COMMISSION REGULATION (EEC) No 3601/92

of 14 December 1992

laying down detailed rules for the application of specific measures for table olives

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1332/92 of 18 May 1992 introducing specific measures for table olives (1), and in particular Article 5 thereof,

Whereas Regulation (EEC) No 1332/92 provides for a Community contribution towards the financing of measures to encourage an increase in the consumption of table olives in the Community;

Whereas the chief measures to be taken into consideration for granting Community financial assistance should be defined;

Whereas these measures must form part of a coherent strategy and must provide guarantees regarding the attainment of medium-term objectifs and the safeguarding of Community interests; whereas the measures must involve the principal economic operators in the sector concerned, be presented in a uniform manner and contain sufficient information to enable them to be assessed;

Whereas in order to encourage grouped initiatives and contacts between those concerned, provision should be made for a system for the dissemination of draft measures; whereas such dissemination should be carried out by intermediary bodies appointed by the Member States;

Whereas detailed rules should be laid down to govern cooperation between the bodies appointed by the Member States and the Commission with a view to evaluating and selecting projects;

Whereas the various rules for carrying out commitments will be the subject of contracts between the parties concerned and the competent national agencies, drawn up on the basis of standard contracts made available by the Commission;

Whereas the Member States must supervise implementation of the measures and the Commission must be kept informed of the results of the measures provided for in this Regulation;

Whereas Regulation (EEC) No 1332/92 also provides for a Community contribution for the constitution of working capital with the objective of stabilizing supply;

Whereas, in order to ensure that this aid scheme operates properly, the information which the bodies applying for aid must give to the competent authority regarding their working capital and economic activity, as well as the verification which the national authority must carry out must be defined;

Whereas, in order to ensure that such working capital is constituted as rapidly as possible, provision should be made for the possibility of granting advances; whereas the conditions in which such advances may be paid and the amount thereof must also be determined; whereas, however, payment of advances must be subject to the lodging of a security to ensure that recipients fulfil their obligations;

Whereas suitable penalties must be laid down for serious failures to comply with the obligations provided for in Regulation (EEC) No 1332/92 and this Regulation;

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:

TITLE I

Promotional measures

Article 1

1. Measures to develop the consumption of table olives in the Community as referred to in Article 1 of Regulation (EEC) No 1332/92 shall fall within the framework of programmes.

2. 'Programme' means a coherent body of measures meeting the following requirements:

— they must be on a sufficient scale to help increase the disposal of products and consumption, and/or

— they must enable production to be adjusted and tailored to market requirements.

3. Programmes may be carried out over a period lasting one or more years but not exceeding three years, commencing on the date of signing of contracts as referred to in Article 7 (3).

(1) OJ No L 145, 27. 5. 1992, p. 1.

Article 2

1. Programmes shall, in particular, cover more than one of the following measures:

— market surveys and consumer tests,

— research on the production of olives with a low salt content,

— development of new, environmentally sound production techniques,

— dissemination of reserach results in the areas of agronomy, nutrition and maketing to operators,

— development of new forms of market presentation and packaging,

— studies on nutrition and diet,

— organization of promotional campaigns,

— organization of and participation in trade fairs and exhibitions,

— preparation of publications and audiovisual material.

2. Measures which are receiving Community aid under other regulations or any other grant or subsidy shall not be eligible.

Article 3

1. The programmes referred to in Article 1 shall be presented by groups those members include representatives of the various branches of the table-olive sector, such as producers' organizations or associations thereof and traders or associations thereof.

2. The groups submitting the aid application shall be solely responsible for the implementation of the measures in respect of which financial assistance is granted. The groups shall have the legal capacity to carry out the measures and shall be based in the Community.

