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**COMMISSION DECISION**

**of 28.10.2020**

**on the request for an opinion pursuant to Article 209 of Regulation (EU) No 1308/2013  
by the Cooperativas agro-alimentarias – Spanish olive oil sector**

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## on the request for an opinion pursuant to Article 209 of Regulation (EU) No 1308/2013 by the Cooperativas agro-alimentarias – Spanish olive oil sector

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 Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007<sup>1</sup>, and in particular Article 209(2) thereof,

Having regard to the request for an opinion by the Cooperativas agro-alimentarias ('CAA') pursuant to Article 209 of Regulation (EU) No 1308/2013,

Whereas:

### 1. PROCEDURE

- (1) By letter of 1 July 2019<sup>2</sup>, the Spanish association of farmers' associations, CAA, requested an opinion from the Commission pursuant to the second subparagraph of Article 209(2) of Regulation (EU) No 1308/2013 on the compatibility of an envisaged market stabilisation mechanism for the Spanish olive oil sector with the objectives set out in Article 39 of the Treaty on the Functioning of the European Union ('the Treaty').
- (2) On 10 July 2019, the Commission acknowledged receipt of the CAA request<sup>3</sup>.
- (3) On 16 September 2019, the Commission sent a request for information to the CAA<sup>4</sup>.
- (4) On 3 July 2020, the CAA replied to the request for information and presented a partially amended market stabilisation mechanism<sup>5</sup>.
- (5) On 17 July 2020, the Commission acknowledged receipt of the reply<sup>6</sup>.

### 2. DESCRIPTION OF THE MEASURE

#### 2.1. Object of the request

- (6) The CAA has requested the Commission's opinion on the partially amended market stabilisation mechanism ('mechanism') for the Spanish olive oil sector to self-regulate the supply of olive oil to the market through the voluntary storage of olive oil by cooperatives that are members of the CAA. The mechanism concerns olive oil

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<sup>1</sup> OJ L 347, 20.12.2013, p. 671.

<sup>2</sup> Ares(2019) 4148702, ('CAA request 2019').

<sup>3</sup> Ares(2019)4427037.

<sup>4</sup> Ares(2019) 5782359.

<sup>5</sup> Ares(2020) 3689133, consisting of the reply to the request ('reply CAA 2020') and the communication dated July 2020 ('Communication CAA 2020'), amending certain parts of the envisaged market stabilisation mechanism.

<sup>6</sup> Ares(2020) 3787633.

produced by the cooperative members that belongs to the categories extra virgin olive oil, virgin olive oil and lampante olive oil. Products belonging to these three categories are referred to as ‘virgin olive oils’. The term ‘olive oil’ comprises virgin olive oils and other olive oils. When the availability of olive oil will significantly exceed the needs on the Spanish market, taking into account the domestic consumption and exports, and based on determined parameters, the CAA and the participating cooperatives can trigger the mechanism for a limited period to store on a temporary basis certain part of the excess volume of olive oil.

- (7) The voluntary mechanism aims to stabilise the Spanish olive oil market by contributing to a better balance between supply and demand<sup>7</sup>.
- (8) The mechanism also aims to reduce price volatility, thereby strengthening the viability of farms dedicated to olive growing<sup>8</sup>. The mechanism will be time-limited and the quantity covered will be strictly limited to excess quantities above the demand, including domestic consumption and exports. According to the CAA, the mechanism will ensure that consumer prices are kept at reasonable levels during the period that the mechanism will apply<sup>9</sup>.
- (9) According to the CAA, the mechanism is necessary *inter alia* due to the specific characteristics of olive oil production that is affected by alternate bearing<sup>10</sup>: after one year of abundant olive bearing, in the subsequent year the bearing tends to be lighter due to the physiological characteristics of the olive tree, which regulates fruit development through hormones and inhibitors. In addition, weather conditions such as rainfall during decisive growing periods, temperature fluctuations and wind, affect pollination and fruit development, which in turn significantly influence yields from one season to another<sup>11</sup>.

