COMMISSION REGULATION (EC) No 867/2008

of 3 September 2008

laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 as regards operators' organisations in the olive sector, their work programmes and the financing thereof

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) [1], and in particular the third subparagraph of Article 103(2) in conjunction with Article 4 thereof,

Whereas:

(1) In accordance with Article 201(1)(c) of Regulation (EC) No 1234/2007, Council Regulation (EC) No 865/2004 of 29 April 2004 on the common organisation of the market in olive oil and table olives and amending Regulation (EEC) No 827/68 [2] shall be repealed as from 1 July 2008. Given the numerous references to specific dispositions of Regulation (EC) No 865/2004 in Commission Regulation (EC) No 2080/2005 [3], which lays down detailed rules for the application of Regulation (EC) No 865/2004, and in the interest of clarity and rationalisation, Regulation (EC) No 2080/2005 should be repealed and replaced by a new Regulation specifying the new legal basis and containing reference to the correct basic dispositions. The new Regulation should also include certain amendments that are deemed necessary after the experience gained in two years of implementation of work programmes.

(2) To ensure that approved operators' organisations are effective, approval should relate to the various categories of operators having a major impact in the olive oil or table olives sectors, while ensuring that those organisations can guarantee compliance with certain minimum conditions that are sufficient to obtain economically significant results.

(3) To allow producer Member States to implement administrative management of the system of approved operators' organisations in the olive sector, the procedures and time limits for the approval of such organisations, the criteria for selecting their work programmes, the arrangements for paying Community financing and the allocation thereof should be laid down.

(4) Under Article 110i(4) of Council Regulation (EC) No 1782/2003 [4], which establishes common rules for direct support schemes under the common agricultural policy and certain support schemes for farmers, Member States may withhold up to 10 % of the olive oil component in the national ceiling referred to in Article 41 thereof to provide Community financing for the work programmes drawn up by approved operators' organisations in one or more of the areas referred to in Article 103(1) of Regulation (EC) No 1234/2007.

(5) In accordance with the common rules on financing direct support schemes, and to allow the use of the amounts available by Member State, the annual expenditure intended for the implementation of the work programmes should not exceed the annual amounts withheld by the Member States in accordance with Article 110i(4) of Regulation (EC) No 1782/2003.

(6) To ensure overall consistency between the activities of approved operators' organisations, the types of measures that are eligible for Community financing and those that are ineligible should be laid down. The arrangements for the submission of the programmes and the selection criteria for those programmes should also be laid down. Given the enhanced efficiency of modern technology, it would be opportune to consider as eligible, the storage or processing improvements which may also result in an indirect increase of capacity. The Member States concerned should, however, be allowed to lay down additional eligibility conditions so as to gear measures more closely to the national situation in the olive sector.

(7) In the light of experience, the Community financing thresholds should be fixed at the very least for the areas of improving the environmental impact of olive cultivation and traceability, certification and protection, under the authority of the national administrations, of the quality of olive oil and table olives by means of quality control on the olive oils sold to the final consumer so as to ensure implementation of at least a certain number of measures in sensitive priority areas. To take into consideration the experience gained, the relevant threshold for the area of improving the environmental impact of olive cultivation should be adapted in order to reflect the evolution in this area. In view of the work programmes concerned and in order to facilitate their implementation, it is appropriate to provide for an increased percentage of overheads.

[1] OJ L 299, 16.11.2007, p. 1.
[2] OJ L 161, 30.4.2004, p. 97. Corrected by OJ L 206, 9.6.2004, p. 37.
[3] OJ L 333, 20.12.2005, p. 8.
[4] OJ L 270, 21.10.2003, p. 1.

(8) To ensure that the work programmes are implemented within the given time periods and in accordance with Article 103(1) of Regulation (EC) No 1234/2007, and to ensure efficient administrative management of the system of approved operators' organisations in the olive sector, the procedures should be laid down for applications for approval, and the selection and approval of work programmes. For the selection of the work programmes, Member States should also consider the evaluation of programmes carried out by operators' organisations in the framework of this Regulation, of Commission Regulation (EC) No 1334/2002 of 23 July 2002 laying down detailed rules for the application of Council Regulation (EC) No 1638/98 as regards the work programmes of operators' organisations in the olive sector for the marketing years 2002/03, 2003/04 and 2004/05 [1] and of Regulation (EC) No 2080/2005.

