Commission Regulation (EC) No 164/2009 of 26 February 2009 amending Regulation (EC) No 951/2006 in respect of proofs of arrival at destination for out-of-quota exports in the sugar sector

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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 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation)[(1)], and in particular Article 192(2) in conjunction with Article 4 thereof,

Whereas:

(1) 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[(2)] also lays down detailed rules for out-of-quota exports in the sugar sector.

(2) In order to minimise the risk of fraud and to prevent any abuse associated with the reimport or reintroduction into the Community of out-of-quota sugar or isoglucose, Commission Regulation (EC) No 924/2008 of 19 September 2008 fixing the quantitative limit for the exports of out-of-quota sugar and isoglucose until the end of the 2008/09 marketing year[(3)] excludes certain close destinations from the eligible destinations.

(3) Article 4c of Regulation (EC) No 951/2006 mentions the documents that can be presented as proofs of arrival at destination in the case where certain destinations are excluded from exports of out-of-quota sugar and/or isoglucose. However, that Article does not permit the acceptance of customs documents referred to in Article 16(1) of 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[(4)], or a certificate of unloading which should be the principle documents to be submitted as proofs for importation into a third country. The documents listed in Article 4c of Regulation (EC) No 951/2006 should be accepted only where exporters cannot obtain the standard customs documents referred to in Article 16(1) of Regulation (EC) No 800/1999.

(4) Sugar exports for humanitarian aid purposes continue to be an important trade activity for some Community sugar exporters. It is often the case with such exports that the standard customs documents cannot be obtained and the documents referred to

in Article 4c of Regulation (EC) No 951/2006 are difficult to be provided. It is therefore necessary to permit a statement of acceptance of delivery issued by an approved international organisation or a humanitarian organisation be accepted as a proof of arrival at destination in accordance with Article 16(2)(f) of Regulation (EC) No 800/1999.

(5) The communication of Member States on issued export licences as requested by Article 17 of Regulation (EC) No 951/2006 should also include the quantities of quota sugar and/or isoglucose exported without refund.

(6) Quantities of sugar imported under the inward processing arrangements should be monitored closely. Therefore, the communication of Member States on the relevant quantities should take place on a monthly basis.

(7) Regulation (EC) No 951/2006 should therefore be amended accordingly.

(8) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

Article 1

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

1. Article 4c is replaced by the following:

Article 4c

Proofs of arrival at destination

1 If certain destinations are not eligible for exports of out-of-quota sugar and/or isoglucose, proof that customs formalities for importation into eligible destinations have been completed shall be furnished by presenting one of the documents referred to in Article 16(1) of Regulation (EC) No 800/1999.

2 Where the exporter cannot obtain the documents referred to in paragraph 1 of this Article even after taking the appropriate steps, products shall be deemed to have been imported into a third country on the 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.