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COMMISSION REGULATION (EC) No 800/1999

of 15 April 1999

laying down common detailed rules for the application of the system of export refunds on agricultural products

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►**C2** Corrigendum, OJ L 180, 15.7.1999, p. 53 (800/1999)

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COMMISSION REGULATION (EC) No 800/1999

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laying down common detailed rules for the application of the system of export refunds on agricultural products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market of cereals [1], as last amended by Commission Regulation (EC) No 923/96 [2], and in particular Articles 13 and 21 thereof, and to the corresponding provisions of the other regulations on the common organisation of the markets in agricultural products,

Having regard to Council Regulation (EC) No 2799/98 of 15 December 1998 establishing agrimonetary arrangements for the euro [3], and in particular Articles 3 and 9 thereof,

(1) Whereas Commission Regulation (EEC) No 3665/87 of 27 November 1987 laying down common detailed rules for the application of the system of exports refunds on agricultural products [4], as last amended by Regulation (EC) No 604/98 [5], has been repeatedly and substantially amended; whereas, on the occasion of fresh amendments, it should be recast for the sake of clarity;

(2) Whereas the general rules laid down by the Council provide for the refund to be paid upon proof being furnished that the products have been exported from the Community; whereas entitlement to the refund is acquired as soon as the products have left the Community market, when a single refund rate applies for all third countries; whereas, where the rate of refund is differentiated according to the destination of the products, entitlement to the refund is conditional on importation into a third country;

(3) Whereas the implementation of the Uruguay Round Agreement on Agriculture makes the grant of a refund subject, as a general rule, to the requirement of an export licence comprising the advance fixing of the refund; whereas, however, deliveries in the Community for international organisations and for the armed forces, deliveries for victualling and exports of small quantities are special cases and of minor economic importance; whereas, for those reasons, provision has been made for a special system without an export licence, in the interests of simplifying such export operations and avoiding an excessive administrative burden on economic operators and the competent authorities;

(4) Whereas, within the meaning of this Regulation, the day of export is that during which the customs authorities accept the act by which the declarant shows his willingness to carry out the export of the products for which he seeks the benefit of an export refund; whereas such act is intended to draw the attention, and in particular the attention of the customs authorities, to the fact that the operation under consideration is being carried out with the aid of Community funds, in order that those customs authorities shall carry out suitable checks; whereas at the time of acceptance, products are placed under customs supervision until their actual export; whereas the date serves as a reference for establishing the quantity, nature and characteristics of the product exported;

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[1] OJ L 181, 1.7.1992, p. 21.
[2] OJ L 126, 24.5.1996, p. 37.
[3] OJ L 349, 24.12.1998, p. 1.
[4] OJ L 351, 14.12.1987, p. 1.
[5] OJ L 80, 18.3.1998, p. 19.

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(5) Whereas, in the case of consignments in bulk or in non-standard units, it is recognised that the exact net mass of the products can be known only after loading onto the means of transport; whereas, in order to deal with that situation, provision should be made for stating a provisional mass on the export declaration;

(6) Whereas, for the sake of the proper application of Council Regulation (EEC) No 386/90 of 12 February 1990 on the monitoring carried out at the time of the export of agricultural products receiving refunds or other amounts [1], as last amended by Regulation (EC) No 163/94 [2], provision should be made so that verification of whether the export declaration matches the agricultural products is carried out at the time of loading of the container, lorry, vessel or other similar container;

(7) Whereas, where exports involve frequent consignments of small quantities, provision should be made for a simplified procedure as regards the relevant day to be used for the determination of the rate of refunds;

(8) Whereas, in order that the concept of 'exportation from the Community' may be interpreted consistently, it should be specified that a product is to be regarded as having been exported when it leaves the customs territory of the Community;

(9) Whereas it may be necessary for the exporter or transporter to take steps in order to prevent deterioration in the products intended for export during the 60-day period following acceptance of the export declaration and before departure from the customs territory of the Community or before arrival at destination; whereas freezing is such a step, making it possible to leave the products intact; whereas, in order to comply with this requirement, it should be permissible for freezing to be carried out during the said period;

(10) Whereas the competent authorities should ensure that products leaving the Community or in transit to a particular destination are in fact those which have undergone the customs export formalities; whereas, to this end, when a product crosses the territory of other Member States before leaving the customs territory of the Community or reaching a particular destination, use should be made of the T5 control copy referred to in Articles 471 to 495 of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code [3], as last amended by Regulation (EC) No 502/1999 [4]; whereas, however, it seems desirable, in order to simplify administrative procedure, to provide more flexible arrangements than the use of the T5 control copy, in the case of transactions under the simplified Community transit procedures for carriage by rail or large containers under Articles 412 to 442 of Regulation (EEC) No 2454/93, which provides that when a transport operation begins within the Community and is to end outside it, no formalities need to be carried out at the customs office of the frontier station;

(11) Whereas in some instance a refund may be claimed in respect of products which have been exported and which have left the customs territory of the Community, but which are returned for the purposes of transhipment or a transit operation before reaching a final destination outside that territory; whereas such returns may conceivably also occur for reasons other than transport requirements, and more particularly for the purpose of speculation; whereas in such cases compliance with the 60-day time-limit for leaving the customs territory of the Community is undermined; whereas, in order to avoid such situations, there is a

[1] OJ L 42, 16.2.1990, p. 6.
[2] OJ L 24, 29.1.1994, p. 2.
[3] OJ L 253, 11.10.1993, p. 1.
[4] OJ L 65, 12.3.1999, p. 1.

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need to define clearly the conditions under which such returns may take place;

(12) Whereas the arrangements provided for in this Regulation may be accorded only to products which are in free circulation and which are, if appropriate, of Community origin; whereas in the case of certain compound products the refund is fixed not on the basis of the product itself but by reference to the basic products of which they are composed; whereas in cases where the refund is thus fixed on the basis of one or more components, it is sufficient for the grant of the refund or the relevant part thereof that the component or components in question themselves should meet the requirements, or no longer do so solely because they have been incorporated in other products; whereas, in order to take into account the particular status of certain components, a list should be drawn up of products for which the refunds are fixed on the basis of one component;

(13) Whereas Articles 23 to 26 of Council Regulation (EC) No 2913/92 of 12 October 1992 establishing the Community Customs Code [1], as last amended by Regulation (EC) No 82/97 of the European Parliament and of the Council [2], define the non-preferential origin of goods; whereas for the grant of export refunds; only products wholly obtained or substantially processed in the Community are deemed to be of Community origin; whereas it is appropriate to clarify, in order to reach uniform application throughout the Member States, that certain mixtures of products do not qualify for refund;

(14) Whereas the rate of refund is determined by the tariff classification of a product; whereas the classification may, for certain mixtures, goods put up in sets and composite goods, result in the grant of a higher refund than is economically justified; whereas it is therefore necessary to adopt special provisions for determining the refund applicable to mixtures, goods put up in sets and composite goods;

(15) Whereas, where the rate of the refund varies according to the destination of the product, provision should be made for verification that the product has been imported into the third country or countries for which the refund was fixed; whereas such a measure can be relaxed without difficulty in respect of exports where the refund involved is small and the transaction is such as to offer adequate assurances that the products concerned arrive at their destination, whereas the purpose of the provision is to simplify the administrative work involved in the submission of evidence;

(16) Whereas, where a single rate of refund applies to all destinations on the day on which the refund is fixed in advance, there is in certain cases a compulsory destination clause; whereas this situation should be treated as a variation of the refund where the rate of the refund applicable on the day on which export takes place is lower than the rate, of the refund applicable on the day of advance fixing, adjusted where appropriate to the day on which export takes place;

(17) Whereas, where the rate of refund is differentiated according to the destination of the exported products, proof should be furnished that the product concerned has been imported into a third country; whereas completion of customs import formalities consists notably in the payment of import duties applicable in order that the product may be marketed in the third country concerned; whereas considering the diversity of situations prevailing in the importing third countries, it is advisable to accept the production of customs import documents which give assurances that the products exported have arrived at their destination, whilst hindering trade as little as possible;

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[1] OJ L 302, 19.10.1992, p. 1.
[2] OJ L 17, 21.1.1997, p. 1.

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(18) Whereas, in order to assist the Community exporters in obtaining proof of arrival at destination, it should be provided that international control and supervisory agencies approved by Member States are to deliver arrival certificates for exported agricultural products of the Community benefiting from a differentiated refund; whereas the approval of these agencies is the responsibility of the Member States which give their approval on a case-by-case basis, in accordance with certain existing guidelines; whereas it is appropriate to clarify the situation and to integrate the principal guidelines in this Regulation;

(19) Whereas, in order to put exports of products enjoying a variable refund, according to destination, on an equal footing with other exports, provision should be made for part of the refund, calculated on the basis of the lowest rate of refund applicable on the day on which export takes place, to be paid as soon as the exporter has furnished proof that the product has left the customs territory of the Community;

(20) Whereas in the case of differentiated refunds, if there has been a change of destination, the refund applicable to the actual destination is payable, subject to a ceiling of the level of the amount applicable to the destination fixed in advance; whereas to prevent abuse whereby destinations with the highest rates of refund are selected systematically, a system of penalties should be introduced for changing the destination where the actual rate of refund is less than the rate for the destination fixed in advance; whereas this new provision has consequences for the calculation of the part of the refund payable once the exporter furnishes proof that the product has left the customs territory of the Community;

(21) Whereas Articles 23 to 26 of Regulation (EEC) No 2913/92 define the non-preferential origin of goods; whereas it is appropriate in certain cases to apply the criterion covering substantial processing or working laid down in Article 24 to assess whether products have actually reached their destination;

(22) Whereas certain export transactions can lead to deflection of trade; whereas, in order to prevent such deflections, payment of the refund should be subject to the condition that the product has not only left the customs territory of the Community but has also been imported into a third country or has undergone substantial processing or working; whereas, moreover, payment of the refund may, in some cases, be subject to the product's having actually been placed on the market in the importing third country or to its having undergone substantial processing or working;

(23) Whereas if a product has been destroyed or damaged before being placed on the market in a third country or undergoing substantial processing the refund is considered not to be due; whereas in such cases the exporter should have the opportunity of submitting evidence showing that the export operation was carried out in such economic conditions as would have allowed the transaction to be carried out in the normal course of events;

(24) Whereas Community financing of export operations is unjustified where the operation is not a normal commercial transaction, since it has no real economic purpose and is effected solely to obtain a payment from the Community;

(25) Whereas steps should be taken to prevent Community funds from being allocated for transactions which do not correspond to any objective of the system of export refunds; whereas this risk exists for products attracting export refunds which are subsequently reimported into the Community without having undergone substantial processing or working in a third country and on which reduced or zero duty is paid on reimport rather than the normal rate, pursuant to a preferential agreement or a Council decision; whereas it is appropriate, in order to limit constraints on exporters, to apply such measures to the most sensitive products;

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(26) Whereas it is appropriate, in order to limit the exporters' uncertainty, to remove the requirement as to repayment of refunds, whenever the product is reimported into the Community more than two years after exportation;

(27) Whereas, on the one hand, the Member States should be permitted to refuse to grant refunds, or should be able to recover them; in flagrant cases where they note that the transaction is not in line with the aim of the system of export refunds and, on the other hand, no excessive burden should be placed on the national authorities through an ►C2 obligation to verify systematically all imports; ◄

(28) Whereas products should be of a quality such that they can be marketed on normal terms in the Community; whereas it is appropriate, however, to take account of the specific obligations arising from the standards in force in the third countries of destination;

(29) Whereas certain products can lose the entitlement to the refund when they cease to be of sound and fair marketable quality;

(30) Whereas no export levy applies where an export refund has been fixed in advance or determined by tender, since exportation must be effected under the conditions thus fixed in advance or determined by tender; whereas, by the same token, it should be provided that where an export is subject to an export levy fixed in advance or determined by tender, exportation is to be effected under the conditions laid down and therefore cannot qualify for an export refund;

(31) Whereas, to enable exporters to finance their transactions more easily, Member States should be authorised to advance all or part of the amount of the refund as soon as the export declaration or payment declaration is accepted, subject to the provision of security to guarantee repayment of the amount advanced if it should later be found that the refund ought not to have been paid;

(32) Whereas reimbursement of the amount paid in advance of export must be made if there proves to be no right to the export refund or if there was a right to a smaller refund; whereas the reimbursement must include an additional amount to avoid abuses; whereas in case of *force majeure* the additional amount is not reimbursed;

(33) Whereas Council Regulation (EEC) No 565/80 [1], as amended by Regulation (EEC) No 2026/83 [2], lays down general rules for paying, in advance of export, an amount equal to the export refund;

(34) Whereas Article 4(5) and (6) of Regulation (EEC) No 565/80 provides that the day on which basic products are brought under customs control is to be used to determine the rate of refund applicable or, the adjustments to be made to that rate;

(35) Whereas the operative date should accordingly be the day on which the customs authorities accept the declaration from the person concerned, in which he declares his intention to place the products or goods concerned under the arrangements provided for in Articles 4 and 5 of Regulation (EEC) No 565/80, and to export them, with a refund, after processing or storage; whereas that declaration must include the necessary particulars for the calculation of refunds;

(36) Whereas the purpose of paying the refund before processing takes place is to put Community products on an equal footing with products imported from non-member countries for processing and re-exporting;

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[1] OJ L 62, 7.3.1980, p. 5.
[2] OJ L 199, 22.7.1983, p. 12.

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(37) Whereas the production methods for processed products and their control procedures require a degree of flexibility; whereas Article 115 of Regulation (EEC) No 2913/92 provides for a system of equivalence under the inward processing arrangements;

(38) Whereas to permit more efficient use of existing storage capacity, it is appropriate to provide for a system by which equivalence can be authorised for products stored in bulk and which are to be exported after processing;

(39) Whereas products which are not eligible for refunds may not be equivalent products;

(40) Whereas it is clear from Commission Regulation (EEC) No 3002/92 of 16 October 1992 laying down common detailed rules for verifying the use and/or destination of products from intervention [1], as last amended by Regulation (EEC) No 770/96 [2], that intervention products must reach the prescribed destination; whereas, as a result, such products may not be replaced by equivalent products;

(41) Whereas a time limit should be set for the export of the products concerned; whereas that time limit must be set taking into consideration the system of export licences and advance fixing certificates;

(42) Whereas, in cases where export is preceded by storage, it appears appropriate to restrict this Regulation to those forms of handling intended to ensure preservation of the goods in question; whereas, in order to clarify the situation, it should be laid down that such forms of handling do not in any way affect the refund to be applied;

(43) Whereas Article 5 of Regulation (EEC) No 565/80 lays down that an amount equal to the export refund is to be paid as soon as the products or goods have been brought under the customs warehousing or free zone procedure; whereas once the payment declaration has been accepted, it should be possible to transport such products or goods to a Member State other than that in which payment is made, for storage and subsequent export; whereas provision should be made for a T5 control copy to accompany the products or goods in order to furnish proof of departure from the Community; whereas, in order to prevent risks of duplicated payment, the export declaration should be endorsed with certain entries informing the paying agency of the Member State where the export declaration is accepted that the procedure for payment of the refund has already been commenced;

(44) Whereas no refund is granted if the time limit for export or for submitting the proof required for obtaining payment of the refund is not complied with; whereas measures should be adopted similar to those contained in Commission Regulation (EEC) No 2220/85 of 22 July 1985 laying down common detailed rules for the application of the system of securities for agricultural products [3], as last amended by Regulation (EEC) No 3403/93 [4];

(45) Whereas in the Member States products imported from non-member countries for certain uses are exempt from duties; whereas, in so far as those outlets are substantial, Community products should be placed on an equal footing with such products from non-member countries; whereas this situation arises particularly in the case of products used in supplying ships and aircraft;

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[1] OJ L 301, 17.10.1992, p. 17.
[2] OJ L 104, 27.4.1996, p. 13.
[3] OJ L 205, 3.8.1985, p. 5.
[4] OJ L 310, 14.12.1993, p. 4.

