Commission Regulation (EC) No 612/2009 of 7 July 2009 on laying down common detailed rules for the application of the system of export refunds on agricultural products (Recast)

TITLE I

SCOPE AND DEFINITIONS

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 Regulation (EC) No 1234/2007;

(b) provided for in Article 63 of Council Regulation (EC) No 1493/1999[(1)].

Article 2

1 For the purposes of this Regulation:

a 'products' means the products referred to 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 II to Commission Regulation (EC) No 1043/2005[(2)];

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 25;

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 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 laid down in Regulation (EC) No 1234/2007 or its implementing provisions;

j 'advance on refund' means an amount equal at most to the refund paid from the time of acceptation of the export declaration;

k 'rate of refund determined by invitation to tender' means the refund quoted by the exporter and accepted by tender;

l 'customs territory of the Community' means the territories referred to in Article 3 of Regulation (EEC) No 2913/92;

m 'refund nomenclature' means the agricultural product nomenclature for export refunds in accordance with Commission Regulation (EEC) No 3846/87[(3)];

n 'export licence' means the document referred to in Article 1 of Commission Regulation (EC) No 376/2008[(4)];

o '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 I;

p 'hinterland country' means a third country without its own sea port which is served by the sea port of another third country;

q 'transhipment' means the movement of products from one means of transport to another with a view to their immediate transport to the third country or territory of destination.

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.

TITLE II

EXPORTS TO THIRD COUNTRIES

CHAPTER 1

Entitlement to refunds

Section 1

General provisions

Article 3

Without prejudice to Articles 25, 27 and 28 of this Regulation and Article 4(3) of Council Regulation (EC, Euratom) No 2988/95[(5)], 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 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 II to Regulation (EC) No 376/2008,

— in cases covered by Articles 6, 33, 37, 41, 42 and Article 43(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 subparagraph of Article 13(1) of Regulation (EC) No 376/2008, or

— to the same product group, provided that such product groups have been defined for this purpose in accordance with the procedure referred to in Article 195 of Regulation (EC) No 1234/2007.

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 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 25(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.

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.

3 Where paragraphs 1 or 2 and Article 48 apply to the same export operation, the amount resulting from paragraphs 1 or 2 shall be reduced by the amount of the penalty referred to in Article 48.

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 1043/2005 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.

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.

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.

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:

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

b 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) of the first paragraph.

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.

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 (EC) No 1276/2008, 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.

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

[[F1]Before affixing seals, the customs office of export 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 3 of Regulation (EC) No 1276/2008. The customs office shall note this check in box D of the T5 control copy or equivalent document by using the control code as defined in Article 2(m) of Regulation (EC) No 1276/2008 and as set out in Annex II to this Regulation.**]**

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 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.

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

Article 7

1 Without prejudice to Articles 15 and 27, 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 41(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 of the product code in the refund nomenclature or the code of the goods in the Combined Nomenclature. Repackaging may take place only after the customs authorities have given their agreement.

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 control copy shall be completed. The appropriate entry shall be, made in Box 104.

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

Article 9

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 376/2008 or the refund certificate of Chapter III of Regulation (EC) No 1043/2005, 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 the euro, 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 IV for export declarations and T5 control copies and equivalent documents covering an amount of export refunds less than EUR 1 000.

Article 10

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 concerned may not return or remain in temporary storage or under any customs-approved treatment or use on the customs territory of the Community, unless for the purposes of transhipment in any other port(s) located in the same or another Member State for not more than 28 days, except in cases of *force majeure*. That time limit shall not apply where the products have left the final port in the customs territory of the Community definitely 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 point (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 point (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.

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.

In such cases, one of the entries listed in Annex V 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.

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

d Where it is found that the conditions set out in point (a) have not been complied with, for the purposes of Article 47 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.

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 return or remain in temporary storage or under any customs-approved treatment or use on the customs territory of the Community, unless for the purposes of transit operation for not more than 28 days, except in cases of *force majeure*. That time limit shall not apply where the products have left the customs territory of the Community definitely 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.

In cases where it is found that the conditions set out in point (a) have not been complied with, for the purpose of Article 47 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.

If both the 60-day time limit laid down in Article 7(1) and the 28-day time limit laid down in point (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 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 47, 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 point (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 11

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.

