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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

(OJ L 102, 17.4.1999, p. 11)

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►M2	Commission Regulation (EC) No 90/2001 of 17 January 2001	L 14	22	18.1.2001
►M3	Commission Regulation (EC) No 2299/2001 of 26 November 2001	L 308	19	27.11.2001
►M4	Commission Regulation (EC) No 1253/2002 of 11 July 2002	L 183	12	12.7.2002
►M5	Commission Regulation (EC) No 444/2003 of 11 March 2003	L 67	3	12.3.2003
►M6	Commission Regulation (EC) No 2010/2003 of 14 November 2003	L 297	13	15.11.2003
►M7	Commission Regulation (EC) No 671/2004 of 7 April 2004	L 105	5	14.4.2004
►M8	Commission Regulation (EC) No 1713/2006 of 20 November 2006	L 321	11	21.11.2006
►M9	Commission Regulation (EC) No 1847/2006 of 13 December 2006	L 355	21	15.12.2006
►M10	Commission Regulation (EC) No 1913/2006 of 20 December 2006	L 365	52	21.12.2006
►M11	Commission Regulation (EC) No 1001/2007 of 29 August 2007	L 226	9	30.8.2007
►M12	Commission Regulation (EC) No 159/2008 of 21 February 2008	L 48	19	22.2.2008
►M13	Commission Regulation (EC) No 499/2008 of 4 June 2008	L 146	9	5.6.2008

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►C1 Corrigendum, OJ L 106, 23.4.1999, p. 28 (800/1999)
►C2 Corrigendum, OJ L 180, 15.7.1999, p. 53 (800/1999)
►C3 Corrigendum, OJ L 272, 10.10.2002, p. 35 (800/1999)
►C4 Corrigendum, OJ L 59, 4.3.2003, p. 34 (1253/2002)

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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

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

([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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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;

(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

([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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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 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;

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

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(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;

(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;

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(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;

(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;

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

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(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;

(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;

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[1] OJ L 301, 17.10.1992, p. 17.
[2] OJ L 104, 27.4.1996, p. 13.

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(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 ([1]), as last amended by Regulation (EEC) No 3403/93 ([2]);

(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;

(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

([1]) OJ L 205, 3.8.1985, p. 5.
([2]) OJ L 310, 14.12.1993, p. 4.

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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;

(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;

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

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(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;

(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,

([1]) OJ L 94, 28.4.1970, p. 13.
([2]) OJ L 125, 8.6.1995, p. 1.

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HAS ADOPTED THIS REGULATION:

TITLE I

SCOPE AND DEFINITIONS

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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':

(a) for the products of the sectors referred to in Article 162(1) of Council Regulation (EC) No 1234/2007 ([1])

(b) provided for in Article 63 of Council Regulation (EC) No 1493/1999 ([2])

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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 ([3]);

(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;

([1]) OJ L 299, 16.11.2007, p. 1.
([2]) OJ L 179, 14.7.1999, p. 1.
([3]) OJ L 136, 31.5.1994, p. 5.

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(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 ►M5 Articles 912a to 912g ◄ 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 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;

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(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]);

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(p) ‘remote refund zone’ means all destinations for which the same differentiated, non-zero part of the refund applies for a particular product except the excluded destinations for that product as set out in Annex XI;

(q) ‘hinterland country’ means a third country without its own sea port which is served by the sea port of another third country.

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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.

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([1]) OJ L 366, 24.12.1987, p. 1.
([2]) OJ L 331, 2.12.1988, p. 1.

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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 ([1]), 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. ►M3 Entitlement to the refund shall be conditional upon the presentation of an export licence with advance fixing of the refund, except in the case of exports of goods.

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

— 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,

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

— for deliveries to Member States' armed forces stationed in non-member 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

([1]) OJ L 312, 23.12.1995, p. 1.

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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.

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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.

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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,

— 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.

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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.

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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. However, where export occurs by sea or navigable inland waterway, if the exporter can supply signed proof from the person responsible for the means of transport that constraints peculiar to this type of transport or alternatively overloading on the part of other exporters have prevented the loading of all his goods, the refund shall be paid for the net mass actually loaded. This subparagraph shall apply if the exporter has used the local clearance procedure provided for in Article 283 of Regulation (EEC) No 2454/93, provided that the customs authorities have authorised the correction of the records in which the exported products were entered.

The following shall be considered non-standard units: live animals, (half-) carcases, quarters, fore-ends, legs, shoulders, bellies and loins.

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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 where the products are to be loaded for export transport;

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

The following may be considered as the place of loading for the transport of products intended for export:

— in the case of products exported in containers, the place where they are loaded into the containers,

— in the case of products exported in bulk, sacks, cartons, boxes, bottles, etc. and not loaded into containers, the place where the means of transport, in which they will leave the customs territory of the Community, is loaded.

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).

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The products shall be identified by appropriate means before the indicated time for starting loading. The competent customs office must be able to make physical checks and identify the goods for transport to the office of exit from the customs territory of the Community.

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If the first subparagraph cannot be applied for administrative or other duly justified reasons, the export declaration may be lodged only 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 fully unloaded. However, the goods do not have to be unloaded completely if the competent authorities can perform a thorough physical check.

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8. Goods for which export refunds are claimed shall be sealed by, or under the control of, the customs office of export. Article 340a and

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paragraphs 2, 3 and 4 of Article 357 of Regulation (EEC) No 2454/93 shall apply *mutatis mutandis*.

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Before affixing seals, the customs office shall visually check the conformity of the products with the export declarations. The number of visual checks shall not be less than 10 % of the number of export declarations, other than those in respect of which the products covered by them have been physically checked or selected for a physical check under Article 2 of Regulation (EEC) No 386/90. The customs office shall note this check in box D of the control copy T5 or equivalent document by one of the entries listed in Annex XIII. For the year 2008, the rate of controls shall be calculated on the basis of the export declarations accepted from 1 April 2008.

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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 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.

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The operative event for the exchange rate applicable to the refund shall be that referred to in Article 1(1) of Commission Regulation (EC) No 1913/2006 ([1]).

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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.

([1]) OJ L 365, 21.12.2006, p. 52.

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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.

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In case refunds are applied for, box 107 shall show one of the entries listed in Annex XII.

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Article 8a

The exporter shall mention the rate of export refunds in EUR per unit of products or goods on the date of advanced fixing, as mentioned in the export license or certificate of Regulation (EC) No 1291/2000 or the refund certificate of Chapter III of Regulation (EC) No 1043/2005 ([1]), in box 44 of the export declaration or its electronic equivalent and in box 106 of the control copy T5 or its equivalent. If the export refunds have not been fixed in advance, information on previous refund payments for the same products or goods not older than 12 months may be used. If the product or good to be exported does not cross the border of another Member State and if the national currency is not EUR, the rates of refunds may be mentioned in national currency.

The competent authorities may exempt the exporter of the requirements provided for in the first paragraph if the administration operates a system by which the services concerned are informed with the same information.

The exporter may choose to mention one of the entries listed in Annex XIV for export declarations and T5 control copies and equivalent documents covering an amount of export refunds less than EUR 1 000.

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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 same or another Member State. That time limit shall not apply

([1]) OJ L 172, 5.7.2005, p. 24.

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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.

