COMMISSION REGULATION (EEC) No 2677/85

of 24 September 1985

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 231/85 (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 continous basis; whereas, however, a lower overall quantity of olive oil to be packaged may be permitted during the early months of operation in Member States where olive oil is not produced and consumption is traditionally low;

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 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 demend from consumers;

Whereas, in the interests of sound administration, the refilling of immediate containers should be prohibited;

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

(1) OJ No 172, 30. 9. 1966, p. 3025/66.
(2) OJ No L 26, 31. 1. 1985, p. 12.
(3) OJ No L 369, 29. 12. 1978, p. 12.
(4) OJ No L 287, 30. 10. 1980, p. 2.

detailed rules for the application of the system of securities should be laid down ; whereas, however, imports of marginal quantities should be exempted from this requirement provided that the trend of these exempted quantities is monitored ;

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, provisions 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 ;

Whereas Commission Regulation (EEC) No 3172/80 [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 at least 120 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.

Where a marketing year does not last the normal 12 months, the time limits referred to in (a) and (b) shall be adapted to suit its actual length.

In the case of plants located in Member States that do not produce olive oil the minimum period specified at (a) and the minimum quantity specified at (b) shall be reduced by half for the first 12 months of activity from the date on which approval is granted.

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 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)-(EEG)-B, for plants situated in Belgium,

— (EØF)-DK, for plants situated in Denmark,

— (EWG)-D, for plants situated in Germany,

— (EOK)-E, for plants situated in Greece,

— (CEE)-F, for plants situated in France,

— (EEC)-IRL, for plants situated in Ireland,

— (CEE)-ITA, for plants situated in Italy,

[1] OJ No L 331, 9. 12. 1980, p. 27.

— (CEE)-L, for plants situated in Luxembourg,

— (EEG)-NL, for plants situated in the Netherlands,

— (EEC)-UK, for plants situated in the United Kingdom.

2. The 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 Commission Regulation (EEC) No 1058/77 (1), 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

1. 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.

2. The refilling of immediate containers shall be prohibited.

Article 7

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.

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.

(1) OJ No L 128, 24. 5. 1977, p. 6.

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 first 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 that 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.

However, applications lodged after the period specified above has expired but within two months of the expiry of that period at the latest shall be accepted but shall carry a reduction of the aid to be paid of 10 % for each month or part of a month by which the application has been delayed.

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 the months in which it left the plant and by the qualities defined in 1, 3 and 6 of the Annex to Regulation No 136/66/EEC.

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

However, this period may be extended if the monitoring process requires additional investigations, provided that the duration of validity of the security referred to in Article 11 (1) is extended by the same amount of time.

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 the Member State to which application for aid is made.

3. The security shall be released as as soon at 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 approved plant packages both olive and seed oil, the checks referred 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.

The Member State may make its authorization conditional on the lodging of security, equal in amount to the consumption aid, in respect of the quantity of oil that is to be decanted. The security shall be released when the operator can prove to the satisfaction of the Member State concerned that the oil decanted has been released for consumption without benefit of the aid or without the certificate referred to in Article 18 (3) having been obtained.

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 State shall be deducted from claims made on the EAGGF by the paying services or authorities of the Member States.

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.

6. Without prejudice to Article 3 of Regulation (EEC) No 3089/78, where checks in accordance with Article 7 thereof reveal discrepancies in the stock records involving a substantial change in the quantity of olive oil qualifying for aid, approval shall be suspended immediately by the Member State concerned.

Article 13

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 must submit their aid applications by way of such an organization.

In this case, the recognized trade organizations shall check, 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 records are exact.

2. For the purposes of the checks referred to in paragraph 1, the recognized trade organizations shall have access to the approved packaging plants and to their stock records.

The trade organizations shall, without delay, inform the Member State in question :

— if they are not granted access to the packaging plants, or

— if they find in the course of the checks :

(a) irregularities in the stock records ; or

(b) significant discrepancies between data in the stock records and data found during checks.

Article 14

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

— acid sesame oil from refining or sesame oil : 10 %, or

— acid colza oil from refining or colza oil : 30 %, or

— acid colza oil from refining or colza oil with an erucic acid content of 25 % or more of the triglyceride fatty acids, until the erucic acid level in the resulting mixture is 2,5 %, or

— acid linseed oil from refining or linseed oil : 10 %, or

— animal fat from bovine animals : 15 %, or

— cholesterol 0,2 %. This percentage must be obtained from cholesterol not containing toxic impurities for alimentary purposes.

2. 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 by-products from refining and for the other products referred to in paragraph 1, showing at least the following details :

— quantities and qualities entering the plant,

— quantities and qualities produced in the plant,

— quantities and qualities leaving the plant,

— stocks broken down by quality.