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.

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.

4 Where a product circulating under the external Community transit procedure, set out in Articles 91 to 97 of Regulation (EC) No 2913/92, or the common transit procedure, set out in the Convention on a common transit procedure[(6)], 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 VI under 'Remarks' in the section headed 'Control of use and/or destination' on the back of the original of the T5 control copy.

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

5 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 VII under 'Remarks' in the section headed 'Control of use and/or destination' on the back of the original of the T5 control copy.

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*.

Article 12

1 Refunds shall be granted for products 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)(a)(iii) and (b) of Regulation (EC) No 1234/2007, refunds can be granted when they are only in free circulation.

[[F2]Refunds shall not be granted for products which are used as equivalent goods within the meaning of Article 114(2)(e) of Regulation (EEC) No 2913/92.**]**

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.

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 Regulation (EC) No 1043/2005;

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 referred to in point (j) of Article 1 of Regulation (EC) No 1234/2007;

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.

Textual Amendments

F2 Inserted by Commission Regulation (EU) No 1084/2010 of 25 November 2010 amending Regulation (EC) No 612/2009 on laying down common detailed rules for the application of the system of export refunds on agricultural products, as regards equivalence under Inward Processing.

Article 13

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 14

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.

Section 2

Differentiated refunds

Article 15

Where the rate of refund varies according to destination, refunds shall be paid subject to the additional conditions laid down under Articles 16 and 17.

Article 16

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 24(1)(b) and (2).

However, an extension to the time limit may be granted in accordance with Article 46.

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.

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 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 17

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 VIII, Chapter III, using the model set out in Annex IX; 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.

2 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;

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 X, 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 VIII, Chapter III, using the model set out in Annex XI, 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;

d a bank document issued by approved intermediaries established in the Community, certifying, in the case of the third countries listed in Annex XII, 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 47 of Regulation (EC) No 376/2008 where the goods are purchased by that body.

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[7].

4 The Commission may, in accordance with the procedure referred to in Article 195 of Regulation (EC) No 1234/2007 provide, in certain specific cases to be determined, for proof of import as referred to in paragraphs 1 and 2 of this Article to be furnished by a specific document or in any other way.

Article 18

1 An SA wishing to issue certificates as referred to in Article 17(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 VIII, 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 17(1)(b) and (2)(c) shall be on a worldwide basis or limited to a certain number of third countries.

Article 19

1 The SA shall act in accordance with the rules set out in Annex VIII, 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.

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 VIII, Chapter II, point 2.

Article 20

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 21

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 VIII, Chapter I, or

— if the SA has repeatedly and systematically issued false certificates. In this case the sanction provided for in Article 20 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 first 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 22

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 XIII.

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

Article 23

1 Certificates as referred to in Article 17(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 17(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 the irregularities shall notify these circumstances to the Member State which gave the approval.

Article 24

1 Member States may exempt exporters from furnishing the proof required pursuant to Article 17 other than the transport document or its electronic equivalent as referred to in Article 17(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 XIV;

(ii) EUR 12 000 where the third country or territory of destination is not listed in Annex XIV; 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 17(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 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 17(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.

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 17 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 17 for the products concerned.

Article 25

1 By way of derogation from Article 15 and without prejudice to Article 27, 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 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 48 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 48.

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.

Article 26

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 25(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 16 and 17.

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 47 of Regulation (EC) No 376/2008 and the refund varies according to destination, the exporter shall provide proof, in addition to that required under Article 17 of this Regulation, 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 27

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 25(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 country within 12 months of the date of acceptance of the export declaration.

Articles 16 and 17 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 46 of this Regulation.

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*;

a in the case of a non-differentiated refund, the total refund shall be paid;

b in the case of a differentiated refund, the part of the refund defined in accordance with Article 25 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 28(2) of this Regulation;

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 XV 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.

Member States shall notify the Commission without delay if they find that products other than those included in Annex XV 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 48 shall not apply to the cases referred to in points (b), (c) and (d).

Section 4

Cases where no refund is granted

Article 28

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 25(2), except where Article 27 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 2(2) of Council Regulation (EC) No 733/2008[8].

Article 29

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 30

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[9].