Article 4

1. The groups referred to in Article 3 may forward preliminary draft programmes to the competent body designated by the Member State in which they are based showing the measures they propose to carry out under this Regulation, in accordance with the model in Annex I. Groups comprising organizations from several Member States shall be deemed to be based in the Member State in which the organization with the highest holding is based. Such preliminary draft programmes shall be forwarded not later than 31 January each year. However, in the first year of application, such programmes shall be forwarded by 15 March at the latest.

2. The body referred to in paragraph 1 shall send the preliminary draft programmes it has received to the Commission, who shall circulate them to the competent bodies in the other Member States.

Article 5

1. Applications for financing shall be lodged with the competent body in the Member State in which the group or responsible partner is based, not later than 30 April each year. However, in the first year, applications may be lodged by 15 June at the latest.

Applications shall contain all the particulars set out in Annex II.

2. The competent body shall check the accuracy of the information in the applications and their compliance with this Regulation. It shall request additional information if necessary and draw up a reasoned opinion. This opinion shall contain an assessment of the economic coherence of the programmes and the technical quality of the measures, the accuracy of the estimates and the financing plans and the implementation capability.

The abovementioned body shall reject applications containing information which is obviously false or to which Article 2 (2) applies.

3. The competent body shall draw up a list of all the applications for aid and send it to the Commission with a copy of the applications selected, the reasoned opinion, and the reasons for not having selected the others. This information shall be sent not later than 30 June each year. However, for the first year of application, this information shall be sent by 15 August at the latest.

Article 6

Following scrutiny by the Management Committee for Oils and Fats, in accordance with Article 38 of Council Regulation No 136/66/EEC [1], the Commission shall draw up a list of the successful applications for Community financial assistance at the earliest opportunity.

The list shall be drawn up on the basis of the coherence of the strategies, the economic and technical merit of the proposed measures and programmes, their likey impact, the innovations they represent and their capacity to produce a significant increase in the consumption of table olives, and assurances as to the effctiveness and representativeness of the groups.

[1] OJ No 172, 30. 9. 1966, p. 3025/66.

Priority shall be given to measures covering more than one Member State and likely to have an impact on the Community market.

The Commission shall notify the list of selected measures to the competent bodies in the Member States immediately. The list shall be published in the 'C' series of the *Official Journal of the European Communities*.

Article 7

1. Applicants shall be informed individually of the outcome of their applications as promptly as possible by the competent body.

2. The competent bodies shall conclude contracts for the selected measures with the parties concerned within two months of notification of the list.

To that end the bodies shall use the standard contracts made available to them by the Commission. Those contracts shall contain the applicable general conditions which the contracting party shall be deemed to know and accept.

3. Contracts shall be subject to the lodging of a security equal to 15 % of the Community aid in favour of the competent body to ensure proper execution.

Such securities shall be lodged in accordance with Title III of Commission Regulation (EEC) No 2220/85 [1].

Securities shall be released witin the time-limits and under the conditions laid down in the first subparagraph of Article 8 (7).

Article 8

1. The parties concerned may submit applications for an advance as from the date of signing of the contract.

Advances may cover 30 % of the maximum Community aid.

Advances shall be paid subject to provision in favour of the competent body of a security of equivalent amount lodged in accordance with Title III of Regulation (EEC) No 2220/85.

2. Payments shall be made on the basis of quarterly invoices, the first of which shall be submitted together with the relevant supporting documents three months after the date of signing of the contract.

3. Applications for the balance shall be submitted not later than the end of the third month following completion of the measures provided for in the contract. They shall be accompanied by:

— the relevant supporting documents,

— a statement summarizing the measures carried out,

— a report assessing the results achieved to date and of the use which may be made thereof.

4. The competent body shall immediatly forward a copy of the summary statement and of the assessment report referred to in paragraph 3 to the Commission.

The Commission may make observations within 45 days.

5. The balance shall be paid subject to verification of the particulars referred to in paragraph 3 and once it has been ascertained that the obligations laid down in the contract have been fulfilled.

6. The competent body shall make the payments within three months from receipt of applications. However, it may defer payment of an advance or of the balance where further checks are required.

