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From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
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To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

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Subject:	COMMISSION DELEGATED REGULATION (EU) .../... of 22.5.2018 amending Implementing Regulation (EU) No 29/2012 as regards the requirements for certain indications on the labelling of olive oil

Delegations will find attached document C(2018) 2980 final.

Encl.: C(2018) 2980 final



Brussels, 22.5.2018
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COMMISSION DELEGATED REGULATION (EU) .../...

of 22.5.2018

**amending Implementing Regulation (EU) No 29/2012 as regards the requirements for
certain indications on the labelling of olive oil**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

This delegated act aims at clarifying some existing provisions related to the labelling of certain optional indications for olive oil (Article 4 of Regulation (EU) No 29/2012 on marketing standards for olive oil).

In particular, Regulation (EU) No 29/2012 foresees that the value of certain physico-chemical parameters have to be labelled in the case the acidity is mentioned (peroxide value, wax content and the ultraviolet absorption). This delegated act specifies that those values should correspond to the values expected at the date of minimum durability. As it is known that the values of those parameters may evolve after the bottling, this clarification will avoid that misleading information is provided to consumers and will provide more guarantee to operators responsible for the labelling.

The second clarification proposed is related to the harvesting year that may be labelled under certain conditions. Upon request from certain Member States, the delegated act proposes two options on how to label the harvesting year.

Finally, upon request from Italy and with a view to provide information to consumers regarding the age of virgin olive oils, the delegated act gives to Member States the possibility to oblige their operators to label the harvesting year, under very specific conditions. Indeed, such obligation is limited to olive oil produced at national level and intended for domestic consumption. Those limitations have been introduced with a view to ensure that the functioning of the single market is not altered.

The proposals introduced in this delegated act are consistent with the provisions of Regulation (EU) No 1169/2011.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

Experts from Member States have been consulted through Experts Group meetings of the common organisation of the markets in agricultural products in order to exchange views on this act and to take into account of the expertise of the national authorities.

The draft Delegated Regulation was made available for public consultation within the framework of the Better Regulation Portal for a period of four weeks from 1 to 29 March 2018. Two feedback contributions were received, coming from business associations. Both associations proposed to remove the obligation to label the values of peroxide index, waxes content and UV absorption when the acidity is mentioned, arguing that those values are not well understood by consumers. The Commission is of the opinion that mentioning the acidity only would be more misleading for consumers as acidity is not the only parameter to be taken into account when evaluating the quality of a virgin olive oil. One comment concerned the possibility given to Member States to oblige their operators to label the harvesting year under specific conditions. The association mentioned in particular that this would oblige operators to create different labels for different countries, as the obligation may only concern olive oil produced in the Member State deciding to apply the possibility, from olives harvested in that Member State and intended for internal consumption. However, this constraint does not appear to be significant. Indeed, for the virgin olive oils not compliant with those conditions

above-mentioned, operators still benefit from the possibility to indicate the harvesting year if the conditions of Article 5(e) of Regulation (EU) No 29/2012 are met. Therefore, the harvesting year could also appear on bottles of virgin olive oils to be exported, in particular if 100% of the contents of the container come from that harvesting year. Finally, the risk that it would prevent the production of bottles of olive oil from different harvesting years was mentioned. This remark is also irrelevant as the harvesting year may only be mentioned on the label if 100% of the oil in the bottle come from that harvest.

The draft text therefore appears to strike an appropriate balance.

Experts of the European Parliament were informed about all those discussions and invited to all the meetings.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

The delegated act is based on Article 75(2) of Regulation (EU) No 1308/2013. The provisions intended to clarify how to label certain optional indications should apply from 6 months after the date of the publication of the delegated act.

COMMISSION DELEGATED REGULATION (EU) .../...

of 22.5.2018

amending Implementing Regulation (EU) No 29/2012 as regards the requirements for certain indications on the labelling of olive oil

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007¹, and in particular Article 75(2) thereof,

Whereas:

- (1) Pursuant to Article 5 of Commission Implementing Regulation (EU) No 29/2012², operators have the possibility to indicate different optional indications in the labelling of olive oils and olive-pomace oils, under certain specific conditions. In particular, the acidity may appear on the label provided that certain physicochemical parameters (peroxide value, waxes content and ultraviolet absorption) are also indicated. With a view not to mislead consumers, where indicated on the labelling, the value of physicochemical parameters should be the maximum value such parameters could reach by the date of minimum durability.
- (2) The indication of the harvesting year in the label of extra virgin and virgin olive oils is optional for the operators when 100% of the contents of the container come from one single harvesting year. Since the olive harvest usually begins in late autumn and ends by spring in the following year, it is appropriate to clarify how to label the harvesting year.
- (3) In order to provide additional information on the age of an olive oil to consumers, Member States should be allowed to make the indication of the harvesting year compulsory. However, with a view not to disturb the functioning of the single market, such compulsory indication should be limited to their domestic production, obtained from olives harvested in their territory and intended for their national markets only. By analogy with the transitional period provided for in relation to Article 5 of Implementing Regulation (EU) No 29/2012, Member States should allow olive oils already labelled to be marketed until the stocks are exhausted. In order to enable the Commission to monitor the application of such national decision and to review the Union provision underlying it, in the light of any relevant evolution in the functioning

¹ OJ L 347, 20.12.2013, p. 671.

² Commission Implementing Regulation (EU) No 29/2012 of 13 January 2012 on marketing standards for olive oil (OJ L 12, 14.1.2012, p. 14).

of the single market, Member States should notify their decision in accordance with Article 45 of Regulation (EU) No 1169/2011 of the European Parliament and of the Council³.

- (4) Implementing Regulation (EU) No 29/2012 should therefore be amended accordingly.
- (5) In order to respect legitimate expectations of operators, a transitional period should be provided for products labelled in accordance with Implementing Regulation (EU) No 29/2012 before the date of application provided for in this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

Implementing Regulation (EU) No 29/2012 is amended as follows:

- (1) the first paragraph of Article 5 is amended as follows:

- (a) point (d) is replaced by the following:

"(d) indication of the maximum acidity expected by the date of minimum durability referred to in Article 9(1)(f) of Regulation (EU) No 1169/2011 may appear only if it is accompanied by an indication, in lettering of the same size and in the same visual field, of the peroxide value, the wax content and the ultraviolet absorption, determined in accordance with Regulation (EEC) No 2568/91, expected on the same date;"

- (b) in point (e), the following sentence is added:

"For the purposes of this point, the harvesting year shall be indicated on the label either in the form of the relevant marketing year in accordance with Article 6(c)(iii) of Regulation (EU) No 1308/2013 or in the form of the month and the year of the harvest, in that order. The month shall correspond to the month of the extraction of the oil from the olives.";

- (2) the following Article 5a is inserted:

"Article 5a

Member States may decide that the harvesting year referred to in point (e) of the first paragraph of Article 5 is to be indicated on the label of olive oils referred to in that point of their domestic production, obtained from olives harvested in their territory and intended for their national markets only.

That decision shall not prevent olive oils labelled prior to the date on which that decision takes effect from being marketed until the stocks are exhausted.

³ Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004 (OJ L 304, 22.11.2011, p. 18).

Member States shall notify that decision in accordance with Article 45 of Regulation (EU) No 1169/2011".

Article 2

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

Point (1) of Article 1 shall apply from six months after the date of entry into force of this Regulation.

Olive oils labelled prior to the date referred to in the second paragraph may be marketed until the stocks are exhausted.

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

Done at Brussels, 22.5.2018

For the Commission
The President
Jean-Claude JUNCKER