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(c) As an alternative to the conditions set out in point (b), the Member State of destination of the T5 control copy or the Member State where a national document is used as proof 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.

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In such cases, one of the entries listed in Annex Ia shall be added by the competent authorities of the Member State of destination of the T5 control copy or the Member State where a national document is used as proof 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.

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

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(d) Where it is found that the conditions set out in point (a) have not been complied with, for the purposes of Article 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 Article 7 is exceeded.

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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.

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In cases where it is found that the conditions set out in (a) have not been complied with, for the purpose of Article 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 Article 7 is exceeded.

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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) ►M8 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 Article 50, be deemed days by which the time limit laid down in Article 7 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

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1. Where the product is placed, in the Member State of export, under one of the simplified Community transit procedures for carriage of goods by rail or large containers provided for in Articles 412 to 442a of Regulation (EEC) No 2454/93 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.

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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.

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.

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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.

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4. ►M9 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 entries listed in Annex Ib under 'Remarks' in the section headed 'Control of use and/or destination' on the back of the original of the T5 control copy. ◄

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

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5. ►M9 Where a product is taken over by the railways in the Member State of export or in 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 entries listed in Annex Ic under 'Remarks' in the section headed 'Control of use and/or destination' on the back of the original of the T5 control copy. ◄

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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*.

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Article 11

1. Refunds shall be granted for products referred to in Article 162(1) of Regulation (EC) No 1234/2007 which, irrespective of the customs situation regarding the packaging, are in free circulation and of Community origin.

However, for sugar products referred to in Article 162(1)(2)(iii) 2nd (b) of Regulation (EC) No 1234/2007, refunds can be granted when they are only in free circulation.

2. 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.

However, without prejudice to paragraph 4, products obtained from the following shall not qualify for refund:

(a) materials originating in the Community; and

(b) 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.

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

4. 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 were originally of Community origin and/or in free circulation as provided for in paragraph 1 and are no longer in free circulation on account solely of their incorporation in other products.

5. For the purposes of paragraph 4, refunds on the following shall be deemed to be refunds fixed on the basis of an ingredient:

(a) products of the cereals, eggs, rice, sugar, milk and milk products sectors, exported in the form of goods referred to in Annex II to Commission Regulation (EC) No 1043/2005 ([1]);

(b) white sugar and raw sugar falling within CN code 1701, 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 95, used in products listed in Article 1(2) of Regulation (EC) No 2201/96;

(c) 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 products falling within CN code 0406 30 which are not products originating in Member States or products coming from third countries which are in free circulation in Member States.

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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.

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

([1]) OJ L 172, 5.7.2005, p. 24.

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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

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1. Within 12 months of the date of acceptance of the export declaration, the products shall:

(a) be imported in their unaltered state into the third country or one of the third countries for which the refund applies, or

(b) be unloaded in their unaltered state in a remote refund zone for which the refund applies pursuant to the conditions set out in Article 17(1)(b) and (2).

However, an extension to the time limit may be granted in accordance with Article 49.

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

However the following operations conducted with a view to the safe keeping of the products may be carried out prior to import and shall be without prejudice to compliance with paragraph 1:

(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; and

(g) freezing.

In addition, 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.

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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

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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

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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, a copy or photocopy thereof, or a printout of equivalent information recorded electronically by the competent customs authority; such copy, photocopy or printout shall be certified as being a true copy or printout by one of the following:

(i) the body which endorsed the original document or electronically recorded the equivalent information;

(ii) an official agency of the third country concerned;

(iii) an official agency of a Member State in the third country concerned;

(iv) an agency responsible for paying the refund;

(b) a certificate of unloading and importation drawn up by an approved international control and supervisory agency (hereinafter referred to as 'SA') in accordance with the rules set out in Annex VI, Chapter III, using the model set out in Annex VII; the date and number of the customs document of import must appear on the certificate concerned.

At the request of the exporter, a paying agency may waive the certification requirement referred to in point (a) of the first subparagraph where it is able to verify that customs formalities for importation have been completed by accessing electronically recorded information held by or on behalf of the competent authorities of the third country.

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2. ►M4 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, or its accuracy in all respects, 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;

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(b) a certificate of unloading issued by an official agency of a Member State established in, or competent for, the country of destination, in accordance with the requirements and in conformity with the model set out in Annex VIII, 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 approved SA in accordance with the rules set out in Annex VI, Chapter III, using the model set out in Annex IX, 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;

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(d) a bank document issued by approved intermediaries established in the Community, certifying, in the case of the third countries listed

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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.

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3. Exporters shall in all cases produce a copy or photocopy of the transport documents, which shall relate to the transport of the products for which the export declaration was made.

At the exporter's request, in the case of container transport by sea, a Member State may accept information equivalent to that contained in transport documents if they are generated by an information system managed by a third party responsible for the transport of the containers to the place of destination provided that the third party specialises in such operations and the information system security is approved by the Member State as meeting the criteria laid down in the version applicable to the period concerned of one of the internationally accepted standards set out in point 3(B) of Annex I to Commission Regulation (EC) No 885/2006 ([1]).

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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.

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Article 16a

1. An SA wishing to issue certificates as referred to in Article 16(1)(b) and (2)(c) has to be approved by the competent authority of the Member State where it has its registered office.

2. The SA shall be approved at its request for a renewable period of three years, if it fulfils the conditions set out in Annex VI, Chapter I. The approval shall be valid for all Member States.

3. The approval shall specify whether the authorisation to issue certificates as referred to in Article 16(1)(b) and (2)(c) shall be on a worldwide basis or limited to a certain number of third countries.

Article 16b

1. The SA shall act in accordance with the rules set out in Annex VI, Chapter II, point 1.

If one or more of the conditions set out in those rules are not respected, the Member State which has approved the SA shall suspend the approval for such a period as is required to remedy the situation.

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([1]) OJ L 171, 23.6.2006, p. 90.

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2. The Member State which has approved the SA shall control the performance and behaviour of the SA in accordance with the requirements set out in Annex VI, Chapter II, point 2.

Article 16c

Member States which have approved SAs shall provide for an effective system of sanctions for cases where an approved SA has issued a false certificate.

Article 16d

1. The Member State which has approved the SA shall immediately withdraw the approval:

— if the SA does no longer comply with the conditions for approval set out in Annex VI, Chapter I, or

— if the SA has repeatedly and systematically issued false certificates. In this case the sanction provided for in Article 16(c) shall not apply.

2. The withdrawal shall be total or limited to certain parts or activities of the SA according to the nature of the shortcomings detected.

3. Whenever an approval is withdrawn by a Member State from an SA belonging to a group of companies, Member States which have approved SAs belonging to the same group, shall suspend the approvals of these SAs for a period not exceeding three months in order to carry out the necessary investigations to verify whether the SAs also feature the shortcomings detected in relation to the SA whose approval has been withdrawn.

For the application of the previous subparagraph, a group of companies shall comprise all companies whose capital is owned, directly or indirectly, for more than 50 % by one single parent company, as well as the parent company itself.

Article 16e

1. Member States shall notify the approval of SAs to the Commission.

2. A Member State that withdraws or suspends the approval shall immediately notify the other Member States and the Commission, indicating the shortcomings that led to the withdrawal or suspension.

The notification to Member States shall be sent to the Member States central bodies listed in Annex X.

