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(Acts whose publication is obligatory)

COMMISSION REGULATION (EEC) No 3719/88

of 16 November 1988

**laying down common detailed rules for the application of the system of import and export
licences and advance fixing certificates for agricultural products**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals ⁽¹⁾, as last amended by Regulation (EEC) No 2221/88 ⁽²⁾, and in particular Articles 12 (2), 15 (5), 16 (6) and 24 thereof and the corresponding provisions of the other Regulations establishing a common organization of the market in respect of agricultural products,

Whereas Commission Regulation (EEC) No 3183/80 ⁽³⁾, as last amended by Regulation (EEC) No 2082/87 ⁽⁴⁾ which superseded Regulation (EEC) No 193/75 ⁽⁵⁾ which in turn superseded Regulation (EEC) No 1373/70 ⁽⁶⁾, lays down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products; whereas the provisions of Regulation (EEC) No 3183/80 have, however, been amended many times, in some cases substantially; whereas, therefore, in the interests of clarity and administrative efficiency it is advisable to consolidate the rules in question in a single text, at the same time marking certain amendments which experience has shown to be desirable;

Whereas the Community Regulations which introduced import and export licences provide that all imports into the Community and all exports from it are to be subject to the production of such a licence; whereas it should therefore expressly be made clear that such licences are not required for operations which do not in the strict sense constitute imports or exports;

Whereas, where products are subject to the arrangements provided for in Council Regulation (EEC) No 1999/85 of 16 July 1985 on inward processing relief arrangements ⁽⁷⁾, the competent authorities may in certain cases allow them to be put into free circulation either in the unaltered state or after processing; whereas in such cases, to ensure that the market is properly managed, an import licence should be required for products actually put into free circulation; whereas, however, where a product put into free circulation has been obtained from basic products some of which have been imported from non-member countries and some of which have been purchased in the Community, only those basic products imported from non-member countries need to be taken into consideration;

Whereas the levies applicable when goods covered by inward processing arrangements are put into free circulation are determined by Regulation (EEC) No 1999/85; whereas on that account the import licence presented when the goods are put into free circulation cannot be allowed to include an advance fixing of the levy; whereas, however, the levy may be determined by tender, as is currently the case with olive oil; whereas in such cases the levy applicable will appear on the import licence;

Whereas the object of import and export licences is the sound administration of the market organization; whereas some transactions involve small quantities; whereas, for the purpose of simplifying administrative procedures, it would seem desirable to provide for an exemption from the obligation to produce an import or export licence in respect of such transactions;

Whereas an export licence is not required for operations to victual ships and aircraft within the Community if advance fixing of a levy or refund is not requested; whereas, since the justification is similar, this provision should also apply to deliveries to platforms and naval vessels and to victualling in third countries; whereas, for the same reasons, it would seem

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 197, 26. 7. 1983, p. 26.

⁽³⁾ OJ No L 338, 13. 12. 1980, p. 1.

⁽⁴⁾ OJ No L 195, 16. 7. 1981, p. 11.

⁽⁵⁾ OJ No L 25, 31. 1. 1975, p. 10.

⁽⁶⁾ OJ No L 150, 20. 7. 1970, p. 1.

⁽⁷⁾ OJ No L 188, 20. 7. 1985, p. 1.

desirable to provide for an exemption from the obligation to produce a licence in respect of the transactions referred to in Council Regulation (EEC) No 918/83 ⁽¹⁾, as last amended by Regulation (EEC) No 1315/88 ⁽²⁾;

Whereas, in view of international trade practice in respect of the products or goods in question, certain tolerances should be allowed with regard to the quantity of products imported or exported as compared with the quantity indicated on the licence or certificate;

Whereas, in order to allow several operations to be carried out at the same time on the basis of one licence or certificate, provision should be made for the issue of extracts of licences and certificates which have the same effect as the licences and certificates from which they are extracted;

Whereas Community rules relating to the various sectors covered by the common organization of agricultural markets provide that import and export licences and advance fixing certificates are applicable to imports and exports effected in the Community; whereas such a rule requires the adoption of common provisions laying down conditions for the drawing up and use of such licences or certificates and the establishment of Community forms and methods of administrative cooperation between Member States;

Whereas the Community Regulations which introduced the abovementioned licences and certificates provide that they are to be issued subject to the lodging of a security so as to guarantee that the undertaking to import or export will be fulfilled during the period of their validity; whereas it is necessary to define when the undertaking to export or import is fulfilled;

Whereas advance fixing of the refunds and levies on the licences and certificates to be used is governed by the tariff classification of the product; whereas, in the case of certain mixtures, the rates of refund or levy do not depend on the tariff classification of the product but on special rules laid down for that purpose; whereas, therefore, where the component on which the refund or import levy applicable to the mixture is calculated does not correspond to the tariff classification of the mixture, it should be laid down that such imported or exported mixture does not qualify for the rate fixed in advance;

Whereas import licences are sometimes used to administer quantitative import arrangements; whereas such administration is possible only where knowledge of the imports effected on the basis of the licences issued is available within a fairly short period; whereas in such cases the production of evidence of the use of the licences is not required merely in the interest of sound administration but becomes an essential component of the administration of the quantitative arrangements; whereas the evidence in question is furnished by means of the production of copy 1 of the licence and, where appropriate, the extracts therefrom; whereas it is possible to supply such evidence within a fairly

short period; whereas there is therefore a need to lay down such a time limit, which is to apply in cases where the Community rules on the licences used to administer quantitative arrangements make reference thereto;

Whereas in some cases the amount of security required in respect of a licence or certificate may be extremely small; whereas, in order to reduce the administrative load, no security should be required in such cases;

Whereas an import or export licence confers the right to import or export; whereas in consequence it must be presented at the time of acceptance of the import or export declaration;

Whereas, when simplified import or export procedures are used, the licence may be presented to the customs authorities subsequently; whereas, nevertheless, the importer or exporter must be in possession of a licence on the day which is regarded as the date of acceptance of the import or export declaration and must hold such document at the disposal of the customs authorities;

Whereas in the case of those exports for which a licence or certificate is required in order only to benefit from a rate fixed in advance, the present rules may be made more flexible in order to allow Member States to introduce a simplified procedure for the administrative handling of this document; whereas, in those cases where an authority is responsible both for issuing the licence or certificate and paying the export refund, the licence or certificate may be held by that authority;

Whereas, in the interest of sound administration, licences or certificates and extracts therefrom may not be amended after issue; whereas, however, in cases of doubt relating to an error attributable to the issuing agency or to obvious inaccuracies and concerning the items appearing on the licence or certificate or extract, a procedure should be introduced whereby inaccurate licences or certificates or extracts may be withdrawn and corrected documents issued;

Whereas when a product is placed under one of the procedures provided for in Title IV, Chapter I of Commission Regulation (EEC) No 1062/87 of 27 March 1987 on provisions for the implementation of the Community transit procedure and for certain simplifications of that procedure ⁽³⁾, as last amended by Regulation (EEC) No 1469/88 ⁽⁴⁾, when a carriage operation begins within the Community and is to end outside it, no formalities need be carried out at the customs office of the frontier station; whereas, where one of these procedures is applied, it would seem desirable in the interests of administrative simplicity to provide for special arrangements for the release of the security;

Whereas it may happen that by reason of circumstances beyond the control of the party concerned the document constituting proof of departure from the customs territory of

⁽¹⁾ OJ No L 105, 23. 4. 1983, p. 1.

⁽²⁾ OJ No L 123, 17. 5. 1988, p. 2.

⁽³⁾ OJ No L 107, 22. 4. 1987, p. 1.

⁽⁴⁾ OJ No L 132, 28. 5. 1988, p. 67.

the Community cannot be produced although the product has left the said territory or, in the case of operations as specified in Article 34 of Commission Regulation (EEC) No 3665/87⁽¹⁾, as amended by Regulation (EEC) No 3494/88⁽²⁾, reached its destination; whereas such a situation may impede trade; whereas in such circumstances other documents should be recognized as being equivalent;

Whereas the Community Regulations which introduced the abovementioned licences and certificates provide that the security is to be forfeit in whole or in part if import or export is not carried out, or only partly carried out, during the period of validity of the licence or certificate; whereas the action to be taken in such circumstances should be specified in detail, in particular for cases where non-fulfilment of undertakings is due to *force majeure*; whereas in such cases the obligation to import or export may be considered cancelled or the period of validity of the licence or certificate may be extended; whereas, however, in order to prevent possible disruption of the market, that extension should in any case be limited to a maximum of six months calculated from the end of the original period of validity;

Whereas, in order to simplify administrative procedures, it would seem suitable to provide for the security to be returned in full when the total amount to be forfeit is very small;

Whereas the arrangements applicable with effect from 1 March 1986 in trade between the Community and Portugal will, during the first stage, be those in force before accession;

Whereas release of the security lodged at the time of the issue of the licences or certificates is subject to proof being furnished to the competent agencies that the goods in question have, within 60 days from the date of acceptance of the export declarations, left the customs territory of the Community;

Whereas on account of the specific character of the transition by stages provision should be made for the security lodged at the time of the issue of an export licence to be released as soon as the products for which the licence was issued have been released for consumption in Portugal;

Whereas the time when the import licence must be presented should be clearly stipulated in cases where a compensatory levy is applied;

Whereas Article 3 (4) of Council Regulation (EEC, Euratom) No 1182/71 of 3 June 1971 determining the rules applicable to periods, dates and time-limits⁽³⁾, lays down that where the last day of a period is a public holiday, Sunday or Saturday the period ends with the expiry of the last hour of the following working day; whereas that provision results in certain cases in the period of use of licences or certificates being extended; whereas such a measure, which is designed

to facilitate trade, must not have the effect of changing the economic conditions of the import or export operation;

Whereas in some sectors of the common organization of the agricultural markets there is provision for the issue of export licences after a period of reflection; whereas the purpose of this period is to enable the market situation to be assessed and, where appropriate, in particular where there are difficulties, to enable suspension for applications pending, which amounts to rejection of those applications; whereas it should be specified that this possibility of suspension also applies to licences applied for pursuant to Article 44 of this Regulation and that once the period of reflection has elapsed the licence application cannot again be subject to suspension;

Whereas Article 14 of Council Regulation (EEC) No 754/76 of 25 March 1976 on the customs treatment applicable to goods returned to the customs territory of the Community⁽⁴⁾ lays down that agricultural products exported under an export licence or an advance fixing certificate do not qualify under that Regulation unless the Community provisions relating to licences and certificates have been complied with; whereas it is necessary to lay down special rules for the application of the system of licences and certificates for products qualifying under Regulation (EEC) No 754/76;

Whereas certain provisions for the application of Regulation (EEC) No 754/76 are laid down by Commission Regulation (EEC) No 2945/76⁽⁵⁾; whereas Article 22 of Council Regulation (EEC) No 1430/79 of 2 July 1979 on the repayment or remission of import or export duties⁽⁶⁾, as last amended by Regulation (EEC) No 3069/86⁽⁷⁾, lays down that goods which are put into free circulation under an import licence or advance fixing certificate shall not be eligible for the system of repayment or remission of import duties unless it is established that the necessary steps have been taken by the competent authorities to cancel the effects of putting those goods into free circulation as regards the licence or certificate;

Whereas Article 3 (2) of Commission Regulation (EEC) No 1574/80⁽⁸⁾ lays down in general certain implementing rules in respect of Article 22 of Regulation (EEC) No 1430/79 and, in particular, that an attestation must be furnished by the authorities responsible for issuing licences or certificates;

Whereas it is necessary to lay down in this Regulation all the rules necessary for implementing Article 22 of Regulation (EEC) No 1430/79; whereas it is possible, in some cases, to satisfy the provisions laid down in Regulation (EEC) No 1430/79 without having recourse to the attestation referred to in Article 3 (2) of Regulation (EEC) No 1574/80;

⁽¹⁾ OJ No L 89, 2. 4. 1976, p. 1.

