COMMISSION REGULATION (EC) No 1392/2003

of 4 August 2003

amending Regulation (EC) No 174/1999 laying down special detailed rules for the application of Council Regulation (EEC) No 804/68 as regards export licences and export refunds in the case of milk and milk products

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], as last amended by Regulation (EC) No 806/2003 [2], and in particular Article 31(14) thereof,

Whereas:

(1) Article 21 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], as last amended by Regulation (EC) No 500/2003 [4], states that no refund is to be granted on products that are not of sound and fair marketable quality on the day of acceptance of the export declaration. To ensure that this rule is uniformly applied it should be stipulated in Commission Regulation (EC) No 174/1999 [5], as last amended by Regulation (EC) No 833/2003 [6], that for a refund to be granted on the products that are indicated in Article 1 of Council Directive 92/46/EEC of 16 June 1992 laying down the health rules for the production and placing on the market of raw milk, heat-treated milk and milk-based products [7], as last amended by Directive 94/71/EC [8], and appear in Article 1 of Regulation (EC) No 1255/1999 they must be prepared in line with the requirements of that Directive and carry the health mark required by it.

(2) To prevent rerouting of trade in order to evade compliance with this new rule it should be stipulated that products indicated in Article 1 of Regulation (EC) No 1255/1999 that are to be used as animal feed must also, if a refund is claimed for them, have been prepared in line with the requirements of Directive 92/46/EEC and carry the health mark required by it.

(3) To give time for the action that will need to be taken so that products to be exported bear the health mark and allow existing stocks to be exported and packaging not bearing the mark to be used up, this Regulation should apply from 1 January 2004.

(4) Regulation (EC) No 174/1999 should be amended accordingly.

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

HAS ADOPTED THIS REGULATION:

Article 1

The following paragraph 4 is added to Article 1 of Regulation (EC) No 174/1999:

'4. For a refund to be granted on the products listed in Article 1 of Regulation (EC) No 1255/1999 they must meet the requirements of Directive 92/46/EEC, notably preparation in an approved establishment and compliance with the health marking requirements specified at A in Chapter IV of Annex C thereto.'

Article 2

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

It shall apply from 1 January 2004.

[1] OJ L 160, 26.6.1999, p. 48.
[2] OJ L 122, 16.5.2003, p. 1.
[3] OJ L 102, 17.4.1999, p. 11.
[4] OJ L 74, 20.3.2003, p. 19.
[5] OJ L 20, 27.1.1999, p. 8.
[6] OJ L 120, 15.5.2003, p. 18.
[7] OJ L 268, 14.9.1992, p. 1.
[8] OJ L 368, 31.12.1994, p. 33.