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**REPORT FROM THE COMMISSION
TO THE EUROPEAN PARLIAMENT AND THE COUNCIL**

on the German Alcohol Monopoly

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1. INTRODUCTION

Article 184(3) of Council Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) requires the Commission to submit before 31 December 2009 to the European Parliament and the Council a report on the application of the derogation provided in respect of the German Alcohol Monopoly. The report shall include “*an evaluation of the aids granted in the framework of that Monopoly, together with any appropriate proposals*”.

For this report the Commission has taken into account the information submitted annually by the German authorities on the functioning of the system, as well as the information coming from other sources.

Ethyl alcohol

There are mainly two kinds of ethyl alcohol or ethanol:

- agricultural alcohol – product of fermentation and distillation of agricultural products such as cereals, sugar beet, potatoes and fruits. It is used for human consumption (drinks and vinegar), in the biofuel sector (in that case it is called bioethanol or fuel ethanol) and in other industrial applications.

- synthetic alcohol - made from petrochemical feedstock (i.e. oil derivatives) is used only in the industrial market (e.g. pharmaceuticals, cosmetics, inks, paints, detergents, screen washers, surface coating etc).

With an alcohol content ranging from 80% vol. to 99.9% vol. ethyl alcohol, in particular above 96% vol., has no specific organoleptic characteristics. It has no taste, no colour and that is why it is also commonly referred to as neutral alcohol.

In recent years the production and use of alcohol in the biofuel sector have experienced unprecedented growth around the world (mainly in United States). In 2003 the European Union adopted the Directive on the promotion of the use of biofuels and other renewable fuels for transport¹ and in April 2009 adopted the Directive on the promotion of the use of energy from renewable sources². Council Regulation (EC) No 670/2003 layed down specific measures concerning the market in ethyl alcohol of agricultural origin³ in the form of a

¹ Directive 2003/30/EC of the European Parliament and of the Council, Official Journal L 123 of 17.5.2003.

² Directive 2009/28/EC of the European Parliament and of the Council, Official Journal L 140 of 4.6.2009.

³ Council Regulation (EC) No 670/2003, Official Journal L 96 of 15.4.2003, p. 6.

"lightweight" common market organisation. It introduced a possibility of a trade monitoring system by means of licences for agricultural alcohol and brought the alcohol sector under the competence of the Management Committee for Wine. Moreover, on the basis of data provided by the Member States the Commission publishes an annual Community balance for the market. The Regulation authorised a derogation for the German Alcohol Monopoly from the State aid rules. This Regulation has been later integrated into Council Regulation (EC) No 1234/2007 (Single CMO Regulation).

Market of the agricultural ethyl alcohol in the EU

In the EU-27, about 40.5 million hectolitres of agricultural ethyl alcohol were produced in 2008. Most of the production originated from cereals (22.3 million hl) and sugar beet / molasses (15.9 million hl), wine (2.4 million hl), potatoes (250.000 hl), fruits (200.000 hl) and other materials (1.3 million hl).

In 2008, the main producers of agricultural alcohol in the EU were: France (15.4 million hl), Germany (5.9 million hl), Spain (5.4 million hl) and Poland (1.9 million hl).

Eurostats' data on the trading of goods show that during 2008 the EU-27 imported in total about 13 million hl of ethyl alcohol from third countries (more than double the 5.6 million hl imported in 2006). The main country of origin remained Brazil, which supplied 7.3 million hl and accounted for 56 % of imports.

In 2008, the internal consumption of ethyl alcohol amounted to 52.6 million hl, or 9% more than in 2007. This increase was mainly due to the expansion of use in the fuel sector: 28.7 million hl in 2008, or 38 % more than in 2007.

2. FUNCTIONING OF THE GERMAN ALCOHOL MONOPOLY

2.1. Evolution of the monopoly

The Alcohol Monopoly was officially established in 1918 as a financial monopoly and a national organisation for ethyl alcohol. The legal basis for the Monopoly is the Alcohol Monopoly Act of 8 April 1922, last amended by the Law of 15 July 2006⁴.

