Commission Regulation (EC) No 1171/2007 of 5 October 2007 amending Regulation (EC) No 2771/1999 laying down detailed rules for the application of Council Regulation (EC) No 1255/1999 as regards intervention on the market in butter and cream

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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 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products[(1)] and in particular Article 10 thereof,

Whereas:

(1) Section 5 of Chapter II of Commission Regulation (EC) No 2771/1999[(2)] lays down the procedure for the sale of intervention butter by tendering. Article 24 provides that the primary requirements for the tendering security are fulfilled by taking over of the butter within the time limit laid down in Article 24f(2). Article 24f(3) refers to the removal of butter in connection with the forfeiture of the security.

(2) The provisions concerning the release or forfeiture of the security have to be clarified in the light of the experience gained. In particular it needs to be made clear that the security should not be forfeited in cases where the tender amount has been paid. Furthermore, provision should be made for the retroactive application of such rule in order to, in cases of doubt, allow operators to benefit from revised rules.

(3) Regulation (EC) No 2771/1999 should therefore be amended accordingly.

(4) The measures provided for in this Regulation are in accordance with the opinion of the Milk and milk Products Management Committee,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 2771/1999 is amended as follows:

1. Article 24 is replaced by the following:

Article 24

For the purposes of the tendering security provided for in Article 23(3)(b), the primary requirements within the meaning of Article 20 of Regulation (EEC) No 2220/85 shall be that tenders are maintained after the time limit referred to in Article 22(2) of this Regulation and that the price is paid within the deadline laid down in Article 24f(2) of this Regulation.

2. In Article 24e the following paragraph is added:

3. Except in cases of *force majeure*, if the successful tenderer has not complied with the requirement provided for in paragraph 2 of this Article the tendering security referred to in Article 23(3)(b) shall be forfeited and the sale of the quantities involved shall be cancelled.

3. In Article 24f(3), the second subparagraph is deleted.

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, upon request by the operators concerned, to securities which have not yet been definitively forfeited.

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

Done at Brussels, 5 October 2007.

For the Commission

Mariann FISCHER BOEL

Member of the Commission