3. The Commission shall periodically publish for information an updated list of the SAs approved by Member States.

Article 16f

1. Certificates as referred to in Article 16(1)(b) and (2)(c) issued after the date of withdrawal or suspension of the approval shall not be valid.

2. Member States shall refuse to accept certificates as referred to in Article 16(1)(b) and (2)(c) if they detect irregularities or deficiencies in the certificates. When such certificates have been issued by an SA approved by another Member State, the Member State which detects

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the irregularities shall notify these circumstances to the Member State which gave the approval.

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Article 17

1. Member States may exempt exporters from furnishing the proof required pursuant to Article 16 other than the transport document or its electronic equivalent as referred to in Article 16(3), in case of an export declaration giving entitlement to a refund where:

(a) the differentiated part of the refund is no more than:

(i) EUR 2 400 where the third country or territory of destination is listed in Annex IV;

(ii) EUR 12 000 where the third country or territory of destination is not listed in Annex IV; or

(b) the port of destination is located in the remote refund zone for the product concerned.

2. The exemption referred to in paragraph 1(b) shall apply only where the following conditions are met:

(a) the products are transported in containers and transport of the containers to the port of unloading is done by sea;

(b) the transport document mentions as destination the country mentioned in the export declaration or a port normally used for unloading products destined for a hinterland country which is the country of destination mentioned in the export declaration;

(c) the proof of unloading is provided pursuant to point (a), (b) or (c) of Article 16(2).

At the request of the exporter, in the case of container transport by sea, a Member State may accept that the proof of unloading referred to in point (c) of the first subparagraph is provided instead by information equivalent to that of the unloading document if it is generated by an information system managed by a third party responsible for the transport of the containers to and unloading of the containers at the place of destination, provided that the third party specialises in such operations and the information system security is approved by the Member State as meeting the criteria laid down in the version applicable to the period concerned of one of the internationally accepted standards set out in point 3(B) of Annex I to Commission Regulation (EC) No 885/2006.

The proof of unloading may be provided pursuant to point (c) of the first subparagraph or pursuant to the second subparagraph without the exporter having to prove that he has taken the appropriate steps to obtain the document referred to in points (a) or (b) of Article 16(1).

3. Eligibility for the exemptions referred to in paragraph 1(a) shall be automatic except in case of application of paragraph 4.

Eligibility for the exemption referred to in paragraph 1(b) shall be granted for three years, by means of a written authorisation, in advance of export, upon application by the exporter. Exporters using these authorisations shall refer to the number of the authorisation in the payment application.

4. If the Member State considers that products for which the exporter claims an exemption under this Article have been exported to a country other than that mentioned in the export declaration or, as the case may be, to a country outside the relevant remote refund zone for which the refund is fixed, or the exporter has artificially divided an export operation with the aim of benefiting from an exemption, the Member State shall immediately withdraw eligibility for any exemption under this Article from the exporter concerned.

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The exporter concerned shall not be eligible for any further exemption under this Article for two years from the date of withdrawal.

In case of withdrawal of eligibility the entitlement to the export refund for the products concerned shall no longer exist and the refund shall be reimbursed, unless the exporter can provide the proof required under Article 16 for the products concerned.

In addition, the entitlement to export refunds shall no longer exist for products covered by any export declaration made after the date of the act which led to the withdrawal of eligibility and the refunds shall be reimbursed, unless the exporter can provide the proof required under Article 16 for the products concerned.

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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;

(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.

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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 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

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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 Regulation (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.

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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 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]).

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

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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 ([1]).

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 party to the detriment of the exporter, and where he immediately informs the competent authorities thereof on his own initiative and in

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

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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.

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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 was accepted or in the Member State of origin in accordance with Article 15 of Council Directive 97/78/EC [1] laying down the principles governing the organisation of veterinary checks on products entering the Community from third countries.

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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;

(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

[1] OJ L 24, 30.1.1998, p. 9.

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measures necessary to ensure that the products concerned reach their destination.

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4. The provisions of Article 5(7) 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. ◄

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The operative event for the exchange rate applicable to the refund shall be that referred to in Article 1(1) of Commission Regulation (EC) No 1913/2006 ([1]).

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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.

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

([1]) OJ L 365, 21.12.2006, p. 52.

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ferryboats, 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 1 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.

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Boxes 33, 103 and 104 and, where appropriate, 105 of the T5 control copy shall be completed. Box 104 of the T5 control copy shall be completed, under the heading ‘Other’, with one of the entries listed in Annex IIa.

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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).

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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.

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

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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.

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5. Where Article 8 applies to deliveries to a rig, one of the entries listed in Annex IIb shall be entered under ‘Other’ in box 104 of the T5 control copy.

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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.

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:

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(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.

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.

▼B

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.

▼M6

However Member States may decide that refund applications must be made exclusively using one of the methods referred to in the second subparagraph.

▼B

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*.

▼B

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 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 ►M6 EUR 2 400 ◄; 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

▼B

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.

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).

▼M4

9. Member States may decide not to grant refunds where the amount is less than or equal to EUR 100 per export declaration.

▼B

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.

▼B

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.

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.

▼M12

1a. Without prejudice to the second paragraph of Article 8a, where it is found that the rate of export refund pursuant to Article 8a was not mentioned, the rate mentioned will be deemed to be zero. If the amount of export refund calculated according to the information pursuant to Article 8a is lower than the amount applicable, the refund due for the relevant exportation shall be that applicable to the products actually exported, reduced by:

▼M12

(a) 10 % of the difference between the calculated refund and that applicable to the actual export if the difference is more than EUR 1 000;

(b) 100 % of the difference between the calculated refund and that applicable to the actual export if the exporter indicated that the refunds would be less than EUR 1 000 and the refund applicable is more than EUR 10 000;

(c) 200 % of the difference between the calculated refund and that applicable where the exporter intentionally provides false information.

The first subparagraph shall not apply if the exporter proves to the satisfaction of the competent authorities that the situation referred to in that subparagraph is due to *force majeure*, to obvious error, or, where applicable, that it was based on correct previous payment information.

The first subparagraph shall not apply when Article 51(1) applies for penalties based on the same elements fixing the right to export refunds.

▼M8

2. The refund applied for shall be deemed to be the amount calculated from the information provided pursuant to Article 5. 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.

▼B

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.

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

▼B

payment demand and ending on the day preceding that of payment of the amount demanded.

▼M8

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), and/or 50.

▼B

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

9. Member States may waive the imposition of penalties of ►M6 EUR 100 ◄ or less per export declaration.

▼M8

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

▼B

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,

▼M8

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

▼B

(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 ►M6 EUR 100 ◄, 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,

▼M5

— 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. The codes shall be grouped by sector. Member States shall take the measures required to ensure

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

▼M5

that such information is notified by no later than the second month following that of acceptance of the export declaration.

