

COUNCIL REGULATION (EC) No 670/2003**of 8 April 2003****laying down specific measures concerning the market in ethyl alcohol of agricultural origin**

THE COUNCIL OF THE EUROPEAN UNION,

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 ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the European Economic and Social Committee ⁽³⁾,

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 appropriate measures, which may take various forms depending on the product.
- (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.
- (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.
- (4) It is necessary to establish a framework of specific measures for ethyl alcohol of agricultural origin so that economic data can be collected and statistical information analysed for the purpose of monitoring the market; in so far as the market in ethyl alcohol of agricultural origin is linked to the market in ethyl alcohol in general, information also needs to be made available concerning the market in ethyl alcohol of non-agricultural origin.
- (5) For the purpose of monitoring developments on the market in ethyl alcohol, Member States should send the Commission the information necessary to draw up a balance for that market.
- (6) The marketing of ethyl alcohol from agricultural 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.
- (7) The introduction of specific measures for the Community in the sector of ethyl alcohol of agricultural origin 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 should be based on the agreements concluded during the Uruguay Round of multilateral trade negotiations.
- (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. These arrangements should also be extended to products in bulk form based on ethyl alcohol of agricultural origin imported under certain CN 2208 codes and presenting all the characteristics of ethyl alcohol of agricultural origin, for the purposes of effective control of imports of such products.
- (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.
- (10) In addition to the system described above, and to the extent necessary for its proper working, provision should be made for regulating the use of inward processing arrangements or, when the situation on the market so requires, prohibiting the use of such arrangements.
- (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 should comply with the obligations arising from the World Trade Organisation Agreements.

⁽¹⁾ OJ C 180 E, 26.6.2001, S. 146.

⁽²⁾ Opinion delivered on 13 June 2002 (not yet published in the Official Journal).

⁽³⁾ OJ C 260, 17.9.2001, p. 33.

(12) The achievement of a single market would be jeopardised by the granting 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 ethyl alcohol of agricultural origin. Given the particular situation in Germany, where national support is currently granted to a large number of smaller producers of such alcohol under the specific conditions of the German alcohol monopoly, it is necessary to permit, during a limited period of time, the continuation of the granting of such support. It is also necessary to foresee a report on the functioning of this derogation, at the end of that period, accompanied with appropriate proposals.

(13) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽¹⁾.

(14) The measures laid down by this Regulation should take proper and simultaneous account of the objectives set out in Articles 33 and 131 of the Treaty.

(15) The measures laid down by this Regulation should 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) The measures for applying this Regulation should not lead to any discrimination between ethyl alcohol of agricultural and non-agricultural origin,

HAS ADOPTED THIS REGULATION:

Article 1

Scope

1. Specific measures in the sector of ethyl alcohol of agricultural origin covering the following products are hereby established:

CN code	Description
ex 2207 10 00	Undenatured ethyl alcohol of an alcoholic strength by volume of 80 % vol. or higher, obtained from the agricultural products listed in Annex I to the Treaty
ex 2207 20 00	Ethyl alcohol and other spirits, denatured, of any strength, obtained from the agricultural products listed in Annex I to the Treaty

CN code	Description
ex 2208 90 91 and ex 2208 90 99	Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80 % vol., obtained from the agricultural products listed in Annex I to the Treaty

2. Article 4 shall apply also to products based on ethyl alcohol of agricultural origin falling within CN code 2208 put up in containers of more than two litres and presenting all the characteristics of ethyl alcohol as described in paragraph 1.

Article 2

Method of production

The method of production and the characteristics of an ethyl alcohol obtained from a specific agricultural product listed in Annex I to the Treaty may be laid down in accordance with the procedure referred to in Article 12(2).

Article 3

Information

1. The Member States shall communicate to the Commission the following information:

- the production of ethyl alcohol of agricultural origin expressed as hectolitres of pure alcohol, broken down by alcohol-producing product used,
- the volume of ethyl alcohol of agricultural origin disposed of, expressed as hectolitres of pure alcohol, broken down by sector of destination,
- the stocks of ethyl alcohol of agricultural origin available in the Member State at the end of the previous year,
- forecast production for the current year.

Rules for communicating this information and, in particular, the frequency of communication and the definition of the sectors of destination shall be adopted in accordance with the procedure referred to in Article 12(2).

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

3. The Community balance shall also contain information on ethyl alcohol of non-agricultural origin. The precise content and means of collecting such information shall be laid down in accordance with the procedure referred to in Article 12(2).

'Ethyl alcohol of non-agricultural origin' means products falling within CN codes 2207, 2208 90 91 and 2208 90 99 not obtained from a specific agricultural product listed in Annex I to the Treaty.

4. The Commission shall notify the Member States of the balances in question.

⁽¹⁾ OJ L 184, 17.7.1999, p. 23.

Article 4

Import and export licences

1. All imports into the Community of the products referred to in Article 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 period 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 period 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).

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.

Article 6

Tariff quotas

1. Tariff quotas for the products listed in Article 1 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. Tariff 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 (the first come, first served method);
- (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 (the 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 multilateral 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 period of validity.

Article 7

Inward processing arrangements

To the extent necessary for the proper working of the market in ethyl alcohol of agricultural origin, 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 products listed in Article 1.

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 in trade with third countries:

- (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

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 communication. 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.

Article 10

National aid

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

2. Without prejudice to Regulation (EEC) No 26/62 applying certain rules of competition to production of and trade in agricultural products ⁽¹⁾, paragraph 1 does not apply to aid granted, until 31 December 2010, by Germany in the framework of the German Alcohol Monopoly for products marketed, after further transformation, by the Monopoly, as ethyl alcohol of agricultural origin listed in Annex I to the Treaty. The total amount of this aid must not exceed EUR 110 million per year.

3. Germany shall present each year, before 30 June, a report to the Commission on the functioning of the system. Before 31 December 2009, the Commission shall present a report to the European Parliament and the Council on the application of the derogation, including an evaluation of the aids granted in the framework of the German Alcohol Monopoly, together with any appropriate proposals.

Article 11

Exchange of information

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).

⁽¹⁾ OJ C No 30, 20.4.1962, p. 993/62.

Article 12

Committee procedure

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⁾.

2. Where reference is made to this Article, Articles 4 and 7 of Decision 1999/468/EC shall apply.

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

3. The Committee shall adopt its Rules of Procedure.

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.

Article 15

Transitional measures

The Commission shall adopt, in accordance with the procedure referred to in Article 12(2):

- (a) measures required to facilitate the transition to the arrangements established by this Regulation;
- (b) measures which are both necessary and duly justified to resolve, in an emergency, practical, specific and unforeseeable problems.

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 Union*.

It shall apply from 1 January 2004.

⁽²⁾ Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine (OJ L 179, 14.7.1999, p. 1). Regulation as last amended by Regulation (EC) No 2585/2001 (OJ L 345, 29.12.2001, p. 10).

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

Done at Luxembourg, 8 April 2003.

For the Council

The President

G. DRYG