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(46) Whereas in the case of ship and aircraft supplies and deliveries to the armed forces it is possible to lay down special rules for determining the amount of the refund;

(47) Whereas products taken on board ship as supplies are used for consumption on board; whereas, these products, consumed as they are or used in the preparation of food on board, qualify for the refund applicable to unprocessed products; whereas, in view of the limited space available on aircraft, food has to be prepared before it is taken on board; whereas, with a view to harmonisation, rules should be adopted so as to enable the same refund to be given on agricultural products consumed on board aircraft as are given to those consumed after preparation on board ship;

(48) Whereas the business of delivering ship and aircraft supplies is a very specialised trade, warranting special arrangements for the advance of refunds; whereas products and goods delivered to victualling warehouses must subsequently be delivered for victualling; whereas deliveries to such warehouses cannot be treated as final export for the purposes of entitlement to refund;

(49) Whereas, if use is made of these facilities and it is later found that the refund should not have been paid, the exporters will in effect have had the unjustified benefit of an interest-free loan; whereas measures should therefore be taken to preclude this unwarranted benefit;

(50) Whereas in order to maintain the competitiveness of Community goods supplied to platforms in certain areas close to Member States, refunds should be made available at the rate applicable to victualling within the Community; whereas the payment of a refund rate above the lowest in respect of deliveries to a particular destination cannot in any event be justified unless there is no doubt that the goods have reached that destination; whereas the delivery of supplies to platforms in isolated sea areas is necessarily a specialised operation such that it would appear possible to exercise sufficient control over deliveries; whereas subject to adequate control measures being specified it would appear reasonable to apply to deliveries the rate of refund for victualling within the Community; whereas it is possible to provide for a simplified procedure for deliveries of lesser importance: whereas, since the extent of territorial waters varies according to the Member States between 3 and 12 miles, it would also be reasonable to regard as exports deliveries to all such platforms beyond the three-mile limit;

(51) Whereas, when a naval vessel belonging to a Member State is victualled on the high seas by a naval supply vessel operating from a Community port, it is possible to obtain certification of that delivery from a competent authority; whereas it would be reasonable to apply to such deliveries the same rate of refund as applies to victualling in a Community port;

(52) Whereas it is desirable that agricultural products used in supplying ships and aircraft should qualify for an identical refund whether they are taken on board a ship or an aircraft within the Community or outside it;

(53) Whereas deliveries of such supplies in third countries may be direct or indirect; whereas methods of supervision appropriate to each type of delivery should be introduced;

(54) Whereas under the provisions of Article 161(3) of Regulation (EEC) No 2913/92 the island of Heligoland does not qualify as a destination for which refunds are payable; whereas the consumption of agricultural products from the Community in the island of Heligoland should be encouraged; whereas the necessary provisions should be adopted for that purpose;

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(55) Whereas since the entry into force of the Interim Agreement on trade and customs union between the Community and San Marino [1] the territory of that State no longer forms part of the customs territory of the Community; whereas it follows from Articles 1, 5 and 7 of that Agreement that prices for agricultural products are at the same level within the customs union and that there is, therefore, no economic justification for granting export refunds on Community agricultural products consigned to San Marino;

(56) Whereas, if an application for repayment or remission of duties is subsequently refused, the products concerned may be eligible for an export refund or will be subject, as the case may be, to an export levy or export charge; whereas consequently, it is necessary to lay down special provisions;

(57) Whereas, generally, armed forces stationed in a non-member country which do not come under the command of that country, international organisations and diplomatic bodies established in a third country obtain their supplies free of import duty; whereas it appears possible to take specific measures — in respect of armed forces which are under the command either of a Member State or an international organisation of which at least one of the Member States is a member, in respect of international organisations of which at least one Member State is a member and in respect of diplomatic bodies — which provide that the proof of import shall be furnished by a special document;

(58) Whereas a provision should be introduced whereby the refund is to be paid by the Member State on whose territory the export declaration was accepted;

(59) Whereas it may happen that by reason of circumstances beyond the control of the exporter the T5 control copy cannot be produced even though the product has left the customs territory of the Community or has reached a particular destination; whereas such a situation may impede trade; whereas in such circumstances other documents should be recognised as equivalent;

(60) Whereas in the interests of sound administrative practice, applications for payment of the refund, accompanied by all relevant documents, should be required within a reasonable period, save in cases of *force majeure* and in particular when it has not been possible to comply with the time limit because of administrative delays beyond the control of the exporter;

(61) Whereas the period in which the payment of the export refunds is carried out varies from one Member State to the other; whereas it is advisable, in order to avoid distortions to competition, to introduce a maximum uniform period for the payment of these refunds by the paying agencies;

(62) Whereas exports of very small quantities of products are of no economic significance and are liable to overburden the competent authorities unnecessarily; whereas the competent services of the Member States should be given the option of refusing to pay refunds in respect of such exports;

(63) Whereas the Community rules provide for the granting of export refunds on the sole basis of objective criteria, in particular as to the quantity, nature and characteristics of the product exported, and its geographical destination; whereas, in the light of experience, measures to combat irregularities and notably fraud harmful to the Community budget should be intensified; whereas, to that end, provision should be made for the recovery of amounts over-paid and sanctions to encourage exporters to comply with Community rules;

[1] OJ L 359, 9.12.1992, p. 13.

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(64) Whereas, to ensure the correct functioning of the system of export refunds, sanctions should be applied regardless of any subjectivity of the fault; whereas it is nevertheless appropriate to waive sanctions in certain cases, and notably where there is an obvious error recognised by the competent authority, and to provide harsher sanctions in cases of intent; whereas those measures are necessary, and should be proportionate, sufficiently dissuasive, and uniformly applied throughout the Member States;

(65) Whereas, in order to ensure equal treatment for exporters in Member States, explicit provision should be made, as far as export refunds are concerned, for any amount over-paid to be reimbursed with interest by the beneficiary, and the procedure for payment should be laid down; whereas, in order better to protect the Community's financial interest, provision should be made, where the right to a refund is transferred, for that obligation to be extended to the transferee; whereas sums and interest recovered, and sanctions collected, should be credited to the European Agricultural Guidance and Guarantee Fund (EAGGF) in accordance with the principles laid down in Article 8(2) of Council Regulation (EEC) No 729/70 of 21 April 1970 on the financing of the common agricultural policy [1], as last amended by Regulation (EC) No 1287/95 [2];

(66) Whereas, in order to ensure uniform application throughout the Coummunity of the principle of legitimate expectation where amounts over-paid are recovered, the conditions under which that principle may be invoked should be laid down without prejudice to the treatment of irregular expenditure as provided for, in particular, in Articles 5 and 8 of Regulation (EEC) No 729/70;

(67) Whereas the exporter should be responsible in particular for the acts of any third party which could make it possible to obtain improperly the documents needed for payment of the refund;

(68) Whereas the relevant management committees have not delivered opinions within the time limits set down by their chairmen,

HAS ADOPTED THIS REGULATION:

TITLE I

SCOPE AND DEFINITIONS

Article 1

Without prejudice to derogations provided for in Community regulations specific to certain products, this Regulation lays down common detailed rules for the application of the system of export refunds, hereinafter referred to as 'refunds', provided for in:

— Article 3 of Council Regulation No 136/66/EEC [3] (oils and fats),

— Article 17 of Council Regulation (EEC) No 804/68 [4] (milk and milk products),

— Article 13 of Council Regulation (EEC) No 805/68 [5] (beef and veal),

— Article 13 of Council Regulation (EEC) No 2759/75 [6] (pigmeat),

— Article 8 of Council Regulation (EEC) No 2771/75 [7] (eggs),

— Article 8 of Council Regulation (EEC) No 2777/75 [8] (poultrymeat),

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[1] OJ L 94, 28.4.1970, p. 13.
[2] OJ L 125, 8.6.1995, p. 1.
[3] OJ L172, 30. 09. 1996, p. 3025/66
[4] OJ L 148, 28.6.1968, p. 13.
[5] OJ L 148, 28.6.1968, p. 24.
[6] OJ L 282, 1.11.1975, p. 1.
[7] OJ L 282, 1.11.1975, p. 49.
[8] OJ L 282, 1.11.1975, p. 77.

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— Article 17 of Council Regulation (EEC) No 1785/81 [1] (sugar, isoglucose and inulin syrup),

— Articles 55 and 56 of Council Regulation (EEC) No 822/87 [2] (wine),

— Article 13 of Regulation (EEC) No 1766/92 (cereals),

— Article 13 of Council Regulation (EEC) No 3072/95 [3] (rice),

— Article 35 of Council Regulation (EC) No 2200/96 [4] (fruit and vegetables),

— Articles 16, 17 and 18 of Council Regulation (EC) No 2201/96 [5], (products processed from fruit and vegetables).

Article 2

1. For the purposes of this Regulation:

(a) — 'products' means the products listed in Article 1, and goods,

— 'basic products' means products intended for export after processing into processed products or into goods; goods intended for export after processing shall also be regarded as basic products,

— 'processed products' means products obtained from the processing of basic products and on which refunds are payable,

— 'goods' means the goods listed in Annex B to Commission Regulation (EC) No 1222/94 [6];

(b) 'import duties' means customs duties, charges having equivalent effect and other import charges provided for under the common agricultural policy or under specific trade arrangements applicable to certain goods resulting from the processing of agricultural products;

(c) 'Member State of export' means the Member State in which the export declaration is accepted;

(d) 'advance fixing of the refund' means the fixing of the refund on the day of submission of the application for an export licence or advance-fixing certificate, the rate being adjusted by any increase or corrective amount applicable to the refund;

(e) 'differentiated refund' means:

— more than one rate of refund is fixed on the same product depending on the third country of destination, or

— one or more rates of refund are fixed on the same product according to the third country of destination, no rate being fixed for one or more third countries;

(f) 'differentiated part of the refund' means the part of the refund obtained by deducting from the total amount of the refund applicable the refund paid or to be paid on the basis of proof of exit from the customs territory of the Community, calculated in accordance with Article 18;

(g) 'export' means the completing of customs export formalities followed by the exit of the products from the customs territory of the Community;

(h) 'T5 control copy' means the document referred to in Articles 471 to 495 of Regulation (EEC) No 2454/93;

(i) 'exporter' means the natural or legal person who is entitled to the refund. Where an export licence with advance fixing of the refund must or may be used, the holder or, where appropriate, the transferee of the licence shall be entitled to the refund. The exporter for customs purposes may be different from the exporter within the

(1) OJ L 177, 1.7.1987, p. 1.
(2) OJ L 84, 27.3.1987, p. 1.
(3) OJ L 329, 30.12.1995, p. 18.
(4) OJ L 297, 21.11.1996, p. 1.
(5) OJ L 297, 21.11.1996, p. 29.
(6) OJ L 136, 31.5.1994, p. 5.

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meaning of this Regulation, given the relationship between economic operators under private law, except where otherwise stated in special provisions adopted under certain common market organisations;

(j) 'advance on refund' means an amount equal at most to the refund paid from the time of acceptation of the export declaration;

(k) 'prefinancing of the refund' means advances on refunds where goods are processed or stored prior to export, pursuant to Regulation (EEC) No 565/80;

(l) 'rate of refund determined by invitation to tender' means the refund quoted by the exporter and accepted by tender;

(m) 'customs territory of the Community' means the territories referred to in Article 3 of Regulation (EEC) No 2913/92;

(n) 'refund nomenclature' means the agricultural product nomenclature for export refunds in accordance with Commission Regulation (EEC) No 3846/87 [1];

(o) 'export licence' means the document referred to in Article 1 of Commission Regulation (EEC) No 3719/88 [2].

2. For the purposes of this Regulation, refunds determined by invitation to tender shall rank as refunds fixed in advance.

3. Where an export declaration covers several different refund nomenclature codes or Combined Nomenclature codes, the entries relating to each code shall be deemed to be separate declarations.

TITLE II

EXPORTS TO THIRD COUNTRIES

CHAPTER 1

Entitlement to refunds

Section 1

General provisions

Article 3

Without prejudice to Articles 18, 20, 21 of this Regulation and Article 4(3) of Council Regulation (EC) No 2988/95 [3], entitlement to the refund is acquired:

— on leaving the customs territory of the Community, when a single refund rate applies for all third countries,

— on importation into a specific third country, when a differentiated refund applies for that third country.

Article 4

1. Entitlement to the refund shall be conditional upon presentation of an export licence with advance fixing of the refund, except in the case of exports of goods and international food aid within the meaning of Article 10(4) of the Uruguay Round Agreement on Agriculture.

However, no licence shall be required to obtain a refund:

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— where the quantities exported per export declaration are less than or equal to the quantities set out in Annex III to Regulation (EC) No 1291/2000,

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— in cases covered by Articles 6, 36, 40, 44 and 45 and Article 46(1),

[1] OJ L 366, 24.12.1987, p. 1.
[2] OJ L 331, 2.12.1988, p. 1.
[3] OJ L 312, 23.12.1995, p. 1.

▼B

— for deliveries to Member States' armed forces stationed in third countries.

2. Notwithstanding paragraph 1, an export licence with advance fixing of the refund 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 category as referred to in the second paragraph of Article 13a of Regulation (EEC) No 3719/88, or

— to the same product group, provided that such product groups have been defined for this purpose in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92 or the corresponding articles of the other regulations governing ►C2 the common organisations of the markets. ◄

In the cases set out in the first subparagraph, the following further conditions shall apply:

— if the rate of refund corresponding to the actual product is equal to or higher than the rate applicable to the product shown in box 16 of the licence, the latter rate shall apply,

— if the rate of refund corresponding to the actual product is lower than the rate applicable to the product indicated in box 16 of the licence, the refund to be paid shall be that obtained by the application of the rate corresponding to the actual product, less, save in cases of *force majeure*, 20 % of the difference between the refund corresponding to the product indicated in box 16 of the licence and the refund for the actual product.

Where the second indent of the second subparagraph and point (b) of Article 18(3) apply, the reduction to be applied to the refund corresponding to the actual product and the actual destination shall be calculated on the difference between the refund corresponding to the product and destination indicated on the licence and the refund corresponding to the actual product and destination.

For the purpose of applying this paragraph, the rates of refund to be taken into consideration shall be those valid on the day on which the licence application is lodged. Where necessary those rates shall be adjusted on the day of acceptance of the export declaration or payment declaration.

3. Where paragraph 1 or 2 and Article 51 apply to the same export operation, the amount resulting from paragraph 1 or 2 shall be reduced by the amount of the penalty referred to in Article 51.

Article 5

1. 'Day of export' means the day on which the customs authorities accept the export declaration stating that a refund is to be applied for.

2. The date of acceptance of the export declaration shall determine:

(a) the rate of refund applicable where the refund is not fixed in advance;

(b) any adjustments to be made to the rate of refund where it is so fixed in advance;

(c) the quantity, nature and characteristics of the product exported.

3. Any other act having the same effect in law as acceptance of the export declaration shall be deemed equivalent to such acceptance.

4. The document used on export to qualify for a refund shall include all information necessary to calculate the refund, and in particular:

(a) for products:

— a description, simplified where appropriate, of the products in accordance with the export refund nomenclature, together with the refund nomenclature code and, where necessary to calculate the refund, the composition of the products concerned or a reference thereto,

▼B

— the net mass of the products or, where applicable, the quantity expressed in the unit of measurement to be used when calculating the refund;

(b) in the case of goods, the provisions of Regulation (EC) No 1222/94 shall apply.

