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REGULATION (EEC) No 2311/69 OF THE COMMISSION

of 19 November 1969

on the procedure for operating the flat-rate guarantee system provided for in Article 32
of Regulation (EEC) No 542/69 on Community transit

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community;

Having regard to Council Regulation (EEC) No 542/69¹ of 18 March 1969 on Community transit, and in particular Article 32 (2) thereof;

Whereas Regulation (EEC) No 542/69 provides for a flat-rate guarantee system under which, irrespective of the principal, the guarantor by a single contract guarantees payment up to the amount of 5000 units of account of any duties or other charges which may become payable in respect of any Community transit operation carried out under the guarantee;

Whereas under Article 32 (2) the following are to be determined:

- the model form of guarantee for use under the flat-rate guarantee system;
- what carriage of goods may give rise to an increase in the flat-rate amount of 5000 units of account, and the conditions under which such an increase shall apply;
- the conditions under which it will be established that the flat-rate guarantee shall apply to any particular Community transit operation;

Whereas the standard form of guarantee should be based upon the specimens contained in Annex F to Regulation (EEC) No 542/69, incorporating such changes as may be necessary to take into account that the guarantee is for a flat-rate amount, that a number of principals will avail themselves of it and that their identity will be unknown at the time the guarantee is executed;

Whereas, in order to reduce as much as possible the cost of the guarantee, the classes of goods for which the flat-rate amount may be increased should be limited to those which are subject to high consumer taxes in one or more Member States;

Whereas, in order to prevent abuse, provision should be made for the office of departure exceptionally to increase the flat-rate amount where, because of circumstances peculiar to the carriage of the goods, there are increased risks;

Whereas in order that the guarantor be liable in respect of specific Community transit operations, provision should be made for the issue by the guarantor of guarantee vouchers, drawn up in the name of a principal, which must be handed to the office of departure when a Community transit declaration is lodged;

Whereas the provisions of this Regulation are in accordance with the Opinion of the Committee on Community Transit;

HAS ADOPTED THIS REGULATION:

Article 1

1. When a natural or legal person proposes to stand surety upon the conditions referred to in Articles 27 and 28 and on the terms laid down in Article 32 (1) of Regulation (EEC) No 542/69 on Community transit, the contract of guarantee shall be in the form of the model appearing in Annex I.

2. Where national law, regulation, administrative practice or accepted usage so requires, each Member State may impose the use of a different form of guarantee provided it has the same legal effect.

Article 2

1. The acceptance of the guarantee referred to in Article 1 by the customs office where it is drawn up

¹ OJ No L 77, 29.3.1969, p. 1.

('the office of guarantee') shall be the guarantor's authority to issue, under the terms of the guarantee, flat-rate guarantee vouchers to persons intending to act as principal in a Community transit operation from an office of departure of their choice. The termination of a contract of guarantee shall be notified forthwith to the other Member States by the Member State in which the office of guarantee is located.

2. The guarantor shall be liable up to an amount of 5000 units of account in respect of each flat-rate guarantee voucher.

3. Each flat-rate guarantee voucher shall conform to the model contained in Annex II and shall be in one of the official languages of the Community.

4. White paper shall be used, free of mechanical pulp, dressed for writing purposes and weighing between 55 and 65 g/m². It shall have a printed guilloche pattern background in red such as to reveal any falsification by mechanical or chemical means.

The size of the form shall be 105 × 148 millimetres.

5. Without prejudice to Article 3, the principal may effect one Community transit operation under each flat-rate guarantee voucher. The voucher shall be delivered to the office of departure and shall be retained by it.

Article 3

1. Save in the cases referred to in paragraphs 2 and 3 the office of departure shall not require a guarantee in excess of the flat-rate amount of 5000 units of account per Community transit declaration whatever the amount of the duties and other charges which may attach to the goods comprised in a particular declaration.

2. Where, because of circumstances peculiar to the carriage of the goods, carriage thereof involves increased risks and the office of departure therefore considers that the guarantee of 5000 units of account is clearly insufficient, it may exceptionally require a guarantee of greater amount in multiples of 5000 units of account.

3. Transport of goods shown in the list appearing in Annex III shall give rise to an increase in the amount of the flat-rate guarantee where the quantity of goods transported exceeds the quantity corresponding to the flat-rate amount of 5000 units of account.

In that case, the flat-rate amount shall be increased to the multiple of 5000 units of account necessary to guarantee the quantity of goods to be dispatched.

4. In the cases referred to in paragraphs 2 and 3 the principal shall deliver to the office of departure flat-rate guarantee vouchers corresponding to the required multiple of 5000 units of account.

Article 4

1. Where the Community transit declaration includes other goods besides those shown in the list referred to in Article 3 (3), the provisions of this Regulation shall be applied as if the two classes of goods were comprised in separate declarations.