⁽²⁾ OJ No L 335, 4. 12. 1976, p. 1.

⁽³⁾ OJ No L 175, 12. 7. 1979, p. 1.

⁽⁴⁾ OJ No L 286, 9. 10. 1986, p. 1.

⁽⁵⁾ OJ No L 161, 26. 6. 1980, p. 3.

⁽¹⁾ OJ No L 351, 14. 12. 1987, p. 1.

⁽²⁾ OJ No L 306, 11. 11. 1988, p. 24.

⁽³⁾ OJ No L 124, 8. 6. 1971, p. 1.

Whereas the measures provided for in this Regulation are in accordance with the opinions of all the relevant management committees,

HAS ADOPTED THIS REGULATION:

TITLE I

SCOPE OF THE REGULATION

Article 1

Subject to certain exceptions laid down in Community rules specific to certain products, this Regulation lays down common rules for implementing the system of import and export licences and advance fixing certificates (hereinafter referred to as 'licences' and 'certificates') established by or provided for in:

- Article 19 of Regulation No 136/66/EEC (oils and fats),
- Article 4a of Regulation No 142/67/EEC (rape and sunflower seed),
- Article 13 of Regulation (EEC) No 804/68 (milk and milk products),
- Article 15 of Regulation (EEC) No 805/68 and Article 5a of Regulation (EEC) No 885/68 (beef and veal),
- Article 4 of Regulation (EEC) No 2358/71 (seeds),
- Article 12 of Regulation (EEC) No 2727/75 (cereals),
- Article 14 of Regulation (EEC) No 2759/75 and Article 6 of Regulation (EEC) No 2768/75 (pigmeat),
- Article 6 of Regulation (EEC) No 2774/75 (eggs),
- Article 6 of Regulation (EEC) No 2779/75 (poultrymeat),
- Article 10 of Regulation (EEC) No 1418/76 (rice),
- Article 16 of Regulation (EEC) No 1837/80 (sheepmeat and goatmeat),
- Article 6 of Regulation (EEC) No 3035/80 (agricultural products exported in the forms of goods not covered by Annex II to the Treaty),
- Article 13 of Regulation (EEC) No 1785/81 (sugar and isoglucose),
- Articles 14 and 15 of Regulation (EEC) No 426/86 (products processed from fruit and vegetables),
- Article 52 of Regulation (EEC) No 822/87 (wine).

TITLE II

AREA OF APPLICATION OF LICENCES AND CERTIFICATES

Article 2

1. A licence or certificate shall not be required and may not be presented in respect of products:
 - (a) which are not placed in free circulation within the Community; or
 - (b) in respect of which export is effected:
 - under a customs procedure which allows import free of the relevant customs duties, charges having equivalent effect or agricultural levies, or
 - under special arrangements which allow export free of export duties, as referred to in Article 28 of Regulation (EEC) No 1999/85.
2. The provisions of paragraph 1 concerning export shall apply subject to the special provisions set out in Article 3 (4).

Article 3

1. Where products which are subject to inward processing arrangements and which do not contain basic products as referred to in paragraph 2 (a) are placed in free circulation, then, in so far as the products actually placed in free circulation are subject to an import licence, such licence must be produced.
2. Where products are placed in free circulation which are subject to either of the arrangements referred to in paragraph 1 and which contain both:
 - (a) one or more basic products which came within the terms of Article 9 (2) of the Treaty but no longer do so as a result of their incorporation in the products put into free circulation; and
 - (b) one or more basic products which did not come within the terms of Article 9 (2) of the Treaty;

then, notwithstanding Article 8 (1), for each basic product as referred to in (b) actually used and being a product subject to an import licence, such licence must be produced. However, an import licence shall not be required where the product actually placed in free circulation is not subject to such a licence.

3. Subject to specific provisions concerning certain agricultural products, the import licence or licences produced when a product coming within paragraph 1 or 2 is

placed in free circulation may not provide for advance fixing.

4. In trade between Spain, Portugal and the Community as constituted at 31 December 1985, the import licence or licences, as referred to in paragraphs 1 and 2, must be presented when applying the compensatory levy. The provisions of this paragraph shall not apply to the products referred to in Article 259 of the Act of Accession.

5. On exportation of a product subject to either of the arrangements referred to in paragraph 1 and containing one or more of the basic products referred to in paragraph 2 (a), then for each such basis product, being a product subject to an export licence, such licence shall be produced.

However, subject to the provisions of the next subparagraph concerning the advance fixing of refunds, an export licence shall not be required when the product actually exported is not subject to such a licence.

On export of compound products qualifying for an export refund fixed in advance on the basis of one or more of their components, the customs status of each such component shall be the sole element to be taken into account when applying the system of licences and certificates.

6. The provisions of paragraph 4 shall, *mutatis mutandis*, apply in the case of products referred to in Article 259 of the Act of Accession of Spain and Portugal and during the period referred to in Article 260 of the said Act.

Article 4

1. In cases where the arrangement referred to in Article 4 of Council Regulation (EEC) No 565/80 ⁽¹⁾ applies, the export licence or advance fixing certificate, as appropriate, to be produced shall be that applicable to the processed products to be exported or to the basic products within the meaning of Council Regulation (EEC) No 3035/80 ⁽²⁾ to be exported in the form of goods.

2. In cases where the arrangement referred to in Article 5 of Regulation (EEC) No 565/80 applies, the export licence or advance fixing certificate, as appropriate, to be produced shall be that applicable to the product placed under such arrangement or the basic product within the meaning of Regulation (EEC) No 3035/80 contained in the goods placed under such arrangement.

Article 5

1. A licence shall not be required and may not be produced for the purposes of operations:

- as specified in Articles 34, 38, 42, 43 and 44 of Regulation (EEC) No 3665/87, or

⁽¹⁾ OJ No L 62, 7. 3. 1980, p. 5.

⁽²⁾ OJ No L 323, 29. 11. 1980, p. 27.

- of a non-commercial nature, or

- referred to in Regulation (EEC) No 918/83, or

- relating to quantities such that the amount of the security for the corresponding licence would be ECU 5 or less. However, if the quantity in kilograms corresponding to ECU 5 is not 50 or a multiple of 50, the security limit shall be deemed to be such that the quantity in kilograms equals 50 or the next multiple of 50 above. In addition, where licences are issued on a headage or similar basis and ECU 5 does not correspond exactly to a whole number, the security limit shall be deemed to be such that the quantity, on a headage or similar basis, corresponds to the next whole number above.

Notwithstanding the provisions of the first subparagraph a licence or certificate must be produced when advance fixing of the levy or refund is requested or when the import or export is being made under preferential arrangements which are granted by means of a licence.

2. For the purposes of paragraph 1, 'operations of a non-commercial nature' means:

- a) imports by or consigned to private individuals, provided that such operations satisfy the requirements of Section II (C) (2) of the preliminary provisions of the combined nomenclature;
- (b) exports by private individuals, provided that such operations satisfy, *mutatis mutandis*, the requirements referred to in (a).

Article 6

An import licence or certificate shall not be required and may not be produced when products are placed in free circulation under the provisions of Article 3 of Regulation (EEC) No 754/76 governing the treatment of returned goods.

Article 7

1. An export licence or certificate shall not be required and may not be produced at the time of the acceptance of the re-export declaration in the case of products in respect of which the exporter provides proof that a favourable decision for repayment or remission of import duties has been given in respect of such products in accordance with the provisions of Regulation (EEC) No 1430/79.

2. Where products are subject on export to the submission of an export licence and the competent authorities accept the re-export declaration before taking a decision on the application for repayment or remission of import duties, an export licence must be submitted. Advance fixing of the export refund or levy shall not be permitted.

TITLE III GENERAL PROVISIONS

Section 1

Rights and obligations relating to licences, certificates and extracts

Article 8

1. The import or export licence shall constitute authorization and give rise to an obligation respectively to import or to export under the licence, and, except in case of *force majeure*, during its period of validity, the specified quantity of the relevant product. Such licence shall or may as the case requires include provision for advance fixing of the levy or refund, the monetary compensatory amount and the accession compensatory amount under the conditions laid down by the rules relating to the relevant sector.

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

2. The advance fixing certificate shall give rise to an obligation to import or to export under that certificate, and, except in case of *force majeure*, during its period of validity, the specified quantity of the relevant product.

The advance fixing certificate as referred to in Article 6 of Regulation (EEC) No 3035/80 shall give rise to an obligation to export under that certificate and, except in case of *force majeure*, during its period of validity, the quantity of the basic products as specified in Annex A to that Regulation stated on the certificate, in the form of one or more of the goods listed in Annex B or C to that Regulation and also stated on the certificate.

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

3. In the cases specified in Article 44 of this Regulation and in cases where such requirement is provided for in the specific Community rules for the relevant sector, the issue of a licence or certificate shall give rise to an obligation to import from or export to the country or group of countries specified therein.

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

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

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

7. Where, by virtue of Article 3 (4) of Regulation (EEC) No 1182/71, a licence or certificate which fixes the levy or

refund in advance is used on the first working day following the last day of its normal period of validity, the licence or certificate shall be considered to have been used on the last day of its normal period of validity for the purposes of the amounts fixed in advance.

Article 9

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

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

- the name and address of the transferee,
- the date of such entry certified by the stamp of the agency.

3. The transfer shall take effect from the date of the entry.

4. The transferee may neither further transfer his rights nor transfer them back to the titular holder.

Article 10

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

Article 11

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

Article 12

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

2. Where a licence or a certificate fixing in advance the export refund is used to export goods put up in sets the rate

⁽¹⁾ OJ No L 205, 3. 8. 1985, p. 5.

fixed in advance shall apply only to the component which has the same tariff classification as the set.

Section 2

Application for and issue of licences and certificates

Article 13

1. No application for a licence or certificate shall be accepted unless it is forwarded to or lodged with the competent agency on forms printed and for made out in accordance with Article 16.

However, competent agencies may accept written telecommunications as a valid application; provided all the information which would have appeared on the form, had it been used, is included. Member States may require that the written telecommunication be followed subsequently by an application on a form printed or made out in accordance with Article 16, forwarded or delivered direct to the competent agency; in those circumstances the date of the written telecommunication shall be taken as the day the application is lodged. Such requirement shall not affect the validity of applications by written telecommunication.

