Commission Implementing Regulation (EU) No 29/2012 of 13 January 2012 on marketing standards for olive oil (codification)

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(codification)

THE EUROPEAN COMMISSION,

Having regard to the Treaty establishing the European Union,

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 Article 113, paragraph 1, point (a), and Article 121, first paragraph, point (a), in conjunction with Article 4,

Whereas:

(1) Commission Regulation (EC) No 1019/2002 of 13 June 2002 on marketing standards for olive oil[(2)] has been substantially amended several times[(3)]. In the interests of clarity and rationality the said Regulation should be codified.

(2) Olive oil has certain properties, in particular organoleptic and nutritional properties, which, taking into account its production costs, allow it access to a relatively high-price market compared with most other vegetable fats. In view of this market situation, marketing standards should be laid down for olive oil containing, in particular, specific labelling rules supplementing those laid down in Directive 2000/13/EC of the European Parliament and of the Council of 20 March 2000 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs[(4)], and in particular the rules laid down in Article 2 thereof.

(3) To guarantee the authenticity of the olive oils sold, packaging for the retail trade should be small and have an adequate closing system. However, the Member States should be allowed to authorise larger packaging for collective establishments.

(4) Besides the compulsory descriptions for the various categories of olive oil provided for in Article 118 of Regulation (EC) No 1234/2007, consumers should be informed about the types of olive oil offered.

(5) As a result of agricultural traditions and local extraction and blending practices directly marketable virgin olive oils may be of quite different taste and quality depending on their geographical origin. This may result in price differences within the same category that disturb the market. There are no substantial differences linked to origin in other categories of edible olive oil, and so indicating the designation of origin on the immediate packaging of such oil may lead consumers to believe that quality differences do exist. In order not to distort the market in edible olive oils, an obligatory

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Union regime should therefore be established for designations of origin, which should be restricted to extra virgin and virgin olive oils which satisfy precise conditions. Optional arrangements implemented until 2009 proved not to be sufficient to avoid misleading consumers as to the real characteristics of virgin oils in this regard. In addition, Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety[5] established traceability rules, applicable since 1 January 2005. The experience gained by operators and administrations in this matter allowed making the labelling of the origin compulsory for extra virgin and virgin olive oil.

(6) Existing trade marks including geographical references may continue to be used provided they have been officially registered in the past in accordance with the first Council Directive 89/104/EEC of 21 December 1988 to approximate the laws of the Member States relating to trade marks[6], or Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark[7].

(7) A regional designation of origin may be covered by a protected designation of origin (PDO) or a protected geographical indication (PGI) under Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs[8]. Designations indicating a regional origin should be reserved for PDOs or PGIs so as to avoid confusion among consumers potentially leading to market disturbances. In the case of imported olive oils, the rules on non-preferential origin provided for in Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code[9] must be complied with.

(8) If the designation of origin of virgin olive oil refers to the Union or a Member State, it should be borne in mind that not only the olives used but also the extraction techniques and practices influence the quality and taste of the oil. The designation of origin must thus refer to the geographical area in which the olive oil was obtained, which is generally the area in which the oil was extracted from the olives. However, in certain cases the oil is extracted at a place that is not the same as that where the olives were harvested and this information should be stated on the packaging or labels attached to the packaging to ensure that consumers are not misled and the market in olive oil is not disturbed.

(9) In the Union, a significant share of extra virgin and virgin olive oils is composed of blends of oils originating from various Member States and third countries. Simple provisions should be laid down for the labelling of the origin of such blends.

(10) Under Directive 2000/13/EC, indications shown on the labelling may not mislead the purchaser, particularly as to the characteristics of the olive oil concerned, or by attributing to it properties which it does not possess, or by suggesting that it possesses special characteristics when in fact most oils possess such characteristics. Certain commonly used, optional indications that are specific to olive oil also require harmonised rules to precisely define such claims and ensure that their accuracy can be verified. Accordingly, the concepts of ‘cold pressing’ and ‘cold extraction’ should correspond to a technically defined traditional production method. Certain terms

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describing the organoleptic characteristics referring to taste and/or smell of extra virgin and virgin olive oils have been defined by the International Olive Council (IOC) in its revised method for the organoleptic assessment of virgin olive oils. The use of such terms on the labelling of extra virgin and virgin olive oils should be reserved to oils that have been assessed following the corresponding method of analysis. Transitional arrangements are needed for certain operators presently using the reserved terms. Reference to acidity in isolation wrongly suggests a scale of absolute quality which is misleading for consumers since this factor represents a qualitative value only in relation to the other characteristics of the olive oil concerned. Consequently, in view of the proliferation of certain indications and of their economic significance, objective criteria for their uses should be established in order to introduce clarity into the olive oil market.

(11) Steps should be taken to ensure that foodstuffs containing olive oil do not take advantage of consumers by highlighting the reputation of olive oil without clearly specifying the real composition of the product. The percentage of olive oil and certain indications specific to products consisting exclusively of a blend of vegetable oils should therefore be clearly shown on the labelling. In addition, account should be taken of the special provisions laid down in certain regulations specific to olive oil products.

(12) The names of the categories of olive oil correspond to physico-chemical and organoleptic characteristics which are set out in Annex XVI to Regulation (EC) No 1234/2007 and in Commission Regulation (EEC) No 2568/91 of 11 July 1991 on the characteristics of olive oil and olive-residue oil and on the relevant methods of analysis[(10)]. All other indications appearing on the labelling should be corroborated by objective elements in order to ensure that consumers are not misled and that competition on the markets in the oils concerned is not distorted.