5. At the time of acceptance or of the act envisaged in paragraph 3, the products shall be placed under customs control in accordance with Article 4(13) and (14) of Regulation (EEC) No 2913/92 until they leave the customs territory of the Community.

6. By way of derogation from Article 282(2) of Regulation (EEC) No 2454/93, the authorisation to make the export declaration in a simplified form may stipulate that the simplified declaration shall contain an estimate of the net mass of products exported in bulk or in non-standard units, where the exact quantity can only be established once loading onto the means of transport is completed.

The additional declaration indicating the exact net mass must be lodged once loading is completed. It must be accompanied by documentary evidence of the exact net mass loaded.

No refund shall be granted for quantities exceeding 110 % of the estimated net mass. Where the mass actually loaded is less than 90 % of the estimated net mass, the refund for the net mass actually loaded will be reduced by 10 % of the difference between the refund corresponding to 90 % of the estimated net mass and the refund corresponding to the mass actually loaded.

The following shall be considered non-standard units: live animals, (half-) carcases and quarters.

Notwithstanding point (d) of Article 278(3) of Regulation (EEC) No 2454/93, the provisions of this paragraph shall apply to products placed under the prefinancing arrangements under Article 26 of this Regulation.

7. All persons exporting products for which they claim a refund shall be required to:

(a) lodge the export declaration with the competent customs office in the place in which the products are to be loaded for transport for exportation;

(b) inform that customs office at least 24 hours prior to commencement of the loading operations and indicate the anticipated duration of loading. The competent authorities may stipulate a time limit other than 24 hours.

The competent customs office may authorise the loading operations after having accepted the export declaration, before expiry of the time limit referred to in point (b).

The competent customs office shall be enabled to make physical checks and identify the goods for transport to the office of exit from the customs territory of the Community.

If, for administrative reasons, the first subparagraph cannot be applied, the export declaration may only be lodged with a competent customs office in the Member State concerned and, where a physical check is carried out in accordance with Regulation (EEC) No 386/90, any goods presented must be completely unloaded. However, the goods do not have to be unloaded completely where the competent authorities can perform an exhaustive physical check.

Article 6

By way of derogation from Article 5(2), where the quantities exported do not exceed 5 000 kilograms of product per refund nomenclature code in the case of cereals or 500 kilograms per refund nomenclature or Combined Nomenclature code in the case of other products and where such exports involve frequent consignments, the Member State may allow the last day of the month to be used to determine the refund

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applicable or, if the refund is fixed in advance, any adjustments to be made thereto.

Where the refund is fixed in advance or is determined by invitation to tender, the licence shall be valid on the last day of the month of export.

Exporters authorised to make use of this option shall not apply the normal procedure for the quantities set out in the first paragraph.

In the case of Member States not participating in economic and monetary union, the last day of the month shall also be used to. determine the euro exchange rate into national currency applicable to the amount of the refunds.

Article 7

1. Without prejudice to Articles 14 and 20, payment of the refund shall be conditional upon proof being furnished that the products covered by accepted export declarations have left the customs territory of the Community in their unaltered state within 60 days of such acceptance.

However, the quantities of products taken as samples at the time of completion of customs export formalities and not returned subsequently shall be regarded as not having been removed from the products' net mass from which they were actually taken.

2. For the purposes of this Regulation, catering supplies delivered to drilling or extraction rigs as defined in point (a) of Article 44(1) shall be deemed to have left the customs territory of the Community.

3. Freezing shall be without prejudice to compliance with paragraph 1.

This shall also apply to repackaging, provided that such repackaging does not result in a change in the subheading of the product in the refund nomenclature or the subheading of the goods in the Combined Nomenclature. Repackaging may take place only after the customs authorities have given their agreement.

Where repackaging takes place, the T5 control copy shall be completed accordingly.

The affixing or changing of labels may be authorised under the same conditions as repackaging under the second and third subparagraphs.

4. Where for reasons of *force majeure* an exporter cannot comply with the time limit laid down in paragraph 1, that time limit may, at the exporter's request, be extended for such period as the competent authorities of the Member State of export deem necessary in the circumstances.

Article 8

If, before leaving the customs territory of the Community, a product covered by an accepted customs declaration crosses Community territory other than that of the Member State of export, proof that the product has left the customs territory of the Community shall be furnished by means of the duly endorsed original of the T5 control copy.

Boxes 33, 103, 104 and, where appropriate, 105 of the ►C2 control copy shall be completed. ◄ The appropriate entry shall be, made in Box 104.

Article 9

1. For the purpose of granting refunds in the case of export by sea, the following special provisions shall apply:

(a) Where the T5 control copy or the national document proving that the products have left the customs territory of the Community has been endorsed by the competent authorities, the products may not, except in cases of *force majeure*, remain for more than 28 days for the purposes of transhipment in any other port(s) located in the

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same or another Member State. That time limit shall not apply where the products have left the final port in the customs territory of the Community within the original 60-day time limit.

(b) Refunds shall be paid subject to presentation to the paying agency of:

— a declaration by the exporter that the products are not to be transhipped in another Community port,

or

— proof of compliance with (a). Such proof shall consist in particular of the transport document(s), or a copy or photocopy thereof, covering the products from departure from the first port at which the documents referred to in (a) were endorsed, to arrival in the third country in which they are to be unloaded.

Declarations as referred to in the first indent shall be subject to suitable spot checks by the paying agency. The proof referred to in the second indent shall be required for that purpose.

In cases of export by vessels operating a direct shipping service to a third country port without calling at any other Community port, Member States may apply a simplified procedure for the purpose of the first indent.

(c) As an alternative to the conditions set out in point (b), the Member State of exit may stipulate that the T5 control copy or the national document proving that the products have left the customs territory of the Community is to be endorsed only on presentation of a transport document specifying a final destination outside the customs territory of the Community.

In such cases, one of the following entries shall be added by the competent authorities of the Member State of exit under the heading 'Remarks' in the section headed 'Control of use and/or destination' on the T5 control copy or under the corresponding heading of the national document:

— Documento de transporte con destino fuera de la CE presentado,

— Transportdokument med destination uden for EF forelagt,

— Beförderungspapier mit Bestimmung außerhalb der EG wurde vorgelegt,

— Υποβαλλόμενο έγγραφο μεταφοράς με προορισμό εκτός ΕΚ

— Transport document showing a destination outside the Community has been presented,

— Document de transport avec destination hors CE présenté,

— Documento di trasporto con destinazione fuori CE presentato,

— Vervoerdocument voor bestemming buiten EG voorgelegd,

— Documento de transporte com destino fora da CE apresentado,

— Kuljetusasiakirja, jossa ilmoitetaan yhteisön tullialueen ulkopuolinen määräpaikka, on esitetty,

— Transportdokument med slutlig destination utanför gemenskapens tullområde har lagts fram.

Compliance with this point shall be verified by suitable spot checks conducted by the paying agency.

(d) Where it is found that the conditions set out in point (a) have not been complied with, for the purposes of Articles 35 and 50 the day, or days, by which the 28-day time limit is exceeded shall be deemed to be days by which the time limit laid down in Articles 7 and 34 is exceeded.

If both the 60-day time limit laid down in Article 7(1} and the 28-day time limit laid down in point (a) are exceeded, the amount by which the refund is to be reduced or the part of the security to be forfeited shall be equal to that due to the greater of the two overruns.

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2. For the purpose of granting refunds in the case of export by road, by inland waterway or by rail, the following special provisions shall apply:

(a) Where the T5 control copy or the national document proving that the products have left the customs territory of the Community has been endorsed by the competent authorities, the products concerned may not, except in cases of *force majeure*, return to such territory other than for the purpose of a transit operation and for not more than 28 days. That time limit shall not apply where the products concerned have left the customs territory of the Community definitively within the original 60-day time limit.

(b) Compliance with point (a) shall be verified by suitable spot checks conducted by the paying agency. In such cases the transport documents covering the products up to their arrival in the third country in which they are to be unloaded, shall be required.

In cases where it is found that the conditions set out in (a) have not been complied with, for the purposes of Articles 35 and 50 the day, or days, by which the 28-day time limit is exceeded shall be deemed to be days by which the time limit laid down in Articles 7 and 34 is exceeded.

If both the 60-day time limit laid down in Article 7(1) and the 28-day time limit laid down in (a) are exceeded, the amount by which the refund is to be reduced or the part of the security to be forfeited shall be equal to that due to the greater of the two overruns.

3. For the purpose of granting refunds in the case of export by air, the following special provisions shall apply:

(a) The T5 control copy or the national document proving that the products have left the customs territory of the Community may be endorsed by the competent authorities only on presentation of a transport document indicating a final destination outside the customs territory of the Community.

(b) In cases where it is found that, after completion of the formalities referred to in point (a), the products have remained, except in cases of *force majeure*, for more than 28 days for the purpose of transhipment in one or more other airports in the customs territory of the Community, the day, or days, by which the 28-day time limit is exceeded shall, for the purposes of Articles 35 and 50, be deemed days by which the time limit laid down in Articles 7 and 34 is exceeded.

If both the 60-day time limit stipulated in Article 7(1) and the 28-day time limit stipulated in this point are exceeded, the amount by which the refund is to be reduced or the part of the security to be forfeited shall be equal to that due to the greater of the two overruns.

(c) Compliance with this paragraph shall be verified by suitable spot checks conducted by the paying agency.

(d) The 28-day time limit laid down in (b) shall not apply where the products concerned have left the customs territory of the Community definitively within the original 60-day time limit.

Article 10

1. Where the product is placed, in the Member State of export, under one of the simplified Community transit procedures for carriage by rail or large containers provided for in Articles 412 to 442 of Regulation (EEC) No 2454/93, for carriage to a station of destination or for delivery to a consignee outside the customs territory of the Community, payment of the refund shall not be conditional on production of the T5 control copy.

2. For the purposes of paragraph 1, the competent customs office shall ensure that the words ‘Departure from the customs territory of the Community under the simplified Community transit procedure for carriage by rail or large containers’ are entered on the document issued with a view to payment of the refund.

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3. The customs office where the products are placed under a procedure as referred to in paragraph 1 may not permit the contract of carriage to be amended so that carriage ends within the Community unless it is established that:

— where the refund has been paid, such refund has been reimbursed,

or

— the necessary steps have been taken by the authorities concerned to ensure that the refund is not paid.

However, where the refund has been paid pursuant to paragraph 1 and the product has not left the customs territory of the Community within the time limit laid down, the competent customs office shall so inform the agency responsible for paying the refund and shall provide it as soon as possible with all the necessary particulars. In such cases the refund shall be regarded as over-paid.

4. Where a product circulating under the external Community transit procedure or the common transit procedure is placed in a Member State other than that of export under a procedure as provided for in paragraph 1 for carriage to a station of destination or delivery to a consignee outside the customs territory of the Community, the customs office at which the product has been placed under a procedure as referred to above shall insert one of the following entries under 'Remarks' in the section headed 'Control of use and/or destination' on the back of the original of the T5 control copy:

— Salida del territorio aduaneiro de la Comunidad bajo el régimen de tránsito comunitario simplificado por ferrocarril o en grandes contenedores:

  — Documento de transporte:

    tipo: .....

    número: .....

  — Fecha de aceptación para el transporte por parte de la administración ferroviaria o de la empresa de transportes de que se trate: .....

— Udgang af Fællesskabets toldområde i henhold til ordningen for den forenklede procedure for fællesskabsforsendelse med jernbane/store containers:

  — Transportdokument:

    type: .....

    nummer: .....

  — Dato for overtagelse ved jernbane eller ved det pågældende transportfirma: .....

— Ausgang aus dem Zollgebiet der Gemeinschaft im Rahmen des vereinfachten gemeinschaftlichen Versandverfahrens mit der Eisenbahn oder in Großbehältern:

  — Beförderungspapier:

    Art: .....

    Nummer: .....

  — Zeitpunkt der Annahme zur Beförderung durch die Eisenbahnverwaltung oder das betreffende Beförderungsunternehmen: .....

— Έξοδος από το τελωνειακό έδαφος της Κοινότητας υπό το απλοποιημένο καθεστώς της κοινοτικής διαμετακόμισης με σιδηρόδρομο ή μεγάλα εμπορευματοκιβώτια:

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— Έγγραφο μεταφοράς:

τύπος: .....

αριθμός: .....

— Ημερομηνία αποδοχής για μεταφορά από τη σιδηροδρομική αρχή ή την ενδιαφερόμενη εταιρεία μεταφοράς: .....

— Exit from the customs territory of the Community under the simplified Community transit procedure for carriage by rail or large containers:

— Transport document:

type: .....

number: .....

— Date of acceptance for carriage by the railway authorities or the transport undertaking concerned: .....

— Sorte du territoire douanier de la Communauté sous le régime du transit communautaire simplifié par chemin de fer ou par grands conteneurs:

— Document de transport:

espèce: .....

numéro: .....

— Date d'acceptation pour le transport par l'administration des chemins de fer ou par l'entreprise de transports concernée: .....

— Uscita dal territorio doganale della Comunità in regime di transito comunitario semplificato per ferrovia o grandi contenitori:

— Documento di trasporto:

tipo: .....

numero: .....

— Data di accettazione per il trasporto da parte delle ferrovie o dell'impresa di trasporto interessata: .....

— Uitgang uit het douanegebied van de Gemeenschap de regeling vereenvoudigd communautair douanevervoer per spoor of in grote containers:

— Vervoerdocument:

type: .....

nummer: .....

— Datum van aanneming ten vervoer door de betrokken spoorwegadministratie of de betrokken vervoerondernemíng: .....

— Saída do território aduaneiro da Comunidade aø abrigo do regime do trânsito comunitário simplificado por caminho-de-ferro ou em grandes contentores:

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— Documento de transporte:

tipo: .....

número: .....

— Data de aceitação para o transporte pela administração dos caminhos-de-ferro ou pela empresa de transporte interessada: .....

— Viety yhteisön tullialueelta yksinkertaistetussa yhteisön passitusmenettelyssä rautateitse tai suurissa konteissa

— Kuljetusasiakirja:

tyyppi: .....

numero: .....

— Päivä, jona rautatieviranomainen tai asianomainen kuljetusyritys hyväksyi kuljetettavaksi: .....

— Utförsel från gemenskapens tullområde enligt det förenklade transiteringsförfarandet för järnvägstransporter eller transporter i stora containrar:

— Transportdokument:

typ: .....

nummer: .....

— Mottagningsdag för befordran hos järnvägsföretaget eller det berörda transportföretaget: .....

Where the contract of carriage is amended so that carriage terminates within the Community, paragraph 3 shall apply *mutatis mutandis*.

5. Where a product is taken over by the railways in the Member State of export or another Member State and circulates under the external Community transit procedure or the common transit procedure under a contract of carriage for combined road-rail transport by rail to a destination outside the customs territory of the Community, the customs office competent for or nearest to the rail terminal at which the product is taken over by the railways shall insert one of the following entries under 'Remarks' in the section headed 'Control of use and/or destination' on the back of the original of the T5 control copy:

— Salida del territorio aduanero de la Comunidad por ferrocarril en transporte combinado por ferrocarril carretera:

— Documento de transporte:

tipo: .....

número: .....

— Fecha de aceptación del transporte por parte de la administración ferroviaria: .....

— Udgang af Fællesskabets toldområde ad jernbane ved kombineret jernbane-/landevejstransport:

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— Transportdokument:

type: .....

nummer: .....

— Dato for overtagelse ved jernbane: .....

— Ausgang aus dem Zollgebiet der Gemeinschaft mit der Eisenbahn zur Beförderung im kombinierten Straßen- und Schienenverkehr:

— Beförderungspapier:

Art: .....

Nummer: .....