3. Member States may exempt by-products from the refining of olive oil or olive-residue oil which are intended for use in the unaltered state in the manufacture of soap from the obligation set out in paragraph 1 on condition that they submit the said products as from the moment of production to a permanent control guaranteeing their final processing into soap.

Article 15

1. By-products from the refining of olive oil or olive-residue oil falling within Common Customs Tariff subheading 15.17 B and acid oils from refining of those by-products falling within Common Customs Tariff subheading 15.10 C may be released into free circulation in the Community only if they have previously undergone, under the control of the competent authority in the Member State where they are to be released into free circulation, one of the mixing operations specified in Article 14.

2. The measures required in order to ensure compliance with the condition laid down in paragraph 1 shall be decided by the Member States concerned.

Article 16

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 and the identifiy of the purchaser.

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 17

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 indelible markings indicating that the oil has been packaged in a third country.

However, Member States shall not require the said security if the quantity of oil put into free circulation is less than 40 kilograms.

The quantities thus exempted shall be communicated to the Commission by the Member States every six months. However, they shall inform the Commission immediately if the said quantities are increasing abnormally.

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 total 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 Tunisia and Turkey, to 88 %,

— in the case of Morocco, 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. The 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. By way of derogation from Commission Regulation (EEC) No 2220/85 [1], the security shall be released on submission, save in cases of *force majeure*, of the original copy of the certificate referred to in Article 18 (3) within six months of the date on which the security was lodged. The security shall be released in respect of the quantity of oil released into free circulation or, if appropriate, for an equivalent quantity of oil which the certificate shows to have been rendered ineligible for consumption aid.

The period on the expiry of which the security becomes forfeit may be extended to 12 months by the Member State concerned in cases where oil released into free circulation and packaged in immediate containers of a net content of not more than five litres is rendered ineligible for aid under the terms of Article 18 (1) (d).

Should the time limits specified above not be complied with the security shall be forfeit. However, if the certificate referred to in Article 18 (3) is submitted within a period of six months at the latest following the date specified in the first subparagraph the security shall be repaid.

If the certificate is submitted between the 13th and 21st month following the date on which the security was lodged, the security shall be repaid subject to deduction of 10 % of the security lodged for each month or part of a month by which submission has been delayed.

Where olive oil released into free circulation falling within subheading 15.07 A I a) of the Common Customs Tariff and packaged in immediate containers of a net content of more than five litres is rendered ineligible for aid under the terms of Article 18 (1) (a) the entire security shall be released on submission by the interested party of certificates as referred to in Article 18 (3) for a quantity equivalent to at least 99 % of that in respect of which the security was lodged.

Where the export of olive oil as referred to in Article 18 (1) (b) concerns olive oil falling within subheadings 15.07 A I b) or 15.07 A I c) of the Common Customs Tariff the security may not thereupon be released unless the free fatty acid content expressed a proportion of the oleic acid does not exceed 30 grams per 100 grams of oleic acid. In such cases the security releases shall be equal to 88 and 40 % respectively of the quantity shown on the certificate referred to in Article 18 (3).

Where the conditions set out in this Article are met for only a part of the oil concerned the security shall be released in proportion to that quantity.

Article 18

1. The oil referred to in the first subparagraph of Article 17 (4) shall be deemed to have been rendered ineligible for consumption aid within the meaning of Article 9 (2) of Regulation (EEC) No 3089/78 :

[1] OJ No L 205, 3. 8. 1985, p. 5.

(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 customs 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 17 (1), has been taken over without further treatment by the retail trade, has been used for industrial purposes, or has been shipped outside the customs territory of the Community.

2. Plants proposing to use the oil referred to in Article 17 (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 first subparagraph.

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

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 17 (1).

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 were completed. At the request of the person concerned, the authorities 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 those countries under that 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 Council Regulation (EEC) No 754/76 [2], unless the certificate in question is cancelled or a new security lodged in accordance with Article 17.

Article 19

Member States shall inform the Commission of all the provisions they adopt for the implementation of this Regulation.

Article 20

Regulation (EEC) No 3172/80 is hereby repealed.

Article 21

This Regulation shall enter into force on 1 November 1985.

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

Done at Brussels, 24 September 1985.

For the Commission

Frans ANDRIESSEN

Vice-President

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[1] OJ No L 227, 7. 9. 1979, p. 10.

[2] OJ No L 89, 2. 4. 1976, p. 1.

ANNEX

CERTIFICATE Regulation (EEC) No 2677/85	EC EG EF CE EK
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 17 (1) of Regulation (EEC) No 2677/85 (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.