2. Applications for licences or certificates may be cancelled only by letter or by written telecommunication received by the competent agency, except in case of *force majeure*, not later than 1 p.m. at the latest on the day the application is lodged.

Article 14

1. Applications containing conditions not provided for in Community rules shall be refused.

2. No application for a licence or certificate shall be accepted unless an adequate security has been furnished to the competent agency not later than 1 p.m. on the day the application is lodged.

3. Where the total amount of the security in respect of any licence or certificate would be ECU 5 or less, or where the licence has been made out in the name of an intervention agency, no security shall be required.

Member States may issue licences or certificates without security where the amount of security involved is ECU 25 or less, provided the application is lodged with the competent agency in the Member State in which the applicant is established. Such licences and certificates shall be returned to the issuing agency as soon as possible and at the latest on expiry of their period of validity.

4. No security shall be required in the case of export licences or certificates not involving advance fixing which are issued in respect of exports to third countries in connection

with non-Community food-aid operations conducted by humanitarian agencies approved in accordance with the procedure provided for in Article 26 of Regulation (EEC) No 2727/75 or, as the case may be, the corresponding articles of other Regulations establishing EEC market organizations.

Such licences and certificates must be returned to the issuing agency as soon as possible and in no case later than the date of expiry of their period of validity.

Article 15

1. The day an application for a licence or certificate is lodged shall mean the day on which it is received by the competent agency, provided it is received not later than 1 p.m., regardless of whether the application is delivered direct to the competent agency or is forwarded to the competent agency by letter or written telecommunication.

2. An application for a licence or certificate received either on a non-working day of the competent agency, or on a working day of that agency but after 1 p.m., shall be deemed to have been lodged on the first working day of the agency following the day on which it was in fact received.

3. The time limits specified in this Regulation are in Belgian local time.

Article 16

1. Except as provided in the second subparagraph of Article 13(1), applications for licences or certificates, licences and certificates and extracts therefrom shall be drawn up on forms conforming to the specimens set out in Annex I. Such forms shall be completed in accordance with the instructions given therein and with the specific Community provisions applicable to the relevant product sector.

2. Licence and certificate forms shall be made up in sets containing copy No 1, copy No 2 and the application, together with any extra copies of the licence or certificate, in that order.

However, Member States may prescribe that applicants are to complete only an application form instead of the sets provided for in the preceding subparagraph.

Where, as a result of a Community measure, the quantity for which the licence or certificate is issued may be less than the quantity in respect of which application for a licence or certificate was initially made, the quantity applied for and the amount of the security relating thereto must be entered only on the application form.

Forms for extracts of licences or certificates shall be made up in sets containing copy No 1 and copy No 2, in that order.

3. Forms, including extension pages, shall be printed on white paper free of mechanical pulp, dressed for writing and weighing between 55 and 65 grams per square metre. Their size shall be 210 × 297 mm; the type space between lines shall be 4,24 mm (one-sixth of an inch); the layout of forms shall be followed precisely. Both sides of copy No 1 and the

side of the extension pages on which the attributions must appear shall in addition have a printed guilloche pattern background so as to reveal any falsification by mechanical or chemical means. The guilloche background shall be green for forms relating to imports and sepia brown for forms relating to exports.

4. Member States shall be responsible for having the forms printed. These may also be printed by printers appointed by the Member State in which they are established. In the latter case, reference to the appointment by the Member State must appear on each form. Each form shall bear an indication of the printer's name and address or a mark enabling the printer to be identified and, except for the application form and extension pages, an individual serial number. The number shall be preceded by the following letters according to the Member State issuing the document: 'BE' for Belgium, 'DK' for Denmark, 'DE' for Germany, 'EL' for Greece, 'ES' for Spain, 'FR' for France, 'IE' for Ireland, 'IT' for Italy, 'LU' for Luxembourg, 'NL' for the Netherlands, 'PT' for Portugal and 'UK' for the United Kingdom.

At the time of their issue licences or certificates and extracts may bear an issue number allocated by the issuing agency.

5. Applications, licences or certificates and extracts shall be completed in typescript. They shall be printed and completed in one of the official languages of the Community, as specified by the competent authorities of the issuing Member State. However, Member States may allow applications only to be handwritten in ink and in block capitals.

6. The stamps of issuing agencies and attributing authorities shall be applied by means of a metal stamp, preferably made of steel. However, an embossing press combined with letters or figures obtained by means of perforation may be substituted for the issuing agency's stamp.

7. The competent authorities of the Member States concerned may, where necessary, require licences or certificates and extracts therefrom to be translated into the official language or one of the official languages of that Member State.

Article 17

1. Where the import levy has been the subject of an application for advance fixing and where, at the time of issue of the licence or certificate, the threshold price in respect of one month or more of the validity of the licence is not known, the provisional rate of levy for the months in question shall be shown in section 23 of the licence or certificate. This rate shall be calculated for those months having regard to the known facts and to the threshold price applicable for the last month of the marketing year in progress. In section 24 of the licence or certificate it shall be indicated that the rate is subject to adjustment.

2. Where a certificate, licence or extract therefrom is used for import into Germany or Italy, the responsible bodies of those Member States may require that such document

contain the adjusted rate or rates of levy. In that case such rate or rates shall, at the request of the titular holder or transferee, be stated in section 23 by the issuing agency as soon as the threshold price is known. This agency shall indicate the date and stamp the document.

Article 18

1. Where the amounts resulting from the conversion of Ecus into sums in national currency to be entered on licences or certificates contain three or more decimal places, only the first two shall be given. In such cases where the third place is five or more the second place shall be rounded up to the next unit, and where the third place is less than five the second place shall remain the same.

2. However, where amounts expressed in Ecus are converted into pounds sterling or Irish pounds, the reference to the first two decimal places in paragraph 1 shall be read as if it were a reference to the first four decimal places. In such cases where the fifth place is five or more the fourth decimal place shall be rounded up to the next unit and where the fifth place is less than five the fourth place shall remain the same.

Article 19

1. Licences and certificates shall be drawn up in at least two copies. The first copy, called 'holder's copy' and marked 'No 1', shall be issued without delay to the applicant and the second, called 'issuing agency's copy' and marked 'No 2', shall be retained by the issuing agency.

2. Where a licence or certificate is issued for a quantity less than that for which application was made, the issuing agency shall indicate:

- in sections 17 and 18 of the licence or certificate the quantity for which the licence or certificate is issued,
- in section 11 in the case of a licence, the amount of the corresponding security.

The security lodged in respect of the quantity for which a licence or certificate has not been issued shall be released forthwith.

Article 20

1. On application by the titular holder of the licence or certificate or by the transferee, and on submission of copy No 1 of the document, one or more extracts therefrom may be issued by the competent agencies of Member States.

Extracts shall be drawn up in at least two copies, the first of which, called 'holder's copy' and marked 'No 1', shall be issued or addressed to the applicant and the second, called 'issuing agency's copy' and marked 'No 2', shall be retained by the issuing agency.

The agency issuing the extract shall, on copy No 1 of the licence or certificate, attribute the quantity for which the extract has been issued, increased by the relevant tolerance. The word 'extract' shall be entered beside the attributed quantity shown on copy No 1 of the licence or certificate.

2. No further extract may be made from an extract of a licence or certificate.

3. Copy No 1 of an extract which has been used or which is out of date shall be returned by the titular holder to the agency which issued the licence or certificate together with copy No 1 of the licence or certificate from which it derives, so that the agency may adjust the attributions appearing on copy No 1 of the licence or certificate in the light of those appearing on copy No 1 of the extract.

Article 21

1. For the purpose of determining their period of validity, licences or certificates shall be considered to have been issued on the day on which the application for them was lodged, that day being included in the calculation of such period of validity.

2. However, it may be specified that a licence or certificate is to become valid on its actual day of issue, in which case that day shall be included in the calculation of its period of validity.

Section 3

Use of licences and certificates

Article 22

1. Copy No 1 of the licence or certificate shall be submitted to the office where:

- (a) in the case of an import licence or of a certificate of advance fixing of the levy, the import declaration is accepted;
- (b) in the case of an export licence or of a certificate of advance fixing of the refund, the declaration relating to:
 - export from the Community, or
 - one of the supplies as specified in Articles 34 and 42 of Regulation (EEC) No 3665/87, or
 - the placing of products under the arrangements provided for in Article 38 of Regulation (EEC) No 3665/87, or
 - the placing of products under one of the arrangements provided for in Articles 4 and 5 of Regulation (EEC) No 565/80

is accepted.

2. Copy No 1 of the licence or certificate shall be presented, or be held at customs disposal, at the time of acceptance of the declaration referred to in paragraph 1.

3. After attribution and endorsement by the office referred to in paragraph 1, copy No 1 of the licence or certificate shall be returned to the party concerned. However, Member States may require or allow the party concerned to attribute the licence or certificate; in all of which cases the attribution shall be examined and endorsed by the competent office.

Article 23

1. Notwithstanding Article 22, where the products exported are not subject to the production of an export licence but the export refund has been fixed in advance, a Member State may allow the advance fixing certificate to be submitted only to the authority in that Member State responsible for payment of the refund.

2. The Member State concerned shall determine the cases in which paragraph 1 shall apply and the conditions to be complied with by the party concerned in order to benefit from the procedure laid down in that paragraph. Moreover, the provisions adopted by that Member State must be such as to ensure equal treatment for all certificates issued within the Community.

3. The Member State shall decide which authority is to attribute and stamp the advance fixing certificate. The date to be taken as the date of attribution is the date of acceptance of the declaration referred to in Article 22(1)(b).

4. At the time of acceptance of the declaration, the party concerned must indicate on the document used to qualify for a refund that the provisions of this Article are being utilized and quote the reference number of the advance fixing certificate to be used for the calculation of the refund payment.

Article 24

1. Entries made on licences, certificates or extracts may not be altered after their issue.

2. Where the accuracy of entries on the licence, certificate or extract is in doubt, such licence, certificate or extract shall, on the initiative of the party concerned or of the competent authorities of the Member State concerned, be returned to the issuing agency.

If the issuing agency considers a correction to be required, it shall withdraw the extract or the licence or certificate as well as any extracts previously issued and shall issue without delay either a corrected extract or a corrected licence or certificate and the corrected extracts corresponding thereto. On such further documents, which shall include the entry 'licence (or certificate) corrected on ' or 'extracts corrected on ', the former attributions shall be reproduced, as appropriate, on each copy.

Where the issuing agency does not consider it necessary to correct the licence or certificate or the extract, it shall enter thereon the endorsement 'verified on in accordance with Article 24 of Regulation (EEC) No 3719/88' and apply its stamp.

Article 25

1. The titular holder must, at the request of the issuing agency, return to that agency the licence or certificate and/or the extracts therefrom.

2. Where a disputed document is returned or held in accordance with the provisions of this Article or Article 24, the competent national authorities shall on request give the party concerned a receipt.

Article 26

Where on licences or certificates or on extracts therefrom the space reserved for attributions is insufficient, the attributing authorities may attach thereto one or more extension pages containing spaces for attributions as shown on the back of copy No 1 of the said licences, certificates or extracts. The attributing authorities shall so place their stamp that one half is on the licence or certificate or extract therefrom and the other on the extension page, and for each further extension page issued a further stamp shall be placed in like manner across such page and the preceding page.