## 2.2. Product characteristics

- (10) Part VIII of Annex VII of Regulation (EU) No 1308/2013 distinguishes between three categories of virgin olive oils: ‘extra virgin olive oil’, ‘virgin olive oil’ and ‘lampante olive oil’, each of which is extracted from olives without chemical or heating processes. The differences between the three categories depend on the physico-chemical and organoleptic characteristics of the virgin olive oils. Extra virgin olive oil is the highest quality, followed by virgin olive oil. Those two categories represent on average 60 % of the total Spanish production, while the remaining 40 % correspond to lampante olive oil<sup>12</sup>.
- (11) Extra virgin olive oil and virgin olive oil evolve naturally over time towards a lower quality. Due to the stability of its characteristics, lampante olive oil is the most suitable virgin olive oil for storage. Lampante olive oil must be refined and blended in varying proportions with other virgin olive oils before it can be marketed for human consumption. It will then be marketed as ‘olive oil composed of refined olive oils and virgin olive oils’.

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<sup>7</sup> CAA Communication 2020, page 9-14.

<sup>8</sup> CAA Communication 2020, page 9,12,14.

<sup>9</sup> CAA Communication 2020, page 13.

<sup>10</sup> Alternate bearing is a characteristic of fruit trees and particularly important in olive cultivation. In support of its request, the CAA points to variabilities in production between seasons, mainly due to the phenomenon of ‘alternate bearing’, but also other conditions such as weather which lead to production and price fluctuations, CAA Communication 2020, pages 9, 10.

<sup>11</sup> CAA Communication 2020, pages 9, 10.

<sup>12</sup> CAA Communication 2020, page 5.

- (12) While the three virgin olive oil categories serve different market segments, their price correlation is high and reducing availability of one product influences the market of the other segments. For example, since marketing year 2011/2012<sup>13</sup>, price trends of the three categories in Spain have shown a high correlation at factors of 0.97<sup>14</sup>.

### 2.3. Specific features of the Spanish olive oil market

- (13) Spain is the world's leading producer and exporter of olive oil representing, for the period 2014-2019, 45 % of world production, 66 % of Union production and 54 % of exports from the Union to third countries (including the United Kingdom)<sup>15 16</sup>. Approximately, one-third of the Spanish production is consumed domestically, the rest is exported to other Member States and to third countries. In marketing year 2018/19, around 60 % of Spanish olive oil exports concerned extra virgin olive oil, 9 % virgin olive oil, 6 % lampante olive oil and around 25 % 'olive oil - composed of refined olive oils and virgin olive oils'<sup>17</sup>.
- (14) Spain also imports on average approximately 150 000 tonnes of olive oil per marketing year from other Member States and third countries<sup>18</sup>. This olive oil is often used for blending with Spanish oils and intended for re-exports to third countries and non-producing Member States.
- (15) Spain is one of the largest consumer markets for olive oil in the Union, with an annual consumption of around 500 000 tonnes. The distribution of national consumption by category is approximately 50 % 'extra virgin olive oil', 10 % 'virgin olive oil' and 40 % 'olive oil - composed of refined olive oils and virgin olive oils'<sup>19</sup>.
- (16) Almost all of the Autonomous Regions of Spain produce olive oil, with Andalusia representing 81 % of the national production. Approximately 50 % of the 1 800 olive oil mills in Spain are organised as cooperatives, representing about 65 % of the national production of olive oil<sup>20</sup>. As the leading producer in the Union, developments on the Spanish olive oil market influence prices of olive oil in other Union producing Member States, in particular in Portugal and Greece<sup>21</sup>.
- (17) Spanish olive oil production is characterised by large fluctuations in terms of yields, which is the result of the above described weather conditions and in particular due to

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<sup>13</sup> A marketing year in the olive oil and table olives sector starts on 1 October and finishes on 30 September of the following year.

<sup>14</sup> EU Commission price reporting: [https://ec.europa.eu/info/food-farming-fisheries/farming/facts-and-figures/markets/prices/price-monitoring-sector/plant-products/olive-oil\\_en#marketsituation](https://ec.europa.eu/info/food-farming-fisheries/farming/facts-and-figures/markets/prices/price-monitoring-sector/plant-products/olive-oil_en#marketsituation). The correlation coefficient is a parameter that indicates the strength of the linear relationship between 2 variables. Three correlation coefficients have been calculated for each pair of categories. The correlations between the three categories are greater than 0.97.

