COMMISSION REGULATION (EEC) No 217/93

of 2 February 1993

on olive oil storage contracts for the 1992/93 marketing year

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 2046/92 [2], and in particular Article 20d (3) and (4) thereof,

Whereas Article 20d (3) of Regulation No 136/66/EEC provides that, when certain conditions are met, a decision may be taken that producer groups and associations recognized pursuant to Council Regulation (EEC) No 1360/78 [3] may conclude storage contracts for olive oil; whereas the market situation during the first month of the 1992/93 marketing year has been such that the conditions laid down by Commission Regulation (EEC) No 314/88 [4] are met; whereas permission to conclude storage contracts should therefore be granted for the marketing year;

Whereas Council Regulation (EEC) No 221/92 [5] provides that, for the 1991/92 and 1992/93 marketing years, storage contracts for olive oil may also be concluded in Greece, Spain and Portugal by recognized producers' organizations or associations thereof within the meaning of Regulation No 136/66/EEC;

Whereas the aim behind private storage contracts is temporary withdrawal of products from a market in imbalance, without change of ownership, so that they can be put on the market again when the situation has returned to normal; whereas it should therefore be specified that storage contracts may be entered into only for olive oil produced during the current marketing year;

Whereas, in order to facilitate application of the system of contracts in all the producer Member States, ceilings should be fixed per country with the possibility of a breakdown of the quantities concerned;

Whereas only recognized groups and associations may be authorized to store oil produced by their members; whereas in order to enable them to refrain from marketing the oil that they hold aid should be granted;

Whereas the aim behind private storage must be the improved marketing of olive oil; whereas the period during which storage contracts may be concluded should therefore be restricted; whereas, moreover, the offering of oil for intervention on expiry of the storage contract should be discouraged; whereas it is accordingly desirable to reduce the storage aid if the oil is subsequently offered for intervention;

Whereas it is desirable to specify that entitlement for a storage contract is annulled by the acceptance of an export declaration;

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

The intervention agencies in the producer Member States shall conclude olive-oil storage contracts for the 1992/93 marketing year as provided for in this Regulation.

Article 2

1. Without prejudice to Regulation (EEC) No 221/92, storage contracts (hereinafter called 'contracts') shall be concluded only with recognized groups or associations within the meaning of Regulation (EEC) No 1360/78 which hold olive oil of Community origin produced by their own members and which have appropriate storage facilities at their disposal.

2. Contracts shall relate only to olive-oil qualities that may be offered for intervention and to lots of at least 100 tonnes net of the same quality. In Portugal, however, the minimum size of lots shall be 25 tonnes.

3. Contracts shall be concluded for a period of 60 days. They shall be automatically renewed for 60-day periods if the party concerned does not, before expiry of the period, ask the intervention agency to cancel the contract, always provided that the new expiry date is not later than

[1] OJ No 172, 30. 9. 1966, p. 3025/66.
[2] OJ No L 215, 30. 7. 1992, p. 1.
[3] OJ No L 166, 23. 6. 1978, p. 1.
[4] OJ No L 31, 3. 2. 1988, p. 16.
[5] OJ No L 24, 1. 2. 1992, p. 9.

31 October 1993 and, except where the possibility of concluding new contracts or renewing them is suspended, as provided for in Regulation (EEC) No 314/88.

4. The maximum quantity that may be covered by contracts at any one time during the 1992/93 marketing year shall be 180 000 tonnes, broken down as follows:

— 76 000 tonnes in Spain,

— 70 000 tonnes in Italy,

— 30 000 tonnes in Greece,

— 4 000 tonnes in Portugal.

If the quantities covered by contract in a Member State at 12 April 1993 are below the ceiling set, the balance shall be divided by the Commission among Member States which have used up the quantities allocated to them.

Article 3

1. With a view to conclusion of a contract, a written application must be lodged, by 18 May 1993 at the latest, with the intervention agency of the Member State in which the olive oil is located. It must be accompanied by proof that security of ECU 0,5 per 100 kilograms of oil has been lodged.

2. Applications must be lodged on Mondays or Tuesdays of each weeks. On Thursdays, by 2 p.m. Brussels time at the latest, Member States shall notify the Commission of the quantities for which valid applications have been made and for which contracts expired in the previous week.

The Commission shall each week total the quantities for which applications have been made and shall, until exhaustion of the maximum quantity specified in Article 2 (4), authorize Member States to accept the applications made. Should there be a risk of exhaustion of the quantity it shall authorize acceptance of quantities applied for proportionally to the quantity available.

3. After authorization by the Commission, contracts shall be concluded without discrimination and as rapidly as possible. The date of conclusion of the contract shall be that of sending notification of acceptance of the relevant application by the intervention agency. The date of commencement of the contract shall be the day following the date of conclusion, unless the applicant has requested a later date.

4. Only olive oil produced in the Community during the current marketing year may be the subject of a contract.

Article 4

1. Contracts shall be drawn up in two copies and shall include the following information:

(a) the business name of the co-contracting party;

(b) its full postal address;

(c) the name and address of the intervention agency;

(d) the exact address of the place of storage;

(e) the number and individual particulars of the lots covered by the contract and the net weight and quality of each lot;

(f) the consent of the owner of the oil stored, if the co-contracting party is not himself the owner;

(g) the date of commencement of the contract;

(h) the reference to this Regulation;

(i) the date of conclusion of the contract.

2. Contracts shall make the following obligations incumbent upon the co-contracting party

(a) that of holding in store during the period stipulated the agreed quantity of the relevant product on his own behalf and at his own risk in containers specified in the contract, any change to be authorized by the intervention agency;

(b) that of storing oils of differing qualities in separate and identifiable containers;

(c) that of authorizing the intervention agency to verify at any time that the obligations laid down in the contract are in fact being complied with.

3. The co-contracting party may, at any time, cancel the contract by notifying the intervention agency. He shall thereby lose entitlement to aid for the current 60-day period.

4. The obligation of compliance with the quantity shown in the contract shall be deemed to be met if at least 98 % of that quantity has been maintained in store.

Article 5

1. For each 60-day period, the following aid shall be granted:

— ECU 4,5 per 100 kilograms if the storage agency provides evidence, within 60 days following the date of expiry of the contract, that the olive oil has been marketed,

— ECU 1 per 100 kilograms in all other cases.

2. For the purposes of this Regulation 'marketed' shall mean that the oil has either been sold and delivered to a packaging plant approved pursuant to Commission Regulation (EEC) No 2677/85 [1] or to a refiner or has been exported.

[1] OJ No L 254, 25. 9. 1985, p. 5.

3. An amount of ECU 1 per 100 kilograms may be paid in advance on conclusion or renewal of the contract against security for an equivalent amount.

4. The rate applicable for the conversion into national currency for the amount of the storage aid shall be the agricultural conversion rate in force on the day of conclusion of the contract.

5. The amount of the aid shall be calculated by reference to the net weight ascertained on the date of commencement of the contract.

Article 6

1. Subject to the provisions of Article 7, the aid shall be paid only where all the obligations in the contract have been complied with.

The aid shall be paid, and the securities specified in Articles 3 (1) and 5 (3) released after verification of compliance with the said obligations, within 60 days following expiry of the contract.

2. Acceptance of an export declaration shall terminate the storage arrangement. In this case no aid shall be paid for the period in progress at the time of such acceptance for the quantity entered in the export declaration.

Article 7

1. In cases of *force majeure*, the intervention agency shall determine what action is deems necessary given the circumstances invoked. Such action may, in particular, involve payment of the aid due *pro rata* for the quantity stored and the actual period of storage.

2. Member States shall inform the Commission of all cases they deem to be cases of *force majeure* and of the action taken in each case.

Article 8

1. The Member States shall take all action necessary to ensure, throughout the contractual storage period, verification of compliance with the obligations laid down in the contract. Such verification shall include physical inspection of the goods in store, removed from store or placed in store and verification of the appropriate registers.

Physical inspection shall include verification that the stocks meet the requirements specified in Article 2 (2) and are capable of identification, and checks as to whether the quantities stored and marked tally with the quantities declared.

2. Failure to comply with the contractual obligation shall entail forfeiture of the security specified in Article 3 (1), without prejudice to any other penalties applicable.

3. Member States shall notify to the Commission national measures adopted in implementation of this Regulation, with a specimen of the contract.

Article 9

Member States shall notify the Commission by the 10th of each month :

— of the quantities and qualities of olive oil for which contracts have been concluded or renewed during the preceding month,

— by quality, of the total quantities of olive oil in storage at the end of the preceding month, and the total number of current contracts.

Article 10

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, 2 February 1993.

For the Commission

René STEICHEN

Member of the Commission