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COMMISSION REGULATION (EEC) No 2960/77
of 23 December 1977
on detailed rules for the sale of olive oil held by intervention agencies

(OJ L 348, 30.12.1977, p. 46)

Amended by:

		Official Journal		
		No	page	date
►**M1**	Commission Regulation (EEC) No 883/79 of 3 May 1979	L 111	16	4.5.1979
►**M2**	Commission Regulation (EEC) No 914/80 of 15 April 1980	L 98	6	16.4.1980
►**M3**	Commission Regulation (EEC) No 2309/80 of 3 September 1980	L 233	13	4.9.1980
►**M4**	Commission Regulation (EEC) No 3473/80 of 30 December 1980	L 363	49	31.12.1980
►**M5**	Commission Regulation (EEC) No 1852/82 of 9 July 1982	L 203	17	10.7.1982
►**M6**	Commission Regulation (EEC) No 2041/83 of 22 July 1983	L 200	25	23.7.1983
►**M7**	Commission Regulation (EEC) No 1922/85 of 11 July 1985	L 180	26	12.7.1985
►**M8**	Commission Regulation (EEC) No 3818/85 of 30 December 1985	L 368	20	31.12.1985

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COMMISSION REGULATION (EEC) No 2960/77

of 23 December 1977

on detailed rules for the sale of olive oil held by intervention agencies

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation No 136/66/EEC of 22 September 1966 on the establishment of a common organization of the market in oils and fats [1], as last amended by Regulation (EEC) No 1707/73 [2], and in particular Article 11 (5) thereof,

Having regard to Council Regulation No 171/67/EEC of 27 June 1967 on exports refunds and levies on olive oil [3], as last amended by Regulation (EEC) No 2429/72 [4], and in particular Article 11 thereof,

Whereas Commission Regulation (EEC) No 1226/77 of 8 June 1977 [5], as amended by Regulation (EEC) No 2375/77 [6] laid down the detailed rules for the sale of olive oil held by intervention agencies whereas the abovementioned Regulation should be supplemented so that olive oil can be sold for export; whereas, in view of the numerous amendments made and for the sake of clarity, Regulation (EEC) No 1226/77 should be replaced by a new Regulation;

Whereas olive oil held by the intervention agencies must be sold on the Community market or for export without discrimination among Community purchasers on the best possible terms; whereas sale by tender seems an appropriate procedure for this purpose;

Whereas, however, certain special situations may call for the use of other procedures;

Whereas, in order to ensure that olive oil is sold when the market condition is most favourable, sales should be subject to a decision taken in accordance with the procedure laid down in Article 38 of Regulation No 136/66/EEC;

Whereas, where there is a risk of market disturbance, provision should be made for limiting the quantity which may be awarded to any one tenderer;

Whereas, since the object of holding an invitation to tender is to obtain the best price, contracts should be awarded to the tenderers quoting the highest prices, subject always to a minimum price established by reference to the market situation; whereas, moreover, provisions should be laid down to deal with cases where two or more tenders relating to the same quantity quote the same price whereas, however, in the case of sale for export, more than one minimum price may be fixed in each case because of the distance between the Community market and the countries of destination and because of the special import conditions in certain countries of destination;

Whereas a uniform system should be set up concerning the stage at which the minimum selling prices of the products held in intervention refer; whereas, until the examination of this problem is completed, the present system in the olive oil sector should be maintained;

Whereas in some cases olive residue oil is stored in especially large containers; whereas the purchase of such quantities can interest only a limited number of traders;

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(1) OJ No 172, 30. 9. 1966, p. 3025/66.
(2) OJ No L 175, 29. 6. 1973, p. 5.
(3) OJ No 130 (SIC! L 130), 28. 6. 1967, p. 2600/67.
(4) OJ No L 264, 23. 11. 1972, p. 1.
(5) OJ No L 141, 9. 6. 1977, p. 20.
(6) OJ No L 277, 29. 10. 1977, p. 29.

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Whereas the transfer of such oil to other containers might pose technical problems; whereas provision should therefore be made so that such oil may be sold in more than one lot;

Whereas, in order to ensure that the sales take place in a proper manner, provision should be made for certain information to be given in the invitation to tender and in each tender;

Whereas prospective tenderers should be encouraged by being permitted to familiarize themselves with the characteristics of the products on sale; whereas, as a corollary to this facility, such persons must be required to waive all claims regarding the characteristics of any oil eventually awarded to them;

Whereas, in order to guarantee performance of the obligations resulting from the submission of a tender, provision should be made for the lodging of a security;