(9) To guarantee the good and complete execution of the approved work programmes, it would be essential to increase the amount of the bank security linked to the application approval, and to allow its release only after the successful completion of the entire work programme.

(10) To allow correct use of the financing available by Member State, provision should be made for an annual amendment of the work programmes approved for the following year, to take into account any duly justified changes over the initial conditions. Member States should also be able to lay down the conditions required to amend the work programmes and redistribute the amounts allocated without exceeding the annual amounts withheld by the producer Member States pursuant to Article 110i(4) of Regulation (EC) No 1782/2003. For the case of programme amendments requested by operators' organisations, and in order to allow flexibility in the application of the work programmes, it would be opportune to shorten the required advance notice to be given to the competent authorities.

(11) To allow work to commence in good time, operators' organisations should be able to receive a maximum advance of 90 % of the eligible annual expenditure for the approved work programme, subject to the lodging of a security under the terms laid down by Commission Regulation (EEC) No 2220/85 of 22 July 1985 laying down common detailed rules for the application of the system of securities for agricultural products [2]. To facilitate and speed up the execution of the work programmes, it would be appropriate to set up a more balanced distribution of the amount of the advances.

(12) In order to increase the overall impact of the work programmes carried out in the area of market follow-up and administrative management in the olive oil and table olives sector, it should be provided for operators' organisations and Member States to publish on their Internet sites the results of the measures undertaken thereof.

(13) For the purposes of proper management of the rules on operators' organisations in the olive sector, the Member States concerned should draw up a control plan and specify a system of penalties for any irregularities committed. Provision should also be made for operators' organisations to notify the results of their work to the national authorities in the Member States concerned and to transmit those results to the Commission. In view of the cut-off date given to operators' organisations to present their financing applications and to Member States to conclude the necessary checks, a new deadline for a Member States communication should be fixed.

(14) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

Article 1

Scope

This Regulation lays down detailed rules for the application of Articles 103 and 125 of Regulation (EC) No 1234/2007 as regards the approval of operators' organisations, the measures that are eligible for Community financing, the approval of work programmes, and the implementation of approved work programmes.

Article 2

Conditions for approving operators' organisations in the olive sector

1. Member States shall approve operators' organisations eligible for Community financing of work programmes as referred to in Article 103 of Regulation (EC) No 1234/2007.

2. Member States shall draw up the conditions for approval, which shall include at least the following:

(a) producer organisations shall be composed exclusively of olive producers who are not members of any other approved producer organisation;

(b) associations of producer organisations shall be composed exclusively of approved producer organisations which are not part of another approved association of producer organisations;

[1] OJ L 195, 24.7.2002, p. 16. Regulation repealed by Regulation (EC) No 2080/2005.
[2] OJ L 205, 3.8.1985, p. 5.

(c) other operators' organisations shall be composed exclusively of operators in the olive sector who are not part of another approved operators' organisation;

(d) interbranch organisations shall provide a broad and balanced representation of all economic activities linked to the production and processing of, and trade in, olive oil and/or table olives;

(e) the operators' organisation shall be in a position to submit a work programme for at least one of the areas of measures referred to in points (a), (b), (c), (d) and (e) of the first subparagraph of Article 5(1);

(f) the operators' organisation shall undertake to submit to the checks provided for in Article 14 of this Regulation.

3. In evaluating the applications for approval submitted by operators' organisations, Member States shall consider in particular the following aspects:

(a) the specific features of the olive sector in each regional area defined by the Member States (hereinafter regional area);

(b) consumer interests and market balance;

(c) improving the production quality of olive oil and table olives;

(d) an assessment of the effectiveness of the work programmes submitted.

Article 3

Procedure for approving operators' organisations in the olive sector

1. For the purposes of approval, operators' organisations in the olive sector must lodge, by a date to be determined by the Member State but no later than 15 February of each year, an application demonstrating that they meet the conditions laid down in Article 2(2).

The application for approval shall be drawn up in accordance with a model provided by the competent authority in the Member State in order to be able to monitor compliance with the conditions provided for in Article 2(2). It shall include elements allowing the identification of each member of the operators' organisation.

2. No later than 1 April of each year of implementation of the approved work programme, the operators' organisation shall be approved by the Member State and shall receive an approval number.

3. Approval shall be rejected, suspended or withdrawn immediately if the operators' organisation does not meet the conditions referred to in Article 2(2).