<sup>15</sup> Production figures: IOC world olive oil figures, November 2019: <https://www.internationaloliveoil.org/what-we-do/economic-affairs-promotion-unit/#figures>  
Export figures, 6 July 2020: [https://ec.europa.eu/info/food-farming-fisheries/farming/facts-and-figures/markets/prices/price-monitoring-sector/plant-products/olive-oil\\_en](https://ec.europa.eu/info/food-farming-fisheries/farming/facts-and-figures/markets/prices/price-monitoring-sector/plant-products/olive-oil_en).

<sup>16</sup> Statistics used to established annual balance sheets cover virgin and non-virgin olive oils (CN code 1509), except for statistics of production that only cover virgin olive oils (CN code 1509 10) to avoid double-counting.

<sup>17</sup> Communication CAA 2020, page 4, 7.

<sup>18</sup> Communication CAA 2020, page 8.

<sup>19</sup> Reply CAA 2020, pages 13, 14.

<sup>20</sup> Communication CAA 2020, page 6.

<sup>21</sup> EU Commission price reporting: [https://ec.europa.eu/info/food-farming-fisheries/farming/facts-and-figures/markets/prices/price-monitoring-sector/plant-products/olive-oil\\_en#marketsituation](https://ec.europa.eu/info/food-farming-fisheries/farming/facts-and-figures/markets/prices/price-monitoring-sector/plant-products/olive-oil_en#marketsituation)  
Prices in Greece and Portugal follow the development of prices in Spain more than availabilities on their respective national markets.

the phenomenon of alternate bearing, (see recital (9) above), which, in its breadth, is specific to olive production.

- (18) Data collected since 2010 on olive oil production confirms this variability and illustrates the often high and unpredictable fluctuation from one marketing year to another. In Spain, olive oil production increased by 188 % between marketing years 2012/13 and 2013/14 (from 618 200 to 1 781 500 tonnes) and fell by 53 % the following marketing year. Production fluctuated by more than 20 % compared to the previous year in 6 of the last 8 marketing years. It increased again significantly (by 42 %) in marketing year 2018/19 reaching 1 789 900 tonnes. In marketing year 2019/20, production fell by 37 % compared to the previous record marketing year. The forecast for marketing year 2020/21 again predicts a good Spanish harvest<sup>22</sup>.
- (19) Given the perennial nature of olive growing, production elasticity is low. This, together with the natural production variability, causes significant differences in supply. The demand of olive oil is more stable than the availabilities<sup>23</sup>. Therefore, price fluctuations are important and have economic consequences, in particular for producers.
- (20) The characteristics of olive oil production can have a strong effect on producer prices in Spain. For example, following a high production of 1 789 000 tonnes during marketing year 2018/19, olive oil availability has exceeded the needs of domestic consumption and exports and stocks have increased above their 5-year average. Consequently, prices of Spanish extra virgin olive oil were EUR 1.95 per kg in July 2020 compared to a peak of EUR 4.05 per kg in May 2017. Moreover, since October 2019, i.e. the beginning of the marketing year 2019/20, prices have only reached around 65 % of their 5-year average<sup>24</sup>.
- (21) In addition to the above-mentioned structural production fluctuations, additional factors can create excess availabilities on the Spanish olive oil market. First, Spanish olive oil is an export oriented, high-value agricultural product. Second, there are uncertainties in external trade, sudden drops in demand in export destinations, distortions due to trade disputes<sup>25</sup> and other crises, such as the COVID-19 pandemic that has altered demand, consumption patterns and distribution channels<sup>26</sup>. Those uncertainties impact the domestic market situation and exacerbate oversupply and price volatility.

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<sup>22</sup> [https://ec.europa.eu/info/sites/info/files/food-farming-fisheries/farming/documents/agri-short-term-outlook-balance-sheets\\_en.xlsx](https://ec.europa.eu/info/sites/info/files/food-farming-fisheries/farming/documents/agri-short-term-outlook-balance-sheets_en.xlsx).

<sup>23</sup> [https://ec.europa.eu/info/sites/info/files/food-farming-fisheries/plants\\_and\\_plant\\_products/documents/olive-oil-balance-sheet\\_fr.pdf](https://ec.europa.eu/info/sites/info/files/food-farming-fisheries/plants_and_plant_products/documents/olive-oil-balance-sheet_fr.pdf).

See in particular use and exports figures. For the period 2013/14-2018/19, in Spain, the maximum variation of annual *consumption and exports* (which is the 'demand') compared to the average consumption and exports for this period was only 14% while the maximum variation of actual Spanish annual *production* compared to the average of production for the same period was 40%.