— Zeitpunkt der Annahme zur Beförderung durch die Eisenbahnverwaltung: .....

— Έξοδος από το τελωνειακό έδαφος της Κοινότητας σιδηροδρομικώς με συνδυασμένη μεταφορά σιδηροδρομικώς-οδικώς:

— Έγγραφο μεταφοράς:

είδος: .....

αριθμός: .....

— Ημερομηνία αποδοχής για τη μεταφορά από τη διοίκηση των σιδηροδρόμων: .....

— Exit from the customs territory of the Community by rail under combined transport by road and by rail:

— Transport document:

type: .....

number: .....

— Date of acceptance for carriage by the railway authorities: .....

— Sorte du territoire douanier de la Communauté par chemin de fer, en transport combiné rail-route:

— Document de transport:

espèce: .....

numéro: .....

— Date d'acceptation pour le transport par l'administration des chemins de fer: .....

— Uscita dal territorio doganale della Comunità per ferrovia nell'ambito di un trasporto combinato strada-ferrovia:

— Documento di trasporto:

tipo: .....

numero: .....

— Data di acettazione del trasporto da parte dell'amministrazione delle ferrovie: .....

— Uitgang uit het douanegebied van de Gemeenschap per spoor, bij gecombineerd rail-wegvervoer:

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— Vervoerdocument:

type: .....

nummer: .....

— Datum van aanneming ten vervoer door de spoorwegadministratie: .....

— Saída do território aduaneiro da Comunidade por caminho-de-ferro, em transporte combinado rodo-ferroviário:

— Documento de transporte:

tipo: .....

número: .....

— Data de aceitação do transporte pela administração dos caminhos-de-ferro: .....

— Viety yhteisön tullialueelta rautateitse yhdistetyssä rautatie- ja maantiekuljetuksessa:

— Kuljetusasiakirja:

tyyppi: .....

numero: .....

— Päivä, jona rautatieviranomainen hyväksyi kuljetettavaksi: .....

— Utförsel från gemenskapens tullområde på järnväg vid kombinerad järnvägs- och landsvägstransport:

— Transportdokument:

typ: .....

nummer: .....

— Mottagningsdag för befordran hos järnvägsföretaget .....

A contract of carriage for combined road-rail transport which is amended so that carriage terminates within the Community instead of outside may not be performed by the railway authorities without prior authorisation from the office of departure. In such cases, paragraph 3 shall apply *mutatis mutandis*.

Article 11

1. Refunds shall be granted only on products which, irrespective of the customs situation regarding the packaging:

— are of Community origin and are in free circulation within the Community, or

— are in free circulation within the Community, or

— are in free circulation within the Community, the refund in this case being limited in amount to the import charge collected at the time of import.

The legislative provisions on the common organisation of the market in the product concerned shall determine the conditions applicable to the product having regard to the first subparagraph.

2. Where the refund is granted on condition that the product is of Community origin, exporters shall declare the origin as defined in the second and third subparagraphs in accordance with the Community rules in force.

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For the grant of the refund, products are of Community origin if they are wholly obtained in the Community or if they underwent their last substantial processing or working in the Community in accordance with the provisions of Article 23 or 24 of Regulation (EEC) No 2913/92.

Without prejudice to paragraph 5, products obtained from the following shall not qualify for refund:

— materials originating in the Community, and

— agricultural materials covered by the regulations referred to in Article 1 imported from third countries which did not undergo a substantial processing in the Community.

3. For the purposes of Article 17(12) of Regulation (EEC) No 1785/81, exporters shall declare that the sugar meets one of the conditions laid down in that Regulation and shall specify the condition in question.

4. Declarations under paragraphs 2 and 3 shall be verified in the same way as the other information in export declarations.

5. Where compound products qualifying for a refund on one or more of their ingredients are exported, the refund on the latter shall be granted subject to its or their compliance with the condition set out in paragraph 1.

The refund shall also be granted where the ingredient, or ingredients, in respect of which the refund is claimed came originally within the terms set out in paragraph I and are no longer in ►C2 free circulation ◄ on account solely of their incorporation in other products.

6. For the purposes of paragraph 5, refunds on the following shall be deemed to be refunds fixed on the basis of an ingredient:

— basic products of the cereals, eggs, rice, sugar, milk and milk products sectors, exported in the form of goods referred to in Annex B to Regulation (EC) No 1222/94,

— white sugar and raw sugar falling within CN code 1701, glucose and glucose syrup falling within CN codes 1702 30 51, 1702 30 59, 1702 30 91, 1702 30 99, 1702 40 90 and 1702 90 50, isoglucose falling within CN codes 1702 30 10, 1702 40 10, 1702 60 10 and 1702 90 30 and beet and cane syrups falling within CN codes 1702 60 95 and 1702 90 99, used in products listed in Article 1(2) of Regulation (EC) No 2201/96,

— milk and milk products and sugar exported in the form of products falling within CN codes 0402 10 91 to 99, 0402 29, 0402 99, 0403 10 31 to 39, 0403 90 31 to 39, 0403 90 61 to 69, 0404 10 26 to 38, 0404 10 72 to 84 and 0404 90 81 to 89 and exported in the form of goods falling within ►C2 CN code 0406 30 ◄ which are not in either of the situations referred to in Article 9(2) of the Treaty,

— cereals exported in the form of products falling within CN codes 2309 10 11 to 70 and 2309 90 31 to 70 and listed in Annex A to Regulation (EEC) No 1766/92,

— milk and milk products exported in the form of products falling within CN codes 2309 10 11 to 70 and 2309 90 31 to 70 and listed in Article 1 of Regulation (EEC) No 804/68.

Article 12

1. The rate of refund applicable to mixtures falling within Chapters 2, 10 and 11 of the Combined Nomenclature shall be that applicable:

(a) in the case of mixtures one ingredient of which accounts for at least 90 % by weight, to that ingredient;

(b) in the case of other mixtures, to the ingredient to which the lowest refund rate applies. In cases where one or more of the ingredients does not qualify for a refund, no refund shall be payable on such mixtures.

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2. For the purposes of calculating the refunds applicable to goods put up in sets and composite goods, each component shall be considered to be a separate product.

3. Paragraphs 1 and 2 shall not apply to mixtures, goods put up in sets and composite goods for which special rules of calculation are laid down.

Article 13

The provisions relating to the advance fixing of refunds and to adjustments to be made thereto shall apply only to products for which a rate of refund equal to or greater than zero is fixed

Section 2

Differentiated refunds

Article 14

1. Where the rate of refund varies according to destination, refunds shall be paid subject to the additional conditions laid down under Articles 15 and 16.

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Article 15

1. The products shall be imported in their unaltered state into the third country or one of the third countries for which the refund applies within 12 months of the date of acceptance of the export declaration; however, an extension of this limit may be granted in accordance with Article 49.

2. Products shall be considered to have been imported in their unaltered state if there is no evidence whatsoever of processing.

However:

— operations as referred to in Article 29(4) conducted with a view to the safekeeping of the products may be carried out prior to import and shall be without prejudice to compliance with paragraph 1,

— products processed prior to import shall be considered to have been imported in their unaltered state provided that processing takes place in the third country into which all the products resulting from such processing are imported.

3. A product shall be considered to have been imported when the customs import formalities, in particular those concerning the collection of import duties in the third country have been completed.

4. The differentiated part of the refund shall be paid on the mass of the products which underwent the customs formalities for import in the third country; however, no account shall be taken of any variations in mass that might occur in the course of transport as a result of natural causes and which are recognised by the competent authorities or due to samples taken in accordance with the provisions of the second subparagraph of Article 7(1).

Article 16

1. Proof that customs formalities for importation have been completed shall, as the exporter chooses, be furnished by one of the following documents:

(a) the customs document or a copy or photocopy thereof; such copy or photocopy shall be certified as being a true copy by the body which endorsed the original document, an official agency of the third country concerned, an official agency of a Member State in the third country concerned or an agency responsible for paying the refund;

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(b) a certificate of unloading and importation drawn up by an international control and supervisory agency approved by a Mermber State in accordance with the minimum requirements set out in paragraph 5. The date and number of the customs document of import must appear on the certificate concerned.

2. Where the exporter cannot obtain the document chosen in accordance with points (a) or (b) of paragraph 1 even after taking the appropriate steps, or where there are doubts as to the authenticity of the document furnished, proof of completion of customs formalities for importation may be furnished by one or more of the following documents

(a) a copy of the unloading document issued or endorsed in the third country for which a refund is payable;

(b) a certificate of unloading issued by an official agency of a Member State established in, or competent for, the country of destination, certifying in addition that the product has left the place of unloading or at least that, to its knowledge, the product has not subsequently been loaded for re-exportation;

(c) a certificate of unloading drawn up by an international control and supervisory agency approved by a Member State in accordance with the minimum requirements set out in ►C2 paragraph 5 ◄, certifying in addition that the product has left the place of unloading or at least that, to its knowledge, the product has not subsequently been loaded for re-exportation;

(d) a bank document issued by approved intermediaries established in the Community, certifying, in the case of the third countries listed in Annex II, that payment for the exports in question has been credited to the exporter's account with them;

(e) a certificate of acceptance of delivery issued by an official agency of the third country concerned, where the goods are purchased by that country or by an official agency of that country or where the goods constitute food aid;

(f) a statement of acceptance of delivery issued either by an international organisation or a humanitarian organisation approved by the Member State of exportation, where the goods constitute food aid;

(g) a statement of acceptance of delivery issued by a body in a third country whose invitations to tender are acceptable under Article 44 of Regulation (EEC) No 3719/88 where the goods are purchased by that body.

3. Exporters shall in all cases produce a copy or photocopy of the transport documents.

4. The Commission may, in accordance with the procedure laid down in Article 38 of Regulation No 136/66/EEC and in the corresponding articles of the other regulations on the common organisation of the markets, provide, in certain specific cases to be determined, for proof of import as referred to in paragraphs 1 and 2 to be furnished by a specific document or in any other way.

5. The minimum requirements for the approval of international control and supervisory agencies are the following:

(a) Control and supervisory agencies shall be approved at their request by the competent authorities of the Member States for a three-year period. Approval shall be valid for all Member States.

(b) Where the primary and secondary proofs referred to in point (b) of paragraph 1 and point (c) of paragraph 2 are drawn up, the control and supervisory agencies shall carry out all the checks necessary to determine the nature, characteristics and quantity of the products mentioned in the certificate. A file shall be opened for every certificate issued in which all surveillance activities are recorded. The checks shall be carried out on the spot at the moment of import, except in duly justified exceptional cases.

(c) The control and supervisory agencies referred to in point (b) of paragraph 1 and point (c) of paragraph 2 shall be independent of

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the parties involved in the transaction under scrutiny. In particular, neither the control and supervisory agency carrying out the controls for a particular transaction, nor any subsidiary company belonging to the same financial group, may take part in the operation as exporter, customs agent, carrier, consignee, warehousekeeper or in any other capacity likely to give rise to a conflict of interest.

(d) Without prejudice to Article 8 of Regulation (EEC) No 729/70 and Article 3 of Council Regulation (EEC) No 4045/89 [1], Member States shall inspect the activities of the control and supervisory agencies at regular intervals or when there is reason to doubt whether the conditions for approval have been observed.

(e) Member States shall withdraw approval, wholly or partly, if it is found that the control and supervisory agency cannot any longer guarantee compliance with the conditions governing approval.

The Member State concerned shall immediately inform the other Member States and the Commission of the withdrawal of approval. This information shall be the subject of an exchange of views within all relevant Management Committees.

The withdrawal shall be valid for all Member States.

Article 17

Member States may exempt exporters from furnishing proof other than the transport document required under Article 16, where an export operation offers adequate guarantees of arrival at destination of products covered by an export declaration granting entitlement to a refund the variable component of which does not exceed:

(a) EUR 1 200 in the case of products listed in Article 1(2)(c) of Regulation No 136/66/EEC;

(b) EUR 1 200 in the case of products other than those referred to in point (a) where the third country or territory of destination is listed in Annex IV;

(c) EUR 6 000 in the case of products other than those referred to in point (a) where the third country or territory of destination is not listed in Annex IV.

Article 18

1. By way of derogation from Article 14 and without prejudice to Article 20, part of the refund shall be paid on application by the exporter once proof is furnished that the product has left the customs territory of the Community.

2. The part of the refund referred to in paragraph 1 shall be calculated using the lowest rate for the refund, less 20 % of the difference between ►**C2** the rate fixed in advance and the lowest rate, the non-fixing of a rate being regarded as the lowest rate. ◄

Where the amount to be paid does not exceed EUR 2 000, Member States may defer payment of that amount until the full refund concerned is paid, except in cases where the exporter declares that he will not apply for payment of any further amount in respect of the exports concerned.

3. Where the destination marked in box 7 of licences issued with advance fixing of the refund is not observed:

(a) if the rate of refund corresponding to the actual destination is equal to or higher than the rate for the destination marked in box 7, the refund for the destination marked in box 7 shall apply;

[1] OJ L 388, 30.12.1989, p. 18.

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(b) if the rate of refund corresponding to the actual destination is lower than the rate for the destination marked in box 7, the refund to be paid shall be:

— that obtained by the application of the rate corresponding to the actual destination,

— less, except in cases of *force majeure*, 20 % of the difference between the refund for the destination marked in box 7 and the refund for the actual destination.

For the purposes of this Article, the rates of refund to be taken into consideration shall be those applying on the day the licence application is submitted. Such rates shall be adjusted, where applicable, on the date of acceptance of the export declaration or the payment declaration.

Where the first and second subparagraphs of this paragraph and Article 51 apply to the same export operation, the amount obtained by the application of the first subparagraph shall be reduced by the penalty provided for in Article 51.

4. Where a rate of refund is determined by invitation to tender and the relevant contract stipulates a compulsory destination, any periodic refund fixed or the fact that no such refund is fixed for that destination on the date of submission of the licence application or the date of acceptance of the export declaration shall not be taken into account for the purposes of determining the lowest rate of refund.

Article 19

1. Paragraphs 2 to 5 shall apply where a product is exported under an export licence or advance-fixing certificate stipulating a compulsory destination.

2. Where the product does not arrive at the compulsory destination, only that part of the refund resulting from the application of Article 18(2) shall be paid.

3. Where, for reasons of *force majeure*, the product is delivered to a destination other than that for which the licence was issued, a refund shall be paid on application by the exporter if he furnishes proof of *force majeure* and proof of arrival of the product at destination; proof of arrival at destination shall be furnished in accordance with Articles 15 and 16.

4. Where paragraph 3 applies, the refund applicable shall be equal to that fixed for the actual destination, but may not be higher than that applicable for the destination marked in box 7 of licences issued with advance fixing of the refund.

The rates of refund shall be adjusted, where applicable, on the date of acceptance of the export declaration or the payment declaration.

5. To qualify for a refund fixed in advance, where a product is exported under a licence issued pursuant to Article 44 of Regulation (EEC) No 3719/88 and the refund varies according to destination, the exporter shall provide proof, in addition to that required under Article 16, that the product has been delivered in the third country of import to the body specified in the invitation to tender to which the licence refers.

Section 3

Specific measures of protection of the Community's financial interests

Article 20

1. Where:

(a) there are serious doubts as to the real destination of the product;

or

(b) by reason of a difference between the amount of the refund on the exported product and the amount of the non-preferential import

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duty applicable to an identical product on the date of acceptance of the export declaration, the product is liable to be reimported into the Community,

or

(c) there are definite suspicions that the product, in its unaltered state or after having been processed in a third country, will be reimported into the Community duty free or at a reduced rate of import duty;

the single-rate refund or the part of the refund referred to in Article 18(2) shall be paid only if the product has left the customs territory of the Community in accordance with Article 7, and,

(i) in the case of a non-differentiated refund, the product has been imported into a third country during the 12 months following the date of acceptance of the export declaration or has undergone substantial processing or working in this period within the meaning of Article 24 of Regulation (EEC) No 2913/92;

(ii) in the case of a refund differentiated according to destination, the product has been imported in its unaltered state into a specific third country within 12 months of the date of acceptance of the export declaration.