4. Nevertheless, the operators' organisation shall retain the rights which devolve from its approval until the moment that its approval is withdrawn, provided that it acted in good faith as regards conformity with the conditions referred to in Article 2(2).

Where approval is withdrawn because the operators' organisation has failed deliberately or as a result of serious negligence to comply with the conditions for approval referred to in Article 2(2), the decision to withdraw approval shall take effect from the date from which the conditions for approval are no longer being fulfilled.

5. Approval shall be rejected, suspended or withdrawn immediately if the operators' organisation:

(a) has been penalised for infringing the production aid scheme provided for in Regulation No 136/66/EEC of the Council [1] in the 2002/03 to 2004/05 marketing years;

(b) has been penalised for infringing the scheme to fund the activities of operators' organisations provided for in Council Regulation (EC) No 1638/98 [2] in the 2002/03 to 2004/05 marketing years.

6. Operators' organisations which have been approved by the Member State under Regulation (EC) No 1334/2002 and/or have received financing for the work programmes of operators' organisations in the marketing years from 2002/03 to 2004/05 may be deemed approved under this Regulation if they meet the conditions referred to in Article 2(2).

Article 4

Community financing

1. The annual Community financing for the work programmes of operators' organisations shall be provided up to the amount withheld in accordance with Article 110i(4) of Regulation (EC) No 1782/2003.

Member States shall ensure that the annual expenditure for the implementation of approved work programmes does not exceed the amount referred to in the first subparagraph.

2. Member States shall ensure that the Community financing is allocated proportionately over the period provided for in Article 8(1).

[1] OJ 172, 30.9.1966, p. 3025/66.
[2] OJ L 210, 28.7.1998, p. 32.

Article 5

Measures eligible for Community financing

1. The measures eligible for Community financing under Article 103(1) of Regulation (EC) No 1234/2007 (hereinafter referred to as eligible measures) shall be as follows:

(a) in the area of market follow-up and administrative management in the olive oil and table olives sector:

(i) collecting data on the sector and the market, in accordance with specifications relating to method, geographical representativeness and precision laid down by the competent national authority;

(ii) drawing up studies, in particular on subjects linked to the other activities provided for in the work programme of the operators' organisation concerned;

(b) in the area of improving the environmental impacts of olive cultivation:

(i) collective operations to maintain olive groves of high environmental value at risk of abandonment, in conformity with specified conditions, on the basis of objective criteria, by the competent national authority in particular concerning the regional areas which may be eligible and the area and minimum number of olive oil producers who must be involved to make the operations in question effective;

(ii) developing good agricultural practice in olive growing, based on environmental criteria adapted to local conditions, its dissemination among olive growers and following up its practical application;

(iii) practical demonstrations of alternatives to chemical products for controlling olive fly;

(iv) practical demonstrations of olive-growing techniques geared towards environmental protection and stewardship of the countryside, such as organic farming, low-input farming, integrated farming, etc.;

(v) adding environmental data to the geographic information system for olive cultivation (olive GIS) referred to in Article 20 of Regulation (EC) No 1782/2003;

(c) in the area of improving the production quality of olive oil and table olives:

(i) improving conditions for growing, in particular controlling olive fly, harvesting, delivering and storing olives prior to processing, in accordance with the technical specifications laid down by the competent national authority;

(ii) varietal improvement of olive groves on individual holdings, provided that they contribute to the objectives of the work programmes;

(iii) improving conditions for storage and use of the residues of olive oil and table olive production;

(iv) technical assistance to the olive oil processing industry covering aspects linked to the quality of products;

(v) setting up and improving laboratories for the analysis of virgin olive oils;

(vi) training tasters to carry out organoleptic checks on virgin olive oils;

(d) in the area of traceability, certification and protection, under the authority of the national administrations, of the quality of olive oil and table olives by means of quality control on the olive oils sold to the final consumer:

(i) setting up and managing systems allowing products to be traced from the olive grower through to packaging and labelling, in accordance with specifications set out by the competent national authority;

(ii) setting up and managing quality certification systems, based on a system of risk analysis and checks on critical points, which is in conformity with technical criteria adopted by the competent national authority;

(iii) setting up and managing systems to monitor compliance with norms attesting to the authenticity, quality and marketing of the olive oil and table olives placed on the market, in accordance with the technical specifications laid down by the competent national authority;

(e) in the area of disseminating information on measures carried out by operators' organisations to improve the quality of olive oil and table olives:

(i) disseminating information on the work carried out by operators' organisations in the areas referred to in points (a), (b), (c) and (d);

(ii) setting up and maintaining an Internet site on measures carried out by operators' organisations in the areas referred to in points (a), (b), (c) and (d).

