Commission Regulation (EC) No 904/2008 of 17 September 2008 laying down the methods of analysis and other technical provisions necessary for the application of the export procedure for goods not covered by Annex I to the Treaty (Codified version)

COMMISSION REGULATION (EC) No 904/2008

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(Codified version)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff[(1)], and in particular Article 9 thereof,

Whereas:

(1) Commission Regulation (EEC) No 4056/87 of 22 December 1987 laying down the methods of analysis and other technical provisions necessary for the implementation of Regulation (EEC) No 3035/80 laying down general rules for granting export refunds on certain agricultural products exported in the form of goods not covered by Annex II to the Treaty, and the criteria for fixing the amount of such refunds[(2)] has been substantially amended[(3)]. In the interests of clarity and rationality the said Regulation should be codified.

(2) In order to ensure uniform treatment of the exportation from the Community of goods covered by Council Regulation (EC) No 3448/93 of 6 December 1993 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products[(4)], it is important to define the analytical methods and other provisions of a technical nature.

(3) The measures provided for in this Regulation are in accordance with the opinion of the Tariff and Statistical Nomenclature Section of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation lays down the methods of analysis necessary for the application of Regulation (EC) No 3448/93 as regards the export of goods not covered by Annex I to the Treaty or, in the absence of a method of analysis, the nature of the analytical operations to be carried out or the principle of a method to be applied.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 904/2008. (See end of Document for details)*

Article 2

In accordance with the notes to Annex IV to Commission Regulation (EC) No 1043/2005[(5)] and for the purposes of applying that Annex, the 'Data obtained from the analysis of the goods' set out in column 3 shall be obtained using the methods, procedures and formulae referred to in this Article:

1. *Sugars*

High performance liquid chromatography (HPLC) shall be used for the individual determination of sugars.

A. The sucrose content mentioned in column 3 of Annex IV to Regulation (EC) No 1043/2005 shall be equal to:

(a) $S + (2F) \times 0{,}95$,

if the glucose content is not less than the fructose content,

or

(b) $S + (G + F) \times 0{,}95$,

if the glucose content is less than the fructose content

where:

S	=	is the sucrose content determined by HPLC,
F	=	is the fructose content determined by HPLC,
G	=	is the glucose content determined by HPLC,

Where the presence of a lactose hydrolysate is declared and/or quantities of lactose and galactose are detected, a glucose content, equivalent to the galactose content (determined by HPLC), shall be deducted from the glucose (G) content before any other calculation is made.

B. The glucose content mentioned in column 3 of Annex IV to Regulation (EC) No 1043/2005 shall be equal to:

(a) $G - F$,

where the glucose content is more than the fructose content

(b) 0 (Zero),

where the glucose content is equal to or less than the fructose content.

Where the presence of a lactose hydrolysate is declared and/or quantities of lactose and galactose are detected, a glucose content, equivalent to the galactose content (determined by HPLC), shall be deducted from the glucose (G) content before any other calculation is made.

2. *[F1Starch (or dextrin)*

(dextrin shall be expressed as starch)

1. For all CN codes other than CN codes 3505 10 10, 3505 10 90, 3505 20 10 to 3505 20 90 and 3809 10 10 to 3809 10 90, the starch (or dextrin) content referred to in column 3 of Annex IV to Regulation (EC) No 1043/2005 shall be calculated using the formula:

   $(Z - G) \times 0{,}9$,

   where

   Z = is the glucose content determined by the method described in Annex I to Commission Regulation (EC) No 900/2008[6];

   G = is the glucose content before enzymatic treatment, determined by high performance liquid chromatography (HPLC).

2. For CN codes 3505 10 10, 3505 10 90, 3505 20 10 to 3505 20 90 and 3809 10 10 to 3809 10 90, the starch (or dextrin) content shall be determined by the method set out in Annex II to Regulation (EC) No 900/2008.**]**

3. *Milk fat content*

   For the purposes of determining the milk fat content, a method based on extraction with light petroleum, preceded by hydrolysis with hydrochloric acid and followed by gas chromatography of the methyl esters of the fatty acids, shall be used. If the presence of milk fats is detected, the percentage proportion thereof shall be calculated by multiplying the percentage concentration of methyl butyrate by 25, multiplying the product by the total percentage fat content by weight of the goods and dividing by 100.

Textual Amendments

F1 Substituted by Commission Regulation (EU) No 117/2010 of 9 February 2010 amending Regulation (EC) No 904/2008 laying down the methods of analysis and other technical provisions necessary for the application of the export procedure for goods not covered by Annex I to the Treaty.

Article 3

For the purposes of applying Annex III to Regulation (EC) No 1043/2005, the percentage of mannitol and of D-glucitol (sorbitol) shall be determined by HPLC.

Article 4

1 A test report shall be drawn up.

2 The test report shall include the following particulars:

— all the information necessary for identifying the sample,

— the Community method used and precise reference to the legal instrument in which it is laid down, or, where appropriate, detailed reference to a method, specifying the nature of the analytical operations to be carried out or the principle of the method to be applied, as indicated in this Regulation,

— any factors liable to have influenced the results,