COMMISSION REGULATION (EC) No 231/2009

of 19 March 2009

derogating from Regulation (EC) No 800/1999 as regards the determination of the refund rate for sugar in the case of supplies referred to in Articles 36 and 44 of that Regulation and carried out from 1 to 25 September 2008

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 167(7) in conjunction with Article 4 thereof,

Whereas:

(1) As from 26 September 2008, in accordance with Commission Regulation (EC) No 947/2008 of 25 September 2008 suspending the export refunds on white and raw sugar exported without further processing [2], export refund is no longer available for sugar, including sugar supplied in accordance with Articles 36 and 44 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 [3].

(2) In accordance with Article 37 of Regulation (EC) No 800/1999, Member States may authorise exporters to use, for products loaded each month, the last day of the month to determine the rate of refund applicable to supplies referred to in Articles 36 and 44 of that Regulation. It is therefore not possible to determine the rate of refund applicable to supplies of sugar products carried out under that procedure from 1 to 25 September 2008.

(3) Entitlement to the refund on supplies carried out under the procedure provided for in Article 37 of Regulation (EC) No 800/1999, before the date of the entry into force of Regulation (EC) No 947/2008, should not be affected. In order to determine that refund, it is therefore necessary to set the date to be used for that purpose, by way of derogation from Article 37(2) of Regulation (EC) No 800/1999.

(4) 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

By way of derogation from Article 37(2) of Regulation (EC) No 800/1999, the date 25 September 2008 shall be used to determine the rate of refund applicable to sugar supplied in accordance with Article 36(1)(a) and (c) and Article 44(1)(a) and (b) of that Regulation during the period from 1 to 25 September 2008.

Article 2

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

It shall apply from 1 September 2008.

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

Done at Brussels, 19 March 2009.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

[1] OJ L 299, 16.11.2007, p. 1.
[2] OJ L 258, 26.9.2008, p. 60.
[3] OJ L 102, 17.4.1999, p. 11.