COMMISSION REGULATION (EEC) No 3249/82

of 2 December 1982

amending for the fourth time Regulation (EEC) No 3172/80 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 the Act of Accession of Greece, and in particular Article 73 thereof,

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 1413/82 [2], and in particular Article 11 (8) thereof,

Whereas Commission Regulation (EEC) No 3172/80 [3], as last amended by Regulation (EEC) No 524/82 [4], laid down that only olive oil put up in immediate containers with a net content of five litres or less qualified for consumption aid;

Whereas, in response to the demand from Greek consumers, Greek undertakings normally use containers larger than those referred to above; whereas such containers currently account for most of the packaged olive oil consumed in Greece; whereas, in order to allow a gradual change of Greek buying habits, consumption aid should therefore be extended, until 31 December 1982, to oil put up in that country in containers with a net content not exceeding 20 litres;

Whereas Article 7 (1) of Regulation (EEC) No 3172/80 defined the concept of placing on the market in the Community; whereas experience has shown that, in order to make it easier to check that the condition relating to placing on the Community market at a price level which takes into account the amount of consumption aid has been met and to facilitate business relations between olive oil traders and packagers, a further condition should be introduced in order for oil to be deemed to have been placed on the market;

Whereas Article 3 (2) of Council Regulation (EEC) No 3089/78 [5], as last amended by Regulation (EEC) No 2762/80 [6], provides that Member States may decide to withdraw approval temporarily from packaging plants which have applied for consumption aid for a quantity of olive oil in excess of the quantity for which entitlement to aid has been agreed; whereas, in order to prevent this sanction from being abused, provision should be made for restrictive measures in cases where new approval is granted to natural or legal persons carrying out packaging activities in the same establishment;

Whereas Article 11 (3) of Regulation No 136/66/EEC provides that Member States may recognize trade organizations for the purpose of involving them in the determination of the quantity of packaged olive oil eligible for aid; whereas, in order to ensure that the system of consumption aid operates properly, such Member States should define the functions of the recognized trade organizations; whereas, to the same end, the Member States concerned should define the circumstances in which packaging plants ask the recognized trade organizations to submit their applications for aid;

Whereas Article 4 (1) (a) of Regulation (EEC) No 3089/78 laid down that only edible virgin olive oil, pure olive oil, and refined olive-residue oil and olive oil qualified for consumption aid; whereas in the present situation there is a risk that esterified oils with the characteristics of olive oil, produced from acid oils from refining derived from lampante olive oil or from crude olive-residue oil, may be fraudulently receiving consumption aid; whereas, so that the quality of the oils packaged by the approved plants can be checked, provision should consequently be made for the addition of a given quantity of certain oils other than olive oil to all acid oils from refining;

Whereas, under Article 9 of Regulation (EEC) No 3089/78, the release into free circulation of imported olive oil is subject to the lodging of a security; whereas Article 14 (2) of Regulation (EEC) No 3172/80 provides that this security is to be equal to the amount of the consumption aid;

(1) OJ No 172, 30. 9. 1966, p. 3025/66.
(2) OJ No L 162, 12. 6. 1982, p. 6.
(3) OJ No L 331, 9. 12. 1980, p. 27.
(4) OJ No L 63, 6. 3. 1982, p. 7.
(5) OJ No L 369, 29. 12. 1978, p. 12.
(6) OJ No L 287, 30. 10. 1980, p. 2.

Whereas, under Article 68 of the Act of Accession of Greece, the amount of consumption aid applicable in Greece differs from that applicable in the rest of the Community; whereas this difference may result in deflections of trade and distortion of competition for any oils placed into free circulation in Greece; whereas the amount of the security, as referred to in Article 14 (2) of Regulation (EEC) No 3172/80, to be lodged in that country should consequently be equal to the amount of the security to be lodged in other Community countries;

Whereas, for the purpose of releasing the security, lodged in respect of olive oil from non-member countries, Article 14 (4) of Regulation (EEC) No 3172/80 allows six months from the date of release into free circulation for presentation of the certificate attesting that the oil in question has not received consumption aid; whereas experience has shown that, for certain imports of olive oil, this period is inadequate taking into account in particular the commercial trade structure in non-producing countries; whereas, in order to remedy this problem, the detailed rules relating to the forfeiture of the security should be relaxed;

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

Regulation (EEC) No 3172/80 is hereby amended as follows:

1. In Article 6 (1):

   — '31 October 1982' is replaced by '31 December 1982' in the second subparagraph;

   — the following subparagraph is added:

   'The provisions of Article 12 (2), (3) (4), shall apply in Greece until 31 December 1983 also for containers of a net content of at least five litres but not exceeding 20 litres.'

2. In Article 6a (3) '31 October 1983' is replaced by '31 December 1983'.

3. Article 7 (1) is replaced by the following:

   '1. For the purposes of this Regulation, all olive oil sold by an approved packaging plant which has left the said plant after being packaged there in accordance with Article 6 shall be deemed to have been placed on the market in the Community.