Article 27

1. Where there is doubt concerning the authenticity of a licence, certificate or extract, or entries or endorsements thereon, the competent national authorities shall return the questionable document, or a photocopy thereof, to the authorities concerned for checking.

Documents may also be returned by way of random check; in such case only a photocopy of the document shall be returned.

2. Where a questionable document is returned in accordance with paragraph 1, the competent national authorities shall on request give a receipt to the party concerned.

Article 28

1. Where necessary for the proper application of this Regulation, the competent authorities of the Member States shall exchange information on licences and certificates and extracts therefrom and on irregularities and infringements concerning them.

2. Member States shall inform the Commission as soon as they have knowledge of irregularities and infringements in regard to this Regulation.

3. Member States shall communicate to the Commission the names and addresses of the agencies which issue licences or certificates and extracts therefrom, collect levies and pay refunds. The Commission shall publish this information in the *Official Journal of the European Communities*.

4. Member States shall also forward to the Commission impressions of the official stamps and, where appropriate, of the embossing presses of authorities empowered to act. The Commission shall immediately inform the other Member States thereof.

*Section 4**Release of securities**Article 29*

As regards the period of validity of licences and certificates:

(a) the obligation to import shall be considered to have been fulfilled and the right to import under the licence or certificate shall be considered to have been exercised on the day the declaration referred to in Article 22(1)(a) is accepted, subject always to the product concerned being actually put into free circulation;

(b) the obligation to export shall be considered to have been fulfilled and the right to export under the licence or certificate shall be considered to have been exercised on the day when the declaration referred to in Article 22(1)(b) is accepted.

Article 30

1. Fulfilment of a primary requirement shall be shown by production of proof:

(a) for imports, of acceptance of the declaration referred to in Article 22(1)(a) relating to the product concerned;

(b) for exports, of acceptance of the declaration referred to in Article 22(1)(b) relating to the product concerned; furthermore:

(i) in the case of either export from the customs territory of the Community, or supplies treated as exports within the meaning of Article 34 of Regulation (EEC) No 3665/87, proof shall be required that the product has, within 60 days from the day of acceptance of the export declaration, unless prevented by *force majeure*, as the case may be, either, in the case of supplies treated as exports, reached its destination or, in other cases, left the customs territory of the Community; for the purposes of this Regulation deliveries of any products intended solely for consumption on board drilling or extraction platforms, including workpoints providing support services for such operations, situated within the area of the European continental shelf, or within the area of the continental shelf of the non-European part of the Community, but beyond a three-mile zone starting from the baseline used to determine the width of a Member State's territorial sea, shall be deemed to have left the customs territory of the Community;

(ii) in cases where products have been placed under the victualling warehouse procedure provided for in Article 38 of Regulation (EEC) No 3665/87,

evidence shall be required that the product has, within 30 days of acceptance of the declaration of its placement under the said procedure and unless prevented by *force majeure*, been placed in a victualling warehouse.

During the first stage and notwithstanding point (i), products covered by Article 259 of the Act of Accession of Spain and Portugal which are exported to Portugal from 1 March 1986 onwards shall be deemed to have left the customs territory of the Community, provided that, within 12 months of the day of acceptance of the export declaration, the relevant documents are submitted showing that the products have been released for consumption in Portugal.

Proof of release for consumption shall be provided in accordance with Article 18(1) of Regulation (EEC) No 3665/87.

2. Where products are placed under one of the procedures provided for in Articles 4 and 5 of Regulation (EEC) No 565/80, the primary requirement shall be deemed to be fulfilled by the production of proof that the payment declaration required for so placing the products has been accepted; however, the security thereby released shall be renewed in accordance with Article 43 of this Regulation where that Article so requires.

Article 31

1. The proof required under Article 30 shall be furnished as follows;

- (a) in cases as referred to in Article 30 (1) (a) by production of copy No 1 of the licence or certificate and, where appropriate, of copy No 1 of the extract or extracts from the licence or certificate, endorsed as provided for in Article 22;
- (b) in cases as referred to in Article 30 (1) (b) and 2, and subject to the provisions of paragraph 2, by production of copy No 1 of the licence or certificate and, where appropriate, of copy No 1 of the extract or extracts of the licence or certificate, endorsed as provided for in Article 22 or Article 23.

2. Furthermore, in the case of export from the Community or of supplies to a destination specified in Article 34 of Regulation (EEC) No 3665/87 or the placing of products under the arrangements provided for in Article 38 of that Regulation, additional proof shall be required.

Such additional proof:

- (a) shall be left to the choice of the Member State concerned where the following operations take place within that Member State:
 - (i) the licence or certificate is issued; and
 - (ii) the declaration referred to in Article 22 (1) (b) is accepted; and
 - (iii) the product either:
 - leaves the customs territory of the Community; for the purposes of this Regulation deliveries of any products intended solely for consumption

on board drilling or extracting platforms, including workpoints providing support services for such operations, situated within the area of the European continental shelf, or within the area of the continental shelf of the non-European part of the Community, but beyond a three-mile zone starting from the baseline used to determine the width of a Member State's territorial sea, shall be deemed to have left the customs territory of the Community, or

- is delivered for one of the purposes listed in Article 34 of Regulation (EEC) No 3665/87, or
- is placed in a victualling warehouse in accordance with Article 38 of Regulation (EEC) No 3665/87;

(b) shall in all other cases be furnished by:

- production of the control copy T 5 or copies referred to in Article 1 of Commission Regulation (EEC) No 2823/87 ⁽¹⁾ or a certified copy or photocopy of such control copy T 5 or copies, or
- an attestation given by the agency responsible for paying the refund that the conditions of Article 30 (1) (b) have been fulfilled, or
- equivalent proof as provided for in paragraph 4.

Where the sole purpose of the T 5 control copy is the release of the security, the T 5 control copy shall contain in box 106 one of the following entries:

- se utilizará para liberar la garantía
- til brug ved frigivelse af sikkerhed
- zu verwenden für die Freistellung der Sicherheit
- προς χρησιμοποίηση για την αποδέσμευση της εγγύησης
- to be used to release the security
- à utiliser pour la libération de la garantie
- da utilizzare per lo svincolo della cauzione
- te gebruiken voor vrijgave van de zekerheid
- a utilizar para liberar a garantia

However, if an extract of a licence or certificate, a replacement licence or certificate or a replacement extract is used, the abovementioned entry shall be completed with the number of the original licence or certificate and the name and address of the issuing agency.

The documents referred to in the first and second indents of paragraph 2 (b) shall be sent to the issuing agency through official channels.

3. Where, after acceptance of the export declaration referred to in the first indent of Article 22 (1) (b), a product is

⁽¹⁾ OJ No L 270, 23. 9. 1987, p. 1.

placed under one of the procedures provided for in Title IV, Chapter 1 of Regulation (EEC) No 1062/87 for carriage to a station-of-destination or delivery to a consignee outside the customs territory of the Community, the T 5 control copy required under paragraph 2 (b) shall be sent through official channels to the issuing agency. One of the following forms of wording shall be entered in box 'J' of the T 5 control copy under the heading 'Remarks':

- Salida del territorio aduanero de la Comunidad bajo el régimen de transito comunitario simplificado por ferrocarril o en contenedores grandes
- Udgang fra Fællesskabets toldområde i henhold til ordningen for den forenkede procedure for fællesskabsforsendelse med jernbane eller store containere
- Ausgang aus dem Zollgebiet der Gemeinschaft im Rahmen des vereinfachten gemeinschaftlichen Versandverfahrens mit der Eisenbahn oder in Großbehältern
- Έξοδος από το τελωνειακό έδαφος της Κοινότητας υπό το απλοποιημένο καθεστώς της κοινοτικής διαμετακόμισης με σιδηρόδρομο ή μεγάλα εμπορευματοκιβώτια
- Exit from the customs territory of the Community under the simplified Community transit procedure for carriage by rail or large containers
- Sortie du territoire douanier de la Communauté sous le régime du transit communautaire simplifié par chemin de fer ou par grands conteneurs
- Uscita dal territorio doganale della Comunità in regime di transito comunitario semplificato per ferrovia o grandi contenitori
- Vertrek uit het douanegebied van de Gemeenschap onder de regeling vereenvoudigd communautair douanevervoer per spoor of in grote containers
- Saída do território aduaneiro da Comunidade ao abrigo do regime do trânsito comunitário simplificado por caminho-de-ferro ou em grandes contentores.

In the case referred to in the preceding subparagraph, the office of departure may permit the contract of carriage to be varied so that carriage ends within the Community only if it is established:

- that, where the security given in respect of the operation in question has already been released, such security has been renewed, or
- that the necessary steps have been taken by the authorities concerned to ensure that the security is not released.

In any case where the security has been released and it is subsequently found that the product has not been exported, Member States shall take appropriate action.

4. Where the T 5 control copy referred to in paragraph 2 (b) cannot be produced within three months following its issue owing to circumstances beyond the control of the party concerned, the latter may make application to the competent agency for other documents to be accepted as equivalent, stating the grounds for such application and furnishing supporting documents.

The supporting documents to be submitted with the application shall be those specified in the second subparagraph of Article 47 (3) of Regulation (EEC) No 3665/87.

Article 32

For the purposes of Article 35 of Regulation (EEC) No 3665/87 the last day of the month shall be taken to be the day of acceptance of the declaration referred to in the second indent of Article 22 (1) (b).

Article 33

1. On application by the titular holder to the document Member States may release the security by instalments in proportion to the quantities of products in respect of which the proof referred to in Article 30 has been produced, provided that proof has been produced that a quantity equal to at least 5 % of the quantity indicated in the licence or certificate has been imported or exported.

2. Subject to application of the provisions of Article 36, 37 or 44 where the obligation to import or export has not been met, the security shall be forfeit in an amount equal to the difference between:

- (a) 95 % of the quantity indicated in the licence or certificate; and
- (b) the quantity actually imported or exported.

If the licence is issued on a headage basis, the result of the 95 % calculation referred to above shall, where applicable, be rounded off to the next lesser whole number of head.

However, if the quantity imported or exported amounts to less than 5 % of the quantity indicated in the licence or certificate, the whole of the security shall be forfeit.

Furthermore, if the total amount of the security which would be forfeit is ECU 5 or less for a given licence or certificate, the Member State concerned shall release the whole of the security.

- 3. (a) The proof referred to in Article 30 must be produced within six months following expiry of the licence or certificate unless *force majeure* prevents this.
- (b) However, where this proof is produced between six and 24 months of the day on which the licence or certificate expired, a proportion of the sum forfeit shall be retained and the rest repaid.

The sum to be retained in respect of the quantities for which evidence has not been produced within the time limit laid down under (a) shall be 15 % of the amount which would have been definitively forfeit if the products had not been imported or exported; where, for a given product, there were licences or certificates with different rates of security, the lowest rate applicable for the import or export operation shall be used to calculate the amount to be retained.

If the total amount that would be retained is ECU 5 or less, the full amount shall be repaid.