7. The securities referred to in paragraph 1 shall be released subject to payment of the balance of the aid for the measures concerned.

However, on application by the contractor, the security may be released earlier where the advance has been set off against the quarterly payments referred to in paragraph 2.

8. Securities shall be forfeit in part where the advance exceeds the aid to be paid; the proportion of the security corresponding to the amount paid unduly shall be forfeit.

9. Securities shall be forfeit in part or in full in accordance with Regulation (EEC) No 2220/85 where the timelimit laid down in paragraph 3 is not met.

Article 9

1. The competent bodies shall take the necessary measures to verify:

— the accuracy of the information and supporting documents supplied,

— fulfilment of all the contractual obligations,

in particular by means of technical, administrative and accounting checks at the premises of the contracting party, any partners of the contracting parties and subcontractors.

They shall inform the Commission immediately of any irregularities discovered.

2. With a view to the application of paragraph 1, where measures carried out by the contractor are executed in a Member State other than that in which the contracting competent body is established, the competent body of the Member State concerned shall provide the latter with all necessary cooperation.

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

3. The Commission may at any time take part in the verifications and checks provided for in this Article.

It may also request that certain specific checks be carried out with its participation.

TITLE II

Aid for the constitution of working capital

Article 10

To qualify for specific aid for the constitution of working capital as provided for in Article 3 of Regulation (EEC) No 1332/92, interested parties shall communicate to the competent authority:

(a) the structure of the working capital and proof of the interested party's contribution to the said capital;

(b) the arrangements for financing the working capital so that it can operate in a proper manner with a view to attaining the objectives laid down in Article 3 of the abovementioned Regulation; such proof may be provided in the form of statements from a separate bank account;

(c) supporting documents attesting to the value of the produce marketed:

— in the first marketing year following the date of recognition of the producers' group or association of producers' groups or the date of establishment of the cooperative or association of cooperatives,

— or, where applicable, in a subsequent year after recognition or establishment, as the case may be.

The value of the produce marketed shall be determined on the basis of:

— the annual sales in the said marketing year,

— the average producer prices obtained over that marketing year.

Article 11

During the three marketing years following the payment of the aid in accordance with Article 12, the competent authority shall ensure:

— that the working capital has operated and has been sustained as stated in the communication sent pursuant to Article 10 (b),

— that, at the beginning of each marketing year, the capital is reconstituted. The value of stocks of produce may be taken into account for the purposes of evaluating compliance with this obligation.

For the purposes of verification, the body concerned shall at all times keep at the disposal of the competent authority the bank statements and supporting documents attesting to transactions relevant to the operation of the capital for a period of five years.

Article 12

1. The specific aid for the constitution of working capital, comprising both the aid from the Member State and the Community aid, shall be paid by the competent national authority to the bodies concerned within a maximum of three months after submission of the aid application in accordance with Annex IV, once compliance with Article 11 has been verified.

2. However, Member States may grant and advance payment to interested parties which so request, provided that applicants:

— have submitted an application in accordance with Annex III,

— furnish proof that the working capital has been constituted as provided for in Article 3 of Regulation (EEC) No 1332/92.

Advances shall not exceed 60 % of the total financial contribution from the Member State and the Community to the financing of the working capital, determined on the basis of estimated sales data for the marketing year taken into account in Article 10 (c), in accordance with 4 of Annex III.

Where advances are paid, applications for the balance of the aid shall be submitted in accordance with Annex IV.

3. Payment of advances shall be conditional on the applicants' furnishing proof that a security equal to 110 % of the advance has been lodged.

Securities shall be lodged in accordance with Title III of Regulation (EEC) No 2220/85.

4. Securities shall be released forthwith on payment of the balance of the aid.

5. The security shall be forfeit in part where the advance exceeds the amount of the aid to be paid; the security shall be forfeit to the extent of the amount unduly paid.