The particular feature of the German Alcohol Monopoly is its two-stage production: firstly, the distilleries produce raw alcohol using potatoes, grains or fruits. Secondly, most agricultural alcohol produced under the Alcohol Monopoly is delivered to the Federal Monopoly Administration for Alcohol (BfB⁵) which is responsible for the organisation of this market in Germany. The BfB regulates alcohol production by granting nominal distilling rights to individual distillers (see Section 2.4) and setting purchase prices that in principle cover the producer's costs (see Section 2.5). The annual distilling rights are established (as percentages of the total rights) at different levels from year to year depending on the demand for agricultural alcohol. The BfB is legally bound to purchase agricultural alcohol produced within the nominal distilling rights at the prices that have been set. A reduced price, set at a prohibitively low level, applies to any surplus production. The Monopoly thus offers alcohol producers relative certainty as regards prices and revenue.

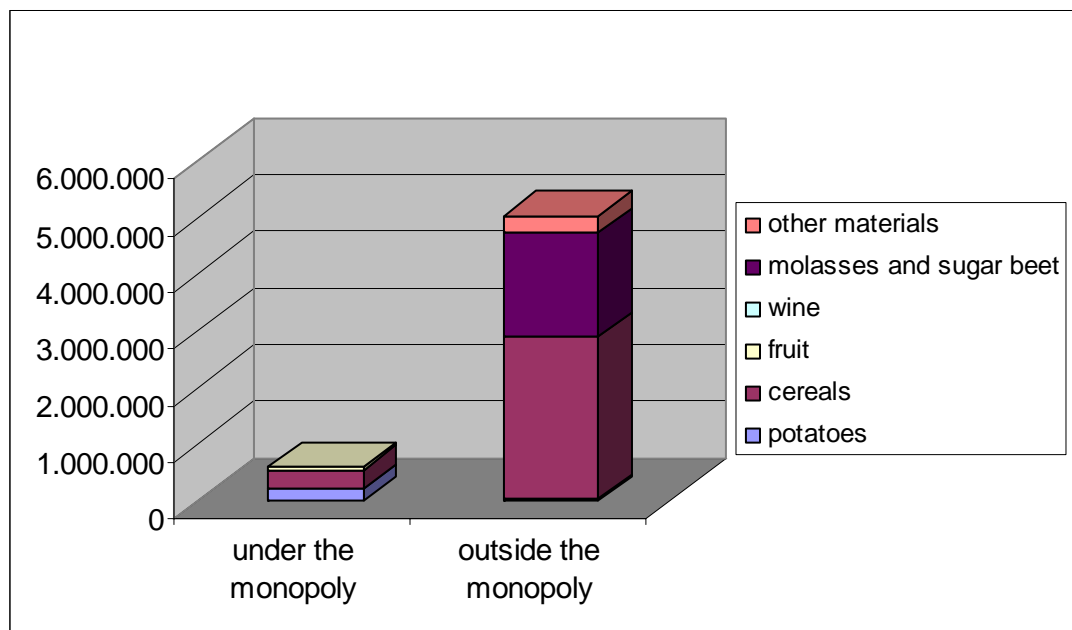
⁴ *Bundesgesetzblatt I*, p. 1594.

⁵ *Bundesmonopolverwaltung für Branntwein*.

2.2. Share of the Monopoly on the German market

In the calendar year 2007 the total production of ethyl alcohol of agricultural origin in Germany amounted to about 5 million hl. The volume produced by the distilleries under the Monopoly was about 590.000 hl, or about 12% of the agricultural alcohol produced (see graph below). Alcohol produced within the Monopoly originated mainly from cereals (59%) and potatoes (almost 34%), with only 7% from fruits; while alcohol produced outside the Monopoly originated largely from cereals (57%), but also from molasses and sugar beet (37%).

