COMMISSION REGULATION (EEC) No 439/87

of 12 February 1987

amending for the 14th time Regulation (EEC) No 1371/84 laying down detailed rules for the application of the additional levy referred to in Article 5c of Council Regulation (EEC) No 804/68

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organization of the market in milk and milk products (1), as last amended by Regulation (EEC) No 231/87 (2), and in particular Article 5c (7) thereof,

Having regard to Council Regulation (EEC) No 857/84 of 31 March 1984 adopting general rules for the application of the levy referred to in Article 5c of Regulation (EEC) No 804/68 in the milk and milk products sector (3), as last amended by Regulation (EEC) No 2316/86 (4), and in particular Article 6 (1) thereof,

Whereas Commission Regulation (EEC) No 1371/84 (5), as last amended by Regulation (EEC) No 2969/86 (6), set detailed rules for the application of the additional levy specified in Article 5c of Regulation (EEC) No 804/68 ;

Whereas the third subparagraph of Article 4 (1) of Regulation (EEC) No 1371/84 specifies that in the case of Spain the date set for submission of the application for registration dealing with the products and quantities of these products sold by direct sale during the reference calendar year may not be later than 31 December 1986 ; whereas in view of difficulties that have arisen over the introduction of national measures for implementing the additional levy arrangement this date should be deferred by three months ;

Whereas Article 9 of Regulation (EEC) No 1371/84 stipulates that the characteristics of milk considered to be representative shall be those of the milk delivered or purchased during the second period of applicaiton of the additional levy arrangement ; whereas in the light of experience it should be specified that where producers or purchasers have exceeded the permitted fat level in deliveries or purchases of milk made during the second period the calendar year 1983 is to be used as reference year ; whereas provision should also be made for the cases of producers or purchasers who commenced the delivery or purchase of milk for the first time after the beginning of the second period or whose deliveries or purchases of milk were interrupted during that period ; whereas provision should also be made for cases where the quantity of milk used as basis for calculation of the levy is expressed in litres ; whereas in addition in certain cases the provisions of Article 9 (3) of the abovementioned Regulaiton should be relaxed ;

Whereas the Management Committee for Milk and Milk Products has not delivered an opinion within the time limit laid down by its chairman,

HAS ADOPTED THIS REGULATION :

Article 1

Regulation (EEC) No 1371/84 is amended as follows :

1. In the third subparagraph of Article 4 (1) '31 December 1986' is replaced by '31 March 1987'.

2. Article 9 is amended as follows :

   (a) The second subparagraph of paragraph I shall read :

   'However,

   — in the case of producers or purchasers for whom, as regards the period mentioned in the first subparagraph, the quantity of milk serving as a basis for the calculation of the levy has been increased as a result of an increase in the fat content of the milk delivered or purchased, the fat content of the milk delivered or purchased that is to be considered as representative shall be the average content recorded for the 1983 calendar year,

   — in the case of producers or purchasers whose deliveries or purchases of milk were interrupted during the period referred to in the first subparagraph, the Member State may decide, on a request from the party concerned and without prejudice to the application of the provisions of the first indent, that the fat content considered as representative is to be the average content recorded during the twelve months prior to the interruption in question,

(1) OJ No L 148, 28. 6. 1968, p. 13.
(2) OJ No L 25, 28. 1. 1987, p. 3.
(3) OJ No L 90, 1. 4. 1984, p. 13.
(4) OJ No L 202, 25. 7. 1986, p. 3.
(5) OJ No L 132, 18. 5. 1984, p. 11.
(6) OJ No L 276, 27. 9. 1986, p. 28.

— in the case of producers or purchasers who commence delivery or purchase of milk for the first time after the beginning of the second period of the additional levy arrangement the fat content of the milk delivered or purchased that is to be considered as representative shall be the average content recorded for the first twelve months of their operations.'

(b) The following subparagraph is added to paragraph 2:

'In cases where the quantity of milk serving as basis for calculation of the levy is expressed in litres the increase of 0,26 % for each 0,1 gram of additional fat shall be multiplied by the coefficient 0,971.'

(c) In paragraph 3

— the words 'the reference period referred to in Article 2 of Regulation (EEC) No 857/84' are replaced by 'the calendar year 1983';

— the following subparagraph is added:

'However if the sum of the quantities of milk delivered or purchased by a producer or purchaser during these two six-month periods, increased by applying the provisions of the first subparagraph, is greater than the quantity that would be given by applying paragraph 2 to the whole of the third period the Member State may decide that in this case the provisions of paragraph 2 shall apply with effect from 1 April 1986.'.

Article 2

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

However, the provisions of the second subparagraph of Article 9 (3) of Regulation (EEC) No 1371/84 may be applied with effect from 1 April 1986 at the request of the party concerned.

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

Done at Brussels, 12 February 1987.

For the Commission

Frans ANDRIESSEN

Vice-President