<sup>24</sup> [https://ec.europa.eu/info/sites/info/files/food-farming-fisheries/farming/documents/agri-short-term-outlook-balance-sheets\\_en.xlsx](https://ec.europa.eu/info/sites/info/files/food-farming-fisheries/farming/documents/agri-short-term-outlook-balance-sheets_en.xlsx), <https://agridata.ec.europa.eu/extensions/DataPortal/olive-oil.html>

<sup>25</sup> On 18 October 2019, the United States of America imposed additional duties of 25 % ad valorem on Spanish bottled olive oil. CAA expects that due to the increased duties, fewer quantities will be exported to the United States of America and the quantities will thus be available on the Spanish market.

<sup>26</sup> [https://ec.europa.eu/info/food-farming-fisheries/farming/facts-and-figures/markets/outlook/short-term\\_en](https://ec.europa.eu/info/food-farming-fisheries/farming/facts-and-figures/markets/outlook/short-term_en).

## 2.4. Description of the CAA

- (22) The CAA is an association that represents the interest of Spanish agricultural cooperatives. Its statutory members are the 17 federations of agricultural cooperatives of the Spanish Autonomous regions.<sup>27</sup> Legally, federations are composed of at least three associations<sup>28</sup>, which in the case of the CAA are regional agricultural cooperatives formed by farmers. More than 98 % of the olive oil mills organised in cooperatives participate via this structure in the CAA.
- (23) The CAA has a general assembly that is composed of the federations and acts as the main decision making body. The CAA also has a Governing Council.
- (24) A special governing structure ('the Committee') will be created for the operation of the mechanism as described in section 2.5 below.

## 2.5. Description of the mechanism

- (25) The mechanism will enable the collectively agreed storage of a certain part of excess volume of olive oil by the participating member cooperatives of the CAA, when a certain level of surplus on the market has been established. The mechanism will only cover the olive oil produced by the cooperative members, i.e. extra virgin, virgin and lampante olive oil.
- (26) For the purposes of the mechanism, a surplus of olive oil on the Spanish market will be established when the estimated available olive oil exceeds by 25 % the estimation of the needs. The estimated availability of olive oil will be defined on the basis of the volume of stocks at the beginning of the marketing year, and the production and imports during the marketing year<sup>29</sup>. The estimated needs will be defined on the basis of the national consumption and exports of olive oil. Import, consumption and export estimates will be based on the average of the two previous marketing years.
- (27) The data used for establishing the availabilities and needs will be provided for in the statistics of the Spanish Ministry of Agriculture. The Ministry regularly notifies these statistics to the Commission in October of each year<sup>30</sup>. Those statistics are updated on a monthly basis and the Ministry also communicates these updates to the Commission.
- (28) If, between 10 December and 10 March of the following year, a surplus is established, the CAA will invite, in writing, all the member cooperatives to participate on a voluntary basis in the Committee to decide whether to activate the mechanism. The cooperatives have 10 days to respond after the written communication. The Committee will then be composed of representatives of those cooperatives that expressed an interest to participate within the stipulated period<sup>31</sup>.
- (29) CAA will convene a meeting of the Committee, which will have to take place within a maximum period of 5 days from the constitution of the Committee. The CAA will inform the Ministry of Agriculture at the same moment when it makes the convocation<sup>32</sup>. In addition to the activation of the mechanism, the Committee will also decide on the volume to be stored and the end of the storage period under the

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<sup>27</sup> CAA Communication 2020, page 3.

<sup>28</sup> Article 2.2 Real Decreto 949/2015, de 23 de octubre, por el que se aprueba el Reglamento del Registro Nacional de Asociaciones.

<sup>29</sup> See recitals (58) and (60) on the reasons for and magnitude of fluctuations in availabilities.

<sup>30</sup> CAA Communication 2020, page 17.

<sup>31</sup> CAA Communication 2020, page 15.

<sup>32</sup> CAA Communication 2020, page 18.

mechanism. Committee decisions will be adopted by unanimous vote of its participating members.