6. The security shall be forfeit in full if the application for aid has not been lodged within four months of the end of the second marketing year following the date on which the application for an advance was lodged.

TITLE III

General and financial provisions

Article 13

Marketing years for table olives shall commence on 1 September and shall end on 31 August of the following year.

Article 14

1. The cases where payment is made wrongly, the competent body shall recover the sums paid, plus interest over the period from the date of payment to the date of actual recovery. The interest rate applicable shall be that applied by the European Monetary Cooperation Fund to its operations in ecus, as published in the 'C' series of the Official Journal, in force on the final date laid down for repayment.

2. Aid recovered and interest shall be paid to the disbursing agencies or departments and deducted by the latter from expenditure financed by the European Agricultural Guidance and Guarantee Fund in proportion to the Community financing.

Article 15

Member States shall take the necessary steps to penalize any failure to fulfil the undertakings given or the obligations contracted under Regulation (EEC) No 1322/92 and under this Regulation.

Article 16

This Regulation shall enter into force on the third day following 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, 14 December 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

ANNEX I

PRELIMINARY DRAFT PROGRAMME

1. Identification of applicant

Name or company name :

Place of business in the Member State :

Address :

Telephone : Telex : Telefax :

2. Partners :

Name or company name : Main activity : Member State :

3. Proposed programme :

Product(s) concerned :

Objective :

Measures envisaged :

Brief description :

Duration : Estimated amount :

Date : *(Signature)* (1)

(1) Of the person authorized by the group or partners.

ANNEX II

AID APPLICATION

I

GENERAL INFORMATION

1. **Title :**

2. **Products concerned :**

3. **Measures :**

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4. **Duration :** 1 year ☐ 2 years ☐ 3 years ☐

5. **Identification of applicant :**

5.1. *Group*

— Name or company name : .....

— Legal status : .....

..... Date established : .....

— Registered place of business :

Street : ..... No : ..... Box : .....

Post code : ..... Town : ..... Country : .....

Telephone : ..... Telex : ..... Telefax : .....

— Bank details :

Name : ..... Agency or branch : .....

Street : ..... No : ..... Box : ..... Town : ..... Country : .....

Account No : .....

5.2. *Partners* (one form for each)

Name or company name :	
Legal status :	Type : (1) OP ☐ IT ☐ D ☐ A ☐ C ☐ O ☐
Main activity :	
Role in the group : — partner ☐ — prime contractor ☐	
Responsibility and contribution to implementation of the programme :	
Experience and references (field of activity) :	
Contribution to financing of programme (in national currency) : — First year — Second year — Third year Total :	
Right to use the results :	

(1) OP = Producers' organization
IT = Processing firm
AS = Association
C = Trader
D = Retailer
O = Other

6. Financing of the programme

6.1. Total cost of programme (1) (2) : ..... (national currency)

6.2. Community contribution requested :

(a) year 1 : ..... (national currency)

(b) year 2 : ..... (national currency)

(c) year 3 : ..... (national currency)

6.3. Contribution of the group : ..... (national currency)

of which :

— own funds : .....

— loans : .....

— payments in kind : .....

— other contributions : .....

7. General information

Subcontractors : yes ☐ no ☐

If yes, specify which : .....

.....

Specify task(s) : .....

.....

.....

Type of commitment : contract (3) ☐ other (3) ☐

If other, specify which : .....

.....

8. Declaration

The undersigned declare(s) :

(a) that he/they have the necessary funds to ensure full financing of the programme ;

(b) that he/they are not receiving any other Community financial assistance or any other grant or subsidy.

Date : ....

Signature (4)

(1) Exclusive of VAT.
(2) For the duration of implementation of the programme.
(3) Attach copy.
(4) Of the person authorized by the group or partners.

