

ANNEX I

METHODS TO BE FOLLOWED FOR PHYSICAL CHECKS

1. Bulk products
 - 1.1. Where an exporter uses sealed facilities for automatic loading and calibrated automatic weighing of bulk products, the customs office of export shall check that the products tally with the export declaration by measuring the quantity by using the calibrated automatic weighing information, and it shall check the nature and characteristics of the products by representative sampling.

The customs office of export shall also check by sampling that:

 - (i) the weighing and loading systems do not permit products to be rerouted inside these sealed circuits or any other manipulations;
 - (ii) the time limits specified for calibrated weighing equipment have not expired and that seals are intact where sealed weighing systems are used;
 - (iii) the consignments weighed are actually loaded on the means of transport specified;
 - (iv) the data entered in the weighing records or certificates correspond to the data contained in the loading documents.
 - 1.2. In the rare cases where the quantity of bulk products is not recorded by a calibrated automatic weighing system, the customs office shall use any other means of checking which is satisfactory from the commercial point of view.
 - 1.3. Where an export declaration only covers part of the cargo of a ship, the customs office of export shall ensure supervision of the physical departure of the whole cargo. To this end, when the loading process is completed, the customs office shall verify the total weight of the cargo loaded by use of the information under point 1.1 or 1.2, with, where appropriate the information in commercial documents.
2. Piece products
 - 2.1. Where an exporter has declared products packaged using automatic systems for bagging, canning, bottling, etc., and calibrated automatic weighing/measuring equipment, or put up in packaging or bottles within the meaning of Council Directives 75/106/EEC⁽¹⁾, 75/107/EEC⁽²⁾ and 76/211/EEC⁽³⁾, the total number of bags, cans, bottles, etc., shall in principle be counted and the nature and characteristics of the products shall be checked on the basis of a representative selection made by the customs office of export. The weight or volume shall be determined by calibrated automatic weighing/measuring or by the packaging or bottles, within the meaning of the above Directives. The customs office of export may weigh or measure one bag, can or bottle.
 - 2.2. If the equipment has a calibrated automatic counter, the records of the automatic counter may be taken into account for the physical check on quantity. Point 1.1 shall apply *mutatis mutandis*.
 - 2.3. Where an exporter uses pallets loaded with cartons, cans, etc., the customs office of export shall select representative pallets and check whether the number of cartons, cans, etc. declared is present. It shall select from these pallets a number of representative cartons, cans etc., and check whether the number of bottles, units, etc., is present.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1276/2008. (See end of Document for details)

- 2.4. Where the exporter does not use facilities as referred to in points 2.1 and 2.2, the customs office of export shall count the number of bags, cans, etc. The nature, characteristics and weight/volume shall be checked on the basis of a representative selection. Point 2.3 shall apply *mutatis mutandis*.
- 2.5. Where in the case of points 2.1 and 2.2 the contents and exact weight are indicated on the immediate packaging of the products, that information shall be verified only in 50 % of physical checks if the products are packed in containers or packs intended for wholesale, and the products are exported regularly by the same exporter and no non-conformities having financial consequences greater than EUR 1 000 have been found during the previous six months.
3. Goods not covered by Annex I to the Treaty
- 3.1. In the case of goods not covered by Annex I to the Treaty which are packaged for retail sale or subject to appropriate marking with details of content and weight on the immediate packaging and which either meet the requirements of the third subparagraph of Article 10 of Commission Regulation (EC) No 1043/2005⁽⁴⁾ or for which the quantities of product used are those set out in Annex III to that Regulation, the customs office of export shall begin by checking the weight and content of goods not covered by Annex I to the Treaty put up in immediate packaging against the details on the immediate packaging. It may weigh a unit without packaging. It shall then count and/or weigh – in principle – the total quantity of goods not covered by Annex I to the Treaty in immediate packaging.

Points 2.1 to 2.5 shall apply *mutatis mutandis*.

- 3.2. The customs office may take a sample to verify that no substitution has taken place.
- 3.3. The quantity of products used in the production of goods not covered by Annex I to the Treaty may be assumed by the customs office of export to be correct if the description and the content indicated on the immediate packaging are consistent with the details given in the export declaration or the registered manufacturing formula.