- (30) Based on its own market analysis using relevant available market information, the Committee will determine the exact total volume to store with the view to stabilising market prices and farmers' income<sup>33</sup>. The maximum volume that the Committee may decide to store will be limited to the volume of olive oil available in Spain that exceeds 125 % of the estimated market needs<sup>34</sup>, including domestic consumption and exports.
- (31) The storage period will not start before 1 January and not go beyond 30 November of the same year. The maximum storage period will therefore be 11 months, after which the participating members will be free to release the stored olive oil back on the market. The Committee will be dissolved at the end of the defined storage period.
- (32) The total volume of olive oil to be stored as decided by the Committee will be divided amongst the member cooperatives that voluntarily participate in the mechanism. Each of the participating member cooperatives will take a unilateral commitment to store a fixed volume of olive oil based on a percentage of its production. The percentage as fixed by unanimous decision of the Committee will be the same for all the participating member cooperatives<sup>35</sup>. Participating member cooperatives will bear the costs of storage and freely determine the category of the olive oil they will store. The participating member cooperatives will be free to decide whether to store the olive oil in their own storage facilities or in the storage facilities of the Patrimonio Comunal Olivarero, which is a privately owned non-profit entity with large storing capacities of around 400 000 tonnes in 14 centres in Spain<sup>36</sup>.
- (33) The stored olive oil will remain the property of the cooperative during the storage period, so that when the agreed storage period under the mechanism will end, the participating member cooperative will be free to decide how and when to market the olive oil according to its own commercialisation strategy<sup>37</sup>. There will in particular be no obligation for any of the participating cooperatives to sell the olive oil at a certain price.
- (34) The Committee may decide to review the volume of olive oil to store during the agreed storage period depending on market trends and on the condition that the volume will not exceed the maximum volume referred to in recital (30) above. Similarly, if the production estimates vary substantially, the Committee may correct the volumes<sup>38</sup>.
- (35) If the Committee considers that market developments are more positive than expected, the Committee may decide to call for an extraordinary meeting of the Committee. In this meeting, the Committee may decide to end storing the agreed volumes or parts of it before 30 November<sup>39</sup>.
- (36) At the beginning of the next marketing year, data on the availabilities and the needs will be established as referred to in recitals (26) and (27) above. In the event that the estimated available volume of olive oil will exceed 125 % of the estimated needs of

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<sup>33</sup> CAA Communication 2020, page 13.

<sup>34</sup> CAA Communication 2020, page 13,14.

<sup>35</sup> CAA Reply 2020, answer 1.1.

<sup>36</sup> CAA Communication 2020, page 17.

<sup>37</sup> CAA Communication 2020, page 12.

<sup>38</sup> CAA Communication 2020, page 19.

<sup>39</sup> CAA Communication 2020, page 19.

the upcoming year, based on the 2 previous years, the mechanism could be triggered anew with the CAA informing all member cooperatives of the need to convene a meeting and set up a new Committee<sup>40</sup>.

- (37) The Spanish national authorities will be informed in advance of the meetings of the Committee. When the Committee meets, its agenda will consist of only one item, namely ‘Decision-making on activation of the self-regulatory mechanism and the volume to be immobilised’<sup>41</sup>. If the Committee decides to activate the mechanism, it will determine the volume of virgin olive oil to be stored and will announce the percentage to be immobilised by each cooperative on its production<sup>42</sup>.
- (38) The decisions and the respective minutes of the Committee meeting will be sent to the Spanish Ministry of Agriculture within 3 working days. The decisions adopted by the Committee will be published by means of a press release on the website of the CAA within 5 working days<sup>43</sup>.
- (39) The CAA will monitor the compliance of the mechanism by carrying out random on-the-spot checks and by examining the monthly stock declarations submitted by the participating member cooperatives to the Spanish national authorities. The participating cooperatives will communicate their stocks to the CAA, by providing the CAA with a copy of their monthly stock declaration to the Spanish food information and control agency. If a participating member cooperative fails to comply with its contractual obligation by placing on the market olive oil covered by the storage obligation, the cooperative will have to pay a penalty corresponding to half of the value of the olive oil referred to in the contract<sup>44</sup>. The CAA will use the amounts of the penalties to cover the cost of the mechanism.

