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COMMISSION REGULATION (EEC) No 3769/92

of 21 December 1992

implementing and amending Council Regulation (EEC) No 3677/90 laying down measures to be taken to discourage the diversion of certain substances to the illicit manufacture of narcotic drugs and psychotropic substances

(OJ L 383, 29.12.1992, p. 17)

Amended by:

		Official Journal		
		No	page	date
►**M1**	Commission Regulation (EEC) No 2959/93 of 27 October 1993	L 267	8	28.10.1993
►**M2**	Commission Regulation (EC) No 2093/97 of 24 October 1997	L 292	11	25.10.1997

Corrected by:

►**C1** Corrigendum, OJ L 3, 5.1.1994, p. 8 (2959/93)

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COMMISSION REGULATION (EEC) No 3769/92

of 21 December 1992

implementing and amending Council Regulation (EEC) No 3677/90 laying down measures to be taken to discourage the diversion of certain substances to the illicit manufacture of narcotic drugs and psychotropic substances

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3677/90 of 13 December 1990 laying down measures to be taken to discourage the diversion of certain substances to the illicit manufacture of narcotic drugs and psychotropic substances [1], as amended by Regulation (EEC) No 900/92 [2], and in particular Article 10 (3) thereof,

Whereas it is necessary to lay down implementing rules for Regulation (EEC) No 3677/90, hereinafter referred to as 'the basic Regulation';

Whereas the threshold quantities of the scheduled substances listed in Category 3 of the Annex to the basic Regulation and the identification of mixtures containing such substances should be defined for the purpose of Article 2a (2) of the basic Regulation;

Whereas it is necessary to identify the countries and substances pursuant to Article 5 (2) of the basic Regulation, in particular, on the basis of a concerted approach with the country concerned;

Whereas, in certain cases, when there is no formal agreement with the destination country within the meaning of Article 5a (2) of the basic Regulation, the export requirements for scheduled substances in Category 3 must be identified, in particular, on the basis of a concerted approach with the country concerned;

Whereas the identification of sensitive destinations has to take place on the basis that a country is concerned, either by the illicit manufacture of narcotic drugs and psychotropic substances or by other relevant factors such as geographical proximity to a country in which such drugs or substances are produced;

Whereas the Commission undertakes to establish such contacts with a number of countries; the lists in Annexes 2 and 3 to this Regulation should therefore be gradually supplemented to the extent that such contacts lead to concrete results;

Whereas it is necessary to design a model of the individual export authorization as well as detailed rules concerning its use and furthermore to establish such rules for implementing the open individual authorization scheme provided for in relation to certain exports of Category 2 and 3 substances;

Whereas the Community should implement the decision taken by the Commission on Narcotic Drugs (CND) of the United Nations in April 1992 to include the substances safrole, piperonal and isosafrole in Table I of the Annex to the 1988 UN Convention against illicit traffic in narcotic drugs and psychotropic substances, by transferring the said substances from Category 2 to Category 1 in the Annex to the basic Regulation and for reasons of clarity the Annex to the basic Regulation should therefore be replaced; the decision was based on the grounds that the characteristics of the said substances are very similar to those already contained in Table I as well as those in Category 1 of the Final Report of the Chemical Action Task Force (CATF), and the CATF members represented in the CND have fully shared the decision as an exceptional measure relating to international trade which would provide

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[1] OJ No L 357, 20. 12. 1990, p. 1.
[2] OJ No L 96, 10. 4. 1992, p. 1.

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no precedent as to other possible divergences with regard to the classification under the CATF report;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Drugs Precursors Committee,

HAS ADOPTED THIS REGULATION:

Article 1

Exemptions from the registration requirement for scheduled substances listed in Category 3

1. Operators engaged in the export of scheduled substances listed in Category 3 of the Annex to the basic Regulation shall be exempt from the registration requirement laid down in Article 2a (2) of the basic Regulation if the sum of quantities concerned by their exports during the course of the preceding calendar year (1 January — 31 December) does not exceed the amounts specified in Annex 1 to this Regulation. However, as soon as such amounts are exceeded within the current calendar year, the registration requirement must be complied with immediately.