Graph 1: Production of agricultural alcohol in Germany in 2007 (hl A)



2.3. Classification of distilleries under the Monopoly

Since the last reform of the German Alcohol Monopoly in 1999 the Monopoly covers only agricultural distilleries, fruit collective distilleries (bonded distilleries), agricultural and commercial small scale distilleries and distillery users. The basic classification differentiates according to the production/tax measuring system between the bonded distilleries and flat-rate distilleries:

- **Bonded distilleries (*Verschlussbrennereien*)** are those in which all vapours containing alcohol are condensed in production and refining systems that are closed with official customs seals and all the alcohol flows through pipes into collection tanks or barrels (both of which are similarly sealed) or through official measuring instruments. Bonded distilleries can be divided into:
 - **Agricultural distilleries (*Landwirtschaftliche Brennereien*)** are always linked to an agricultural undertaking. In principle, they may process only potatoes and grain (wheat, triticale, maize and rye). There are about 677 small and medium-sized distilleries of this type in Germany.
 - **Fruit cooperative distilleries (*Obstgemeinschaftsbrennereien*)** may process only fruit, berries, wine, wine lees, grape must, root crops or residues of these. These are

bonded distilleries run by an association, a partnership or a cooperative in which alcohol is produced exclusively from the members' own fruit products. Each member has a production quota under the Monopoly of 300 litres of alcohol.

- In **small-scale flat-rate distilleries** (*Abfindungsbrennereien*), on the other hand, there are no seals or other forms of closure and alcohol production is calculated on the basis of the volume and type of raw materials (mainly fruits), together with the yield rates set for the respective types. To benefit from treatment as a small-scale distillery under the Monopoly legislation, a distillery must stay within 'eligible production' limits (50 or 300 litres of alcohol a year). Small-scale flat-rate distilleries can either deliver the alcohol produced to the Monopoly or commercialise themselves the alcohol as distillates or spirits. In the latter case they benefit from a reduced rate of excise duty of €10,22/litre instead of the standard rate of €13,03/litre. This is done in accordance with the EU law⁶.
- Apart from bonded and small-scale distilleries there is the separate category of **distillery users** (*Stoffbesitzer*). These are individuals who do not have their own distilling equipment and use the equipment of a small-scale distillery to process only their own fruit products into no more than 50 litres of alcohol in any production year. For historical reasons, this form of distilling is allowed only in very specific areas of Southern Germany. Alcohol produced by such users of small-scale distilleries is subject to a reduced rate of excise duty if the distillates are marketed by the producers themselves. As small-scale flat-rate distilleries they can deliver the alcohol to the Monopoly.

In the 2007/08 production year, small-scale distilleries, distillery users and fruit cooperative distilleries produced around 75.000 hl of alcohol, of which around 50.000 hl was delivered to the BfB.

2.4. Distilling rights

A distilling right is the right, linked to a particular distillery, to receive the purchase price, as set by the BfB, for a certain volume of alcohol (nominal distilling right). It is thus a benefit allowing the distillery to produce alcohol for a fixed price. In addition, however, it forms the basis for regulating alcohol production. The Alcohol Monopoly Act allows the BfB to reduce distilling rights for each distillery in the light of volumes in stocks, foreseeable demand and available financial resources, and to set different annual distilling rights (as a percentage of the nominal distilling rights) from one production year to another.

Under the Monopoly legislation, small-scale flat rate distilleries, distillery users, fruit cooperative distilleries and small bonded distilleries do not have production quotas in the legal sense (*Brennrechte*), but a right to produce a certain annual alcohol quantity; unlike distilling rights, these limits do not change from year to year. These distilleries have the option of delivering raw alcohol to the BfB, but are not obliged to do so.

⁶ Council Directive 92/83/EC on the harmonization of the structures of excise duties on alcohol and alcoholic beverages, OJ L 31 of 7.2.1992, p. 48.

2.5. Purchase price

The functioning of the Monopoly is based on the principle that the producers of raw alcohol receive for their product an above-market level purchase price, which is the subsidy that allows them to continue operating. The alcohol collected and rectified by the Monopoly is then sold to different commercial buyers.

The BfB sets the basic purchase price for alcohol each year on the basis of the average production costs of well-run potato distilleries with an annual output of up to 600 hl of alcohol.

For all larger distilleries, the basic price is reduced by a percentage of production costs which varies according to their output (the larger the distillery, the higher the reduction).

Monopoly legislation provides for special purchase prices for alcohol from fruit cooperative distilleries, small-scale distilleries and distillery users; these are set on the basis of the basic alcohol price but include various supplements.