CHAPTER 2

Advances on refunds

Article 31

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 32

1 Where the amount paid in advance is higher than that actually 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 %.

However, the additional 10 % shall not be recovered where, 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.

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 writing, and reimburses the refund paid in advance, the increase laid down 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 49(1).

The first subparagraph 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 code of the Combined Nomenclature shall be considered an equivalent exportation where the conditions laid down in Article 44(2)(a) and (b) of Regulation (EC) No 376/2008 are fulfilled.

The first subparagraph 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[(10)].

TITLE III

OTHER TYPES OF EXPORT AND SPECIAL CASES

CHAPTER 1

Destinations treated as exports from the Community, and victualling

Article 33

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

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.

Article 34

1 In the case of the supplies referred to in Articles 33 and 41, 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 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.

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

3 Where the refund is determined by invitation to tender, the licence must be valid on the last day of the month.

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, these 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 33(1)(b) and (c).

Article 35

1 For the purposes of Article 33(1)(a), products intended for consumption on board aircraft or passenger vessels, including ferryboats, and prepared before loading shall be deemed to have been prepared on board such craft.

2 Paragraph 1 shall apply only on condition that, prior to their preparation, the exporter furnishes sufficient evidence of the quantity, nature and characteristics of the basic products in respect of which the refund is claimed.

3 The victualling warehouse arrangements provided for in Article 37 may apply to prepared products as referred to in paragraphs l and 2 of this Article.

Article 36

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 33 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 of this Article.

3 If, before they arrive at a destination covered by Article 33, 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 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 33(1)(c), shall rank as the T5 control copy referred to in paragraph 3 of this Article, provided that the receipt of the products is certified on the form by the competent military authorities.

Article 37

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:

a seagoing vessels; or

b aircraft on international flights, including intra-Community flights; or

c drilling or extraction rigs as referred to in Article 41.

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, or
   — aircraft on international flights, including intra-Community flights, or
   — drilling or extraction rigs as referred to in Article 41;

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 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 39 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 38

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 37.

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.

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 XVI.

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 37(2).

Article 39

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 point (a) shall then be increased by 20 %.

The rate to be used to calculate the import duties shall be:

a 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

b 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 the first subparagraph 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 40

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 39.

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 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 38(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 37(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 36(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 41 and 42(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 46(3), (4) and (5) applying *mutatis mutandis*.

CHAPTER 2

Special cases

Article 41

1 Deliveries of catering supplies shall, for the purpose of establishing the rate of refund payable, rank as deliveries of supplies within the meaning of Article 33(1)(a):

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.

'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.

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:

a qualifying for a refund not exceeding EUR 3 000 per export;

b providing adequate guarantees to the satisfaction of the Member State regarding the arrival at destination of the products; and

c 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.

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

6 Where Article 37 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 37(2). Certificates of delivery on board as provided for in point (a) of the second subparagraph 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 42

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 33(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 For the purposes of this Article 'Direct delivery' means the delivery of a container or an undivided consignment of products placed on board a vessel.

4 The proof referred to in paragraph 2 shall be provided in the following manner:

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 XVIII.

They must be completed in one or more official languages of the Community and a language used in the third country concerned.

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 XVIII, 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 XVIII.

c Where the documents referred to in point (a) and the second indent of point (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 point (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 point (a) and the second indent of point (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.

5 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.

6 Products placed under the arrangements referred to in Article 37 may not be used for deliveries in accordance with point (b) of paragraph 4 of this Article.

7 Article 24 shall apply *mutatis mutandis*.

8 Article 34 shall not apply to cases covered by this Article.

Article 43

1 By way of derogation from Article 161(3) of Regulation (EEC) No 2913/92, agricultural products consigned to the Island of Heligoland shall be deemed to be exported for the purposes of the provisions on the payment of refunds.

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 44

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 45

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 17(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 46

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.

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

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*.

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 17(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 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 33, 37 or 41 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 33(1)(a) or 37 applies, the acceptance certificate provided for in Article 42(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 17 within the time limit laid down in paragraph 2 of this Article, 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 months following this time limit, the provisions of the first subparagraph of Article 47(2) shall apply.

6 Where Article 34 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 34(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 49(2).