▼M8

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▼B

Article 54

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

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

▼B

This Regulation	Regulation (EEC) No 3665/87
Article 41	Article 39
Article 42	Article 40
Article 43	Article 41
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	

▼M9

ANNEX Ia

Entries referred to in the second subparagraph of Article 9(1)(c):

— *In Bulgarian:*	Представен е транспортен документ, посочващ местоназначение извън митническата територия на Общността
— *In Spanish:*	Documento de transporte con destino fuera de la CE presentado
— *In Czech:*	Přepravní doklad s místem určení mimo ES předložen
— *In Danish:*	Transportdokument med destination uden for EF forelagt
— *In German:*	Beförderungspapier mit Bestimmung außerhalb der EG wurde vorgelegt
— *In Estonian:*	Transpordiks väljaspool EÜd asuvasse sihtkohta on esitatud veodokument
— *In Greek:*	Υποβαλλόμενο έγγραφο μεταφοράς με προορισμό εκτός ΕΚ
— *In English:*	Transport document indicating a destination outside the customs territory of the Community has been presented
— *In French:*	Document de transport avec destination hors CE présenté
— *In Italian:*	Documento di trasporto con destinazione fuori CE presentato
— *In Latvian:*	Uzrādīts transporta dokuments ar galamērķi ārpus EK
— *In Lithuanian:*	Pateiktas paskirties vietą už EB ribų nurodantis gabenimo dokumentas
— *In Hungarian:*	EK-n kívüli rendeltetésű szállítmány szállítási okmánya bemutatva
— *In Maltese:*	Dokument tat-trasport b'destinazzjoni għal barra mill-KE, ippreżentat
— *In Dutch:*	Vervoerdocument voor bestemming buiten de EG voorgelegd
— *In Polish:*	Przedstawiony dokument przewozowy wskazujący miejsce przeznaczenia poza WE
— *In Portuguese:*	Documento transporte com destino fora da CE apresentado
— *In Romanian:*	Document de transport care indică o destinație aflată în afara teritoriului vamal al Comunității – prezentat
— *In Slovakian:*	Prepravný doklad s miestom určenia mimo ES bol predložený
— *In Slovenian:*	Predložena je bila prevozna listina za destinacijo izven ES
— *In Finnish:*	Kuljetusasiakirja, jossa ilmoitetaan yhteisön tullialueen ulkopuolinen määräpaikka, on esitetty
— *In Swedish:*	Transportdokument med slutlig destination, utanför gemenskapens tullområde har lagts fram

▼M9

ANNEX Ib

Entries referred to in the first subparagraph of Article 10(4):

— *In Bulgarian:* Напускане на митническата територия на Общността под митнически режим опростен общностен транзит с железопътен транспорт с или големи контейнери:

— Транспортен документ:

— вид:

— номер:

— Дата на приемане за транспортиране от железопътните органи или съответното транспортно предприятие:

— *In Spanish:* Salida del territorio aduanero 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:

— *In Czech:* Výstup z celního území Společenství ve zjednodušeném tranzitním režimu Společenství pro přepravu po železnici nebo pro přepravu ve velkokapacitních kontejnerech:

— Přepravní doklad:

— druh:

— číslo:

— Den přijetí pro přepravu orgány železnice nebo příslušným přepravcem:

— *In Danish:* Udgang af Fællesskabets toldområde i henhold til ordningen for den forenklede procedure for fællesskabsforsendelse med jernbane/store containere:

— Transportdokument:

— type:

— nummer:

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

— *In German:* 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:

— *In Estonian:* Ühenduse tolliterritooriumilt väljaviimine ühenduse lihtsustatud transiidiprotseduuri alusel raudteed mööda või suurtes konteinerites:

— Veodokument:

— liik:

— number:

— Transpordiks vastuvõtmise kuupäev raudteeasutuste või asjaomase transpordiasutuse poolt:

▼M9

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

— Έγγραφο μεταφοράς:

— τύπος:

— αριθμός:

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

— *In English:* 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:

— *In French:* Sortie 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:

— *In Italian:* 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:

— *In Latvian:* Izvešana no Kopienas muitas teritorijas saskaņā ar vienkāršoto Kopienas tranzīta procedūru pārvešanai pa dzelzceļu vai lielos konteineros:

— Transporta dokuments:

— veids:

— numurs:

— Datums, kad produktu pārvešanai pieņēmušas dzelzceļa iestādes vai attiecīgais transporta uzņēmums:

— *In Lithuanian:* Išvežama iš Bendrijos muitų teritorijos pagal supaprastintą Bendrijos tranzito tvarką, taikomą gabenimui geležinkeliu arba didelėse talpose:

— Gabenimo dokumentas:

— rūšis:

— numeris:

— Geležinkelių administracijos ar atitinkamos transporto įmonės priėmimo pervežimui data:

— *In Hungarian:* A Közösség vámterületét egyszerűsített közösségi árutovábbítási eljárás keretében elhagyta, vasúton vagy konténerben történő szállítással:

— Szállítási okmány:

▼M9

— típus:

— szám:

— A szállítás elfogadásának dátuma a vasút vagy az érintett szállítmányozási vállalat ügyintézése által:

— *In Maltese:* Ħruġ mit-territorju doganali tal-Komunità skond ir-regoli tat-transitu komunitarju simplifikat bil-ferrovija jew b'kontejners kbar:

— Dokument ta' trasport:

— ġeneru:

— numru:

— Data ta' l-aċċettazzjoni għat-trasport mill-amministrazzjoni tal-ferrovija jew mill-impriża tat-trasporti konċernata:

— *In Dutch:* Uitgang uit het douanegebied van de Gemeenschap onder de regeling voor vereenvoudigd communautair douanevervoer per spoor of in grote containers:

— Vervoerdocument:

— Type:

— Nummer:

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

— *In Polish:* Opuszczenie obszaru celnego Wspólnoty zgodnie z uproszczoną procedurą tranzytu wspólnotowego dla przewozu koleją lub w wielkich kontenerach:

— Dokument przewozowy:

— rodzaj:

— numer:

— Data przyjęcia transportu przez administrację kolejową lub przez określone przedsiębiorstwo transportowe:

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

— Documento de transporte:

— tipo:

— número:

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

— *In Romanian:* Ieşire de pe teritoriul vamal al Comunităţii în cadrul regimului de tranzit comunitar simplificat pentru transportul pe calea ferată sau în containere mari:

— Document de transport:

— tip:

— număr:

— Data acceptării pentru transport de către autorităţile feroviare sau întreprinderea de transport în cauză:

— *In Slovakian:* Výstup z colného územia Spoločenstva podľa zjednodušeného tranzitného postupu Spoločenstva na železničnú prepravu alebo na prepravu vo veľkých prepravných kontajneroch:

— Prepravný doklad:

— typ:

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— číslo:

— Dátum prijatia zo strany železničnej spoločnosti alebo zo strany príslušnej prepravnej spoločnosti:

— *In Slovenian:* Izstop s carinskega območja Skupnosti po poenostavljenem tranzitnem postopku Skupnosti za prevoz po železnici ali v velikih zabojnikih:

— Prevozna listina:

— vrsta:

— številka:

— Datum, ko je železnica ali zadevni prevoznik blago prevzel za prevoz:

— *In Finnish:* Viety yhteisön tullialueelta yksinkertaistetussa yhteisön passitusmenettelyssä rautateitse tai suurissa konteissa:

— Kuljetusasiakirja:

— tyyppi:

— numero:

— Päivä, jona rautatieviranomainen tai asianomainen kuljetusyritys hyväksyi kuljetettavaksi:

— *In Swedish:* 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:

▼M9

ANNEX Ic

Entries referred to in the first subparagraph of Article 10(5):