(13) Within the framework of the system of checks laid down in Article 113(3), second subparagraph of Regulation (EC) No 1234/2007, the Member States should specify the evidence to be provided and the financial penalties incurred in the case of the different terms that can be used on labelling. Without ruling out any possibilities a priori, such evidence could include established facts, results of analyses or reliable recordings, and administrative or accounting information.

(14) Since checks on undertakings responsible for labelling must be made in the Member State in which they are established, there should be a procedure for administrative cooperation between the Commission and the Member States where the oil is marketed.

(15) In order to evaluate the arrangements provided for in this Regulation, the Member States concerned should report on the circumstances and difficulties encountered.

(16) 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

1 Without prejudice to Directive 2000/13/EC and Regulation (EC) No 510/2006, this Regulation lays down specific standards for retail-stage marketing of the olive oils and olive-

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pomace oils referred to in points 1(a) and (b), 3 and 6 of Annex XVI to Regulation (EC) No 1234/2007.

2 For the purposes of this Regulation, retail stage means the sale to the final consumer of oil as referred to in paragraph 1, presented in the natural state or incorporated in a foodstuff.

Article 2

Oils as referred to in Article 1(1) shall be presented to the final consumer in packaging of a maximum capacity of 5 litres. Such packaging shall be fitted with an opening system that can no longer be sealed after the first time it is opened and shall be labelled in accordance with Articles 3 to 6.

However, in the case of oils intended for consumption in restaurants, hospitals, canteens and other similar collective establishments, the Member States may set a maximum capacity exceeding 5 litres for packaging depending on the type of establishment concerned.

Article 3

Descriptions in accordance with Article 118 of Regulation (EC) No 1234/2007 shall be considered as the name under which the product is sold as referred to in Article 3(1)(1) of Directive 2000/13/EC.

The labelling of oils as referred to in Article 1(1) shall bear, in clear and indelible lettering, in addition to the description referred to in the first paragraph of this Article, but not necessarily close to it, the following information on the category of oil:

(a) extra virgin olive oil:

superior category olive oil obtained directly from olives and solely by mechanical means;

(b) virgin olive oil:

olive oil obtained directly from olives and solely by mechanical means;

(c) olive oil composed of refined olive oils and virgin olive oils:

oil comprising exclusively olive oils that have undergone refining and oils obtained directly from olives;

(d) olive-pomace oil:

oil comprising exclusively oils obtained by treating the product obtained after the extraction of olive oil and oils obtained directly from olives,

or

oil comprising exclusively oils obtained by processing olive pomace and oils obtained directly from olives.

Article 4

1 Extra virgin olive oil and virgin olive oil as defined in points 1(a) and (b) of Annex XVI to Regulation (EC) No 1234/2007 shall bear a designation of origin on the labelling.

Products defined in points 3 and 6 of Annex XVI to Regulation (EC) No 1234/2007 shall not bear any designation of origin on the labelling.

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For the purposes of this Regulation, 'designation of origin' means reference to a geographical area on the packaging or the label attached to the packaging.

2 Designations of origin referred to in paragraph 1 shall only consist of:

a in the case of olive oils originating, in accordance with the provisions of paragraphs 4 and 5, from one Member State or third country, a reference to the Member State, to the Union or to the third country, as appropriate; or

b in the case of blends of olive oils originating, in accordance with the provisions of paragraphs 4 and 5, from more than one Member State or third country, one of the following mentions, as appropriate:

(i) 'blend of olive oils of European Union origin' or a reference to the Union;

(ii) 'blend of olive oils not of European Union origin' or a reference to origin outside the Union;

(iii) 'blend of olive oils of European Union origin and not of European Union origin' or a reference to origin within the Union and outside the Union; or

c a protected designation of origin or a protected geographical indication referred to in Regulation (EC) No 510/2006, in accordance with the provisions of the product specification concerned.

3 The names of brands or firms whose registration was applied for no later than 31 December 1998 under Directive 89/104/EEC or no later than 31 May 2002 under Council Regulation (EC) No 40/94[(11)] shall not be considered to be designations of origin covered by this Regulation.

4 In the case of import from a third country, the designation of origin shall be determined in accordance with Articles 22 to 26 of Regulation (EEC) No 2913/92.

5 The designation of origin mentioning a Member State or the Union shall correspond to the geographical area in which the olives concerned were harvested or in which the mill where the oil was extracted from the olives is situated.

If the olives have been harvested in a Member State or third country other than that in which the mill where the oil was extracted from the olives is situated, the designation of origin shall contain the following wording: '(extra) virgin olive oil obtained in (the Union or the name of the Member State concerned) from olives harvested in (the Union or the name of the Member State or third country concerned)'.

[F1 Article 4a

Information on the special preservation conditions for oils subject to Article 1(1), namely that they must be stored away from light and heat, shall appear on their containers or on labels attached to them.

Textual Amendments

F1 Inserted by Commission Implementing Regulation (EU) No 1335/2013 of 13 December 2013 amending Implementing Regulation (EU) No 29/2012 on marketing standards for olive oil.

Article 4b

The mandatory particulars described in the first paragraph of Article 3 and, where applicable, those described in the first subparagraph of Article 4(1), shall be grouped