Whereas, since the quantity of oil sold may be different from that actually withdrawn, the final selling price cannot be calculated until withdrawal has been completed; whereas, in order to ensure that the sale is properly conducted, the provisional price should be paid before withdrawal;

Whereas, in order to ensure the rapid disposal of the oil sold, the time at which the oil must be placed at the purchaser's disposal and the final date for completion of the withdrawal of the oil should be laid down; whereas it should also be provided that any consequences of delay in withdrawal should be borne by the purchaser;

Whereas, in order to ensure that oil sold for export is put to the proper use and/or sent to the proper destination, provision should be made for the lodging of a security;

Whereas the minimum contract price for export is fixed in relation to the prices on the world market whereas no export refund should therefore be granted for oil purchased by tender;

Whereas olive oil thus exported is in a situation comparable to that of oil which has qualified for an export refund; whereas, therefore, such oil cannot be reimported into the Community in the manner described in Article 3 (1) of Council Regulation (EEC) No 754/76 of 25 March 1976 on the customs treatment applicable to goods returned to the customs territory of the Community [1];

Whereas oils for which export contracts have been awarded should be governed by the provisions of Commission Regulation (EEC) No 1687/76 of 30 June 1976 laying down common detailed rules for verifying the use and/or destination of products from intervention [2], as last amended by Regulation (EEC) No 2448/77 [3];

Whereas, in order that checks may be made on oil to be refined before exportation, the relationship between the quantity of untreated oil awarded and the quantity of oil exported should be established;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Oils and Fats,

HAS ADOPTED THIS REGULATION:

Article 1

1. Intervention agencies may sell olive oil held by them only after a decision in respect of such sale has been taken in accordance with the procedure laid down in Article 38 of Regulation No 136/66/EEC.

This decision shall relate in particular to:

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[1] OJ No L 89, 2. 4. 1976, p. 1.
[2] OJ No L 190, 14. 7. 1976, p. 1.
[3] OJ No L 285, 9. 11. 1977, p. 5.

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— the sale of olive oil on the Community market or for export,

— the quantity and quality of the oil put up for sale,

— the method of sale,

— the date or dates of publication of the notice of sale,

— the date or dates of the sale,

— where appropriate, the maximum quantity which may be awarded to each tenderer.

▼M5

2. In the case of sale for export, the oil must be exported within six months following the month of sale without further processing or after undergoing one of the following processes:

(a) refining;

(b) packaging in immediate packages with a content to be determined.

In all cases the exported oil must be directly edible. It may be blended with other edible olive oils.

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Article 2

1. The olive oil held by intervention agencies shall be sold by tender. However, in special circumstances, it may be sold by some other procedure.

2. The terms of the invitation to tender or other selling procedure shall ensure equal access and treatment to all prospective purchasers irrespective of their place of establishment in the Community.

Article 3

1. 'Sale by tender' means a procedure whereby all interested parties are invited to submit offers, the contract for each lot being awarded to the person offering the highest price, provided always that such price is at least equal to a set minimum price.

2. In the case of sale for export, the minimum prices may be varied according to the destination, when the situation on the world market or special requirements of certain markets render it necessary.

3. The minimum price shall be fixed in accordance with the procedure laid down in Article 38 of Regulation No 136/66/EEC:

— either in the decision providing for the opening of the invitation to tender, or

— on the basis of the tenders received.

Where, however, no minimum price has been fixed pursuant to the first indent, a decision may be taken, in accordance with the aforesaid procedure and in the light of the tenders received, to make no award.

Article 4

Where it is decided that the sale is to be by tender, the intervention agency concerned shall draw up the invitation to tender. This invitation shall be communicated to the Commission without delay.

The invitation shall be published by *inter alia* being placed on public display at the office of the intervention agency.

Article 5

1. The invitation to tender shall specify all the terms and conditions of the invitation to tender, including in particular the following:

(a) the quantity of oil in each lot;

(b) the name of the storage depot and the place of storage of each lot, together with the number of such lot;

(c) the quality of the oil constituting each lot;

(d) the minimum price, if any;

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(e) the time limit and place for the submission of tenders;

(f) the date or dates of sale;

(g) the amount of the security referred to in Article 8;

(h) in the case of sale for export, the amount of the security referred to in Article 12 (3).

2. For the purposes of this Regulation, 'lot' means the quantity of olive oil contained in a single container.

However, in the case of olive-residue oil, if the oil contained in one container exceeds a quantity to be determined, the intervention agency concerned may be authorized to make up a lot from only part of that oil.

▼M2

3. The minimum price shall be net of tax and shall relate to 100 kilograms of olive oil delivered in the purchaser's own drums, loaded on a vehicle provided by the purchaser ex-storage depot, or in the purchaser's tanker ex-storage depot.