II

DESCRIPTION OF THE PROGRAMME

Programmes must contain at least the following:

1. A summary of the programme concerning the aspects referred to in points 3 to 6 (not more than two pages).
2. Reasons and objectives.
3. The proposed measures.
4. Strategy: targets, methods, the phases of implementation and the timetable.
5. Implementation of the measures: details of the technical, scientific, economic, financial, media, logistic aspects.
6. The anticipated results and advantages for the sector and the Community market.
7. The criteria for assessing progress and results on completion of the programme.
8. Outlook as regards use and dissemination of results.

III

BUDGET

The net budget for the measures, before tax, expressed in national currency, broken down and reasoned (1), showing how the amount is to be allocated by category and by year.

The budget shall include the cost of assessing the results of the measures during implementation and on completion and the cost of feasability studies where necessary.

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(1) On the basis of estimates, fees, etc. and, in the case of subcontracting, offers.

ANNEX III

APPLICATION FOR AN ADVANCE ON THE AID REFERRED TO IN ARTICLE 12

Member State : .....

Year : .....

The following data relate to : Marketing year : .....

1. **Business name :** .....

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2. **Legal form :** .....

3. **Address** (street, number, locality, telephone number, telex number, telefax) :

— of the administrative headquarters : .....

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— of the sales headquarters : .....

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4. **Estimated sales data for the reference marketing year :**

Product	Produce harvested (tonnes)	Unsold stocks (tonnes)	Losses (tonnes)	Produce marketed (tonnes)	Average price obtained (national currency/tonne)	Value of produce marketed
	(a)	(b)	(c)	(d) = (a) − (b) − (c)	(e)	(f) = (d) × (e)
Total						

5. **Members' funding of working capital :**

(a) Membership fees : ..... Other form of funding : .....

(b) Structure of the working capital constituted :

.....

(c) Amount of the working capital constituted :

..... (national currency)

(d) Advance applied for = $\left(\frac{(c) \times 33}{100}\right)$:

..... (national currency)

(e) Particulars of the security lodged (bank, amount, etc) :

.....

.....

6. **To be completed by the Member State**

(a) Provisional estimated limit on advance total (f) of point 4 × 0,06 : .....

(b) Advance applied for : .....

(c) Advance granted (amount (a) or (b), whichever is the lower) : .....

(d) Amount to be borne by the EAGGF $\left(\frac{(c) \times 45}{55}\right)$: .....

ANNEX IV

APPLICATION FOR THE PAYMENT OF THE AID REFERRED TO IN ARTICLE 12 OR OF THE BALANCE THEREOF

Member State : .....

Year : .....

The following data relate to : Marketing year : .....

1. **Business name :** .....

.....

2. **Legal form :** .....

3. **Address** (street, number, locality, telephone number, telex number, telefax) :

— of the administrative headquarters : .....

.....

— of the sales headquarters : .....

.....

4. **Sales data for the reference marketing year :**

Product	Produce harvested (tonnes)	Unsold stocks (tonnes)	Losses (tonnes)	Produce marketed (tonnes)	Average price obtained (national currency/tonne)	Value of produce marketed
	(a)	(b)	(c)	(d) = (a) − (b) − (c)	(e)	(f) = (d) × (e)
Total						

5. **Member's funding of the working capital :**

(a) Membership fees : ..... Other form of funding : .....

(b) Structure of the working capital constituted :

.....

(c) Amount of working capital :

..... (national currency)

6. **To be completed by the Member State**

CALCULATION OF SPECIFIC AID

(a) Revolving fund constituted :

..... (national currency)

(b) Specific national and Community aid $\left(\frac{(a) \times 55}{100}\right)$:

..... (national currency)

(c) Maximum limit on basis of produce marketed = [total (f) in point 4 × 0,10] :

..... (national currency) :

(d) Specific aid granted (amount (b) or (c), whichever is the lower) : .....

.....

(e) Advance already granted : .....

(f) Balance to be paid (d) – (e) : .....

(g) Amount to be borne by the EAGGF : $\left(\frac{(f) \times 45}{55}\right)$: .....