As regards the measure provided for in point (c)(ii) of the first subparagraph, Member States shall ensure that appropriate provisions are made in order to recover the investment or its residual value if the member leaves the operators' organisation.

2. Member States may adopt additional conditions specifying the eligible measures, provided that these do not render their presentation or implementation impossible.

Article 6

Allocation of Community financing

In each Member State a minimum percentage of 25 % of the amount of Community financing available under Article 103 of Regulation (EC) No 1234/2007 shall be allocated to the area referred to in point (b) of the first subparagraph of Article 5(1), and a minimum percentage of 12 % of that Community financing shall be allocated to the area referred to in point (d) of the first subparagraph of Article 5(1).

If the minimum percentage referred to in the first subparagraph cannot be fully used in the areas of measures mentioned therein, the amounts which have not been used may not be allocated to other areas of measures but shall be returned to the Community budget.

Article 7

Activities and costs ineligible for Community financing

1. The following activities shall not be eligible for Community financing under Article 103 of Regulation (EC) No 1234/2007:

(a) activities which are in receipt of Community financing other than that provided for in Article 103 of Regulation (EC) No 1234/2007;

(b) activities aiming at a direct increase in production, storage or processing capacity;

(c) activities linked to the purchase or storage of olive oil or table olives or having an impact on their prices;

(d) activities linked to the commercial promotion of olive oil or table olives;

(e) activities linked to scientific research;

(f) activities that could distort competition in the other economic activities of the operators' organisation.

2. To ensure compliance with paragraph 1(a), operators' organisations shall undertake in writing, on behalf of themselves and their members, to refuse any financing under another Community or national aid scheme for measures which are actually financed under Article 103 of Regulation (EC) No 1234/2007.

3. In the implementation of the measures referred to in Article 5, costs incurred as a result of the following shall not be eligible for Community financing:

(a) reimbursement (including in the form of annual payments) of loans taken out for a measure carried out in full or in part before the beginning of the work programme;

(b) payments to operators participating in meetings and training programmes, to compensate for loss of income;

(c) expenditure relating to administrative and personnel costs incurred by Member States and beneficiaries of aid from the EAGF;

(d) the purchase of land which has not been built on;

(e) the purchase of second-hand equipment;

(f) expenditure linked to leasing contracts, including taxes, interest and insurance costs;

(g) hire as an alternative to purchase, and the operating costs of the goods hired.

4. Member States may adopt additional conditions giving further details of the ineligible activities and costs referred to in paragraphs 1 and 3.

Article 8

Work programmes and applications for approval

1. The work programmes eligible for Community financing under Article 103(1) of Regulation (EC) No 1234/2007 shall be carried out over a maximum period of three years. The first period shall begin on 1 April 2006. The following periods shall begin every three years on 1 April.

2. Each operators' organisation approved under this Regulation may lodge an application for approval for one single work programme by a date to be determined by the Member State but no later than 15 February of each year.

The application for approval shall contain the following elements:

(a) details of the operators' organisation in question;

(b) information on the selection criteria provided for in Article 9(1);

(c) a description and justification of each proposed measure, and a timetable;

(d) the planned expenditure, broken down by measure and by area of measures, as referred to in Article 5, with details for each 12-month period from the date of approval of the work programme, distinguishing the overheads, which may not exceed 7 % of the total, and the other main types of costs;

(e) the financing plan by area of measures referred to in Article 5, with details for each 12-month period maximum from the date of approval of the work programme, indicating in particular the Community financing applied for and, where appropriate, the financial contributions from operators and the national contribution;

(f) the description of the quantitative and qualitative efficiency indicators allowing interim evaluation in the course of implementation, and *ex post* evaluation of the programme on the basis of general principles laid down by the Member State;

(g) proof that a security in accordance with Regulation (EEC) No 2220/85 for an amount equivalent to at least 10 % of the requested Community financing has been lodged;

(h) an application for an advance under Article 11;

(i) the declaration provided for in Article 7(2);

(j) for interbranch organisations and associations of producer organisations, details of the operators' organisations responsible for the actual implementation of the subcontracted measures in their programmes;

(k) for operators' organisations forming part of an association of producers or of an interbranch organisation, a statement that the measures provided for in their programmes are not covered by any other application for Community financing under this Regulation.