2. By way of derogation from the provisions of paragraph 1, account shall not be taken of the presence of goods of either class if the quantity or value thereof is relatively unimportant.

Article 5

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Communities*.

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

Done at Brussels, 19 November 1969.

For the Commission

The President

Jean REY

ANNEX I

MODEL FORM

C.E. (E.C.) E.G.

COMMUNITY TRANSIT GUARANTEE

(Flat-Rate Guarantee System)

I. Undertaking by the Guarantor

1. The undersigned¹
resident at²
hereby jointly and severally guarantees, at the office of guarantee of

in favour of the Kingdom of Belgium, the Federal Republic of Germany, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg and the Kingdom of the Netherlands any amounts for which a principal may become liable to the above-mentioned Member States of the European Communities by reason of infringements or irregularities committed in the course of a Community transit operation including duties, taxes, agricultural levies and other charges—with the exception of pecuniary penalties—as regards principal or further liabilities, expenses and incidental charges with regard to which the undersigned has agreed to be responsible by the issue of guarantee vouchers up to a maximum amount of 5000 units of account per voucher.

2. The undersigned undertakes to pay forthwith, upon the first application in writing by the competent authorities of the Member States, the sums requested up to an amount of 5000 units of account per guarantee voucher.
3. This undertaking shall be valid from the day of its acceptance by the office of guarantee. This guarantee may be cancelled at any time by the undersigned, or by the Member State in the territory of which the office of guarantee is situated.
The cancellation shall take effect on the sixteenth day after notification thereof to the other party.
The undersigned shall remain responsible for payment of the sums which become payable in respect of Community transit operations covered by this undertaking which began before the date on which the cancellation took effect, even if the demand for payment is made after that date.

- 4.³ For the purposes of this undertaking, the undersigned gives his address for service as²
and, in each of the other Member States, as care of

¹ Surname and forenames, or name of firm.

² Full address.

³ If, in the law of a Member State, there is no provision for giving addresses for service the guarantor shall appoint, in each of the Member States referred to in paragraph 1, an agent authorised to receive any communications addressed to him. The courts of the places in which the addresses for service of the guarantor or of his agents are situated shall have jurisdiction in disputes concerning this guarantee. The acknowledgement in the second subparagraph and the undertaking in the fourth subparagraph of paragraph 4 must be made to correspond.

Member State	Surname and forenames or name of firm and full address
1.....
2.....
3.....
4.....
5.....

The undersigned acknowledges that all correspondence and notices and any formalities or procedures relating to this undertaking addressed to or effected in writing at one of his addresses for service shall be accepted as duly delivered to him.

The undersigned acknowledges the jurisdiction of the courts of the places where he has an address for service.

The undersigned undertakes to maintain his addresses for service, or, if he has to alter one or more of those addresses, to inform the office of guarantee in advance.

Done at on

.....
Signature¹

II. Acceptance by the office of guarantee

Office of Guarantee

Guarantor's undertaking accepted on the

.....
Stamp and signature

¹ The signature must be preceded by the following in the signatory's own handwriting: 'Guarantee for the amount of', the full amount being entered in words.

ANNEX II

FRONT

COMMUNITY TRANSIT	C.E.	E.G.	A 000000
(E.C.)			
FLAT-RATE GUARANTEE VOUCHER			
Issued by			
(name and address of individual or firm)			
(Undertaking of the Guarantor accepted on			
by the Office of Guarantee of)			
This voucher is valid for an amount of up to 5000 UNITS OF ACCOUNT for one Community			
transit operation			
beginning not later than			
and in respect of which the principal is			
(name and address of individual or firm)			
..... Signature of principal ¹	 Signature and stamp of guarantor	
¹ Signature optional.			
Name and address of printer.			

BACK

To be completed by the office of departure	
Community transit operation effected under T1/T2 Document registered	
on	under No
by the Office at	
..... Stamp Signature

ANNEX III

CCT heading No	Description of goods	Quantity corresponding to the standard amount of 5000 u.a.
09.01 A I	Coffee not roasted	5 000 kg
09.01 A II	Coffee roasted	3 500 kg
ex 21.02 A	Coffee extract and essence	1 200 kg
09.02	Tea	3 500 kg
ex 21.02 B	Tea extract and essence	1 200 kg
22.05 A	Alcoholic beverages other than non-sparkling wines	20 hl
22.06		
ex 22.09		
ex 22.08	Ethylic alcohol not denatured	10 hl
ex 22.09		
24.02 A	Cigarettes	250 000 pieces
ex 24.02 B	Cigarillos	250 000 pieces
ex 24.02 B	Cigars	100 000 pieces
24.02 C	Smoking tobacco	1 250 kg
ex 27.10	Petrol, gas-oil	400 hl
ex 33.06 B	Perfumes and toilet water	10 hl