Table 1: Quantities of alcohol bought by BfB in the 2007/08 marketing year⁷:

<i>Purchases of raw alcohol from:</i>	hl alcohol	Purchase price in €/ hl alcohol*	BfB expenditure in €*
Potatoes	204 974	126,66	25 962 000
Grain	340 279	141,58	48 178 000
Fruit pulp	51 514	354,31	18 252 000
Sub-total	596 767	154,82	92 392 000
<i>Additional volumes of raw alcohol purchased by the BfB</i>	22 811	58,09	1 325 000
Total	619 578	151,26	93 717 000

* including collection costs; total expenses of the BfB amount to about €120 million

The price is calculated in such a way to favour most the farmers supplying the raw material.

The distillation process is characterised by the fact that the initial 10% and final 10% of alcohol produced (called "head and tail") are of low quality with an increased rate of fusel oils and higher alcohols, which are usable only after further treatment or re-distillation. It should be noted that despite lower quality those 20% of production are bought by the Monopoly at the same attractive prices as the better-quality volumes. In this way besides farmers the distilleries are main beneficiaries of the Monopoly.

⁷ Marketing year runs from 1 October to 30 September.

2.6. Processing and sales by the Monopoly

2.6.1. Processing

Once collected, the raw alcohol is processed in the BfB's three refineries in Munich, Wittenberg and Nuremberg, which have the total rectification capacity of 600.000 hl.

The administration of the Monopoly employs in total about 90 people.

The raw alcohol with an alcohol content of about 85% delivered by the producers is processed into 96% and 99% pure alcohol. The volume resulting from the processing of alcohol in the 2007/08 marketing year reached 546.000 hl.

2.6.2. Alcohol sales

The BfB sells its alcohol exclusively to companies based in Germany. The sales take place through seven business outlets owned by the BfB. The pure alcohol is sold mainly to the spirits, food, pharmaceutical and cosmetics ('priority') sectors. Also, the tertiary alcohol is denatured for use in anti-freeze, window-cleaning fluid and methylated spirit.

In 2008 the Monopoly sold about 555.000 hl of alcohol of which:

- **53%** went to the **industrial sector** such as cosmetics (30% of the total) and pharmaceutical sectors (8%)

- **47%** went to the **foodstuffs sector** such as beverages (as much as 33% of the total quantities sold) and food (13%).

Table 2: BfB sales volumes in the priority sector from 2004 to 2008 in hectolitres:

	2004	2005	2006	2007	2008
Foodstuffs sector:	333 278	339 264	292 555	232 200	259 014
- Use for alcoholic beverages	265 675	274 034	213 998	151 004	185 387
- Food	67 603	65 230	78 557	81 196	73 627
Industrial sector:	298 865	292 376	295 002	294 356	295 602
- Pharmaceuticals	44 658	38 464	37 393	42 467	43 191
- Cosmetics	157 134	164 890	154 917	175 461	168 161
- Other industrial alcohol	97 073	89 022	102 692	76 428	84 250
Fuel	0	0	0	0	0
Other uses	0	0	0	0	0
Total	632 143	631 640	587 557	526 556	554 616

The prices at which the BfB sells its products are contested by several stakeholders as being below the market level. The BfB sold alcohol at the following average prices in 2007/2008:

- alcohol for spirits and food – 70 €/hl,
- pharmaceuticals and cosmetics – 73 €/hl,
- other industrial uses – 59 €/hl.

With regard to sales to the pharmaceutical and cosmetics markets it should be noted that the Alcohol Monopoly Act stipulates that the synthetic alcohol cannot be sold to the cosmetics industry unless a minimum 200.000 hl per year of agricultural alcohol had been previously sold for that use, therefore it effectively prohibits the access of synthetic alcohol producers to that market.

No alcohol is sold for the use in biofuels.

2.7. State aid granted by the German government through the Monopoly

State aid granted through the Monopoly corresponds to the difference between the costs of buying raw alcohol at high prices and income generated by the sales of that alcohol at the market price after rectification, taking into account the collection, processing and operational costs borne by the BfB.