2. In the case of mixtures within the meaning of the first sentence of Article 1 (2) (a) of the basic Regulation, containing substances listed in Category 3, operators shall be exempt from the registration requirement referred to in paragraph 1 of this Article if the amount of the scheduled substance contained therein does not exceed, during the course of the preceding calendar year, the amounts referred to in the said paragraph 1. However, as soon as such amounts are exceeded within the current calendar year, the registration requirement must be complied with immediately.

3. For the purpose of creating the register, those operators whose exports of Category 3 substances during 1992 have exceeded the amounts specified in Annex 1, and who intend to continue to export those substances, are required to register with the competent authorities and notify the information referred to in Article 2a (2) of the basic Regulation by 31 January 1993.

Article 2

Specific export requirements for substances in Category 2

Pursuant to Article 5 (2) of the basic Regulation, exports of scheduled substances in Category 2 and listed in Annex 2 to this Regulation are subject *mutatis mutandis* to the provisions of Article 4 of the basic Regulation whenever they are destined to an operator established in a country which is listed in that Annex.

Article 3

Specific export requirements for substances in Category 3

Without prejudice to more specific requirements to be determined on the basis of agreements with countries concerned, exports of scheduled substances in Category 3 are subject to the provisions of Article 4 of the basic Regulation whenever they are destined to an operator established in a country which is listed in Annex 3 to this Regulation for the substance concerned pursuant to Article 5a (2) of the basic Regulation and an open individual authorization cannot be granted pursuant to paragraph 3 of that Article.

Article 4

Model export authorization

1. The export authorization referred to in Article 4 of the basic Regulation shall be made out on the form, a specimen of which is given in Annex 4 to this Regulation. It shall be used in compliance with the rules established therein. This form shall be printed in one or more of the official languages of the Community. Export authorizations shall be

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made out in one of these languages and in accordance with the provisions of the domestic law of the exporting State; if they are hand-written, they shall be completed in ink in capital letters.

2. The export authorization forms shall be A4 format. It shall have a printed guilloche pattern background making any falsification by mechanical or chemical means apparent to the eye.

3. Member States may reserve the right to print the export authorization forms themselves or may have them printed by printers approved by them. In the latter case, each export authorization form must include a reference of such approval. In addition, the export authorization form must bear the name and address of the printer or a mark by which the printer can be identified. It shall also bear a serial number, whether or not printed, by which it can be identified.

4. The authorization shall be established in three copies numbered 1 to 3: No 1 is to be kept by the authority issuing the authorization, No 2 is to accompany the goods and be presented to the customs office where the customs export declaration is lodged and subsequently to the customs office at the point of exit of the scheduled substances from the Community customs territory, and No 3 is to be kept by the operator to whom the authorization has been granted. Further copies may be provided as required.

Article 5

Open individual authorizations

1. Each applicant for an open individual authorization under Articles 5 (3) and 5a (3) of the basic Regulation shall provide to the competent authorities in particular the following information:

(a) details of his qualifications and professional experience in the field covered by this Regulation and, in the case of a legal person, the name, relevant qualifications and professional experience of the director or the person responsible for ensuring that exports of scheduled substances are carried out in compliance with the provisions of this Regulation;

(b) details in summary form of export transactions in the scheduled substances concerned which he has made in the twelve months preceding the application, specifying in the case of each substance, the total number of transactions and the amounts exported to each country for which an export authorization is required;

(c) details of the precautions he has taken to prevent the diversion of scheduled substances to the illicit manufacture of narcotic drugs and psychotropic substances, and in particular, the arrangements for complying with Article 3 of the basic Regulation.

2. Without prejudice to technical enforcement measures, the authorization referred to in paragraph 1 above shall be suspended or revoked pursuant to Articles 5 (3) and 5a (3) of the basic Regulation, or refused, in particular, if:

(a) there are reasonable grounds for suspecting that the information supplied in compliance with the obligations under the said paragraph 1 is incorrect;

(b) there are reasonable grounds for suspecting that the precautions taken are not sufficient to prevent the diversion of scheduled substances to the illicit manufacture of narcotic drugs and psychotropic substances or for believing that the operator or the person responsible in the case of a legal person, does not provide sufficient safeguard against the risk of diversion.

3. Notwithstanding the existence of the authorization referred to in paragraph 1 above, individual export operations undertaken under the cover of this authorization may be prohibited by the competent authorities pursuant to Article 6 (2) of the basic Regulation.