Article 9

Selection and approval of work programmes

1. Member States shall select the work programmes on the basis of the following criteria:

(a) the general quality of the programme and its consistency with the goals and priorities of the olive sector in the regional area concerned, as laid down by the Member State;

(b) the financial credibility and the sufficiency of the financial resources of the operators' organisation concerned for the purposes of implementing the proposed measures;

(c) the size of the regional area involved in the work programme;

(d) the divergent economic situations in the regional area involved which are taken into account in the work programme;

(e) the existence of several areas of measures and the size of the financial contribution from the operators;

(f) the quantitative and qualitative efficiency indicators allowing interim evaluation in the course of implementation, and *ex post* evaluation of the programme drawn up by the Member State;

(g) the evaluation of work programmes which may have been previously carried out by the operators' organisation in the framework of this Regulation or of Regulations (EC) No 1334/2002 or (EC) No 2080/2005.

Member States shall take account of the distribution of applications among the different types of operators' organisations in each regional area.

2. Member States shall reject any work programmes that are incomplete or contain inaccurate information, or include any of the ineligible activities provided for in Article 7.

3. No later than 15 March of each year, Member States shall inform operators' organisations which work programmes have been approved and, where applicable, to which work programmes they have granted the corresponding national financing.

Final approval of a work programme may be made subject to the incorporation of amendments judged necessary by the Member State. In this case, the operators' organisation concerned shall communicate its agreement within 15 days of the notification of amendments.

4. Should the proposed work programme not be selected, the Member State shall immediately release the security referred to in Article 8(2)(g).

5. Member States shall ensure that the amount of Community financing is allocated within each category of operators' organisation taking account of the value of olive oil produced or marketed by the members of the operators' organisation.

Article 10

Amendments to work programmes

1. Operators' organisations may, in accordance with a procedure laid down by the Member State, request amendments to the content and budget of their approved work programme, provided that this does not involve an overrun on the amount withheld pursuant to Article 110i(4) of Regulation (EC) No 1782/2003.

2. Requests for amendment to a work programme shall be accompanied by supporting documents setting out the reasons for and the nature and implications of the proposed changes. Such requests shall be submitted by the operators' organisation to the competent authority at least three months before the planned start of implementation of the measure in question.

3. Where operators' organisations with previously separate work plans have merged, they shall operate the plans in parallel and separately until 1 January of the year following the merger. These organisations shall merge their work programmes by means of an application to amend their respective work programmes, in accordance with paragraphs 1 and 2.

Notwithstanding the first subparagraph, the Member States may authorise the operators' organisations which so request, for duly substantiated reasons, to implement their respective work programmes without merging them.

4. No later than two months after receiving the amendment request referred to in paragraph 2, once it has examined the documents provided, the competent authority in the Member State shall communicate its decision to the operators' organisation concerned. If a decision is not taken within that time limit, the request shall be deemed to have been accepted.

5. Should the Community financing obtained by the operators' organisation be less than the amount in the approved programme, beneficiaries may adapt their programme to the financing obtained.

Article 11

Advances

1. An operators' organisation which has lodged the application provided for in Article 8(2)(h) shall receive, under the conditions referred to in paragraph 2 of this Article, a total advance of a maximum of 90 % of the eligible expenditure planned for each year covered by the approved work programme.

2. Before the end of the month following the month of the beginning of the implementation of each year of the approved work programme, the Member State shall pay the operators' organisation concerned an initial instalment of half of the amount referred to in paragraph 1.

A second instalment equivalent to the remaining half of the amount referred to in paragraph 1 shall be paid after carrying out the check referred to in paragraph 3.

3. Member States shall check that each instalment of the advance has actually been spent, before paying the following instalment.

This check shall be carried out by the Member State on the basis of the report referred to in Article 13 or on the basis of an on-the-spot check as referred to in Article 14.

4. The payments referred to in paragraph 2 shall be subject to the lodging of a security by the operators' organisation concerned in accordance with Regulation (EEC) No 2220/85 of an amount equal to 110 % of the advance requested. The primary requirement within the meaning of Article 20(2) of that Regulation is the implementation of the measures listed in the approved work programme.

