COMMISSION REGULATION (EC) No 856/2009

of 17 September 2009

fixing the rates of the refunds applicable to milk and milk products exported in the form of goods not covered by Annex I to the Treaty

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], and in particular Article 164(2) thereof,

Whereas:

(1) Article 162(1)b of Regulation (EC) No 1234/2007 provides that the difference between prices in international trade for the products referred to in Article 1(1)(p) and listed in Part XVI of Annex I to that Regulation and prices within the Community may be covered by an export refund where these goods are exported in the form of goods listed in Part IV of Annex XX to that Regulation.

(2) Commission Regulation (EC) No 1043/2005 of 30 June 2005 implementing Council Regulation (EC) No 3448/93 as regards the system of granting export refunds on certain agricultural products exported in the form of goods not covered by Annex I to the Treaty, and the criteria for fixing the amount of such refunds [2], specifies the products for which a rate of refund is to be fixed, to be applied where these products are exported in the form of goods listed in Part IV of Annex XX to Regulation (EC) No 1234/2007.

(3) In accordance with the second paragraph, subparagraph (a) of Article 14 of Regulation (EC) No 1043/2005, the rate of the refund per 100 kilograms for each of the basic products in question is to be fixed for a period of the same duration as that for which refunds are fixed for the same products exported unprocessed.

(4) Article 11 of the Agreement on Agriculture concluded under the Uruguay Round lays down that the export refund for a product contained in a good may not exceed the refund applicable to that product when exported without further processing.

(5) However, in the case of certain milk products exported in the form of goods not covered by Annex I to the Treaty, there is a danger that, if high refund rates are fixed in advance, the commitments entered into in relation to those refunds may be jeopardised. In order to avert that danger, it is therefore necessary to take appropriate precautionary measures, but without precluding the conclusion of long-term contracts. The fixing of specific refund rates for the advance fixing of refunds in respect of those products should enable those two objectives to be met.

(6) Article 15(2) of Regulation (EC) No 1043/2005 provides that, when the rate of the refund is being fixed, account is to be taken, where appropriate, of production refunds, aids or other measures having equivalent effect applicable in all Member States in accordance with the Regulation on the common organisation of the agricultural markets to the basic products listed in Annex I to Regulation (EC) No 1043/2005 or to assimilated products.

(7) Article 100(1) of Regulation (EC) No 1234/2007 provides for the payment of aid for Community-produced skimmed milk processed into casein if such milk and the casein manufactured from it fulfil certain conditions.

(8) Commission Regulation (EC) No 1898/2005 of 9 November 2005 laying down detailed rules for implementing Council Regulation (EC) No 1255/1999 as regards measures for the disposal of cream, butter and concentrated butter [3], lays down that butter and cream at reduced prices should be made available to industries which manufacture certain goods.

[1] OJ L 299, 16.11.2007, p. 1.
[2] OJ L 172, 5.7.2005, p. 24.
[3] OJ L 308, 25.11.2005, p. 1.

(9) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

Article 1

The rates of the refunds applicable to the basic products listed in Annex I to Regulation (EC) No 1043/2005 and in Part XVI of Annex I to Regulation (EC) No 1234/2007, and exported in the form of goods listed in Part IV of Annex XX to Regulation (EC) No 1234/2007, shall be fixed as set out in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 18 September 2009.

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

Done at Brussels, 17 September 2009.

For the Commission
Heinz ZOUREK
Director-General Enterprise and Industry

ANNEX

Rates of the refunds applicable from 18 September 2009 to certain milk products exported in the form of goods not covered by Annex I to the Treaty [1]

(EUR/100 kg)

CN code	Description	Rate of refund	
		In case of advance fixing of refunds	Other
ex 0402 10 19	Powdered milk, in granules or other solid forms, not containing added sugar or other sweetening matter, with a fat content not exceeding 1,5 % by weight (PG 2):		
	(a) on exportation of goods of CN code 3501	—	—
	(b) on exportation of other goods	22,80	22,80
ex 0402 21 19	Powdered milk, in granules or other solid forms, not containing added sugar or other sweetening matter, with a fat content of 26 % by weight (PG 3):		
	(a) where goods incorporating, in the form of products assimilated to PG 3, reduced-price butter or cream obtained pursuant to Regulation (EC) No 1898/2005 are exported	37,48	37,48
	(b) on exportation of other goods	35,00	35,00
ex 0405 10	Butter, with a fat content by weight of 82 % (PG 6):		
	(a) where goods containing reduced-price butter or cream which have been manufactured in accordance with the conditions provided for in Regulation (EC) No 1898/2005 are exported	65,00	65,00
	(b) on exportation of goods of CN code 2106 90 98 containing 40 % or more by weight of milk fat	66,52	66,52
	(c) on exportation of other goods	65,00	65,00

[1] The rates set out in this Annex are not applicable to exports to
(a) third countries: Andorra, the Holy See (Vatican City State), Liechtenstein, the United States of America and the goods listed in Tables I and II of Protocol 2 to the Agreement between the European Community and the Swiss Confederation of 22 July 1972 exported to the Swiss Confederation.
(b) territories of EU Member States not forming part of the customs territory of the Community: Ceuta, Melilla, the Communes of Livigno and Campione d'Italia, Heligoland, Greenland, the Faeroe Islands and the areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control.
(c) European territories for whose external relations a Member State is responsible and not forming part of the customs territory of the Community: Gibraltar.
(d) the destinations referred to in Article 33(1), Article 41(1) and Article 42(1) of Commission Regulation (EC) No 612/2009 (OJ L 186, 17.7.2009, p. 1).