### **3. LEGAL ASSESSMENT**

- (40) Pursuant to the second subparagraph of Article 209(2) of Regulation (EU) No 1308/2013, farmers, farmers’ associations, or associations of such associations, or producer organisations recognised under Article 152 or Article 161 of the Regulation, or associations of producer organisations recognised under Article 156 of the Regulation, may request an opinion of the Commission on the compatibility with the objectives set out in Article 39 of the Treaty of agreements, decisions and concerted practices that concern the production or sale of agricultural products or the use of joint facilities for the storage, treatment or processing of agricultural products.
- (41) When examining such a request, the Commission must therefore verify whether three cumulative conditions are met: (i) the request is submitted by farmers, farmers’ associations, or associations of such associations, or producer organisations recognised under Article 152 or Article 161 of the Regulation, or associations of producer organisations recognised under Article 156 of the Regulation; (ii) the request must concern an agreement, decision or concerted practice of the entities listed in Article 209(1)2<sup>nd</sup> subparagraph and concern the production or sale of agricultural products or the use of joint facilities for the storage, treatment or processing of agricultural products; and (iii) the agreement, decision or concerted practice must not jeopardise the objectives set out in Article 39 of the Treaty.

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<sup>40</sup> CAA Communication 2020, page 20.

<sup>41</sup> CAA Communication 2020, page. 19.

<sup>42</sup> CAA Communication 2020, page 19.

<sup>43</sup> CAA Communication 2020, page 19.

<sup>44</sup> CAA Communication 2020, chapter 6.



(42) The Commission's examination of such a request is therefore without prejudice to the application of the third subparagraph of Article 209(1) of Regulation (EU) No 1308/2013, which provides that, in order for an agreement, decision or concerted practice to be exempted from the application of Article 101(1) of the Treaty, the agreements, decisions and concerted practices must not either entail an obligation to charge an identical price or exclude competition.

### **3.1. Association of farmers' associations**

(43) The opinion has been requested by CAA, which, for the purpose of Article 209 of Regulation (EU) No 1308/2013 is an association of farmers' associations.

(44) The CAA members are 17 regional federations in the Autonomous Regions of Spain. These federations are as associations of farmers' associations, as they are composed of (at least three) agricultural cooperatives. These agricultural cooperatives are in turn farmers' associations, which are constituted and controlled by farmers.

### **3.2 Agreements, decisions or concerted practice concerning the sale of olive oil**

(45) Olive oil is an agricultural product within the meaning of Regulation (EU) No 1308/2013, (Article 1(2)(g) and Annex I, Part VII).

(46) Moreover, the mechanism will be both a decision of the CAA and agreements and decisions of the participating cooperatives concerning the sale of olive oil.

(47) In a concrete situation of significant excess volumes of olive oil, the participating cooperatives will agree unanimously in the Committee, set up for this purpose, to activate the mechanism and to store a certain part of their production for a determined period of time.

(48) Each participating cooperative will further make an individual decision to commit towards the CAA in writing to store a certain volume of their members' production for a determined period of time and subject itself to penalties, should this commitment not be fulfilled<sup>45</sup>.

(49) The decision of the CAA and the agreements and the decisions of the participating cooperatives concern the sale of an agricultural product, olive oil. When activating the mechanism in a concrete situation of significant oversupply, the Committee will take a decision that part of the olive oil of the participating cooperatives should not immediately be sold on the market, but stored instead.

### **3.3. No jeopardy of the objectives set out in Article 39 of the Treaty**

(50) Article 39 of the Treaty lists five objectives, (i) to increase agricultural productivity; (ii) to ensure a fair standard of living for the agricultural community; (iii) to stabilise markets; (iv) to assure the availabilities of supplies; and (v) to ensure that supplies reach consumers at reasonable prices.

(51) For the reasons set out below, the mechanism is not expected to jeopardise any of those five objectives.

#### *Increase of agricultural productivity*

(52) There are no indications that the mechanism will jeopardise the agricultural productivity. The mechanism does not regulate production, which each agricultural cooperative and farmer remains free to determine.

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<sup>45</sup> CAA Communication 2020, page 20 and Annex II.

- (53) In addition, the mechanism aims to stabilise the market and reduce price volatility, which in turn reduces uncertainty and allows all market participants to take business decisions in a more predictable environment.

*Ensuring a fair standard of living for the agricultural community*

- (54) The mechanism is expected to contribute to ensuring, rather than jeopardising a fair standard of living for the agricultural community.
- (55) The mechanism is expected to contribute to the viability of the olive growing activity and olive oil production by providing the participating cooperatives with a self-regulation tool to deal with the inevitable fluctuations in the production cycle and to be able to react to other external events (see recital (21) above), which result in significant oversupply. By doing so, the mechanism also aims to reduce the volatility in prices paid to the producers<sup>46</sup> and thus contribute to stabilising the flow of revenues to olive oil producers.