Articles 15 and 16 shall apply to imports into third countries.

In addition, the competent authorities of the Member States may require additional evidence for all refunds proving to their satisfaction that the product has actually been placed on the market in the importing third country or has undergone substantial processing or working within the meaning of Article 24 of Regulation (EEC) No 2913/92.

Additional time may be granted under the terms of Article 49.

2. Member States shall apply paragraph 1 on their own initiative and also at the request of the Commission.

The provisions governing the case envisaged in point (b) of paragraph 1 shall not apply if the concrete circumstances of the transaction in question — taking account in particular of transport costs — probably exclude the risk of reimportation. Moreover, Member States may not apply them when the amount of the refund is equal to or less than EUR 500 for the export declaration concerned.

3. Where paragraph 1 applies and the product, after leaving the customs territory of the Community, has perished in transit as a result of *force majeure*;

— in the case of a non-differentiated refund, the total refund shall be paid,

— in the case of a differentiated refund, the part of the refund defined in accordance with Article 18 shall be paid.

4. Paragraph 1 shall apply before the refund has been paid.

However, the refund shall be deemed to be unwarranted and shall be reimbursed if the competent authorities find, even after the refund has been paid:

(a) that the product has been destroyed or damaged before being placed on the market in a third country or before undergoing substantial working or processing within the meaning of Article 24 of Regulation (EEC) No 2913/92 in a third country, unless the exporter can prove to the satisfaction of the competent authorities that exportation was carried out in economic conditions such that the product could reasonably have been marketed in a third country, without prejudice to the second subparagraph of Article 21(2);

(b) that the product is placed under a duty-suspension arrangement in a third country, 12 months after the date of export from the Community, without having undergone in a third country any substantial processing or working within the meaning of Article 24 of Regula-

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tion (EEC) No 2913/92 and that export was not carried out as a normal commercial transaction;

(c) that the product exported is reimported into the Community without having undergone any substantial processing or working within the meaning of Article 24 of Regulation (EEC) No 2913/92, that the non-preferential duty on import is less than the refund granted, and that export was not carried out as a normal commercial transaction;

(d) that the products listed in Annex V are reimported into the Community:

— after undergoing working or processing in a third country without having attained the level of processing provided for in Article 24 of Regulation (EEC) No 2913/92, and

— attract a reduced or zero rate of import duty rather than the non-preferential rate.

Member States shall notify the Commission without delay if they find that products other than those included in Annex V are likely to cause a deflection of trade.

Points (c) and (d) shall not apply in cases where Chapter 2 ('Returned goods') of Title VI of Regulation (EEC) No 2913/92 applies, or where the products are reimported at least two years after the day of export.

Article 51 shall not apply to the cases referred to in points (b), (c) and (d).

Section 4

Cases where no refund is granted

Article 21

1. No refund shall be granted on products which are not of sound and fair marketable quality on the date on which the export declaration is accepted.

Products shall be deemed to meet the requirement laid down in the first subparagraph if they can be marketed on the Community's territory in normal conditions under the description appearing in the refund application and if, where such products are intended for human consumption, their use for that purpose is not excluded or substantially impaired by reason of their characteristics or condition.

The conformity of the products with the requirements laid down in the first subparagraph shall be examined in accordance with the standards or practices in force in the Community.

However, the refund shall also be granted where, in the country of destination, the exported products are subject to specific obligatory conditions, in particular health and hygiene conditions, which do not correspond to the standards or practices in force within the Community. It shall be the responsibility of the exporter, at the request of the competent authority, to prove that the products comply with such obligatory conditions in force in the country of destination.

In addition, specific provisions may be adopted for certain products.

2. Where the product was of sound and fair marketable quality on leaving the Community, it shall be entitled to that part of the refund calculated in accordance with Article 18(2), except where Article 20 applies. Nevertheless, it shall lose this entitlement if there is evidence that:

— it is no longer of sound and fair marketable quality because of a latent defect which appears later,

— it could not be sold to the end consumer because its final consumption date was too close to the date of exportation.

If there is evidence that the product is no longer of sound and fair marketable quality before completion of the customs formalities for

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importation in a third country, it shall not be entitled to the differentiated part of the refund.

3. No refund shall be granted on products which exceed the maximum levels of radioactivity permitted under Community legislation. The levels applicable to products, irrespective of their origin, shall be those set out in Article 3 of Council Regulation (EEC) No 737/90 ([1]).

Article 22

1. No refund shall be granted on exports subject to an export levy or other export charge fixed in advance or determined by tender.

2. Where, in the case of a compound product, an export levy or other export charge is fixed in advance on the basis of one or more ingredients of the product, no refund shall be granted on that ingredient or those ingredients.

Article 23

No refund shall be granted on products which are sold or distributed on board vessels and which are liable to be reintroduced subsequently into the Community free of duty pursuant to Council Regulation (EEC) No 918/83 ([2]).

CHAPTER 2

Advances on refunds

Article 24

1. On application by the exporter, Member States shall pay the refund in advance, in full or in part, once the export declaration has been accepted, on condition that a security equal to the advance, plus 10 %, is lodged.

Member States may lay down the conditions covering applications for an advance on part of the refund.

2. The amount to be paid in advance shall be calculated using the rate of refund applying to the declared destination, adjusted, where applicable, by the other amounts provided for in the Community regulations.

3. Member States may choose not to apply paragraph 1 if the amount to be paid does not exceed EUR 2 000.

Article 25

1. Where the amount paid in advance is higher than that actually ►C2 payable on the relevant export operation or an equivalent export operation, ◄ the competent authority shall initiate without delay the procedure provided for in Article 29 of Regulation (EEC) No 2220/85 with a view to repayment by the exporter of the difference between those two sums, increased by 10 %.

Where, however, for reasons of *force majeure*:

— the proof to be furnished under this Regulation in order to qualify for the refund cannot be produced,

or

— the product arrives at a destination other than that for which the advance was calculated,

the additional 10 % shall not be recovered.

2. Where the product does not arrive at the destination for which the advance was calculated because of an irregularity committed by a third

([1]) OJ L 82, 29.3.1990, p. 1.
([2]) OJ L 105, 23.4.1983, p. 1.

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party to the detriment of the exporter, and where he immediately informs the competent authorities thereof on his own initiative and in writing, and reimburses the refund paid in advance, the increase referred to in paragraph 1 shall be limited to the interest payable for the period elapsed between receipt of the advance and its reimbursement, calculated in accordance with the fourth subparagraph of Article 52(1).

This provision shall not apply where the competent authorities have already notified the exporter of their intention to carry out a check or if the exporter has become aware in some other way of this intention.

3. The exportation, after reimportation under the returned-goods system, of equivalent products falling within the same subheading of the Combined Nomenclature shall be considered an equivalent exportation where the conditions laid down in Article 40(2)(a) and (b) of Regulation (EEC) No 3719/88 are fulfilled.

This provision shall apply only where the returned-goods system is used in the Member State in which the export declaration covering the original export is accepted.

CHAPTER 3

Prefinancing of the refund

Article 26

1. Where the exporter states his intention to export products after processing or storage and to apply for a refund in accordance with Articles 4 and 5 of Regulation (EEC) No 565/80, eligibility under those provisions shall be conditional on the presentation to the customs authorities of a declaration, hereinafter referred to as the 'payment declaration'.

Member States may designate the payment declaration by another title.

2. Payment declarations shall include all particulars necessary for determining the refund on the products to be exported, and in particular:

(a) for products:

— a description, simplified where appropriate, of the products in accordance with the export refund nomenclature, together with the refund nomenclature code and, where necessary to calculate the refund, the composition of the products concerned or a reference thereto,

— ►C2 the net mass ◄ of the products or, where applicable, the quantity expressed in the unit of measurement to be used when calculating the refund;

(b) the provisions of Regulation (EC) No 1222/94 shall apply to goods.

Furthermore, in cases where basic products are to be processed, payment declarations shall include:

— a description of the basic products,

— the quantity of basic products,

— the rate of yield or similar information.

3. Notwithstanding paragraph 2, a provisional description of the goods to be obtained from the basic products may, where circumstances so warrant and at the request of the exporter, be included in the payment declaration. In such cases the exporter shall declare the definitive description to the competent authorities once processing is completed.

4. The payment declaration shall also state the use or destination of the products:

(a) where the exporter applies for payment of an amount equal to the refund applicable for the use or destination for which the products are intended;

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(b) where the use or destination is necessary for determining the period during which the products can remain under customs control for processing or under a customs warehousing or free-zone procedure.

5. The use or destination shall be indicated by:

— a specific use or a specific country of destination, or

— a group of countries of destination to which the same rate of refund is applicable.

6. In order to ensure that physical checks can be carried out on the products, payment declarations shall also include all particulars necessary to identify the exact locations where the products are to be processed or stored prior to export. Any change in the place of storage or processing shall either be notified by the exporter beforehand or duly entered in registers kept for this purpose, as the competent authorities choose.

Article 27

1. At the time of acceptance of payment declarations, the products shall be placed under customs control in accordance with Article 4(13) and (14) of Regulation (EEC) No 2913/92 until they leave the customs territory of the Community or until they arrive at their destination.

2. The date of acceptance of payment declarations shall determine:

(a) the rate of refund applicable, where the refund is not fixed in advance,

(b) any adjustments to be made to the rate of refund, where it is so fixed in advance,

(c) the operative event for the euro exchange rate, for the refund.

Article 28

1. In the case of processed products or goods obtained from basic products, the results of the scrutiny of the payment declaration and any inspection of the basic products shall be used to determine the refund with a view to payment of the advance.

2. Paragraph 1 shall not preclude any subsequent verification by the competent authorities of the Member State concerned or any consequences of such verification under the provisions in force.

3. Basic products shall make up all or part of processed products or goods exported under these arrangements.

However, basic products stored in bulk may, where the competent authorities so authorise, be replaced wholly or partly by equivalent basic products falling within the same eight-digit subheading of the Combined Nomenclature, of the same commercial quality, having the same technical characteristics and meeting the requirements for the granting of a refund provided that the equivalent basic products are placed under customs control.

The competent authorities of the Member States shall grant such authorisation only where they are satisfied that the whole operation is conducted in accordance with the following conditions:

— the exporter shall notify beforehand the competent customs office with which the payment declaration was lodged of his intention to apply to carry out such replacement and shall specify the precise places of storage and processing involved,

— the exporter's stock records must be updated daily and permit comprehensive monitoring, both administrative and physical, of the total quantity of the basic products or processed products physically present at these places and of their particular status. For the purposes of this Article, the status of the products shall mean their situation, whether they are in free circulation, under a customs procedure, under the prefinancing arrangements referred to in

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Article 26 or under the export arrangements referred to in Articles 5 and 32,

— guarantees shall be provided that the commercial quality and technical characteristics of the basic products will be effectively monitored from the date of acceptance of the payment declaration throughout the period referred to in Article 34(1).

Where the equivalent basic products are stored in places for which another customs office is responsible, the customs office with which the payment declaration was lodged shall write to the competent customs office responsible for the place in which the equivalent products are located with all relevant information, in particular the quantity of products processed, their commercial quality and technical characteristics, and the processing operations(s) to be carried out.

4. The provisions of paragraph 3, regarding basic products, may also be applied to intermediate products stored in bulk, replaced by equivalent intermediate products.

5. Replacement with equivalent products shall not be authorised in the case of intervention products intended for export under the system of control provided for in Article 2 of Regulation (EEC) No 3002/92.

6. Basic products may remain under customs control with a view to processing for six months from the date of acceptance of the payment declaration.

However, where export takes place under cover of an export licence or advance-fixing certificate, the time limit shall be equal to the unexpired term of validity of the licence or certificate.

Where export takes place under cover of a licence or advance-fixing certificate with an unexpired term of validity of:

— less than three months, the time limit shall be three months,

— more than one year, the time limit shall be one year.

Article 29

1. Where products under a customs-warehousing or free-zone procedure are to be exported, the results of the scrutiny of the payment declaration and any inspection of the products shall be used to determine the refund.

2. Paragraph 1 shall not preclude any subsequent verification by the competent authorities of the Member State concerned or any consequences of such verification under provisions in force.

3. ►C2 mass ◄ -loss due to natural causes, occurring during storage under a customs-warehousing or free-zone procedure, shall not result in the forfeiture of securities as provided for in Article 35. Damage to products shall not be deemed a loss of ►C2 mass ◄ due to natural causes.

4. Products under a customs warehousing or free-zone procedure may undergo the following operations therein in accordance with the conditions laid down by the competent authorities:

(a) stocktaking;

(b) the affixing of marks, seals, labels or other similar distinguishing signs to the products or goods or to their packaging, provided that this entails no risk of implying that the products originate elsewhere;

(c) altering the marks and numbers on packages or changing of labels, provided that this entails no risk of implying that the products originate elsewhere;

(d) packaging, unpacking, changing packaging or repairing packaging, provided that this entails no risk of implying that the products originate elsewhere;

(e) airing;

(f) chilling;

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(g) freezing.

Any refund on products which have undergone operations as referred to above shall be determined on the basis of the quantity, ►C2 nature ◄, and characteristics of the products at the date used to calculate the refund, in accordance with Article 27.

5. Products may remain under a customs-warehousing or free-zone procedure for six months from the date of acceptance of the payment declaration.

Article 30

1. Products placed under the customs warehousing procedure in the Member State where the payment declaration is accepted may be transported to another Member State for storage under the customs warehousing procedure and shall be subject in particular to the provisions of this Article.

In order to identify products on dispatch from one Member State to another, the means of transport or the packages used for transport shall be sealed in accordance with Article 349 of Regulation (EEC) No 2454/93.

2. In the cases referred to in paragraph 1, proof that the products have left the customs territory of the Community or reached the destination laid down shall be furnished by presentation of the T5 control copy.

(a) Box 104 of the control copy shall be completed with one of the following entries under the heading 'Other':

— Prefinanciación de la restitución — Artículo 30 del Reglamento (CE) nº 800/1999. Declaración de exportación que debe ser presentada, a más tardar, el… (fecha límite establecida para el plazo contemplado en el apartado 5 del artículo 29),

— Forudbetaling af restitutionen — Artikel 30 i forordning (EF) nr. 800/1999. Udførselsangivelsen skal indgives senest den… (dato fastsat i overensstemmelse med den i artikel 29, stk. 5, omhandlede frist),

— Vorfinanzierung der Erstattung — Artikel 30 der Verordnung (EG) Nr. 800/1999. Die Ausfuhranmeldung ist bis spätestens… vorzulegen (durch die Frist gemäß Artikel 29 Absatz 5 festgelegter Schlußtermin),

— Εκ των προτέρων πληρωμή της επιστροφής — κανονισμός (ΕΚ) Αριθ. 800/1999, άρθρο 30. Η δήλωση εξαγωγής πρέπει να κατατεθεί το αργότερο μέχρι… (ημερομηνία λήξεως της προθεσμίας που αναφέρεται στο άρθρο 29 παράγραφος 5)

— Prefinancing of the refund — Regulation (EC) No 800/1999, Article 30. Export declaration to be lodged by… (deadline set by the time limit referred to in Article 29(5)),

— Préfinancement de la restitution — règlement (CE) nº 800/1999, article 30. Déclaration d'exportation à déposer au plus tard le… (date limite fixée par le délai visé à l'article 29, paragraphe 5),

— Prefinanziamento della restituzione — Regolamento (CE) n. 800/1999, articolo 30. Dichiarazione d'esportazione da presentare entro il… (data limite fissata in base ai termini indicati al paragrafo 5 dell'articolo 29),

— Voorfinanciering van de restitutie — Verordening (EG) nr. 800/1999, artikel 30. Aangifte ten uitvoer moet uiterlijk worden ingediend op… (uiterste datum vastgesteld op basis van de in artikel 29, lid 5 bedoelde termijn),

— Pré-financiamento da restituição — Regulamento (CE) nº 800/1999, artigo 30º. Apresentação da declaração de exportação o mais tardar em… (data-limite fixada pelo prazo referido no nº 5 do artigo 29º),

— Ennakolta maksettu tuki — asetuksen (EY) N:o 800/1999 30 artiklane, vienti-ilmoitus annettava viimeistään… (määräpäivä

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vahvistetaan 29 artiklan 5 kohdassa mainitun aikarajoituksen mukaisesti),

— Förfinansiering av exportbidrag - artikel 30 i förordning (EG) nr 800/1999. Exportdeklaration skall ges in senast den… (tidspunkt fastställd enligt den i artikel 29.5 angivna tidsfristen).