5. By a date to be determined by the Member State but no later than the end of each year of implementation of the work programme, the operators' organisations concerned may lodge an application for release of the security referred to in paragraph 4 up to an amount equal to half the expenditure actually carried out. The Member State shall lay down which supporting documents shall accompany this application and check them, and shall release the securities corresponding to the expenditure concerned no later than in the course of the second month following that in which the application is lodged.

Article 12

Application for Community financing

1. For the purposes of payment of the Community financing under Article 103 of Regulation (EC) No 1234/2007, an operators' organisation shall lodge, by a date to be determined by the Member State but no later than three months after the end of each year of implementation of its work programme, an application for financing with the paying agency.

The Member State may pay operators' organisations the balance of Community financing corresponding to each year of implementation of the work programme after checking, on the basis of the report referred to in Article 13 or on the basis of an on-the-spot check as referred to in Article 14, that the two instalments of the advance referred to in Article 11(2) have actually been spent.

Applications for Community financing submitted after the date referred to in the first subparagraph shall be inadmissible and any amounts received in respect of Community financing for the programme shall be reimbursed in accordance with the procedure laid down in Article 17.

2. The application for Community financing shall be drawn up in accordance with a model provided by the competent authority in the Member State. To be admissible, the application shall be accompanied by:

(a) supporting documents proving:

(i) the expenditure effected in the period of implementation of the work programme (invoices and bank documentation proving that they have been paid);

(ii) where appropriate, payment of the financial contributions of the operators and the Member State concerned;

(b) a summary report comprising the following elements:

(i) a detailed description of the stages of the programme implemented, broken down by areas of measures as detailed in Article 5;

(ii) where appropriate, the justification and the financial repercussions of the gaps between the stages of the work programme approved by the Member State and the stages of the work programme actually implemented;

(iii) an evaluation of the work programme implemented based on the indicators laid down in Article 8(2)(f).

3. Applications for financing which do not comply with the conditions set out in paragraphs 1 and 2 shall be rejected. The operators' organisation concerned may lodge a new application for financing within a period to be laid down by the Member State.

4. Applications for expenditure made more than two months after the end of the period of implementation of the work programme shall be rejected.

5. No later than three months after the date of submission of the application for financing and the supporting documents referred to in paragraph 2, and once they have carried out the examination of the supporting documents and the checks referred to in Article 14, Member States shall pay the Community financing that is due and, as appropriate, release the security referred to in Article 11(4).

The security referred to in Article 8(2)(g) shall be released after the completion of the entire work programme, the examination of the supporting documents and the checks referred to in Article 14.

Article 13

Operators' organisation reports

1. With effect from 2007, operators' organisations shall submit by 1 May of each year annual reports on the implementation of the work programmes during the previous calendar year. These reports shall cover the following:

(a) the stages of the work programme implemented or being implemented;

(b) the main amendments to the work programmes;

(c) an evaluation of the results already obtained based on the indicators laid down in Article 8(2)(f).

For the final year of implementation of the work programme, a final report shall replace the reports provided for in the first subparagraph.

2. For work programmes with a duration of under one year, the final report shall be presented no later than two months after the end of implementation of the programme.

3. The final report shall evaluate the work programme and shall comprise at least the following:

(a) an account, based at least on the indicators set out in Article 9(1)(f) and any other relevant criteria, showing to what extent the objectives pursued by the programmes have been achieved;

(b) an account of the changes to the work programme;

(c) where appropriate, an indication of the factors to be taken into account in drawing up the next work programme.

4. Data collected and studies drawn up in execution of measures under Article 5(1)(a) shall, upon completion of the relevant measure, be published on the Internet site of the operators' organisation.

Article 14

On-the-spot checks

1. Member States shall verify that the conditions for granting Community financing are met, in particular as regards compliance with the following aspects:

(a) compliance with the approval conditions;

(b) implementation of the approved work programmes, in particular investment measures;

(c) the expenditure actually implemented as compared to the assistance applied for and the financial contribution by the olive operators concerned.

2. The competent authority shall introduce control plans for on-the-spot checks covering a sample of approved operators' organisations in accordance with Article 103(3) of Regulation (EC) No 1234/2007. The competent authority shall select the sample on the basis of risk analysis in such a way that:

(a) producer organisations and associations thereof are all subject to on-the-spot checks at least once after payment of the advance and before the final payment of Community financing;

(b) other operators' organisations and interbranch organisations are all checked each year during the period of implementation of each approved work programme, unless they have benefited from an advance in the course of that year, in which case the check will be carried out after the date of payment of that advance.