*Stabilisation of markets*

- (56) The mechanism is expected to contribute to, rather than jeopardise, the stability of olive oil markets in Spain and other producing EU Member States by temporarily reducing excess supply. In past years, recurring market imbalances with significant oversupplies of olive oil have been observed, which the mechanism will seek to correct, if they occur in the future, see recitals (7)-(8) above.
- (57) Spanish production of olive oil is characterised by large fluctuations in production due to the phenomenon of alternate bearing of the olive tree, which leads to abundant production in some years. Weather conditions further contribute to harvests being significantly different from one year to the next (see recital (9) above). Production data, as described in recital (18) above, show large variations ranging from around 40 % to 50 %, with production peaks of 188 % in marketing year 2013/14, compared to marketing year 2012/13. If the mechanism had been in place during the last 6 marketing years (2014/15 – 2019/20), it could have been activated in marketing years 2018/19 and 2019/20<sup>47</sup>.
- (58) The mechanism is also expected to alleviate the impact of production fluctuations by enabling the participating cooperatives to store some of the volumes of olive oil in years of significant oversupply and release the quantities back on the market after the end of the agreed storage period. This is expected to address partially the significant supply and demand divergences in the years of strong harvests.

*Availability of supplies*

- (59) The mechanism is not expected to endanger the availability of supply. The conditions of the mechanism will ensure that any storage stays within the limits of the market stabilisation objective of the mechanism. The mechanism can only be triggered in situations when the available olive oil exceeds needs by more than 25 % (see recital (26) above). As an amount of olive oil equivalent to 125 % of the estimated needs will in, such circumstances, remain in the market, there is no risk that the market will be supplied with insufficient volumes of olive oil. Overall fluctuations in demand are

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<sup>46</sup> CAA communication 2020, pages 10 and 11.

<sup>47</sup> CAA Communication 2020, Annex III. Maximum storage levels would have been 25 % for marketing year 2018/19 and 10 % for 2019/20 of the availabilities of olive oil on the Spanish market. An activation of the mechanism would have been also possible in marketing year 2016/17; however, the maximum volume to be stored would have only reached 3 %.

moderate compared to production<sup>48</sup> and historical data from the last 5 marketing years indicates that actual needs on the Spanish market in a given marketing year never exceeded 113 % of the estimated needs taken into account when activating the mechanism (see recital (26) above).

- (60) Furthermore, any storage would only be in place for a maximum duration of 11 months, after which the olive oil is again at the free disposal of the participating agricultural cooperative.
- (61) In case of downward revision of production statistics, notifications on production estimates from Spanish Ministry of Agriculture from the last 5 marketing years 2014-15 to 2018-19 show that the level of surplus required to trigger the mechanism is high enough to avoid shortage of supply on the Spanish olive oil market.
- (62) By allowing the revision of the volume to be stored after its activation if the market dynamic changes or if production estimations are changed substantially (see recitals (34)-(35) above), the mechanism will further ensure the availability of supplies during a given marketing year.

#### *Reasonable consumer prices*

- (63) There are no indications that the temporary reduction of supply will jeopardise reasonable consumer prices.
- (64) As recitals (59) and (60) above explain, the mechanism is not expected to eliminate oversupply. Rather, it will delay the supply to the market of a part of the production that would probably not find demand, given that the mechanism can only be triggered in case of significant excesses of such oversupply. With the condition that the estimated available olive oil exceeds by 25 % the estimation of the needs, the mechanism is expected to guarantee that sufficient supply remains available at any given moment while the mechanism is activated. The excess of supply over demand is expected to ensure that consumer prices are kept at reasonable levels.
- (65) Even if the mechanism is bound to influence prices paid to the producer, and to a lesser degree consumer prices<sup>49</sup> - the direction of the effect will depend on when olive oil will be stored and released under the mechanism. Any effect on consumer prices is unlikely to be significant, let alone jeopardise or undermine reasonable consumer prices during or after the storage period. This is for several reasons:
  - (66) First, the mechanism will not regulate production. Rather, it will be a market stabilisation mechanism to address supply-demand imbalances and price volatility that offers the participating cooperatives the possibility of a temporary storage of excess quantities already produced.
  - (67) Second, when the mechanism will be triggered, the market will still have an oversupply of 25%.
  - (68) Third, producers will not agree to withdraw definitively the additional excess supply, but rather delay the entry of these quantities into the market. Any influence of the mechanism on consumer prices will be temporary, starting with the announcement of the activation of the mechanism and ending progressively from the moment the date of end of storage is known.