(b) The supervising office of the warehouse of storage shall keep the T5 control copy and shall enter under the heading 'Remarks' in the section headed 'Control of use and/or destination' on the back the following entries:

— La fecha de aceptación de la declaración de exportación:…

— La fecha de salida del territorio aduanero o la de llegada al destino correspondiente:…

— Datoen for antagelsen af udførselsangivelsen:…

— Datoen for udgangen af toldområdet eller ankomsten til destinationen:…

— Zeitpunkt der Annahme der Ausfuhranmeldung:…

— Zeitpunkt des Verlassens des Zollgebiets oder des Erreichens der Bestimmung:…

— την ημερομηνία αποδοχής της διασάφησης εξαγωγής:…

— την ημερομηνία εξόδου από το τελωνειακό έδαφος ή αφίξεως στον προορισμό:…

— Date of acceptance of the export declaration:…

— Date of exit from the customs territory or arrival at destination:…

— La date d'acceptation de la déclaration d'exportation:…

— La date de sortie du territoire douanier ou de l'arrivée à destination:…

— La data di accettazione della dichiarazione d'esportazione:…

— La data di uscita dal territorio doganale o dell'arrivo a destinazione:…

— De datum van aanvaarding van de aangifte ten uitvoer:…

— De datum waarop de producten of goederen het douanegebied hebben verlaten of ter bestemming zijn aangekomen:…

— Data de aceitação da declaração de exportação:…

— Data de saída do território aduaneiro ou da chegada ao destino:…

— Vienti-ilmoituksen vastaanottopäivämäärä:…

— Päivä, jona viety tullialueelta tai saapunut määräpaikkaan:…

— Mottagningsdag för exportdeklaration:…

— Utförseldag från tullområdet eller ankomstdag till destinationen:…

(c) Where, on their removal from storage, the products cross the territory of another Member State for the purpose of exportation or to reach the specified destination, the first customs office of destination shall act as customs office of departure and shall compile or have compiled under its responsibility one or more new T5 control copies.

Box 104 of the new T5 control copy or copies shall be marked accordingly. In addition, the number of the initial T5 control copy shall be entered in box 106, together with the name of the customs office issuing that copy and the date of issue.

Where the entry to be made in the section headed 'Control of use and/or destination' on the initial T5 control copy is based on information from control copies received by customs authorities of other Member States or national documents received by other national authorities, the customs office of destination referred to in the first subparagraph shall mark under 'Remark' the number(s) of the relevant T5 control copies or national documents.

Where only part of the products covered by the T5 control copy meets the conditions laid down, the customs office of destination shall enter the quantity of products meeting those conditions in

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the section headed 'Control of use and/or destination' on the control copy.

3. In cases as referred to in paragraph 1, boxes 37 and 40 of the export declaration shall be completed accordingly. The date of acceptance of the COM 7 declaration shall also be indicated in box 40.

Article 31

1. Advances on refunds shall only be paid at the specific request of the exporter and by the Member State in which the payment declaration is accepted.

Refund applications shall be made:

(a) in writing; Member States may make provision for a special form to that end; or

(b) by computer transmission in accordance with the rules laid down by the competent authorities.

For the purposes of this paragraph, Article 199(2) and (3) and Articles 222, 223 and 224 of Regulation (EEC) No 2454/93 shall apply *mutatis mutandis*.

2. The amount of the advance shall be calculated on the basis of the rate applicable for any use or destination specified. In other cases, the amount calculated in accordance with Article 18(2) shall apply.

Article 32

1. Export declarations shall be lodged by the last day of the time limits laid down in Articles 28(6) and 29(5) in the Member State in which the payment declaration is accepted or, where Article 30 applies, in the Member State of storage.

2. For the purposes of this Article, Belgium, and Luxembourg shall rank as a single Member State for the application of Article 5 of Regulation (EEC) No 565/80.

Article 33

1. A security equal to the amount calculated in accordance with Article 31(2), plus 15 %, shall be lodged prior to acceptance of the payment declaration.

2. Member States may allow securities as provided for in paragraph 1 to be lodged after the payment declaration is accepted, provided that national provisions:

— require the exporter to lodge the security within 30 days of such acceptance and before the advance is paid,

— ensure payment of an amount equal to the increase referred to in paragraph l where the security is not lodged within the time limit, except in cases of *force majeure*; however, further time may be allowed if the exporter has taken all necessary precautions.

Article 34

1. Within 60 days of the day on which any procedure as provided for in Article 4 or 5 of Regulation (EEC) No 565/80 ceases to apply to the products, they shall:

— leave the customs territory of the Community in their unaltered state,

or

— in the cases referred to in Article 36(1), of this Regulation, arrive at their destination in their unaltered state.

2. Articles 7(3) and (4), 9 and 10 shall apply in cases covered by paragraph 1.

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Article 35

1. Where proof of entitlement to a refund is provided in respect of products eligible under this chapter, the advance and the sum payable shall be set off against each other. Where the sum due on the quantity exported is higher than that paid in advance, the difference shall be paid to the person concerned.

Where the sum due on the quantity exported is lower than that paid in advance, and in particular where paragraph 2 applies, the competent authority shall initiate without delay the procedure provided for in Article 29 of Regulation (EEC) No 2220/85 with a view to repayment by the operator of the difference between those two sums, increased by 15 %.

2. By way of derogation from Article 50 and without prejudice to the second subparagraph of paragraph 1 of this Article, where one or more of the time limits laid down in this Regulation have not been observed the refund payable on the exports in question shall, except in cases of *force majeure*, be adjusted as follows:

— it shall first be reduced by 15 % where one or more of the time limits laid down in Articles 15(1), 28(6), 29(5) and 34(1) are exceeded; this reduced refund shall be reduced by 2 % for each day by which the time limits laid down in Articles 15(1), 28(6) and 29(5) are exceeded and by 5 % for each day by which the time limit laid down in Article 34(1) is exceeded,

— where the documents referred to in Article 49(2) are presented within six months of the time limit laid down, the refund adjusted where applicable in accordance with the first indent, shall be reduced by an amount equal to 15 % of the refund which would have been paid had all the time limits been observed.

Article 50(4) and (6) shall apply *mutatis mutandis*.

3. Where, for reasons of *force majeure*, sum due is lower than the sum paid in advance, the 15 % increase shall not apply.

4. Where the product does not arrive at the destination for which the advance was calculated because of an irregularity committed by a third party to the detriment of the exporter, and where he immediately informs the competent authorities thereof on his own initiative and in writing, and reimburses the refund paid in advance, the increase referred to in paragraph 1 shall be limited to the interest payable for the period elapsed between receipt of the advance and its reimbursement, calculated in accordance with the fourth subparagraph of Article 52(1).

This provision shall not apply where the competent authorities have already notified the exporter of their intention to carry out a check or if the exporter has become aware in some other way of this intention.

TITLE III

OTHER TYPES OF EXPORT AND SPECIAL CASES

CHAPTER 1

Destinations treated as exports from the Community, and victualling

Article 36

1. For the purposes of this Regulation, the following shall be treated as exports from the customs territory of the Community:

(a) supplies within the Community for victualling to:

— seagoing vessels,

— aircraft on international flights, including intra-Community flights;

(b) supplies to international organisations established in the Community;

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(c) supplies to armed forces stationed in the territory of a Member State, but not serving under its command.

2. Paragraph 1 shall apply only where imports of products of the same type from third countries and intended for such uses are exempt from import duties in the Member State in question.

3. Deliveries of products to warehouses situated within the Community and belonging to international organisations specialising in humanitarian aid with a view to food-aid operations in third countries shall rank as exports from the customs territory of the Community.

Authorisation to apply the first subparagraph shall be granted by the competent authorities of the Member State of storage, who shall determine the customs status of the warehouse and shall take the measures necessary to ensure that the products concerned reach their destination.

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4. The provisions of Article 5 shall not apply to deliveries covered by this Article. However, the Member States may take appropriate action to allow checks on the products.

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Article 37

1. In the case of the supplies referred to in Articles 36 and 44, Member States may, notwithstanding Article 5, authorise the following procedure to be followed for payment of refunds. Exporters authorised to follow this procedure may not at the same time follow the normal procedure in respect of the same products.

Authorisation may be restricted to certain places of loading in the Member State of export. Authorisation may cover loading in other Member States, in which case Article 8 shall apply.

2. ►M1 For products loaded each month as provided for in this Article, the last day of the month shall be used to determine the rate of refund applicable. ◄

In the case of Member States not participating in economic and monetary union, the last day of the month shall also be used to determine the euro exchange rate into national currency applicable to the amount of the refunds.

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3. Where the refund is determined by invitation to tender, the licence must be valid on the last day of the month.

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4. Exporters must keep a register containing the following information:

(a) the particulars needed to identify the products in accordance with Article 5(4);

(b) the name or registration number of the vessels(s) or aircraft onto which the products are loaded;

(c) the date of loading.

The particulars referred to in the first subparagraph shall be entered in the register not later than the first working day following that of loading. However, where loading is carried out in another Member State, the abovementioned particulars shall be entered in the register not later than the first working day following that on which the exporter must have been notified that the products have been loaded.

Exporters shall also cooperate in any checks which Member States may deem necessary and shall keep the registers for at least three years from the end of the current calendar year.

5. Member States may decide that registers may be replaced by the documents used for deliveries, on which the customs authorities have certified the date of loading.

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6. Paragraphs 2 to 5 shall apply *mutatis mutandis* to deliveries as referred to in Article 36(1)(b) and (c).

Article 38

1. For the purposes of Article 36(1)(a), products intended for consumption on board aircraft or passenger vessels, including ferry-boats, and prepared before loading shall be deemed to have been prepared on board such craft.

2. This Article shall apply only on condition that, prior to their preparation, the exporter furnishes sufficient evidence of the quantity, ►C2 nature ◄ and characteristics of the basic products in respect of which the refund is claimed.

3. The victualling warehouse arrangements provided for in Article 40 may apply to prepared products as referred to in paragraphs l and 2.

Article 39

1. Refunds shall not be paid unless the products for which the export declarations have been accepted have arrived at a destination covered by Article 36 in the unaltered state within 60 days of such acceptance.

2. Article 7(3) and (4) shall apply in the cases provided for in paragraph 1.

3. If, before they arrive at a destination covered by Article 36, a product covered by an export declaration which has been accepted crosses Community territory other than that of the Member State in whose territory such acceptance took place, proof that the product has arrived at the specified destination shall be furnished by means of the T5 control copy.

Boxes 33, 103, 104 and, where appropriate, 105 of the ►C2 T5 control copy shall be completed. ◄ Box 104 shall be endorsed accordingly.

4. Form 302, which accompanies products delivered to the armed forces under Article 36(1)(c), shall rank as the T5 control copy referred to in paragraph 3, provided that the receipt of the products is certified on the form by the competent military authorities.

Article 40

1. Member States may pay exporters the refund in advance under the special conditions set out below where evidence is furnished that the products have been placed, within 30 days of acceptance of the export declaration and except in cases of *force majeure*, in premises subject to customs control with a view to victualling within the Community of:

— seagoing vessels,

or

— aircraft on international flights, including intra-Community flights,

or

— drilling or extraction rigs as referred to in Article 44.

Premises subject to customs control, hereinafter referred to as 'victualling warehouses', and warehousekeepers shall be specially approved for the purposes of this Article.

2. Member States on whose territory victualling warehouses are located shall grant approval only to warehousekeepers and victualling warehouses offering the necessary guarantees. Approval may be withdrawn.

Approval shall be granted only to warehousekeepers who undertake in writing:

(a) to place the products in the unaltered state or frozen and/or after packaging for victualling within the Community on board:

— seagoing vessels,

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or

— aircraft on international flights, including intra-Community flights,

or

— drilling or extraction rigs as referred to in Article 44;

(b) to keep a register enabling the competent authorities to carry out any checks necessary and stating in particular:

— the date of entry into the victualling warehouse,

— the serial numbers of the customs documents accompanying the products ►C2 and ◄ the particulars of the customs office concerned,

— the information required to identify the products pursuant to Article 5(4),

— the date on which the products leave the victualling warehouse,

— the registration numbers and names (if any) of the vessels or aircraft onto which the products are loaded or the name of any warehouse to which they are transferred,

— the date on which they are placed on board;

(c) to keep the register for at least three years from the end of the current calendar year;

(d) to cooperate in any checks, and in particular periodical checks, which the competent authorities consider appropriate to verify compliance with this paragraph;

(e) to pay any sums claimed by way of reimbursement of the refund where Article 42 is applied:

3. Amounts paid to exporters pursuant to paragraph 1 shall be entered as payments in the accounts of the body making the advance.

Article 41

1. Where an export declaration is accepted in the Member State in which the victualling warehouse is located, the competent customs authorities shall, on the entry of the goods into the victualling warehouse, endorse the national document used to obtain advance payment of the refund with a statement to the effect that the products comply with Article 40.

2. Where export declarations are accepted in Member States other than that in which the victualling warehouse is located, proof that the products have been placed in a victualling warehouse shall be furnished by means of the T5 control copy.

Boxes 33, 103, 104 and, where appropriate, 105 of the ►C2 T5 control copy shall be completed. ◄ Box 104 of the T5 control copy shall be completed with one of the following entries under the heading 'Other':

— Depositado con entrega obligatoria para el abastecimiento — Aplicación del artículo 40 del Reglamento (CE) nº 800/1999,

— Anbringelse på oplag med obligatorisk levering til proviantering — anvendelse af artikel 40 i forordning (EF) nr. 800/1999,

— Einlagerung ins Vorratslager mit Lieferpflicht zur Bevorratung — Artikel 40 der Verordnung (EG) Nr. 800/1999,

— Εναποθήκευση με υποχρεωτική παράδοση για τον ανεφοδιασμό — εφαρμογή του άρθρου 40 του κανονισμού ΕΚ Αριθ. 800/1999

— Compulsory entry into warehouse for delivery for victualling — Article 40 of Regulation (EC) No 800/1999,

— Mise en entrepôt avec livraison obligatoire pour l'avitaillement — application de l'article 40 du règlement (CE) nº 800/1999,

— Deposito con consegna obbligatoria per l'approvvigionamento — applicazione dell'articolo 40 del regolamento (CE) n. 800/1999,

— Opslag in depot onder verplichting van levering voor de bevoorrading van zeeschepen of luchtvaartuigen — toepassing van artikel 40 van Verordening (EG) nr. 800/1999,

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— Colocado em entreposto com destino obrigatório para abastecimento — aplicação do artigo 40º do Regulamento (CE) nº 800/1999,

— Siirto varastoon sekä pakollinen toimittaminen muonitustarkoituksiin — asetuksen (EY) N:o 40 artiklan soveltaminen,

— Placering i lager med skyldighet at leverera för proviantering - artikel 40 i förordning (EG) nr 800/1999.

