOMMENDATIONS

Commission

2009/784/EC:

- ★ **Commission Recommendation of 19 October 2009 on withholding tax relief procedures ⁽¹⁾** 8



⁽¹⁾ Text with EEA relevance

I

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is obligatory)

REGULATIONS

COMMISSION REGULATION (EC) No 1003/2009

of 23 October 2009

establishing the standard import values for determining the entry price of certain fruit and vegetables

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) ⁽¹⁾,

Having regard to Commission Regulation (EC) No 1580/2007 of 21 December 2007 laying down implementing rules for Council Regulations (EC) No 2200/96, (EC) No 2201/96 and (EC) No 1182/2007 in the fruit and vegetable sector ⁽²⁾, and in particular Article 138(1) thereof,

Whereas:

Regulation (EC) No 1580/2007 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in Annex XV, Part A thereto,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 138 of Regulation (EC) No 1580/2007 are fixed in the Annex hereto.

Article 2

This Regulation shall enter into force on 24 October 2009.

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

Done at Brussels, 23 October 2009.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 350, 31.12.2007, p. 1.

ANNEX

Standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	MA	40,1
	MK	20,7
	TR	69,4
	ZZ	43,4
0707 00 05	MK	31,4
	TR	112,4
	ZZ	71,9
0709 90 70	MA	62,6
	TR	114,0
	ZZ	88,3
0805 50 10	AR	77,8
	TR	77,2
	ZA	79,5
	ZZ	78,2
0806 10 10	BR	211,7
	TR	114,9
	US	238,2
	ZZ	188,3
0808 10 80	AU	182,8
	CL	114,8
	MK	16,1
	NZ	82,4
	US	89,2
	ZA	79,1
	ZZ	94,1
0808 20 50	CN	59,2
	ZA	70,1
	ZZ	64,7

⁽¹⁾ Nomenclature of countries laid down by Commission Regulation (EC) No 1833/2006 (OJ L 354, 14.12.2006, p. 19). Code 'ZZ' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 1004/2009**of 23 October 2009****on the issue of licences for importing rice under the tariff quotas opened for the October 2009 subperiod by Regulation (EC) No 327/98**

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) ⁽¹⁾,

Having regard to Commission Regulation (EC) No 1301/2006 of 31 August 2006 laying down common rules for the administration of import tariff quotas for agricultural products managed by a system of import licences ⁽²⁾, and in particular Article 7(2) thereof,

Whereas:

- (1) Commission Regulation (EC) No 327/98 of 10 February 1998 opening and providing for the administration of certain tariff quotas for imports of rice and broken rice ⁽³⁾ opened and provided for the administration of certain import tariff quotas for rice and broken rice, broken down by country of origin and split into several subperiods in accordance with Annex IX to that Regulation.
- (2) October is the only subperiod for the quota with order number 09.4138 laid down in Article 1(1)(a) of Regulation (EC) No 327/98. This quota comprises the balance of the unused quantities from the quotas with order numbers 09.4127-09.4128-09.4129-09.4130 in the previous subperiod. October is the last subperiod for the quotas with order numbers 09.4148 and 09.4168 laid down in Article 1(1)(b) and (e) of Regulation (EC) No

327/98, which comprise the balance of the unused quantities from the previous subperiod.

- (3) The notifications presented under Article 8(a) of Regulation (EC) No 327/98 show that, for the quota with order number 09.4138, the applications lodged in the first 10 working days of October 2009 under Article 4(1) of that Regulation cover a quantity greater than that available. The extent to which licences may be issued should therefore be determined by establishing the allocation coefficient to be applied to the quantities requested.
- (4) The final percentage take-up for 2009 of each quota provided for by Regulation (EC) No 327/98 should also be made known,

HAS ADOPTED THIS REGULATION:

Article 1

1. For import licence applications for rice under the quota with order number 09.4138 as referred to in Regulation (EC) No 327/98 lodged in the first 10 working days of October 2009, licences shall be issued for the quantities requested, multiplied by the allocation coefficient set out in the Annex to this Regulation.

2. The final percentage take-up for 2009 of each quota provided for by Regulation (EC) No 327/98 is given in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the day of 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, 23 October 2009.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 238, 1.9.2006, p. 13.