4. Where it is stipulated that an obligation shall be fulfilled by producing proof that the product has reached a specified destination, that proof shall be produced in accordance with Article 18 of Regulation (EEC) No 3665/87.

That proof shall also be produced within six months of the expiry of the licence or certificate. However, where the documents required under Article 18 of Regulation (EEC) No 3665/87 cannot be submitted within the prescribed period although the exporter has acted with all due diligence to obtain them within that period, he may be granted an extension of time for the submission of those documents.

5. As regards import licences in respect of which this paragraph is to be applied pursuant to Community provisions to be adopted, notwithstanding paragraph 3, the proof referred to in Article 30 must be provided within 60 days of the day on which the licence expires, unless *force majeure* prevents this.

Section 5

Loss of licences and certificates

Article 34

1. Where an export refund greater than zero has been fixed in advance and the relevant licence or certificate or extract therefrom is lost, the agency issuing the licence or certificate shall issue at the request of the holder, or of the transferee in cases where the licence or certificate or extract has been transferred, a replacement licence or certificate or a replacement extract, subject to the provision of the second subparagraph.

The competent authorities in the Member States may refuse to issue a replacement licence or certificate or a replacement extract if:

- the character of the applicant is not such as to guarantee that the aims of this Article will be respected; in each Member State this power shall be exercised in accordance with the principles currently applicable in that State governing non-discrimination between applicants and the freedom of trade and industry,
- the applicant has failed to show that he has taken reasonable precautions to prevent the loss of the licence, certificate or extract.

2. A refund determined in the context of a tendering procedure shall be considered a refund fixed in advance.

3. The competent authority shall refuse to issue a replacement licence or certificate or replacement extract where the issue of licences or certificates for the product in question is suspended or where the issue of licences or certificates is effected within the framework of a quantitative quota.

4. A replacement licence or certificate or replacement extract shall contain the information and entries appearing on the document which it replaces. It shall be issued for a quantity of goods which, with the addition of the tolerance margin, is equal to the quantity available shown on the lost document. The applicant shall specify that quantity in writing. Where information held by the issuing agency shows that the quantity indicated by the applicant is too high, it shall be reduced accordingly without prejudice to the second subparagraph of paragraph 1.

One of the following endorsements, underlined in red, shall be entered in section 22 of the replacement licence or certificate or replacement extract:

- Certificado (o extracto) de sustitucion de un certificado (o extracto) perdido — número del certificado inicial . . .
- Erstatningslicens/-attest (eller erstatningspartiallicens) for bortkommen licens/attest (eller partiallicens). Oprindeligt licens/attest (eller partiallicens) nr . . .
- Ersatzlizenz (oder Ersatzteillizenz) einer verlorenen Lizenz (oder Teillizenz)/Nummer der ursprünglichen Lizenz . . .
- Πιστοποιητικό (ή απόσπασμα) αντικατάστασης του απολεσθέντος πιστοποιητικού (ή αποσπασματος πιστοποιητικού) αριθ. . . .
- Replacement licence (certificate or extract) of a lost licence (certificate or extract). Number of original licence (certificate) . . .
- Certificat (ou extrait) de remplacement d'un certificat (ou extrait) perdu — numéro du certificat initial . . .
- Titolo (o estratto) sostitutivo di un titolo (o estratto) smarrito — numero del titolo originale . . .
- Certificaat (of uittreksel) ter vervanging van een verloren gegaan certificaat (of uittreksel) — nummer van het oorspronkelijke certificaat . . .
- Certificado (ou extracto) de substituição de um certificado (ou extracto) perdido — número do certificado inicial . . .

Where the replacement licence or certificate or replacement extract is lost, no further replacement licence or certificate or extract shall be issued.

5. The issue of a replacement licence, certificate or extract shall be subject to the provision of a security. The amount of this security shall be calculated by multiplying:

- the rate of the refund fixed in advance, or as appropriate the highest rate of refund for the destinations covered, plus 20 %, by
- the quantity for which the replacement licence or certificate or replacement extract is to be issued increased by the tolerance margin.

The amount by which the security is increased shall not be less than ECU 3 per 100 kilograms net weight. The security shall be lodged with the agency which issued the original licence or certificate.

6. Where the quantity of products exported under a licence or certificate and the replacement licence or certificate, or under an extract and the replacement extract, is greater than that which could have been exported under the original licence, certificate or extract, the security referred to in paragraph 5 corresponding to the excess quantity shall be forfeit, the refund being treated thereby as recovered.

7. In addition, in cases where paragraph 6 applies and where an export levy applies on the date of acceptance of the declaration referred to in Article 22 (1) (b) in respect of the excess quantity, the export levy applicable on that day must be collected.

The excess quantity:

- shall be determined in accordance with paragraph 6,
- shall be that for which the declaration has been last completed under cover of the original licence or certificate, an extract of the original licence or certificate, a replacement licence or certificate, or a replacement extract. In cases where the quantity of the last export is less than the excess quantity, the export or exports immediately preceding shall be taken into account until the stage is reached where the excess quantity has been covered.

Article 3 (1) of Commission Regulation (EEC) No 645/75 ⁽¹⁾ shall not apply in the cases described in this paragraph.

8. In so far as the security referred to in paragraph 5 has not become forfeit by virtue of paragraph 6, it shall be released 15 months after expiry of the period of validity of the licence or certificate.

9. Where the lost licence, certificate or extract is found, it may not be used and must be returned to the agency which issued the replacement licence, certificate or extract. If in such a case the quantity available shown on the original licence, certificate or extract is equal to or higher than the quantity for which the replacement licence, certificate or extract was issued, the security referred to in paragraph 5 shall be released immediately.

However, if the available quantity is higher, an extract shall, at the request of the party concerned, be issued for a quantity which, increased by the tolerance margin, equals that which can still be used.

10. Where the holder or transferee of an import or export licence with or without advance fixing or of an advance fixing certificate is able to prove to the satisfaction of the competent authority both that the licence or certificate therefrom has not been used wholly or in part and that it can no longer be used in particular because of its total or partial destruction, a replacement licence, certificate or extract shall be issued by the agency which issued the original licence or certificate for a quantity of goods which, increased by the tolerance margin, equals that remaining available. In such cases, the provisions of the preceding paragraphs shall not apply with the exception of the first sentence of paragraph 4.

11. The competent authorities of the Member States shall communicate the necessary information for the application of this Article.

⁽¹⁾ OJ No L 67, 14. 3. 1975, p. 16.

Where the authorities provide this information by means of a control copy as referred to in Article 1 of Regulation (EEC) No 2823/87 and issued for the purpose of obtaining proof of departure from the customs territory of the Community, the number of the original licence or certificate shall be inserted in box 105 of the control copy T 5. Where an extract of a licence or certificate, a replacement licence or certificate, or a replacement extract is used, the number of the original licence or certificate shall be inserted in box 106 of the control copy T 5.

12. Member States shall at quarterly intervals inform the Commission of:

- (a) the number of replacement licences, certificates or extracts issued during the previous quarter;
 - pursuant to paragraph 1,
 - pursuant to paragraph 10; and
- (b) the nature and quantity of the goods concerned together with, as appropriate, the rate of refund or levy fixed in advance.

The Commission shall advise the other Member States of the information received.

Article 35

1. Where a licence or certificate or extract therefrom is lost, and the lost document has been used wholly or in part, issuing agencies may, exceptionally, supply the party concerned with a duplicate thereof, drawn up and endorsed in the same way as the original document and clearly marked 'duplicate' on each copy.

2. Duplicates may not be used to carry out import or export operations.

3. Duplicates shall be presented to the offices where the declaration referred to in Article 22 was accepted, were completed under cover of the lost licence, certificate or extract, or to another competent authority designated by the Member State in which the offices are situated.

4. The competent authority shall attribute and stamp the duplicate.

5. The duplicate, thus annotated, shall replace the lost copy No 1 of the licence, certificate or extract in providing proof for the purpose of releasing the security.

Section 6

Force majeure

Article 36

1. Where, as a result of an event which the operator regards as constituting *force majeure*, import or export cannot be effected during the period of validity of the licence or certificate, the titular holder shall apply to the competent

agency of the Member State which issued the licence or certificate either for the period of validity of the licence or certificate to be extended or for the licence or certificate to be cancelled. He shall provide proof of the circumstance which he considers to constitute *force majeure* within six months of the expiry of the period of validity of the licence.

Where the proof could not be produced within that time-limit although the operator has acted with all due diligence to obtain it and forward it, he may be granted further time.

2. A request to extend the period of validity of a licence or certificate must be received not more than 30 days after the expiry of such period of validity.

3. Where circumstances relied upon as constituting *force majeure* relate to the exporting country and/or the country of origin, in the case of imports, or to the importing country, in the case of exports, such circumstances may be accepted as such only if the issuing agency or another official agency in the same Member State was notified in good time and in writing as to the countries concerned.

Notification as to the exporting country, country of origin or importing country shall be considered as having been made in good time if the circumstances relied upon by way of *force majeure* could not at the time of notification have been foreseen by the applicant.

4. The competent authority referred to in paragraph 1 shall decide if the circumstances relied upon constitute *force majeure*.

Article 37

1. Where the circumstances relied upon constitute *force majeure*, the competent agency of the Member State in which the licence or certificate was issued shall decide either that the obligation to import or export be cancelled, the security being released, or that the period of validity of the licence or certificate be extended for such period as may be considered necessary in view of all the circumstances of the case. Such extension shall not exceed six months following the expiry of the original period of validity of the licence or certificate. Such extension may be granted after the period of validity of the licence or certificate has expired.

2. The decision of the competent agency can be other than that requested by the titular holder of the licence or certificate.

Where the titular holder requests the cancellation of a licence involving advance fixing, even if this request was submitted more than 30 days after expiry of the licence's period of validity, the competent agency may extend the licence's period of validity if the rate fixed in advance plus any adjustments is less than the daily rate in the case of amounts to be collected.

3. The decision to cancel or extend the licence shall relate only to the quantity of product which could not be imported or exported as a result of *force majeure*.

4. When the period of validity of a licence is extended the issuing authority shall stamp the licence and its extracts and shall make the necessary adjustments thereto.

5. Notwithstanding Article 9 (1), where the period of validity of a licence involving advance fixing is extended, the rights arising from that licence shall not be transferable. However, where the circumstances of the case in question so warrant, such transfer shall be authorized when requested at the same time as the request for extension.

6. The Member State to which the competent agency belongs shall advise the Commission of the case of *force majeure*; the Commission shall inform the other Member States thereof.