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4. Without prejudice to the obligations under Article 2 of the basic Regulation, the holder of the authorization referred to in paragraph 1 above shall comply with following obligations:

(a) enter the number of this authorization in any relevant customs export declaration;

(b) carry out the entry into the records referred to in Article 2 (3) of the basic Regulation at the latest when the consignment leaves the premises of the supplier for their exportation;

(c) whenever the previous issue of an import authorization by the destination country is a requirement for the issue of the export authorization, the entry shall contain the number (if any) and place and date of issue of the import permit issued by the destination country; a copy of this permit shall be retained in compliance with Article 2 (4) of the basic Regulation;

(d) ensure that the consignment is accompanied at any time during the transport by a copy of the authorization referred to in paragraph 1 which is submitted to the customs office at the point of exit from the Community customs territory and kept by the latter for a period of not less than three years from the end of the calendar year in which the exportation took place;

(e) furnish, by the end of each quarter, summary information on the export operations carried out under the authorization. The content of the summary to be determined in detail by the competent authority of the Member State in question shall contain, as a minimum, information on the number of operations, the substances, quantities, and destination countries involved. In case that this information is not supplied, the authorization may be suspended or revoked;

(f) inform the issuing authority of any change occurring with regard to the information supplied pursuant to paragraph 1, or such of it as may be specified by that authority for this purpose.

5. The form of the open individual authorization referred to in paragraph 1 shall conform to the specifications which are given in Annex 5.

Article 6

Scheduled substances

The Annex to the basic Regulation is replaced by the following:

'ANNEX

Substance	CN denomination (if different)	CN code
CATEGORY 1		
Ephedrine		2939 40 10
Ergometrine		2939 60 10
Ergotamine		2939 60 30
Lysergic acid		2939 60 50
1-phenyl-2-propanone	Phenylacetone	2914 30 10
Pseudoephedrine		2939 40 30
Acetylanthranilic acid	2-Acetamidobenzoic acid	2924 29 50
3,4 Methylenedioxyphenylpropan-2-one		2932 90 77
Isosafrole (cis + trans)		2932 90 73
Piperonal		2932 90 75
Safrole		2932 90 71

The salts of the substances listed in this Category whenever the existence of such salts is possible.

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Substance	CN denomination (if different)	CN code
CATEGORY 2		
Acetic anhydride		2915 24 00
Anthranilic acid		2922 49 50
Phenylacetic acid		2916 33 00
Piperidine		2933 39 30
The salts of the substances listed in this Category whenever the existence of such salts is possible.		
CATEGORY 3		
Acetone		2914 11 00
Ethyl ether	Diethyl ether	2909 11 00
Methylethyl ketone (MEK)	Butanone	2914 12 00
Toluene		2902 30 10/90
Potassium permanganate		2841 60 10
Sulphuric acid		2807 00 10
Hydrochloric acid	Hydrogen chloride	2806 10 00
The salts of the substances listed in this Category except for sulphuric acid and hydrochloric acid whenever the existence of such salts is possible.'		

Article 7

This Regulation shall enter into force on 1 January 1993.

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

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ANNEX I

Substance	*Quantity*
Acetone	50 kgs
Ethyl ether	20 kgs
Methylethyl ketone	50 kgs
Toluene	50 kgs
Potassium permanganate	5 kgs
Sulphuric acid	100 kgs
Hydrochloric acid	100 kgs

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ANNEX II

Substance	*Destination*
Acetic anhydride	Bolivia Colombia Ecuador Guatemala Hong Kong India Iran Lebanon Malaysia Mexico Myanmar (Burma) Peru Singapore Syria Thailand Turkey United Arab Emirates Venezuela
Anthranilic acid	Bolivia Colombia Ecuador India Mexico Peru United Arab Emirates Venezuela
Phenylacetic acid Piperidine	Bolivia Colombia Ecuador Mexico Peru United Arab Emirates United States of America Venezuela