— *In Bulgarian:* Излизане от митническата територия на Общността по железен път при комбиниран железопътен и автомобилен транспорт:

— Транспортен документ:

— вид:

— номер:

— Дата на приемане за транспортиране от железопътните органи:

— *In Spanish:* 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:

— *In Czech:* Opuštění celního území Společenství po železnici nebo kombinovanou přepravou po železnici a silnici:

— Přepravní doklad:

— druh:

— číslo:

— Den přijetí pro přepravu orgány železnice:

— *In Danish:* Udgang af Fællesskabets toldområde ad jernbane ved kombineret jernbane/landevejstransport:

— Transportdokument:

— type:

— nummer:

— Dato for overtagelse ved jernbane:

— *In German:* 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:

— *In Estonian:* Ühenduse tolliterritooriumilt väljaviimine raudteed mööda, raudtee- ja maanteetranspordi ühendveo korras:

— Veodokument:

— liik:

— number:

— Transpordiks vastuvõtmise kuupäev raudteeasutuste poolt:

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

— Έγγραφο μεταφοράς:

— ειδος:

▼M9

— αριθμός:

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

— *In English:* 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:

— *In French:* Sortie 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:

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

— Documento di trasporto:

— tipo:

— numero:

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

— *In Latvian:* Izvešana no Kopienas muitas teritorijas pa dzelzceļu dzelzceļa – autotransporta kombinētā transporta režīmā:

— Transporta dokuments:

— veids:

— numurs:

— Datums, kad produktu pārvešanai pieņēmušas dzelzceļa iestādes:

— *In Lithuanian:* Išvežama iš Bendrijos muitų teritorijos geležinkeliu pagal gabenimo kombinuotu transportu (automobilių keliais ir geležinkeliu) tvarką:

— Gabenimo dokumentas:

— rūšis:

— numeris:

— Geležinkelių administracijos priėmimo pervežimui data:

— *In Hungarian:* A Közösség vámterületét elhagyta vasúton, kombinált szállítással (vasút-közút):

— Szállítási okmány:

— típus:

— szám:

— A szállítás elfogadásának dátuma a vasúti ügyintézés által:

— *In Maltese:* Ħruġ mit-territorju doganali tal-Komunità skond ir-regoli tat-transitu komunitarju simplifikat bil-ferrovija jew b'kontejners kbar:

— Dokument ta' trasport:

— ġeneru:

▼M9

— numru:

— Data ta' l-aċċettazzjoni għat-trasport mill-amministrazzjoni tal-ferrovija jew mill-impriża tat-trasporti konċernata:

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

— Vervoerdocument:

— Type:

— Nummer:

— Datum van aanneming ten vervoer door de spoorwegadministratie:

— *In Polish:* Wywóz z obszaru celnego Wspólnoty drogą kolejową lub drogą kombinowanego transportu drogowo-kolejowego:

— Dokument przewozowy:

— rodzaj:

— numer:

— Data przyjęcia transportu przez administrację kolejową:

— *In Portuguese:* 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 ou pela empresa de transporte interessada:

— *In Romanian:* Ieșire de pe teritoriul vamal al Comunității pe calea ferată prin transport combinat rutier și feroviar:

— Document de transport:

— tip:

— număr:

— Data acceptării pentru transport de către autoritățile feroviare:

— *In Slovakian:* Výstup z colného územia Spoločenstva železničnou dopravou, kombinovanou železničnou a cestnou dopravou:

— Prepravný doklad:

— typ:

— číslo:

— Dátum prijatia zo strany železničnej spoločnosti:

— *In Slovenian:* Izstop s carinskega območja Skupnosti po železnici s kombiniranim cestno-železniškim prevozom:

— Prevozna listina:

— vrsta:

— številka:

— Datum, ko je železnica prevzela blago v prevoz:

— *In Finnish:* Viety yhteisön tullilaueelta rautateitse yhdistetyssä rauta- ja maantiekuljetuksessa:

— Kuljetusasiakirja:

— tyyppi:

— numero:

▼**M9**

— Päivä, jona rautatieviranomainen hyväksyi kuljetettavaksi:

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

— Transportdokument:

— typ:

— nummer:

— Mottagningsdag för befordran hos järnvägsföretaget:

▼M7

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

Saint Lucia

Senegal

Tanzania

▼M9

ANNEX IIa

Entries referred to in the second subparagraph of Article 41(2):

— *In Bulgarian:* Задължително влизане в продоволствен склад за пласиране на продуктите – Член 40 от Регламент (ЕО) № 800/1999

— *In Spanish:* Depositado con entrega obligatoria para el avituallamiento — Aplicación del artículo 40 del Reglamento (CE) nº 800/1999

— *In Czech:* Uskladnění ve skladu s povinnou dodávkou určenou k zásobování – použití článku 40 nařízení (ES) č. 800/1999

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

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

— *In Estonian:* Ladustatud väljastamiseks üksnes pardavarudena – määruse (EÜ) nr 800/1999 artikkel 40

— *In Greek:* Εναποθήκευση με υποχρεωτική παράδοση για τον ανεφοδιασμό — εφαρμογή του άρθρου 40 του κανονισμού (ΕΚ) αριθ. 800/1999

— *In English:* Compulsory entry into warehouse for delivery for victualling — Article 40 of Regulation (EC) No 800/1999

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

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

— *In Latvian:* Obligāta ievešana pārtikas krājumu noliktavā piegādēm – Regulas (EK) Nr. 800/1999 40. pants

— *In Lithuanian:* Pristatyta į maisto atsargų tiekimo sandėlį, taikant Reglamento (EB) Nr. 800/1999 40 straipsnio nuostatas

— *In Hungarian:* A vámterület elhagyásának vagy a rendeltetési helyre való megérkezésének a dátuma – 800/1999/EK rendelet 40. cikke szerint

— *In Maltese:* Impoġġi fil-maħżen b'konsenja obbligatorja għar-razzjonar-applikazzjoni ta' l-Artikolu 40 tar-Regolament Nru 800/1999/KE

— *In Dutch:* Opslag in depot onder verplichting van levering voor de bevoorrading van zeeschepen of luchtvaartuigen — Toepassing van artikel 40 van Verordening (EG) nr. 800/1999

— *In Polish:* Złożenie w magazynie żywności z obowiązkową dostawą – zastosowanie art. 40 rozporządzenia (WE) nr 800/1999

— *In Portuguese:* Colocado em entreposto com destino obrigatório para abastecimento — aplicação do artigo 40.º do Regulamento (CE) n.º 800/1999

— *In Romanian:* Amplasare în antrepozit obligatorie pentru livrarea de provizii alimentare – articolul 40 din Regulamentul (CE) nr. 800/1999,

— *In Slovakian:* Uskladnenie v sklade s povinnou dodávkou určenou na zásobovanie – uplatnenie článku 40 nariadenia (ES) č. 800/1999

— *In Slovenian:* Dano v skladišče z obvezno dobavo za oskrbo – uporaba člena 40 Uredbe (ES) št. 800/1999

— *In Finnish:* Siirto varastoon sekä pakollinen toimittaminen muonitustarkoituksiin – asetuksen (EY) N:o 800/1999 40 artiklan soveltaminen