Council Regulation (EC) No 1234/2007 fixed the maximum amount of State aid to be granted by the German government through the Monopoly at €10 million. This limit has been respected and subsidies decreased from €10 million in 2003 to almost €8 million in 2008. The quantities sold by the Monopoly decreased accordingly in that period from 640.000 hl in 2003 to 555.000 hl in 2008.

The reduction of the budget was linked to the reform of the Monopoly undertaken in 1999. This reform resulted in the commercial bonded distilleries leaving the Monopoly in return for compensation payments of up to €257,50 per hl of nominal distilling rights, depending on the type of distillery and the date of withdrawal. Those payments are State aid granted over five marketing years to help distilleries to survive in the open market. Between 2001 and 2008 about 70 distilleries decided to leave the Monopoly against such compensation. The 1999 reform also introduced cuts in purchase prices for the agricultural distilleries remaining within the Alcohol Monopoly.

Further reductions in the annual aid resulted from general reductions in all of the financial aid to the Monopoly provided by the Federal Government which was accompanied by a reduction of the authorised annual production for agricultural distilleries of up to 50% of their nominal distilling rights.

3. ASSESSMENT OF THE AID

3.1. Impact on farmers and distilleries

There are some 677 small and medium-sized agricultural distilleries. About 7.000 family farms producing potatoes and/or grain for alcohol production are associated with those distilleries which account for some 4.000 full-time jobs. Those farms use only part of their agricultural land to cultivate products for alcohol production, meaning that for farmers the Monopoly is only an additional source of income. There are also around 28.000 small-scale distilleries (of which around 20.000 a year are in operation), 8 fruit cooperative distilleries and about 425.000 distillery users (of which on average 100.000 in operation every year).

With regard to the agricultural distilleries (674), which in 2007 supplied to the Monopoly 538.921 hl of alcohol produced from potatoes and/or grain, their average production volume per distillery equalled 800 hl alcohol and they received on average a total purchase price of about €107.000 per year. Regarding co-operative distilleries, taking into account an average

potato co-operative distillery consisting of 15 member farms and producing an annual volume of 2.500 hl of alcohol, each farmer received an annual total purchase price of around €15.000. The total purchase price includes the production costs arising to the distiller (the costs of raw materials, energy, maintenance, etc.)⁸.

Small-scale flat-rate distilleries which are allowed to produce maximum 300 litres of alcohol a year receive a maximum total annual purchase price of about €1.000⁹. This aid represents a small part of individual income, but may be decisive to continue their activity. It should be noted that those production limits can be cumulated (up to 3000 litres during 10 years), creating an economy of scale. The Monopoly actually helps to maintain the high prices for alcohol produced from fruits.

Regional importance of agricultural distilleries

In some parts of Germany the Alcohol Monopoly plays an important role for the local economy, in particular in areas with a higher number of distilleries. In 2009 87% of all the agricultural distilleries under the Monopoly are located in five Länder: Bavaria (157), Rhineland-Palatinate (115), North Rhine-Westphalia (118), Lower Saxony and Bremen (93) and Baden-Württemberg (79).

Table 3: Distribution of agricultural distilleries and their production quotas per German Land (2009)

Land	Number of distilleries	Nominal production quota in hl alcohol
Baden-Württemberg	79	60.888
Bavaria	157	295.743
Brandenburg	15	56.945
Bremen	1	545
Hessen	24	12.775
Mecklenburg-Vorpommern	3	8.490
Lower Saxony	92	211.950
North Rhine-Westphalia	118	136.879
Rhineland-Palatinate	115	46.704
Saarland	31	26.106
Saxony (Sachsen)	1	720
Sachsen-Anhalt	6	26.699
Schleswig-Holstein	3	3.560

3.2. Impact on the alcohol market in Germany and in the EU

The Monopoly provides important volumes of alcohol (0.5-0.6 mln hl) on the German market (estimated at about 3.1 mln hl excluding biofuels) in particular to beverages and industrial sectors.

Table 4: Share of the alcohol sold by the Monopoly on the German market in **2008** in 1000 hl:

⁸ The difference in aid received by different types of distilleries is due to among others different purchase prices fixed depending on volumes produced.

