COMMISSION REGULATION (EEC) No 3172/80

of 5 December 1980

laying down implementing rules in respect of the system of consumption aid for olive oil

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 1917/80 (2), and in particular Article 11 (8) thereof,

Whereas the minimum packaging capacity and period of activity required for the approval of plants must be set at levels such as will ensure that such plants carry on packaging as their main activity and on a continuous basis ;

Whereas the stock records kept by approved plants must include all the particulars necessary to enable checks to be made as to entitlement to consumption aid ; whereas, in order to ensure effective checks, non-approved plants which put up imported oil in small containers should also be required to keep stock records ;

Whereas, for the purposes of carrying out checks, it may in certain cases also prove necessary to inspect the accounts of the plant concerned and, where appropriate, to carry out other checks on undertakings upstream or downstream of the plant ; whereas provision should also be made for extending checks to accounts relating to the packaging of seed oil ;

Whereas, to ensure that the system of aid operates correctly, the aid must be reserved for oil put up in the small containers for which there is traditionally a demand from consumers ;

Whereas, in the interests of good administration, the reuse of used packaging should be forbidden ; whereas, however, undertakings using the returnable packaging system should be allowed a certain period for adaptation ;

Whereas Article 11 of Regulation No 136/66/EEC provides that the aid is to be granted for oil produced and marketed in the Community ; whereas, in the interests of sound administration, the concept of marketing in the Community should be defined ;

Whereas applications for aid should include a minimum of particulars necessary for checking entitlement to aid ;

Whereas the minimum quantity applied for in each case should be set at a level permitting rational administration of the aid system ;

Whereas, to the same end, special provisions should be laid down in respect of oil leaving establishments at the end of the marketing year ;

Whereas, in order to ensure uniform application of the aid system, the procedures for paying the aid should be defined ;

Whereas, in order to ensure that the system operates correctly, advance payment of the aid should be subject to the lodging of a security, to be released on recognition of entitlement to the aid ;

Whereas there is some risk that substantial quantities of olive oil put up in small containers may be imported into the Community or may be the subject of intra-Community trade, which may give rise to fraud ; whereas, in order to deal with this situation, this trade should be made subject to suitable measures to verify use ; whereas, for the same reason, it should be prohibited to decant oils put up in small containers, and penalties for failure to comply with this requirement should be laid down ; whereas the penalty should also be imposed if the use of the oil cannot be proved ;

Whereas Article 9 of Council Regulation (EEC) No 3089/78 (3), as amended by Regulation (EEC) No 2762/80 (4), provides that all placing into free circulation of imported olive oil shall be subject to the lodging of a security which shall be released as soon as the oil has been rendered ineligible for aid ; whereas detailed rules for the application of the system of securities should be laid down ;

Whereas, in order to ensure that these arrangements for checking imported oil operate correctly, the uses which render the oil ineligible for the aid should be defined ; whereas, for the same reason, provision should be made for the issuing by the Member State concerned of a document certifying that the oil has been put to one of the uses in question ;

(1) OJ No 172, 30. 9. 1966, p. 3025/66.
(2) OJ No L 186, 19. 7. 1980, p. 1.
(3) OJ No L 369, 29. 12. 1978, p. 12.
(4) OJ No L 287, 30. 10. 1980, p. 2.

Whereas Regulation (EEC) No 557/79 [1] should be repealed ;

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

For the purposes of obtaining the approval referred to in Article 2 of Regulation (EEC) No 3089/78, a packaging plant must have a packaging capacity of at least six tonnes of oil per eight-hour working day.

Article 2

For the purposes of obtaining approval, a plant must undertake :

(a) except in cases of *force majeure*, to carry on packaging operations for olive oil for at least 150 days in every marketing year ;

(b) except in cases of *force majeure*, to package during the period referred to under (a) a total quantity of at least 60 tonnes of olive oil.

As regards plants which commence operations during a marketing year, the minimum figures under (a) and (b) shall be fixed according to the number of months remaining until the end of the marketing year in question.