Article 38

1. Where, following a case of *force majeure*, an operator has applied for the period of validity of a licence involving advance fixing of the levy or refund to be extended and the competent agency has not yet taken a decision on his application, the operator may apply to the agency for a second licence. The second licence shall be issued on the terms applying at the time of application except that

- it shall be issued at the maximum for the unused quantity on the first licence whose extension has been applied for,
- box 20 thereof shall contain one of the following entries:
 - Certificado emitido en las condiciones del artículo 38 del Reglamento (CEE) n° 3719/88; certificado inicial n° . . .
 - Licens udstedt på de i artikel 38 i forordning (EØF) nr. 3719/88 fastsatte betingelser; oprindelig licens nr. . . .
 - Unter den Bedingungen von Artikel 38 der Verordnung (EWG) Nr. 3719/88 erteilte Lizenz; ursprüngliche Lizenz Nr. . . .
 - Πιστοποιητικό που εκδίδεται υπό τους όρους του άρθρου 38 του κανονισμού (ΕΟΚ) αριθ. 3719/88 αρχικό πιστοποιητικό αριθ. . . .
 - Licence issued in accordance with Article 38 of Regulation (EEC) No 3719/88; original licence No . . .
 - Certificat émis dans les conditions de l'article 38 du règlement (CEE) n° 3719/88; certificat initial n° . . .
 - Titolo rilasciato alle condizioni dell'articolo 38 del regolamento (CEE) n. 3719/88; titolo originale n. . . .

- Certificaat afgegeven overeenkomstig artikel 38 van Verordening (EEG) nr. 3719/88; oorspronkelijk certificaat nr. . . .
- Certificado emitido nas condições previstas no artigo 38º do Regulamento (CEE) nº 3719/88; certificado inicial nº . . .

2. Where the competent agency has decided to extend the first licence's period of validity:

- (a) the quantity for which the second licence was used shall be attributed to the first licence provided that:
 - the operator who is entitled to use the first licence has so used the second licence, and
 - such use has taken place during the extension of the period of validity;
- (b) the security in respect of the second licence relating to that quantity shall be released;
- (c) where applicable the agency which issued the licences shall inform the competent agency of the Member State where the second licence was used so that the amount collected or paid out can be corrected.

Where the competent agency concludes that there was no case of *force majeure* or where it decides, in accordance with Article 37, that the first licence should be cancelled, the rights and obligations arising from the second licence shall stand.

TITLE IV

SPECIAL PROVISIONS

Article 39

1. Products which are subject to a system of export licences or which may qualify for a system of advance fixing of refunds or of other amounts applicable on export may qualify for treatment as returned goods under Regulation (EEC) No 754/76 only where the following provisions have been complied with:

- (a) if export was effected without an export licence or advance fixing certificate, then where the information sheet INF 3 provided for in Regulation (EEC) No 2945/76 is used it must bear in box A one of the following endorsements:
 - Exportacion realizada sin certificado
 - Udførsel uden licens/attest
 - Ausfuhr ohne Ausfuhrlizenz oder Verkaufsfeststellungsbescheinigung
 - Εξαγωγή πραγματοποιουμένη άνευ αδείας ή πιστοποιητικού
 - Exportation réalisée sans certificat
 - Εξαγωγή πραγματοποιουμένη άνευ αδείας ή πιστοποιητικού
 - Exported without licence or certificate

- Esportazione realizzata senza titolo
- Uitvoer zonder certificaat
- Exportacao efectuada sem certificado;

(b) if export was effected under cover of an export licence or advance fixing certificate and such licence or certificate has not expired on the date on which the party concerned declares his intention to avail himself of the abovementioned returned-goods provisions:

- the entry on the licence or certificate relating to the export in question shall be cancelled, and
- the security relating to the licence or certificate shall not be released in respect of the export in question or, if it has been released, it must be furnished anew in proportion to the quantities concerned to the body which issued the licence or certificate;

(c) if export was effected under cover of an export licence or advance fixing certificate, and the licence or certificate has expired on the date on which the party concerned declares his intention to avail himself of the abovementioned returned-goods provisions, then:

- where the security relating to the licence or certificate has not been released in respect of the export in question, the security shall be forfeit, subject to the rules applicable in the particular case,
- where the security has been released, the titular holder of the licence or certificate shall provide the body which issued the licence or certificate with fresh security in respect of the quantities in question, and that security shall be forfeit, subject to the rules applicable in the particular case.

2. If the returned goods are reimported:

- (a) through a customs office situated in a Member State other than the exporting Member State, proof that the provisions of paragraph 1 (b) or (c) have been complied with shall be furnished by means of the information sheet INF 3 provided for in Regulation (EEC) No 2945/76;
- (b) through a customs office situated in the same Member State, proof that the provisions of paragraph 1 (a), (b) or (c) have been complied with shall be furnished in accordance with the procedure determined by the competent authorities of the Member State in question.

3. Paragraph 1 (a), (b) and (c) shall not apply in the cases provided for in Article 2 (b) of Regulation (EEC) No 2945/76.

4. Paragraph 1 (b) and (c) shall not apply if the goods have been returned owing to *force majeure*.

Article 40

1. Where the security relating to the licence or certificate used for the export of products which have been reimported under the returned-goods system should be forfeit pursuant to Article 39, the said security shall be released at the request of the parties concerned if reimport is followed by the export of equivalent products falling within the same subheading of the combined nomenclature.

2. The export operation:

(a) must be one for which the declaration was accepted:

- at the latest within 10 days following the date of acceptance of the reimport declaration in respect of the returned goods,
- in a customs office of the reimporting Member State designated by that Member State, and
- under cover of a new export licence if the initial export licence has expired by the date of acceptance of the export declaration in respect of the equivalent products;

(b) must be in respect of products:

- of the same quantity, and
- addressed to the consignee indicated in respect of the original export consignments, except in the cases referred to in Article 2 (c) and (d) of Regulation (EEC) No 2945/76.

3. The security shall be released when proof is furnished to the body which issued the licence or certificate that the conditions laid down in this Article have been fulfilled. Such proof shall consist of the following documents:

(a) the declaration of export of the equivalent products or a copy or photocopy thereof certified as such by the competent authorities and bearing one of the following endorsements:

- Condiciones previstas en el artículo 40 del Reglamento (CEE) n° 3719/88 cumplidas
- Betingelserne i artikel 40 i forordning (EØF)-nr. 3719/88 er opfyldt
- Bedingungen von Artikel 40 der Verordnung (EWG) Nr. 3719/88 wurden eingehalten
- Τηρουμένων των προϋποθέσεων του άρθρου 40 του κανονισμού (ΕΟΚ) αριθ. 3719/88
- Conditions laid down in Article 40 of Regulation (EEC) No 3719/88 fulfilled
- Conditions prévues à l'article 40 du règlement (CEE) n° 3719/88 respectées
- Condizioni previste dall'articolo 40 del regolamento (CEE) n. 3719/88 ottemperate
- In artikel 40 van Verordening (EEG) nr. 3719/88 bedoelde voorwaarden nageleefd
- Condições previstas no artigo 40º do Regulamento (CEE) n° 3719/88 cumpridas.

This endorsement must be authenticated by the stamp of the customs office concerned, applied directly to the document in question; and

(b) a document certifying that the products have, within 60 days of acceptance of the customs export declaration, except in case of *force majeure*, left the customs territory of the Community.

make it possible if necessary to cancel the effects of putting the goods into free circulation shall be provided by the authority which issued the licence or certificate, subject to the provisions of paragraph 4 of this Article.

The importer shall state to the authority which issued the licence or certificate:

- the name and address of the decision-making authority referred to in Article 1(2) of Regulation (EEC) No 1574/80, to which the confirmation should be sent,
- the quantity and nature of the products in question, the date of import and the number of the licence or certificate concerned.

If the licence or certificate has not already been submitted to the issuing authority, the importer must submit the licence or certificate to that authority.

Before sending the confirmation referred to in the first subparagraph, the authority which issued the licence or certificate must ensure that:

- the security in respect of the quantities in question has not been released and will not be released, or
- if the security has been released, it is re-lodged for the quantities in question.

However, the security shall not be required to be re-lodged for quantities in excess of the quantity at which the obligation to import is considered to have been met.

The licence or certificate shall be returned to the party concerned.

2. If repayment or remission of import duties is refused, the decision-making authority shall so inform the authority which issued the licence or certificate. The security relating to the quantity in question shall be released.

3. If repayment or remission of the duties is granted, the entry on the licence or certificate for the quantity in question shall be cancelled, even if the licence or certificate is no longer valid. The licence or certificate shall be returned immediately by the interested party to the issuing agency when it is no longer valid. The security relating to the quantity in question shall be forfeit, subject to the rules applicable to the case in question.

4. Paragraphs 1 and 2 shall not apply where:

- (a) for reasons of *force majeure* the products have to be re-exported, destroyed or placed in a customs warehouse or free zone; or
- (b) the products are in the situation referred to in the second indent of Article 10(1)(h) of Regulation (EEC) No 1430/79; or
- (c) the licence or certificate on which the quantity imported has been entered has not yet been returned to the party concerned when the application for repayment or remission of duty is lodged.

Article 41

1. For the purposes of Article 22 of Regulation (EEC) No 1430/79, confirmation that measures have been taken to

5. The first sentence of paragraph 3:

- shall not apply in the case referred to in paragraph 4(b),
- shall apply only on request by the party concerned in the case referred to in paragraph 4(a).

Article 42

1. Where the effects of putting goods into free circulation have been cancelled and the security in respect of the licence or certificate becomes forfeit under the provisions of Article 41, the security shall be released, at the request of the party concerned, if the conditions set out in paragraph 2 are met.

2. The party concerned must prove to the satisfaction of the competent authorities that, within two months of the date of initial import, the same quantity of equivalent products falling under the same subheading of the combined nomenclature has been imported from the same exporting country and from the same supplier, in replacement for products in respect of which Article 5 of Regulation (EEC) No 1430/79 has been applied.

Article 43

1. Where basic products have been placed under the arrangement provided for in Article 4 of Regulation (EEC) No 565/80, or products or goods have been placed under the arrangement provided for in Article 5 of that Regulation, and an export licence or advance fixing certificate has been used, and where the party concerned wholly or partly:

- withdraws from customs control the basic products, whether in that form or as processed products, or the products or goods, or
- does not comply with the total time limit laid down in Articles 27(5) and 28(5) of Regulation (EEC) No 3665/87 or in other legal provisions,

the obligation to export shall not have been complied with in respect of the quantity concerned.

2. The competent authority in the Member State where the payment declaration referred to in Article 25(1) of Regulation (EEC) No 3665/87 was accepted shall inform the authority which issued the licence or certificate of such cases. In particular it shall notify the quantity and nature of the products in question, the reference number of the licence or certificate and the date of the attribution in question.

3. The authority which issued the licence or certificate shall apply the provisions of Article 39(1)(b) or (c) and (4) *mutatis mutandis*.

4. The Member State shall take such measures as it considers necessary with a view to ensuring compliance with the provisions of paragraph 3.

Article 44

1. This Article shall apply to certificates fixing the export refund in advance applied for in connection with an invitation to tender issued in an importing non-member country.

The expression 'invitation to tender' shall be understood to mean open invitations issued by public agencies in non-member countries, or by international bodies governed by public law, to submit by a given date tenders on which a decision will be taken by those agencies or bodies.

For the purposes of this Article, the armed forces referred to in Article 34(1)(c) of Regulation (EEC) No 3665/87 shall be regarded as an importing non-member country.

2. An exporter who has submitted or who wishes to submit a tender in response to an invitation to tender as referred to in paragraph 1 may, provided the conditions specified in paragraph 3 are fulfilled, apply for one or more certificates, which will be issued subject to his being awarded a contract.