⁽³⁾ OJ L 37, 11.2.1998, p. 5.

ANNEX

Quantities to be allocated for the October 2009 subperiod under Regulation (EC) No 327/98 and final percentage take-ups for 2009:

- (a) Quota for wholly milled or semi-milled rice falling within CN code 1006 30 provided for in Article 1(1)(a) of Regulation (EC) No 327/98:

Origin	Order number	Allocation coefficient for October 2009 subperiod	Final percentage take-up of the quota for 2009
United States of America	09.4127		98,79 %
Thailand	09.4128		95,89 %
Australia	09.4129		99,75 %
Other origins	09.4130		100 %
All countries	09.4138	1,083668 %	100 %

- (b) Quota for husked rice falling within CN code 1006 20 provided for in Article 1(1)(b) of Regulation (EC) No 327/98:

Origin	Order number	Allocation coefficient for October 2009 subperiod	Final percentage take-up of the quota for 2009
All countries	09.4148	— ⁽¹⁾	100 %

⁽¹⁾ No allocation coefficient for this subperiod: no licence applications were sent to the Commission.

- (c) Quota for broken rice falling within CN code 1006 40 provided for in Article 1(1)(c) of Regulation (EC) No 327/98:

Origin	Order number	Final percentage take-up of the quota for 2009
Thailand	09.4149	81,27 %
Australia	09.4150	0 %
Guyana	09.4152	0 %
United States of America	09.4153	45,28 %
Other origins	09.4154	100 %

- (d) Quota for wholly milled or semi-milled rice falling within CN code 1006 30 provided for in Article 1(1)(d) of Regulation (EC) No 327/98:

Origin	Order number	Final percentage take-up of the quota for 2009
Thailand	09.4112	100 %
United States of America	09.4116	100 %
India	09.4117	100 %
Pakistan	09.4118	100 %
Other origins	09.4119	100 %
All countries	09.4166	100 %

- (e) Quota for broken rice falling within CN code 1006 40 provided for in Article 1(1)(e) of Regulation (EC) No 327/98:

Origin	Order number	Allocation coefficient for October 2009 subperiod	Final percentage take-up of the quota for 2009
All countries	09.4168	— ⁽¹⁾	100 %

⁽¹⁾ No quantity remaining available for this subperiod.

II

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is not obligatory)

DECISIONS

COMMISSION

COMMISSION DECISION

of 22 October 2009

on the appointment of members of the stakeholder dialogue group in the areas of public health and consumer protection established by Decision 2007/602/EC

(2009/783/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Decision 2007/602/EC of 5 September 2007 setting up the stakeholder dialogue group in the areas of public health and consumer protection ⁽¹⁾, and in particular Article 3(1) thereof,

Whereas:

- (1) A stakeholder dialogue group in the areas of public health and consumer protection has been established by Decision 2007/602/EC with effect from 10 October 2007 in order to advise the Commission on best practice in the consultation process and also help it to better tailor its stakeholder involvement processes to stakeholders' needs in the above-mentioned areas.
- (2) The Commission appointed the members of the stakeholder dialogue group in the areas of public health and consumer protection by Decision 2007/793/EC ⁽²⁾ with effect from 29 November 2007 without specifying their respective term of office. It is therefore necessary to decide which members are to be appointed for a four-year term of office and which members are to be appointed for a two-year term of office in accordance with Article 3(4) of Decision 2007/602/EC.
- (3) Certain members of the group confirmed their intention to end their participation at the end of November 2009. In order to guarantee the continuity of the group's activity it is consequently necessary to fix at four years the term of office of the remaining members.

- (4) According to Article 3(1) of Decision 2007/602/EC, the members of the group shall be appointed by the Commission from specialists with competence in the areas referred to in Article 2(2) of that Decision and who have responded to the call for an expression of interest.

- (5) A call for expression of interest was published on 11 May 2009 and closed on 16 June 2009 and 56 applications were received.