Article 3

Each packaging plant shall, from the date on which it is approved, keep daily stock records giving at least the following information :

(a) the stocks of olive oil, by origin and packaging, existing at the date on which it was approved ;

(b) the quantity and quality of each consignment of olive oil entering the plant, by origin and packaging ;

(c) the number of the purchase invoice for each consignment, or, where appropriate, the number of the receipt note or of any other equivalent document ;

(d) the number of immediate containers entering the plant, by capacity ; as well as the number of the purchase invoice for each consignment, or, where appropriate, the number of the receipt note or of any other equivalent document ;

(e) the number of immediate containers used, by capacity ;

(f) the quantity and quality of olive oil packaged ;

(g) the quantity and quality of olive oil leaving the plant, by lot ;

(h) for each consignment leaving the plant, the number of the sales invoice or, where appropriate, the number of the exit note or of any other equivalent document ;

(i) the movements of oils inside the area referred to in Article 7 (2) (a) and between this area and the storage place referred to in Article 7 (2) (b).

Where an olive oil packaging undertaking also packs seed oil, that undertaking shall keep a separate daily stock record for the latter activity.

Article 4

1. The identification number referred to in Article 2 (2) of Regulation (EEC) No 3089/78 shall be preceded by the following letters :

— (CEE)-F, for plants situated in France,
— (CEE)-ITA, for plants situated in Italy,
— (EEC)-IRL, for plants situated in Ireland,
— (EWG)-D, for plants situated in Germany,
— (EØF)-DK, for plants situated in Denmark,
— (EEG)-NL, for plants situated in Netherlands,
— (CEE)-(EEG)-B, for plants situated in Belgium,
— (CEE)-L, for plants situated in Luxembourg,
— (EEC)-UK, for plants situated in the United Kingdom.

2. This identification number shall be marked indelibly on all immediate containers as referred to in Article 6 containing olive oil intended to be placed on the Community market and qualify for consumption aid.

Article 5

Member States shall check by sampling, using the methods set out in the Annexes to Regulation (EEC) No 1058/77, that the oil put up in an immediate container complying with the provisions of Article 6 accords with one of the definitions referred to in Article 4 (1) (a) of Regulation (EEC) No 3089/78.

Article 6

To qualify for aid, olive oil must be put up in an immediate container of a net content of five litres or less, fitted with a non-reusable sealing device and bearing the identification number referred to in Article 4.

Reuse of immediate packing is forbidden.

However, reuse of immediate packaging in glass shall be authorized up to 31 October 1981.

[1] OJ No L 73, 24. 3. 1979, p. 13.

Article 7

1. For the purposes of this Regulation, all olive oil leaving an approved packaging plant after being packaged in accordance with Article 6 shall be deemed to have been placed on the market in the Community.

2. For the purposes of this Regulation oil shall be deemed to have left the packaging plant where, after packaging it has left :

(a) the area of the establishment where packaging took place, or

(b) if the oil is not stored in that area, any storage place outside it.

The storage place referred to in (b) must permit a proper check to be kept upon the products stored and must have been approved in advance by the relevant supervisory body.

Article 8

The Member States shall take all such measures as may be necessary to ensure compliance with the condition laid down in Article 4 (1) (c) of Regulation (EEC) No 3089/78.

Member States shall inform the Commission of the measures they have taken pursuant to the preceding paragraph.

Article 9

1. Every application for aid shall relate to the total quantity of olive oil leaving the packaging plant during a given month. Each application shall be submitted no later than the end of the second month following that to which the application refers. Each application shall relate to at least 15 tonnes.

If the quantity is not achieved during the course of a given month, the aid application shall be lodged no later than the end of the second month following that in which the minimum quantity is achieved.

However, for the total quantities leaving the establishment at the end of a marketing year for which the aid application has not been lodged in accordance with the preceding paragraphs, an aid application shall be lodged at the latest during the two months following the end of the marketing year in question.

Any aid application lodged after the expiry of the required date shall not be accepted.

2. Applications for aid shall contain at least the following information :

— the name and address of the applicant plant,

— the plant's identification number,

— the quantity of oil in respect of which aid is applied for, broken down by month.

3. The Member State shall pay the aid within 150 of the submission of the aid application.

Article 10

For the purposes of this Regulation, one litre of olive oil shall correspond to 0·916 kilograms of that product.