▼**M2**

ANNEX III

Substance	*Destination*
Methylethyl ketone (MEK) Toluene Potassium permanganate Sulphuric acid [1]	Argentina Bolivia Brazil Chile Colombia Costa Rica Ecuador El Salvador Guatemala Honduras Hong Kong Panama Paraguay Peru Syria Thailand Uruguay United Arab Emirates Venezuela
Acetone Ethyl ether [1]	Argentina Bolivia Brazil Chile Colombia Costa Rica Ecuador El Salvador Guatemala Honduras Hong Kong Iran Lebanon Mexico Myanmar (Burma) Panama Paraguay Peru Singapore Syria Thailand Turkey United Arab Emirates Uruguay Venezuela
Hydrochloric acid	Argentina Bolivia Brazil Chile Colombia Costa Rica Ecuador El Salvador Guatemala Honduras Hong Kong Iran Lebanon Myanmar (Burma) Panama Paraguay Peru Singapore Syria Thailand Turkey United Arab Emirates Uruguay Venezuela

[1] This includes the salts of these substances, except for sulphuric acid and hydrochloric acid, whenever the existence of such salts is possible.

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ANNEX IV

INDIVIDUAL AUTHORIZATION FOR EXPORT OF SUBSTANCES LISTED IN THE ANNEX TO REGULATION (EEC) No 3677/90

EUROPEAN COMMUNITY
Goods subject to export control
(Drugs precursors – Regulation (EEC) No 3677/90)

EXPORT AUTHORIZATION

COPY FOR ISSUING AUTHORITY 1 / 1

1. Exporter (name and address)

2. AUTHORIZATION
Number: .....
Issued (date): ..... (at): .....

3. Date of dispatch envisaged

4. Importer in the country of destination (name and address)

5. Issuing authority (name and address)

6. Other operator/agent (name and address)

7. Customs office where export declaration will be lodged (name and address)

8. Ultimate consignee (name and address)

9. Point of exit from EC

10. Point of entry into importing country

11. Means of transport

12. Itinerary

13a. Full name of substance to be exported

14a. CN code

15a. Net weight

16a. % of mixture

17a. Invoice number

13b. Full name of substance to be exported

14b. CN code

15b. Net weight

16b. % of mixture

17b. Invoice number

18. Declaration by applicant (see Note 10)
Name: .....
Representing: ..... (applicant)
Signature: ..... *Date:* .....

20. (For completion by customs office where export declaration is lodged)
No of customs export declaration
.....
Stamp

19. (For completion by issuing authority)
Box 17 information still required YES ☐ NO ☐
Box 9, 10, 11, 12 information still required YES ☐ NO ☐
Signature: .....
Function: .....
Date: .....
Stamp

21. CONFIRMATION OF EXIT FROM THE EC
(For completion by the Customs Authority at the point of exit from the EC)
Date of exit: .....
Signature of officer: .....
Function: .....
Date: .....
Stamp

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EUROPEAN COMMUNITY
Goods subject to export control
(Drugs precursors – Regulation (EEC) No 3677/90)

EXPORT AUTHORIZATION

COPY TO ACCOMPANY THE GOODS

2

1. Exporter (name and address)

2. AUTHORIZATION
Number: .....
Issued (date): ..... (at): .....

3. Date of dispatch envisaged

4. Importer in the country of destination (name and address)

5. Issuing authority (name and address)

6. Other operator / agent (name and address)

7. Customs office where export declaration will be lodged (name and address)

8. Ultimate consignee (name and address)

9. Point of exit from EC

10. Point of entry into importing country

11. Means of transport

12. Itinerary

2

13a. Full name of substance to be exported

14a. CN code

15a. Net weight

16a. % of mixture

17a. Invoice number

13b. Full name of substance to be exported

14b. CN code

15b. Net weight

16b. % of mixture

17b. Invoice number

18. Declaration by applicant (see Note 10)

Name: .....

Representing: ..... (applicant)

Signature: ..... *Date:* .....

20. (For completion by customs office where export declaration is lodged)

No of customs export declaration

.....

Stamp

19. (For completion by issuing authority)

Box 17 information still required — YES ☐ NO ☐

Box 9, 10, 11, 12 information still required — YES ☐ NO ☐

Signature: .....

Function: .....

Date: .....

Stamp

21. CONFIRMATION OF EXIT FROM THE EC
(For completion by the Customs Authority at the point of exit from the EC)

Date of exit: .....

Signature of officer: .....

Function: .....

Date: .....