If the manufacturing formula has not yet been checked by the competent authorities, the customs office of export shall have the auditor of the competent authorities verify the formula and the identity of the goods afterwards.

For the purposes of this method for verifying the composition of goods not covered by Annex I to the Treaty, Member States shall introduce in advance a procedure whereby:

- (i) the composition of goods not covered by Annex I to the Treaty can be checked through the accounts and specific documents relating to production;
 - (ii) it is verified, through the undertaking's production documents, that the goods not covered by Annex I to the Treaty produced are the same as those covered by the export declaration and the manufacturing formula and the goods to be exported; and
 - (iii) the auditor of the competent authority can verify ex-post that the goods exported tally with the export declaration concerned, the manufacturing formula and the goods produced.
- 3.4. In cases where the procedure provided for in points 3.1 to 3.3 is not applied, the customs office of export shall take representative samples, without prejudice to Article 49 of Regulation (EC) No 1043/2005.

ANNEX II

CRITERIA FOR RISK ANALYSIS REFERRED TO IN ARTICLE 11

1. Criteria relating to the products:
 - (a) their origin;
 - (b) their nature;
 - (c) their characteristics in terms of the refund nomenclature;
 - (d) their value;
 - (e) their customs status;
 - (f) the risk of an incorrect tariff code;
 - (g) the amount of refund in terms of technical characteristics and the presentation of the products (fat, water, meat, ash content, packaging, etc.);
 - (h) their becoming newly eligible for refunds;
 - (i) the quantity;
 - (j) analyses of previous samples;
 - (k) binding tariff information (BTI).
2. Criteria relating to trade:
 - (a) its frequency;
 - (b) the appearance of unusual trade and/or the development of new trade;
 - (c) diversions of trade.
3. Criteria relating to the refund nomenclature:
 - (a) the rate of refund;
 - (b) the nomenclatures in respect of which most export refunds are paid;
 - (c) the risks of incorrect refund rates in terms of technical characteristics and the presentation of the products (fat, water, meat, ash content, packaging, etc.).
4. Criteria relating to the exporters:
 - (a) their status under customs legislation (e.g. authorised economic operator);
 - (b) their reputation and trustworthiness;
 - (c) their financial position;
 - (d) the appearance of new exporters;
 - (e) exports without any immediately apparent economic justification;
 - (f) previous disputes, in particular cases of fraud.
5. Criteria relating to irregularities: detected or suspected in certain product sectors.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1276/2008. (See end of Document for details)

6. Criteria relating to the customs arrangements used:
- (a) the normal declaration procedure;
 - (b) the simplified declaration procedure;
 - (c) acceptance of the export declaration in application of Articles 790 and 791 of Regulation (EEC) No 2454/93.
7. Criteria relating to the arrangements for granting export refunds:
- (a) direct exports;
 - (b) victualling.
8. Criteria in particular relating to substitution checks:
- (a) the export destination;
 - (b) the logistical evidence of the customs office of exit: new or unusual itinerary or traffic, products moved from another office of exit;
 - (c) excessive journey time from the office of export;
 - (d) arrival outside normal port/border pattern;
 - (e) the seal number is different from that declared;
 - (f) the commodity code and description do not agree;
 - (g) the declared weight appears incorrect;
 - (h) inappropriate means of transport for the products;
 - (i) the amount of refund.

[^{F1}ANNEX IIa

Textual Amendments

- F1** Inserted by Commission Regulation (EU) No 278/2010 of 31 March 2010 amending Regulation (EC) No 1276/2008 on the monitoring by physical checks of exports of agricultural products receiving refunds or other amounts and Regulation (EC) No 612/2009 on laying down common detailed rules for the application of the system of export refunds on agricultural products.