Article 11

1. The amount of the aid shall be advanced to the party concerned as soon as he submits an application for aid together with a certificate showing that a security equal to the amount of the aid has been lodged.

2. The security shall be lodged in the form of a guarantee by an establishment meeting the criteria laid down by the Member State to which application for aid is made.

3. The security shall be released as soon as the competent authority of the Member State has recognized entitlement to the aid in respect of the quantities shown in the application.

If entitlement to the aid is not recognized in respect of all or part of the quantities shown in the application, the security shall be forfeit in proportion to the quantities in respect of which the conditions giving entitlement to the aid were not complied with.

Article 12

1. For the purposes of the checks referred to in Article 7 of Regulation (EEC) No 3089/78, the Member States shall systematically inspect the stock records of approved packaging plants.

If the plant packages both olive oil and seed oil, the checks refered to in this Article may be extended to stock records and accounts in respect of the packaging of oils other than olive oil.

If any doubt arises as to the accuracy of the information given in the application for aid, the applicant's accounts may be checked and, where appropriate, additional checks may be carried out among persons supplying oil to the packaging plants and among those to whom the packaged oil has been supplied.

2. For the purpose of investigations to discover fraud, all operators purchasing or selling olive oil put up in immediate containers of a net content not exceeding five litres, with the exception of retailers and direct consumers, shall be subject to possible checks by the Member State.

3. The decantation of olive oil put up in an immediate container of a net content not exceeding five litres shall be prohibited except where prior authorization is given.

4. In case of unauthorized decantation, the operator shall pay to the Member State in which the operation is carried out an amount equal to the consumption aid applicable to the quantities involved.

Where an operator is unable to furnish, to the satisfaction of the Member State concerned, proof of the use of oil purchased in immediate containers of a net content not exceeding five litres, the operator involved shall pay to the Member State an amount equal to the consumption aid applicable to the quantities involved.

The amount paid to the Member States shall be deducted from claims made on the EAGGF by the paying services or authorities of the Member States.

Article 13

1. On completion of the customs formalities for release for consumption within a Member State of olive oil in immediate packaging with net contents not exceeding five litres, the importer must provide the customs authorities of that Member State with a copy of the purchase invoice for the product, or any other relevant document containing information relating to the quantity, nature and packaging of the product.

These documents shall be stamped by the customs authorities and sent by them to the authorities responsible for supervision of the consumption aid. Such latter authorities shall take the necessary steps to ensure compliance with the provisions of Article 12 (3).

2. The Member States concerned shall assist one another in carrying out the checks provided for in this Article.

Article 14

1. The release into free circulation in the Community of olive oil falling within subheading 15.07 A of the Common Customs Tariff, shall be subject to the production of proof that the security referred to in Article 9 of Regulation (EEC) No 3089/78 has been lodged.

If the oil to be put into free circulation is packaged in an immediate container of a net content not exceeding five litres, the packaging shall bear, from 1 February 1981, indelible markings indicating that the oil has been packaged in a third country.

2. The security shall be equal to the amount of the consumption aid paid to the beneficiary. It shall be lodged in respect of the totality of the quantity of olive oil to be imported.

However :

(a) as regards olive oil falling within subheading 15.07 A I b) of the Common Customs Tariff originating in and transported directly from the following countries to the Community, the quantity in respect of which the security is to be lodged shall be equal :

— in the case of Turkey, to 86 %,

— in the case of Greece, Morocco and Tunisia, to 91 %,

— in the case of other countries, to 97 %

of the total quantity to be imported ;

(b) as regards olive oil falling within subheading 15.07 A I c) of the Common Customs Tariff, the quantity in respect of which the security is to be lodged shall be equal to 78 % of the total quantity to be imported.

3. This security shall be lodged, at the option of the applicant, in cash or in the form of a guarantee given by an establishment satisfying the requirements laid down by the Member State with which the security is lodged.

4. The security shall be released on presentation, save in cases of *force majeure,* within six months of the date of release into free circulation of the original copy of the certificate referred to in Article 15 (3) in respect of the quantity which that certificate shows to have been rendered ineligible for consumption aid.