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<sup>48</sup> See above footnote 23.

<sup>49</sup> CAA Communication 2020, pages 10 and 11.

- (69) Fourth, the participating cooperatives will have an incentive not to store the produce longer than needed, given that they will bear the respective storage costs, which are significant<sup>50</sup>.
- (70) Fifth, the mechanism is expected to allow available supplies to better meet the needs and consequently smoothen price volatility both, for producers and consumers. Consumer prices are not only influenced by available supplies, but also by other, less predictable variables. As recital (21) above explains, there are uncertainties in external trade, sudden drops in demand in export destinations, distortions due to trade disputes and other crises, such as the COVID-19 pandemic that has altered demand, consumption patterns and distribution channels and impacted the domestic market situation.
- (71) An illustration of this is the private storage aid granted by the European Union for virgin olive oils in November 2019 pursuant to Article 18(2) of Regulation (EU) No 1308/2013 with a view to stabilise the market for olive oil<sup>51</sup>. 213 445 tonnes of olive oil, of which mainly lampante olive oil (86 %), were put in storage for 6 months and the quantities, which entered into storage at different times, were then gradually released from the storage obligation from June to September 2020. Spanish operators were the main recipients of the private storage aid with a storage of 196 395 tonnes of Spanish olive oil. This volume corresponded to around 10 % of the availabilities in the Spanish market during that marketing year. While the private storage aid helped to moderate the downward trend in producer prices, given the volumes covered by the aid and different factors deteriorating the overall market situation for olive oil (see recital (21) above), the private storage aid could not prevent the overall downward price trend. The volume stored represented 72 % of the maximum volume that could be stored according to the proposed mechanism that is subject of this decision<sup>52</sup>.
- (72) Sixth, it will be possible to monitor consumer prices, as the mechanism and the decisions of the CAA will be widely communicated on the website of CAA. Also the relevant decisions and minutes will be communicated to the Spanish Ministry of Agriculture (see recital (38) above).

#### 4. CONCLUSION

- (73) Based on the information available, the Commission is of the opinion that the agreements of the CAA and the cooperatives participating in the mechanism are compatible with the objectives set out in Article 39 of the Treaty.
- (74) This decision does not cover any other agreements of the CAA or of the participating cooperatives outside the mechanism.

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<sup>50</sup> The Commission does not have detailed knowledge about storage costs of olive oil. However, the aid granted to compensate partly for storage costs over 6 months under the private storage aid scheme referred to in recital (71) gives an indication. The average aid granted to participating producers corresponded to 8 % of the producer price for lampante olive oil at the time when the measure was activated.

<sup>51</sup> Commission Implementing Regulation (EU) 2019/1882 of 8 November 2019 opening tendering procedures for the amount of aid for private storage of olive oil (OJ L 290, 11.11.2019, p. 12).

<sup>52</sup> Based on estimations available on 30 June 2020, the availability on the Spanish market amounts to 2 089 000 tonnes while the needs amount to 1 454 300 tonnes. The availability corresponds to 144 % of the needs. The maximum volume that could have been stored according the mechanism would have been 271 125 tonnes (=2 089 000 tonnes-(125%\*1 454 300 tonnes). The volume covered by the private storage aid scheme in Spain, 196 395 tonnes, represents 72.4% of maximum volume that could have been stored according the mechanism, 271 125 tonnes.

HAS DECIDED AS FOLLOWS:

*Article 1*

The market stabilisation mechanism for olive oil as notified by the Cooperativas agro-alimentarias is compatible with the objectives set out in Article 39 of the Treaty.

*Article 2*

The Directorate-General for Agriculture and Rural Development shall inform the Cooperativas agro-alimentarias of this Commission Decision by means of the letter in Annex.

Done at Brussels, 28.10.2020

*For the Commission*

*Janusz WOJCIECHOWSKI*

*Member of the Commission*