▼**M9**

— *In Swedish:* Placering i lager med skyldighet att leverera för proviantering – artikel 40 i förordning (EG) nr 800/1999

▼M9

ANNEX IIb

Entries referred to in Article 44(5):

— *In Bulgarian:* Доставки на бордови провизии за платформи – Регламент (ЕО) № 800/1999

— *In Spanish:* Suministro para el abastecimiento de las plataformas — Reglamento (CE) nº 800/1999

— *In Czech:* Dodávka určená k zásobování plošin – nařízení (ES) č. 800/1999

— *In Danish:* Proviant til platforme — forordning (EF) nr. 800/1999

— *In German:* Bevorratungslieferung für Plattformen — Verordnung (EG) Nr. 800/1999

— *In Estonian:* Ladustatud väljastamiseks üksnes pardavarudena – määruse (EÜ) nr 800/1999 artikkel 40

— *In Greek:* Προμήθειες τροφοδοσίας για εξέδρες — κανονισμός (ΕΚ) αριθ. 800/1999

— *In English:* Catering supplies for rigs — Regulation (EC) No 800/1999

— *In French:* Livraison pour l'avitaillement des plates-formes — Règlement (CE) nº 800/1999

— *In Italian:* Provviste di bordo per piattaforma — regolamento (CE) n. 800/1999

— *In Latvian:* Nogāde ieguves urbšanas vai ekstrakcijas platformu personāla apgādei ar pārtiku – Regula (EK) Nr. 800/1999

— *In Lithuanian:* Maisto atsargų tiekimas platformoms – Reglamentas (EB) Nr. 800/1999

— *In Hungarian:* Élelmezési ellátmány szállítása fúrótornyokra – 800/1999/EK rendelet

— *In Maltese:* Konsenja għat-tqassim tal-pjattaformi – Regolament Nru 800/1999/KE

— *In Dutch:* Leverantie van boordproviand aan platform — Verordening (EG) nr. 800/1999

— *In Polish:* Dostawa zaopatrzenia dla platform – rozporządzenie (WE) nr 800/1999

— *In Portuguese:* Fornecimentos para abastecimento de plataformas — Regulamento (CE) n.º 800/1999

— *In Romanian:* Livrare pentru aprovizionarea cu alimente a platformelor – Regulamentul (CE) nr. 800/1999

— *In Slovakian:* Dodávka určená na zásobovanie plošín – Nariadenie (ES) č. 800/1999

— *In Slovenian:* Dobava za oskrbo ploščadi – Uredba (ES) št. 800/1999

— *In Finnish:* Muonitustoimitukset lautoille – asetus (EY) N:o 800/1999

— *In Swedish:* Proviant till plattformar – Förordning (EG) nr 800/1999

▼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

Place and date	Signature and stamp of customs authorities

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

▼M11

ANNEX IV

List of third countries and territories referred to in Article 17(1)(a)(i) and (ii)

▼M7

Albania

Andorra

Armenia

Azerbaijan

Belarus

Bosnia and Herzegovina

▼M9

_____

▼M7

Ceuta and Melilla

Croatia

Georgia

Gibraltar

Heligoland

Iceland

Liechtenstein

Former Yugoslav Republic of Macedonia

Morocco

Moldova

Norway

▼M9

_____

▼M7

Russia

Serbia and Montenegro

Switzerland

Turkey

Ukraine

Vatican City

▼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 to3505 10 90	Dextrines and other modified starches
3809 10 10 to3809 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

▼M4

ANNEX VI

Requirements for approval and control of SAs by Member States

Chapter I

Approval requirements

(a) The SA must be an entity having legal capacity and has to be registered in the Register of companies of the responsible Member State.

(b) The SA's constituting articles must stipulate that one of its declared aims is control and supervision of agricultural products at international level.

(c) The SA must have international coverage in order to be able to carry out certification on a world-wide basis, either by implantation through subsidiaries in a number of third countries and/or by way of directly attending the discharge operations with their own salaried inspectors from the nearest regional office or from the national office in the Community or with local agents that are subjected to proper supervision by the SA.

The subsidiaries referred to in the previous paragraph must be owned by more than half of the capital by the SA. However, if national legislation in the third country concerned limits foreign ownership of the capital to 50 % or less, effective control of the subsidiary shall be sufficient for the purpose of the preceding subparagraph. This control shall be proved by appropriate means, such as, in particular, the existence of a management agreement, composition of its board of directors and senior management or similar arrangements.

(d) The SA must have proved experience in control and supervision in agricultural and food products. This experience shall be established by submitting evidence relating to the inspections carried out over the previous three years, or currently in progress. These references must include information on the type of checks carried out (nature, quantity of products, place of inspection, etc.) and names and addresses of bodies or entities which can provide information about the applicant.

(e) The SA must fulfil the requirements laid down in the standard norm EN 45011, points 4.1.1, 4.1.2, 4.1.4, 4.2a) to p), 4.4, 4.5, 4.7, 4.8.1b) to f), 4.8.2, 4.9.1, 4.10, 5, 7, 9.4.

(f) The SA's financial situation (capital, turnover, etc.) must be sound. Proofs of the financial soundness, as well as its annual accounts for the past three years, containing the balance sheet, the profit and loss account, and, if required by law the auditors' report and the directors' report, shall be presented.

(g) The administrative organisation of the SA must have an ‘internal audit unit’, which will be responsible for assisting the national authorities in the activities of control and inspection that they will undertake on the approved SAs.

Chapter II

1. *Performance's engagements of SAs*

Approved SAs must engage at all time their responsibility and professional competence when delivering the certificates of arrival.

Approved SAs must conform in the course of their activities to the following criteria:

(a) they must execute all possible controls to determine the identity and weight of the products covered by the certificates;

(b) the management of the SA must properly oversee the controls undertaken by the staff of the company in the third countries of destination;

(c) SAs must keep a file on each certificate delivered, in which evidence of the survey work carried out in order to support the conclusions stated in the certificate is recorded (quantitative controls and documentary checks effected, etc.). Files on the certificates issued must be kept for 5 years.

(d) The approved SAs shall verify the unloading operations with their own suitably qualified, permanent personnel or with local agents based or active in the country of destination, or by sending their own personnel from regional offices or a national office in the Community. Intervention

▼M4

of local agents must be regularly supervised by suitably qualified, permanent employees of the SAs.

2. *Controlling the performance of SAs*

2.1. Member States will have the responsibility for checking the soundness and appropriateness of the certification functions carried out by the SAs.

Prior to the three-year renewal period, national authorities shall carry out an inspection visit to the registered office of the SA.

Whenever there are reasonable doubts about the quality and accuracy of the certificates drawn up by a particular SA, the competent authority shall make an on the spot inspection to the registered office of the company in order to verify that the rules contained in this Annex are applied correctly.

The Member States shall pay particular attention while inspecting the SA, to the working methods and operational procedures of the SA in carrying out its functions, as well as examining at random, files concerning certificates presented to the paying agency in the procedure for payment of refunds.

Member States may employ external and independent auditors to carry out the task of controlling the SAs in the framework of the procedure set up in this Annex.

Member States may take any other measures they consider necessary for a proper control of the SAs.

