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*Meeting of the Civil Dialogue  
Group of 12 December 2014*

## **Non-paper DG AGRI C4**

### **Simplification of market management for ethyl alcohol of agricultural origin**

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*This non-paper is put forward to consult Stakeholders in the context of implementation of the CAP reform as regards the market management of ethyl alcohol of agricultural origin and the alignment to the Lisbon Treaty of Regulation 2336/2003 laying down specific measures concerning the market in ethyl alcohol of agricultural origin.*

#### **1. Introduction:**

Ethyl alcohol (ethanol) is an agricultural product listed in Annex 1 of the Treaty on the Functioning of the European Union when it is obtained from agricultural raw material such as cereals, sugar beet, molasses, potatoes, fruit and wine. Historically, the production of ethanol has provided an important outlet for agriculture commodities. Ethanol can also be produced by the cracking of oil (but in this case cannot be used for food); this pathway is now marginal.

Ethanol has been used traditionally in the food industry (mainly beverages) but also other industries such as cosmetics and pharmaceutical. Ethanol production has significantly increased over the last 10 years with the development of biofuel policies both in the EU and at global level.

In the late 90's, the European market of ethanol was in surplus with a production of ~2 billion litres (out of which 1.3 billion was of agricultural origin mainly surplus wine distilled under market measures) for a demand of ~1.7 billion which was declining. The sector was at that time confronted with a series of problems mainly related to increased imports from third countries.

As part of the compromise on agricultural prices for 2000/01 approved by the Council of Ministers in 2000, the Commission was asked to look into the advisability of introducing a regulatory framework for agricultural alcohol. The Commission subsequently put forward a proposal which aimed to improve market information (Council Regulation 670/2003).

Regulation 670/2003 provided the legal basis for Commission Regulation 2336/2003 which established the quarterly reporting obligation of statistics by the Member States

and the obligation for the Commission to establish by 31 March each year an ethanol balance sheet and to publish it in the Official Journal. Regulation 2336/2003 also introduced the import licence obligation.

Regulation 670/2003 was subsequently incorporated into Regulation 1234/2007 (single CMO Regulation), now replaced by Regulation 1308/2013 (the new CMO regulation), but Regulation 2336/2003 continues to apply.

Today the situation has drastically changed and the EU produces more than 6 billion litres of agriculture ethanol/ year for a domestic market of ~7.9 billion litres out of which more than 70% is used for biofuel production.

In addition, the 2008 reform of the wine CMO, repealed market measures in the wine sector including: export refunds, public alcohol storage, dual purpose grape distillation (from 1<sup>st</sup> August 2008) and potable alcohol distillation and crisis distillation (from 1<sup>st</sup> August 2012 at the latest).

## 2. The Ethanol sector

The EU is the third largest ethanol producer with a production of more than 6 billion litres far behind the US (annual production ~50 billion litres) and Brazil (annual production ~23 billion litres).

### 2013 ethanol balance (billion litres)

	Production capacity	Production	Consumption	Imports	Imports % of consumption	Exports
USA	56	51	50	1.6	3.2%	2.9
Brazil	40.7	23.5	20.9	0.3	1.4%	3.6
EU	8.8	6.7	7.9	1.2	15.2%	0.1

Source: ePure

In the EU, ethanol is now mainly used for fuel production (more than 4 billion litres 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.

In the EU, cereals are now the main feedstock used for ethanol production (67%) followed by sugar beet (27%). Ethanol from wine has sharply declined and represents only 2% of total EU agricultural ethanol production as compared to 14% in 2004<sup>1</sup>.

EU production capacity of bioethanol from food crops is now expected to plateau due to recent changes in the state aid guidelines. Indeed, the recently adopted State Aid

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<sup>1</sup> In 2004 production of ethanol from wine was 0.339 bn litres down to 0.182 bn litres in 2014.

Guidelines for environmental protection and energy 2014-2020<sup>2</sup> state clearly 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<sup>3</sup>.

Furthermore, an amendment of the renewable energy directive<sup>4</sup> currently in second reading, is seeking to introduce a limit to the contribution made from biofuels and bioliquids produced from food crops, such as those based on cereals and other starch rich crops, sugars and oil crops, to the Renewable Energy Directive targets to current consumption levels, without foreseeing any limits on their overall consumption

In the medium to long term, second generation of bioethanol (i.e. ethanol produced from feedstock other than food crops) may reach the stage of large scale production. This should lead to a decrease of use of food crops (maize and wheat in particular) for the production of ethanol.

Overall, these policy changes associated with new technical developments should lead in the long term to a reduction of the development of the production of ethanol based on food crops.

### **3. Existing communication and licensing requirements for ethanol**

#### *3.1 Member States' communications*

Regulation 2336/2003 provides that Member States must forward to the Commission the following information:

- (a) quarterly imports from third countries broken down by Combined Nomenclature code and by origin, identified using the codes in the nomenclature of countries and territories for the external trade statistics;
- (b) quarterly exports to third countries, including any exports of alcohol of non-agricultural origin;
- (c) quarterly production, broken down by the product from which the alcohol is produced;
- (d) the volume disposed of during the previous quarter, broken down by sectors of use;
- (e) stocks held by alcohol producers in their country at the end of each year;
- (f) estimated production for the year under way, twice a year, before 28 February and 31 August respectively.

On top of this, Member States must also provide the following information about alcohol of non-agricultural origin:

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<sup>2</sup> [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)

<sup>3</sup> §112 of the Guidelines

<sup>4</sup> Directive 2009/28/EC

- (a) quarterly production, broken down by synthetic alcohol and other types of alcohol where applicable;
- (b) quarterly imports from third countries;
- (c) quarterly exports to third countries;
- (d) the volume disposed of during the previous quarter, broken down by synthetic alcohol and other types of alcohol where applicable;
- (e) stocks held by alcohol producers at the end of the year, broken down by synthetic alcohol and other types of alcohol where applicable.

Information on non-agricultural ethanol is not being reported by Member States and information on imports and exports is readily available from Eurostat (COMEXT database).

For other information, there are significant differences between data reported by Member States and data available from other sources such as ePURE or EurObserver. This raises question about the reliability of the information provided by the EU fact sheet.

Information on the production of agricultural ethanol is also not comprehensive (for example, ethanol blended with fossil fuel is not covered by the balance sheet).

It should be further noted that the new CMO Regulation<sup>5</sup> no longer includes a specific article on communication in the ethyl alcohol sector. In term of communication, Regulation 1308/2013 includes a single article (Art. 223) which empowers the Commission to adopt the necessary measures either by Delegated Act or by Implementing Act, depending on the content of the measure.

### *3.2 Licensing requirements*

As regards licensing, whilst Regulation 2336/2003 continues to apply under the new CMO regulation, the Commission is empowered to decide by Delegated Act whether certain agricultural products, including ethanol of agricultural origin, should be subject to import and export licensing obligations (Art. 177 of Regulation 1308/2003).

The EU import licensing system is based on the premise that no import licences are required except where specific products are subject to quantitative restrictions, safeguard measures against injurious imports pursuant to either GATT Article XIX or international commitments (e.g. narcotics and endangered species of fauna and flora). Import licences are also used for surveillance with the purpose of improving transparency of import trends of the products concerned, but with no limits on access to the EU market.

In the case of ethanol, the EU is now a net importer of ethanol. In addition, a number of products such as ethanol blended with gasoline are not covered by the import licence requirement.

The licence obligation is no longer an appropriate instrument to monitor import trends and therefore no longer appears justified.

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<sup>5</sup> Regulation 1308/2013

## 5. Conclusions:

For the time being Regulation 2336/2003 remains valid and in force, but the new legal framework of the CMO and the need to review the Commission regulations in line with the Lisbon Treaty provides an opportunity to consider the usefulness of the regulation taking into account, in particular:

- The evolution of the market situation since the adoption of the Regulation;
- The evolution of the regulatory framework concerning wine;
- The limitations of the information provided by the EU balance sheet;
- The administrative burden associated with the communication requirements;
- The administrative burden associated with the management of import licences.

### Way forward:

DG AGRI proposes to prepare a Delegated Act based on Article 223 of Regulation 1308/2013 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 1234/2007.

This Delegated Act would **repeal** Commission Regulation 2336/2003 introducing certain detailed rules for applying Council Regulation n°670/2003 laying down specific measures concerning the market in ethyl alcohol of agricultural origin.

To phase out licences' requirements for the import of ethyl alcohol of agricultural origin, the Delegated Act would also **amend** Commission Regulation n° 376/2008 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products.

This Delegated Act would provide a significant simplification and reduction of administrative burden for the Commission, Member States' administrations and stakeholders. This would be fully in line with European agenda on regulatory simplification and administrative burden reduction as endorsed by the European Council<sup>6</sup>.

**DG AGRI invites Stakeholders to express their view on this project.**

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<sup>6</sup> See in particular European Council conclusions of 27 June 2014 in particular §18 [http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/en/ec/143478.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/143478.pdf)