The competent customs office of the Member State of destination shall endorse the control copy with a statement to the effect that the products have been placed in the warehouse after checking that the products have been entered in the register provided for in Article 40(2).

Article 42

1. Where a product placed in a victualling warehouse is found not to have arrived at, or not to be in a condition to be sent to, the destination specified, the warehousekeeper shall pay a fixed sum to the competent authority in the Member State of storage.

2. The fixed sum referred to in paragraph 1 shall be calculated as follows:

(a) the total import duties applicable to an identical product on release for free circulation in the Member State of storage shall be determined;

(b) the amount obtained pursuant to (a) shall then be increased by 20 %.

The rate to be used to calculate the import duties shall be:

— that applying on the day on which the product arrived at a destination other than that specified or the day from which it was no longer in a condition to be sent to the specified destination,

or

— where that day cannot be determined, the rate applying on the day on which it was found that the compulsory destination was not observed.

3. Where the warehousekeeper can show that the amount paid in advance on the product in question is lower than the fixed sum calculated pursuant to paragraph 2, he shall pay that amount only, plus 20 %.

However, where the amount is paid in advance in another Member State, it shall be increased by 40 %. In such cases, as far as the Member States of storage which do not belong to the European Monetary Union are concerned, the amount shall be converted into the national currency of the Member State of storage using the euro exchange rate prevailing on the day used to calculate the duties referred to in point (a) of paragraph 2.

4. The payment provided for in this Article shall not cover losses occurring during storage in a victualling warehouse due to natural decrease or to packaging.

Article 43

1. At least once every 12 months the competent authorities of the Member States in which victualling warehouses are located shall conduct a physical check of the quantity of products stored therein.

However, if the entry of products into, and their removal from, the victualling warehouses are subject to permanent physical checks by the customs authorities, the competent authorities may confine verification to documentary checks of products stored.

2. The competent authorities of the Member States of storage may authorise the transfer of the products to another victualling warehouse.

In such cases, the particulars of the second victualling warehouse shall be entered in the register of the first. The second victualling warehouse and warehousekeeper shall also be specially approved for the purposes of the victualling warehouse procedure.

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Once the products have been placed under supervision in the second victualling warehouse, the second warehousekeeper shall be liable for any sums payable pursuant to Article 42.

3. Where the second victualling warehouse is not located in the same Member State as the first, proof that the products have been placed in the second warehouse shall be furnished by means of the original of the T5 control copy, which shall bear one of the entries set out in Article 41(2).

The competent customs office of the Member State of destination shall endorse the T5 control copy with a statement to the effect that the products have entered the warehouse after checking that they are entered in the register provided for in Article 40(2).

4. Where the products are removed from the victualling warehouse and placed on board craft in a Member State other than the Member State of storage, proof that they have been so placed shall be furnished in accordance with Article 39(3).

5. Proof of placing under supervision in another victualling warehouse, proof of delivery on board a craft in the Community and proof of delivery as referred to in Articles 44 and 45(3)(a) shall be furnished, except in cases of *force majeure*, within 12 months of the date of removal of the products from the victualling warehouse, Article 49(3), (4) and (5) applying *mutatis mutandis*.

CHAPTER 2

Special cases

Article 44

1. Deliveries of catering supplies:

(a) to drilling or extraction rigs, including ancillary facilities providing support services for such operations, located within the European continental shelf or the continental shelf of the non-European part of the Community but outside a three-mile zone from the base line used to determine a Member State's territorial sea;

and

(b) on the high seas, to naval and auxiliary vessels flying the flag of a Member State;

shall, for the purpose of establishing the rate of refund payable, rank as deliveries of supplies within the meaning of Article 36(1)(a).

'Catering supplies' means products intended solely for consumption on board.

2. Paragraph 1 shall apply only where the rate of refund is higher than the lowest rate.

Member States may apply these provisions to all deliveries of catering supplies, provided that:

(a) a certificate of delivery on board is furnished;

and

(b) in the case of rigs:

— the delivery takes place under supply operations recognised as normal by the competent authorities of the Member State from which shipment to the rig takes place. In this connection, the ports or places of loading, the type of vessel — where supply is by sea — and the type of packaging and containers shall, except in cases of *force majeure*, be those normally used,

— the supply vessel or helicopter is operated by a natural or legal person who keeps records in the Community which are available for consultation and which provide sufficient details of the voyage or flight.

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3. Certificates of delivery on board as provided for in point (a) of paragraph 2 shall give full details of the products and the name and/or other details identifying the rig or naval or auxiliary vessel to which they were delivered and the date of delivery. Member States may require further information to be given.

Such certificates shall be signed:

(a) in the case of rigs: by a person whom the operators of the rig consider responsible for catering supplies. The competent authorities shall take the measures necessary to ensure that the transactions are genuine. Member States shall notify the Commission of the measures taken;

(b) in the case of naval or auxiliary vessels: by the naval authorities.

By way of derogation from paragraph 2, in the case of supplies to rigs Member States may release exporters from the obligation to present certificates of delivery on board in the case of deliveries:

— qualifying for a refund not exceeding EUR 3 000 per export,

— providing adequate guarantees to the satisfaction of the Member State regarding the arrival at destination of the products, and

— where the transport document and proof of payment are presented.

4. The competent authorities of the Member State granting the refund shall carry out checks of quantities declared as delivered to rigs by verifying the records of the exporter and of the operator of the supply vessel or helicopter. They shall also ensure that the quantities of supplies for victualling delivered pursuant to this Article do not exceed the requirements of the crew.

For the purposes of the first subparagraph, the assistance of the competent authorities of other Member States may, where necessary, be requested.

5. Where Article 8 applies to deliveries to a rig, one of the following shall be entered under 'Other' in box 104 of the T5 control copy:

— Suministro para el abastecimiento de las plataformas — Reglamento (CE) nº 800/1999,

— Proviant til platforme — forordning (EF) nr. 800/1999,

— Bevorratungslieferung für Plattformen — Verordnung (EG) Nr. 800/1999,

— Προμήθειες τροφοδοσίας για εξέδρες — κανονισμός (ΕΚ) Αριθ. 800/1999,

— Catering supplies for rigs — Regulation (EC) No 800/1999,

— Livraison pour l'avitaillement des plates-formes — règlement (CE) nº 800/1999,

— Provviste di bordo per piattaforma — Regolamento (CE) n. 800/1999,

— Leverantie van boordproviand aan platform — Verordening (EG) nr. 800/1999,

— Fornecimentos para abastecimento de plataformas — Regulamento (CE) nº 800/1999,

— Muonitustoimitukset lautoille — asetus (EY) N:o 800/1999,

— Proviant till plattformar — förordning (EG) nr 800/1999.

6. Where Article 40 is applied, the warehousekeeper shall undertake to record details of the rig to which each consignment is sent, the name/number of the supply vessel/helicopter and the date of delivery on board, in the register provided for in point (b) of Article 40(2). Certificates of delivery on board as provided for in point (a) of paragraph 3 of this Article shall be deemed to form part of such registers.

7. Member States shall arrange for a record to be kept of the quantities of products, broken down by sector, delivered to rigs and qualifying under this Article.

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Article 45

1. With a view to determining the level of refund to be granted, supplies for victualling outside the Community shall be regarded as supplies under point (a) of Article 36(1).

2. Where the rate of refund varies according to destination, paragraph 1 shall apply on condition that proof is furnished that the products actually placed on board are the same as these leaving the customs territory of the Community to that end.

3. The proof referred to in paragraph 2 shall be provided in the following manner:

(a) Proof of direct delivery on board for victualling shall be furnished by a customs document or a document countersigned by the customs authorities of the third country of delivery on board; such documents may be drawn up in accordance with the model set out in Annex III.

They must be completed in one or more official languages of the Community and a language used in the third country concerned.

'Direct delivery' means the delivery of a container or an undivided consignment of products placed on board a vessel.

(b) Where the exported products do not constitute a direct delivery and are placed under customs supervision in the third country of destination before delivery on board for victualling, proof of such delivery on board shall be furnished by the following documents:

— a customs document or a document countersigned by the customs authorities of the third country certifying that the contents of a container or an undivided consignment of products has been placed in a victualling warehouse and that the products making up the latter are to be used solely for victualling; such documents may be drawn up in accordance with the model set out in Annex III, and

— a customs document or a document countersigned by the customs authorities of the third country of delivery on board certifying that all the products in a container or an undivided consignment have definitively left the victualling warehouse and been delivered on board and specifying the number of partial deliveries; such documents may be drawn up in accordance with the model set out in Annex III.

(c) Where the documents referred to in (a) and the second indent of (b) cannot be produced, the Member State may accept evidence in the form of an acceptance certificate signed by the master or another duty officer and bearing the vessel's stamp.

Where the documents referred to in the second indent of (b) cannot be produced, the Member State may accept evidence in the form of an acceptance certificate signed by an airline employee and bearing the airline's stamp.

(d) Documents as referred to in (a) and the second indent of (b) shall not be accepted by Member States unless they provide full details of the products delivered on board and state the date of delivery and the registration number and name (if any) of the vessel(s) or aircraft. To ascertain whether the quantities of supplies delivered for victualling correspond to the normal requirements of the crew and passengers of the vessel or aircraft in question, Member States may require additional information or documents to be provided.

4. In all cases, a copy or photocopy of the transport document and the document providing evidence of payment for the supplies for victualling must be presented in support of applications for payment.

5. Products placed under the arrangements referred to in Article 40 may not be used for deliveries in accordance with point (b) of paragraph 3.

6. Article 17 shall apply *mutatis mutandis*.

7. Article 37 shall not apply to cases covered by this Article.

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Article 46

1. By way of derogation from Article 161(3) of Regulation (EEC) No 2913/92, agricultural products consigned to ►C2 the Island of Heligoland ◄ shall be deemed to be exported for the purposes of the provisions on the payment of refunds.

2. Products consigned to San Marino shall not be deemed to be exported for the purposes of the provisions on the payment of refunds.

Article 47

1. Refunds may not be granted on products re-exported pursuant to Article 883 of Regulation (EEC) No 2454/93 except where applications for repayment or remission of the import duties are subsequently rejected and where the other conditions on the granting of refunds are fulfilled.

2. Where products are re-exported under the procedure referred to in paragraph 1, a reference to that procedure shall be made on documents as referred to in Article 5(4).

Article 48

In the case of exports consigned to:

— armed forces stationed in a third country, under the command of a Member State or of an international organisation of which at least one Member State is a member,

— international organisations established in a third country, of which at least one Member State is a member,

— diplomatic bodies established in a third country,

in respect of which the exporter cannot furnish the proof provided for in Article 16(1) or (2), the products shall be deemed to have been imported into the third country where such armed forces are stationed or such international organisations or diplomatic bodies are established, upon presentation of proof of payment for the products, and an acknowledgment of delivery issued by the armed forces, international organisation or diplomatic body in the third country in question.

TITLE IV

PROCEDURE FOR PAYMENT OF REFUNDS

CHAPTER 1

General

Article 49

1. Refunds shall be paid only on a specific application by the exporter and by the Member State in whose territory the export declaration is accepted.

Refund applications shall be made:

(a) in writing, for which purpose Member States may lay down a special form; or

(b) by computer transmission, in accordance with rules to be laid down by the competent authorities.

For the purposes of this paragraph, Articles 199(2) and (3), 222, 223 and 224 of Regulation (EEC) No 2454/93 shall apply *mutatis mutandis*.

2. Except in cases of *force majeure*, the documents relating to payment of the refund or release of the security must be submitted within 12 months of the date on which the export declaration is accepted.

Where the export licence used for the export transaction granting entitlement to payment of the refund is issued by a Member State other than the Member State of exportation, the documents relating to

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payment of the refund shall contain a photocopy of both sides of that licence, duly annotated.

3. Where the T5 control copy or, where appropriate, the national document proving exit from the customs territory of the Community is not returned to the office of departure or the central body within three months of issue owing to circumstances beyond the control of the exporter, the latter may submit to the competent agency a reasoned request that other documents be deemed equivalent.

The documents to be submitted in support of such requests shall include the following:

(a) where the control copy or the national document has been issued by way of proof that the products have left the customs territory of the Community:

— a copy or photocopy of the transport document,

and

— a document which shows that the product has been presented at a customs office in a third country or one or more of the documents referred to in Article 16(1), (2) and (4).

The requirement covering the documents referred to in the second indent may be waived in the case of exports on which the refund does not exceed EUR 1 200; in such cases, however, the exporter shall submit proof of payment.

In the case of exports to third countries which are signatories to the Convention on a Common Transit Procedure, return copy 5 of the common transit document, duly stamped by such countries, a photocopy thereof certified as a true copy or a notification from the customs office of departure shall count as supporting documents;

(b) where Articles 36, 40 or 44 apply, confirmation by the customs office responsible for checking the destination in question that the conditions for endorsement of the relevant T5 control copy by the said office have been fulfilled; or

(c) where Article 36(1)(a) or 40 applies, the acceptance certificate provided for in Article 45(3)(c) and a document proving payment for the supplies for victualling.

For the purposes of this paragraph, a certificate from the customs office of exit to the effect that the T5 control copy has been duly presented and stating the serial number and the office of issue of the control copy and the date on which the product left the customs territory of the Community shall be equivalent to the T5 control copy.

Paragraph 4 shall apply as regards the presentation of equivalent proof.

4. Where, despite having acted with all due diligence, the exporter has been unable to obtain and forward the documents required under Article 16 within the time limit laid down in paragraph 2, he may be granted, on his application, further time in which to present them.

5. Applications for other documents to be deemed equivalent pursuant to paragraph 3, whether or not accompanied by supporting documents, and applications for further time as provided for in paragraph 4 shall be submitted within the time limit laid down in paragraph 2. However, if those applications are submitted within six months following this time-limit, the provisions of the first subparagraph of Article 50(2) shall apply.

6. Where Article 37 is applied, applications for payment of the refund must be submitted, except in cases of *force majeure*, within the 12 months following the month of delivery on board; however, authorisations as provided for in Article 37(1) may require exporters to lodge applications for payment within shorter time limits.

7. The competent authorities of the Member States may require translations of all documents relating to applications for payment of refunds into the official language or one of the official languages of the Member State concerned.

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8. Payments as referred to in paragraph 1 shall be made by the competent authorities within three months of the day on which they are in possession of all documents and information required to settle the claim, except in the following cases:

(a) *force majeure*;

or

(b) where a special administrative inquiry into entitlement to the refund has been opened. In such cases, payment shall only be made after entitlement to the refund has been recognised;

or

(c) for the application of the compensation provided for in the second subparagraph of Article 52(2).

9. Refunds may not be granted where the amount is less than or equal to EUR 60 per export declaration.

Article 50

1. In circumstances where all requirements laid down by Community rules for showing entitlement to a refund other than compliance with one of the time limits laid down in Articles 7(1), 15(1) and 40(1) have been met, the following rules shall apply:

(a) the refund shall first be reduced by 15 %;

(b) the remainder of the refund, hereinafter referred to as the 'reduced refund', shall be further reduced as follows:

(i) 2 % of the reduced refund shall be lost for each day by which the time limit laid down in Article 15(1) is exceeded;

(ii) 5 % of the reduced refund shall be lost for each day by which the time limit laid down in Article 7(1) is exceeded; or

(iii) 10 % of the reduced refund shall be lost for each day by which the time limit laid down in Article 40(1) is exceeded.