3. The provisions laid down in this Article shall apply only if the following particulars at least are specified in the invitation to tender:

- the importing non-member country and the agency issuing the invitation to tender,
- the closing date for the submission of tenders,
- the specific quantity of products covered by the invitation to tender.

The party concerned shall communicate these particulars to the issuing agency when applying for the certificate.

An application for a certificate may not be lodged more than 15 days before the closing date for the submission of tenders but must be lodged at the latest by 1 p.m. on the closing date for the submission of tenders.

The quantity for which the certificate or certificates are applied for may not exceed the quantity specified in the invitation to tender. No account shall be taken of tolerance or options provided for in the invitation to tender.

4. Notwithstanding Article 14(2) the security need not be lodged when the licence or certificate is applied for.

5. Within 21 days of the closing date for submitting tenders, except in case of *force majeure*, the applicant shall inform the issuing agency by letter or by written telecommunication, to reach the issuing agency no later than the date of expiry of the 21-day time limit, either:

- (a) that he has himself been awarded a contract;
- (b) that he has not been awarded a contract;
- (c) that he has not submitted a tender; or

(d) that he is not in a position to know the outcome of the invitation to tender within the time limit specified for reasons which may not be ascribed to him.

6. Applications for certificates shall not be accepted where, during the period of issue to which applications for certificates for certain products are subject, a special measure has been taken which prevents the issue of certificates.

No special measure taken subsequent to the expiry of the said period may prevent the issue of a certificate where the applicant has fulfilled the conditions referred to in the third subparagraph.

Where the applicant has:

- provided, by means of the appropriate documents, the information referred to in the first subparagraph of paragraph 3, and
- furnished proof of his having been awarded a contract, and
- lodged the total amount of the security required for the issue of the certificate,

one or more certificates shall be issued in respect of the invitation to tender in question.

The certificate or certificates shall be issued only for the country referred to in the first indent of the first subparagraph of paragraph 3. The invitation to tender shall be mentioned thereon.

The total quantity for which the certificate or certificates are issued shall be the quantity for which the applicant was awarded the contract; such quantity may not exceed the quantity applied for.

Moreover, where several certificates are applied for, the quantity for which the certificate or certificates are issued may not exceed the quantity initially applied for in respect of each certificate.

For the purposes of determining the period of validity of the certificate, Article 21 (1) shall apply.

No certificate may be issued in respect of a quantity for which the applicant has not been awarded a contract.

7. In cases as referred to in paragraph 5 (b), (c) and (d) no certificate shall be issued in connection with the application referred to in paragraph 3.

8. Where the applicant for a certificate fails to observe the provisions of paragraph 5, no certificate shall be issued.

However, where the applicant furnishes proof to the issuing agency that the closing date for the submission of tenders has been deferred:

- by no more than 10 days, the application shall remain valid and the period of 21 days for notifying the particulars specified in paragraph 5 shall run with effect from the new closing date for the submission of tenders,
- by more than 10 days, the application shall no longer be valid.

9. (a) If the successful tenderer demonstrates to the satisfaction of the competent authority that the agency which issued the invitation to tender has cancelled the contract for reasons which are not attributable to him and which are not considered to constitute *force majeure*, the competent authority shall release the security in cases where the rate of the refund fixed in advance is higher than or equal to the rate of the refund valid on the last day of the certificate's validity.

(b) If the successful tenderer demonstrates to the satisfaction of the competent authority that the agency which issued the invitation to tender has obliged him to accept changes to the contract for reasons which are not attributable to him and which are not considered to constitute *force majeure*, the competent authority may:

- where the rate of the refund fixed in advance is higher than or equal to the rate of the refund valid on the last day of the certificate's validity, release the security in respect of the balance of the quantity not yet exported,
- where the rate of the refund fixed in advance is lower than or equal to the rate of the refund valid on the last day of the certificate's validity, extend the validity of the certificate by the period required.

However, where special rules governing certain products provide that the period of validity of a certificate issued under this Article may exceed the normal period of validity of such a certificate and the successful tenderer finds himself in the situation referred to in the first indent of the first subparagraph, the issuing agency may extend the period of validity of the certificate provided it does not exceed the maximum period of validity permitted under those rules.

(c) If the successful tenderer furnishes proof that the invitation to tender or the contract concluded following the award provided for a downward tolerance or option of more than 5 % and that the agency which issued the invitation to tender is invoking the relevant clause, the obligation to export shall be deemed to have been fulfilled where the quantity exported is not more than 10 % less than the quantity for which the certificate was issued, on condition that the rate of the refund fixed in advance is higher than or equal to the rate of the refund valid on the last day of validity of the certificate. In such case the rate of 95 % referred to in Article 33 (2) shall be replaced by 90 %.

(d) In comparing the rate of the refund fixed in advance with that of the refund valid on the last day of validity of the certificate, account shall be taken, where applicable, of monetary compensatory amounts, accession compensatory amounts and other amounts provided for under Community rules.

10. Member States shall communicate to the Commission forthwith the particulars referred to in the first subparagraph of paragraph 3.

11. In special cases, exceptions to the foregoing rules may be laid down under the procedure set out in Article 26 of Regulation (EEC) No 2727/75 or, as appropriate, in the corresponding articles of the other Regulations on the common organization of markets.

Article 45

1. Where a Member State uses the import licence applicable to a product in order to administer a Community tariff quota which has been divided up among the Member States:

- (a) the licence shall be valid only in the issuing Member State;
- (b) any quantities imported which, on account of the tolerance, exceed the quantity stated on the import licence shall not be eligible for the preferential system granted under the Community tariff quota; and
- (c) the period of validity of the licence may not exceed the period for which the quota applies.

2. Section 24 of the licence shall be suitably endorsed to ensure application of the provisions of paragraph 1 (a) and (b).

3. Where the product in question may not be imported outside the quota, or where import licences for the product in question are issued only subject to special conditions, the import licence referred to in paragraph 1 shall not include a tolerance in excess of the quantity stated on the import licence.

TITLE V

FINAL PROVISIONS

Article 46

1. Regulation (EEC) No 3183/80 is hereby repealed.

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

Done at Brussels, 16 November 1988.

2. References to the Regulation repealed under paragraph 1, and to Regulations (EEC) No 193/75 and (EEC) No 1373/70 repealed previously, shall be construed as references to this Regulation.

The correlation tables are set out in Annex II (a) and (b) hereto.

Citations and references mentioning Articles of the repealed Regulations shall be read in accordance with the correlation tables in Annex II (c).

3. References to sections of the licences or certificates annexed to Regulation (EEC) No 3183/80 shall be construed as references to the sections of the licences or certificates in Annex I hereto.

The correlation table is set out in Annex II (d) hereto.

Article 47

1. This Regulation shall enter into force on 1 January 1989.

2. Applications for licences and certificates submitted and licences and certificates and extracts therefrom issued by 30 June 1989 may be drawn up on forms conforming to the specimens given in Annex I to Regulation (EEC) No 3183/80.

3. Securities provided pursuant to Article 43 (4) of Regulation (EEC) No 3183/80 may be released at the request of the interested parties.

Securities forfeited pursuant to Article 43 (8) of Regulation (EEC) No 3183/80 may be reimbursed at the request of the interested parties.

4. Licences and certificates issued before the entry into force of this Regulation may still be submitted in respect of operations as referred to in Article 43 of Regulation (EEC) No 3665/87 and in Regulation (EEC) No 918/83.

For the Commission

Frans ANDRIESSEN

Vice-President

ANNEX I

IMPORT LICENCE OR ADVANCE FIXING CERTIFICATE

EXPORT LICENCE OR ADVANCE FIXING CERTIFICATE

- (1) To be completed if the signature and the stamp do not appear in box 25.
- (2) Net mass or other unit of measurement indicating unit.
- (3) Without prejudice to the provisions on the agricultural conversion rates and

27 ATTRIBUTIONS Indicate the quantity available in part 1 of column 29 and the quantity attributed in part 2 thereof			
28 Net quantity (mass weight or other unit of measure stating the unit)		31 Customs document (form and number) or extract No and date of attribution	32 Name, Member State, stamp and signature of the attributing authority
29 In figures	30 In words for the quantity attributed		
1			
2			
1			
2			
1			
2			
1			
2			
1			
2			
1			
2			
1			
2			
1			
2			
1			
2			

ISSUING AGENCY'S COPY	2	1 Agency issuing the licence or certificate (name and address)	2 Issuing agency's embossment and perforation (1)		<div>No /</div>	
			3			
		4 Issued to (name, full address and Member State)	5 Agency issuing the extract (name and address)			
		6 Rights transferred to	7 Exporting country		Compulsory <div><input type="checkbox"/> YES <input type="checkbox"/> NO</div>	
		with effect from Stamp of the competent agency:	8 Country of origin		Compulsory <div><input type="checkbox"/> YES <input type="checkbox"/> NO</div>	
			9 Advance fixing requested		<div><input type="checkbox"/> YES <input type="checkbox"/> NO</div>	
			10 Day of lodging original licence/ certificate application			
			11 Total amount of security in national currency			
			12 LAST DAY OF VALIDITY			
	2	13 PRODUCT TO BE IMPORTED				
14 Trade denomination						
15 Description in accordance with the combined nomenclature (CN)				16 CN code(s)		
17 Quantity (2) in figures		18 Quantity (2) in words			19 Tolerance % more	
20 Special particulars						
21 LEVY FIXED IN ADVANCE ON PER (in figures) (unit)						
22 Month a. year		23 Total rate in national currency (3)		22 Month a. year		
23 Total rate in national currency (3)		22 Month a. year		23 Total rate in national currency (3)		
24 Special conditions (3)						
25 Issued at on under No Signature and stamp of agency issuing the licence or certificate:			26 Term of validity extended until inclusive for (2) At , on Issuing agency's signature and stamp:			

(1) To be completed if the signature and the stamp do not appear in box 25.
(2) Net mass or other unit of measurement indicating unit.
(3) Without prejudice to the provisions on the agricultural conversion rates and to those of the Act of Accession.

APPLICATION	1 Agency issuing the licence or certificate (name and address)			
	4 Applicant (name, full address and Member State)			
		7 Exporting country	Compulsory <input type="checkbox"/> YES <input type="checkbox"/> NO	
		8 Country of origin	Compulsory <input type="checkbox"/> YES <input type="checkbox"/> NO	
		9 Advance fixing requested	<input type="checkbox"/> YES <input type="checkbox"/> NO	
		11 Total amount of security in national currency		
	13 PRODUCT TO BE IMPORTED			
	14 Trade denomination			
	15 Description in accordance with the combined nomenclature (CN)		16 CN code(s)	
17 Quantity (1) in figures	18 Quantity (1) in words			
20 Special particulars				

(1) Net mass or other unit of measurement indicating unit.