⁹ €1000 = 3 hl x €354,31/hl (see Table 1).

	Sales from the Monopoly	German market	%
Food use	259	1938	13%
Beverages	185	346	53%
Foodstuff	74	1591	5%
Industrial sector	296	1142	26%
Fuel	0	4740	0%

Furthermore, the volume of alcohol subsidised by the Monopoly may have an impact on the European market (estimated at 23.9 mln hl - excluding biofuels). Stakeholders claim that the quantities subsidised by Germany may influence the prices of alcohol on the EU market.

3.3. Impact on the environment

According to the German government the Monopoly is said to help to maintain the traditional orchards, which supply the raw material to small-scale and fruit distillers. They represent an ecological value in terms of flora and fauna and secure the unique variety of rare animal species. Orchards also prevent soil erosion, help to store water and thus to balance the atmospheric humidity.

In case of small-scale distilleries the aid received through the Monopoly is limited; however, it is considered necessary for farmers to continue cultivating fruit trees which are an important element of the landscape. However, in other regions of neighbouring EU Member States which are not covered by the Monopoly, the landscape is comparable to the German regions.

3.4. Situation in other Member States

It is worth pointing out that production of alcohol by small agricultural distilleries is also undertaken in other Member States for example in Austria or Poland, where producers do not receive any subsidies for alcohol or distillate. In several countries there exists however a tax relief for small agricultural distilleries.

Moreover in France there also was an alcohol monopoly created in 1916 and abolished in 1991. All the agricultural alcohol used to be bought by the government at guaranteed prices. The system caused the alcohol production to grow constantly as the state was obliged to buy all the produced volumes. Currently there remain only a few small agricultural distilleries mainly located in Alsace.

4. CONCLUSION

The functioning of the German Alcohol Monopoly is based on a temporary derogation from the State aid rules. The aid granted by the Monopoly is an operational aid, otherwise not allowed by the State aid rules. However, the distorting effect of this State aid is limited since the volumes of alcohol benefiting from it are quite small and may currently be estimated to less than 10% of the total production of agricultural ethyl alcohol in Germany.

The German Alcohol Monopoly has several positive effects. It plays an important role in some regions where small and middle size farms still rely on the aid received for alcohol distillation. It does in particular allow the small fruit distilleries, whose production is local and very limited, to maintain the traditional orchards and to stabilise producers' incomes.

Clearly, since the Council granted a derogation for the German Alcohol Monopoly only for a "limited period of time"¹⁰, the distilleries operating within it will have to undergo restructuring in order to prepare for an elimination of the State aid in the near future. Some distilleries have thus already made efforts to prepare for their entry into the free market by creating cooperatives, investing in less energy consuming equipments to reduce production costs and increasingly marketing their alcohol directly. However, more time is needed to facilitate this adaptation process, and to allow distillers to survive on the free market.

Considering the above elements, as well as the fact that Germany explicitly asked for an extension of the derogation, it is proposed that the Monopoly may continue for a limited time. Such a final transitional period could be granted in order to facilitate the transition and the necessary restructuring of distilleries. It must however be ascertained that the restrictions of the access to the market for foreign companies and the synthetic alcohol producers are lifted as from 1 January 2011.

It is proposed to phase out the Monopoly over a few years as follows. The agricultural bonded distilleries processing cereals and potatoes may continue to receive a gradually decreasing aid under the Monopoly only until the end of 2013. Only the small-scale flat-rate distilleries, distilleries users and fruit cooperative distilleries which produce very limited volumes of alcohol (60.000 hl annually) will continue to operate under the Monopoly, and benefit from the aid, until the end of 2017.

The Monopoly will not be extended beyond that date. After the end of the transitional period, Germany could use the possibility to transfer at least part of the funds used for the Monopoly into Rural Development to finance for example measures aimed at improving processing and marketing, development of new products or improving cooperation between farmers and distilleries or protecting the traditional style orchards, which according to the German authorities, represent particular environmental benefits.

¹⁰ recital No 91 of Council Regulation (EC) No 1234/2007 (Single CMO).