

Commission Regulation (EC) No 376/2008 of 23 April 2008 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products (Codified version) (repealed)

CHAPTER III

GENERAL PROVISIONS

SECTION 1

Scope of licences, certificates and extracts

Article 7

1 The import or export licence shall constitute authorisation and give rise to an obligation respectively to import or to export under the licence, and, except in cases of *force majeure*, during its period of validity, the specified quantity of the products or goods concerned.

The obligations referred to in this paragraph shall be primary requirements within the meaning of Article 20 of Commission Regulation (EEC) No 2220/85⁽¹⁾.

2 An export licence fixing the export refund in advance shall give rise to an obligation to export the specified quantity of the relevant product under the licence and, except in cases of *force majeure*, during its period of validity.

Where exports of products are subject to presentation of an export licence, the export licence with advance fixing of the refund shall determine the right to export and entitlement to the refund.

Where exports of products are not subject to presentation of an export licence, the export licence with advance fixing of the refund shall determine only the entitlement to the refund.

The obligations referred to in this paragraph shall be primary requirements within the meaning of Article 20 of Regulation (EEC) No 2220/85.

3 In the cases specified in Article 47 and in cases where such requirement is provided for in the specific Community rules for the relevant sector, the issue of a licence or certificate shall give rise to an obligation to import from or export to the country or group of countries specified therein.

4 Where the quantity imported or exported is greater by not more than 5 % than the quantity indicated in the licence or certificate, it shall be considered to have been imported or exported under that licence or certificate.

5 Where the quantity imported or exported is less by not more than 5 % than the quantity indicated in the licence or certificate, the obligation to import or export shall be considered to have been fulfilled.

6 For the purposes of paragraphs 4 and 5, if the licence or certificate is issued on a headage basis the result of the 5 % calculation referred to therein shall, where applicable, be rounded off to the next greater whole number of head.

7 Where, under Article 3(4) of Regulation (EEC) No 1182/71, a licence or certificate fixing the export levy or export refund in advance is used on the first working day following the last day of its normal period of validity, the licence or certificate shall be considered to have been used on the last day of its normal period of validity for the purposes of the amounts fixed in advance.

Article 8

1 Obligations deriving from licences or certificates shall not be transferable. Rights deriving from licences or certificates shall be transferable by their titular holder during the period of its validity. Such transfer may be made in favour of a single transferee only for each licence or certificate or extract therefrom. It shall relate to quantities not yet attributed to the licence or certificate or extract.

2 Transferees may not further transfer their rights but may transfer them back to the titular holder. Transfers back to the titular holder shall relate to quantities not yet attributed to the licence or certificate or extract.

In such cases, one of the entries listed in Annex III, Part A, shall be made by the issuing agency in section 6 of the licence or certificate.

3 In the event of a request for transfer by the titular holder or transfer back to the titular holder by the transferee, the issuing body or the agency or agencies designated by each Member State shall enter the following on the licence or certificate or where appropriate the extract therefrom:

- a the name and address of the transferee or the entry referred to in paragraph 2;
- b the date of such entry certified by the stamp of the body or agency.

4 The transfer or transfer back to the titular holder shall take effect from the date of the entry.

Article 9

Extracts from licences or certificates shall have the same legal effects as the licences or certificates from which they are extracted, within the limits of the quantity in respect of which such extracts are issued.

Article 10

Licences or certificates and extracts issued and entries and endorsements made by the authorities of a Member State shall have the same legal effects in each of the other Member States as documents issued and entries and endorsements made by the authorities of these Member States.

Article 11

1 When a licence fixing the refund in advance is used to export a mixture, such mixture shall not be eligible on export for the rate so fixed in advance where the tariff classification of the constituent on which the refund applicable to the mixture is calculated does not correspond to that of the mixture.

2 Where a licence or a certificate fixing the export refund in advance is used to export goods put up in sets, the rate fixed in advance shall apply only to the component which has the same tariff classification as the set.

(1) OJ L 205, 3.8.1985, p. 5.