NOTES

Place and date:

Applicant's signature:

HOLDER'S COPY	1	1 Agency issuing the licence or certificate (name and address)		2 Issuing agency's embossment and perforation (1)		No /	
	1	4 Issued to (name, full address and Member State)		5 Agency issuing the extract (name and address)			
		6 Rights transferred to		7 Receiving country			
		with effect from Stamp of the competent agency:		8 Advance fixing requested		9 Tendering requested	
				10 Date of lodging original licence/certificate application		11 Total amount of security in national currency	
				12 LAST DAY OF VALIDITY			
	1	13 PRODUCT TO BE EXPORTED					
	14 Trade denomination						
	15 Description in accordance with the combined nomenclature (CN)				16 CN code(s)		
	17 Quantity (2) in figures		18 Quantity (2) in words			19 Tolerance % more	
20 Special particulars (3)							
21 REFUND VALID ON						FIXED IN ADVANCE	
22 Special conditions							
23 Issued at on under No Signature and stamp of agency issuing the licence or certificate:				24 Term of validity extended until for (2) At Issuing agency's signature and stamp:			

27 ATTRIBUTIONS			
Indicate the quantity available in part 1. of column 29 and the quantity attributed in part 2 thereof			
28 Net quantity (mass weight or other unit of measure stating the unit)		31 Customs document (form and number) or extract No and date of attribution	32 Name, Member State, stamp and signature of the attributing authority
29 In figures	30 In words for the quantity attributed		
1			
2			
1			
2			
1			
2			
1			
2			
1			
2			
1			
2			
1			
2			
1			
2			
1			
2			

2	1 Agency issuing the licence or certificate (name and address)		2 Issuing agency's embossment and perforation (1)		No /	
	4 Issued to (name, full address and Member State) <div></div>		3			
			5 Agency issuing the extract (name and address)			
			6 Rights transferred to			
with effect from <div></div> Stamp of the competent agency:		7 Receiving country <div>Compulsory</div> <div><div></div> YES <div></div> NO</div>				
		8 Advance fixing requested <div><div></div> YES <div></div> NO</div>		9 Tendering requested <div><div></div> YES <div></div> NO</div>		
		10 Date of lodging original licence/ certificate application <div></div>				
		11 Total amount of security in national currency <div></div>				
		12 LAST DAY OF VALIDITY <div></div>				
2	13 PRODUCT TO BE EXPORTED					
14 Trade denomination						
15 Description in accordance with the combined nomenclature (CN)				16 CN code(s)		
17 Quantity (2) in figures		18 Quantity (2) in words			19 Tolerance % more	
20 Special particulars (3)						
21 REFUND VALID ON <div></div>		FIXED IN ADVANCE				
22 Special conditions						
23 Issued at on <div></div> under No Signature and stamp of agency issuing the licence or certificate:			24 Term of validity extended until <div></div> inclusive for (2) At <div></div> , on <div></div> Issuing agency's signature and stamp:			

(1) To be completed if the signature and the stamp do not appear in box 23.
(2) Net mass or other unit of measurement indicating unit.
(3) Without prejudice to the provisions on the agricultural conversion rates and to those of the Act of Accession.

ISSUING AGENCY'S COPY

APPLICATION	1 Issuing agency (name and address)			
	4 Applicant (name, full address and Member State)			
			7 Receiving country	
			Compulsory <input type="checkbox"/> YES <input type="checkbox"/> NO	
	8 Advance fixing requested <input type="checkbox"/> YES <input type="checkbox"/> NO		9 Tendering requested <input type="checkbox"/> YES <input type="checkbox"/> NO	
			11 Total amount of security in national currency	
	13 PRODUCT TO BE EXPORTED			
	14 Trade denomination			
Net mass or other unit of measurement indicating unit.	15 Description in accordance with the combined nomenclature (CN)		16 CN Code(s)	
	17 Quantity (1) in figures	18 Quantity (1) in words		
	20 Special particulars			

NOTES

Place and date:

Applicant's signature:

ANNEX II

(a) *Table of equivalence*

Regulation (EEC) No 3183/80	Present Regulation
Article 1	Article 1
Article 2	Article 2
Article 3 (1)	Article 3 (1)
Article 3 (2)	Article 3 (2)
Article 3 (3)	Article 3 (3)
Article 3 (3) (a)	Article 3 (4)
Article 3 (4)	Article 3 (5)
Article 3 (5)	Article 3 (6)
Article 4	Article 4
Article 5	Article 5
Article 6	Article 6
Article 7	Article 7
Article 8	Article 8
Article 9	Article 9
Article 10	Article 10
Article 11	Article 11
Article 11 (a)	Article 12 (1)
Article 12	Article 13
Article 13 (1)	Article 14 (1)
Article 13 (2)	Article 13 (2)
Article 13 (3)	—
Article 13 (4)	Article 13 (3)
Article 14	Article 15
Article 15	—
Article 16	Article 16
Article 17	Article 17
Article 18	Article 18
Article 19	Article 19
Article 20	Article 20
Article 21	Article 21
Article 22	Article 22
Article 23	Article 23
Article 24	Article 24
Article 25	Article 25
Article 26	Article 26
Article 27	Article 27
Article 28	Article 28
Article 29	Article 29
Article 30	Article 30
Article 31	Article 31
Article 32	Article 32
Article 33 (2)	Article 33 (1)
Article 33 (3)	Article 33 (2)
Article 33 (4)	Article 33 (3)
Article 33 (5)	Article 33 (4)

Regulation (EEC) No 3183/80	Present Regulation
Article 34	Article 34
Article 35	Article 35
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(b) *Table of equivalence*

Regulation (EEC) No 3183/80	Regulation (EEC) No 193/75	Regulation (EEC) No 1373/70
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Article 3	Article 4 (2)	Article 4 (2)
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Article 5	Article 4 (3) and (4)	Article 4 (3) and (4)
Article 6	Article 4a (1)	—
Article 7	Article 4c (1)	—
Article 8	Article 2	Article 2
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Article 10	Article 10 (2) first sentence	Article 9 (2) first sentence
Article 11	Article 16 (3)	Article 14 (3)
Article 12	Article 5 (1) first and second subparagraph, (3)	Article 5 (1) first and second subparagraph, (3)
Article 13	Article 5 (1) third subparagraph, (2) and (4)	Article 5 (1) third subparagraph, (2) and (4)
Article 14	Article 6 (1), (2) and (3)	Article 6 (1), (2) and (3)
Article 15	Article 7	Article 7
Article 16	Article 13	Article 12
Article 17	Article 14	Article 12a
Article 18	Article 8	Article 7a
Article 19	Article 9 (3) first subparagraph	Article 8 (2) first subparagraph
Article 20	Article 10 (1), (2) second sentence, (3)	Article 9 (1), (2) second sentence, (3)
Article 21	Article 9 (1) and (2)	Article 8 (1)

Regulation (EEC) No 3183/80	Regulation (EEC) No 193/75	Regulation (EEC) No 1373/70
Article 22	Article 9 (3) second and third subparagraphs	Article 8 (2) second and third subparagraphs
Article 23	—	—
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(c) *References*

to Regulation No 1373/70/EEC or Regulation (EEC) No 193/75	to this Regulation
Regulation (EEC) No 3130/73 ⁽¹⁾ : Article 2 (5) Article 7 (2) Article 8 (2)	Article 13 (2) of Regulation (EEC) No 3719/88 Articles 36 and 37 of Regulation (EEC) No 3719/88 Article 9 of Regulation (EEC) No 3719/88
Regulation (EEC) No 3197/73 ⁽²⁾ : Article 2 (5) Article 7 (2) Article 8 (2)	Article 13 (2) of Regulation (EEC) No 3719/88 Articles 36 and 37 of Regulation (EEC) No 3719/88 Article 9 of Regulation (EEC) No 3719/88
Regulation (EEC) No 279/75 ⁽³⁾ : Article 2 (5) Article 7 (2)	Article 13 (2) of Regulation (EEC) No 3719/88 Article 33 (3) of Regulation (EEC) No 3719/88
Regulation (EEC) No 584/75 ⁽⁴⁾ : Article 2 (5) Article 7 (2)	Article 13 (2) of Regulation (EEC) No 3719/88 Article 33 (3) of Regulation (EEC) No 3719/88
Regulation (EEC) No 2041/75 ⁽⁵⁾ : Article 2b Article 8 Article 10 Article 13 Article 15	Article 15 of Regulation (EEC) No 3719/88 Articles 36 and 37 of Regulation (EEC) No 3719/88 Article 5 (1) indent 4 of Regulation (EEC) No 3719/88 Article 21 (1) of Regulation (EEC) No 3719/88 Articles 36 and 37 of Regulation (EEC) No 3719/88
Regulation (EEC) No 2042/75 ⁽⁶⁾ : Article 8 Article 9 Article 9a (1) Article 9a (2)	Article 21 (1) of Regulation (EEC) No 3719/88
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Article 12 (2)	Article 9 of Regulation (EEC) No 3719/88
Regulation (EEC) No 2782/76 ⁽⁷⁾ : Article 8	Article 33 of Regulation (EEC) No 3719/88
Regulation (EEC) No 1805/77 ⁽⁸⁾ : Article 2 (2)	Article 21 (1) of Regulation (EEC) No 3719/88
	Articles 19 and 22 of Regulation (EEC) No 3719/88

⁽¹⁾ OJ No L 319, 20. 11. 1973, p. 10.⁽²⁾ OJ No L 326, 27. 11. 1973, p. 10.⁽³⁾ OJ No L 31, 5. 2. 1975, p. 8.⁽⁴⁾ OJ No L 61, 7. 3. 1975, p. 25.⁽⁵⁾ OJ No L 213, 11. 8. 1975, p. 1.⁽⁶⁾ OJ No L 213, 11. 8. 1975, p. 5.⁽⁷⁾ OJ No L 318, 18. 11. 1976, p. 13.⁽⁸⁾ OJ No L 198, 5. 8. 1977, p. 19.

(d) *Table of equivalence of licences*

Export certificate		Import certificate	
Previous form	New form	Previous form	New form
Box 1	Box 2	Box 1	Box 2
Box 2	Box 3	Box 2	Box 3
Box 3a	Box 1	Box 3a	Box 1
Box 3b	Box 5	Box 3b	Box 5
Box 4a	Box 4	Box 4a	Box 4
Box 4b	Box 6	Box 4b	Box 6
Box 5	Box 13	Box 5	Box 13
Box 6	Box 14	Box 6	Box 14
Box 7	Box 15	Box 7	Box 15
Box 8	Box 16	Box 8	Box 16
Box 9	Box 16	Box 9	Box 16
Box 10	Box 17	Box 10	Box 17
Box 11	Box 18	Box 11	Box 18
Box 12	Box 20	Box 12	Box 20
Box 13	Box 7	Box 13	Box 7
Box 14	Box 8	Box 14	Box 8
Box 15	Box 11	Box 15	Box 9
Box 16	Box 9	Box 16	Box 11
Box 17	Box 21	Box 17	Box 21
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Box 19	Box 12	Box 20a	Box 24
Box 20	Box 19	Box 20b	Box 10
Box 21	Box 24	Box 21	Box 12
Box 22	Box 24	Box 22	Box 19
Box 23	Box 23	Box 23	Box 26
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		Box 26	Box 25

Box numbers on the verso of both forms are unchanged.