However, as regards the export of olive oil of subheading 15.07 A I b) or 15.07 A I c) referred to in Article 15 (1) (b), the quantity in respect of which the security shall be released shall be equal to 86 and 78 % respectively of the quantity shown on the certificate.

Where the time limit referred to above is not complied with the security shall be forfeit.

However, if the certificate referred to in Article 15 (3) is presented not later than the ninth month following the expiry date of the period referred to in paragraph 1, the security shall be repaid, subject to the deduction of an amount equal to 10 % of the security for each delay of a month or part of a month in presenting the certificate.

Where the conditions laid down in this Article are satisfied in respect of part only of the oil concerned, the security shall be released in proportion to the quantity in respect of which they are satisfied.

Article 15

1. The oil referred to in Article 14 (1) shall be deemed to have been made ineligible for consumption aid within the meaning of Article 9 (2) of Regulation (EEC) No 3089/78 when :

(a) it has, in a plant situated in the Community, been put up in immediate containers of a net content of five litres or less which do not bear the identification number provided for in Article 4, and has left that plant ; or

(b) it has left the geographical territory of the Community, either in bulk or in immediate containers of a net content of more than five litres which do not bear an identification number ; or

(c) it has been used in the manufacture of preserved fish or vegetables without benefiting from the production refund for olive oil of Community origin used in such manufacture ; or

(d) it has been demonstrated to the satisfaction of the Member State concerned that the oil, imported in immediate packages with contents not exceeding five litres, bearing the indications required by Article 14 (1), has been taken over without further treatment by the retail trade or has been used for industrial purposes.

2. Plants proposing to use the oil referred to in Article 14 (1) in accordance with the conditions set out in paragraph 1 (a) and (c) shall inform the authorities of the Member States concerned in advance.

Plants other than approved plants which propose to use the oil as specified in paragraph 1 (a) shall keep stock records in accordance with the provision of points (b) to (i) of Article 3 and shall indicate the stocks of olive oil existing at the date on which the competent authorities were notified in accordance with the preceding paragraph.

Plants using oil in accordance with paragraph 1 (c) shall comply with the provisions of Regulation (EEC) No 1963/79.

3. At the request of the plants, the competent authorities shall issue a certificate, using the model set out in the Annex hereto, after checking that the plants concerned have in fact used the oil in accordance with the conditions set out in paragraph 1 (a), (c) and (d).

4. If the oil is exported, proof of export shall be furnished in accordance with the rules for granting export refunds. This proof must be submitted to the competent authorities of the Member State in which the export formalities shall issue the certificate referred to in paragraph 3.

If the oil was exported to Switzerland or Austria under the Community internal transit procedure, or if the oil crossed these countries under this procedure on its way to the country of destination, the certificate shall be issued on condition that proof is furnished that the oil concerned has been placed in free circulation in a non-member country, except where it has been destroyed in transit as a result of *force majeure.*

5. Olive oil in respect of which a certificate has been issued in accordance with paragraph 4 may not qualify for aid under Regulation (EEC) No 754/76 unless the certificate in question is cancelled or a new security lodged in accordance with Article 14.

Article 16

1. Member States shall inform the Commission of all the arrangements they make for the implementation of this Regulation.

2. Each month they shall notify to the Commission :

— the quantities of olive oil in respect of which aid was applied for in the preceding month,

— the amounts of the securities as referred to in Article 14 forfeited during the preceding month.

Article 17

Regulation (EEC) No 557/79 is hereby repealed.

Article 18

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

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

Done at Brussels, 5 December 1980.

For the Commission

Finn GUNDELACH

Vice-President

ANNEX

CERTIFICATE Regulation (EEC) No 3172/80	**EC EG EF CE**
Issuing body (name and address) :	No : ..... **Original/Copy**
	Holder (name, address and Member State) :
Description :	Net weight (in figures) :
	CCT heading No :

Net weight (in words) :

Declaration by the issuing body :

This is to certify that the olive oil described above has been made ineligible for consumption aid in accordance with Article 14 (1) of Regulation (EEC) No 3172/80 (packaged/exported/used in preserved products/released on the market for consumption without further treatment/used for industrial purposes) (1)

(Place) ....., (Date) .....

(Signature) (Stamp)

(1) Delete as appropriate.