If the checks reveal irregularities, the competent authority shall carry out additional checks during the year in question and shall increase the number of operators' organisations to be checked the following year.

3. The on-the-spot checks shall be unannounced. However, in order to facilitate the practical organisation of checks, advance warning of no more than 48 hours may be given to the operators' organisation to be checked.

4. The competent authority shall determine which operators' organisations to check on the basis of a risk analysis based on the following criteria:

(a) the amount of financing for the approved work programme;

(b) the nature of the measures financed under the work programme;

(c) the degree of progress in implementing work programmes;

(d) findings made during previous on-the-spot checks or verifications carried out during the approval procedure;

(e) other risk criteria to be defined by the Member States.

5. The duration of each on-the-spot check shall correspond to the degree of progress in implementing the approved work programme.

Article 15

Inspection reports

Every on-the-spot check shall be the subject of a detailed inspection report, indicating in particular:

(a) the date and duration of the check;

(b) a list of those present;

(c) a list of invoices checked;

(d) reference numbers of invoices selected from the accounting documents (register of sales, or of purchases, and VAT register in which the selected invoices have been recorded);

(e) bank documents proving payment of the amounts selected;

(f) an indication of the measures already carried out which have been specifically analysed on-the-spot.

Article 16

Corrections and penalties

1. Where the withdrawal of approval referred to in Article 3(3) results from the fact that the operators' organisation has failed deliberately or by serious negligence to meet its obligations, the operators' organisation shall be ineligible for financing in respect of the entire work programme and shall also pay the competent authority an amount equal to the ineligible amount of financing.

2. If a given measure has not been implemented in conformity with a work programme, the operators' organisation shall be ineligible for financing for the measure in question. This exclusion shall not apply if the operators' organisation has submitted factually correct information or can show by any other means that it is not at fault.

3. The following penalties shall apply to operators' organisations where irregularities are found in the implementation of the work programme:

(a) in the event of an irregularity caused by negligence, the operators' organisation:

(i) shall be ineligible for financing for the measure in question;

(ii) shall also pay the competent authority an amount equal to the ineligible amount of financing;

(b) in the event of an intentional irregularity, including false declarations, the operators' organisation:

(i) shall be ineligible for financing in respect of the entire work programme;

(ii) shall also pay the competent authority an amount equal to the ineligible amount of financing;

(iii) shall be ineligible for Community financing under Article 103 of Regulation (EC) No 1234/2007 for the entire three-year period following that in which the irregularity was discovered.

4. Amounts resulting from the application of the corrections or penalties under this Article shall be paid to the responsible paying agency and deducted by it from expenditure financed by the European Agricultural Guarantee Fund.

Article 17

Recovery of undue payments

1. The competent authority in the Member State shall recover any amount unduly paid plus, where appropriate, interest calculated in accordance with paragraph 2.

2. Interest shall be calculated:

(a) on the basis of the period elapsing between payment and reimbursement by the beneficiary;

(b) at the rate applied by the European Central Bank to its main refinancing operations published in the 'C' series of the *Official Journal of the European Union* and in force on the date on which the undue payment is made, plus three percentage points.

3. In the case of a measure which is subsequently found to be ineligible, and which has been implemented in conformity with an approved work programme, the Member State may decide to pay the relevant financing due or not to proceed to the recovery of amounts which have already been paid out, if such a decision is permitted in comparable cases financed from the national budget and if the operators' organisation has not acted negligently or intentionally.

4. The amounts recovered or paid under this Article shall be paid to the paying agency and deducted from expenditure financed by the European Agricultural Guarantee Fund.

Article 18

Communications from the Member States

1. No later than 31 January 2006 for the first three years' period beginning on 1 April 2006 and 31 January 2009 for the second three years' period to begin on 1 April 2009, the Member States producing olive oil shall communicate to the Commission the national measures implementing this Regulation, and in particular those relating to:

(a) the conditions for approval of the operators' organisations referred to in Article 2(2);

(b) the additional conditions specifying the eligible measures adopted pursuant to Article 5(2);

(c) the goals and priorities of the olive sector referred to in Article 9(1)(a) and the quantitative and qualitative indicators referred to in Article 9(1)(f);

(d) the arrangements for the system of advances referred to in Article 11 and, where appropriate, the system for paying the national financing;

(e) the application of the checks referred to in Article 14 and of the penalties and corrections provided for in Article 16;

(f) the period referred to in Article 12(3).

