COMMISSION REGULATION (EC) No 966/2009

of 15 October 2009

amending Regulation (EC) No 657/2008 laying down rules for applying Council Regulation (EC) No 1234/2007 as regards Community aid for supplying milk and certain milk products to pupils in educational establishments

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 102 in conjunction with Article 4 thereof,

Whereas:

(1) Experience has shown that certain products currently listed in Annex I to Commission Regulation (EC) No 657/2008 [2] are not available on the market in several Member States.

(2) In order to ensure that a wider range of products eligible for aid can be used in Member States, the product list should be extended. As the extension of the products eligible does not entail a change in the parameters for setting out the aid rate, the aid rate for products in Category II should remain unchanged.

(3) Experience has further shown that the definitions of cheese and sweeteners are not comprehensive; therefore those definitions should be changed.

(4) Regulation (EC) No 657/2008 should therefore be amended accordingly.

(5) The Management Committee for the Common Organisation of Agricultural Markets has not delivered an opinion within the time limit set by its Chairman,

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EC) No 657/2008 is replaced by the text in the Annex to this Regulation.

Article 2

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

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

Done at Brussels, 15 October 2009.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

[1] OJ L 299, 16.11.2007, p. 1.
[2] OJ L 183, 11.7.2008, p. 17.

ANNEX

'ANNEX I

LIST OF PRODUCTS ELIGIBLE FOR COMMUNITY AID

Category I

(a) heat-treated milk (1);

(b) heat-treated milk with chocolate, fruit juice (2) or flavoured, containing at least 90 % by weight of the milk indicated in point (a) and containing maximum 7 % of added sugar (3) and/or honey;

(c) fermented milk products with or without fruit juice (2), flavoured or non-flavoured, containing at least 90 % by weight of the milk indicated in point (a) and containing maximum 7 % of added sugar (3) and/or honey.

Category II

Flavoured and non-flavoured milk products with fruit (4), fermented or not, containing at least 75 % by weight of the milk indicated in Category I point (a) and containing maximum 7 % of added sugar (5) and/or honey.

Category III

Fresh and processed cheeses, containing maximum 10 % of non-lactic ingredients (6).

Category IV

Grana Padano cheese and Parmigiano Reggiano cheese.

Category V

Cheeses, containing maximum 10 % of non-lactic ingredients, and not falling under categories III and IV (6).

(1) Including lactose free milk drink.
(2) Fruit juice shall be applied in accordance with Council Directive 2001/112/EC of 20 December 2001 relating to fruit juices and certain similar products intended for human consumption.
(3) For the purpose of this category, sugar shall mean the items listed under CN codes 1701 and 1702. In the products covered by this category, sweeteners shall be used in accordance with European Parliament and Council Directive 94/35/EC of 30 June 1994 on sweeteners for use in foodstuffs.
(4) For the purpose of this category, the milk products with fruit shall always contain fruit, fruit pulp, fruit purée or fruit juice. For the purpose of this category fruit shall mean the items listed under Chapter 8 of the Combined Nomenclature. Fruit juice, fruit pulp and fruit purée shall be applied in accordance with Council Directive 2001/112/EC of 20 December 2001 relating to fruit juices and certain similar products intended for human consumption.
(5) For the purpose of this category, sugar shall mean the items listed under CN codes 1701 and 1702. The sugar added to the fruit shall be included in the maximum 7 % added sugar. In the products covered by this category, sweeteners shall be used in accordance with European Parliament and Council Directive 94/35/EC of 30 June 1994 on sweeteners for use in foodstuffs.
(6) The products covered by this category shall be in conformity with the requirements laid down in point II of Annex XII to Regulation (EC) No 1234/2007.'