Commission Regulation (EC) No 1568/2007 of 21 December 2007 amending Regulation (EC) No 951/2006 in respect of export refunds to certain sugars used in certain products processed from fruit and vegetables

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THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 318/2006 of 20 February 2006 on the common organisation of the markets in the sugar sector[(1)], in particular point (g) of Article 40(1) thereof,

Whereas:

(1) Council Regulation (EC) No 1182/2007 of 26 September 2007 laying down specific rules as regards the fruit and vegetable sector, amending Directives 2001/112/EC and 2001/113/EC and Regulations (EEC) No 827/68, (EC) No 2200/96, (EC) No 2201/96, (EC) No 2826/2000, (EC) No 1782/2003 and (EC) No 318/2006 and repealing Regulation (EC) No 2202/96[(2)] introduced a reform in the processed fruit and vegetables sector. Following that reform, export refund can no longer be granted under Regulation (EC) No 1182/2007 or Council Regulation (EC) No 2201/96 of 28 October 1996 on the common organization of the markets in processed fruit and vegetable products[(3)] for the sugar used for the manufacture of certain products processed from fruit and vegetables. In turn, Article 53 of Regulation (EC) No 1182/2007 amended Regulation (EC) No 318/2006 in order to make eligible for refund under that Regulation certain sugar products contained in processed fruit and vegetables, listed previously in Regulation (EC) No 2201/96.

(2) The reference prices for white sugar are laid down by Article 3(1) of Regulation (EC) No 318/2006. In accordance with that provision the white sugar reference price will be reduced as from the marketing year 2008/2009. Community producers of certain products processed from fruit and vegetables with significant added sugar content would therefore face competitive disadvantage on their export markets as they are to continue to pay a sugar price above the world price without being eligible for export refunds. In order to maintain the competitiveness of such Community producers on the export markets, it is, therefore, justified to allow for the granting of export refund for the sugar that they use for their production.

(3) The detailed rules for the granting of export refund in respect of the sugar products concerned contained in certain processed fruit and vegetables, falling under the scope of Article 1(2)(b) of Regulation (EC) No 2201/96, are laid down in Commission Regulation (EC) No 2315/95 of 29 September 1995 laying down detailed rules for the

application of export refunds to certain sugars covered by the common organization of the market in sugar used in certain products processed from fruit and vegetables[4]. Due to the amendments under the reform of the processed fruit and vegetables sector, it is appropriate to transfer those provisions to Commission Regulation (EC) No 951/2006 of 30 June 2006 laying down detailed rules for the implementation of Council Regulation (EC) No 318/2006 as regards trade with third countries in the sugar sector[5].

(4) In the light of the provisions of Agreement between the European Community and the Swiss Confederation of 22 July 1972 and in order to avoid the imposition of unnecessary costs on operators, Commission Regulation (EC) No 389/2005[6] laid down derogations from Article 18(6) of Regulation (EC) No 2201/96 and Article 16 of Commission Regulation (EC) No 800/1999[7] regarding the export to third countries other than Switzerland and Liechtenstein of certain products processed from fruit and vegetables. Article 18(6) of Regulation (EC) No 2201/96 was deleted by Article 48(2) of Regulation (EC) No 1182/2007. However, a derogation from Article 16 of Regulation (EC) No 800/1999, in so far as it requires proof of import in the case of differentiated refunds, should continue to apply. It is also appropriate, where no export refunds have been fixed for Switzerland and Liechtenstein, not to take account of that fact when the lowest rate of refund is determined. For the sake of legal clarity it is appropriate to transfer that derogation to Regulation (EC) No 951/2006.

(5) It is therefore necessary to amend Regulation (EC) No 951/2006 accordingly and to repeal Regulations (EC) No 2315/95 and (EC) No 389/2005.

(6) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Sugar.

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 951/2006 is amended as follows:

1. In Chapter II the following Articles 4a and 4b are added:

Article 4a

Export refund for certain sugars used in certain products processed from fruit and vegetables

1 In accordance with Article 32 of Regulation (EC) No 318/2006, an export refund may be granted in respect of white sugar and raw sugar falling within CN code 1701, isoglucose falling within CN codes 1702 40 10, 1702 60 10 and 1702 90 30 and beet syrup and cane syrup falling within CN code 1702 90 95 used for the manufacture of the products of the processed fruit and vegetables sector referred to in Annex VIII to Regulation (EC) No 318/2006.

2 The amount of the refund shall equal the amount of the periodic export refund as fixed on the sugar products referred to in paragraph 1 exported without further processing.

3 In order to benefit from the refund, processed products shall be accompanied, upon export, by a declaration from the applicant stating the quantities of raw and white sugar and beet and cane syrups and isoglucose used for the manufacture.

Member States shall check the accuracy of the declaration on a sample of at least 5 % selected on the basis of a risk analysis. Such checks shall be carried out on the stock records kept by the manufacturer.

4 The refund shall be paid upon submission of proof that:

a the products have been exported from the Community, and

b in the case of a differentiated refund, the products have reached the destination indicated on the licence or another destination for which the refund was fixed.

Article 4b

Derogations from Regulation (EC) No 800/1999

1 By way of derogation from Article 16 of Regulation (EC) No 800/1999, where the differentiation of the refund is the result solely of a refund not having been fixed for Switzerland or Liechtenstein, proof that the customs import formalities have been completed shall not be a condition for payment of the refund in respect of the sugar products referred to in Article 4*a*(1) used for the manufacture of the products processed from fruit and vegetables referred to in Annex VIII to Regulation (EC) No 318/2006 and listed in Tables I and II to Protocol 2 to the Agreement between the European Community and the Swiss Confederation of 22 July 1972.

2 The fact that no export refund has been fixed in respect of the export to Switzerland or Liechtenstein of the sugar products referred to in Article 4*a*(1) used for the manufacture of the products processed from fruit and vegetables referred to in Annex VIII to Regulation (EC) No 318/2006 and listed in Tables I and II to Protocol 2 to the Agreement between the European Community and the Swiss Confederation of 22 July 1972, shall not be taken into account in determining the lowest rate of refund within the meaning of Article 18(2) of Regulation (EC) No 800/1999.

2. Article 5(1) is replaced by the following:

1. All exports of products listed in Article 1(1) of Regulation (EC) No 318/2006, except those under point (h) of that Article, as well as exports with refund of the products referred to in Annex VIII to that Regulation shall require the issuing of an export licence.

3. In Article 6 the following paragraph 2*a* is inserted:

2a. As regards the refund to be granted pursuant to Article 4*a*, Section 20 of the licence application and of the licence shall contain one of the entries listed in Part E of the Annex.

4. In Article 8 the following paragraph is added:

4. Export licences for the export with refund of the products referred to in Annex VIII to Regulation (EC) No 318/2006 shall be valid from the actual day of issue until the end of the third month following that of issue.

5. In Article 12 the following paragraph is added: