

Proposal for a Council Regulation on the common organisation of the market in ethyl alcohol of agricultural origin

(2001/C 180 E/09)

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(Submitted by the Commission on 23 February 2001)

THE COUNCIL OF THE EUROPEAN UNION,

should send the Commission the information necessary to draw up a market balance for agricultural alcohol.

Having regard to the Treaty establishing the European Community, and in particular Articles 36 and 37 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

(7) The creation of a single Community market in alcohol requires the establishment of trade arrangements at the Community's external borders. Trade arrangements involving a system of import duties should, in principle, stabilise the Community market. Those trade arrangements must be based on the agreements concluded during the Uruguay Round of multilateral trade negotiations.

Whereas:

(1) The operation and development of the common market in agricultural products should be accompanied by the establishment of a common agricultural policy to include in particular a common organisation of agricultural markets, which may take various forms depending on the product.

(8) In order to be able to monitor trade movements on a permanent basis, provision should be made for an import and export licence scheme with the lodging of a security to ensure that the transactions for which such licences are requested are actually carried out.

(2) The aim of the common agricultural policy is to achieve the objectives set out in Article 33 of the Treaty. This can be accomplished through the introduction of tools to improve monitoring of developments both on the internal market and in trade with third countries.

(9) It is appropriate to confer on the Commission the power to open and administer tariff quotas resulting from international agreements concluded in accordance with the Treaty or from other legislative acts of the Council.

(3) The processing of certain agricultural raw materials into ethyl alcohol is closely linked with the economy of those raw materials. It can contribute in large measure to enhancing their value and may be of particular economic and social importance for the economy of certain regions of the Community or may be a significant source of income for the producers of the raw materials concerned. It also permits the disposal of products of unsatisfactory quality and short-term surpluses that may cause temporary problems in certain sectors.

(10) In addition to the system described above, and to the extent necessary for its proper working, provision should be made for regulating or, when the situation on the market so requires, prohibiting the use of inward and outward processing arrangements.

(4) A common organisation of the market in ethyl alcohol of agricultural origin should be established for the first time.

(11) The system of customs duties makes it possible to dispense with all other protective measures at the Community's external borders. However, the internal market and duty mechanism could, in exceptional circumstances, prove defective. In such cases, so as not to leave the Community market without defence against disturbances that might ensue, the Community should be able to take all necessary measures without delay. All such measures must comply with the obligations arising from the World Trade Organisation Agreements.

(5) The marketing of alcohol from alcohol-producing products which have been the subject of intervention measures or other specific measures is covered by special procedures under the regulations relating to those products in order to ensure adequate competition and to prevent any disturbance of the traditional alcohol market.

(12) The achievement of a single market would be jeopardised by the grant of certain types of aid. The Treaty provisions governing the appraisal of aid granted by Member States and the prohibition of aid incompatible with the common market should be extended to alcohol of agricultural origin.

(6) For the purpose of monitoring developments on the market in alcohol of agricultural origin, Member States

- (13) Since the measures required for the implementation of this Regulation are management measures within the meaning of Article 2 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽¹⁾, the measures concerned should be adopted in accordance with the procedure laid down in Article 4 of that Decision.
- (14) The common organisation of the market in alcohol of agricultural origin must take proper and simultaneous account of the objectives set out in Articles 33 and 131 of the Treaty.
- (15) The common organisation of the market in alcohol of agricultural origin must also comply with the agreements concluded in accordance with Article 300(2) of the Treaty, in particular those forming part of the Agreement establishing the World Trade Organisation and more specifically the Agreement on Technical Barriers to Trade.
- (16) In order to guarantee the smooth operation of the arrangements, the Commission should be permitted to adopt transitional measures. The Commission should also be authorised to resolve specific practical problems on a temporary and exceptional basis.
- (17) In applying this Regulation, account should be taken of the fact that, with the exception of the spirit drinks sector, the Community ethyl alcohol market is supplied with ethyl alcohol of both agricultural and non-agricultural origin without any restriction. Consequently, the measures for applying this Regulation must not lead to any discrimination between the two types of alcohol,

HAS ADOPTED THIS REGULATION:

Article 1

Products covered

1. A common organisation of the market in ethyl alcohol of agricultural origin covering the following products is established.

| CN code | Description |
|------------------------------------|---|
| ex 2207 10 00 | Undenatured ethyl alcohol of an alcoholic strength by volume of 80 % vol. or higher, of agricultural origin |
| ex 2207 20 00 | Ethyl alcohol and other spirits, denatured, of any strength, of agricultural origin |
| ex 2208 90 91 and ex 2208 90 99 | Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80 % vol., of agricultural origin |

2. For the purposes of this Regulation:

- (a) 'Ethyl alcohol of agricultural origin' means the liquid obtained by distillation or osmosis, after fermentation of certain sugars under the action of yeast or other ferments, of alcohol-producing agricultural products, excluding spirit drinks as defined in Council Regulation (EEC) No 1576/89 of 29 May 1989 laying down general rules on the definition, description and presentation of spirit drinks ⁽²⁾;
- (b) 'Ethyl alcohol and other spirits, denatured, of agricultural origin' means liquids to which certain substances have deliberately been added, making them unfit for human consumption but not affecting their suitability for industrial use;
- (c) 'Alcohol-producing agricultural products' means products falling within Chapters 7, 8, 10, 11, 12 and 23 and headings Nos 1701, 1702, 1703, 2008, 2009, 2204, 2205 and 2206 of the combined nomenclature.

TITLE I

INTERNAL MARKET

Article 2

Definitions

The method of production and the characteristics of alcohol obtained from a specific alcohol-producing product of agricultural origin may be laid down in accordance with the procedure referred to in Article 12(2).

Article 3

Information

1. The Member States shall send the Commission the following information:

- before the end of the month following a quarter and for the quarter in question: the production of alcohol of agricultural origin expressed as hectolitres of pure alcohol, broken down by alcohol-producing product used,
- before the end of March and for the previous year: the volume of alcohol of agricultural origin disposed of expressed as hectolitres of pure alcohol, broken down by sector of destination (spirit drinks, perfumes-cosmetics, pharmaceuticals, vinegar industry, other industrial uses),

⁽¹⁾ OJ L 184, 17.7.1999, p. 23.

⁽²⁾ OJ L 160, 12.6.1989, p. 1. Regulation last amended by Regulation (EC) No 3378/94 (OJ L 366, 31.12.1994, p. 1).

— before the end of March: the stocks of alcohol of agricultural origin available in the Member State at the end of the previous year,

— before the end of March: forecast production for the current year.

2. On the basis of the information referred to in paragraph 1 and any other information available, the Commission shall draw up a Community balance for the market in alcohol of agricultural origin for the previous year and an estimated balance for the current year.

3. Before the end of April, the Commission shall notify the Member States of the balances referred to in paragraph 2.

TITLE II

TRADE WITH THIRD COUNTRIES

Article 4

Import and export licences

1. All imports into the Community of the products referred to in Article 1(1) may be subject to the presentation of an import licence. All exports of those products may be subject to the presentation of an export licence.

2. Member States shall issue licences to all applicants, irrespective of their place of establishment within the Community, without prejudice to the provisions adopted for the application of Article 6.

Licences shall be valid throughout the Community.

3. Licences shall be issued subject to the lodging of a security guaranteeing that the products are imported or exported during the term of validity of the licence and, save in cases of *force majeure*, the security shall be forfeited in whole or in part if import or export is not carried out, or is only carried out partially, within that period.

4. The term of validity of the licences and other detailed rules for the application of this Article shall be laid down in accordance with the procedure referred to in Article 12(2).

5. In accordance with that same procedure, the Commission may decide that the arrangements provided for in this Article shall also cover products falling within CN code 2208 put up in containers of more than 2 litres and presenting all the characteristics of neutral alcohol as defined in Annex I to Regulation (EEC) No 1576/89.

Article 5

Application of Common Customs Tariff duties

Save as otherwise provided in this Regulation, the rates of duty in the Common Customs Tariff shall apply to the products listed in Article 1(1).

Article 6

Tariff quotas

1. Tariff quotas for the products covered by this Regulation resulting from agreements concluded in accordance with Article 300 of the Treaty or from any other act of the Council shall be opened and administered by the Commission in accordance with detailed rules adopted in accordance with the procedure referred to in Article 12(2).

2. Quotas may be administered using one of the following methods or a combination thereof:

(a) a method based on the chronological order in which applications are lodged (on a 'first come, first served' basis);

(b) a method of distribution in proportion to the quantities requested when the applications are lodged (the 'simultaneous examination' method);

(c) a method taking traditional trade patterns into account ('traditional importers/new arrivals' method).

Other suitable methods may be used. Such methods must avoid any discrimination among the traders concerned.

3. Where necessary, the method of administration shall take account of the supply needs of the Community market and of the need to preserve its equilibrium and may be based on methods used in the past for quotas similar to those referred to in paragraph 1, without prejudice to rights arising under the agreements concluded during the Uruguay Round of multi-lateral trade negotiations.

4. The detailed rules referred to in paragraph 1 shall provide for annual quotas, if necessary suitably phased over the year, and shall determine the administrative method to be used and where appropriate include provisions on:

(a) the guarantees covering the nature, provenance and origin of the product;

(b) the recognition of the document used for verifying the guarantees referred to in (a);

(c) the terms and conditions on which import licences are to be issued and their term of validity.

*Article 7***Inward processing arrangements**

To the extent necessary for the proper working of the common organisation of the market in alcohol, the Commission, in accordance with the procedure referred to in Article 12(2), may prohibit in whole or in part the use of inward processing arrangements for the manufacture of the products listed in Annex I to the Treaty.

*Article 8***Interpretation of the combined nomenclature**

1. The general rules for the interpretation of the combined nomenclature and the detailed rules for its application shall apply to the tariff classification of products covered by this Regulation; the tariff nomenclature resulting from the application of this Regulation is incorporated in the Common Customs Tariff.

2. Save as otherwise provided for in this Regulation or in provisions adopted pursuant hereto, the following shall be prohibited:

- (a) the levying of any charge having equivalent effect to a customs duty;
- (b) the application of any quantitative restriction or measure having equivalent effect.

*Article 9***Emergency measures in the event of serious disturbance**

1. If, by reason of imports or exports, the Community market in one or more of the products listed in Article 1 is affected by, or is threatened with, serious disturbance likely to jeopardise the achievement of the objectives set out in Article 33 of the Treaty, appropriate measures may be applied in trade with third countries until such disturbance or threat of disturbance has ceased.

In deciding whether the situation warrants the application of such measures, account shall be taken, in particular, of the quantities for which import licences have been issued or applied for and the figures given in the balance for the marketing year concerned.

The Council, acting in accordance with the procedure laid down in Article 37(2) of the Treaty, shall adopt general rules for the application of this paragraph and shall define the circumstances and limits within which Member States may adopt protective measures.

2. If the situation referred to in paragraph 1 arises, the Commission shall, at the request of a Member State or on its

own initiative, decide upon the necessary measures, which shall be communicated to the Member States and be immediately applicable. The Commission shall take decisions on requests from Member States within three working days of their receipt.

3. Measures decided upon by the Commission may be referred to the Council by any Member State within three working days of their notification. The Council shall meet immediately. It may, acting by a qualified majority, confirm, amend or repeal the measure in question within one month of the date of referral.

4. This Article shall be applied having regard to the obligations arising from agreements concluded in accordance with Article 300(2) of the Treaty.

TITLE III

GENERAL PROVISIONS*Article 10***National aid**

Articles 87, 88 and 89 of the Treaty shall apply to production of and trade in the products covered by this Regulation.

*Article 11***Communication between the Member States and the Commission**

The Member States and the Commission shall exchange all information necessary for the application of this Regulation. Detailed rules for the communication of such information, including the nature and presentation of that information, the deadlines for transmission and the distribution of the information received, shall be adopted in accordance with the procedure referred to in Article 12(2).

*Article 12***Management Committee**

1. The Commission shall be assisted by the Management Committee for Wine (hereafter referred to as 'the Committee'), established by Article 74 of Regulation (EC) No 1493/1999.

2. Where reference is made to this paragraph, the management procedure laid down in Article 4 of Decision 1999/468/EC shall apply, in compliance with Article 7(3) thereof.

3. The period provided for in Article 4(3) of Decision 1999/468/EC shall be one month.

Article 13

The Committee may consider any other question referred to it by its Chairman either on his or her own initiative or at the request of the representative of a Member State.

*Article 14***Compliance with the Treaty and international agreements**

This Regulation shall be applied taking proper and simultaneous account of the objectives set out in Articles 33 and 131 of the Treaty.

TITLE IV

TRANSITIONAL AND FINAL PROVISIONS*Article 15***Transitional measures**

The Commission shall adopt, in accordance with the procedure referred to in Article 12:

(a) the measures required to facilitate the transition to the arrangements established by this Regulation;

(b) the measures required to resolve specific problems. Such measures, if duly justified, may derogate from certain provisions of this Regulation.

*Article 16***Entry into force**

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

It shall apply from ...

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