   The exchange rate to be applied to the amount of consumption aid, fixed in ECU, is the representative rate in force on the day the packaged oil leaves the approved packaging plant.'

4. The following paragraph 5 is added to Article 12:

   '5. If approval is temporarily withdrawn from a packaging plant under Article 3 (2) of Regulation (EEC) No 3089/78, renewed approval may not, during the period of withdrawal, be applied for by any natural or legal person carrying out packaging activities in the same establishment of the plant affected by the withdrawal unless the person in question proves to the satisfaction of the Member State concerned that such application for renewed approval is not intended to evade the withdrawal of approval provided for in the said Article.'

5. Article 12a (1) is replaced by the following:

   '1. Where Article 11 (3) of Regulation No 136/66/EEC is applied, the Member States concerned shall define the activities in which recognized trade organizations are to be involved, as well as the circumstances in which packaging plants shall submit their aid applications by way of such an organization.

   In this case, the recognized trade organizations shall verify, on the premises of the approved packaging plants indicated to them by the Member States, that stock records are kept pursuant to the provisions of Article 3 and shall ensure that the data given in those stock records are exact.'

6. The following Article 12b is inserted:

   'Article 12b

   For the purpose of checking that the condition referred to in Article 4 (1) (a) of Regulation (EEC) No 3089/78 has been met, all acid oil from refining which has been derived from olive oil and produced in the EEC must be mixed at the production stage with one of the following products in the percentages indicated below:

   — acid castor oil from refining: 10 %, or

   — acid sesame oil from refining: 10 %, or

   — acid colza oil from refining: 30 %.

   All olive oil refineries shall, for the purposes of control of the operations provided for in this Article, keep a separate daily stock record for acid oil from refining, containing at least the following details:

   — quantities and qualities of acid oil from refining entering the undertaking,

   — quantities and qualities of acid oil from refining produced in the undertaking,

— quantities and qualities of acid oil from refining leaving the undertaking,

— stocks of acid oil from refining broken down by quality.'

7. The first subparagraph of Article 14 (2) is replaced by the following:

'The security shall be equal to the amount of the consumption aid paid to the beneficiary. However, in Greece it shall be equal to the amount to be lodged in the other Community countries.

It shall be lodged in respect of the total quantity of olive oil to be imported.'

8. Article 14 (4) is replaced by the following:

'4. The security shall be released on presentation, except in the case of *force majeure,* of the original copy of the certificate referred to in Article 15 (3) within six months of the date of release into free circulation; the security shall be released for the quantity of oil released into free circulation or, as the case may be, an equivalent quantity of olive oil which the certificate certifies as having been rendered ineligible for consumption aid.

However, as regards the export of olive oil of subheadings 15.07 A I b) or 15.07 A I c) of the Common Customs Tariff 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 period referred to above is not complied with the security shall be forfeit.

However, if the certificate referred to in Article 15 (3) is presented, at the latest, within six months following the expiry date of the period referred to in the first subparagraph the security shall be reimbursed.

In the case where the certificate is presented between the 13th and 21st month following the date when the oil is released into free circulation the security shall be reimbursed, subject to the deduction, for each month's or fraction of a month's delay, of an amount equal to 10 % of the security.

The perod for the forfeiture of the security may be extended to 12 months by the Member State concerned if the oil released into free circulation and put up in immediate containers with a net content of five litres or less has been rendered ineligible for the aid as specified in Article 15 (1) (d).

If olive oil falling within subheading 15.07 A I a) of the Common Customs Tariff released into free circulation and put up in immediate containers with a net content of more than five litres has been rendered ineligible for aid as specified in Article 15 (1) (a), the security shall be released for the entire amount lodged as soon as the party concerned has presented certificates as required by Article 15 (3) covering at least 99 % of the quantity for which the security was lodged.

When 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.'

9. In Article 15:

— paragraph 1 is replaced by the following:

'1. The oil referred to in Article 14 (4) (1) shall be deemed to have been rendered ineligible for consumption aid within the meaning of Article 9 (2) of Regulation (EEC) No 3089/78:

(a) when 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) when 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) when 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) when it has been demonstrated to the satisfaction of the Member State concerned that the oil, imported in immediate containers of a net content of five litres or less and 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.'

— paragraph 3 is replaced by the following:

'3. At the request of the plants concerned, the competent authorities shall issue a certificate, using the model set out in the Annex, where the plants concerned demonstrate to the satisfaction of the authorities concerned that they have in fact used the oil or an equivalent quantity in accordance with one of the conditions set out in paragraph 1 (a), (c) and (d).

However, for oil referred to in paragraph 1 (d) the certificate referred to above shall be granted only for oil referred to in Article 14 (1).'

Article 2

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

Points 1 and 2 of Article 1 shall apply with effect from 1 November 1982. Point 8 of Article 1 shall apply to securities already lodged but not released on the day that this Regulation enters into force.

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

Done at Brussels, 2 December 1982.

For the Commission

Poul DALSAGER

Member of the Commission