2.2. Member States authorities must pay particular attention, when checking the claims for export refunds supported by certificates from SAs, to the following aspects of the certification:

(a) requiring that the work done is described in the certificates and satisfying itself that the work as described was sufficient to support the conclusions drawn in the certificate;

(b) inquiring into all discrepancies of the certificates submitted;

(c) requiring the certificates to be issued within a reasonable time limit, depending of the case at hand.

Chapter III

1. Certification issued by approved SAs shall include not only the appropriate information necessary to identify the goods and consignment in question as well as details of means of transport, dates of arrival and unloading, but also a description of the controls and methods applied to verify the identity and weight of the certified products.

The controls and verifications undertaken by the SAs must be carried out at the time the unloading, which can take place during completion of customs formalities for importation or after. However, in exceptional and duly justified cases, the controls and verification for issuing the certificates may take place within six months following the date on which the goods were unloaded and the certification must describe the steps taken for the verification of facts.

2. In the case of certificates of unloading and importation (Article 16(1)(b)), the certification shall include also verification that the goods have been cleared through customs for definitive importation. This check has to establish a clear link between the relevant customs import document or customs clearing procedure and the operation concerned.

3. The approved SAs shall be independent of the parties involved in the transaction under scrutiny. In particular, neither the SA carrying out the controls for a particular transaction, nor any subsidiary company belonging to the same 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.

▼M4

ANNEX VII

Certificate of unloading and importation referred to in Article 16(1)(b)

1. Certificate of unloading and importation

   No:

2. Exporter:

3. EC exporting country:

4. Country of destination:

5. Description of goods and refund code:

6. Quantity and packaging identification:

6.1. Gross weight (kg):

   net weight (kg):

6.2. Units (in case export refunds are fixed by units):

6.3. Packaging identification:

   The quantity of bulk goods or the number and type of packages.

   Containers: number and kind.

7. Identity of means of transport(s):

7.1. Transport document(s): kind, number and date:

8. Place of unloading:

8.1. Place of control (port, airport, railway station):

9. Date of arrival at place of unloading:

9.1. Date and time unloading starts:

9.2. Date and time unloading ends:

10. Results and modalities of control:

10.1. Gross weight (kg):

   net weight (kg):

10.2. Units (in case export refunds are fixed by units):

10.3. Packaging identification:

   The quantity of bulk goods or the number and type of packages.

   Containers: number and kind.

10.4. Methods used for checking the weight:

10.5. Remarks:

11. Date and number of the customs import document:

12. Other remarks including, if applicable, explanation as to the reasons why the verification of discharge was not made at the time of unloading:

13. The certificate shall contain:

13.1. Name and function of the person who checked the goods:

13.2. Name, date and place of signature, signature and stamp of supervisory agency:

▼M4

ANNEX VIII

Requirements to be observed by official agencies of Member States established in third countries for the application of Article 16(2)(b)

1. The official agency decides to issue the certificate of unloading on the basis of one or more of the following documents:

   — customs import documents, including computer print-outs if approved as such,

   — national port documents and other documents issued by an official entity,

   — declaration by the captain or the transport company,

   — other forms of receipt provided by the importer,

2. The official agencies of Member States issued certificates of unloading in accordance with the following wording:

   It is hereby certified that … (description of goods, quantity and packaging identification) have been unloaded … (place of unloading/name of the town) on … (date of unloading).

   It is certified 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.

   The certificate is issued on the basis of the following documents:

   (list of the documents presented which give the basis for the agency issuing the certificate)

   Date and place of signature, signature and stamp of official agency

3. The official agency issuing certificates of unloading shall keep a register and files on all the certificates issued, in which it shall be recorded on the basis of which documentary evidence the certificates were delivered.

▼M4

ANNEX IX

Certificate of unloading referred to in Article 16(2)(c)

1. Certificate of unloading

   No:

2. Exporter:

3. EC exporting country:

4. Country of destination:

5. Description of goods and refund code:

6. Quantity and packaging identification:

6.1. Gross weight (kg):

   net weight (kg):

6.2. Units (in case export refunds are fixed by units):

6.3. Packaging identification:

   The quantity of bulk goods or the number and type of packages.

   Containers: number and kind.

7. Identity of means of transport(s):

7.1. Transport document(s): kind, number and date

8. Place of unloading:

8.1. Place of control (port, airport, railway station):

9. Date of arrival at place of unloading:

9.1. Date and time unloading starts:

9.2. Date and time unloading ends:

10. Results and modalities of control:

10.1. Gross weight (kg):

   net weight (kg):

10.2. Units (in case export refunds are fixed by units):

10.3. Packaging identification:

   The quantity of bulk goods or the number and type of packages.

   Containers: number and kind.

10.4. Methods used for checking the weight:

10.5. Remarks:

11. Date of leaving the port zone:

   Or from … to …

11.1. Means of transport:

11.2. Certification of no re-exportation according to Article 16(2)(c):

12. Other remarks including, if applicable, explanation as to the reasons why the verification of discharge was not made at the time of unloading:

13. The certificate shall contain:

13.1. Name and function of the person who checked the goods:

13.2. Name, date and place of signature, signature and stamp of supervisory agency.

▼M7

ANNEX X

List of central bodies in the Member States referred to in Article 16e

Member State	Central body
Belgium	Bureau d'Intervention et de Restitution Belge (BIRB) Belgisch Interventie- en Restitutiebureau (BIRB)
Czech Republic	Státní zemědělský intervenční fond (SZIF)
Denmark	Ministeriet for Fødevarer, Landbrug og Fiskeri, Direktoratet for FødevareErhverv
Germany	Bundesministerium der Finanzen — Hauptzollamt Hamburg-Jonas
Estonia	Põllumajandusministeerium
Greece	Οργανισμός Πληρωμών και Ελέγχου Κοινοτικών Ενισχύσεων Προσανατολισμού και Εγγυήσεων (ΟΠΕΚΕΠΕ)
Spain	Ministerio de Agricultura, Pesca y Alimentación-Fondo Español de Garantía Agraria (FEGA)
France	Commission interministérielle d'agrément (CIA) des sociétés de contrôle et de surveillance — Direction générale des douanes et droits indirects (DGDDI)
Ireland	Department of Agriculture and Food
Italy	Agenzia delle Dogane — Servizio Autonomo Interventi Settore Agricolo (SAISA)
Cyprus	Οργανισμός Αγροτικών Πληρωμών (ΟΑΠ)
Latvia	Lauku atbalsta dienests (LAD)
Lithuania	Nacionalinė mokėjimo agentūra prie Žemės ūkio ministerijos (NMA)
Luxembourg	Ministère de l'Agriculture, de la Viticulture et du Développement rural
Hungary	Mezőgazdasági és Vidékfejlesztési Hivatal (MVH)
Malta	Internal Audit and Investigations Department (IAID)
Netherlands	Ministerie van Landbouw, Natuurbeheer en Visserij
Austria	Bundesministerium für Finanzen
Poland	Ministerstwo Rolnictwa i Rozwoju Wsi
Portugal	Ministério da Agricultura, do Desenvolvimento Rural e das Pescas
Slovenia	Agencija Republike Slovenije za kmetijske trge in razvoj podeželja
Slovakia	Pôdohospodárska platobná agentúra (PPA)
Finland	Maa-ja metsätalousministeriö Interventioyksikkö
Sweden	Statens Jordbruksverk (SJV)
United Kingdom	Rural Payments Agency (RPA)