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Article 6

Prospective purchasers may examine at the storage depot the oil offered for sale and may obtain a sample thereof, in containers supplied by them for that purpose, on payment of a price determined on the basis of either the minimum price fixed in the invitation to tender or the price at which the oil was bought in by the intervention agency.

▼M1

This sample shall be put into two labelled bottles, which shall be sealed in the presence of both the storer and the prospective purchaser or his duly authorized agent. One bottle shall be given to the prospective purchaser and the other to the storer.

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Article 7

1. Tenders, which shall be in writing, shall either be delivered personally to the intervention agency against acknowledgement of receipt or sent to the intervention agency by registered letter, telex or telegram.

2. Tenders shall indicate in particular:

(a) the name and full postal address of the tenderer;

(b) the number or numbers of the lot or lots concerned, the name of the storage depot, and the place of storage;

(c) the offer price per 100 kilograms.

3. Any tender not stating a price at least equal to the minimum price fixed for the product in question shall be refused.

4. Each tender must relate to all the oil contained in at least one lot.

5. Tenders may not be withdrawn.

6. A tender shall be valid only if it is accompanied by:

(a) a security;

(b) a statement by the tenderer waiving any claim as to the accuracy of the description under which the oil concerned is offered for sale.

Article 8

1. The security shall be in cash or by way of a guarantee issued by a credit institution satisfying the criteria laid down by the Member State in which it is situated.

2. The security shall be released if no sale is made to the party concerned. It shall likewise be released when the purchaser pays the final amount of the price referred to in Article 14.

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Article 9

The oil in each particular lot shall be sold to the tenderer having submitted a valid tender offering the highest price. Where the same highest bid is made by more than one tenderer the purchaser shall be chosen by lot by the intervention agency.

▼M1

Article 10

The intervention agency shall immediately inform each tenderer, by registered letter against acknowledgement of receipt, of the result of his participation in the invitation to tender.

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Article 11

1. On receipt by the successful tenderer of the information referred to in Article 10, the container or containers awarded shall be sealed in the presence of both parties. The container or containers concerned shall remain sealed until withdrawal of the oil by the purchaser.

▼M1

Before sealing is carried out, the successful tenderer may request a sample of this oil. This sample shall be put into two labelled bottles, which shall be sealed in the presence of both the storer and the successful tenderer or his duly authorized agent. One bottle shall be given to the successful tenderer and the other to the storer so that, if necessary, a check may be made to ensure that the product from which a sample was taken under Article 6 and the product awarded correspond.

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2. In addition, in the case of lampante oils and olive-residue oils, an acidity analysis shall be carried out in the presence of both parties before the placing of the seals referred to in paragraph 1. If the degree of acidity as so determined does not correspond to that in respect of which the minimum price was fixed, the selling price shall be adjusted upwards or downwards by amounts to be determined.

3. Where sealing in the presence of both parties has not been effected within 20 days following the dispatch of the information referred to in Article 10, the intervention agency shall forthwith itself seal the containers awarded. Where the oil awarded is a lampante oil or an olive-residue oil, the intervention agency shall, before sealing, effect an analysis of the acidity of the oil.

▼M1

Article 12

1. The purchaser must, before withdrawing the oil, pay to the intervention agency the provisional amount of the selling price.

▼M7

The provisional amount shall be calculated by multiplying the quantity indicated as contained in the lot by the price offered for the lot. As regards lampante oil and olive-residue oil, this price shall be adjusted, in accordance with the rules laid down in Article 11 (2), on the basis of the result of the acidity analysis referred to in that paragraph.

▼M1

2. If the provisional amount is not paid within the period laid down in Article 13 (1), the sale shall be cancelled automatically. In that event, the security referred to in Article 8 shall be forfeit.

3. In the case of sale for export, the purchaser shall, before withdrawing the oil, lodge a security to guarantee that the export is carried out as specified in Article 1 (2).

▼M1

Article 13

▼M6

1. The purchaser shall withdraw the entire lot awarded. Withdrawal may begin as soon as the provisional amount referred to in Article 12 (1) has been paid and, in the case of sale for export, the security referred to in Article 12 (3) has been lodged.

Withdrawal shall be completed not later than the 40th day following receipt of the information referred to in Article 10.

However, where the party concerned has been awarded a quantity

— in excess of 1 000 tonnes but not exceeding 3 000 tonnes, withdrawal shall be completed not later than the 60th day following receipt of the information,

— in excess of 3 000 tonnes, withdrawal shall be completed not later than the 90th day following receipt of the information, provided that a quantity of at least 3 000 tonnes shall be withdrawn not later than 60 days following receipt of the information.

