

Commission Regulation (EC) No 1276/2008 of 17 December
2008 on the monitoring by physical checks of exports of
agricultural products receiving refunds or other amounts

CHAPTER VI

COORDINATION AND ADMINISTRATIVE REPORTS

SECTION 1

Coordination

Article 12

Paying agency scrutiny

Paying agencies shall scrutinise, on the basis of the payment application files and other available information, in particular of the documents relating to the export and the comments of the customs services, all the evidence in those files adduced to justify the payment of the amounts in question.

Article 13

Coordination of risk analysis and checks

1 The Member States shall ensure that a single body coordinates information on risk analysis.

2 Member States shall take steps to coordinate the checks imposed on individual operators and combine the checks provided for in Articles 5, 8 and 9 and the checks provided for in Regulation (EC) No 485/2008.

Such coordinated checks shall be carried out, on the initiative or at the request either of the Commission or of the customs authorities carrying out the physical checks or the paying agencies scrutinising the payment application file or the competent authorities auditing the accounts.

SECTION 2

Administrative reports

Article 14

Reports on physical checks

1 Each customs office of export shall make the necessary arrangements to ensure that compliance with the rate of physical checks referred to in Article 6 can be verified at any time.

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Those arrangements shall show, for each product sector:

- a the number of export declarations taken into account for the physical checks;
- b the number of physical checks carried out.

2 The competent customs official shall produce a detailed inspection report on each physical check carried out.

Inspection reports shall at least include relevant details on:

- a the place, date, time of arrival, time of completion of the physical check, means of transport for the products, whether the means of transport were empty, partially or completely loaded at the beginning of the control procedure, the number of samples taken for a laboratory analysis, and the name and signature of the competent officer; and
- b date and time of receipt of information as referred to in Article 5(7)(b) of Regulation (EC) No 800/1999, the indicated time for starting loading and completion of the loading of the products in the means of transport.

Without prejudice to Article 9 of Regulation (EC) No 885/2006 the inspection reports and the document mentioning the reason for selecting the export declaration for a physical check shall be kept accessible for consultation for three years from the year of export at the customs office which carried out the physical check, or at one place in the Member State.

[F¹ Article 15

T5 control copy

1 For the purposes of Article 912c(3) and (4) of Regulation (EEC) No 2454/93, when applicable, customs authorities shall note on the control copy T5, or the equivalent document accompanying the products, the relevant control codes set out in Annex IIa to this Regulation, in accordance with the following rules:

- a the customs office of export shall note in box D the relevant control code listed in Part 1 of Annex IIa, corresponding to whether:
 - (i) a physical check on export refunds provided in Article 4 of this Regulation has been carried out;
 - (ii) an analysis has been carried out in accordance with Article 51 of Commission Regulation (EC) No 1043/2005⁽¹⁾;
 - (iii) it is a food aid export under Regulation (EC) No 2298/2001 exempted from physical check;
- b the customs office of exit or the customs office to which the T5 control copy is sent shall, after having carried out the checks on the integrity of seals referred to in Article 7 of this Regulation, note in box J the relevant control code listed in Part 2 of Annex IIa, corresponding to whether:
 - (i) the seal is in conformity, or the absence of a seal is justified as referred to in Article 5(8) of Commission Regulation (EC) No 612/2009⁽²⁾;
 - (ii) the seal is missing or it was broken;
- c the customs office of exit or the customs office to which the T5 control copy is sent shall note in box J the relevant control code listed in Part 3 of Annex IIa, corresponding to whether:

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- (i) the findings of the substitution check referred to in Article 8 of this Regulation are in conformity;
- (ii) a sample has been taken under the substitution check referred to in Article 8 or the specific substitution check referred to in Article 9 of this Regulation, but the findings are not yet available due to ongoing verification by laboratory analysis;
- (iii) the findings of the specific substitution check referred to in Article 9 are in conformity;
- (iv) the findings of the substitution check referred to in Article 8 or the specific substitution check referred to in Article 9 are not in conformity.

2 The customs office of exit or the customs office to which the T5 control copy is sent shall mention in box J of the T5 control copy its Customs Office Reference number as referred to in point 8 of Annex 37c to Regulation (EEC) No 2454/93.

In the case referred to in paragraph 1(c)(ii), the customs office concerned shall, as soon as the verification is finalised, note the findings of this verification in box J of a copy of the T5 control copy sent previously, by using the relevant control code referred to in paragraph 1(c).

In the case referred to in paragraph 1(c)(iv), the customs office that made the findings shall:

- a attach to the copy of the T5 control copy which will be returned to the paying agency according to the procedure of Article 912c(4) of Regulation (EEC) No 2454/93, a copy of the control report as set out in paragraph 5 of this Article, indicating the checks carried out and the reasons why the relevant rules on export refunds might not have been complied with; and
- b request that the paying agency notifies them of the action taken as a result of the findings.

3 If selection procedures for checks on the integrity of seals referred to in Article 7, or for substitution checks referred to in Article 8, or specific substitution checks referred to in Article 9, and therefore the application of risk management, are made difficult due to incomplete information indicated in the T5 control copy, the customs office of exit or the customs office to which the T5 control copy is sent shall note in box J, as supplementary information, one of the control codes listed in Part 4 of Annex IIa.

4 The customs office of exit or the customs office to which the T5 control copy is sent shall take steps to make available to the Commission at any time details of the number of:

- a T5 control copies and equivalent documents taken into account for the purposes of the checks on the integrity of seals referred to in Article 7, for the purposes of substitution checks referred to in Article 8, and specific substitution checks referred to in Article 9;
- b checks carried out on integrity of seals referred to in Article 7;
- c substitution checks carried out referred to in Article 8;
- d specific substitution checks carried out referred to in Article 9.

A duplicate or a copy of the document shall remain at the customs office of exit or the customs office to which the T5 control copy or equivalent document is sent, as the case may be, and it shall be accessible for consultation.

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5 Every substitution check and specific substitution check referred to in Articles 8 and 9 shall be the subject of a report drawn up by the customs official who carries it out.

The report shall permit monitoring of the checks carried out and shall bear the date and the name of the customs official. Without prejudice to Article 9 of Regulation (EC) No 885/2006 it shall be accessible for consultation for three years from the year of export at the customs office which carried out the check, or at one place in the Member State.]

Textual Amendments

- F1** Substituted 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.

Article 16

Annual report

Before 1 May each year, the Member States shall send to the Commission a report evaluating the implementation and effectiveness of the checks carried out under this Regulation and the procedures applied to selecting the products subject to physical checks. The report shall include the elements listed in Annex VIII covering export declarations accepted between 1 January and 31 December of the preceding year.

[^{F2}The notifications referred to in the first paragraph shall be made in accordance with Commission Regulation (EC) No 792/2009⁽³⁾.]

Textual Amendments

- F2** Substituted by Commission Implementing Regulation (EU) No 996/2011 of 7 October 2011 amending Regulations (EC) No 657/2008, (EC) No 1276/2008 and Implementing Regulation (EU) No 543/2011 as regards the notification obligations within the common organisation of agricultural markets.

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- (1) [^{F1}OJ L 172, 5.7.2005, p. 24.]
- (2) [^{F1}OJ L 186, 17.7.2009, p. 1.]
- (3) [^{F2}OJ L 228, 1.9.2009, p. 3.]

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