CONTROL CODES CONCERNING CHECKS CARRIED OUT BY THE
CUSTOMS OFFICE OF EXPORT, THE CUSTOMS OFFICE OF EXIT OR
THE CUSTOMS OFFICE TO WHICH THE T5 CONTROL COPY IS SENT

PART 1

Findings of check as referred to in Article 15(1)(a) of Regulation (EC) No 1276/2008	Control code

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1276/2008. (See end of Document for details)

PART 1	
A physical check on export refunds provided in Article 4 of Regulation (EC) No 1276/2008 has been carried out	A1000
An analysis has been carried out in accordance with Article 51 of Regulation (EC) No 1043/2005	A1100
It is food aid export under Regulation (EC) No 2298/2001 exempted from a physical check	A1200
PART 2	
Findings of check as referred to in Article 15(1)(b) of Regulation (EC) No 1276/2008	Control code
Seal is in conformity, or the absence of a seal is justified as referred to in Article 5(8) of Regulation (EC) No 612/2009	A2000
Seal is missing or it was broken	A2100
PART 3	
Findings of check as referred to in Article 15(1)(c) of Regulation (EC) No 1276/2008	Control code
Findings of the substitution check referred to in Article 8 of Regulation (EC) No 1276/2008 are in conformity	A3000
Sample has been taken under the substitution check referred to in Article 8 or the specific substitution check referred to in Article 9 of Regulation (EC) No 1276/2008, but the findings are not yet available due to ongoing verification by laboratory analysis	A3100
Findings of the specific substitution check referred to in Article 9 of Regulation (EC) No 1276/2008 are in conformity	A3200
Findings of substitution check referred to in Article 8 or specific substitution check referred to in Article 9 of Regulation (EC) No 1276/2008 are not in conformity	A3300
PART 4	
Findings of check as referred to in Article 15(3) of Regulation (EC) No 1276/2008	Control code
Application of risk management is made difficult because the rate of refund was not mentioned on the T5 control copy or	A4000

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1276/2008. (See end of Document for details)

PART 4

equivalent document without the exporter being exempted according to Article 9 of Regulation (EC) No 612/2009	
Application of risk management is made difficult because the T5 control copy or equivalent document did not mention the entry referred to in Article 8 and Annex III of Regulation (EC) No 612/2009	A4100
Application of risk management is made difficult because the T5 control copy or equivalent document was not correctly or not completely filled in on other aspects	A4200]

^{F2}ANNEX III

[^{F2}Entries referred to in Article 15(1)(a)

Textual Amendments

F2 Deleted by Commission Regulation (EU) No 278/2010 of 31 March 2010 amending Regulation (EC) No 1276/2008 on the monitoring by physical checks of exports of agricultural products receiving refunds or other amounts and Regulation (EC) No 612/2009 on laying down common detailed rules for the application of the system of export refunds on agricultural products.

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^{F2}ANNEX IV

Entries referred to in Article 15(1)(b)

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^{F2}ANNEX V

Entries referred to in the second subparagraph of Article 15(2)

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F² ANNEX VI

Entries referred to in Article 15(4)(a)

F²

F² ANNEX VII

Entries referred to in Article 15(5)]

F²]

ANNEX VIII

Elements of the Annual Report pursuant to Article 16

1. Checks at the customs offices of export
 - 1.1. The number of export declarations per product sector per customs office not excluded under Article 6(6) when calculating the minimum rate of checks. If the Member State applies Article 6(2)(b), the report shall mention the total number of export declarations per product sector in its territory not excluded under Article 6(6) when calculating the minimum rate of checks.
 - 1.2. The number and percentage of physical checks carried out per product sector per customs office. If the Member State applies Article 6(2)(b), the report shall mention the total number and percentage of physical checks carried out per product sector in its territory.
 - 1.3. If applicable, a list of customs offices applying reduced rates of checks pursuant to Article 6(4)(b). If the Member State applies Article 6(2)(b), and if it applies Article 6(4), the report shall mention the number and percentage of physical checks carried out per product sector per customs office defined in that Article.
 - 1.4. The number of checks by product sector which led to the detection of irregularities, the financial incidence of irregularities detected exceeding a refund value of EUR 1 000 including, where applicable, the reference number used for the communication referred to in Article 3 of Commission Regulation (EC) No 1848/2006⁽⁵⁾.
 - 1.5. If applicable, the updating of the number of irregularities under Article 3 of Regulation (EC) No 1848/2006 which were communicated to the Commission in the preceding annual reports.
 - 1.6. The requested value of refunds per product sector of declarations subjected to physical checks.
2. Substitution checks at the customs offices of exit
 - 2.1. The number of T5 control copies and equivalent documents per customs office of exit or the customs office to which the T5 control copy is sent where the products for which a refund is claimed leave the Community's customs territory, noted as:

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1276/2008. (See end of Document for details)

- (a) the number of T5 control copies and equivalent documents covering exports which were physically controlled as meant in Article 3(a);
 - (b) the number of T5 control copies and equivalent documents covering export declarations which were not physically controlled as meant in Article 3(a);
 - (c) the total number of T5 control copies and equivalent documents.
- 2.2. The number and percentage of checks on the integrity of seals referred to in Article 7, carried out per customs office of exit or the customs office to which the T5 control copy is sent where the products for which a refund is claimed leave the Community's customs territory.
 - 2.3. The number and percentage of checks, broken down in substitution checks and specific substitution checks referred to in Articles 8 and 9, carried out per customs office of exit or the customs office to which the T5 control copy is sent where the products for which a refund is claimed leave the Community's customs territory.
 - 2.4. The number of T5 control copies and equivalent documents for which the seals affixed on departure have been removed other than under customs supervision, or the seals have been broken or the dispensation from sealing under Article 357(4) of Regulation (EEC) No 2454/93 has not been granted.
 - 2.5. The number of substitution checks referred to in Article 8 of this Regulation which led to the detection of irregularities, the financial incidence of irregularities detected exceeding a refund value of EUR 1 000, including, where applicable, the reference number which is used for communication referred to in Article 3 of Regulation (EC) No 1848/2006.

The number of specific substitution checks referred to in Article 9 of this Regulation which led to the detection of irregularities, the financial incidence of irregularities detected exceeding a refund value of EUR 1 000, including, where applicable, the reference number which is used for communication referred to in Article 3 of Regulation (EC) No 1848/2006.

- 2.6. If applicable, the updating of the number of irregularities which were communicated to the Commission under Article 3 of Regulation (EC) No 1848/2006 in the preceding annual report.
- 2.7. To what extent the customs offices of exit or the customs office to which the T5 control copy is sent applied Article 15(5) and which information was given from the paying agencies concerned.
3. Procedures for the selection of consignments for physical checks
 - 3.1. A description of the procedures for the selection of consignments for physical checks, for substitution checks and for specific substitution checks and their effectiveness.
 4. Modifications of the risk analysis system or strategy
 - 4.1. A description of all modifications of the measures notified to the Commission under Article 11(3).
 5. Detailed information on selection systems and on the risk analysis system

The information in points 5.1 to 5.4 shall only be submitted if there have been modifications since the latest report.

The information in point 5.5 is requested from the Member States for the period in 2009 before their notification of application of risk analysis pursuant to Article 11.

- 5.1. Description of the uniform system, if existent, of recording the weighting rate of risks associated with each consignment.
- 5.2. Description of the intervals of the periodical evaluation and revision of the assessed risks.
- 5.3. Description of the monitoring and feedback system in order to ensure that targeted checks are carried out or that satisfactory reasons are recorded for not doing so.
- 5.4. If there has not been any revision of risk evaluation (see point 5.2) for the latest reporting periods, explain why the existing evaluation still remains the appropriate means to ensure the effectiveness of physical checks.
- 5.5. If a risk analysis pursuant to Article 11 is not applied, explain why the existing system of checks still remains the appropriate means to ensure the effectiveness of physical checks.
6. Coordination with Regulation (EC) No 485/2008
 - 6.1. Description of the measures pursuant to Article 13(1) of this Regulation which have been taken in order to improve the coordination with Regulation (EC) No 485/2008.
7. Difficulties in applying this Regulation
 - 7.1. Description of any difficulties encountered in the application of this Regulation and the measures taken to overcome them or proposals to that end.
8. Evaluation of the checks carried out
 - 8.1. Evaluation whether the checks have been carried out satisfactorily.
 - 8.2. Report whether the certifying body referred to in Article 5 of Commission Regulation (EC) No 885/2006 made any statements regarding the carrying out of physical and substitution checks in its latest report pursuant to Article 5(4) of that Regulation and indicate the respective place in the report (chapter, page etc.). If the report contains recommendations on the improvement of the system of physical and substitution checks, indicate which measures have been implemented in order to improve the system.
 - 8.3. The Member States not yet having implemented the measures as meant under point 8.2 when drawing up the annual report shall deliver this information by 31 July of the year the annual report is submitted.
9. Suggestions for improvement
 - 9.1. Where appropriate, suggestions for improvement, either in the application of this Regulation, or in the Regulation itself.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1276/2008. (See end of Document for details)