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

Article 47

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), 16(1) and 37(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 16(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 37(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 46(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 46(2) and (4) but the time limits laid down in Articles 7(1), 16(1) or 37(1) are exceeded, the refund paid shall be equal to the refund reduced in accordance with paragraph 1 of this Article, less 15 % of the sum that would have been paid had all the time limits been met.

3 Where a refund has been paid in advance in accordance with Article 31 and one or more of the time limits laid down in Articles 7(1) and 16(1) have not been met, the part of the security forfeited shall be equal to the reduction calculated pursuant to paragraph 1 of this Article, plus 10 %.

The balance of the security shall be released.

Where a refund has been paid in advance in accordance with Article 31 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 46(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 16(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 36(1) shall rank as failure to meet the time limit laid down in Article 7(1).

6 Where Article 4(2) and/or Article 25(3) and/or Article 48 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 25(3) and/or Article 48,

— refunds lost pursuant to this Article shall not exceed those payable pursuant to Article 4(2) and/or Article 25(3) and/or Article 48.

CHAPTER 2

Penalties and recovery of amounts over-paid

Article 48

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.

2 Without prejudice to the second paragraph of Article 9, where it is found that the rate of export refund pursuant to Article 9 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 9 is lower than the amount applicable, the refund due for the relevant exportation shall be that applicable to the products actually exported, reduced by:

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 penalties based on the same elements fixing the right to export refunds are applied pursuant to paragraph 1.

3 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 46.

4 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 1043/2005, and in particular Article 10 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.

5 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.

6 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 31(2) shall be used to calculate the refund applied for and the refund applicable, except where a compulsory destination is stipulated.

7 Payment under paragraphs 5 and 6 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 49(1) on the period commencing 30 days from the date of receipt of the payment demand and ending on the day preceding that of payment of the amount demanded.

8 The penalties shall not apply simply where the refund applied for is higher than the refund applicable pursuant to Articles 4(2), 25(3), and/or 47.

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

10 Member States may waive the imposition of penalties of EUR 100 or less per export declaration.

11 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.

12 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 25(3). Where necessary, those rates shall be adjusted on the day of acceptance of the export declaration or payment declaration.

Article 49

1 Without prejudice to the obligation to pay the negative amount pursuant to Article 48(5), the beneficiary shall reimburse refunds unduly received, which includes any penalty applicable pursuant to Article 48(1) and interest calculated on the time elapsing between payment and reimbursement. However,

a where reimbursement is covered by an unreleased security, seizure of that security in accordance with Article 32(1) shall constitute recovery of the amounts due;

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.

2 Amounts recovered, amounts pursuant to Article 48(5) and (6) and interest collected shall be paid to the paying agencies, which shall deduct the amounts concerned from European Agricultural Guarantee Fund (EAGF) expenditure.

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 48(5) and (6).

3 Without prejudice to the possibility provided for in Article 48(10) 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 48(5) where such reimbursement per export declaration does not exceed 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 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 48(1) shall not apply.

TITLE V

FINAL PROVISIONS

Article 50

Member States shall notify the Commission:

— without delay, of cases where Article 27(1) applies; the Commission shall notify the other Member States,

— 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 42. The codes shall be grouped by sector. Member States shall take the measures required to ensure that such information is notified by no later than the second month following that of acceptance of the export declaration.

Article 51

Regulation (EC) No 800/1999 is repealed.

References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex XX.

Article 52

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

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

(**1**) OJ L 179, 14.7.1999, p. 1.

(**2**) OJ L 172, 5.7.2005, p. 24.

(**3**) OJ L 366, 24.12.1987, p. 1.

(**4**) OJ L 114, 26.4.2008, p. 3.

(**5**) OJ L 312, 23.12.1995, p. 1.

(**6**) OJ L 226, 13.8.1987, p. 2.

(**7**) OJ L 171, 23.6.2006, p. 90.

(**8**) OJ L 201, 30.7.2008, p. 1.

(**9**) OJ L 105, 23.4.1983, p. 1.

(**10**) OJ L 24, 30.1.1998, p. 9.

Status:
Point in time view as at 03/12/2010.

Changes to legislation:
There are outstanding changes not yet made to Commission Regulation (EC) No 612/2009. Any changes that have already been made to the legislation appear in the content and are referenced with annotations.