Stamp

▼B

EUROPEAN COMMUNITY
Goods subject to export control
(Drugs precursors – Regulation (EEC) No 3677/90)

EXPORT AUTHORIZATION

3

COPY FOR THE EXPORTER

3

1. Exporter (name and address)	**2.** AUTHORIZATION Number: ..... Issued (date): ..... (at): .....
	3. Date of dispatch envisaged
4. Importer in the country of destination (name and address)	**5.** Issuing authority (name and address)
6. Other operator/agent (name and address)	**7.** Customs office where export declaration will be lodged (name and address)
8. Ultimate consignee (name and address)	**9.** Point of exit from EC / **10.** Point of entry into importing country
	11. Means of transport / **12.** Itinerary

13a. Full name of substance to be exported	**14a.** CN code **15a.** Net weight **16a.** % of mixture **17a.** Invoice number
13b. Full name of substance to be exported	**14b.** CN code **15b.** Net weight **16b.** % of mixture **17b.** Invoice number

18. Declaration by applicant (see Note 10) Name: ..... Representing: ..... (applicant) *Signature:* ..... *Date:*	**20.** (For completion by customs office where export declaration is lodged) No of customs export declaration ..... Stamp
19. (For completion by issuing authority) Box 17 information still required YES ☐ NO ☐ Box 9, 10, 11, 12 information still required YES ☐ NO ☐ *Signature:* ..... *Function:* ..... *Date:* ..... Stamp	**21.** CONFIRMATION OF EXIT FROM THE EC (For completion by the Customs Authority at the point of exit from the EC) *Date of exit:* ..... *Signature of officer:* ..... *Function:* ..... *Date:* ..... Stamp

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NOTES

1. Boxes 1, 3, 4 and 6 to 18 inclusive are to be completed by the applicant at the time of the request; however, such information as required in boxes 9 to 12 and 17 may be supplied at a later stage, if the information is not known at the time of the request. In this case, the information for box 17 is to be supplemented at the latest when the export declaration is lodged and the supplementary information for boxes 9 to 12 is to be given to the customs or other authority at the point of exit from the Community territory at the latest before the physical departure of the goods.
2. Boxes 1, 4, 6 and 8: Enter full names and addresses as well as trading names.
3. Box 6: Enter full name and address of any other operator involved in the export operation such as transporter, broker, customs agent.
4. Box 8: Enter full name and address of the person or company to which the goods are delivered in the country of destination (not necessarily the end-user).
5. Boxes 9 and 10: Give the name of the port, airport or border point as appropriate.
6. Box 11: Specify all means of transport to be used (e.g. lorry, ship, plane, train, etc).
7. Box 12: Give as full details as possible of the route to be taken.
8. Boxes 13 and 14: Enter both, name of substance and CN code, as set out in the Annex to the basic Regulation.
9. Boxes 13a, b: Identify packages and substances with precision (e.g. 2 cans of 5 litres each). In the case of mixtures, indicate commercial name and the quantitative data concerned.
10. Box 18:
    - Indicate in block letters the name of the applicant or, where appropriate, of his authorized representative who signs this application.
    - The signature by the applicant or his authorized representative, according to the modalities provided for by the Member State concerned, shall indicate that the person concerned is declaring that all the particulars provided on the application are correctly and fully stated. Without prejudice to the possible application of penal provisions, this declaration shall be equivalent to the engagement of responsibility, under the provisions in force in the Member States, in respect of:
        - the accuracy of the information given in the declaration,
        - the authenticity of any documents attached, and
        - the observance of all the obligations inherent in the exportation of scheduled substances listed in the Annex of Regulation (EEC) No 3677/90 as amended by Regulation (EEC) No 900/92.
    - Whenever the authorization is issued by means of a computerized procedure, that authorization may not contain the signature of the applicant in this box, if the application as such contains such signature.

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ANNEX V

The open individual authorization for export of substances listed in Categories 2 and 3 of the Annex to Regulation (EEC) No 3677/90

1. The open individual authorization form is the same as that referred to in Annex IV.

2. It shall bear, across the whole page, the words:

   Licencia genérica individual

   Åben individuel eksporttilladelse

   Offene Einzelgenehmigung

   Ανοικτή κατά περίπτωση άδεια εξαγωγής

   Open individual export authorization

   Autorisation générale individuelle

   Autorizzazione singola aperta all'esportazione

   Individuele open vergunning

   Autorização geral individual.

3. Only the boxes 1, 2, 5, 13 and 19 shall be completed. Box 13 shall be completed by the list of scheduled substances and destination countries authorized.