ANNEX IX

Correlation table

Regulation (EEC) No 386/90	Regulation (EC) No 3122/94	Regulation (EC) No 2090/2002	This Regulation
Article 1		Article 1(2)	Article 1
		Articles 1(3), 5(1), 3 and 10(4)	Article 2
Article 2			Article 3
Article 3(1) and 3(2)			Article 4(1)
		Article 5(2)	Article 4(2) and (3)
Article 3(3)			Article 5(1)
		Articles 5(1) and 6(b)	Article 5(2)
Article 3(4)			Article 5(3)
		Article 5(1)	Article 5(4) and (5)
Article 3(1)(b) and 3(2) first subparagraph			Article 6(1)
Article 3(2) second subparagraph			Article 6(2)(a)
Article 3(2) third subparagraph			Article 6(2)(b)
		Article 5(3)	Article 6(3)
		Article 6(a) and (c)	Article 6(4)
		Article 2(1)	Article 6(5)
		Article 2(2)	Article 6(6)
		Article 2(3)	Article 6(7)
		Article 10(2a)	Article 7
Article 3a		Article 10(1) and (2)	Article 8(1)
		Article 10(4)	Article 8(2)
		Article 10(3)	Article 8(3)
		Article 10(2a)	Article 9(1)
		Article 10(4a)	Article 9(2)
		Article 10(2)	Article 10(1)

a Professional secrecy is covered by Article 6 of Regulation (EC) No 450/2008.

b Article 10(5a) second subparagraph is covered by Article 9(1) of Regulation (EC) No 885/2006.

c Point 3(b) is covered by Article 4 of Regulation (EC) No 485/2008.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1276/2008. (See end of Document for details)

		Article 2(2)	Article 10(2)
		Article 2(3)	Article 10(3)
Article 3(2)	Article 1	Article 10(2)	Article 11(1), (2) and (3)
	Article 2 ^a		—
	Article 3(1)		Article 11(4)
	Article 3(2)		Article 11(5)
Article 4			Article 12
	Article 3(3)		Article 13(1)
Article 5			Article 13(2)
		Article 8(1)	Article 14(1)
		Article 8(2)	Article 14(2)
		Article 8(3)	Article 15(1)
		Article 10(5)(a) and 10(5a) second subparagraph ^b	Article 15(2)
		Article 10(5a) first subparagraph	Article 15(3)
		Article 10(6)	Article 15(4)
		Article 10(7) first subparagraph	Article 15(5)
		Article 11	Article 16
		Article 12	Article 17
			Article 18
		Annex I ^c	Annex I
	Article 1		Annex II
		Article 8(3)(a)	Annex III
		Article 8(3)(b)	Annex IV
		Annex Ia	Annex V
		Annex Ib	Annex VI
		Annex Ic	Annex VII
		Annex III	Annex VIII
			Annex IX

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Changes to legislation: There are currently no known outstanding effects for the
Commission Regulation (EC) No 1276/2008. (See end of Document for details)

- (1) OJ L 42, 15.2.1975, p. 1.
- (2) OJ L 42, 15.2.1975, p. 14.
- (3) OJ L 46, 21.2.1976, p. 1.
- (4) OJ L 172, 5.7.2005, p. 24.
- (5) OJ L 355, 15.12.2006, p. 56.

Changes to legislation:

There are currently no known outstanding effects for the Commission Regulation (EC) No 1276/2008.