



EUROPEAN
COMMISSION

Brussels, 20.2.2015
C(2015) 861 final

COMMISSION DELEGATED REGULATION (EU) No .../..

of 20.2.2015

amending Regulation (EC) No 376/2008 as regards the obligation to present a licence for imports of ethyl alcohol of agricultural origin and repealing Regulation (EC) No 2336/2003 introducing certain detailed rules for applying Council Regulation (EC) No 670/2003 laying down specific measures concerning the market in ethyl alcohol of agricultural origin

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

In 2003, Council Regulation (EC) 670/2003 laying down specific measures concerning the market of ethyl alcohol of agricultural origin established an obligation for Member States to communicate the necessary information to draw up a balance sheet for that market. In addition, Regulation (EC) 670/2003 empowered the Commission to subject import and export of ethyl alcohol to a licence requirement. The Commission subsequently adopted Commission Regulation (EC) 2336/2003 introducing certain detailed rules for applying Council Regulation (EC) 670/2003 laying down specific measures concerning the market in ethyl alcohol of agricultural origin.

In the light of its simplification agenda and its 2015 work programme¹ the Commission has made a political priority to identify whether existing rules impose unnecessary red tape and administrative burden, are outdated or out of line with its priorities. In this context, Regulation (EC) 2336/2003 has been identified.

In the late 90's, the EU market of ethyl alcohol (hereafter ethanol) was in surplus with a production of around 2 billion litres, out of which 1.3 was of agricultural origin for a demand of around 1.7 billion litres.

Today the situation has drastically changed and the EU produces more than 6 billion litres of agricultural ethanol for a domestic market of around 7.9 billion litres. The EU has therefore become a net importer of ethanol. The expansion has been driven by EU biofuel policy.

Furthermore, in 2004, ethanol from wine used to represent 18% of ethanol produced in the EU and was an important outlet for the disposal of surplus wine. Today, ethanol from wine represents less than 2% of European ethanol production. Following the 2008 reform of the Common Market Organisation for wine, a number of market measures in the wine sector were repealed including dual purpose grape distillation, potable alcohol distillation and crisis distillation. As a result, ethanol production can no longer be considered as a market for surplus wine.

In the EU, ethanol is now mainly used for fuel production (more than 70% of use in 2013) and that use has been growing over the last 10 years due to the development of EU renewable energy policy and the establishment of a 10% target for energy from renewable sources in transport in 2020.

Food and beverage use of ethanol is stable and absorbs ~1 billion litres/year or ~16% of use while it used to represent 35% of total use in 2004.

In the EU, cereals are now the main feedstock used for ethanol production (67%) followed by molasses from sugar beet (27%). However, ethanol production absorbed only 3% of EU cereal production and therefore does not play an important role for the European cereal market.

For the period 2014-24, the production of ethanol from cereals is expected to continue to rise from 2.2 million tonnes oil equivalent to 2.7 million tonnes oil equivalent which would cover around 50% of ethanol use in the EU. Nevertheless, this is not expected to account for more

¹ Commission Work Programme 2015 – A New Start. COM(2014) 910 of 13.12.2014

than 5% of cereal production² and therefore would have limited impact on agricultural markets in the EU.

The recently adopted State Aid Guidelines for environmental protection and energy 2014-2020³ state that investment aid in new and existing capacity for food based biofuel is no longer justified. However, investment aid to convert food-based biofuel plants into advanced biofuel plants is allowed to cover the costs of such conversion. Other than this particular case, investment aid to biofuels can only be granted in favour of advanced biofuels.

The Commission has also proposed to limit the contribution that biofuels and bio-liquids produced from food crops, such as those based on cereals and other starch rich crops, sugars and oil crops, make to the Renewable Energy Directive targets, to 5 % of current consumption levels, without foreseeing any limits on their overall consumption. This proposal is currently under negotiation between the European Parliament and the Council⁴.

All the policy changes should result in changes in the use of feedstock for ethanol production moving away in the medium term from the use of food crops.

In the light of these changes, the establishment of an EU balance sheet for ethanol of agricultural origin and the requirement for import licences do not appear justified any more for the management of agricultural markets.

Therefore, Regulation n° 2236/2003 should be repealed. This will provide a significant simplification and reduction of administrative burden for the Commission, Member States' administrations and stakeholders.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

In order to carry out appropriate consultation, two expert meetings where all the Member States were invited took place on 29 October 2014 and on 10 December 2014. European Parliament experts were also invited.

Out of those who expressed a position, Member States' experts were divided between those who support repealing Regulation 2336/2003 and those who would prefer maintaining the import licences requirements. With respect to the balance sheet, while most Member States acknowledged difficulties in collecting good quality data, experts were split between those who consider that the production of an EU balance sheet should be discontinued and those who would prefer to maintain it although in an improved format.

Stakeholders were consulted in the context of a meeting of the civil dialogue group on arable crop on 12 December 2014. In a letter of 24 October 2014, ePURE, the European renewable ethanol professional organisation, informed the Commission that it considers it important to

² Prospects for EU agricultural markets and income 2014-2024, December 2014 – DG Agriculture and Rural Development http://ec.europa.eu/agriculture/markets-and-prices/medium-term-outlook/index_en.htm.