- (6) Ten specialists have been identified from the applications received in response to the call of expression of interest. They have balanced experience from stakeholder sectors concerned by the different policy areas covered by the Directorate-General for Health and Consumers. The appointments are made on the basis of the highest standards of competence, a broad range of relevant expertise and, consistent with these criteria, the broadest possible geographic distribution within the Community, as well as a gender balance,

HAS DECIDED AS FOLLOWS:

Article 1

In accordance with Article 3(4) of Decision 2007/602/EC, the Commission herewith fixes at four years the mandate of the following members of the stakeholder dialogue group starting from 29 November 2007 until 29 November 2011:

BAX Willemien

BERTELETTI KEMP Florence

CZIMBALMOS Ágnes

⁽¹⁾ OJ L 234, 6.9.2007, p. 13.

⁽²⁾ OJ L 320, 6.12.2007, p. 33.

DI PUPPO Roshan

KUTIN Breda

GALLANI Barbara

LOGSTRUP Susanne

GOUVEIA Rodrigo

RODRIGUEZ Nathalie

KETTLITZ Beate

VAN TICHELEN Sonja

ROSS Melody

VINCENTEN Joanne

SHEPPARD Philip

VON ESSEN Garlich

TIDDENS-ENGWIRDA Lisette

Article 2

The Commission herewith appoints as new members of the Stakeholder dialogue group for a full four-year term of office:

CEPONYTE Zita

GRUNER Bernd

HERVE Maryse

KOSINSKA Monika

Article 3

This Decision shall take effect on 2 November 2009.

Done at Brussels, 22 October 2009.

For the Commission

Meglena KUNEVA

Member of the Commission

RECOMMENDATIONS

COMMISSION

COMMISSION RECOMMENDATION

of 19 October 2009

on withholding tax relief procedures

(Text with EEA relevance)

(2009/784/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

clearing and settlement' ⁽²⁾ of 2003 identified this as a barrier to efficient cross-border investments in securities.

Having regard to the Treaty establishing the European Community, and in particular to the second indent of Article 211 thereof,

Whereas:

(1) Many Member States apply withholding tax on securities income. The withholding tax is deducted either by the issuer of the securities or by a financial intermediary that is involved in the payment of the income.

(2) In many cases taxing rights are shared between the source State and the State of residence and therefore non-resident investors may be entitled to a lower withholding tax rate or exemption in the source State pursuant to conventions for the avoidance of double taxation or to domestic law, but the procedures to reduce the withholding tax rates at source or to claim refunds of tax withheld are often complicated, and vary considerably among Member States.

(3) Many Member States restrict withholding agent services to financial intermediaries that are established within their own jurisdictions.

(4) The complexity resulting from this situation hinders the functioning of the capital markets and raises the costs of cross-border settlement. The Giovannini reports 'Cross-border clearing and settlement arrangements in the European Union' ⁽¹⁾ of 2001 and 'Second report on EU

(5) Two reports of the Fiscal Compliance Experts' Group (FISCO) ⁽³⁾ — a 'Fact-finding study on fiscal compliance procedures related to clearing and settlement within the EU' of 2006 and a second report of 2007 on 'Solutions to fiscal compliance barriers related to post-trading within the EU' — have investigated the existing withholding tax relief procedures and suggested ways to make them work more efficiently.

(6) As indicated in those reports, the granting of withholding tax relief at source rather than through a refund procedure would be a major step towards simplification of withholding tax procedures.

(7) Securities income which falls within the scope of other Community legislation, namely Council Directive 90/435/EEC of 23 July 1990 on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States ⁽⁴⁾ and Council Directive 2003/49/EC of 3 June 2003 on a common system of taxation applicable to interest and royalty payments made between associated companies of different Member States ⁽⁵⁾, should not be covered by those simplification procedures. Nor is any simplification required for the withholding tax which is levied by some Member States in lieu of information exchange during the transitional period under Article 11 of Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments ⁽⁶⁾.

⁽¹⁾ http://ec.europa.eu/internal_market/financial-markets/docs/clearing/first_giovannini_report_en.pdf

⁽²⁾ http://ec.europa.eu/internal_market/financial-markets/docs/clearing/second_giovannini_report_en.pdf

⁽³⁾ http://ec.europa.eu/internal_market/financial-markets/dearing/compliance_fr.htm#reports

⁽⁴⁾ OJ L 225, 20.8.1990, p. 6.