▼M11

ANNEX XI

Products and destinations excluded from the remote refund zone

PRODUCT SECTOR — EXCLUDED DESTINATIONS

Sugar (*)

Sugar or sugar products of CN code 1701 11 90, 1701 12 90, 1701 91 00, 1701 99 10, 1701 99 90, 1702 40 10, 1702 60 10, 1702 60 95, 1702 90 30, 1702 90 60, 1702 90 71, 1702 90 99, 2106 90 30, 2106 90 59 — Morocco, Algeria, Turkey, Syria, Lebanon

Cereals (*)

CN 1001 — Russian Federation, Moldova, Ukraine, Croatia, Bosnia-Herzegovina, Albania, FYROM, Turkey, Syria, Lebanon, Israel, Egypt, Libya, Tunisia, Algeria, Morocco, Ceuta, Melilla

CN 1003 — All destinations

CN 1004 — Iceland, Russian Federation

Rice (*)

CN 1006 — All destinations

Milk and milk products (*)

All products — Morocco, Algeria

Milk and milk products of CN code 0401 30; 0402 21; 0402 29; 0402 91; 0402 99; 0403 90; 0404 90; 0405 10; 0405 20; 0405 90 — Canada, Mexico, Turkey, Syria, Lebanon

0406 — Syria, Lebanon, Mexico

Beef and veal

All products — All destinations

Wine

All products — Zone 3 and zone 4 in Annex IV to Regulation (EC) No 883/2001, Morocco, Algeria

Poultry

Poultrymeat — All destinations

One day-old chicks of CN code 0105 11 — USA, Canada, Mexico

Eggs (*)

Eggs in shell of ERN code 0407 00 30 9000 Japan, Russia, China, Taiwan,

Hatching eggs of ERN code 0407 00 11 9000; 0407 00 19 9000 — USA, Canada, Mexico

(*) Other than in the form of Non-Annex I goods containing less than 90 % by weight of the product concerned.

▼**M11**

ANNEX XII

Entries referred to in Article 8

— *in Bulgarian:*	Регламент (ЕО) № 800/1999
— *in Spanish:*	Reglamento (CE) nº 800/1999
— *in Czech:*	Nařízení (ES) č. 800/1999
— *in Danish:*	Forordning (EF) nr. 800/1999
— *in German:*	Verordnung (EG) Nr. 800/1999
— *in Estonian:*	Määrus (EÜ) nr 800/1999
— *in Greek:*	Κανονισμός (ΕΚ) αριθ. 800/1999
— *in English:*	Regulation (EC) No 800/1999
— *in French:*	Règlement (CE) nº 800/1999
— *in Italian:*	Regolamento (CE) n. 800/1999
— *in Latvian:*	Regula (EK) Nr. 800/1999
— *in Lithuanian:*	Reglamentas (EB) Nr. 800/1999
— *in Hungarian:*	800/1999/EK rendelet
— *in Maltese:*	Regolament (KE) Nru 800/1999
— *in Dutch:*	Verordening (EG) nr. 800/1999
— *in Polish:*	Rozporządzenie (WE) nr 800/1999
— *in Portuguese:*	Regulamento (CE) n.º 800/1999
— *in Romanian:*	Regulamentul (CE) nr. 800/1999
— *in Slovak:*	Nariadenie (ES) č. 800/1999
— *in Slovenian:*	Uredba (ES) št. 800/1999
— *in Finnish:*	Asetus (EY) N:o 800/1999
— *in Swedish:*	Förordning (EG) nr 800/1999

▼M12

ANNEX XIII

Entries referred to in Article 5(8)

— *in Bulgarian:*	Проверка за съответствие — Регламент (ЕО) № 800/1999
— *in Spanish:*	Control de conformidad Reglamento (CE) nº 800/1999
— *in Czech:*	Kontrola souladu Nařízení (ES) č. 800/1999
— *in Danish:*	Overensstemmelseskontrol forordning (EF) nr. 800/1999
— *in German:*	Konformitätskontrolle Verordnung (EG) Nr. 800/1999
— *in Estonian:*	Vastavuskontroll. Määrus (EÜ) nr 800/1999
— *in Greek:*	Έλεγχος αντιστοιχίας — Κανονισμός (ΕΚ) αριθ. 800/1999
— *in English:*	Conformity check Regulation (EC) No 800/1999
— *in French:*	Contrôle de conformité Règlement (CE) nº 800/1999
— *in Italian:*	Controllo di conformità regolamento (CE) n. 800/1999
— *in Latvian:*	Regulas (EK) Nr. 800/1999 atbilstības pārbaude
— *in Lithuanian:*	Atitikties patikrinimo Reglamentas (EB) Nr. 800/1999
— *in Hungarian:*	Megfelelőségi ellenőrzés 800/1999/EK rendelet
— *in Maltese:*	Verifika ta' konformità r-Regolament (KE) Nru 800/1999
— *in Dutch:*	Conformiteitscontrole Verordening (EG) nr. 800/1999
— *in Polish:*	Kontrola zgodności Rozporządzenie (WE) nr 800/1999
— *in Portuguese:*	Verificação de concordância Regulamento (CE) n.º 800/1999
— *in Romanian:*	Control de conformitate Regulamentul (CE) nr. 800/1999
— *in Slovak:*	Kontrola zhody Nariadenie (ES) č. 800/1999
— *in Slovenian:*	Preverjanje skladnosti z Uredba (ES) št. 800/1999
— *in Finnish:*	Vastaavuustarkastus. Asetus (EY) N:o 800/1999
— *in Swedish:*	Kontroll av överensstämmelse Förordning (EG) nr 800/1999

▼**M12**

ANNEX XIV

Entries referred to in Article 8a

— *in Bulgarian:*	Сума на възстановяване под 1 000 EUR
— *in Spanish:*	Restitución inferior a 1 000 EUR
— *in Czech:*	Částka náhrady nižší než 1 000 EUR
— *in Danish:*	Restitutioner mindre end 1 000 EUR
— *in German:*	Erstattung weniger als 1 000 EUR
— *in Estonian:*	Eksporditoetus alla 1 000 EURO
— *in Greek:*	Επιστροφή μικρότερη από 1 000 EUR
— *in English:*	Refunds less than EUR 1 000
— *in French:*	Restitution inférieure à 1 000 EUR
— *in Italian:*	Restituzione inferiore a 1 000 EUR
— *in Latvian:*	Kompensācija, kas ir mazāka par EUR 1 000
— *in Lithuanian:*	Išmokos mažesnės negu 1 000 EUR
— *in Hungarian:*	1 000 eurónál kevesebb visszatérítés
— *in Maltese:*	Rifużjonijiet ta' anqas minn EUR 1 000
— *in Dutch:*	Restitutie minder dan 1 000 EUR
— *in Polish:*	Refundacja poniżej 1 000 EUR
— *in Portuguese:*	Restituição inferior a 1 000 EUR
— *in Romanian:*	Restituire inferioară valorii de 1 000 EUR
— *in Slovak:*	Náhrady nižšie ako 1 000 EUR
— *in Slovenian:*	Nadomestila manj kot 1 000 EUR
— *in Finnish:*	Alle 1 000 euron tuet
— *in Swedish:*	Bidragsbelopp lägre än 1 000 euro