2. No later than 1 May of each year of implementation of the approved work programme, Member States shall transmit to the Commission data on:

(a) approved operators' organisations;

(b) the work programmes and their characteristics, broken down by type of operators' organisation, by area of measures and by regional area;

(c) the amount of financing allocated to each work programme;

(d) the planned schedule of Community financing by budget year for the total period covered by the work programmes.

3. No later than 20 October of each year of implementation of the approved work programmes, Member States shall transmit to the Commission a report on the implementation of this Regulation comprising at least the following information:

(a) the number of work programmes financed, recipients, areas under olive trees, mills, processing facilities and volumes of oil and table olives concerned;

(b) the characteristics of the measures developed in each of the areas of measures;

(c) any discrepancy between measures planned and measures actually carried out, and its implications at the level of expenditure;

(d) a description and evaluation of results, based in particular on the evaluations of the work programmes referred to in Article 12(2)(b)(iii);

(e) statistics on the checks carried out in accordance with Articles 14 and 15 and the penalties or corrections applied in accordance with Article 16;

(f) expenditure by programme and by area of measures, and the Community, national and operators' financial contributions.

4. The communications provided for in this Article shall be carried out electronically in accordance with the information provided to the Member States by the Commission.

5. The competent authorities of Member States shall publish on their Internet sites all data collected and studies drawn up in execution of measures under Article 5(1)(a) upon their completion.

Article 19

Transitional provision

1. The Member States may advance the Community financing for the first year of implementation of the programme.

2. This advance shall be limited exclusively to the amount corresponding to that Community financing.

3. Expenditure resulting from the payment of the advance provided for in paragraph 2 shall be entered in the accounts as expenditure incurred from 16 to 31 October 2006.

4. The competent authorities of Member States shall publish on their Internet sites all data collected and studies drawn up in execution of measures under Article 5(1)(a) of Regulation (EC) No 2080/2005, upon their completion.

Article 20

Repeal

Regulation (EC) No 2080/2005 is repealed.

References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table in the Annex.

Article 21

Entry into force

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

It shall apply from 1 April 2009. However, Article 19(4) shall apply from the date of its entry into force.

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

Done at Brussels, 3 September 2008.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

ANNEX

Correlation table referred to in the second paragraph of Article 20

Regulation (EC) No 2080/2005	This Regulation
Article 1	Article 1
Article 2	Article 2
Article 3	Article 3
Article 4	Article 4
Article 5	Article 5
Article 6	Article 6
Article 7	Article 7
Article 8	Article 8
Article 9(1), first subparagraph, points (a) to (f)	Article 9(1), first subparagraph, points (a) to (f)
—	Article 9(1), first subparagraph, point (g)
Article 9(1), second subparagraph	Article 9(1), second subparagraph
Article 9(2) to (5)	Article 9(2) to (5)
Article 10	Article 10
Article 11(1), (2) and (3)	Article 11(1), (2) and (3)
Article 11(4), first subparagraph	Article 11(4), first subparagraph
Article 11(4), second subparagraph	—
Article 11(5)	Article 11(5)
Article 12(1) to (4)	Article 12(1) to (4)
Article 12(5)	Article 12(5), first subparagraph
—	Article 12(5), second subparagraph
Article 13(1), (2) and (3)	Article 13(1), (2) and (3)
—	Article 13(4)
Article 14(1)	Article 14(1)
Article 14(2), first subparagraph, introductory words	Article 14(2), first subparagraph, introductory words
Article 14(2), first and second indents	Article 14(2), points (a) and (b)
Article 14(2), second subparagraph	Article 14(2), second subparagraph
Article 14(3), (4) and (5)	Article 14(3), (4) and (5)
Article 15	Article 15
Article 16	Article 16
Article 17	Article 17
Article 18(1) to (4)	Article 18(1) to (4)
—	Article 18(5)

Regulation (EC) No 2080/2005	This Regulation
Article 19(1) to (3)	Article 19(1) to (3)
—	Article 19(4)
Article 20, first paragraph	Article 20, first paragraph
Article 20, second paragraph	—
—	Article 20, second paragraph
Article 21, first paragraph	Article 21, first paragraph
—	Article 21, second paragraph