⁽⁵⁾ OJ L 157, 26.6.2003, p. 49.

⁽⁶⁾ OJ L 157, 26.6.2003, p. 38.

- (8) Where in exceptional cases tax relief at source is not feasible, source Member States could also improve the current situation by establishing a quick refund procedure.
- (9) In order to ensure neutral conditions of competition between Community financial intermediaries, it is appropriate to allow financial intermediaries located in Member States other than the source Member States that are interposed between the issuer of the securities and the beneficial owner to participate in withholding tax procedures as information agents or as withholding agents.
- (10) Financial intermediaries that are established in EFTA countries should be treated in the same way as financial intermediaries established in the Member States to the extent that these countries provide for a level of administrative assistance equivalent to that provided under Council Directive 77/799/EEC of 19 December 1977 concerning mutual assistance by the competent authorities of the Member States in the field of direct taxation and taxation of insurance premiums⁽¹⁾, and Council Directive 2008/55/EC of 26 May 2008 on mutual assistance for the recovery of claims relating to certain levies, duties, taxes and other measures⁽²⁾.
- (11) Member States have a legitimate right to protect their tax revenues and should, therefore, be allowed to require financial intermediaries to obtain prior authorisation or approval to act as an information agent or a withholding agent.
- (12) Allowing financial intermediaries to pass on only pooled withholding tax rate information to the next financial intermediary in a custody chain would lead to important savings for all parties concerned and would eliminate data protection and competition concerns about the transmission of client information between financial intermediaries.
- (13) Simplification could be furthered by allowing alternative proofs of the entitlement of investors to tax relief, besides certificates of residence, such as self-certification and the identification information held by financial intermediaries under the duties set by Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments⁽³⁾.
- (14) In order to reduce the administrative burden, financial intermediaries should be allowed to archive documentation in electronic form.
- (15) Member States should avail of the possibilities of information exchange under Community legislation and bilateral tax arrangements and engage in joint or individual controls in order to verify financial intermediaries' compliance with their obligations. They should also make use of Directive 2008/55/EC and any future equivalent instruments for the recovery of tax receipts from another Member State or from an EFTA country.
- (16) Member States' representatives in the Commission's Working Party IV on Direct Taxation and in the European Securities Committee have discussed this matter in detail. Parallel work on withholding tax relief procedures is also taking place at the Organisation for Economic Cooperation and Development (OECD),

HEREBY RECOMMENDS:

1. *Subject matter and scope*

- 1.1. This recommendation concerns improvements to the procedures of the Member States for granting withholding tax relief on cross-border securities income earned by investors who are resident in the Community, pursuant to conventions for the avoidance of double taxation or to provisions of domestic law.
- 1.2. This recommendation applies to securities income sourced in a Member State and paid via one or more financial intermediaries established in the Community, or in EFTA countries that provide for a level of administrative assistance equivalent to that provided under Directive 77/799/EEC and Directive 2008/55/EC.
- 1.3. This recommendation does not apply to securities income which falls within the scope of Directive 90/435/EEC or Directive 2003/49/EC or to the withholding tax levied by some Member States during the transitional period in accordance with Article 11 of Directive 2003/48/EC.

2. *Definitions*

For the purpose of this Recommendation the following definitions apply:

- (a) 'securities income' means the dividend, interest or other income that securities may generate and that is subject to withholding tax in the source Member State;
- (b) 'source Member State' means the Member State where the issuer of the securities generating income is resident for tax purposes;
- (c) 'residence Member State' means the Member State where the beneficial owner of the securities income is resident for tax purposes;
- (d) 'financial intermediary' means a central securities depository, credit institution or any other authorised or supervised economic entity in the custody chain between the issuer of the securities and the beneficial owner;
- (e) 'beneficial owner' means the investor who receives the securities income for his own benefit;

⁽¹⁾ OJ L 336, 27.12.1977, p. 15.

⁽²⁾ OJ L 150, 10.6.2008, p. 28.

⁽³⁾ OJ L 145, 30.4.2004, p. 1.