▼M1

2. The quantity of oil delivered to the purchaser may differ from the quantity in respect of which the tender was submitted, depending on the actual quantity in the container at the time of delivery.

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Article 14

▼M1

1. Once the oil has been withdrawn, the intervention agency shall draw up an invoice for the final amount of the selling price. The final amount shall be calculated by multiplying the quantity actually withdrawn, less the weight of water and impurities exceeding 0·2 % in the case of virgin olive oil and 0·5 % in the case of olive-residue oil, by the price offered for the lot in question. The weight of both water and impurities shall be determined by analysis of a representative sample at the time of delivery.

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2. The invoice shall show the debit or credit balance, which shall be equal to the difference between:

— the provisional amount,

— the final amount of the selling price plus any storage charge payable pursuant to Article 15 (b).

The balance shall be paid within 30 days following completion of withdrawal of the oil.

Article 15

If the withdrawal of the oil is not completed by the date stipulated in Article 13 (1):

(a) the oil remaining in storage shall be held at the purchaser's own risk;

(b) the purchaser shall pay to the intervention agency a storage charge calculated by reference to the quantity to be withdrawn plus an amount to be determined for each period of 30 days of additional storage or part thereof.

Article 16

▼M3

1. In the case of sale for export, the oil exported shall not qualify for the export refund fixed in accordance with the provisions of Regulation No 171/67/EEC or for the consumption aid referred to in Article 11 of Regulation No 136/66/EEC (SIC! (EEC) No 136/66.)

However, for the purposes of Regulation (EEC) No 754/76, such oil shall be considered as having satisfied the provisions of Article 2 (1)

▼M3

of the aforesaid Regulation upon completion of the customs export formalities.

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2. The application for a licence to be issued following the sale by tender for export and the licence itself shall contain in Section 12 one of the following endorsements:

'Export under Regulation (EEC) No 2960/77',

'Exportation dans le cadre du règlement (CEE) nº 2960/77',

'Ausfuhr im Rahmen der Verordnung (EWG) Nr. 2960/77',

'Esportazione nell'ambito del regolamento (CEE) n. 2960/77',

'Uitvoer in het kader van Verordening (EEG) nr. 2960/77',

'Udførsel i henhold til forordning (EØF) nr. 2960/77',

▼M4

'Εξαγωγή στο πλαίσιο του κανονισμού (ΕΟΚ) αριθ. 2960/77',

▼M8

'Exportaciones en el cuadro del reglamento (CEE) n. 2960/77',

'Exportaçoes (SIC! Exportações) no âmbito do regulamento (CEE) nº 2960/77'.

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Article 17

1. Where refining takes place, the quantity of untreated olive oil falling within Common Customs Tariff subheading 15.07 A I which is awarded for export shall correspond to a fixed quantity of olive oil other than untreated which is exported. This shall be achieved when the difference between these quantities does not exceed the quantity resulting from the application of one of the formulae:

(a) olive oil falling within subheadings 15.07 A I a) and b) to olive oil falling within subheading 1 5.07 A II a):

$$2\ (a - 1) + 2 = X$$

(b) olive oil falling within subheading 15.07 A I c) to olive oil falling within subheading 15.07 A II b):

$$2\ a + 2 = X$$

In these formulae:

— 'a' represents the acidity of the untreated oil,

— 'X' represents the loss in kilograms in relation to 100 kilograms of untreated oil.

2. Where pure olive oil falling within subheading 15.07 A II a) or refined olive-residue and olive oil falling within subheading 15.07 A II b) is exported, the relevant authorities of the Member State concerned shall verify the composition of the product in question.

3. Refining residues may be sold on the Community market.

Article 18

1. The security referred to in Article 12 (3) shall be released without delay when the purchaser has furnished the proof required under Regulation (EEC) No 1687/76 and proof that exportation has been effected under the licence issued in accordance with Article 16 (2).

However:

— where the country of destination is Switzerland or Austria, or if these countries are crossed in order to reach the country of destination, and

— in the case of a sale by tender with no specified destination, where serious doubt exists as to the actual destination of the product,

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the release of the security shall be subject to proof that the product has been imported by a non-member country, unless lost *en route* as a result of *force majeure*.

2. Where the proof referred to in paragraph 1 has not been furnished within six months of the date of expiry of the period referred to in Article 1 (2), the security shall, save in a case of *force majeure*, be forfeit.

Article 19

Where the security referred to in Article 12 (3) is forfeit, it shall be deducted from refund expenditure in the olive oil sector, the sums and quantities concerned being entered separately in the accounts.

Article 20

Regulation (EEC) No 1226/77 is hereby repealed.

Article 21

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

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