³ [http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52014XC0628\(01\)&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52014XC0628(01)&from=EN)

⁴ Commission proposal for a Directive of the European Parliament and the Council amending Directive 98/70/EC relating to the quality of petrol and diesel fuels and amending Directive 2009/28/EC on the promotion of the use of energy from renewable sources.

maintain an EU annual balance sheet. ePURE argues that it is important for the EU ethanol industry to have an overall assessment of the situation of the renewable energy market in the EU because according to ePURE, EU ethanol producers face increased competition from duty-free imports.

COPA COGECA, the European representative of farmers and agri-cooperatives interests, expressed its opposition to the removal of the import licence requirement for ethanol of agricultural origin in a letter dated 9 December 2014. COPA COGECA considers that import licences are necessary to ensure traceability and guarantee the provenance of ethanol imports. Furthermore, COPA COGECA argued that up-to-date statistics are necessary for the purpose of market information and transparency and for policy making.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

The Delegated Act will remove the obligation for the EU to establish and publish an EU balance sheet for ethyl alcohol of agricultural origin and the quarterly obligation for Member States to provide information on production, disposal and stocks.

The Delegated Act will also remove the obligation to present an import licence for the import of ethyl alcohol of agricultural origin into the EU, including the lodging of a security.

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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 Articles 177(1)(a) and 223(2) thereof,

Whereas:

- (1) Commission Regulation (EC) No 2336/2003² provides that in order to establish the Union ethyl alcohol balance, Member States are to regularly send to the Commission data on the quantities of alcohol produced, imported, exported and disposed of, on stocks held at the end of the marketing year and on the estimated production.
- (2) Regulation (EC) No 2336/2003 also lays down detailed rules for the application of the system of import licences for imports of ethyl alcohol of agricultural origin.
- (3) Commission Regulation (EC) No 376/2008³ provides that import of ethyl alcohol of agricultural origin is subject to the presentation of an import licence except for the purpose of operations relating to quantities not exceeding those set out in Section L of Part I of Annex II to that Regulation.
- (4) In 2003, the processing of agricultural raw materials permitted the disposal of products of unsatisfactory quality and short-term surpluses that might cause problems in certain sectors including the wine sector.
- (5) However, Council Regulation No 479/2008⁴ repealed several market measures in the wine sector, in particular those related to dual purpose grape distillation, potable alcohol distillation and crisis distillation.

¹ OJ L 347, 20.12.2013, p. 671.

² Commission Regulation (EC) No 2336/2003 of 30 December 2003 introducing certain detailed rules for applying Council Regulation (EC) No 670/2003 laying down specific measures concerning the market in ethyl alcohol of agricultural origin (OJ L 346, 31.12.2003, p. 19).

³ Commission Regulation (EC) No 376/2008 of 23 April 2008 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products (OJ L 114, 26.4.2008, p. 3).

⁴ Council Regulation (EC) No 479/2008 of 29 April 2008 on the common organisation of the market in wine, amending Regulations (EC) No 1493/1999, (EC) No 1782/2003, (EC) No 1290/2005, (EC) No 3/2008 and repealing Regulations (EEC) No 2392/86 and (EC) No 1493/1999 (OJ L 148, 6.6.2008, p. 1).

- (6) Since 2004, the production of ethyl alcohol of agricultural origin in the Union has significantly expanded and the ethyl alcohol sector based on food products can be considered a mature industry.
- (7) In view of the development of the Union market for ethyl alcohol, the import licence scheme for ethyl alcohol of agricultural origin is no longer justified. Therefore, ethyl alcohol should be removed from the list of products subject to licencing obligation in Annex II to Regulation (EC) No 376/2008.
- (8) Regulation (EC) No 376/2008 should therefore be amended accordingly.
- (9) Ethyl alcohol of agricultural origin is now mainly used for fuel and the Union ethyl alcohol balance sheet provides information of limited relevance for the fuel market. The establishment of an ethyl alcohol balance for the Union is therefore no longer deemed necessary and Regulation (EC) No 2336/2003 should be repealed,
- (10) For the sake of clarity, it is appropriate to lay down the rules concerning import licences issued for ethyl alcohol which are still valid on the date of entry into force of this Regulation.

HAS ADOPTED THIS REGULATION:

Article 1

In Part I of Annex II to Regulation (EC) No 376/2008, Section L is deleted.

Article 2

Regulation (EC) No 2336/2003 is repealed.

Article 3

At the request of the interested parties, the securities lodged for the issuing of import licences for ethyl alcohol of agricultural origin shall be released when the following conditions are met:

- (a) the validity of the licences has not expired on the date of entry into force of this Regulation;
- (b) the licences have been used only partially or not at all on the date of entry into force of this Regulation.

Article 4

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

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

Done at Brussels, 20.2.2015

For the Commission
The President
Jean-Claude JUNCKER