(f) 'information agent' means a financial intermediary that has been authorised by the source Member State to assume responsibility for the verification of the investor's entitlement to tax relief and communication of this information to the next financial intermediary in the custody chain so as ultimately to reach the withholding agent;

(g) 'withholding agent' means an information agent that has also been authorised by the source Member State to assume responsibility for the deduction of tax at source at the appropriate rate and the payment of the tax deducted to the relevant tax authority of the source Member State;

(h) 'pooled withholding tax rate information' means information provided in a format which groups securities income according to the withholding tax rate applicable without identifying the owners of the securities.

3. Tax relief at source

Source Member States are invited to grant withholding tax relief at source at the time of payment of the securities income provided that all necessary information is available.

4. Standardised and quick refund procedures

Where in exceptional cases tax relief at source is not feasible, source Member States are invited to set up standardised and quick refund procedures. Such procedures should comprise the following:

(a) permission for information agents or withholding agents to submit refund applications to the tax authorities of the source Member State on behalf of the investors;

(b) use of a single contact point for the introduction and handling of all the refund applications and publication of the relevant information on refund procedures on a website, in at least one language customary in the sphere of international finance;

(c) use of common formats for refund applications which would be able to be filed electronically;

(d) refunding in a reasonable period of time and normally, at least, within 6 months of receipt of the refund application by the relevant tax authority, provided that all necessary information is available.

5. Role of information and withholding agents

5.1. The information agent closest to the investor should normally be best placed to act also as withholding agent.

5.2. Where that is not the case, and there is a custody chain involving several information agents:

(a) the information agent closest to the investor should verify whether the investor is entitled to tax relief and should store the documentation received;

(b) the information agent closest to the investor should report investor-specific information to the source Member State either on an annual basis or upon request;

(c) each information agent in the custody chain should pass pooled withholding tax rate information to the next information agent in the chain so as to reach the withholding agent; and

(d) the withholding agent should apply withholding tax relief at source on the basis of the pooled withholding tax rate information received.

6. Conditions for financial intermediaries

6.1. Source Member States are invited to lay down proportionate and non-discriminatory conditions and obligations in order for a financial intermediary to be authorised to act as an information agent or withholding agent.

6.2. Source Member States are invited to withdraw the authorisation granted in a case where an information agent or a withholding agent does not comply with its conditions and obligations.

7. Documentation proving entitlement to tax relief

7.1. Source Member States are invited to allow alternative proofs of the investor's entitlement to tax relief to certificates of residence issued by the residence Member State. Those alternative proofs could include self-certification by the beneficial owner and documentation gathered by information agents under the duties set by Directive 2004/39/EC on markets in financial instruments.

7.2. When establishing alternative proofs as referred to in point 7.1, source Member States may take into account the level of risk involved by, for example, setting less onerous rules in the case of claims below EUR 1 000.

8. Information and documentation in electronic format

Source Member States are invited to allow information agents and withholding agents to transmit and archive information and documentation by electronic means.

9. *Supervision*

Member States are invited to set up procedures to investigate the compliance of information agents and withholding agents with obligations created in accordance with this recommendation. This could include single or joint audits by the tax authority of the source Member State, the tax authority of the Member State where the information or withholding agent is established or by external auditors.

10. *Follow-up*

10.1. Member States are encouraged to adopt more flexible rules than those provided by this recommendation concerning the simplification of procedures for granting withholding tax relief on cross-border securities income.

10.2. Member States are invited to explore the scope offered by this recommendation for implementing new, non-burdensome, channels of information exchange aimed at providing both the source Member States and the residence Member States with investor-specific information. This could be modelled on procedures drawn up under Community legislation, particularly Directive 2003/48/EC.

10.3. Member States are invited to explore the possibility and the conditions for allowing withholding agents to set off tax amounts to be refunded against taxes to be remitted to the tax authorities of the source Member State.

10.4. Member States are invited to develop common conditions and obligations governing the approval of financial intermediaries for the purposes of this recommendation.

10.5. Member States are invited to continue working on possible ways to improve withholding tax relief procedures in the appropriate Commission working groups and to adopt a coordinated position in the corresponding discussions at the OECD.

11. *Addressees*

This recommendation is addressed to the Member States.

Done at Brussels, 19 October 2009.

For the Commission

Charlie McCREEVY

Member of the Commission

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