2. Where proof that all the requirements laid down by Community regulations have been fulfilled is provided within six months of expiry of the time limits laid down in Article 49(2) and (4), the refund paid shall be 85 % of the sum that would have been paid had all the requirements been fulfilled.

Where proof that all the requirements laid down by Community regulations have been fulfilled is provided within six months of expiry of the time limits laid down in Article 49(2) and (4) but the time limits laid down in Articles 7(1), 15(1) or 40(1) are exceeded, the refund paid shall be equal to the refund reduced in accordance with paragraph 1, less 15 % of the sum that would have been paid had all the time limits been met.

3. Where a refund has been paid in advance in accordance with Article 24 and one or more of the time limits laid down in Articles 7(1) and 15(1) have not been met, the part of the security forfeited shall be equal to:

— the reduction calculated pursuant to paragraph 1,

— plus 10 %.

The balance of the security shall be released.

Where a refund has been paid in advance in accordance with Article 24 and proof that all the requirements laid down by Community regulations have been fulfilled is furnished within six months of expiry of the time limits laid down in Article 49(2) and (4), the amount to be reimbursed shall be equal to 85 % of the security.

Where, in cases covered by the third subparagraph, one or more of the time limits laid down in Articles 7(1) and 15(1) have in addition not been met, the amount to be reimbursed shall be equal to:

— the amount reimbursed pursuant to the third subparagraph,

— less the part of the security forfeited pursuant to the first subparagraph.

▼B

4. The total refund lost may not exceed the full refund that would have been paid had all the requirements been fulfilled.

5. For the purposes of this Article, failure to meet the time limit laid down in Article 39(1) shall rank as failure to meet the time limit laid down in Article 7(1).

6. Where Article 4(2) and/or Article 18(3) and/or Article 51 apply:

— the reductions provided for in this Article shall be calculated on the basis of the refund payable pursuant to Article 4(2) and/or Article 18(3) and/or Article 51,

— refunds lost pursuant to this Article shall not exceed those payable pursuant to Article 4(2) and/or Article 18(3) and/or Article 51.

CHAPTER 2

Penalties and recovery of amounts over-paid

Article 51

1. Where it is found that an exporter with a view to the grant of an export refund has applied for a refund exceeding that applicable, the refund due for the relevant exportation shall be that applicable to the products actually exported, reduced by:

(a) half the difference between the refund applied for and that applicable to the actual export;

(b) twice the difference between the refund applied for and that applicable where the exporter intentionally provides false information.

2. The refund applied for shall be deemed to be the amount calculated from the information provided pursuant to Articles 5 or 26(2). Where the refund varies according to destination, the differentiated part of the refund applied for shall be calculated using the particulars of quantity, weight, and destination provided pursuant to Article 49.

3. The penalty provided for in point (a) of paragraph 1 shall not apply:

(a) in cases of *force majeure*,

(b) in exceptional cases where the exporter, on his own initiative, immediately after becoming aware that the refund applied for is excessive, notifies the competent authority thereof in writing, unless the competent authority has informed the exporter that it intends to examine the request or the exporter has otherwise become aware of this intention, or the competent authority has already established that the refund requested was incorrect;

(c) in cases of obvious error as to the refund applied for, recognised by the competent authorities;

(d) in cases where the refund sought is in accordance with Regulation (EC) No 1222/94, and in particular Article 3(2) thereof, and is calculated on the basis of the average quantities used over a specified period;

(e) in cases of weight adjustment in so far as the difference in weight is due to a difference in the weighing method applied.

4. Where the reduction provided for in points (a) and (b) of paragraph 1 results in a negative amount, the exporter shall pay that negative amount.

5. Where the competent authorities establish that the refund applied for is incorrect and that export has not taken place and consequently the refund cannot be reduced, the exporter shall pay the penalty under point (a) or (b) of paragraph 1 which would apply if the export had taken place. Where the rate of refund varies according to destination, the lowest positive rate or, if higher, the rate resulting from the indications as to the destination pursuant to Article 24(2) or 26(4) shall be used to calculate the refund applied for and the refund applicable, except where a compulsory destination is stipulated.

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6. Payment under paragraphs 4 and 5 shall be made within 30 days of receipt of the application for payment. Where that time limit is not met, the exporter shall pay interest at the rate referred to in Article 52(1) on the period commencing 30 days from the date of receipt of the payment demand and ending on the day preceding that of payment of the amount demanded.

7. The penalties shall not apply simply where the refund applied for is higher than the refund applicable pursuant to Articles 4(2), 18(3), 35(2) and/or 50.

8. Penalties shall apply without prejudice to additional penalties laid down at national level.

9. Member States may waive the imposition of penalties of EUR 60 or less per export declaration.

10. Where the product indicated on the export declaration or payment declaration is not covered by the licence, no refund shall be due and paragraph 1 shall not apply.

11. Where the refund has been fixed in advance, the calculation of the penalty shall be based on the refund rates valid on the day on which the licence application is lodged and without taking account of the loss of refund pursuant to Article 4(1) or the reduction of the refund pursuant to Article 4(2) or Article 18(3). Where necessary, those rates shall be adjusted on the day of acceptance of the export declaration or payment declaration.

Article 52

1. Without prejudice to the obligation to pay the negative amount pursuant to Article 51(4), the beneficiary shall reimburse refunds unduly received, which includes any penalty applicable pursuant to Article 51(1) and interest calculated on the time elapsing between payment and reimbursement. However,

(a) where reimbursement is covered by an unreleased security, seizure of that security in accordance with Article 25(1) or 35(1) shall constitute recovery of the amounts due;

(b) where the security has been released, the beneficiary shall pay that part of the security which would have been forfeited, plus interest calculated from the date of release to the day preceding that of payment.

Payment shall be made within 30 days of receipt of the demand for payment.

Where beneficiaries are asked to reimburse funds, for the purposes of calculating interest the Member State may consider payment to be made on the 20th day following the date of the request for reimbursement.

The rate of interest applicable shall be calculated in accordance with national law; it may not, however, be lower than the rate applicable for the recovery of amounts under national provisions.

Where payment is made unduly as a result of an error by the competent authorities, no interest or at most an amount corresponding to the profit realised unduly, to be determined by the Member State, shall be collected.

Where the refund is paid to an assignee, he and the exporter shall be jointly and severally liable for reimbursement of amounts over-paid, securities unduly released and interest relating to the exports concerned. The assignee's liability shall, however, be limited to the amount paid to him, plus interest.

▼B

2. Amounts recovered, amounts pursuant to Articles 51 (4) and (5) and interest collected shall be paid to the paying agencies, which shall deduct the amounts concerned from European Agricultural Guidance and Guarantee Fund (EAGGF) expenditure, without prejudice to Article 7 of Council Regulation (EEC) No 595/91 ([1]).

Where the time limit for payment is not met, Member States may decide that, in place of reimbursement, any amounts over-paid, securities unduly released and compensatory interest shall be deducted from subsequent payments to the exporter concerned.

The second subparagraph shall also apply to amounts to be paid pursuant to Article 51(4) and (5).

3. Without prejudice to the possibility provided for in Article 51(9) of waiving the application of penalties in the case of small amounts, Member States may waive the reimbursement of refunds over-paid, securities unduly released, interest and amounts as provided for in Article 51(4) where such reimbursement per export declaration does not exceed EUR 60, on condition that national law lays down similar rules providing for non-recovery in such cases.

4. The reimbursement obligation referred to in paragraph 1 shall not apply:

(a) if the payment was made by error of the competent authorities itself of the Member States or of another authority concerned and the error could not reasonably be detected by the beneficiary and the beneficiary for his part acted in good faith; or

(b) if the period which passed between the day of the notification to the beneficiary of the final decision on the granting of the refund and that of the first information of the beneficiary by a national or Community authority concerning the undue nature of the payment concerned is more than four years. This provision shall apply only if the beneficiary has acted in good faith.

The acts of any third party relating directly or indirectly to the formalities necessary for the payment of the refund, including the acts of the international control and supervisory agencies, shall be attributable to the beneficiary.

The provisions of this paragraph shall not apply to advances on refunds. In case of non-reimbursement due to the application of this paragraph, the administrative sanction pursuant to point (a) of Article 51(1) shall not apply.

TITLE V

FINAL PROVISIONS

Article 53

Member States shall notify the Commission:

— without delay, of cases where Article 20(1) applies; the Commission shall notify the other Member States,

— for each 12-digit code, of the quantities of exported products not covered by export licences with advance fixing of the refund for the cases referred to in the first indent of the second subparagraph of Article 4(1), Article 6 and Article 45. Member States shall take the measures required to ensure that such information is notified by no later than the second month following that of completion of customs export formalities.

Article 54

1. Regulation (EEC) No 3665/87 is hereby repealed.

([1]) OJ L 67, 14.3.1991, p. 11.

▼B

However, that Regulation shall continue to apply:

— to exports covered by export declarations accepted ►C1 prior to the application of this ◄ Regulation,

and

— where Regulation (EEC) No 565/80 applies to exports covered by payment declarations accepted ►C1 prior to the application of this ◄ Regulation.

2. References in all Community instruments to Regulations (EEC) No 1041/67, (EEC) No 192/75, (EEC) No 2730/79, (EEC) No 798/80, (EEC) No 2570/84, (EEC) No 2158/87 and (EEC) No 3665/87 or to their specific articles shall be construed as referring to this Regulation or to the corresponding Articles thereof.

A correlation table, relative to the Articles of Regulation (EEC) No 3665/87, is set out in Annex I.

Article 55

This Regulation shall enter into force on the seventh day following its publication in the *Official Journal of the European Communities*.

It shall apply from 1 July 1999.

On application by the interested parties, the provisions of the second subparagraph of Article 7(1) and Article 15(4) shall apply to exports for which the customs export formalities were completed on or after 19 January 1998.

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

▼B

ANNEX

Correlation Table

This Regulation	Regulation (EEC) No 3665/87
Article 1	Article 1
Article 2	Article 2
Article 3	—
Article 4	Article 2a
Article 5	Article 3
Article 6	Article 3a
Article 7	Article 4
Article 8	Article 6
Article 9	Article 6a
Article 10	Article 7
Article 11(1), (5) and (6)	Article 8
Article 11(2), (3) and (4)	Article 10
Article 12	Article 9
Article 13	Article 12
Article 14	Article 16
Article 15	Article 17
Article 16	Article 18
Article 17	Article 19
Article 18	Article 20
Article 19	Article 21
Article 20(1), (2) and (3)	Article 5
Article 20(4)	Article 15(2)
Article 21	Article 13
Article 22	Article 14
Article 23	Article 15(1)
Article 24	Article 22
Article 25	Article 23
Article 26	Article 25
Article 27	Article 26
Article 28(1), (2), (3), (5) and (6)	Article 27
Article 29	Article 28
Article 30	Article 28a
Article 31	Article 29
Article 32	Article 30
Article 33	Article 31
Article 34	Article 32
Article 35	Article 33
Article 36	Article 34
Article 37	Article 35
Article 38	Article 36
Article 39	Article 37
Article 40	Article 38
Article 41	Article 39
Article 42	Article 40
Article 43	Article 41

▼B

This Regulation	Regulation (EEC) No 3665/87
Article 44	Article 42
Article 45	Article 43
Article 46	Article 44
Article 47	Article 45
Article 48	Article 46
Article 49(1) to (7)	Article 47
Article 49(9)	Article 11(2)
Article 50	Article 48
Article 51	Article 11(1)
Article 52	Article 11(3) to (6)
Article 53	Article 49
Article 54	Article 50
Article 55	Article 51
Annex I	Annex I
Annex II	Annex III
Annex III	Annex IV
Annex IV	
Annex V	

▼B

ANNEX II

List of third countries referred to in Article 16(2)(d) which require the products to be imported before the funds can be transferred in payment

Algeria

Burundi

Equatorial Guinea

Kenya

Lesotho

Malawi

Malta

St Lucia

Senegal

Tanzania

▼B

ANNEX III

1. Exporter (name and full address in Member State)	**CERTIFICATE OF DELIVERY OF SUPPLIES TO SHIPS AND AIRCRAFTS IN THIRD COUNTRIES**
2. Victualling warehouse (name and full address in third country)	Note: This form must be completed legibly and indelibly by hand or using a typewriter.
	3. Member State of export
5. Name of ship and country of registration or registration number of aircraft	4. Country of destination
	6. Type, number and date of export document issued by ..... customs office
7. Type and date of transport document	

8. Marks and numbers - Number and type of packages - Description of goods	9. Gross weight (kg)	10. Net quantity (1)

11. ENDORSEMENT BY CUSTOMS AUTHORITIES OF COUNTRY IN WHICH VICTUALLING TAKES PLACE

This is to certify that the above goods

A. have been delivered on board the ship or aircraft shown in box 5 (2)

B. are in the warehouse shown in box 2 and will be used solely for victualling (2)

Remarks

Signature and stamp of customs authorities

Place and date

(1) Kilograms or other unit of measurement.
(2) Delete as appropriate.

▼B

ANNEX IV

List of third countries and territories referred to in Article 17(b) and (c)

Iceland
Norway
Liechtenstein
Switzerland
Heligoland
Andorra
Gibraltar
Ceuta and Melilla
Vatican City
Malta
Cyprus
Morocco
Turkey
Estonia
Latvia
Lithuania
Poland
Czech Republic
Slovakia
Hungary
Romania
Bulgaria
Albania
Ukraine
Belarus
Moldova
Russia
Georgia
Armenia
Azerbaijan
Slovenia
Croatia
Bosnia-Herzegovina
Serbia and Montenegro
Former Yugoslav Republic of Macedonia

▼B

ANNEX V

List of products to which Article 20(4)(d) applies

I. Products listed in Article 1 of Regulation (EC) No 3072/95 (rice)

II. Products listed in Article 1 of Regulation (EEC) No 1785/81 (sugar and isoglucose)

III. Products listed in Article 1 of Regulation (EEC) No 1766/92 (cereals)

IV.

CN code	Beef/veal
0102	Live bovine animals
0201	Meat of bovine animals, fresh or chilled
0202	Meat of bovine animals, frozen
0206 10 95	Thick skirt and thin skirt, fresh or chilled
0206 29 91	Thick skirt and thin skirt, frozen

V.

CN code	Milk and milk products
0402	Milk and cream, concentrated or containing added sugar or other sweetening matter
0403 90 11 to 0403 90 39	Buttermilk powder
0404 90 21 to 0404 90 89	Milk constituents
0405	Butter and other fats and oils derived from milk
0406 20	Grated or powdered cheese
0406 30	Processed cheese
0406 90 13 to 0406 90 27	Other cheese
0406 90 61 to 0406 90 81	
0406 90 86 to 0406 90 88	

VI.

CN code	Wine
2204 29 62	Table wine in bulk
2204 29 64	
2204 29 65	
2204 29 71	
2204 29 72	
2204 29 75	
2204 29 83	
2204 29 84	
2204 29 94	
2204 29 98	

▼B

VII.

CN code	Agricultural products exported in the form of goods not covered by Annex II to the Treaty
1901 90 91	- - - Containing no milk fats, sucrose, isoglucose, glucose or starch or containing by weight less than 1,5 % milk fat, 5 % sucrose (including invert sugar) or isoglucose, 5 % glucose or starch, excluding food preparations in powder form of goods of heading Nos 0401 to 0404
2101 12 92	- - - Preparations with a basis of these extracts, essences or concentrates of coffee
2101 20 92	- - - Preparations with a basis of extracts, essences or concentrates of tea or maté
3505 10 10 to 3505 10 90	Dextrines and other modified starches
3809 10 10 to 3809 10 90	Finishing agents, dye carriers to accelerate the dyeing or fixing of dyestuffs and other products and preparations with a basis of amylaceous substances