Commission Regulation (EC) No 436/2007 of 20 April 2007 on proof of completion of customs formalities for the import of sugar into third countries as provided for in Article 16 of Regulation (EC) No 800/1999

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THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 800/1999 of 15 April 1999 laying down common detailed rules for the application of the system of export refunds on agricultural products[(1)], and in particular Article 16(4) thereof,

Whereas:

(1) Article 33(2) of Council Regulation (EC) No 318/2006 of 20 February 2006 on the common organisation of the markets in the sugar sector[(2)] provides that export refunds in the sugar sector may vary according to destination, where the world market situation or the specific requirements of certain markets make this necessary.

(2) Article 1 of Commission Regulation (EC) No 958/2006 of 28 June 2006 on a standing invitation to tender to determine refunds on exports of white sugar for the 2006/07 marketing year[(3)] provides for such differentiation by excluding certain destinations.

(3) Article 14(1) of Regulation (EC) No 800/1999 provides that where the rate of refund varies according to destination, refunds are to be paid subject to the additional conditions laid down under Articles 15 and 16 of that Regulation.

(4) Article 15(1) of Regulation (EC) No 800/1999 provides that the products must have been imported in their unaltered state into the third country or one of the third countries for which the refund applies.

(5) Article 16 of Regulation (EC) No 800/1999 lists the various documents that may constitute proof of the completion of customs formalities in a third country where the refund rate is differentiated according to destination. Under that Article the Commission may decide, in certain specific cases to be determined, that the proof referred to in that Article may be deemed to be furnished by a specific document or in any other way.

(6) In the sugar sector export operations are normally governed by contracts defined as fob on the London futures market. As a result, purchasers accept at that fob stage all the contractual obligations, including proof of completion of customs formalities, without being the direct beneficiaries of the refund to which that proof confers the right. Obtaining that proof for all quantities exported may entail considerable administrative

difficulties in certain countries, which may substantially delay or prevent payment of the refund for all the quantities actually exported.

(7) In order to limit the impact on the equilibrium of the sugar market, Commission Regulation (EC) No 2255/2004 of 27 December 2004 on proof of completion of customs formalities for the import of sugar into third countries as provided for in Article 16 of Regulation (EC) No 800/1999[(4)] defined the alternative proofs offering guarantees enabling the product to be deemed to have been imported into a third country.

(8) Since the administrative difficulties and their impact on the market still persist after the deadline of 31 December 2006, when Regulation (EC) No 2255/2004 ceased to apply, the alternative proofs of destination should be defined again for exports effected from 1 January 2007 and consequently this Regulation should apply retroactively.

(9) This being a derogation, its period of application should be restricted.

(10) 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

In the case of exports effected in accordance with Article 32 of Regulation (EC) No 318/2006, products shall be deemed to have been imported into a third country on presentation of the following three documents:

(a) a copy of the transport document;

(b) a declaration that the product has been unloaded, drawn up by an official authority of the third country in question, by the official authorities of a Member State established in the country of destination, or by an international supervisory agency approved under Articles 16a to 16f of Regulation (EC) No 800/1999, certifying that the product has left the unloading site or at least that, to the knowledge of the authority or agency issuing the declaration, the product has not subsequently been reloaded with a view to being re-exported;

(c) a bank document issued by approved intermediaries established in the Community certifying that payment corresponding to the export in question has been credited to the account of the exporter opened with them, or proof of payment.

Article 2

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

It shall apply from 1 January 2007 to 31 December 2007.

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