COMMISSION REGULATION (EEC) No 643/93

of 19 March 1993

amending Regulation (EEC) No 2677/85 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 estabishment 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 11 (8) thereof,

Whereas, in the light of experience, the conditions for the approval of packaging plants receiving consumption aid for olive oil should be defined more clearly;

Whereas, in order to make verification of the quantities in respect of which aid is granted more effective, it should be laid down that an on-site check must be made of the packaging undertakings concerned before entitlement to aid can be recognized and provision shall be made for penalties for operators refusing to cooperate with the cross-checks or not providing the necessary documentation;

Whereas, to ensure sound management of the aid scheme, the conditions for the granting of aid and the payment of advances should be defined more clearly; whereas, for the same reason, the rules governing the security to be lodged for the payment of an advance should be amended;

Whereas, to ensure the smooth operation of the aid scheme, experience shows that penalties should be adjusted in accordance with the seriousness of the offence; whereas, to the same end, the system of penalties should be extended;

Whereas, to ensure sound management, the method for determining the quantity of certain denaturing products to be mixed with the by-products of the olive oil refining process should be laid down; whereas, to that end, the method for determining the aliphatic alcohols content set out in Commission Regulation (EEC) No 2568/91 [3], as last amended by Regulation (EEC) No 3288/92 [4], should be used;

Whereas the amendments provided for in the rules concerning checks on undertakings will, in certain Member States, involve changes in administrative practices; whereas, therefore, the introduction of those amendments should be delayed until the beginning of the 1993/94 marketing year;

Whereas Commission Regulation (EEC) No 2677/85 [5], as last amended by Regulation (EEC) No 2181/92 [6], should be amended;

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 2677/85 is hereby amended as follows:

1. the final sentence of the final paragraph of Article 2 is replaced by the following:

   'In those Member States which have set up the inspection agency referred to in Regulation (EEC) No 2262/84, that agency shall participate in the checks in question. Where the opinion of the agency is unfavourable, the competent authority shall grant approval only after informing the Commission of the reasons for its decision.';

2. in the second subparagraph of Article 5 (1), 'at least once per marketing year' is replaced by 'at least once every 12 months';

3. Article 9 (3) is replaced by the following:

   '3. The Member State shall pay the aid within 150 days of submission of the application for the quantities for which entitlement to aid has been recognized following on-the-spot checks.

   This period may be extended, however, if further enquiries become necessary as a result of those checks. The Member State shall determine the new deadline and inform the Commission.

   The body responsible for checking entitlement to aid shall notify the paying agency of its findings as regards recognition of entitlement to aid in respect of each

[1] OJ No 172, 30. 9. 1966, p. 3025/66.
[2] OJ No L 215, 30. 7. 1992, p. 1.
[3] OJ No L 248, 5. 9. 1991, p. 1.
[4] OJ No L 22, 30. 1. 1993, p. 58.
[5] OJ No L 254, 25. 9. 1985, p. 5.
[6] OJ No L 217, 31. 7. 1992, p. 84.

approved undertaking within 45 days of the on-the-spot check and at least 20 days before the end of the time limit referred to in the previous subparagraph.';

4. Article 11 is replaced by the following:

'Article 11

1. The amount of the aid shall be advanced once the party concerned has submitted to the competent authority an application for aid together with a certificate showing that a security of an amount equal to the aid has been lodged.

Advances must in any case be paid within 45 days of the submission of the application as referred to above.

2. The security shall be lodged in accordance with the conditions laid down in Title III of Commission Regulation (EEC) No 2220/85 (*). The duration of validity of the security shall be sufficient to cover the period necessary for recognition of entitlement to aid. However, where checks call for further investigations to be carried out beyond that time limit, the duration of validity of the security shall be extended or a new security lodged for the required period. The Member State shall determine the new deadline and inform the Commission. Where, in such cases, the party concerned does not submit proof of the extension of the duration of validity of the existing security or of the lodging of a new security before the end of the duration of validity of the original security, that security shall be forfeit.

If, however, proof is submitted during the 10 days following the end of the duration of validity of the initial security, 50 % of that security shall be forfeit.

3. The body responsible for checking entitlement to aid shall notify the paying agency of its findings as regards recognition of entitlement to aid in respect of each approved undertaking within 45 days of the on-the-spot check. The security shall be released as soon as the competent authority of the Member State has recognized entitlement to the aid on the basis of such notification.

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 are not complied with.

4. Notwithstanding paragraph 1, the grant of an advance to a newly-approved undertaking shall be subject to the lodging of a security equal to 130 % of each advance applied for during the first year of operation.

(*) OJ No L 205, 3. 8. 1985, p. 5.';

5. Article 12 is amended as follows:

(a) in the first subparagraph of Article 12 (1), 'Each undertaking shall be inspected for this purpose at least once in each marketing year' is replaced by 'Each undertaking shall be inspected for this purpose at least once every 12 months.';

(b) the following is added to the last subparagraph:

'To that end, the suppliers and operators referred to above shall keep the necessary documentation, to be specified by the Member State, available for examination by the inspection authorities.';

(c) paragraph (6) is replaced by the following:

'6. Where the competent authority finds that an application for consumption aid relates to a quantity greater than that for which entitlement to aid has been recognized, the Member State shall impose a penalty on the packaging undertaking equal to between three and eight times the aid improperly applied for, depending on the seriousness of the infringement. Moreover, where Article 11 (3) of Regulation No 136/66/EEC is applied, the plant concerned shall be obliged, for a period of from one to five years, to submit applications for aid direct to the Member State which shall carry out the checks referred to in Article 13 (1).

However, where the quantity for which aid has been improperly applied for exceeds the checked quantity for which entitlement to aid has been recognized by at least 20 %, the Member State, in addition to imposing a financial penalty, shall withdraw approval for a period of from one to three years depending on the seriousness of the infringement.

In the case of any further infringement, and irrespective of the extent by which the quantity for which aid has been improperly applied for exceeds the checked quantity, in addition to the financial penalty, approval shall be withdrawn for a period of from one to five years depending on the seriousness of the infringement.

The penalties referred to in the first, second and third subparagraphs shall apply without prejudice to any other penalties.';

(d) the following paragraph 7 is added:

'7. Without prejudice to paragraph 6, where the suppliers or operators referred to in the final subparagraph of paragraph 1 refuse to cooperate with checks or are unable to supply the competent authorities with information permitting verification of the eligibility of the oil in question for aid, the suppliers or operators concerned shall pay the Member State an amount equal to twice the consumption aid applied for in respect of the

quantities concerned. The amount paid to the Member State shall be deducted from claims made on the EAGGF by the paying agencies or authorities of the Member States.';

6. the following subparagraph is added to Article 14 (1):

'To that end, the method for the determination of the aliphatic alcohols content set out in Regulation (EEC) No 2568/91 shall be used.'

Article 2

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

However, Articles 9 (3) and 11 (3) of Regulation (EEC) No 2677/85, as amended by this Regulation, shall apply from 1 November 1993.

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

Done at Brussels, 19 March 1993.

For the Commission

René STEICHEN

Member of the Commission