COMMISSION REGULATION (EC) No 3049/93

of 4 November 1993

amending Regulation (EEC) No 570/88 on the sale of butter at reduced prices and the granting of aid for butter and concentrated butter for use in the manufacture of pastry products, ice cream and other foodstuffs

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European 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 2071/92 [2], and in particular Articles 6 (7), 12 (3) and 28 thereof,

Whereas, following the amendments made by Commission Regulation (EEC) No 1813/93 [3] to Regulation (EEC) No 570/88 [4], as last amended by Regulation (EEC) No 2443/93 [5], divergences have been found in certain Member States in the interpretation of the term 'intermediate products'; whereas in order to remedy this situation and to avoid any discrimination between Community operators, criteria should be laid down to permit objectively and transparency in the identification of those products; whereas, furthermore, for technical and commercial reasons, products other than products falling within codes 0401 to 0406 of the Combined Nomenclature, with the exception of CN codes 0402 21 19 and 0402 21 99, should be considered to be 'intermediate products' and Annex IX to Regulation (EEC) No 570/88 should be amended to include as intermediate products products falling within CN code 1704 90 30;

Whereas, notwithstanding the general rules, Article 21 (4) of Regulation (EEC) No 570/88, for imperative and duly justified commercial reasons, provides for the possibility of a change in the intended use between formula A/C/D and formula B; whereas that derogation must be strictly interpreted and applied where the minimum selling prices or where appropriate, the maximum levels of aid are different for formula A/C/D and formula B; whereas such a strict application is unnecessary where the minimum selling prices or, where appropriate, the maximum levels of aid are identical for the two formulae; whereas, therefore, a change in the intended use may be authorized at the request of the operator;

Whereas, pursuant to Article 9 of Regulation (EEC) No 570/88, intermediate products and processing establishments must receive prior approval from 1 August 1993; whereas, for administrative reasons and for reasons of judicial security, approval given before 1 August should be considered valid until the approval procedure is completed and at the latest until 30 November 1993;

Whereas the Management Committee for Milk and Milk Products has not issued an opinion in the time limit laid down by its Chairman,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 570/88 is hereby amended as follows:

1. The following sentence is added to Article 9 (1) (a):

   'However, approval for intermediate products approved before 1 August 1993 shall be valid until the competent authority has completed its examination of the application and at the latest until 30 November 1993.'

2. In Article 9a, the terms 'falling within CN codes 0401 and 0405' are replaced by the terms 'falling within CN codes 0401, 0402 (with the exception of CN codes 0402 21 19 and 0402 21 99), 0403, 0404, 0405 and 0406'.

3. The following subparagraph is added to Article 21 (4):

   'However, where the minimum selling price or, where appropriate, the maximum level of aid referred to in Article 18 (1) are identical for formula A/C/D and formula B, the competent authority may authorize, under its supervision and in compliance with the provisions of this Regulation, a change in the intended use between the two formulae at the request of the tenderer.'

4. In point 1 of Annex IX, the terms 'falling within CN code 1806' are replaced by the terms 'falling within CN codes 1704 90 30 and 1806'.

Article 2

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

[1] OJ No L 148, 28. 6. 1968, p. 13.
[2] OJ No L 215, 30. 7. 1992, p. 64.
[3] OJ No L 166, 8. 7. 1993, p. 16.
[4] OJ No L 55, 1. 3. 1988, p. 31.
[5] OJ No L 224, 3. 9. 1993, p. 8.

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

Done at Brussels, 4 November 1993.

For the Commission
René STEICHEN
Member of the Commission